

**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:
Prepared on: 9/9/04
Department Name: Planning and Development
Department No.: 053
Agenda Date: 9/21/04
Placement: Departmental
Estimate Time: 90 minutes
Continued Item: YES
If Yes, date from: 8/10/04

TO: Board of Supervisors

FROM: Valentin Alexeeff, Director
Planning and Development Department

STAFF CONTACT: Doug Anthony, Energy Specialist
Energy Division, 568-2046

SUBJECT: Hearing to Consider Recommended Abandonment Policies and Regulations

Recommendations: That the Board of Supervisors takes the following actions:

- A. Adopt by resolution (included herein as Attachment A) revisions to the County's *Coastal Plan*, adding a new policy (6-30) and preamble to Chapter 3.6, INDUSTRIAL AND ENERGY DEVELOPMENT to promote timely and proper removal of certain oil and gas facilities upon their abandonment.
- B. Conceptually approve the resolution included herein as Attachment B, containing revisions to the County's *Land Use Element*, adding a new policy (13) to "Land Use Development Policies," and continue this item to October 19, 2004, for final adoption of the resolution.
- C. Adopt by ordinance (included herein as Attachment C) revisions to Article II (*Coastal Zoning Ordinance*) of Chapter 35 of the Santa Barbara County Code, adding new permit procedures (Sec. 35-170) to Division 11 (*Permit Procedures*), revising permit requirements in Sec. 35-158 (Onshore Exploration and/or Production of Offshore Oil and Gas Reserves) of Division 9 (*Oil and Gas Facilities*) to be consistent with new Sec. 35-170, revising appeal procedures in Sec. 35-182, and adding new definitions to Division 2.
- D. Adopt by ordinance (included herein as Attachment D) revisions to the Article III (*Inland Zoning Ordinance*) of Chapter 35 of the Santa Barbara County Code, adding new permit procedures to Division 11 (*Permit Procedures*), revising appeals procedures in Sec. 35-327.
- E. Adopt the CEQA finding contained in Attachment E of this report, determining the foregoing amendments to be categorically exempt from environmental evaluation pursuant to the Public Resource Code Sec. 21084(a) and CEQA Guidelines Sec. 15308.

Direct staff to return on October 19, 2004, to approve submittal of that portion revising the Local Coastal Program to the California Coastal Commission for certification.

Alignment with Board Strategic Plan: The recommendations primarily align with Goals No. 2 and 5: A Safe and Healthy Community in Which to Live and Visit, and A High Quality of Life for All Residents respectively.

Executive Summary and Discussion:

Overview of the Recommended Amendments

The Planning Commission unanimously recommended the amendments included herein (4-0-1 Commissioner Jordan absent) during its regularly scheduled hearing of July 7, 2004 (see Planning Commission's letter of recommendations to the Board of Supervisors, included herein as Attachment G). These amendments codify a permitting process that enables the County to enforce the timely and proper closure of specific types of onshore oil/gas operations once they have discontinued use permanently. Affected operations include onshore infrastructure used to produce, process, store, or transport oil, gas, and byproducts from offshore reserves, and oil refineries, regardless of the source of oil.

The permitting process provides a vehicle to determine if an oil/gas operation has ceased permanently, in which case, it is classified as abandoned.¹ This process is triggered when an operation has been idled for one year, or has fallen below a minimum throughput threshold defined in its permit.

Lack of such a process to date has left the County dependent upon the good faith of each permittee to remove facilities and reclaim host sites following permanent cessation of operations. The results have been mixed. In one case, the permittee removed its coastal facilities and completed all tasks to reclaim the site within three years of ceasing operations.² In another case involving a very similar coastal facility, the permittee did not commence dismantlement of its facility and site reclamation until 26 years following permanent cessation of use. Other experiences fall within this 3-to-26 year spectrum. They include cases in which the removal of facilities occurred in a timely manner, but reclaiming sites where relatively high levels of contamination exist stalled for several years.

The process would work as follows. The permittee of a land use that has been idled for one year, or its throughput has fallen below a minimum permitted level, is required to apply for (1) a deferral of abandonment, or (2) a Demolition and Reclamation Permit to remove facilities and reclaim the host site. Either application is processed for decision by the Director of Planning and Development. Any denial of an application to defer abandonment must fully consider the vested rights of the permittee to operate a legal land use. However, the permittee is generally not vested to convert an oil and gas operation into a salvage yard without proper permits. Deferrals of abandonment are revisited every two years. All decisions may be appealed to the Planning Commission and, ultimately, the Board of Supervisors.

¹ The terms "abandoned" or "abandonment" used herein are consistent with their usage in land-use law. An abandoned land use is simply one that has cease operations permanently, and does not imply any default in any obligation by the permittee.

² This period does not include post-abandonment oversight to ensure that re-vegetation of the site was successful, which added five years to the entire process.

The first permitting option, Deferral of Abandonment, is suited to temporarily idled operations, where there is demonstrated evidence of intent to restart. If approved by the Director, the matter of deferral, including the relevance of the evidence and need for such deferral, is revisited every two years, unless the Director approves a shorter deferral.

