

**CALIFORNIA COASTAL COMMISSION**  
631 Howard Street, San Francisco 94105 — (415) 543-8555



CHEVRON DEVELOPMENT AND PRODUCTION PLAN

EXECUTIVE SUMMARY

Project Description. Chevron U.S.A., Inc proposes to begin development of the Point Arguello Field by:

- o installing one drilling and production platform (Hermosa) on Lease OCS P-0316, approximately 7.3 miles south of Point Arguello and 8.5 miles west of Point Conception;
- o installing two subsea oil and gas pipelines leading from the platform to shore;
- o continuing this pipeline system onshore to processing facilities;
- o constructing facilities at an existing site at Gaviota to process the oil and gas for subsequent transportation; and
- o installing an ocean outfall pipeline terminating within state waters to dispose of produced water extracted during onshore processing.

The DPP does not specifically include provisions for transporting the processed crude oil to refineries although Chevron has stated it will use the existing Getty marine terminal at Gaviota to tanker Arguello crude to refineries if new terminals at Gaviota or Las Flores are not built.

Staff Recommendation. The location of the platform appears to be consistent with the CCMP. By instituting additional mitigation measures, Chevron has minimized vessel traffic safety conflicts. The siting and design of the platform and both offshore and onshore pipelines do not pose a risk to geologic hazards. Furthermore, the project as a whole is consolidated to the maximum extent feasible. However, before the project can be found consistent with the CCMP, Chevron needs to provide mitigation, as outlined under the major issues. In some areas, such as crude transportation, cumulative impact analysis, and air quality, the information currently is not available to proceed with an analysis to determine consistency. Because of these problems, which are caused primarily by Chevron's decision to proceed with its consistency certification before critical studies and environmental documents have been completed, the staff must recommend that the Commission find that Chevron's proposed project fails to include adequate information to permit an assessment of its probably coastal zone effects, and does not incorporate maximum feasible mitigation measures to ensure consistency with the CCMP. Furthermore, the DPP fails to implement the national interest as required by Chapter 11 of the CCMP and Sections 302 and 303 of the CZMA. Commission objection at this time will not delay the development of the Point Arguello Field.

## Major Issues

1. Cumulative Impacts. The DPP does not contain any cumulative analysis on the future development of Chevron's leases in the Point Arguello Field on the relation of this project to other present and proposed development in the western Santa Barbara Channel and Santa Maria Basin offshore and onshore Santa Barbara County. Chevron contends that cumulative impacts is a subject that is more appropriately analyzed in the joint EIS/EIR document. The Commission agrees, but because the applicant has submitted its consistency certification before the completion of this and other planning documents, it must determine consistency with Sections 30262(b) and 30250 of the Act based on the information available at this time.
2. Crude Transportation. Chevron's DPP does not officially include those facilities associated with transporting the crude oil after processing. Supplemental information submitted by the company states that it will use a pipeline, if constructed, to transport nominal amounts of Arguello crude to refineries. Chevron has not demonstrated that tanker transportation is the least environmentally damaging alternative or that it provides the maximum feasible protection from oil spills. Because Chevron owns refineries on the west coast, it may be economically feasible for Chevron to transport all or significant amounts of its oil by pipeline.
3. Marine Resources. The Point Conception - Point Arguello area has a rich array of biological resources, including marine mammals, seabirds, and invertebrates, and a healthy fishery. The construction of a new platform and the installation of pipelines will have a significant impact on new or rare species, rocky habitat areas, and kelp beds. While Chevron has attempted to reduce impacts to marine resources, additional mitigation measures are feasible, such as a firm commitment to avoid all blasting and the establishment of the narrowest possible construction corridor. The project also will present water quality impacts through the risk of oil spillage and the discharge of produced hydrostatic test waters, and treated wastewater into the ocean. A new Clean Seas response vessel, with similar capabilities to Mr. Clean II, should be located in the vicinity of the proposed platform site.
4. Drilling Muds and Cuttings. The existing or proposed extension to the EPA NPDES general permit for southern California will not cover discharges from Chevron's project. Because Chevron's proposed discharges of muds and cuttings will affect use of land and water in the coastal zone, the Commission intends to exert consistency review authority over the reissuance of the NPDES permit. Additional mud storage space on the platform, separate from regular mud tanks, is both feasible and possible to mitigation measures for the effects of mud discharges into the ocean. A discharge monitoring system is also necessary to ensure compliance with discharge standards and to protect the marine resources of the Santa Maria Basin.
5. Commercial Fishing. The proposed platform site will be located on the outer edge of certain trawl fisheries. However, construction of the proposed offshore pipeline from Hermosa to shore will temporarily limit trawling, trapping, and diving activities. Getty's marine terminal at Gaviota, Chevron's preferred and backup transportation option, is located in prime nearshore fishing areas, which provide a significant percentage of commercial fishing revenues and fisheries habitat from the Santa Barbara Channel. The loss of fisheries habitat through further development of the Arguello Field is also of concern. Although Chevron has incorporated a number of mitigation measures into its project, additional measures are needed. Pipelining

instead of tankering the Arguello crude will minimize the cumulative impacts of the project by reducing the displacement of nearshore fisheries. If a pipeline is shown to be infeasible, then the marine terminal should be located in a less productive fishing area and should be used by all operators. Chevron should conduct subsea surveys or trawl in the construction zones to ensure that lost equipment is not within trawling areas. If debris is found, Chevron should commit to its removal. Chevron also should commit to using a pipelaying method that will eliminate or minimize anchor scarring.

6. Oil Spill Containment and Cleanup. Chevron's DPP does not include maximum feasible mitigation of oil spillage. Chevron must commit to provide adequate onsite oil spill containment and cleanup equipment, including open ocean booms, skimmers, sorbents, and deployment vessels, and adequate equipment and procedures for larger spills. Chevron also should provide additional dispersant information or an approved dispersant use plan.

7. Air Quality. Although Chevron has proposed mitigation measures to control air pollutant emissions from the project, these measures are designed to reduce emissions from new sources only. Chevron has not calculated the total amount of emissions to be offset, specified where the offsets will be obtained, or certified that these offsets will be available when and if the project is approved. Chevron has agreed to conduct air quality modeling analysis, but no further information is available at this time.

8. Land Resources. The onshore pipeline and processing facilities will be located in riparian habitat designated by Santa Barbara County as environmentally sensitive habitat areas. Chevron should undertake all feasible resource protection measures, including the preservation of the riparian habitat and adjacent streamside buffer areas, retention of monarch butterfly habitat trees, construction activities timed for the dry season, and erosion control measures during design and construction to ensure minimum sedimentation.

9. Water. The project will increase water demands in an area already subject to serious groundwater overdraft problems. Chevron should propose conservation measures to minimize consumption demands and commit to mitigation measures that will ensure continuation of streamside habitats.

10. Visual Resources. The processing facility site will have adverse visual impacts along U.S. Highway 101, a scenic highway. Plans for this facility should be altered to provide further vegetation screening to mitigate the loss of existing trees on the site. Where feasible, Chevron should provide for siting and other measures, including constructing towers at different locations, or lower elevations, to minimize or prevent viewing of the structures from Highway 101.

11. Public Access. The Commission's experience is that energy projects, pipelines in particular, cause sufficient burdens on public access to warrant the imposition of access conditions. The proposed project will pose burdens on public access due to construction and maintenance activities seaward and inland of the MHT line. Construction and drilling phases also will contribute increased vehicle and truck traffic to coastal access routes. Chevron should submit an offer of dedication of an easement for public access and recreation, such as an easement for a hiking and biking trail along its 1500-acre ocean-fronting parcel at Point Conception.

TABLE OF CONTENTS

I. STAFF RECOMMENDATION..... 1

II. FINDINGS AND DECLARATIONS..... 2

    A. Commission Review of Development Plans..... 2

    B. Project Description and History..... 7

    C. Relation to Other Projects..... 9

    D. Coastal Dependency and Relation to  
        Industrial Development.....11

    E. Major Coastal Act Issues.....12

        1. Transportation of Crude Oil.....12

        2. Marine Resources.....18

        3. Drilling Muds and Cuttings.....23

        4. Commercial Fishing.....32

        5. Containment and Cleanup of Crude  
            Oil Spills.....38

        6. Vessel Traffic Safety.....42

        7. Geologic Hazards.....45

        8. Air Quality.....51

        9. Archaeological Resources.....57

        10. Land Resources.....58

        11. Visual and Scenic Resources.....62

        12. Public Access and Recreation.....64

        13. Consolidation of Facilities.....69

        14. Compatibility with the Local  
            Coastal Program.....70

        15. Public Welfare.....72

APPENDIX I - SUBSTANTIVE FILE DOCUMENTS.....78

California Coastal Commission  
631 Howard Street, 4th Floor  
San Francisco, California 94105  
(415) 543-8555

Michael L. Fischer, Executive Director  
William Travis, Deputy Director

*12-83 =  
Hermosa*

Project Element: CDP Appeal  
Filed: 1/17/85  
Staff: J. Johnson  
Project Approved: 4/9/85  
Revised Findings Report: 4/22/85am  
Hearing Date: 5/8/85  
Item No: 12a

REVISED FINDINGS ON  
NEW APPEAL  
COASTAL DEVELOPMENT PERMIT



Appeal No.: A-4-STB-84-91; Chevron U.S.A., Inc.

Appellants: Sierra Club and Get Oil Out Inc. (GOO)

Applicant: Chevron U.S.A. Inc.

Project Description & Location: Appeal of Santa Barbara County coastal development permit to construct an oil and gas processing facility at Gaviota and associated onshore pipelines. (Exhibits 2 and 3)

Summary: THIS REPORT INCLUDES RECOMMENDED REVISED FINDINGS OF FACT FOR ADOPTION ON THE APPROVED CHEVRON ARGUELLO/GAVIOTA OIL AND GAS PROCESSING FACILITIES AND ASSOCIATED PIPELINES LOCATED WITHIN THE ONSHORE COASTAL ZONE. This project includes an oil and gas processing facility at Gaviota, a dual pipeline system to carry Point Arguello production from Chevron's Platforms Hermosa and Hidalgo and Texaco's Platform Harvest to a landfall 1.5 miles north of Point Conception, and an ocean outfall line extending offshore of Gaviota for disposal of produced water and other treated facility wastewater. The Commission has previously considered this overall project when it concurred in the consistency certifications for the offshore platforms on the OCS (discussed below); Commission action and adoption of findings on Santa Barbara County's proposed LCP amendment, and Chevron's permit application for the offshore pipelines was completed April 9, 1985; the Commission found substantial issue on the appeal of the County coastal development permit and approved this project with conditions addressing public access also on April 9, 1985. The Commission's action on these recommended revised findings for the appeal of the coastal development permit will complete Commission action on this project.

Staff Recommendation: The staff recommendation for these revised findings require one motion as follows:

MOTION: I move that the Commission approve Revised Findings of Fact for the Coastal Development Permit with conditions for an offshore facility and associated pipelines.

The recommended revised conditions and findings are located on pages 4 and 22, respectively in this staff report.

Commissioners Voting On The Prevailing Side: KING, MacELVAINE, SLATES, McMURRAY, McNEIL, SHIPP, HARBERSON, WRIGHT

SUBSTANTIVE FILE DOCUMENTS:

1. Chevron's Platform Hidalgo and Associated Facilities (CC-24-84).
2. Texaco's Platform Harvest and Associated Facilities (CC-27-83).
3. Chevron's Platform Hermosa and Associated Facilities (CC-12-83).
4. Point Arguello Field and Gaviota Processing Facility Area Study and Chevron/Texaco Development Plans EIR/EIS.
5. Phillips Petroleum Company Tajiguas Gas Plant (E-84-8 and A-4-STB-84-80).
6. Hollister Ranch Public Access Program, California Coastal Commission, (Aug. 1982)
7. County of Santa Barbara, Preliminary Development Plan, (Case #83-DP-32-C2)
8. John Fling, et al. v. County of Santa Barbara, et al., Case No. 153869
9. Hollister Ranch Owners Association v. County of Santa Barbara et al. Case No. 153872

SANTA BARBARA COUNTY COASTAL PERMIT APPEAL NO. A-4-STB-84-91

1. APPELLANTS' CONTENTIONS

The standard for the Commission's review of this appeal is the policies of the certified Local Coastal Program.

The Sierra Club and Get Oil Out (GOO), the appellants, make the following contentions as listed below:

- a. The development fails to provide adequate public access (pursuant to County LCP Policies 7-1, 7-2, 7-3, 7-22 and 7-24).
- b. The development fails to protect public views from roads to and along the coast and is not compatible with the established physical scale of the area, and would promote an unreasonable rate of growth in the Gaviota - South Coast area (County LCP Policies 2-18 and 4-3).
- c. The development does not avoid important coastal resources (County LCP Policies 1-1 and 6-17).
- d. The development includes removal of Butterfly Trees (County LCP Policies 9-22 and 9-23).
- e. The development is not compatible with wetland habitat areas (County LCP Policy 9-14).
- f. The development will adversely impact air quality in a non-attainment region (County Policy 11-1).
- g. The project exceeds of maximum height limitations (Coastal Zoning Ordinance (CZO) Section 35-87.7).

- h. The (County's) approval was based upon an application for an incomplete project, and the permit approval is premature because Chevron has not received approval of a final development plan (CZO Section 35-169.5(2)).

## 2. LOCAL GOVERNMENT ACTION AND PROJECT HISTORY

The applicant, Chevron U.S.A. Inc., has filed, and the Santa Barbara County Board of Supervisors have acted upon, the following permit applications.

### Preliminary Development Plan (Case #83-DP-32cz)

This is a County permit for allowable projects which, because of the type, scale, or location of the development, required comprehensive review. This permit covers all aspects of the onshore project proposal.

### Major Conditional Use Permit (Case # 83-CP-65cz)

This is a county permit for permittable projects which, because of certain aspects of the proposal or of the proposed project location, require special consideration. This permit is required because the proposed onshore pipeline corridor from Pt. Conception to Gaviota crosses designated Environmentally Sensitive Habitats.

Final action was taken by the Santa Barbara County Board of Supervisors on December 18, 1984. The final 165 permit conditions and the adopted findings are contained in the document entitled, "Final Permit Actions: Chevron Pt. Arguello/Gaviota Oil and Gas Development Project, " December 21, 1984. (A copy of this document was previously sent to each Commissioner.)

The appeal period began January 3, 1985. The Sierra Club and Get Oil Out (GOO) filed an appeal from the coastal development permit decision of Santa Barbara County with the Commission on January 17, 1985 (A-4-STB-84-91). While the county has approved the Preliminary Development Plan, Chevron has not yet filed for a Final Development Plan. However, the County Board of Supervisor's action on the Preliminary Development Plan comprises the County's major discretionary action on the project. The County Counsel has prepared a written explanation for the County's initiation of the appeal period. It is his opinion that the development plan and conditional use permit issued by Chevron and the County constitute a "coastal development permit" which is appealable to the Commission (see Exhibit 5). Failure to act upon the appeal at this time could jeopardize the Commission's ability to review the decision to approve the facilities and the conditions under the Coastal Act.

## 3. SUBSTANTIAL ISSUE DETERMINED

The Commission found that the appeal raises a substantial issue with regard to conformance with the Santa Barbara County Coastal Plan access policies discussed below and a de novo hearing was conducted.

## 4. APPROVAL OF THE COASTAL DEVELOPMENT PERMIT WITH CONDITIONS

### Motion

"I move that the Commission approve the coastal development permit as conditioned and adopt the findings as noted below in this staff report.

## Resolution

The Commission approved a coastal development permit for the proposed development on the grounds that, as conditioned, the proposed development conforms with the Santa Barbara County certified Local Coastal Program and conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act; and the development will not have adverse impacts on the environment within the meaning of the California Environmental Quality Act.

## Conditions

- a. Standard Conditions: (see Exhibit A).
- b. Santa Barbara County Conditions which shall remain in effect except as modified below.
- c. Special Conditions:
  1. Prior to transporting oil through the pipeline across Hollister Ranch that is authorized to be developed by this permit, the applicant shall provide \$1,000,000 to Santa Barbara County for initial costs in implementing a public access program for the Hollister Ranch which should include:
    - a. Public recreation and access easements for lateral and vertical public access from Gaviota State Beach Park to the beach at Canada del Secate for both a vehicular shuttle system on the existing Hollister Ranch road and a pedestrian trail connecting the two points;
    - b. Public recreational and access easement over the dry sandy beach area from the mean high tideline to the top of adjacent bluffs from the easternmost point of Secate beach to the westernmost boundary of Hollister Ranch; and
    - c. Management of the public access program, including pedestrian trails, beach use, a shuttle access system and public restroom facilities for use by visitors to the Secate Beach in conformity with requirements of the County Department of Health Services at a location approved by the County which addresses public safety and security concerns of nearby residents.

This payment shall be credited as meeting the applicant's required payment to Santa Barbara County's Coastal Resource Enhancement Fund for at least the first three years of the operation of this development.

2. If at any time in the future the applicant has not complied with Special Condition 1 above, and if an agreement has been reached between the Hollister Ranch Home Owners Association, the Coastal Conservancy and the Commission on a public access program at Hollister Ranch, after a public hearing, the Commission may on its own motion delete Special Condition 1 and the applicant shall contribute its share of the costs of implementing that public access program at Hollister Ranch, but in no case shall this contribution be less than \$1,000,000. This payment shall be credited as meeting the applicants required payment to Santa Barbara County's Coastal Resource Enhancement Fund for at least the first three years of the operation of this project.



## 5. FINDINGS AND DECLARATIONS

### a. Project Description Chevron Oil and Gas Processing Facility.

The project includes an oil and gas processing facility and an overpass over U.S. 101 and associated ramps and frontage roads to support the anticipated traffic increases. The pipelines associated with the facility, including the ocean outfall line for disposal of produced water, and pipelines for transporting oil and gas from the Point Arguello Field, are addressed in Section C. of this report. However, the impacts of the entire project must be mitigated through implementation of the special conditions adopted by the Commission.