The second permitting option comprises a dedicated permitting path to process the removal of facilities and reclaiming host sites following their abandonment. This permitting path contains provisions to hold permittees accountable for timely execution of demolition and reclamation. The County currently has no dedicated permitting path for removing facilities and reclaiming host sites following abandonment of onshore operations that support offshore oil/gas extraction or oil refineries. Permitting to date has varied from case to case using existing development permit processes. In some cases, the removal of facilities and reclamation of the host site have been combined with the permitting of a new use at the host site. This latter practice has become problematic when the new development encounters permitting delays or outright denial that, in turn, further delays site reclamation (e.g., Dos Pueblos Golf Links).

Staff and the Planning Commission are recommending a more precise, dedicated, and segregated permitting path, complete with findings and performance standards that are tailored to the removal of facilities and reclamation of host sites. In so doing, it seeks to streamline the process, establish consistent permit procedures, give clearer direction to all stakeholders, and establish accountability for timely execution of site reclamation.

We refer you to the attached Planning Commission staff report for more detailed discussion of the recommended amendments, included herein as Attachment F.

Late Revisions to the Ordinances

1. Planning Commission Direction

In making a recommendation in favor of the proposed amendments, the Planning Commission also directed staff to resolve two issues and recommend appropriate revisions to the amendments for the Board's consideration.

- The first issue arose from language found in Sections 35-170.12.5 and 35-323.12.5 of the Coastal and Inland Zoning Codes, respectively, that establishes findings for approving a Demolition and Reclamation Permit. The original language required payment of a mitigation fee if certain improvements, such as a retaining wall or emergency access road, are retained on a site that otherwise would be restored to natural conditions. A representative from the oil industry pointed out that a mitigation fee was not warranted because such improvements would only be retained if their removal would be detrimental to the health, safety or welfare of the public or environment. The Planning Commission asked staff to consider the issues involved with this fee and recommend appropriate revisions to the Board of Supervisors.

Staff concurs with the oil industry that, in this case, a mitigation fee would not be warranted, largely because the provision seeks retention of limited types of improvements that benefit the public or environment. We have revised the language to eliminate the required mitigation fee and further defined the limited applicability of retaining improvements.

- The second issue arose from inclusion of conventional zoning language (Sections 35-170.13.11.b. and 35-323.13.11.b.) to require use of native seeds and plants where restoration of a site to natural conditions is required. The issue has to do with whether native seeds used in site restoration should be selected in a manner that protects the genetic integrity of the site and its surrounding area. At the Planning Commission's request, staff researched current practices employed to select native seeds. We recommend a revision that gives the Director of Planning and Development the opportunity to define the geographic area from which native seeds are gathered for site restoration, according to the circumstances of each case.

2. Revisions Requested by the County's Fire Department

Subsequent to the Planning Commission's hearing, the Fire Department requested the following clarifying revisions to the ordinances.

- Sections 35-170.1 and 35-323.1, which address the purpose and intent of the respective sections recommended to the Coastal and Inland Zoning Codes. The revision clarifies the intent that the recommended ordinances would be implemented in a manner that does not conflict with applicable laws and permits, such as those enforced by the Fire Department.
- Section 35-170.5.6 and 35-323.5.6, to include in any application to defer abandonment, the listing of facility equipment that is identified in plans submitted in satisfaction of a permit issued by the Fire Department.
- Sections 35-170.7, 35-170.8, 35-323-7, and 35-323.8, to ensure that the Director of Planning and Development does not grant a deferral of abandonment in instances where the Fire Department has required abandonment.
- Sections 35-170.12.3 and 35-323.12.3 to clarify that any condition placed upon an operator or responsible party for either the assessment or the remediation of soil or water contamination conforms with the permitting processes and requirement of the Regional Water Quality Control Board and the County Fire Department. The previous language was less precise.
- Sections 35-170.13.1 and 35-323.13.1 to clarify the name of the required spill contingency plan and clarify that its contents must also address measures to cleanup any spills that may occur.
- Sections 35-170.13.11.a. and 35-323.13.11.a. to clarify that establishment of vegetation during site restoration is in accord with the County's Fire Plan, as implemented by the Fire Department.
- Sections 35-170.13.14 and 35-323.13.14 to employ standard terminology regarding contamination and to clarify the specific County agencies to which discovery of contamination must be reported. Also, section 35-323.13.14 was inadvertently missing from the version of the Inland Zoning Code amendment recommended by staff. Therefore, we are adding it here as a revision to the Planning Commission's recommendation to be consistent with the commission's recommendation of amendments for the Coastal Zoning Ordinance.
- Sections 35-170.13.15 and 35-323.13.15 to clarify that, when conditioning a Demolition & Reclamation Permit under the authority of the recommended amendments, the Director of Planning and Development will consult with other County agencies as to what conditions should be imposed.
- Sections 35-170.13.17 and 35-323.13.17 to ensure recording of an appropriate notification with the County-Clerk Recorder of any contamination left in place under the authorization of the County Fire Department.

3. Revisions Requested by WSPA

Staff also recommends the following two revisions in response to concerns raised by the Western States Petroleum Association (WSPA).