The oil and gas processing facility is proposed for a site adjacent to the inland side of Highway 101 at Gaviota, 28 miles west of Santa Barbara and 15 miles east of Point Conception (see Exhibit 2). The facility would be constructed in two phases: Phase I is designed to accommodate Chevron's anticipated production from startup in 1986 until late 1987, which includes up to 100,000 barrels per day (BPD) of dry oil and 60 million standard cubic feet per day (MMSCFD) of gas; and Phase II would double these capacities to a maximum plant capacity of 200,000 BPD of dry oil and 120 MMSCFD of gas.

An overpass across U.S. 101 would service both Chevron and Texaco's (formerly Getty's) proposed facilities at Gaviota, located on opposite sides of the highway. The overpass would be located near the southwestern edge of Chevron's site (see Exhibit 2). New on-and-off ramps and a frontage road would be constructed, and the at-grade intersections accessing the existing Getty facility, Chevron facility, and Vista del Mar School would be removed. Access for adjacent property owners would be provided by a frontage road connecting to the overpass.

The Coastal Commission participated with other state agencies and the Minerals Management Service on the Joint Review Panel for the Point Arguello Field Environment Impact Report/Statement (EIR/S). The EIR/S which was certified as being complete by the Santa Barbara County Planning Commission on October 25, 1984, and provides essential information for reviewing this project.

### b. Public Access.

The following Santa Barbara County Coastal Plan access policies are applicable to the Commission's review.

Policy 7-1: The County shall take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline. At a minimum, County actions shall include:

- a) Initiating legal action to acquire easements to beaches and access corridors for which prescriptive rights exist consistent with the availability of staff and funds.
- b) Accepting offers of dedication which will increase opportunities for public access and recreation consistent with the County's ability to assume liability and maintenance costs.
- c) Actively seeking other public or private agencies to accept offers of dedications, having them assume liability and

maintenance responsibilities, and allowing such agencies to initiate legal action to pursue beach access.

Policy 7-2: For all development\* between the first public road and the ocean granting of an\*\* easement to allow vertical access to the mean high tide line shall be mandatory unless:

- a) Another more suitable public access corridor is available or proposed by the land use plan within a reasonable distance of the site measured along the shoreline, or
- b) Access at the site would result in unmitigatable adverse impacts on areas designated as "Habitat Areas" by the land use plan, or
- c) Findings are made, consistent with Section 30312 of the Act, that access is inconsistent with public safety, military security needs, or that agriculture would be adversely affected, or
- d) The parcel is too narrow to allow for an adequate vertical access corridor without adversely affecting the privacy of the property owner. In no case, however, shall development interfere with the public's right of access to the sea where acquired through use unless an equivalent access to the same beach area is guaranteed.

The County may also require the applicant to improve the access corridor and provide bike racks, signs, parking, etc.

Policy 7-3: For all new development\* between the first public road and the ocean, granting of lateral easements to allow for public access along the shoreline shall be mandatory. In coastal areas, where the bluffs exceed five feet in height, all beach seaward of the base of the bluff shall be dedicated. In coastal areas where the bluffs are less than five feet, the area to be dedicated shall be determined by the County, based on findings reflecting historic use, existing and future public recreational needs, and coastal resource protection. At a minimum, the dedicated easement shall be adequate to allow for lateral access during periods of high tide. In no case shall the dedicated easement be required to be closer than 10 feet to a residential structure. In addition, all fences, no trespassing signs, and other obstructions that may limit public lateral access shall be removed as a condition of development approval.

---

\* Policies 7-2 and 7-3 shall not apply to developments excluded from the public access requirements of the Coastal Act by PRC Section 302112 or to development incidental to an existing use on the site.

\*\* The mean high tide line (ordinary high water mark) is an ambulatory line which may vary over time as a result of climatic and other influences. The line is the normal or average inland extent of tidal influence.

Policy 7-22: Expanded opportunities for public access and recreation shall be provided in the North Coast planning area.

Implementing Actions:

- a) The County shall study alternatives for expanding Jalama Beach County Park for day and overnight uses. Sufficient excess road capacity on Jalama Road shall be reserved to accommodate traffic generated by increased use at Jalama County Park.
- b) A hiking trail which provides lateral and vertical access to beaches shall be developed to connect Ranch Guadalupe County Park to Point Sal State Park and Point Arguello or Jalama Beach Gaviota State Park. The County, with the assistance of the State Department of Parks and Recreation and participation of affected property owners, shall initiate planning studies to determine the precise location and procedures for implementing such a trail. The trail should eventually include hostels and/or walk-in campgrounds where feasible on publicly-owned land; one possible location for such facilities would be an area in the vicinity of Point Conception.

Policy 7-24: In order to ensure that adequate opportunities for coastal access and recreation will be available in the future, the amount of development in the North County should be correlated with a precise recreation plan for the North Coast planning area. To this end, the County shall initiate studies to determine the long-range needs and goals for access and recreation in the area from Gaviota to Guadalupe. A long-range recreational plan shall be developed which includes the following elements:

- a) An integrated trails system which will connect existing County and State Parks and provide vertical access to the beach at appropriate intervals.
- b) Identification of areas which have the most recreational potential and a schedule for acquisition of such areas. After adoption of a long-range recreation plan, all development proposals for the North Coast planning area shall be reviewed for conformity with this master plan and appropriate easements, etc., shall be required at the time of development approval.

County permit condition N-4. is quoted below.

N-4 Prior to Final Development Plan approval, Chevron shall enter into a binding agreement with the Resource Management Department to provide vertical and lateral access across Chevron's Gerber Fee property near Pt. Conception. The specific routes and implementation procedures will be determined subsequent to this permit approval as part of a coastal access study plan developed by County in consultation with appropriate agencies, affected property owners, Native Americans, and other as appropriate, to connect Jalama Beach and Gaviota State Park.

Appellants contend as follows: 1) the access condition imposed by the County is applicable only to Chevron's Gerber Fee property near Point Conception (Exhibit 3) and does not provide for access along the pipeline route from Point Conception to Gaviota; 2) the access condition does not specify where the easement shall apply, thus it is not possible to determine whether adequate access will be provided; and 3) there is no requirement for the removal of existing access impediments.

The County's LCP Policies 7-2 and 7-3, respectively, require the granting of an easement for vertical and lateral easements for all new development between the first public road and the ocean. Since the Chevron oil and gas production pipeline system would extend from a landfall 1.5 miles north of Point Conception and overland along the coastal terrace to the facility at Gaviota, much of the pipeline would lie between the first public road (Highway 1 and 101) and the ocean. In addition, this portion of Chevron's project is between the "... nearest public road and the sea..." and every coastal development permit, including those issued by local governments, are subject to conformity with the public access and recreation policies of Chapter 3 of the Coastal Act (pursuant to Coastal Act Section 30604(c)). Coastal Act Section 30212 requires that public access be provided from the nearest public roadway to the shoreline and along the coast in new development projects.

County LCP policy 7.3 requires that obstructions to lateral access, such as fences and no trespassing signs, be removed. County LCP policy 7-24, which applies to the North Coast Planning Area, the specific area in which the proposed project is to be sited, states that a hiking trail which provides lateral and vertical access to beaches shall be developed to connect Point Arguello or Jalama Beach to Gaviota State Park.

The County's condition N-4, quoted above, calls for vertical and lateral access across Chevron's Gerber Fee property, but does not specify how to access the parcel itself, which is surrounded by presently inaccessible private land. In addition, the Gerber property extends over approximately 2 miles of the total length of approximately 15 miles of beach seaward of the onshore pipeline.

The question before the Commission is the sufficiency of this access.

The Commission has found there to be significant cumulative burdens on public access in each of its three consistency certifications for Point Arguello development, noted above. Most recently in its review of Chevron's Platform Hidalgo, the Commission specifically found as follows (CC-24-84):

Development of the Point Arguello Field cumulatively burdens public access and recreational opportunities. Increased traffic impedes public access to the beach and the increased probability of oil spills enhance the risk that all or portions of beaches may be rendered unusable for recreational activities. Further industrialization of this field will negatively affect the overall desirability of the region as a visitor destination. The Commission recognizes that this consistency certification is not the proper vehicle to solicit public access commitments from Chevron as Platform Hidalgo will not by itself (other than visual impacts) have significant adverse impacts on public access and recreational opportunities. However, the pipelines from Platform Hermosa will run to Point Conception and then follow an easterly route to Gaviota. Therefore, since this pipeline services Platform Hidalgo [and Texaco's Platform Harvest], Platform Hidalgo contributes cumulatively to access and recreation impacts. The Commission required dedication of surface easements for public

access and recreation as a condition for approving a gas pipeline to connect Texaco's Platform Habitat in the OCS Pitas Point Unit to a proposed onshore gas odorization and metering facility near the Chevron marine terminal in Carpinteria (see Pacific Interstate Offshore Company and Pacific Lighting Gas Supply Co., E-82-21 and A-4-82-459).

The Commission also considered the access issue in its consistency review of Platform Hermosa (CC-12-83). In this action, the Commission found that the County LCP requires the granting of vertical and lateral easements for all development between the first public road and the sea. The Commission concurred in Chevron's consistency certification due to Chevron's commitment to dedicate a lateral hiking easement over its 1,500 acre parcel. At the time the Commission reviewed this consistency certification, it did not conduct a detailed review of access because access would be addressed by the County in implementing its LCP. The Commission now has the opportunity to conduct a detailed, comprehensive review of the issue, rather than the limited review it was able to conduct under NOAA consistency regulations. The standard of review is now the LCP policies and the degree to which the County action does or does not comply with those policies.

Moreover, the Commission recognized that public access should not be implemented on a piecemeal basis in each individual consistency certification. Rather, the logical and appropriate time to address the access issue completely, is through the present Commission actions on the LCP amendment, coastal permit appeal and coastal permit application. While the Commission's jurisdiction in each of these cases is distinct, as stated above, they are really elements of the same project. Without the oil and gas from Platforms Hidalgo, Hermosa, and Harvest, there would be no need for a processing facility, and without the processing facility, there would be no need for an ocean outfall line to discharge produced water.

As discussed above, County LCP policies require vertical and lateral access between the first public road and the ocean. It is the County's goal to connect county and state parks through an integrated trail system and to provide vertical access to the beach at appropriate intervals. In light of the substantial burdens on public access and recreational opportunities resulting from the project, the Commission finds that a substantial issue exists regarding whether unspecified vertical and lateral access across a presently inaccessible parcel "landlocked" by private land the Gerber Fee property satisfies these policies.

#### (1) Project Setting.

The scenic areas and views of the entire Santa Barbara County coastline are resources of public importance. The coastal area has major parks and recreation areas of statewide significance, and the tourist and recreation industries rely heavily upon the natural scenic quality of the coast. The Santa Barbara County LCP states that the scenic quality of the coastal zone in the North Coast planning area (Gaviota to Santa Maria River) is outstanding. The Point Conception area offers highly valuable, relatively undisturbed, and varied views.

One of the most striking views in the area is of the expansive open ocean from the elevated coastal terrace. Currently, there are no fixed structures in the offshore project area. In its 1978 report, which was re-adopted without change in 1984, Designation of Areas Not Suitable for Power Plants, the Commission described the Point Conception area as the "...largest remaining semi-wild area in the southern California coast," extending from Jalama State Beach southward to Point Conception.

The project lies predominately in the transverse range province, with points north of Point Arguello lying in the coast range province. The transverse range trends east-west, while the coast range is oriented northeast-southwest.

The dominant feature of the transverse range is the crest of the Santa Ynez Mountains, which is characteristically rugged and steep and forms an ever-present, scenic backdrop for northerly directed views within the region. Nearly three-fourths of the land in the Santa Ynez Mountains in this eastern stretch is steeper than 30 percent.

The steeper slopes are V-shaped, being sharply incised by the short reaches of numerous steep drainages, about half of which extend less than 3.5 miles inland.

Other common landforms are the gently rounded foothills which give way to the coastal terrace (also called the coastal plain) sweeping to bluffs overlooking narrow sandy beaches. At Point Conception, the terrace extends well over 1 mile inland to the foothills. Two to three miles west of Gaviota some stretches have practically no terrace at all, while half of the terrace from Gaviota to Point Conception is wider than 3,000 feet.

The shoreline within the project area is comprised of narrow, sandy beaches broken occasionally by promontories and backed by bluffs about 50 feet high. The bluffs lead to the coastal terrace which is occasionally characterized by rocky headlands.

Presently there is no public access along the approximately 20 miles of beach between Gaviota State Park and Jalama County Beach Park. This section of coast has outstanding recreational, scenic and natural resource values. However, the area is inaccessible due to lack of public roads or trails and locked gates. Some of the best surfing in the world is found between Point Conception and Gaviota. Marine habitat areas include pristine rocky headlands and tidepools, harbor seal hauling out grounds and kelp beds. The high scenic quality is due to the rural character and unusual visual diversity of the landscapes. If adequate provision is made to protect these resources from overuse, public access along this unique section of coast is mandatory under the County LCP and the Coastal Act.

(2) Project Impacts on Coastal Recreation and Access.  
Onshore Pipeline Corridor - Landfall to Gaviota

At the marine pipeline landfall, the proposed alignment crosses a sandy beach approximately 150 to 200 feet wide, then continues up the side of a westerly-draining canyon cut into the coastal terrace of the Gerber Fee Property. Approximately 2,000 feet east of the landfall the pipeline alignment rises to cross the Southern Pacific Railroad Tracks (SPRR) at an elevation of about 150 feet above sea level. The pipeline will cross over approximately one mile of the Gerber property before it enters Bixby Ranch property, and then will continue about two miles east along the base of the Santa Ynez Mountains at the northern edge of the coastal terrace until it crosses Western LNG property. The pipeline will then cross the northern edge of the Western LNG property before it enters Hollister Ranch property.

From the Hollister Ranch Boundary east for about four miles the corridor parallels the main ranch road near the northern edge of the coastal terrace. The slopes through this portion of the Hollister Ranch average approximately 25 percent, but range from flat to nearly vertical in some places. Proceeding east to the area of Sacate, the alignment goes inland and generally follows the Hollister Ranch road.

From Sacate to the Gaviota site the pipeline will parallel Hollister Ranch road continuing through Hollister Ranch to the western edge of the Gaviota Beach State Park. The corridor then proceeds across Gaviota Creek and then north underneath U.S. 101 to the north side of U.S. 101. It then proceeds east across State Park land and across the Sunburst Property (owned by Chevron) and ends at the plant site.

Through Hollister Ranch to Gaviota, the pipeline corridor traverses land with slopes averaging 10 to 25 percent. At the edge of the south-draining canyons, however, slopes of 60 percent to nearly vertical will be encountered. In several places along the southern edge of the coastal terrace seacliff erosion by wave action is in evidence. Many of these eroding seacliff areas are protected by extensive concrete seawalls. Active headward erosion is in evidence in several areas with the main and tributary canyons draining the coastal terrace.

Between Hollister Ranch and the Gaviota plant site, the pipeline will cross the northwest corner of Gaviota State Park. This will result in a direct impact to the recreational use and enjoyment of the park during the construction stage of the project due to use of the park access roads and due to the use and disturbance of a pipeline corridor.

The two onshore oil and gas pipelines will be installed using conventional land pipelaying methods and equipment. The pipelines will be buried with a minimum cover of 5 feet except at the valve box locations (approximately four locations along the route) where the boxes will protrude 6" above ground. The spacing between the two lines will vary depending on local conditions. In general, lines will be placed as close to one another as possible in order to minimize impacts.

Pipeline trenches are anticipated to have a width of 2.5 to 3 feet. Maximum excavation requirements are estimated to be 64 to 78 cubic yards/100 linear feet through most areas. Material excavated during ditching will be stockpiled temporarily alongside the trench within the 100-foot right-of-way. There will be several temporary access roads installed from existing roads to the right-of-way, and there may be permanent roads to the block valves. Pipe will be stored at a staging area on Chevron's land near Point Conception and at Gaviota. Approximately twenty crossings of the Hollister Ranch Road will occur. The Ranch Road will be utilized throughout construction for access to various portions of the alignment.

County Permit Condition S-6 requires Chevron to identify all public and private roads between Jalama Beach County Park and the Gaviota plant site intended for use during pipeline construction. Chevron must describe plans, as necessary, for the repair or upgrade of these roads before, during, and/or after construction.

While the pipelines themselves will not be visible for most of the corridor, construction impacts will be significant. In addition, pipeline operation will require periodic maintenance activities, and thus the presence of vehicles and personnel.

County LCP policy 7-24 specifies that a long-range goal of the county is to establish an integrated trail system which will connect existing county and state parks and provide vertical access to the beach at appropriate intervals. Presently there is no public access to the stretch of coast between Jalama Beach County Park and Gaviota State Park. However, if the trail system is someday implemented, the public's appreciation of the varied terrain along the pipeline route will be impaired, to some degree, depending upon how well the corridor vegetates. As discussed above, maintenance activities will be on-going, and the possibility of an

oil spill, however slight, does exist. The public is therefore burdened by this development, mitigation efforts notwithstanding. Since the pipeline crosses Gaviota State Park and park visitors will be subjected to additional burdens such as increased traffic and increased demand for camping facilities, Gaviota is an appropriate area to incorporate into an access program.

County LCP policies 7-2 and 7-3 specify that for all development between the first public road and the ocean, both vertical access to the mean high tide line and lateral access to allow for public access along the shoreline are mandatory. Policy 7-2(a) grants exceptions for the following cases: (1) a more suitable vertical access corridor is available; or (2) an access corridor is proposed by the land use plan within a reasonable distance of the site measured along the shoreline; (3) access at the site would result in unmitigable adverse impacts on designated habitat areas; (4) access is inconsistent with public safety, military security needs, or that agriculture would be adversely affected; and (5) the parcel is too narrow for adequate vertical access corridor adversely affecting the privacy of the property owner. However these exceptions do not apply because the County LCP specifically designates a route from Gaviota to Jalama, and because this same route is the most logical from a topographic point of view. The route follows the relatively level coastal terrace rather than crossing the Santa Ynez Mountain range from the north.