- We recommend rewording Sections 35-170.10.8 and 35-323.10.8 to clarify the original intent that a permittee is not required to conduct a new or modified Phase 2 site assessment for contamination in order to complete its application for a Demolition & Reclamation Permit. Such assessments, when directed, generally are conducted after surface facilities are removed from the site. The revised language conforms to current practice.
- We also recommend rewording of Sections 35-170.13.16 and 35-323.13.16 in partial satisfaction of WSPA's request to include factors which may influence the Director's decision on the timing and extent of requirements for removing an Independent Business function of a land use. The sections address situations, such as the Gaviota oil and gas processing facility, where one or more independent business functions of a land use cease operations permanently, but the remaining functions of the land use continue to operate. In the case of Gaviota, the oil and gas processing functions of the land use cease operations, but the site continues to operate as a pipeline terminal.

WSPA expressed concerns that the ordinance would require removal of an abandoned Independent Business function in all cases, without considering whether any public benefit is so derived. It suggests that, in some cases, where the overall footprint of the land use is not reduced, it would be an unnecessary burden to remove the abandoned Independent Business function in advance prior to abandoning the permitted land use. In other cases, it may make good sense to defer site reclamation until the entire permitted land use cease operations. The Planning Commission agreed to revise the originally recommended text of these sections to provide the Director sufficient case-by-case discretion in order to avoid placing unnecessary burdens on the permittee. Staff now recommends further revisions to clarify factors that the Director may consider when exercising that case-by-case discretion.

Lastly, we made minor revisions to the amendments recommended to Sections 35-182.2 and 35-327.2, which address appeals procedures for the Coastal and Inland Zoning Ordinances, respectively, removing parentheses and exchanging the word "shall" or the word "must."

Mandates and Service Levels: The recommended actions constitute updates to the County's Comprehensive Plan and Zoning Code to resolve issues of concern regarding sound management of the County's coastal resources and appropriate planning processes essential for making land-use decisions.

Fiscal and Facilities Impacts: This project does not impact the County fiscally or its facilities. Project expenditures are funded by revenues from two grant sources, the State of California's Coastal Resource Grant program (AB 1431) and the Federal Coastal Impact Assistance Program.

Special Instructions: None.

Concurrence: County Counsel.

Attachments:

- A. Resolution adopting amendments to the Santa Barbara County Coastal Plan
- B. Resolution adopting amendments to the Santa Barbara County Land Use Element
- C. Ordinance adopting amendments to the Santa Barbara County Coastal Zoning Ordinance
- D. Ordinance adopting amendments to the Santa Barbara County Inland Zoning Ordinance
- E. Finding of Categorical Exemption for Adoption of Amendments
- F. Staff Report to the Santa Barbara County Planning Commission, July 7, 2004 (included as separate document in electronic version)
- G. Planning Commission Action Letter
- H. Written Testimony Submitted at the July 7, 2004, Planning Commission Hearing

Attachment A

Resolution Adopting Amendments to the
Santa Barbara County Coastal Plan

**RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA**

IN THE MATTER OF ADOPTING AN
AMENDMENT TO THE COASTAL PLAN,
ADDING A NEW SECTION AND POLICY
TO CHAPTER 3.6 "INDUSTRIAL AND
ENERGY DEVELOPMENT," PROMOTING
TIMELY AND PROPER ABANDONMENT
OF CERTAIN OIL AND GAS FACILITIES

RESOLUTION NO. _____

Case No. 04GPA-00000-00006

WITH REFERENCE TO THE FOLLOWING:

- A. Santa Barbara County seeks to promote, by way of a formal process where one does not currently exist, the timely removal of facilities and appropriate reclamation of host sites following permanent cessation of an oil, gas, or oil/gas operation.
- B. The Santa Barbara County Planning Commission has recommended adding of a new section and policy that would provide the foregoing formal process.
- C. The Board has held a duly notice public hearing, as required by Section 65355 of the Government Code, at which this amendment to the Coastal Plan was explained and comments invited from the persons in attendance.
- D. It is now deemed in the interest of the orderly development of the County of Santa Barbara and important to the preservation of the health and safety of the residents of said County to amend the Coastal Plan of the Local Coastal Program by adopting the following section to Chapter 3.6, "Industrial and Energy Development:"

"3.6.8 Abandonment of Onshore Infrastructure

3.6.8.1 Infrastructure Related to Recovery of Offshore Oil and Gas

Abandonment of onshore infrastructure entails permanent cessation of an entire land use or an independent business function of a land use. Several tasks to reclaim sites follow abandonment. Facilities are dismantled and removed from the site, while inter-facility gathering and transmission pipelines may either be abandoned in-place or removed. Some facilities (e.g., water tanks) and other improvements (e.g., roads) may be permitted at the site for future use. Any contamination of soils and water is remedied and the host site is returned to natural conditions or reclaimed to accommodate any approved future use of the site.

Historically, the County has experienced mixed results with regard to the timely demolition of facilities and reclamation of oil and gas sites following the abandonment of use. Some operators have diligently closed sites within 3-5 years following abandonment, while others have delayed commencement of site closure for

unreasonably long periods (10-26 years). Other experience indicates that remediation of contamination may lag several years behind initial dismantling and removal of surface facilities.

Whereas

The County seeks to encourage, by way of a formal public process, the timely removal of facilities and appropriate reclamation of host sites following permanent cessation of an oil, gas, or oil/gas operation in the coastal zone.

Policy 6-30: Oil and gas facilities shall be dismantled and removed, and their host sites cleaned of contamination and reclaimed to natural conditions, or conditions to accommodate reasonably foreseeable development, in an orderly and timely manner that avoids long-term impacts to the health, safety, and welfare of the public and environment.

Applicability

Policy 6-30 applies to all onshore land uses that are, or at one time were, wholly or partially dedicated to the production, processing, storage, and transportation of oil or gas derived from offshore reservoirs.

Implementing Procedures

- (a) The County shall establish a process in its Coastal and Inland Zoning Codes for determining if, based on reasonable evidence, permitted land uses or independent business functions thereof have discontinued operations permanently. The County shall also establish a discretionary process to permit the removal, retention, or abandonment in-place of facilities, structures, and improvements associated with permitted land uses determined to be abandoned, and to reclaim host sites to natural conditions, or other conditions, in compliance with applicable laws and permits. This permit shall be independent of any development permits associated with future use of the land, but may be processed concurrently with development permits.
- (b) Permittees shall obtain all applicable permits to remove (or retain) facilities, structures, and other improvements, and reclaim the host site upon the intentional abandonment of operations of a permitted land use. Otherwise, the permittee shall obtain either County approval to defer abandonment or all applicable permits to remove facilities and reclaim host sites under the following circumstances:
 - (1) Any event designated in an existing County permit that would require consideration of abandonment; or
 - (2) The permitted land use has become idled.
- (c) Long-term salvage operations, recycling facilities, or junkyards shall not be considered ancillary to permitted land uses. For the purpose of this procedure, “long-term” shall be a period of 2 or more consecutive years. Permittees who desire to operate long-term salvage or recycling operations at an oil/gas site shall first obtain the appropriate permits to do so, and such permits shall be issued independent of the oil/gas operation.”

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. Pursuant to the provisions of Section 65356 of the Government Code, this Board adopts the foregoing section to the Chapter 3.6 of the Coastal Plan.
2. A copy of this Resolution shall be made available pursuant to Section 65357 of the Government Code.

PASSED, APPROVED, AND ADOPTED this 21st day of September, 2004, by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

Joseph Centeno, Chair
Board of Supervisors
County of Santa Barbara

ATTEST:

MICHAEL F. BROWN
County Clerk of the Board

By _____
Deputy Clerk of the Board

APPROVED AS TO FORM:

STEPHEN SHANE STARK
County Counsel

By _____
Deputy County Counsel

Attachment B

Resolution Adopting Amendments to the
Santa Barbara County Land Use Element

**RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA**

IN THE MATTER OF ADOPTING AN
AMENDMENT TO THE COMPREHENSIVE
PLAN, LAND USE ELEMENT, ADDING A
NEW POLICY TO PROMOTE TIMELY
AND PROPER ABANDONMENT OF
CERTAIN OIL AND GAS FACILITIES

RESOLUTION NO. _____

Case No. **04GPA-00000-00007**

WITH REFERENCE TO THE FOLLOWING:

- A. Santa Barbara County seeks to promote, by way of a formal process where one does not currently exist, the timely removal of facilities and appropriate reclamation of host sites following permanent cessation of an oil, gas, or oil/gas operation.
- B. The Santa Barbara County Planning Commission has recommended adoption of a policy that would provide the foregoing formal process.
- C. The Board has held a duly notice public hearing, as required by Section 65355 of the Government Code, at which this amendment to the Land Use Element was explained and comments invited from the persons in attendance.
- D. It is now deemed in the interest of the orderly development of the County of Santa Barbara and important to the preservation of the health and safety of the residents of said County to amend the Land Use Element of the Comprehensive Plan by adopting the following policy to Land Use Development Policies:

“Policy 13: Oil and gas facilities shall be dismantled and removed, their host sites cleaned of contamination and reclaimed to natural conditions, or conditions to accommodate reasonably foreseeable development, in an orderly and timely manner that avoids long-term impacts to the health, safety, and welfare of the public and environment.

Applicability: Policy 13 shall apply to all existing and future onshore land uses that are, or at one time were, wholly or partially dedicated to the production, processing, storage, and transportation of oil or gas derived from offshore reservoirs. Policy 13 shall also apply to all oil refineries, regardless of the source of crude oil.

Implementing Procedures:

- (a) The County shall establish a process in its Coastal and Inland Zoning Codes for determining if, based on reasonable evidence, permitted land uses or independent business functions thereof have discontinued operations permanently. The County shall also establish a discretionary process to permit the removal, retention, or abandonment in-place of facilities, structures, and improvements associated with permitted land uses determined to be abandoned, and to reclaim

host sites to natural conditions, or other conditions, in compliance with applicable laws and permits. This permit shall be independent of any development permits associated with future use of the land, but may be processed concurrently with development permits.