The Commission has found that a limited and managed public access program as adopted in the Hollister Ranch Public Access Program would not result in unmitigable adverse impacts on areas designated as 'Habitat Areas' by the Santa Barbara County land use plan. The Commission has further found that public access is consistent with public safety and military security needs, that agriculture would not be adversely affected because the access program will be adequately managed to reduce these hazards and concerns to acceptable levels through the use of access limiting techniques, and that access will be located and limited to the bluff-top areas and beaches seaward of the primary agricultural areas. The area is not inherently unsafe due to the fact that residential use occurs within the Hollister Ranch and recreational use on the beaches, bluff-tops and canyons is readily available to Hollister Ranch owners and guests. Public access as proposed by the conditions of this permit and in the Hollister Ranch Public Access Program includes adequate management to reduce any remaining risks to the safety of the public and minimize any conflicts with agriculture to an acceptable level.

The parcels upon which the accessways will be located are very large and therefore the privacy of the property owners will not be adversely affected. These parcels are approximately 100 acres in size while the accessways are proposed to be located an adequate distance from these residences to maintain adequate privacy of the property owner. In addition, those portions of the accessways which traverse the Hollister Ranch Owners Association bluff-top property will be located an adequate distance from any residence because this property does not include any owner's residences. Therefore none of these parcels are too narrow to allow for an adequate vertical access corridor without adversely affecting the privacy of the property owners.

County permit condition N-4 does not specify the vertical and lateral access routes proposed for the Gerber Fee property. As discussed above, there is no implementing mechanism to assure access to the Gerber property itself. Bixby Ranch property must be crossed in order to reach the Gerber parcel. Otherwise, the parcel may only be reached via boat or helicopter. Such access would be limited to a very small segment of the public. In addition, even if access rights across the Bixby property were secured, only the extreme west end of the developed area would be accessible.



There would continue to be no access anywhere else along the pipeline corridor, except where it intersects Gaviota State Park, at the extreme eastern end of the pipeline corridor. Both the county LCP policies and Coastal Act Section 30212 require that access be provided unless adequate access exists nearby, and for other reasons which do not apply in this case. Adequate access clearly does not exist nearby, nor does it exist at the Gerber Fee property, as noted above. The county permit is therefore inconsistent with the LCP policies and the Coastal Act.

### Gaviota Onshore Processing Facility

The proposed site of the oil and gas processing facilities is actually composed of two adjoining parcels. The principal site area (APN 81-130-07) is owned by Texaco and leased to Chevron to accommodate Chevron's existing gas facilities. The adjoining parcel, known as the Gervais Fee Property (APN 81-130-44) is owned by Chevron and is approximately 84 acres in size, although Chevron is proposing to develop only 5 acres of the property.

The total land area required for the plant will be approximately 64 acres, while the oil and gas processing equipment (e.g., towers, tanks, vessels and pumps) will require approximately 32 acres of the 64 acre total (Exhibit 6). The site will be designed to permit expansion with minimum disruption to existing equipment when plant additions are required.

Oil dehydration equipment and gas compressors will be installed in phases as Point Arguello area production increases. Such expansions are expected to occur over a period of six years. The facilities will be designed to heat and dehydrate approximately 200,000 barrels of total fluid, and to sweeten and treat 120 million standard cubic feet per day (120 MMSCFD) of sour gas.

The facility will be concentrated in four main areas: (1) Area-A, 12.48 acres, elevation 170 feet; (2) Area-B, 10.27 acres, elevation 130 feet; (3) Area-C, 3.78 acres, elevation 170 feet; and (4) Area-D, 5.07 acres, elevation 170 feet. Since the at-grade elevation of Highway 101 in the project vicinity is about 70 feet, the facility will be easily visible. The bulk of the equipment will vary greatly, and include the following: 12 foot high, 13,000 square foot storage vessels, 40 foot high, 110-foot diameter reject tanks and a 42-inch diameter, 125-foot high emergency flare tower. In addition, an overpass will be constructed across Highway 101.

The plant will be located adjacent to the highway on the north side. A major public recreational burden created by the plant will be the degradation of the scenic quality of the area. The aspects of the installation of the proposed facility having the greatest effects on the scenic qualities of the area include the following: removal of vegetation and disturbance of existing topography during site preparation; the visibility of construction activities; the appearance of the facilities once built; and, to a lesser extent, the introduction of screening vegetation which while concealing project structures, also may block views of attractive landscape features.

Construction activities, and the appearance of project features after construction would affect views from U.S. Highway 101, the AMTRAK trains using the Southern Pacific railroad, Hollister/Bixby Ranch Road, Gaviota Village and the Vista del Mar School.

Many motorists using the highway in the vicinity of the proposed facilities are tourists or recreationists having high expectations regarding scenic quality along

the coast. Proposed ground cover and shrubs would substantially reduce the contrast between the plant and the natural landscape within several years. However, according to the EIR/S proposed plantings along the west site boundary would not screen facilities for 20 to 30 years. For an extended period the oil and gas facility would be the dominant feature in the landscape, commanding full attention while imparting an obviously industrial appearance to the area. With the introduction of road side planting, nearly all of the facility would eventually be screened from view. Also according to the EIR/S, due to the variety of the landscape in the surrounding area that will be hidden as a result of the roadside planting, the visual impact of the oil and gas plant would be significant and long term.

### Recreation and Access Opportunities in the Project Area

Recreational areas in the immediate vicinity of the onshore pipeline and Gaviota processing facility site include Gaviota State Park, approximately 1.3 miles west of the Chevron property; the Los Padres National Forest, located 1.5 miles to the north; and the refugio and El Capitan State Beaches located approximately 9-10 miles to the east. Gaviota State Park is discussed below since it is the public recreational facility which is likely to be the most effected by the project.

Gaviota State Park encompasses 2,775 acres adjacent to State Highway 101, the majority of which are inland. Park facilities include 59 campsites, day-use picnic areas, and a 526 foot fishing pier with a 3-ton boat launch. Despite the expansive inland area of the park, recreational pursuits are primarily ocean oriented. During the peak use months of June, July and August total park attendance approaches 200,000 persons and results in overcrowding. According to the Chevron Environmental Report (ER) for the On-shore Pipelines and the Gaviota Processing Facility (June 1983), future plans for the park seek to alleviate this condition with the institution of more campsites and increased accessibility.

The shoreline parcel of the Texaco property (proposed to be used for an offshore oil supply base) roughly bisects the two mile main beach area at Gaviota State Park. An offer to dedicate a lateral access easement and a coastal bike route has been made by the previous property owner, Getty, in 1979, but has not been accepted by any agency at this time. The state also owns the property inland of the beaches and adjacent to the existing Texaco marine terminal facility, although no recreational uses have been formally established on these parcels.

Access to the beaches directly south of Highway 101 and the Chevron project site is primarily obtained from the main beach at Gaviota due to the steep bluffs fringing the coastline. Access is also limited during periods of high tide because of the narrowness of the beach. The shoreside portion of the Texaco property currently has onsite access to the beach although no public access corridors are provided; primarily for public safety and security reasons according to the Chevron ER (cited above) .

The primary transportation arterials in the project vicinity are State Highway 1 and U.S. Highway 101. Highway 101 is the most heavily traveled route in the coastal area, following the shoreline from Santa Barbara and turning inland at Gaviota, approximately 1.3 miles west of the proposed Chevron Gaviota processing facility site. The majority of the traffic on Highway 101 is considered to be through rather than commuter traffic. The traffic increases almost 50 percent on the weekend, suggesting that it is recreation-oriented.

State Highway 1 is a two-lane scenic corridor and is the most direct route between Lompoc/Santa Maria and Gaviota/Santa Barbara. Highway 1 is also the principal link with Jalama Road which provides access to Jalama Beach County Park. Average daily traffic volume on Highway 1 between the junction of 101 and Jalama Road was 3300 vehicles per day (vpd) in 1981.

Access to the western landfall of the proposed onshore pipeline at the landfall is obtained via a private single lane, paved road commencing off Jalama Road. The distance from Jalama Road to the landfall site is approximately 6 miles. The roadway also serves as a ranch road for the Bixby property. Public access is controlled by a locked gate at the junction of Jalama Road. This gate precludes public access to the Gerber Fee property. County condition N-4, quoted above, contains the County's access requirements for the Gerber parcel.

Access to the balance of the pipeline corridor will be from the east utilizing Hollister Ranch Road, a circuitous private road extending from Gaviota State Park and connecting with the Bixby Ranch Road. This 12 mile road services residential estates on the ranch and has limited traffic capacity because of its narrowness and poor visibility around curves. Public access is controlled along this roadway by a guardhouse about 0.4 miles from the park boundary. As discussed above, improvements to this road may be made pursuant to the County Permit Condition 5-6.

The processing facility site is served by U.S. 101, an existing freeway/expressway, composed of two, 12-foot wide travel lanes in each direction separated by a 40-foot wide landscaped median. There are no separate bicycle and pedestrian facilities in the area; however, the expressway comprises a portion of the coast bike route and an easement on the Texaco Gaviota property seaward of Highway 101 is available for the future Gaviota State Park to Refugio State Park. Access to the expressway in the vicinity of the proposed site is generally shown on Exhibit 7 at the identified intersections.

Project-generated traffic impacts upon local roadways resulting from the Gaviota facility and on-shore pipeline portion of the Point Arguello field development will be small, according to the Chevron Gaviota Environmental Report (ER)(1983). However, this portion of the Point Arguello field development cannot be viewed in isolation from the other development, such as the platforms and offshore pipelines.

The proposed Gaviota facility and onshore pipeline will result in increased traffic from supply trucks, helicopters and employee transportation. Maximum traffic volumes resulting from offshore support personnel and onshore construction workers will occur during mid-1985 when platform installation, offshore and onshore pipeline construction, and the construction of the oil processing plant phases are predicted to overlap. Peak traffic volumes generated by this project will decline to 133 vpd during the last quarter of 1985, with further decreases to 90 vpd during 1986 and from 28 to 46 vpd during the production phases. Daily traffic volumes assume a normal work schedule of 7 days on and 7 days off for the drilling and production phases, with crew changes interspersed throughout the week.

Vehicle destinations considered in the Chevron ER include the Texaco Gaviota consolidated facility, Chevron's proposed plant site, and various points along the pipeline construction route. It is anticipated that personnel associated with onshore pipeline construction activities will usually be staged out of Gaviota or Santa Maria and carpool to the pipeline corridor to lessen traffic. Construction staging areas will be established at the Gaviota facility site and the LNG property. Staging locations generally encompass a 10 acre area.

An estimated 80 percent of all personnel vehicle trips will either originate or terminate at Goleta, Santa Barbara or Ventura County via U.S. 101. The remaining 20 percent of vehicle trips will originate or terminate from northern Santa Barbara County via U.S. 101. According to the ER, traffic impacts on the regional highway system in Santa Barbara County will represent only a 1.3 percent increase over current traffic volumes of 16,000 vpd on U.S. 101, and will be of limited duration. A substantial percentage of personnel-related traffic results from by persons already living in the area, and therefore does not introduce new traffic to the area.

The proposed project will also create an increase in truck traffic associated with the delivery of equipment and materials to support on and offshore construction, drilling and operational phases and export of process waste products including sulfur plant by-products and gas by-products such as butane and propane, etc. The maximum projected increase from construction will be 8 to 10 truck trips per day during overlapping phases. This activity occurs throughout the day and is not concentrated at any one time. Operational truck traffic increase will be between 48-53 trucks per day, resulting in an average of 2 truck trips per hour.

Access to the proposed facilities at Gaviota will be provided by access roadways originating on U.S. 101. The proposed project has been designed to accommodate the new freeway offramp/overpass proposed by Texaco to serve the consolidated facility. Installation of the overpass will mitigate adverse traffic impacts during construction and operation. Construction traffic impacts associated with the proposed project are short-term in nature, both in the duration of the activity and average trip length (approximately 50 to 75 miles). Operation will result in a smaller, but nonetheless adverse effect on local traffic volumes.

Helicopter trips during the platform installation and drilling phases average approximately one per day. Helicopter trips will decrease to one trip per 3 days during production operations.

### (3) Point Arguello Field Development Impacts on Recreation and Access

The Commission previously considered the burdens on public access due to Point Arguello Development in its consistency review of Chevron's Platform Hermosa and the other development presently before the Commission. The Commission specifically found as follows (CC-12-83), pp. 64-65:

The proposed project will pose burdens on public access due to proposed activities seaward and inland of the MHT line. These burdens present both short-term and long-term effects. In the short term, installation of the pipelines will involve trenching within the surf zone at Point Conception and across the beaches at Gaviota State Park and Refugion State Beach. Heavy construction equipment will be located at these beach areas during pipeline installation, impeding access along the shoreline. Trench excavation and pipeline burial will damage or destroy marine and terrestrial resources, thereby adversely affecting the beach experience in this area. To compound these adverse impacts, platform installation, offshore and onshore pipeline construction, and construction of the oil and gas processing plant will occur at the same time during the peak summer months, when public access and recreational uses are most in demand. Disruption of public use and access at the sites mentioned above will increase demands on nearby public beaches.

Aside from construction impacts, the project poses other short-term burdens to public access and recreation. The use of overnight facilities (hotels, motels, RV parks, and campgrounds) by temporary construction workers will have the effect of precluding their use for general recreational purposes. Motels in the general North County area are experiencing 95 percent average annual occupancy, indicating a severe shortage of overnight facilities. At the peak of employment, approximately 265 workers will be needed for the proposed project, with 20 percent coming from outside the local Santa Barbara-Ventura labor pool.

The project's construction and drilling phases will contribute increased vehicle and truck traffic to coastal access routes, particularly on U.S. Highway 101, which is the major access route to the beaches and state parks in Santa Barbara County. Peak daily traffic volumes during the summer months of 1985 will be 125 vehicles per day (vpd), representing a 1.3 percent increase over current traffic volumes of 16,000 vpd on Highway 101. While this input appears to be minimal, the cumulative impacts of such additional traffic volumes, when considered with Exxon's Santa Ynez Unit Development and with other potential energy development in the area, is significant because Highway 101 already has a high level of service.

In addition to these short-term impacts, ongoing maintenance activities and potential adverse impacts from pipeline breaks, spills and necessary repair work intensify the real and potential impacts from both the onshore and offshore aspects of this project. Because this type of maintenance activity is required for the life of the pipeline, the Commission finds that the project will have significant long-term impacts on public access. The Coastal Act requires the Commission to look at the individual and cumulative impacts of specific developments. As noted above, the individual impacts alone require dedication of access sufficient to offset the impacts of development. The Commission also notes that the cumulative impacts of similar projects in the western Santa Barbara Channel and Santa Maria Basin could significantly disrupt access opportunities along the central and north County areas. The potential impacts become apparent when viewed in light of additional construction and maintenance activities necessarily occurring in the project area and the extent of pipelines necessary to service proposed platforms in the western Channel and Santa Maria Basin.

Because the proposed project will result in the short and long-term disruption of public beaches and undeveloped ocean fronting parcels as well as adversely impact available lower cost recreation and visitor-serving facilities, the Commission finds that the project will pose significant burdens on public access and recreational uses.

The adverse visual impacts caused by the Gaviota plant were discussed above. In addition, the Point Arguello Project EIR/S states that the visual impact of platforms Hermosa, Hidalgo and Harvest will be highly significant and long term when viewed from Jalama Beach County Park and the Southern Pacific Railroad. Relocating the platforms will not be adequately mitigate this impact since regardless of their position offshore they would remain in view from land.

Installation of the onshore pipelines will result in significant and long term visual impacts according to the EIR/S, primarily due to disturbance of vegetation, soil and bedrock along the right-of-way during clearing, grading, trenching and backfilling.

The onshore pipeline route will cross the northwest corner of Gaviota State Park. Thus, there will be a direct impact to the park during the construction stage of the project due to use of park access roads the construction disturbance along the pipeline corridor.

The installation of the proposed offshore platforms and associated facilities results in the possibility of offshore oil spills that could impact shoreline recreational facilities in the area and recreational fishing offshore. Offshore oil spills may reach nearby recreational beaches. In addition, even a moderate oil spill (1,000 barrels) could affect recreational fishing in the following ways: (1) port closure; (2) loss of a fishing area; and (3) acute toxic or sublethal effects on marine organisms.

The Point Arguello Field EIR/S also identified a number of, what were termed, "indirect impacts." However it should be noted this does not mean that the impacts themselves will be indirect. The EIR/S analysis is based upon the anticipated project related increase in visitor use exceeding the carrying capacity and necessitating major increases in facilities or restrictions on use. A Class I impact is defined as a projected 10 percent or greater increase in user demand/attendance that is not mitigatable, or, a similar measurable reduction in quantity, quality, and availability for use by the users. The same criteria apply to Class II impacts. However, consultation with resource management agencies, resulting in the development and implementation of extensive mitigation measures would be able to reduce impacts to Class III (less than 10 percent increase in user demand/attendance in South Coast recreation areas). Class IV impacts would increase revenues from, for example, user fishing licenses and excise taxes.

The potential exists for impact on camping facilities at parks such as Gaviota, Refugio and El Capitan since in-migrant workers, particularly those associated with the construction of the Gaviota processing facility, may choose to use these as temporary residences. The relatively low availability of permanent housing in the areas adjacent to the project is another factor influencing the use of park camping facilities as temporary homes for project-related workers. It is possible that in-migrants (and families) will seek temporary quarters at places such as the state park camping facilities, while searching for permanent residences. Unlike the basically uncrowded day-use facilities, the campgrounds at these parks are already used to capacity during the summer months. Any additional demand for these facilities resulting from project related personnel has the potential for significant impact (Class II) in the long term. The extent to which these impacts on camping facilities are of concern depends on the housing mitigations enacted. In summary, the potential exists for some campgrounds to be strained by project-related in-migrants.

Other project related activities will bring a general decline in the publicly enjoyed recreational values and experience along the shoreline from Carpinteria to Gaviota Beach Park and at Jalama Beach (public access to and use of the shoreline from Gaviota Beach west to Jalama is prohibited by Hollister and Bixby Ranches). This is the stretch of shoreline where the greatest number of uses presently compete. As the industrial use increases, its adverse effects upon the high quality recreational experience is unavoidable (Class I) in the long term. The noise

impacts of helicopter flights over Goleta State Park and along the shoreline to platforms, boat noise and traffic activity, increased industrial activity at piers adjacent to recreational beaches such as Haskells and Carpinteria State Beach, increased truck activity along primarily coastal access routes, new industrial visual elements on the ocean horizon and nearshore areas all adversely affect the existing recreational resource.