- (b) Permittees shall obtain all applicable permits to remove (or retain) facilities, structures, and other improvements, and reclaim the host site upon the intentional abandonment of operations of a permitted land use. Otherwise, the permittee shall obtain either County approval to defer abandonment or all applicable permits to remove facilities and reclaim host sites under the following circumstances:
 - (1) Any event designated in an existing County permit that would require consideration of abandonment; or
 - (2) The permitted land use has become idled.
- (c) Long-term salvage operations, recycling facilities, or junkyards shall not be considered ancillary to permitted land uses. Long-term salvage operations shall require appropriate permits to operate as legal uses. "Long-term," for purposes of this procedure, shall constitute a period of two or more years. Permittees who desire to operate long-term salvage or recycling operations at an oil/gas site shall first obtain the appropriate permits to do so, and such permits shall be issued independent of the oil/gas operation."

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

- 1. Pursuant to the provisions of Section 65356 of the Government Code, this Board adopts the foregoing Policy 13, including its statements of applicability and implementing procedures, to the Land Use Development Policies of the Land Use Element.
- 2. A copy of this Resolution shall be made available pursuant to Section 65357 of the Government Code.

PASSED, APPROVED, AND ADOPTED this 19th day of October, 2004, by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

Joseph Centeno, Chair
Board of Supervisors
County of Santa Barbara

ATTEST:

MICHAEL F. BROWN
County Clerk of the Board

By _____
Deputy Clerk of the Board

APPROVED AS TO FORM:

STEPHEN SHANE STARK
County Counsel

By _____
Deputy County Counsel

Attachment C

Ordinance Adopting Amendments to the
Santa Barbara County Coastal Zoning Ordinance

ORDINANCE No. _____

AN ORDINANCE AMENDING THE SANTA BARBARA COUNTY CODE
BY REVISING ARTICLE II OF CHAPTER 35, TITLED “COASTAL ZONING ORDINANCE”

CASE No.: 04-ORD-0000-00008

The Board of Supervisors of the County of Santa Barbara, State of California, ordains as follows:

SECTION 1:

Division 2 “Definitions” of Article II of the Santa Barbara County Code is hereby amended, by adding the following new definitions to read:

ABANDONED (or ABANDONMENT), as used in Section 35-170 of this Article, shall mean the discontinuance of any permitted land use, or any independent business function of a permitted land use, and there is no evidence of a clear intent on the part of the owner to restart operations of the permitted land use, or the independent business function of a permitted land use.

IDLED (or IDLE), as used in Section 35-170 of this Article, shall mean a permitted land use or an independent business function of a permitted land use has had a zero throughput (enter and exit) for a period of one continuous year.

NATURAL CONDITIONS, as used in Section 35-170 of this Article, shall mean the reasonable and feasible return of land to a state that reflects the natural environment of the area without development. Retention of certain improvements or other items such as pipeline support footings would qualify as natural conditions if their removal would result in undesired environmental outcomes such as undesired destabilization of slopes due to removal of a retaining wall. Natural conditions do not necessarily equate to original or pre-development conditions.

PERMITTED LAND USE shall mean any land use, facility, activity, or site subject to this Chapter.

RECLAMATION, as used in Section 35-170 of this Article, shall mean conversion of a host site to natural conditions, or other conditions, in compliance with applicable laws and permits, including remediation of contamination, contouring of topography, re-vegetation and landscaping.

SECTION 2:

Division 9 “Oil and Gas Facilities” in Article II, Chapter 35 of the Santa Barbara County Code is hereby amended, by deleting Section 35-158.7.m, which reads:

~~m. Within 60 days of abandonment of facility operations, the operator shall submit an Abandonment and Restoration Plan addressing the abandonment of the wells and removal of all production equipment pursuant to Sec. 25-32 and 25-33 of the County Code and include provision for site restoration and revegetation.~~

SECTION 3:

Division 11 “Permit Procedures” in Article II, Chapter 35 of the Santa Barbara County Code is hereby amended, by adding a new Section 35-170 to read:

Sec. 35-170. Abandonment of Certain Oil/Gas Land Uses.

Sec. 35-170.1. Purpose and Intent.

This section establishes procedures to achieve the timely abandonment of applicable land uses, and following such abandonment, the timely and proper removal of applicable oil and gas facilities, **and** reclamation of host sites, and final disposition of pipelines, ***in compliance with applicable laws and permits***. Such procedures ensure appropriate due process in differentiating idled from abandoned facilities and protect the vested rights of permittees while also ensuring that facilities with no reasonable expectation of restarting are removed, pursuant to the intent of enabling development permits. Timely abandonment provides a public benefit by avoiding unnecessary delays in remediating any residual contamination that may result during operations, and providing an effective means of mitigating several significant environmental and socioeconomic effects, including aesthetics, compatibility with surrounding land uses, and risk of default on demolition and reclamation obligations by the permittee.

Sec. 35-170.2. Applicability.