(4) Need for Additional Access to Achieve Consistency with the County LCP and the Coastal Act.

The proposed project will create a burden on public access to and along state tide and submerged lands that must be balanced through a corresponding public access benefit. As discussed above, there is a significant unmet demand for access to and along the coast in the project area.

The County LCP states that there are very limited opportunities for public access in the North Coast planning area. There are only four areas along this 64-mile stretch of coastline that provide opportunities for public access and recreation and include the following: Rancho Guadalupe County Park, Point Sal State Park, Ocean Beach County Park, and Jalama Beach County Park. These four parks represent a total of 1.3 miles of linear ocean frontage. Furthermore, the roads leading out to Jalama and Point Sal are narrow and winding. Jalama Beach provides 105 camp sites; the other three parks are restricted to day use only.

The County LCP also states that there is also a substantial amount of "informal" use of beaches in this planning area. For example, surfers gain access by boat to the beaches along the Hollister and Bixby Ranches.

The land use plan makes several proposals for expansion of public recreational opportunities in the North Coast Planning Area. They include a recommendation for coastal hiking trails along the Bixby and Hollister Ranches and expansion of the public parks at Jalama and Guadalupe beaches, as well as the provision of overnight visitor facilities on or near the Bixby Ranch.

The Point Arguello Field EIR/S also contains recommendations for mitigating project-related impacts to coastal recreation and access, these include the following:

- Require project approved public easements providing beach access where it does not currently exist (e.g., Western LNG, Bixby Ranch Hollister Ranch). The access corridor would be along the beach, pipeline route, road or railroad tracks where necessary to provide a continuous access.
- Require in-lieu fees sufficient to purchase and implement the coastal access program approved by the Coastal Commission for implementation by the Coastal Conservancy by legislative action for Hollister Ranch or on a route consistent with paths of common carriers (e.g., railroad, pipeline).
- Require land dedications for purposes of access and recreation at Point Conception and/or at Gaviota.
- Require recreation improvements in project area (e.g., campsites, hostels, coastal trails, bikeways).

- Improvements in other on-project areas (offsite).
- In conjunction with access, development of an Interpretive Center at Point Conception; Chumash Interpretive Center; Oil Interpretive Center.

Of the alternatives quoted above, the Commission finds that providing access to Hollister Ranch is the most appropriate to mitigate for project related impacts. The Commission has extensive experience with issues relating to public access along the project route which spans approximately 16 miles of coastline. In reviewing development permits, in its review and action on the County's LCP, in adopting the Hollister Ranch Access Program, and in other matters that have come before the Commission, the need for and scarcity of public access opportunities in this area have been well documented. Consistent with the County's LCP, public access will be provided in the area from Jalama County park through the Bixby Ranch and other properties to the western boundary of the Hollister Ranch when development proposals are submitted for approval. LCP policies and commission actions aimed at ensuring public access along the northern portion of Santa Barbara County have consistently stressed the need for a coastal access system that links Jalama with Gaviota. The only area along this stretch of coast where there is no reasonable assurance at this time that such public access will ever be provided is through the Hollister Ranch. It is for this reason that the conditions of this permit focus on the provision of access at Hollister Ranch. This is the area where public access is needed most and it is this area where new public access can best mitigate the direct and indirect adverse impacts, both specific and cumulative in nature, on public access and recreational resources previously discussed.

The Commission found above that there is a substantial need for additional access in this area, and County LCP policies 7-2 and 7-3, and Coastal Act Section 30212 require that public access be provided for new development between the first public road and the ocean. The Commission finds that County permit condition N-4 is insufficient to bring the permit in conformity with the LCP and Coastal Act. The condition does not provide for access to the Gerber property and does not provide reasonable access along the developed area (i.e., the pipeline corridor which is between the first public road and the ocean).

As discussed above, the project will result in adverse affects to coastal recreation and access along the entire project area, and in particular to the Gaviota area. Traffic will increase, the visual quality of the landscape will be degraded, and the Gaviota park facilities will be of insufficient size to meet the demand. Construction will occur when public demand for the coastal resources will be greatest, during the summer months.

The Commission finds that Public Access Conditions 1 and 2 are necessary to find that the county-approved coastal development permit is consistent with the LCP policies and the Coastal Act. The applicant will benefit from the proposed project to extract, transport and process the public's natural resources. The approximately 1-2 billion dollar development will bring in 200,000 barrels of wet oil and 120 million standard cubic feet per day of sour gas per day at its peak to Chevron U.S.A. and its partners.

In relation to the magnitude of this project and its overall impacts, the access condition of this approval is reasonable and necessary to meet LCP policies and



Coastal Act requirements. The Commission has balanced the burdens and benefits of the project and the public's constitutional rights of access. The Commission also recognizes that public access at the Hollister Ranch, as is the case in many other areas along the coast, will be subject to careful management so that private property rights and concerns of adjacent property owners will be protected. The Commission's authority to require offers-to-dedicate access was upheld in Pacific Legal Foundation v. California Coastal Commission and Sea Lands Association v. California Coastal Commission.

(5) Section 30610.3

Section 30610.3 was adopted by the Legislature in 1979 to address the situation where existing subdivisions include areas over which public access would otherwise be required under the Coastal Act but where individual lot owners wishing to secure coastal permits to build single-family dwellings do not have the legal ability to dedicate public access easements across these areas. For example, at both the Sea Ranch and Hollister Ranch the access areas are owned or legally controlled by a homeowner's association. In these cases, Section 30610.3 allows individual property owners to pay a fee in-lieu of an actual dedication of land for access purposes. The applicant contends that Section 30610.3 of the Coastal Act addresses all public access at such locations as Hollister Ranch and limits any in-lieu fees to be paid by applicants to \$5,000.

Before the provisions of Section 30610.3 could be applied to the Hollister Ranch Access Program, the Commission has to make certain findings. One is that "individual owners of vacant lots" in the subdivided area do not by themselves have the legal ability to meet the Commission's public access requirements for the subdivision. Section 30610.3 goes on to state that "every person receiving a coastal development permit ... for development on any vacant lot ..." must first pay an in-lieu fee. In 1980 the Coastal commission found that individual lot owners wishing to build on their vacant lots at Hollister Ranch were not able to meet Coastal Act access requirements because the Hollister Ranch Association controlled the areas over which public access would be required.

The application of the procedures established by this section was blocked at Hollister Ranch by the homeowners association which would not agree to any acquisition cost figure, a necessary step in setting the amount of the in-lieu fee. Subsequently, the Hollister Ranch Association sought legislation to exempt it from this requirement while the Commission sought to establish the in-lieu fee at a specific amount so that individual lot owners would no longer be delayed in gaining the necessary coastal permit to build homes on the ranch. The amount of the fee then became the focus of debate and despite opposition from the Commission, the Legislature fixed the amount of the in-lieu fee at Hollister Ranch as \$5,000.

In practice, as predicted by the Commission, these in-lieu fees are not sufficient to ensure implementation of the public access program at the ranch because, among other reasons, they will be paid only as individual lot owners apply for coastal permits. Nearly half of the initial appropriation in the bill which enacted Section 30610.8 (\$500,000) has been expended on legal and administrative costs to obtain an appraisal of the cost of the public access easements identified in the Commission's approved Hollister Ranch Access Program.

In the context of this application, Chevron is neither an owner of an individual vacant lot nor is the development being proposed in here "development on an individual vacant lot." Furthermore, as explained below, Chevron does have the

legal ability to meet the Commission's public access requirements. Thus, the limitation of the amount of any in-lieu fee to \$5,000 does not apply in this case.

Further evidence of this fact may be found in section 30610.8 (b) which states in relevant part as follows: "For purposes of Section 30610.3 and with respect to the Hollister Ranch public access program, the in-lieu fee shall be five thousand dollars for each permit..." Thus by the terms of this section, one must read the provisions of section 30610.3 and the Hollister Ranch Access Program (adopted by the Commission in August 1981 and awarded in May 1982) indetermining the types of development to which the \$5,000 in-lieu fee limitation applies.

Chevron may have the legal ability to provide public access to and along the shoreline across Hollister Ranch property because Chevron will be operating a common carrier pipeline across the Ranch. As a common carrier, Chevron acts as a public utility. According to the Office of the Attorney General (Exhibit 6), the State of California has granted condemnation power to corporations which are public utilities. This power to condemn can include condemnation to provide mitigation, such as public access, to address the adverse environmental impacts of the pipeline, processing facility, platforms, and associated development proposed by Chevron. However, the Commission, based on contradictory testimony and the certainty of extensive litigation over any exercise of eminent domain for access by Chevron, finds that such action based on this advice is not appropriate in this case.

Based on this information and its determination that Chevron's overall project will have significant adverse impacts on public access and recreational values along the vast stretch of coastline that will be utilized in completing Chevron's massive development project, the Commission finds that Special Conditions 1 and 2 are essential for the Commission to find that the project is consistent with the provisions of the Coastal Act and the County's LCP. In addition, the Commission finds that the proposed project as conditioned by the County does not adequately ensure that public access will be provided on the Hollister Ranch.

Special Condition 1 requires Chevron to contribute \$ 1,000,000 to Santa Barbara County to implement a Hollister Ranch access program which will purchase land to develop necessary facilities, and to operate a public access program across a limited portion of the Hollister Ranch coastline for the purpose of mitigating the adverse impacts of Chevron's project. The costs of fully satisfying this condition are unknown, but they will be largely controlled by the County. Chevron's obligation would be limited to \$1,000,000 which Chevron may be already obligated to pay Santa Barbara County over the first three years of operating its facilities pursuant to County conditions which require Chevron to contribute up to \$327,000 a year to a resource enhancement fund. Santa Barbara County has been determined by the Commission to be the appropriate agency to implement an access program through the Hollister Ranch as a mitigating condition for this project.

Special Condition 2 provides that if there is an agreed upon settlement between the Commission, the Conservancy and Hollister Ranch on a public access program, the Commission may delete Special Condition 1 and require Chevron to contribute its share of costs in implementing such an agreed upon access program.

The Commission therefore finds that this project as conditioned is consistent with the Santa Barbara County Coastal Plan and the public access and recreational policies of the Coastal Act.

c. Environmentally Sensitive Habitat Area (ESHA).  
Santa Barbara County LCP states:

Policy 9-22: Butterfly trees shall not be removed except where they pose serious threat to life or property, and shall not be pruned during roosting and nesting season.

Policy 9-23: Adjacent development shall be set back a minimum of 50 feet from the trees.

Appellants contend that the project will remove approximately 100-150 eucalyptus trees as a result of the construction of the proposed Highway 101 overpass and connecting frontage roads which provide habitat for Monarch butterflies. The above quoted County LCP policies prohibit removal of these trees except where they pose a serious threat to life or property. Appellants further contend that the County's permit conditions for the avoidance of impacts to the trees and the planting of new trees to replace the destroyed trees are not sufficient to assure that that overall value of the Monarch butterfly habitat is maintained.

The proposed overpass and frontage roads will result in the removal of approximately 150 eucalyptus trees ranging from sapling to mature trees which provide a portion of the habitat for the Monarch butterfly (Exhibit 7). A small portion of these trees will be removed for the construction of the overpass immediately east of Canada del Cementerio while the larger portion of the trees to be removed will be from Canada Alcatraz where a large grove of approximately 1000 eucalyptus trees are located. The issue before the Commission is whether the County permit conditions do in fact mitigate to the maximum extent feasible the impacts to the butterfly trees caused by construction of the overpass.

In the review of the overpass, on and off ramps and frontage roads, the County designed these project components to minimize the impact to the ESHAs, mainly the butterfly tree areas of Gaviota. The present interchange layout as shown on this drawing was preferred by Caltrans and Santa Barbara County, Department of Resource Management Energy Division, because of its minimal impact to the ESHAs while allowing adequate and safe access to and from U.S. 101. County condition I-10 requires that Chevron create a new grove of eucalyptus trees within Canada del Cementerio on a 2 for 1 basis as mitigation for project-required tree removal.

The County Board of Architectural Review on March 15, 1985 requested that the applicant redesign the proposed eucalyptus grove mitigation plan. The applicant was asked to check the habitat value of other eucalyptus and sycamore tree species to the Monarch butterfly that create less of a fire hazard. In addition, if the grove mitigation plan required a relocation from Canada del Cementerio, a new Canada in the same area would become the location for the grove. Sheltered canyons are an important criteria in determining habitat values for the monarch butterfly.

In laying out the interchange, all on-ramps, off-ramps, and frontage roads were specifically designed by Caltrans to allow for the future enlargement of U.S. 101 to six lanes with minimal adverse impacts. To meet this future highway expansion requirement, along with meeting Caltrans site distance and safety standards, highway offramp and onramp lengths had to be extended as much as 700 feet, and the overcrossing structure had to be lengthened. Also, in order for the frontage road, or main access road, to have the least impact on the butterfly trees while providing safe access to the proposed Gaviota facilities, a retaining wall approximately 200 feet in length and a maximum of 22 feet in height is being provided along this interchange frontage road within Canada Alcatraz.

The area of primary concern appears to be that of Canada del Alcatraz since it contains the majority of the densely-spaced butterfly trees. The interchange layout shows the westbound offramp affecting a narrow southern strip of this Canada del Alcatraz region, just north of the U.S. 101 between the present Vista del Mar School location and the existing Southern California Gas Company compressor station. This location was chosen because it met the Caltrans design and safety requirements, while satisfying the Santa Barbara County Department of Resource Management Energy Division that the location create the least amount of impact to the Canada's main butterfly tree areas.

Alternative sites for the overpass and offramps were considered. If the overpass were relocated further west, new two lane frontage roads would be required within Canada del Cementerio which would require more trees to be removed. At the same time, the number of trees removed from Canada Alcatraz would be reduced because the north bound offramp could be relocated. The net result would require approximately the same number of trees to be removed. If the offramp were to be relocated from its present proposed location by moving it to the west, the Caltrans site distance requirements would not be met. If the offramp were to be moved east, more of the Canada area would be impacted since the frontage road would have to be extended east. If the offramp were moved to the east of the Vista del Mar School, the two lane frontage road would be aligned through the Canada causing a major impact and eliminating the majority of the butterfly trees.

Finally, the present interchange layout and design uses the steepest allowable cut and fill slopes, as defined by soils reports for the project. Overall slopes are no greater than two horizontal to one vertical. Construction activity is restricted to no more than five feet outside the toe of any fill slope or the top of any cut slope. These requirements, along with the County's, Caltran's and Chevron's effort to design the interchange layout to minimize the impact to the butterfly tree areas, create a construction area that affects the smallest amount of existing terrain and ground cover possible. Thus, the overpass as proposed is found to be at the least environmentally damaging location and the impacts are mitigated to the maximum extent feasible pursuant to Section 30260 of the Coastal Act and the Commission finds that the proposed project as conditioned by the County is consistent with the resource protection policies of the certified Santa Barbara County LCP.

d. Other Appellant Contentions

(1) Scenic and Visual Quality

Santa Barbara County LCP Policy 2-18 states:

Policy 2-18: Use of flexible design concepts, including clustering of units, mixture of dwelling types, etc., shall be required to accomplish as much as possible all of the following goals:

- a. protection of the scenic qualities of the site;
- b. protection of coastal resources, i.e., habitat areas, archaeological sites, etc;
- c. avoidance of siting of structures on hazardous areas;
- d. provision of public open space, recreation, and/or beach access;
- e. preservation of existing healthy trees; and
- f. provision of low and moderate cost housing opportunities.

Policy 4-3: In areas designated as rural on the land use plan maps, the height, scale, and design of structures shall be compatible with the character of the surrounding natural environment, except where technical requirements dictate otherwise. Structures shall be subordinate in appearance to natural landforms; shall be designed to follow the natural contours of the landscape; and shall be sited so as not to intrude into the skyline as seen from public viewing places.

Appellants contend that the County's action is inconsistent with policy 4-3 since portions of Chevron's processing facility will be visible from Highway 101. In addition, the cumulative impact on views created by the project facility, freeway interchange, offshore platforms, and associated transportation systems will degrade the scenic and visual quality of the coastline.

Appellants further contend that the Chevron project is out of character with the land uses in the immediate vicinity and surrounding areas. They contend that the county's permit conditions, which address visual impacts (K-2 through K-6), are primarily limited to impacts from lighting, smoke emissions and oil reject tanks. They argue that the painting of facilities which are visible from the road fails to adequately protect scenic or coastal resources and that existing scenic views will be blocked by both the facilities and the screen plantings.

Permit conditions K-1 through K-6 require facility design, including buildings, structures, landscaping and signs are, to be in accordance with a plan approved by the County Board of Architecture Review (BAR). The County BAR on March 15, granted final approval of the project's facility landscape plan while deferring action on the design of the administration building and its perimeter landscaping to allow Chevron to redesign the two latter plans. BAR determined that the administration building needed to be redesigned to conform to the Gaviota areas community character and the buildings landscape plan needed to conform better to the facility's landscape plan. Staff has reviewed the BAR approved facility landscape plan and determined that it adequately screens all project facilities within approximately five years of growth. In addition, the administration buildings design and landscaping once redesigned will better conform to the community character of the area and thus further allow the facility to be consistent with policy 4-3 of the County Coastal Plan. Therefore, the Commission finds that the project, as screened by County conditions K-1 through K-6, mitigates visual impacts of the project to the maximum extent feasible.

Chevron, in compliance with County conditions I(1) (d),(e), and (f) has completed a landscape plan which incorporates native plant materials propagated from native seeds and plant cuttings from the area. In addition, County condition I(1)g requires an annual monitoring program until the County determines additional maintenance and further plantings are not necessary. County conditions I 14 and 15 require the County to enforce the maintenance of the proposed landscaping with appropriate performance bonds. In addition, the proposed landscape plan is designed to incorporate the existing natural blend of vegetation i.e., eucalyptus, pepper trees and native shrubs to create a natural landscape and avoid the impression of an artificial landscape with the tunnel-corridor effect that currently exists at Canada Alcatraz along U.S. 101.

Further, the landscape plan is designed to include the planting of box sized

trees which will effectively screen the facilities within approximately five years after planting from public view along U.S. 101.

In any event, the Santa Barbara County LCP designates the proposed site as a coastal dependent industrial land use that should be a consolidated facility surrounded by agricultural land uses to the west and east and a coastal dependent industrial land use to the south (Texaco-Gaviota). A large consolidated facility is difficult to completely screen from public view along U.S. 101. However, Chevron and Santa Barbara County have screened the consolidated site from public view to the degree required by the County LCP. This consolidated facility should be allowed in this location as long as the significant impacts are mitigated to the maximum extent feasible. The Commission finds that the proposed project as conditioned by the County is mitigated to the maximum extent feasible and is consistent with the Santa Barbara County LCP scenic and visual quality policies.

## 2. Pipeline Disruption of Coastal Resources.

Santa Barbara County LCP Policies state:

Policy 1-1: The County shall adopt the policies of the Coastal Act (PRC Sections 30210 through 30263) as the guiding policies of the land use plan.

Policy 6-17: When feasible, pipelines shall be routed to avoid important coastal resources, including recreation, habitat, and archeological areas.

Appellants contend that the proposed onshore pipeline route poses a threat to coastal resources both in the construction phase (due to habitat disruption and loss, erosion, and interference with nesting and breeding cycles) and the operation phase (due to oil spills). Appellants cite the EIR/S which identified Class I (unavoidable) impacts on terrestrial and freshwater biology due to pipeline construction and operation. In addition they contend, the offshore pipeline route would impact cultural resources and archaeological sites. They cite Coastal Act Section 30240 and contend that since the onshore pipeline corridor would cross approximately 19 environmentally sensitive areas, and the proposed use (pipeline) is not resource dependent, the pipeline is therefore inconsistent with the County LCP.

The County's findings in support of its permit decision state that while LCP Policy 1-1 requires that the resource policies of the Coastal Act become "the guiding policies of the (County's) land use plan," such policies include Sections 30255, 30260, and 30262(b) of the Coastal Act. These policies, the County found, provide for priority treatment of coastal dependent industrial facilities. Under the certified LCP, Chevron's onshore facility is considered to be coastal-dependent. Therefore, the County found that when such facilities cannot be constructed consistent with all coastal policies, such facilities may nonetheless be permitted if the requirements of Section 30260 are met. One of those requirements is that adverse impacts be mitigated to the maximum extent feasible.

The County imposed numerous conditions on this project, and found that these specific conditions mitigate the impacts of the project to the maximum extent feasible, consistent with Policy 6-17. The Commission finds that the final

County approved route adequately mitigates impacts to coastal resources consistent with Policy 6-17 by balancing the protection of ESHA areas with the protection of archaeological resources. In addition, the County's LCP specifically allows pipelines to cross ESHA as a conditional use as long as the impacts are mitigated to the maximum extent feasible. Therefore, the Commission finds that the proposed project as conditioned by the County is consistent with the Santa Barbara County LCP resource protection policies.

### 3. Pipeline Disruption of Wetlands.

Santa Barbara County LCP Policies state:

Policy 9-14: New development adjacent to or in close proximity to wetlands shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or containments), noise, thermal pollution, or other disturbances.

Appellants contend that the proposed pipeline crosses two wetlands areas and may cause dewatering or sedimentation. This could adversely affect habitat areas for aquatic species, including the endangered tidewater goby.

The County found in approving the permit, that LCP policy 6-12 makes an exception for the installation of pipelines in environmentally sensitive areas, and allows their installation in such areas. The project as proposed includes conditions to adequately mitigate any adverse impacts to these wetlands by controlling erosion and sedimentation to the maximum extent feasible. Therefore, the Commission finds that the proposed project as conditioned by the County is consistent with the Santa Barbara County LCP policies which protect wetlands to the maximum feasible.

### 4. Air Quality

Santa Barbara County LCP Policy states:

Policy 11-1: The provisions of the Air Quality Attainment Plan shall apply to the coastal zone.

Appellants contend that the EIR/S indicates exceedances of the California 1-hour standards for NO<sub>x</sub> and ozone, and that Santa Barbara County is currently a non-attainment area for ozone. Therefore, the project as approved does not assure adequate mitigation of air quality impacts necessary to avoid exceedances of Air Quality Attainment Plan (AQAP) standards.

The County acknowledges that although the proposed project will be developed with a Permit to Construct and an Authority to Operate issued by the APCD, the EIR indicates the project will hinder the reasonable further progress of attaining the ozone standard unless NO<sub>x</sub>/HC emissions are reduced at the platforms through the use of electric power, and offsets are secured for NO<sub>x</sub>/HC emissions.

Chevron must obtain an air pollution permit from the County Air Pollution Control District (APCD) that will meet state and county air pollution standards for NO<sub>x</sub>, HC and ozone before county permits to construct are granted. Chevron proposes to utilize new technology to meet these standards.

Selective catalytic reduction in addition to water injection for the five proposed cogeneration turbines providing electrical power has been demonstrated

in Japan but not the United States. In the event such technology is not feasible, the County APCD will require that Chevron to reduce its cogeneration capability from five turbines to three in order to meet air standards.

Chevron might be required to improve Southern California Edison's electric grid power system to provide adequate power surge capabilities in the latter event. Since the County APCD will not issue permits for this project unless it is in compliance with the AQAP, the Commission finds that the proposed project as conditioned by the County is consistent with the Santa Barbara County LCP air quality policy.

#### 5. Facility Height.

Appellants cited Santa Barbara County Coastal Zoning Ordinance (CZO) Section 35-87.7 which restricts building height in M-CD zones to 45 feet. The flare tower at Chevron's proposed facility will be 125 feet.

Appellants contend that in the event that Chevron is granted a variance to accommodate the additional 80 feet of height, that such a variance would be inconsistent with the CZO policies. Appellants cite Section 35-173.3 of the CZO which provides that variances for building height be limited to 10% increases over the permitted height. However, according to this section of CZO, the 10% limitation applies to actions of the Zoning Administrator, and does not limit the actions of the Planning Commission. Therefore, the Commission finds that the proposed project as conditioned by the County is consistent with the Santa Barbara County LCP and CZO.

#### 6. Incomplete Project Components.

Appellants contend that Chevron's application did not include the storage and transportation elements of the proposed development, and the County was therefore unable to review the total development project. Consequently, the approval was premature and the findings adopted by the County were incomplete.

The appellants further contend that CZO Section 35-169.5 (2) specifies that a Coastal Development Permit shall not be issued until all other necessary approvals, except building permits, have been obtained. Based upon this, they argue that Chevron has submitted only a preliminary development plan, not a final development plan, and approval of the permit at this early stage of the process precludes public scrutiny and comment on any subsequent modifications.

The County has approved the Preliminary Development Plan. Chevron has not yet filed for a Final Development Plan and a Coastal Development Permit. The County Board of Supervisor's action on the Preliminary Development Plan comprises the County's major discretionary action on the project. The County Counsel has submitted an explanation for the County's initiation of the appeal period as noted in Exhibit 5. The letter explains that the County's action in December 1984 on the development plan and conditional use permit constitute a coastal development permit which is appealable to the Commission. The Commission finds that the proposed project has received the equivalent of a coastal development permit from the County and failure to hear this appeal could forfeit the Commission's ability to review the substantive elements of this project.



EXHIBIT A

STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgement. The permit is not valid and construction 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 construction has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Construction shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All construction must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

EXHIBIT NO. A

APPLICATION NO.  
1-85-B

CHEVRON



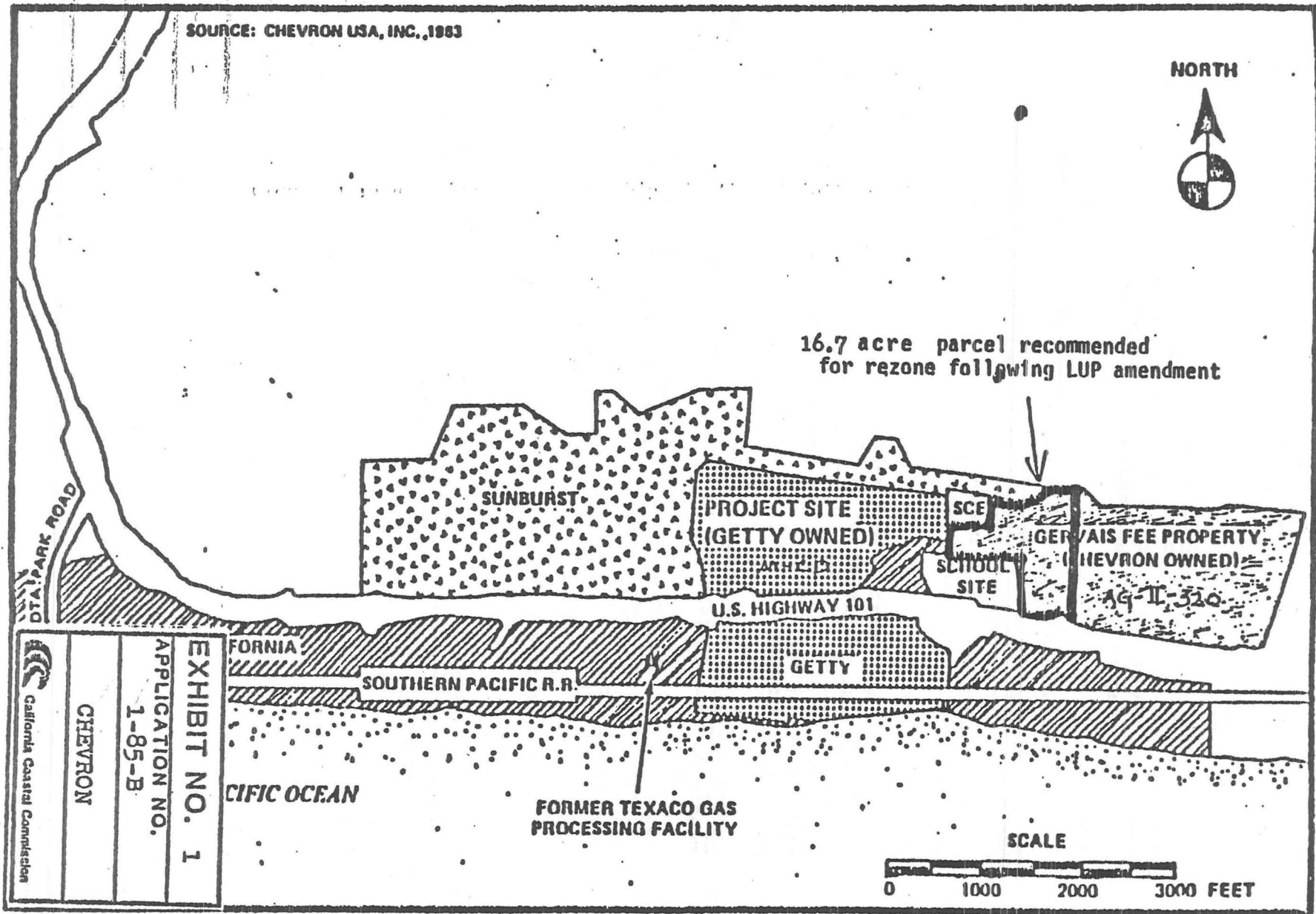
California Coastal Commission

SOURCE: CHEVRON USA, INC., 1983

NORTH




16.7 acre parcel recommended for rezone following LUP amendment



4.10-35

Arthur D. Little, Inc.

 California Coastal Commission	CHEVRON
	APPLICATION NO. 1-85-B
	EXHIBIT NO. 1

CALIFORNIA

SOUTHERN PACIFIC R.R.

PACIFIC OCEAN

FORMER TEXACO GAS PROCESSING FACILITY

SCALE



SOCIOECONOMICS

FIGURE 4.10-B Property ownerships in the vicinity of the project.

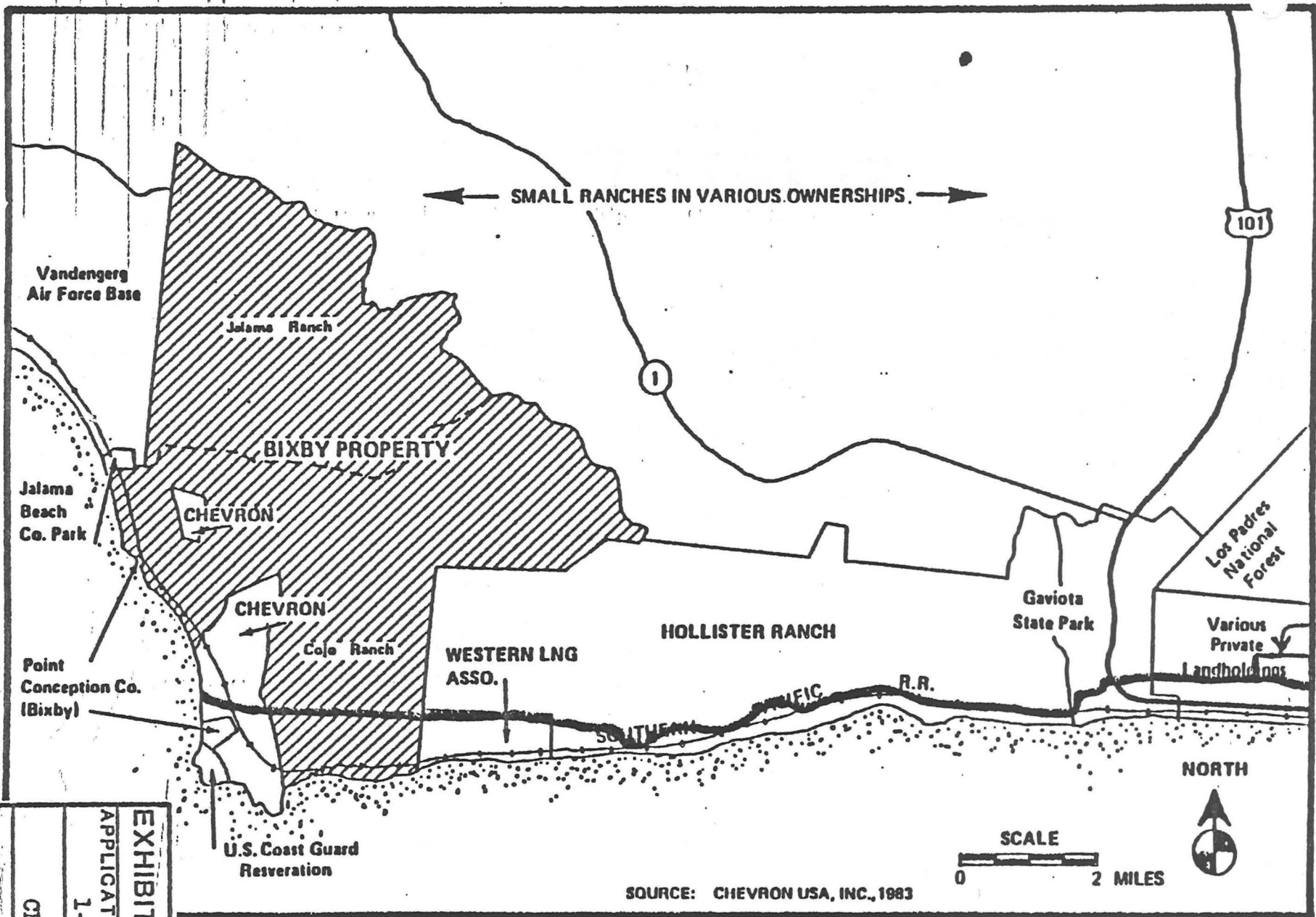


FIGURE 2.3 PROPOSED ONSHORE OIL AND GAS PIPELINE CORRIDOR

Approximate

PROJECT DESCRIPTION

R-2-33

Arthur D. Little, Inc.

California Coastal Commission

EXHIBIT NO. 2  
 APPLICATION NO. 1-85-B  
 CHEVRON

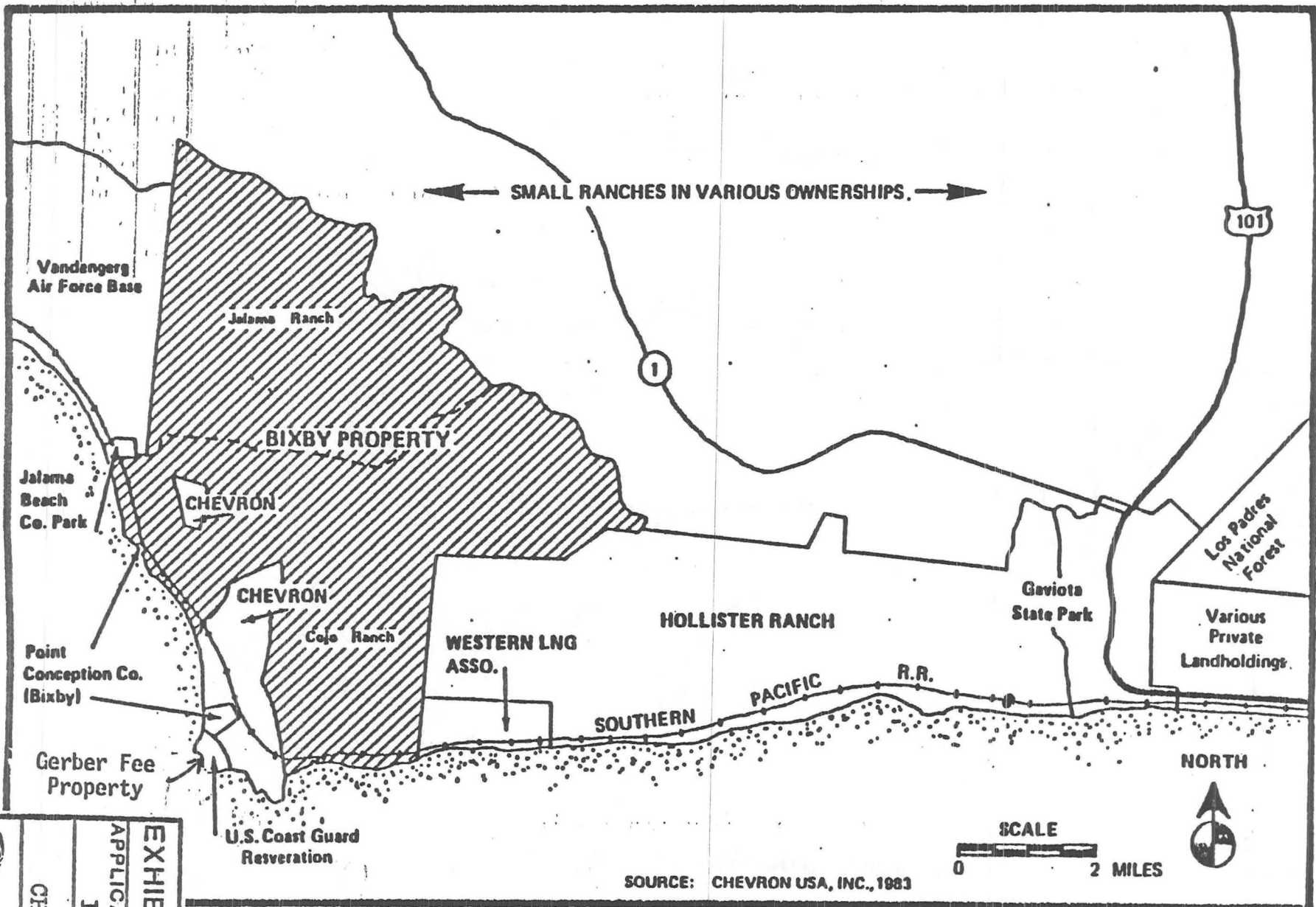


FIGURE 4.10-7. Land ownership in the Point Conception area.