Section 35-170 shall apply to the following land uses within the unincorporated area of the County:

1. All permitted uses defined in Sections 35-154, 35-155, 35-156, and 35-158 of this Chapter that handle, or at one time handled, oil, natural gas, natural gas liquids, produced water, or waste water that originated from an offshore reservoir, regardless of whether these uses were permitted in accordance with this Chapter or any preceding ordinance.
2. All marine terminals and oil storage tanks, regardless of whether these uses were permitted in accordance with this Chapter or any preceding ordinance.
3. All pipeline systems defined in Section 35-157 that, except for public utility natural gas transmission and distribution systems such as The Gas Company, either transport, or at one time transported, oil, natural gas, produced water, or waste water that originated from an offshore reservoir, regardless of whether these uses were permitted in accordance with this Chapter or any preceding zoning ordinance.
4. Unless specifically stated otherwise, reclamation of sites and corridors used to support any of the operations identified in 35-170.2.1,2 or 3, above.

Sec. 35-170.3. Requirement to File an Application.

1. The permittee of a permitted land use shall submit an application to the Director for a Demolition & Reclamation Permit (ref. Sec. 35-170.9 *et. seq.*) upon intentional abandonment of a permitted land use, or a major business function thereof.

2. The permittee of a permitted land use shall submit an application to the Director either to defer abandonment (ref: Section 35-170.4 *et. seq.*) or to obtain a Demolition & Reclamation Permit (ref: Section 35-170.9 *et. seq.*) upon the occurrence of either of the following:
 - a. Any event designated in an existing County permit that would require consideration of abandonment; or
 - b. The permitted land use or an independent business function of a permitted land use has become idle.

Sec. 35-170.4. Filing an Application to Defer Abandonment.

Any permittee subject to the requirements of Section 35-170.3.2 may file an application to defer abandonment, which shall be considered by the Director. The application shall be filed no later than 90 days after an event specified in Section 35-170.3.2 has occurred.

Sec. 35-170.5. Contents of Application to Defer Abandonment.

The application to defer abandonment shall be in a form and content specified by the Director and this chapter. Such applications shall contain the following:

1. Name, address, and contact information for permittee;
2. Name, address, and general description of the permitted land use
3. Date when permitted land use first became idle.
4. Reason for idle status.
5. Status of upstream production facilities, where applicable.
6. Listing of any facility equipment that has been identified on a plan (submitted in satisfaction of a County, Fire, or APCD permit) and has been either removed from the site or is not currently in operational condition. Include an explanation of the effect this missing or inoperable equipment has on the ability to restart operations and runs all processes. Also explain measures necessary to bring inoperable equipment back into operational condition.
7. Plans and schedule to restart operations and identification of any facility components that would remain inactive after restart.
8. Identification of reasonable circumstances that would hinder restart of operations according to plan and schedule.
9. Any other information deemed necessary by the Director.

Sec. 35-170.6. Processing of Application to Defer Abandonment.

1. The Director shall determine the completeness of any application and issue a completeness letter within 30 days of receipt. If the application is deemed incomplete, the Director shall specify in detail the deficiencies in the application.
2. The applicant shall submit information in response to an incompleteness letter within 60 days of receipt or, if it is not practicable to respond within a 60-day period, shall request an extension, not to exceed 60 additional days (total of 120 days to respond), within which to provide the required information.
3. The Director may choose, at his or her discretion, to conduct a public hearing to consider any application to defer abandonment. The public shall be given all reasonable opportunity to review the Director's recommended decision no less than ten days prior to conducting a public hearing on any application to defer abandonment in accordance with applicable procedures specified in Sec. 35-181.

Sec. 35-170.7. Decision on Application to Defer Abandonment.

1. Decisions for Idle Facilities. The Director shall grant the application unless the evidence shows that an idle facility has no reasonable possibility of being restarted or the owner has no intent of restarting the facility within a reasonable period of time.

Notwithstanding the above, the Director shall approve the application for any pipeline subject to the jurisdiction of the Federal Energy Regulatory Commission if that Commission has determined that abandonment is not appropriate. The Director shall consider all relevant evidence in determining if a permitted land use has been abandoned, including whether any of the following have occurred:

- a. The oil and gas leases that have supplied the permitted land use with product have terminated.
- b. The oil and gas operations that have supplied the permitted land use with product have been abandoned.
- c. For oil/gas land uses designated as consolidated facilities and sites under the zoning code, there are no other existing offshore leases that may reasonably be expected to use the consolidated facility or site in the next 10 years.
- d. Major and essential components of a land use, or an independent business function thereof, have been removed from the site or have fallen into such disrepair that they are no longer functional.
- e. Permits or other entitlements for the land use, such as permits from the Air Pollution Control District, have been surrendered, expired, revoked or otherwise rendered invalid and no intent has been demonstrated to renew or reacquire such permits.

f. The Fire Department has issued an order requiring abandonment.

~~f.g.~~ Any other evidence that shows clear intent to abandon.

2. Decisions For Consideration of Abandonment Under Permit Conditions. The Director shall grant the application unless:
 - a. The Director finds under the applicable permit condition that abandonment of the permitted land use or independent business function thereof is required without further delay, ***or the Fire Department has issued an order requiring abandonment;*** and
 - b. The permittee no longer has a vested right to continue operation.
3. The Director's decision shall be transmitted by a public notice pursuant to applicable provisions of Section 35-181.
4. The Director's decision may be appealed to the Planning Commission within 30 days of noticing such decision. The Director's decision shall be final upon conclusion with the 30-day appeal period if no appeals have been filed. All appeals shall follow procedures specified in Section 35-182.