1-2

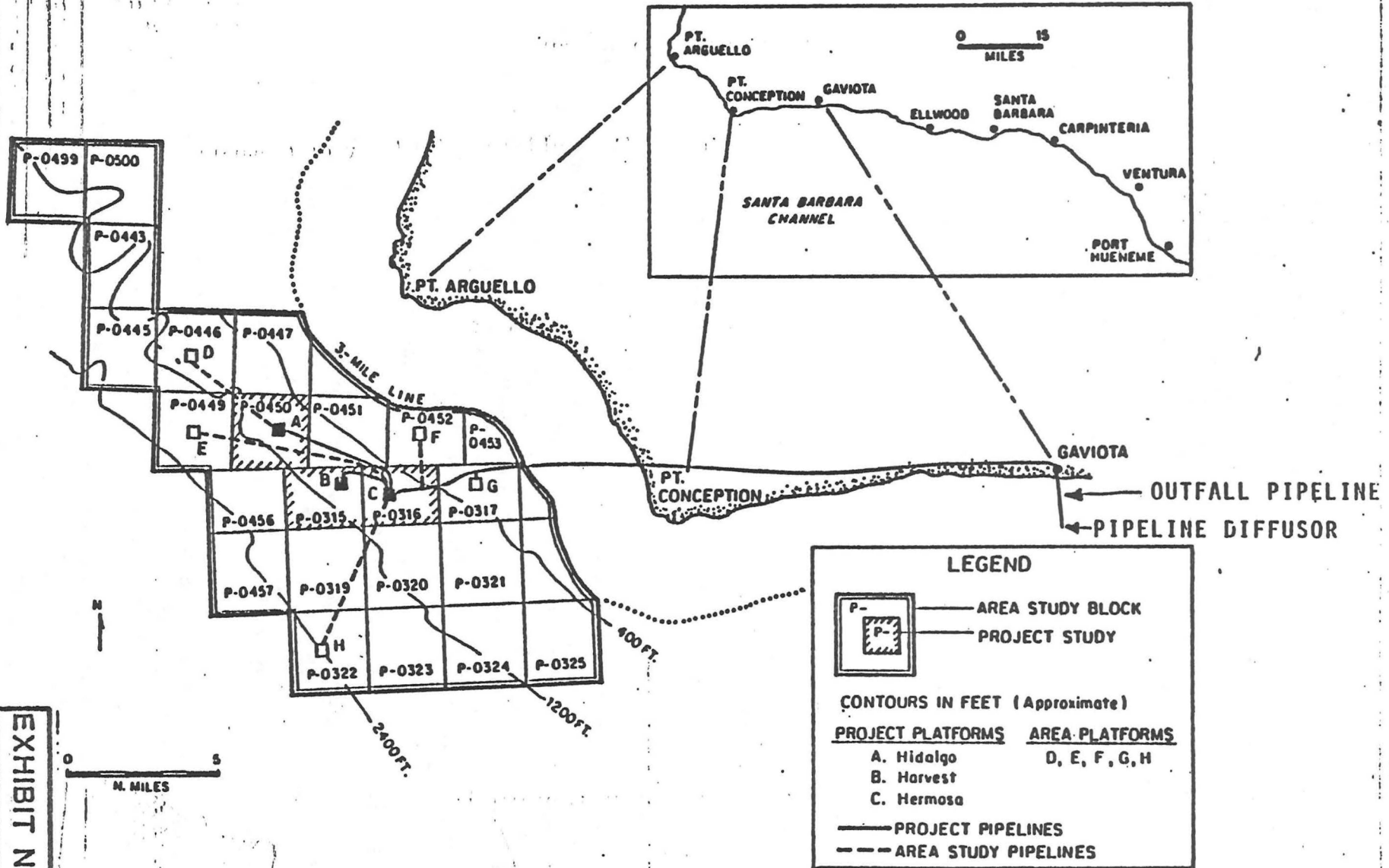


FIGURE 1.1 PROJECT / AREA STUDY ELEMENTS

 California Coastal Commission	CHEVRON
	APPLICATION NO. 1-85-B
	EXHIBIT NO. 4

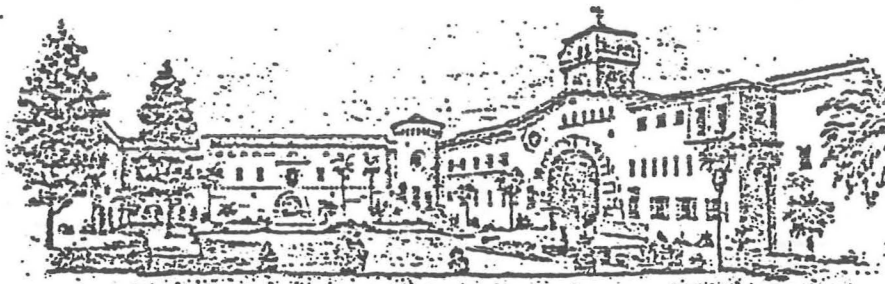



EXHIBIT NO. 5
APPLICATION NO. 1-85-B
CHEVRON
 California Coastal Commission

KENNETH L. NELSON  
County Counsel  
MARVIN LEVINE  
Chief Assistant

COUNTY COUNSEL  
SANTA BARBARA COUNTY

105 East Anapama Street  
Santa Barbara, CA 93101  
Telephone: (805) 963-7189

February 25, 1985

Mr. Eric Metz  
Energy & Coastal Resources Div.  
California Coastal Commission  
631 Howard Street, 4th Floor  
San Francisco, California 94105

Re: Chevron USA, Inc.; Appeal of Coastal Development Permit

Dear Mr. Metz:

You requested our opinion whether a "coastal development permit" (for Chevron) is presently before the Commission on appeal. I have revised your question to whether a permit was issued by the County such that an appeal properly could be taken to the Coastal Commission. I conclude two such permits were issued; i.e., the preliminary development plan and the major conditional use permit. Further I conclude a failure to provide an appeal of the permits issued at this stage could cause a situation in which the rights of both the appellants and the applicant could be placed in substantial jeopardy.

Analysis: The California Coastal Act provides that "After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the Commission ..." (Section 30603.)

The Act defines coastal development permit as "a permit for any development within the coastal zone that is required pursuant to Subdivision (a) of Section 30600."

The preliminary development plan is the major discretionary permit issued on a project by the County. It is intended to (and normally does) embody all or the vast majority of the discretionary decisions approving the project and conditions imposed on the project by the decisionmaker. In the case of a large or complex project these conditions require substantial

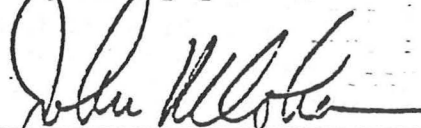
Mr. Eric Metz  
Page 2  
February 25, 1985

time, effort and funds in order to achieve compliance. In Chevron's case, an expenditure of one year and several hundred thousand dollars is likely.

If no appeal to the Coastal Commission of the preliminary development plan (or conditional use permit) is held until after the applicant has spent substantial time and effort in reliance upon satisfying the conditions imposed on the development plan (or conditional use permit) a substantial question of equity, fairness and due process rights will arise. In many instances the very question on appeal is whether the conditions imposed on the permit are sufficient to protect coastal resources adequately. If this question is not resolved prior to the applicant's compliance with the conditions, the rights of both the applicant and the appellant may be jeopardized; the first by detrimental reliance, the second by the potential for the applicant's rights vesting.

Based on these considerations I have concluded that the development plan and conditional use permit issued Chevron by the County constitute a "coastal development permit" which is appealable to the Commission.

Very truly yours,



---

John M. Cohan  
Deputy County Counsel

JMC:rph  
5447C

EXHIBIT NO. 6

APPLICATION NO.

1-85-B

CHEVRON



State of California

Department of Justice

# Memorandum

110 West "A" Street, Suite 700  
San Diego, California 92101

To : Peter M. Douglas  
Deputy Director  
California Coastal Commission  
631 Howard Street, 4th Floor  
San Francisco, CA 94105

Date : March 7, 1985

File No.:

(ATSS) 631-7590  
(619) 237-7590

RECEIVED  
MAR 11 1985  
CALIFORNIA  
COASTAL COMMISSION

From : Office of the Attorney General --San Diego  
ANTHONY M. SUMMERS, Supervising Deputy Attorney General

Subject: Condemnation Power of Chevron U.S.A., Inc.

You have asked for the views of the Attorney General's Office on the following question:

If the Coastal Commission, as a condition to the granting of a permit, requires Chevron to acquire property to be used for public access to and along the coast, would Chevron be legally entitled to use the power of eminent domain for that purpose?

Our conclusion is that Chevron would have the power to condemn property to comply with a Coastal Commission permit requirement, provided the access were necessary to mitigate adverse environmental effects of the proposed development.

The reasoning behind this conclusion follows.

1. Chevron Has the Power to Condemn Property

The State of California has given condemnation power to corporations which are public utilities. (Pub. Util. Code, § 610.) From the information provided, it appears that Chevron is a gas corporation and a pipeline corporation within the respective meanings of Public Utilities Code sections 222 and 228.1/ We are advised that Chevron claims the statutory right to "condemn any property necessary for construction and maintenance of" its gas plant and its pipeline. (Pub. Util. Code, §§ 613, 615.)

Of course, this power to condemn is not unlimited. Nevertheless, it is quite broad. This is shown by the definition of "gas plant" and "pipeline" found in Public Utilities Code sections, 221 and 227. Both gas plant

1. The reference to Chevron is for convenience. Actually the gas and pipeline corporations are separate legal entities.



Peter M. Douglas  
March 7, 1985  
Page Two

and pipeline are defined so as to include not only the actual plant, but all real estate used in connection with, or to facilitate the purposes of, the gas plant or pipeline.

2. The Power to Condemn Includes  
Condemnation to Provide Mitigation  
of Adverse Environmental Effects

Chevron has questioned whether its power of condemnation extends to the acquisition of land in order to provide environmental mitigation measures. It is our conclusion that the power of condemnation is sufficiently broad to encompass these measures.

The Court of Appeal ruled on a very similar question in Golden Gate Bridge, Highway and Transportation District v. Muzzi (1978) 83 Cal.App.3d 707. A full copy of the opinion is attached to this memorandum. There, the Golden Gate Bridge Authority derived its power to condemn property from the Streets and Highways Code. It was entitled to exercise the power of eminent domain for the condemnation of any property "necessary to the exercise of the powers granted" by the Streets and Highways Code. This provision is very similar to those found in the Public Utilities Code. Nevertheless, Muzzi litigated the question of whether the Golden Gate Bridge Authority could utilize its condemnation power for environmental mitigation measures. The Court of Appeal found that this was an appropriate use of the power of eminent domain.

In Muzzi, the Golden Gate Bridge Authority was acquiring property for a ferry terminal in Marin County. In connection with the construction of the ferry terminal, the bridge authority also sought to condemn land to be used for disposal of dredge fill and for the implementation of recommended environmental mitigation measures. The Court of Appeal stated:

" . . . the ability to mitigate the adverse environmental effects in this manner gives respondent a power and flexibility which do much to effectuate the specific powers referred to in Streets and Highways Code section 27166. In the present case the trial court's findings reveal that mitigation of the environmental damage caused by the deposit of dredged spoils on certain marshlands was most effectively achieved by the condemnation and permanent protection of other marshlands.

Peter M. Douglas  
March 7, 1985  
Page Three

"Furthermore, the view that respondent's power to condemn property for a water transportation system implicitly includes the power to condemn for necessary mitigation of the resulting environmental effects is consistent with the legislative intent and policy expressed in the California Environmental Quality Act (Pub. Resources Code, §§ 21000-21176). Public Resources Code section 21000 expresses the legislative intent that all 'public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage.'" (Golden Gate Bridge etc. Dist. v. Muzzi (1978) 83 Cal.App.3d at p. 713.)

The court concluded that the bridge authority's power of condemnation to acquire and operate a water transportation system "implicitly includes the power to condemn for environmental mitigation." Nevertheless, the court also stated "we recognize this latter power only as to environmental mitigation necessitated by an authorized activity."

Based upon this decision, it is our conclusion that a gas corporation or a pipeline corporation also has the power to condemn property for environmental mitigation if that environmental mitigation is necessitated by an authorized activity. Even though Chevron is not a public agency, it is required to comply with the Environmental Quality Act as the Golden Gate Bridge Authority did. It must also comply with the Coastal Act, which has similar purposes. Therefore, as in Muzzi, it effectuates the legislative purpose of protecting the environment to recognize the use of eminent domain to ameliorate adverse environmental effects of a development. However, before imposing any requirement that Chevron exercise its power of condemnation, the Commission would have to find that the public access to be condemned was necessitated by the development for which the coastal permit was sought.

3. There Is Precedent for Requiring Acquisition of Property as a Condition of a Permit

The question posed by the Commission assumes that acquisition of property may be required by a permit condition. In this area, also, the present situation is analogous to

that presented in Muzzi. As is shown in footnote one of the appellate court's opinion, both the San Francisco Bay Conservation and Development Commission and the State Lands Commission had issued permits to the Golden Gate Bridge Authority. Each of those agencies, as a condition of issuing its permit, required the Golden Gate Bridge Authority to acquire property to be used for marsh restoration purposes. The permits contemplated the use of the power of eminent domain to carry out the acquisition. The Bay Conservation Development Commission permit provided (in part):

"C. Marsh Restoration.

"1. Acquisition. The applicant shall acquire, for creation and use for marshland, wildlife habitat and open space purposes, an area of approximately 530 acres consisting of (a) at least 390 acres of marsh habitat, tide- and submerged lands, and (b) at least 140 acres of land diked off from the Bay prior to September 17, 1965, that can be restored to tidal action, and that if restored to tidal action by breaching existing dikes as part of a marsh restoration program would provide (a) no less than 125 acres of new Bay tidal marsh, and (b) two dry land areas above Mean Higher High Water consisting of the remaining portions of the dikes.

". . . .

"3. Legal Proceedings. Prior to commencement of any work authorized hereunder, the applicant shall have instituted court proceedings to acquire possession of a parcel that meets the criteria specified in Condition II.C.1. This action shall be diligently prosecuted to completion or a settlement consistent with the terms and conditions of this authorization.

". . . .

"5. Dedication. No later than 60 days after obtaining title to any property acquired pursuant to Condition II.C.1. above, the

Peter M. Douglas  
March 7, 1985  
Page Five

applicant, by an instrument acceptable in form to counsel for the Commission, shall dedicate for public use as wildlife habitat and open space those portions of the property, consisting of (a) all tide and submerged lands; (b) all areas subject to tidal action and all areas to be restored as tidal marsh; and (c) all dikes, except those constructed to contain polluted dredge spoils.

"6. Public Access at the Restoration Site.

"a. If the property popularly known as the "Muzzi property" is acquired pursuant to Condition II.C.1. above as the site for the marsh restoration program the applicant, by an instrument acceptable in form to counsel for the Commission, shall dedicate to the exclusive use of the public for viewing, fishing, walking, picnicking, sitting, bicycling, and related purposes, a strip 10 feet wide with its center line along the top of the new dike to be constructed at the western edge of the proposed new Bay marshland, . . . Such dedication shall take place at the same time as the dedication of other areas pursuant to Condition II.C.5. above, subject to the retention of whatever rights the applicant and the Commission agree are necessary to allow construction and maintenance of the dike. Any dedication of public access pursuant to this condition shall be for the purposes of this project only and does not, and shall not be construed to, limit the public access the Commission may require, should a permit for development of the area behind the dike be submitted to the Commission." (San Francisco Bay Conservation and Development Commission Permit No. 22-73, issued February 20, 1974.)

Peter M. Douglas  
March 7, 1985  
Page Six

The State Lands Commission permit was also made "subject to (1) acquisition of the property comprising the marsh restoration area presently under proceeding of eminent domain . . . ." (State Lands Commission File PRC 4915.9; July 9, 1974.)

These conditions are set forth to demonstrate that conditions requiring acquisition of property for public use to mitigate harmful environmental consequences are not unprecedented.

4. Public Resources Code Section 30601.5  
Is Not Applicable

A member of the Commission asked whether Public Resources Code section 30601.5 is applicable to the situation where Chevron does not own a fee interest in land which it may be required to acquire and utilize for public access purposes. Section 30601.5 provides:

"Where the applicant for a coastal development permit is not the owner of a fee interest in the property on which a proposed development is to be located, but can demonstrate a legal right, interest, or other entitlement to use the property for the proposed development, the commission shall not require the holder or owner of any superior interest in the property to join the applicant as coapplicant. All holders or owners of any other interests of record in the affected property shall be notified in writing of the permit application and invited to join as coapplicant. In addition, prior to the issuance of a coastal development permit, the applicant shall demonstrate the authority to comply with all conditions of approval."