Sec. 35-170.8. Deferral Period and Extensions of Approval to Defer Abandonment.

The Director may approve an abandonment deferral for a period not to exceed 24 months from the occurrence of an event defined in Sec. 35-170.3.2.a or b. The Director may extend this period for one-year increments upon timely application by the operator. Applications for extensions shall be filed 90 days prior to the end of the approved abandonment-deferral period and shall contain the information specified in section 35-170.5, above. ***Deferrals and extensions shall not be granted if another County agency, such as the Fire Department, has properly denied the deferral or extension.***

Section 35-170.9. Filing an Application for a Demolition & Reclamation Permit.

Any permittee of a permitted land use that has not filed an application to defer abandonment pursuant to Section 35-170.4, or who has filed and that application has been denied, shall file an application for a Demolition & Reclamation Permit. The application for a Demolition & Reclamation Permit shall be filed no later than 180 days after an application to defer abandonment has been denied and all administrative appeals have been exhausted. If no application to defer abandonment has been filed, an application for a Demolition & Reclamation Permit shall be filed no later than 180 days after an event in Section 35-170.3.1 or 35-170.3.2 has occurred. The Director may grant extensions of time for good cause.

Section 35-170.10. Content of Application for a Demolition & Reclamation Permit.

The application for a Demolition & Reclamation Permit shall contain the following.

1. Name, address, and contact information for permittee.
2. Name, address, and general description of the permitted land use.
3. Gross and net acreage and boundaries of the property.
4. Location of all structures, above and underground, proposed to be removed.
5. Location of all structures, above and underground, proposed to remain in-place.
6. Location of all utilities on the property.
7. Location of all easements on or adjacent to the property that may be affected by demolition or reclamation.
8. ***To the extent known, Estimated the*** type and extent of all ~~known~~ contamination and proposed remedial actions to the level of detail that can be assessed through environmental review. ***This information does not require a new or modified Phase 2 site assessment in advance of any such requirement by the Fire Department or State agencies with regulatory oversight of site assessments.***
9. Location of areas of geologic, seismic, flood, and other hazards.
10. Location of areas of prime scenic quality, habitat resources, archeological sites, water bodies and significant existing vegetation.
11. Location and use of all buildings and structures within 50 feet of the boundaries of the property.
12. A proposed decommissioning plan that details the activities involved in removing structures from the site, including the following details: estimated number of workers required on site to decommission facilities and structures, disposition of equipment and structures proposed for decommissioning, projected method of transporting equipment, structures, and estimated debris from the site to the place of disposition as well as number of trips required, and an estimated schedule for decommissioning facilities.
13. A proposed waste-management plan to maximize recycling and minimize wastes.
14. Other permit applications as may be required by the Santa Barbara County Code to retain any existing structures, roadways, and other improvements to the property that were ancillary to the oil or gas operations and are proposed to be retained to support other existing or proposed uses of the property following abandonment of the oil and gas operations.
15. A proposed grading and drainage plan.
16. A proposed plan to convert the site to natural condition or convert to other proposed land use, including a detailed schedule for restoring the site. In the latter case, include other applicable permit applications required, if any, for the proposed land use.

17. A statement of intent as to the disposition of utilities that served the oil and gas operations, including water, power, sewage disposal, fire protection, and transportation.
18. Measures proposed to be used to prevent or reduce nuisance effects, such as noise, dust, odor, smoke, fumes, vibration, glare, traffic congestion, and to prevent danger to life and property.
19. Any other information deemed necessary by the Director to address site-specific factors.

Section 35-170.11. Processing of Demolition & Reclamation Permit.

1. The Planning and Development Department shall process complete applications for Demolition & Reclamation Permits through environmental review after determining such applications to be complete.
2. The Planning and Development Department shall process complete applications for Demolition & Reclamation Permits independently of any other permit applications to develop the site in question. However, Demolition & Reclamation Permits may be processed concurrently with development permits, provided that long delays in securing approval of development permits do not unduly hinder timely demolition of facilities and reclamation of host sites.
3. The Planning and Development Director shall consider complete applications for Demolition & Reclamation Permits and shall approve, conditionally approve, or deny the application. Any denial shall be accompanied by an explanation of changes necessary to render approval of the application.
4. The Director's decision shall be transmitted by a public notice pursuant to applicable provisions of Section 35-181.
5. The Director's decision may be appealed to the Planning Commission within 30 days of noticing such decision. The Director's decision shall be final upon conclusion with the 30-day appeal period if no appeals have been filed. All appeals shall follow procedures specified in Section 35-182.
6. Upon approval of the Demolition & Reclamation Permit or upon abandonment of operations, whichever occurs later, the Demolition & Reclamation Permit shall supersede any discretionary use permit issued for construction and operation of the facilities.

Section 35-170.12. Findings Required for Approval of a Demolition & Reclamation Permit.