The purpose of this section is to assure that a person such as a lessee has the legal authority to carry out any conditions imposed on a coastal permit. The owner of an interest in property which is less than a fee may not have that authority without the consent of the underlying owner.

However, where it is contemplated that the permittee will acquire the necessary interest in real property by exercising the power of eminent domain, this section is not applicable. The authority to utilize the property will

Peter M. Douglas  
March 7, 1985  
Page Seven

come through the eminent domain proceedings, not the owner's consent. The permittee would have to purchase or condemn whatever interest was necessary in order to carry out the permit conditions. Of course, even though the consent of the underlying property owner may not be necessary, all affected property owners must be afforded appropriate notice of the Commission proceedings.

5. Effect of Requiring Condemnation  
on the Timing of the Project

Commissioner MacElvaine raised the question of whether it would slow down the whole process of completing the development if Chevron were required to become involved in condemnation proceedings. No precise answer can be given to that question.

Obviously, if Chevron chooses to challenge an action of the Commission by filing a suit for administrative mandate, the completion of the development may well be delayed until after the court proceedings have terminated. The particular project at issue is a controversial one in which two organizations have become involved as opponents. These groups would also have the right to institute legal proceedings to challenge the Commission's action if they do not believe the Commission is sufficiently protective of coastal resources. In any case, the institution of legal proceedings is a matter beyond the control of the Commission. One can only speculate as to whether a suit might be filed, how long it might take, and whether a court would stay construction pending disposition of the case.

If the Commission were to require Chevron to use its power of eminent domain, the affected property owners could litigate Chevron's right to take their property, as the owner did in Muzzi. On the other hand there is a possibility that Chevron could obtain an order allowing it to take possession of the property while the litigation proceeded (Code Civ. Proc., § 1255.410), although such an order is not always left in effect (Code Civ. Proc., § 1255.430) and Chevron may not even seek such an order.

In summary, there is a possibility of litigation and consequent delay no matter what decision the Commission reaches. In general, the more stringent the conditions on a project and the more persons affected by them, the greater is the likelihood of litigation.

Peter M. Douglas  
March 7, 1985  
Page Eight

#### CONCLUSION

Chevron has the authority to use the power of eminent domain to acquire real property for environmental mitigation purposes, if that environmental mitigation is necessitated by its development. Whether the proposed development has adverse consequences requires a factual determination by the Commission. Assuming that such consequences do exist, the Commission may impose reasonable terms and conditions to ensure that the development will be in compliance with the provisions of the Coastal Act. If the Commission determines that public access is required to mitigate the consequences of the development and to bring it into conformity with the Coastal Act, it may require Chevron to use its condemnation power for those purposes.



ANTHONY M. SUMMERS  
Supervising Deputy Attorney General

AMS:js:ar

bring  
existing

[Civ. No. 41396. First Dist., Div. Three. Aug. 10, 1978.]

denied

GOLDEN GATE BRIDGE, HIGHWAY AND TRANSPORTATION  
DISTRICT, Plaintiff and Respondent, v.  
DOMENIC MUZZI et al., Defendants and Appellants.

#### SUMMARY

In an eminent domain proceeding, the trial court entered judgment in condemnation after the jury determined the value of the property owner's 600 acres of land to be \$600,000. The record indicated that a transportation district sought to condemn the property in connection with the construction of a ferry terminal. More than half of the land was tidelands and the remaining acreage was mostly low and marshy land behind dikes. The trial court found that the property sought was necessary for the deposit of dredged spoils from a channel being dug to the ferry terminal and for environmental mitigation measures necessitated by the project. (Superior Court of Marin County, No. 70662, Louis H. Burke, Judge.\*)

The Court of Appeal affirmed. The court held that the transit district's power to condemn property for water transportation implicitly included the power to condemn property necessary for mitigation of the environmental effects caused by the water transportation project. The court also held that the transportation district had the authority to condemn portions of the owner's property for the deposit of dredged spoils. (Opinion by Scott, J., with White, P. J., and Feinberg, J., concurring.)

\*Retired Associate Justice of the Supreme Court sitting under assignment by the Chairperson of the Judicial Council.

[Aug. 1978]



**HEADNOTES**

Classified to California Digest of Official Reports, 3d Series

(1a, 1b) Eminent Domain § 7—Uses and Purposes Authorized—What Constitutes Public Use or Purpose—Mitigation of Environmental Damages.—A transit district's power to condemn property necessary for water transportation implicitly includes the power to condemn property necessary for mitigation of the environmental effects caused by a water transportation project. Thus, in a condemnation proceeding by a transit district to acquire property in connection with the construction of a ferry terminal, the trial court properly concluded condemnation of the land for environmental mitigation measures was necessitated by the ferry project and was an implied public purpose, where it found that mitigation of the environmental damage caused by the deposit of dredged spoils on certain marshlands would most effectively be achieved by the condemnation and permanent protection of other marshlands.

[See Cal.Jur.3d, Eminent Domain, § 40; Am.Jur.2d, Eminent Domain, § 53.]

(2) Eminent Domain § 4—Basis and Source of Power—Statutory Grant—Construction.—A statutory grant of the power of eminent domain must be indicated by express terms or by clear implication. Statutory language defining such powers of a governmental entity are strictly construed and any reasonable doubt concerning the existence of the power should be resolved against the entity. However, a statute granting the power of eminent domain should be construed so as to effectuate and not defeat the purpose for which it was granted.

(3) Eminent Domain § 7—Uses and Purposes Authorized—What Constitutes Public Use or Purpose—Deposit of Dredged Spoils.—In a proceeding by a transit district to condemn property in connection with the construction of a ferry terminal, the trial court properly concluded that the transit district had the authority to condemn portions of an owner's property for the deposit of dredged spoils from a channel, where it found that the dredging of the channel and disposal of the spoils on the owner's land was necessary. The mere fact that the property did not border on the channel did not preclude the power of the transit district to condemn.

{Aug. 1978}

- (4) **Eminent Domain § 7—Uses and Purposes Authorized—What Constitutes Public Use or Purpose—Conclusiveness of Administrative Determination.**—In a proceeding initiated by a transit district to condemn land for a ferry project, the trial court did not erroneously rule as a matter of law, by excluding evidence regarding the transit district's intended use and necessity for condemning the property, that the transit district's determination of public interest and necessity was conclusive. The record indicated that despite the uncertainties regarding the scope of the ruling of the trial court, the subsequent conduct of both parties regarding testimony on the issue of necessity of condemnation suggested that the ruling did not determine as a matter of law the necessity for condemning the property.
- (5) **Eminent Domain § 85—Condemnation Proceedings—Trial—Evidence—Witnesses—Cross-examination—Value of Property.**—In a proceeding by a transit district to condemn property for a ferry terminal, the trial court did not err in refusing to allow the property owner to cross-examine the district's valuation witness with regard to his appraisal of a nearby parcel. The record indicated that during the cross-examination of the witness, he admitted that his appraisal of the ferry terminal site included a parcel of land which had previously been sold. Evidence regarding the sale of the second parcel had earlier been admitted as a comparable sale, and the property owner had tried to impeach the valuation witness on the basis of his appraisal of the entire ferry terminal site.
- (6) **Eminent Domain § 100—Condemnation Proceedings—Trial—Evidence—Measure, Elements and Amount of Damages—Zoning Factors—General Plan.**—In a proceeding by a transit district to condemn property for a ferry terminal site, the trial court did not err in permitting cross-examination of the property owner's valuation witnesses as to whether the town in which the property was located would allow any substantial development of it. The record indicated that, although the trial court had previously ruled against the admissibility of the town's proposed general plan, the cross-examination of one witness was intended to elicit facts from him as to the basis of his belief in his direct testimony that a change in zoning was reasonably probable, and the cross-examination of the second witness simply inquired as to whether the

---

town would have approved a multi-use development of the property as the witness had previously testified.

- (7) Eminent Domain § 90—Condemnation Proceedings—Trial—Evidence—Measure, Elements and Amount of Damages—Value of Comparable or Similar Property—Sale of Property by an Estate.—In a proceeding initiated by a transit district to condemn property for a ferry terminal site, the trial court did not abuse its discretion in admitting into evidence as a comparable sale the terms of a sale of property by an estate. The record indicated that the similarity of the two parcels was well established and that there were limited sales of comparable property in recent years. Furthermore, the estate property was sold by an experienced real estate appraiser acting as executor for the estate.
- (8) Eminent Domain § 90—Condemnation Proceedings—Trial—Evidence—Measure, Elements and Amount of Damages—Value of Comparable or Similar Property—Property Purchased by Condemner.—In some eminent domain proceedings evidence of the purchase of property by a condemner may be admissible as a sale of comparable property, where the price paid was sufficiently voluntary to be a reasonable index of value.
- (9) Eminent Domain § 92—Condemnation Proceedings—Trial—Evidence—Measure, Elements and Amount of Damages—Determination by Court—Wide Discretion.—The trial court has wide discretion in a condemnation proceeding in determining whether a particular sale of property was comparable to the land being condemned.

---

#### COUNSEL

Fitzgerald, Berg & Edgar, Fitzgerald & Edgar, Herman H. Fitzgerald, William R. Edgar, Hudak & Muzzi and Vincent A. Muzzi for Defendants and Appellants.

Hanson, Bridgett, Marcus, Milne & Vlahos, John J. Vlahos and Stephen B. Peck for Plaintiff and Respondent.

[Aug. 1978]

OPINION

SCOTT, J.—Appellants, owners of a large tract of property in Marin County, appeal from a judgment in condemnation after the jury determined the value of their property to be \$600,000. Respondent sought to condemn the property in connection with the construction of a ferry terminal in Larkspur.

The subject property consists of between 589 and 600 acres in the Town of Corte Madera; 369-380 acres are tidelands (submerged) and the remaining 199-220 acres lie behind dikes. Of the area behind the dikes about 60 acres are filled; the rest is low and marshy. The property is a short distance from the site of the Larkspur ferry terminal.

(1a) Appellants contend that respondent's purpose in condemning their property was unauthorized.

The resolution of public interest and necessity regarding the subject property stated that the property was "suitable, adaptable, necessary, and required for public use" by respondent "for the placement of dredged spoils incident to the construction of the district's Larkspur Ferry Terminal, for the implementation of recommended environmental mitigation measures, and for various transit purposes."

The trial court in its findings of fact and conclusions of law similarly found that the property sought was necessary for "the deposit of dredged spoils from the dredging incident to plaintiff's Larkspur Ferry Terminal Construction Project and for environmental mitigation measures necessitated by said project." This finding was supported in part by testimony concerning the need to regenerate marshland because of the deposit on the subject property of contaminated dredging spoils taken from the ferry terminal channel.

Former Streets and Highways Code section 27166 provided in pertinent part: "*The district may have and exercise, in the name of the district, the right of eminent domain for the condemnation of any property, whether such property is already devoted to the same use or another public use, or otherwise, necessary to the exercise of the powers granted in this part, or in any provision of law, to the district.*" (Stats. 1972, ch. 1381, § 3, p. 2869, italics added.) These powers include the powers to "study, construct, acquire, improve, maintain, and operate any and all modes of transporta-

[Aug. 1978]

tion within or partly within the district, including, but not limited to, water transportation." (Stats. 1969, ch. 805, § 5, p. 1626, as amended by Stats. 1972, ch. 1382, § 6, p. 2870.)

Appellants first argue that "environmental mitigation" is neither an expressed nor an implied public purpose justifying condemnation by respondent.

(2) It is a settled principle that a statutory grant of the power of eminent domain must be indicated by express terms or by clear implication. (*County of Marin v. Superior Court* (1960) 53 Cal.2d 633, 636 [2 Cal.Rptr. 758, 349 P.2d 526]; *City & County of San Francisco v. Ross* (1955) 44 Cal.2d 52, 55 [279 P.2d 529]; *Harden v. Superior Court* (1955) 44 Cal.2d 630, 640 [284 P.2d 9]; *Skreden v. Superior Court* (1975) 54 Cal.App.3d 114, 117 [126 Cal.Rptr. 411].) Statutory language defining such powers of a governmental entity are strictly construed and any reasonable doubt concerning the existence of the power should be resolved against the entity. (*Skreden v. Superior Court, supra*; *City of North Sacramento v. Citizen Utilities Co.* (1961) 192 Cal.App.2d 482, 483 [13 Cal.Rptr. 538]; see *City of Madera v. Black* (1919) 181 Cal. 306, 312 [184 P. 397].) However, a statute granting the power of eminent domain should be construed so as to effectuate and not defeat the purpose for which it was enacted: (*State of Cal. ex rel. Dept. of Water Resources v. Natomas Co.* (1966) 239 Cal.App.2d 547, 555-556 [49 Cal.Rptr. 64]; *Central Pacific Ry. Co. v. Feldman* (1907) 152 Cal. 303, 306 [92 P. 849]; see 1 Nichols on Eminent Domain (3d ed. 1976) § 3.213[2], pp. 3-94 - 3-96.)

(1b) Here the question is whether the respondent's power to condemn property necessary for water transportation implicitly includes the power to condemn property necessary for mitigation of the environmental effects caused by the water transportation system.

As the present record indicates, condemnation of property and the construction of facilities for water transportation involve the approval and acquisition of permits from numerous governmental agencies. Approval and permit requirements are especially strict where the planned facilities front on a body of water. In the present case there was testimony that respondent's terminal project required the approval of dozens of different agencies, including the State Lands Commission, Army Corps of Engineers, and Bay Conservation and Development Commission. Several of

imited to,  
ended by

either an  
nation by

power of  
by clear  
d 633, 636

co v. Ross  
(1955) 44  
(1975) 54

e defining  
and any  
ould be

r; City of  
d 482, 483  
306, 312

at domain  
urpose for  
sources v.

Rptr. 64];  
2 P. 849];  
pp. 3-94 -

condemn  
the power  
onmental

r and the  
roval and  
Approval

l-facilities  
mony that  
f different

s of En-  
Several of

[Aug. 1978]

these agencies required as a condition of their approval that environmental mitigation measures be taken. Although such mitigation measures could in some cases involve actions other than the condemnation of property, the ability to mitigate the adverse environmental effects in this manner gives respondent a power and flexibility which do much to effectuate the specific powers referred to in Streets and Highways Code section 27166. In the present case the trial court's findings reveal that mitigation of the environmental damage caused by the deposit of dredged spoils on certain marshlands was most effectively achieved by the condemnation and permanent protection of other marshlands.

Furthermore, the view that respondent's power to condemn property for a water transportation system implicitly includes the power to condemn for necessary mitigation of the resulting environmental effects is consistent with the legislative intent and policy expressed in the California Environmental Quality Act (Pub. Resources Code, §§ 21000-21176). Public Resources Code section 21000 expresses the legislative intent that all "public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage." In addition, environmental impact reports required by Public Resources Code section 21100, subdivision (c), must include a statement of the mitigation measures proposed by the agency to minimize the adverse environmental impact.

In concluding that respondent's power to condemn for the construction, acquisition and operation of a water transportation system implicitly includes the power to condemn for environmental mitigation, we recognize this latter power only as to environmental mitigation necessitated by an authorized activity. The power to condemn for specified purposes does not implicitly include the power to condemn for general environmental purposes unrelated to the agency's powers.

(3) Appellants further contend that respondent lacked authority to condemn portions of their property for the deposit of dredged spoils.

Clearly, property for ferry channels may be needed for the construction and operation of the ferry system and terminal. The trial court found that dredging of these channels and disposal of the dredged spoils on appellants' land was necessary. The clear implication of the broad and inclusive language of the relevant statutes is that the respondent may

[Aug. 1978]

acquire property for the disposal of dredged spoils from a channel used in its transportation system. (Cf. *Skreden v. Superior Court*, *supra*, 54 Cal.App.3d 114, 117.) The mere fact that the subject property does not border on the channel does not preclude the power of respondent to condemn where, as here, the property is needed for such purpose.<sup>1</sup>

We have examined the remaining contentions of appellants and conclude that there was no error. A discussion of those contentions does not merit publication. (Cal. Rules of Court, rule 976.) Preferably, there would be a partial publication rule available for these circumstances. (4-9) (See fn. 2.) Absent such a rule, the balance of the opinion will be placed in a footnote.<sup>2</sup>

Judgment is affirmed. Appellants shall recover their costs on appeal.

White, P. J., and Feinberg, J., concurred.

A petition for a rehearing was denied September 8, 1978, and appellants' petition for a hearing by the Supreme Court was denied October 4, 1978.

<sup>1</sup>Respondent's request to augment the record to include a trial brief dated May 22, 1975, entitled Trial Brief Regarding Plaintiff's Lack of Power to Condemn Herein, and respondent's request that we take judicial notice of Bay Area Conservation and Development Commission permit No. 22-73 dated February 20, 1974, and the State Lands Commission permit dated July 9, 1974, are granted.

<sup>2</sup>(4) Appellants further contend that the trial court erred in excluding evidence regarding respondent's intended use and necessity for condemning the subject property. Appellants argue that the court erroneously ruled on these issues as a matter of law. They point out that respondent is not one of the agencies whose resolutions of public interest and necessity regarding property sought to be condemned are declared by statute to be conclusive evidence of the public need for planned projects in general and specific property in particular. (See former Code Civ. Proc., § 1241.)

There are definite uncertainties in the record as to the precise scope of the trial court's ruling on the issue of necessity for the condemnation of appellants' land; however, respondent's view that the ruling of the trial court did not determine the issues of public use and necessity as a matter of law is supported by the fact that following the court's ruling respondent introduced evidence in the form of testimony by Harry Reilich, an engineer for respondent, relating to the question of the necessity for the subject property for the purpose of environmental mitigation and for the deposit of dredged spoils. Appellants made no relevancy objection to this evidence, nor did they seek clarification of the court's earlier ruling. Furthermore, counsel for appellants proceeded to cross-examine Reilich on both these matters.

Appellants have failed to carry their burden on appeal of demonstrating error. Despite the uncertainties regarding the scope of the ruling of the trial court, the subsequent

[Aug. 1978]

MUZZI

83 Cal.App.3d 707; 148 Cal.Rptr. 197

conduct of both parties regarding testimony on the issue of necessity suggests that the ruling did not determine as a matter of law the necessity for condemning the subject property. This conclusion is consistent with the well known rule that a judgment of a trial court is presumed correct and that error must be affirmatively shown. (See generally 6 Witkin, Cal. Procedure (2d ed. 1971) Appeal, § 235, p. 4225.)

Furthermore, at the time appellants sought the court's ruling on the matter in question, they indicated that they would rely on Reilich's testimony in support of their challenge to the actual intended use of the subject property and the necessity for its condemnation; there was no reference to any other witness. Thus, in light of the fact that Reilich's testimony on direct and cross-examination supports the court's ruling, it does not appear that appellants were prejudiced by the ruling of the trial court.

(5) Appellants contend that the trial court erred in refusing to allow them to cross-examine respondent's valuation witness, Charles Semple, with regard to his appraisal of a nearby parcel.

During the cross-examination of Semple, he admitted that he had appraised the 25.8-acre ferry terminal site, which apparently included part of an 11.48-acre parcel sold in 1971, for \$500,000. Evidence regarding the sale of this second parcel had earlier been admitted as a comparable sale. Semple testified that the ferry site was fairly close to the subject property and was partly above and partly below water. He characterized it as "within the same area of influence" as the subject property. Following negotiations with the owner, respondent acquired the property for the terminal in 1972 by means of a stipulated judgment in eminent domain.

Evidence Code section 822 provides in part:

"Notwithstanding the provisions of Sections 814 to 821, the following matter is inadmissible as evidence and is not a proper basis for an opinion as to the value of property:

"(a) The price or other terms and circumstances of an acquisition of property or a property interest if the acquisition was for a public use for which the property could have been taken by eminent domain.

"(d) An opinion as to the value of any property or property interest other than that being valued."

In support of their position, appellants rely on *State of Cal. ex rel. State Pub. Wks. Bd. v. Stevenson* (1970) 5 Cal.App.3d 60 [84 Cal.Rptr. 742]. In *Stevenson* the trial court permitted cross-examination of an appraiser for the state in a condemnation proceeding based on testimony he had given in an earlier proceeding regarding property "corner" from the property sought to be condemned at trial. The court held that Evidence Code section 822, subdivision (d) did not prohibit the introduction into evidence of such testimony for the purpose of impeachment. The court noted that prior to the enactment of the Evidence Code, impeachment on such grounds had been permitted. The court in *Stevenson* pointed out that there was no question as to the relevance of the cross-examination.

Although the record is unclear as to the appraisal of which parcel appellants sought to impeach Semple with, their efforts appear to have been based on his appraisal of the entire 25.8-acre terminal site. Thus, the effort at impeachment of his testimony as to the value of the subject property was based on his evaluation of property which included another parcel, the sale of which had earlier been admitted as a sale of a comparable property. These facts differ significantly from *Stevenson*, where impeachment was simply on the basis of the appraiser's evaluation of a comparable parcel. In *Stevenson* there was no question of the similarity of the two parcels or the relevance of the impeaching evidence. Here the trial court properly sustained the objection.

Appellants contend that the trial court erred in refusing to strike the valuation testimony of two of respondent's appraisers, Semple and Arthur Gimmy. They argue that their appraisals were based on the plans of Corte Madera, which was empowered to

[Aug. 1978]



condemn, for the acquisition of the subject property as well as certain actions contemplated by it which constitute inverse condemnation. The trial court had earlier ruled that these plans were inadmissible.

Without expressing any opinion as to the validity of the plans of Corte Madera for the subject property, we do not find that either Semple's or Jimmy's testimony was based on these plans for the subject property. With regard to Semple's testimony, the mere fact that in his deposition he relied "to an extent" on some of these plans in appraising the property, and later gave the same appraisal as at trial, does not reveal that his trial testimony was also based on the same matters. Several other factors may have independently determined his evaluation. Jimmy's appraisal trial testimony did refer to the matters ruled inadmissible by the trial court; however, a careful examination of this testimony indicates that his opinion as to the limited scope of possible development of the property was dictated by numerous factors, including limited sewage disposal, problems with differential settlement and restrictions caused by a limited market. Jimmy's testimony indicated that he was fully aware of the very flexible nature of Corte Madera's tentative plans for the subject property and did not treat them as fixed points in appraising the property. Regardless of the court's ruling, it was proper to consider the town's plans as an expression of its attitude toward development.

(6) Appellants contend that the trial court erred in permitting cross-examination of appellants' witnesses Robert Williams and Dave Van Pelt as to whether the Town of Corte Madera would allow any substantial development of the subject property. Appellants' argument is that by permitting cross-examination on such grounds, the court ignored its own earlier ruling against the admissibility of Corte Madera's proposed general plan.

Williams testified for appellants that in his opinion the highest and best use of the property was as a planned development consisting of "a combination of residential, commercial and office park." Such a development would have required a change in zoning. During cross-examination by respondent, Williams was asked about his knowledge of the attitudes of the planning commission regarding development of the subject property. Appellants objected to a question regarding extensive office development; the objection was overruled and questioning continued concerning the town's attitude toward a large scale development of the property. Williams indicated that he believed the development he had referred to would be possible.

Appellants have failed to show any error in the scope of the cross-examination permitted by the trial court. Since Williams' testimony was predicated on a change in the zoning, it was proper for respondent to elicit facts from him as to the basis of his belief that such a change was reasonably probable. (See *People ex rel. Dept. of Public Works v. Danovan* (1962) 57 Cal.2d 346, 352 (19 Cal.Rptr. 473, 369 P.2d 1).) Clearly, the attitudes of the town are relevant in determining the probability of approval of a change in zoning. Williams' response to the questions on cross-examination was generally that there were no serious obstacles to the type of development he had referred to. None of his answers appeared to be based on the matter ruled inadmissible by the trial court.

Van Pelt testified as a witness for appellants concerning a multi-use development of the property. On cross-examination counsel for respondent inquired as to whether the town would have approved such a development on the valuation date. Van Pelt answered that he did not know.

As in the case of the testimony of Williams, there was no direct reference to the evidence that had earlier been ruled inadmissible. Respondent's questioning of Van Pelt was entirely proper and aimed at determining whether the town would approve the type of development on which he had relied in his testimony. Appellants' argument fails to distinguish between the specific terms of the town's plans, which the trial court ruled inadmissible, and the admissible evidence of the town's general attitude toward intensive development of property fronting the bay.

(7) Appellants contend that the trial court abused its discretion in admitting into

GOLDEN GATE BRIDGE ETC. DIST. v.  
MUZZI

717

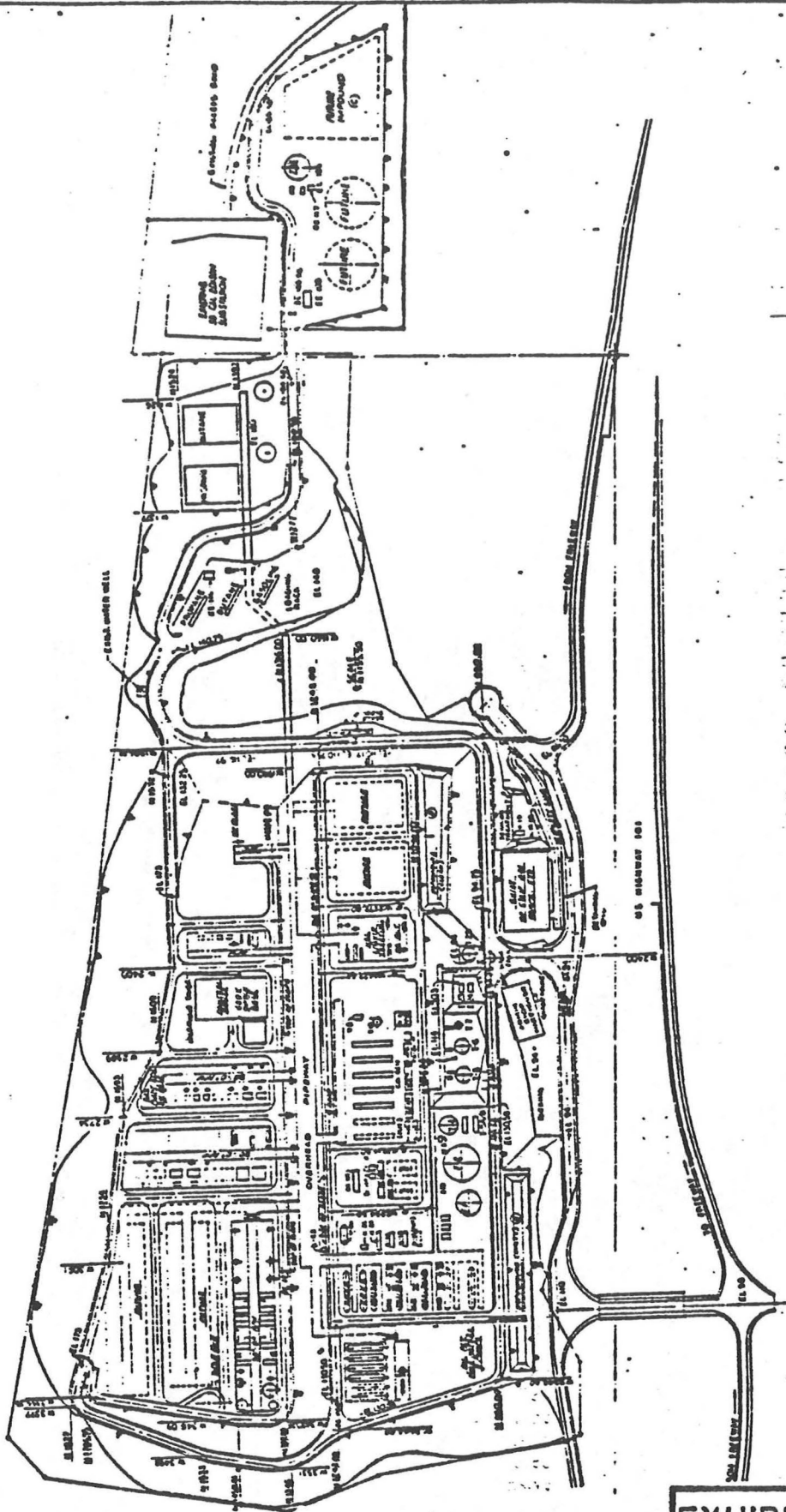
83 Cal.App.3d 707; 148 Cal.Rptr. 197

evidence as a comparable sale the terms of a sale of property by an estate. In support of this argument, appellants point out that the estate sale involved no bidding. Semple's testimony referred to a 1969 sale of 256 acres for \$500,000 from the estate of Manuel Pimental to Soilands and Associates. Semple testified that the sale occurred without bidding and was on terms favorable to the buyer. The estate had no financial problems which compelled it to sell. There was evidence that the property was similar to the subject property and that there were few other sales of comparable bay front property in recent years.

Evidence Code section 816 provides in part that in determining the value of property a witness may consider the terms of the sale of comparable property if the sale "was freely made in good faith." (§) In some cases evidence of the purchase of property by a *condemner* may be admissible where "the price paid was sufficiently voluntary to be a reasonable index of value." (See *County of Los Angeles v. Faus* (1957) 48 Cal.2d 672, 679 [312 P.2d 680].) (9) The trial court has "wide discretion" in determining whether a particular sale is comparable. (See *County of Los Angeles, supra*, at p. 678; *City of Ontario v. Keiber* (1972) 24 Cal.App.3d 959 [111 Cal.Rptr. 222].)

Here there is no showing that the trial court abused its discretion in admitting evidence of the sale from the Pimental estate. The similarity of the two parcels was well established. Furthermore, there were limited sales of comparable property in recent years. Testimony following the court's ruling indicated that the property was sold by an experienced real estate appraiser acting as executor for the Pimental estate. It was for the jury to determine the significance of the Pimental estate sale.

[Aug. 1978]



**NOTES:**  
 1. FOR PLANT OPERATIONS 1987  
 2. PLANT AREA AND LAYOUT  
 3. SEE REVISION LIST FOR CHANGES  
 4. SEE REVISION LIST FOR CHANGES

**Derry McKee**  
 ARCHITECT & ENGINEER  
 1000 BROADWAY, SUITE 1000  
 SAN FRANCISCO, CALIF. 94103

GRAPHIC SCALE  
 1" = 100' 0"

**Chevron U.S.A. Inc.**  
 Oilfield Projects Department  
 Western Region

**REVISED**  
 DATE: 11/17/85  
 BY: JAP  
 CHECKED: JAP

NO.	DATE	DESCRIPTION
1	11/17/85	SEE REVISION LIST FOR CHANGES

NO.	DATE	DESCRIPTION

NO.	DATE	DESCRIPTION

NO.	DATE	DESCRIPTION


NO.	DATE	DESCRIPTION

NO.	DATE	DESCRIPTION

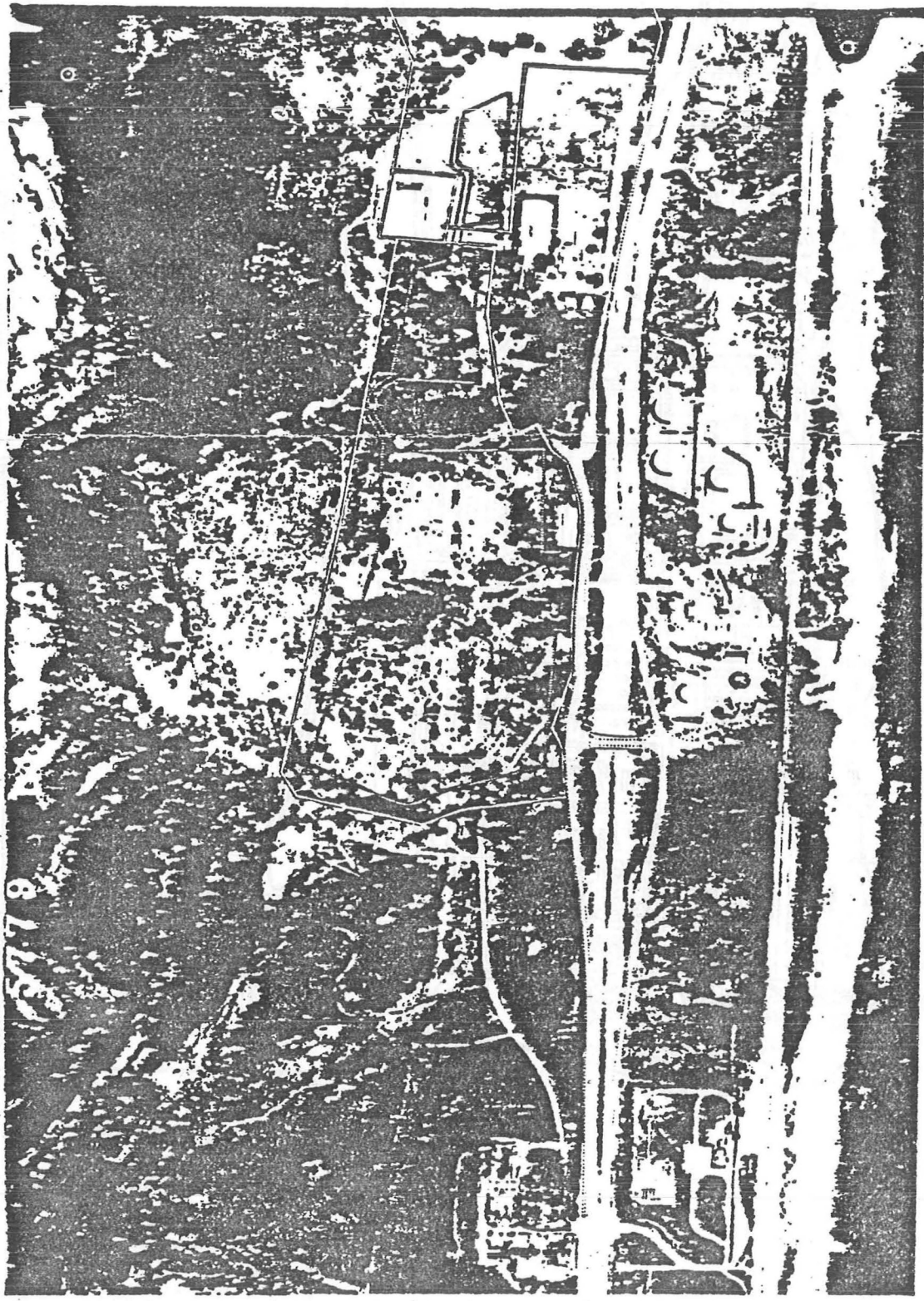
**EXHIBIT NO. 7**  
**APPLICATION NO.**  
**1-85-B**  
**CHEVRON**

California Coastal Commission

SEE REVISION LIST FOR CHANGES

EXHIBIT NO. 8
APPLICATION NO. 1-85-B
CHEVRON
 California Coastal Commission

LEGEND  
 - - - - - PROPERTY BOUNDARY  
 - - - - - PLANT BOUNDARY  
 (BASED ON MAPS 1 - 10081-14)  
 - - - - - EFFluent LINE CROSSING UNIMPROVED  
 PLANT ACCESS ROAD



**Davy McKee**  
 1000 S. GARDEN ST., SUITE 100  
 ANAHEIM, CALIF. 92805  
 PHONE (714) 771-1000

APPLICANT: **CHEVRON U.S.A. INC.**  
 PROJECT: **PLANT ACCESS ROAD**  
 MAP NO.: **1-10081-14**  
 SHEET NO.: **SK-1531**

**CHEVRON U.S.A. INC.**  
 Chevron Projects Department  
 Western Region

DATE: 12/20/84  
 DRAWN BY: [blank]  
 CHECKED BY: [blank]  
 SCALE: AS SHOWN

NO.	DATE	DESCRIPTION

APPROVED: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 TITLE: \_\_\_\_\_