A Demolition & Reclamation Permit shall only be approved if all of the following findings are made:

1. That significant adverse impacts to the environment due to demolition and reclamation are mitigated to a level of insignificance or, where impacts cannot feasibly be mitigated to insignificance, they are mitigated to the maximum extent feasible.
2. That, where applicable, streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed demolition and reclamation.
3. That any condition placed upon *the operator or responsible party for assessment or* remediation of soil or water contamination fully conform with the permitting process and requirements of the Regional Water Quality Control Board and the Santa Barbara County Fire Department.
4. That the proposed reclamation will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood, and will not be incompatible with the surrounding area.

5. That the site will be restored to natural conditions unless any of the following conditions apply:
 - a. Areas within the site are subject to approved development, in which case restoration and landscaping of these areas will conform to the newly permitted development. In cases where development is proposed but not yet permitted, restoration of affected areas to natural conditions may be waived, provided that such development is permitted within five years and the permittee has posted financial assurances acceptable to the Director to assure restoration to natural conditions if the proposed development is not permitted.
 - b. Areas within the site are subject to agricultural uses that do not require a County permit, in which case the restoration will conform to conditions appropriate for such agricultural uses.

For purposes of this finding, ~~restoration to natural conditions~~ The the Director may allow abandonment in-place of specific improvements such as retaining walls or emergency access roads ~~other items such as pipeline support footings~~ if the Director finds that their removal would be detrimental to the health, safety or welfare of the public or the environment ~~result in significant undesired environmental outcomes~~ (e.g., undesired destabilization of slopes due to removal of a retaining wall, or eliminating a needed public evacuation route). ~~Under these specific circumstances, the Director shall exact a mitigation fee equal to the estimated costs of removing the improvements or other items, and use the fee to protect or improve natural habitat or natural visual aesthetics on lands within the unincorporated areas of the County. Such exactions do not apply to underground inter-facility pipelines that are abandoned in-place.~~

6. That any retention of improvements to land has been duly permitted in accordance with the County Code where permits are required.
7. That the proposed reclamation will leave the site in a condition that is compatible with any existing easements or dedications for public access through, or public use of a portion of the property.
8. That the permit conditions contain specific enforceable requirements to ensure the timely closure of the host site and completion of post-closure activities.

Section 35-170.13. Performance Standards for Demolition & Reclamation Permits.

1. All equipment shall be cleaned of oil or other contaminants prior to dismantlement in order to reduce any risk of contamination of soils or water during demolition of the facility to the maximum extent feasible. Where applicable, the permittee shall prepare and submit a ~~Contaminant~~ Spill Contingency Plan to the Fire Department. This plan shall identify measures to prevent and contain spills during dismantling and removal of facilities, as well as how spills will be cleaned up once they have occurred.
2. The permittee shall obtain all other necessary permits from other agencies and, where applicable, submit proof of permits issued by the California Division of Oil, Gas, and Geothermal Resources to plug and abandon wells or to inject waste water for purposes of disposal into any State oil and gas field prior to issuance of the Demolition & Reclamation Permit.
3. The demolition and reclamation shall be adequately monitored by a qualified individual, funded by the permittee and retained by the County, to ensure compliance with those conditions designed to mitigate anticipated significant adverse effects on the environment,

and to provide recommendations in instances where effects were not anticipated or mitigated by the conditions in the permit.

Pre- and post-reclamation surveys of sensitive resources shall be employed as appropriate to measure compliance.

4. Topsoil shall be stockpiled, covered, and saved for use as topsoil when excavated areas are back-filled, unless such soil is treated onsite or removed for offsite disposal due to contamination.
5. If appropriate, truck traffic transporting materials to and from the site shall avoid arriving or departing the site during the peak traffic hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. weekdays (or other peak-hour periods applicable to the location of the traffic).
6. Adequacy of sight distance, ingress/egress and emergency access shall be verified by the Public Works Department and Fire Department.
7. Measures shall be implemented to inhibit dust generation, where appropriate. Unavoidable generation of dust shall be kept to a minimum through effective controls.
8. The permittee implements a viable recycling plan that meets County approval and includes provisions to maximize recycling of equipment, asphalt, and concrete, and to minimize disposal of wastes into hazardous waste and solid waste management facilities to the maximum extent feasible.
9. Contouring of the land shall be compatible with the surrounding natural topography, unless otherwise approved to accommodate another permitted use or required drainages.
10. Appropriate measures shall be implemented to control erosion both during and after site closure.
11. Establishment of vegetation shall be in conformance with an approved revegetation plan and the following standards:
 - a. **In accordance with the County's Fire Plan, as implemented by the County Fire Department, a**All disturbed areas identified for vegetation shall be disked or ripped to an appropriate depth to eliminate compaction and establish a suitable root zone in preparation for planting, except where such requirement poses a significant adverse environmental impact.
 - b. Native seeds and plants shall be used when returning the area to natural conditions. **The Director shall define an acceptable geographic area from which genetically compatible, native-seed stocks may be selected for site restoration in order to protect the genetic integrity and the habitat value of the site and its surrounding area.** Other seeds, such a pasture mix, shall be allowed in areas designated for such use.
12. Subsurface segments of inter-facility pipelines may be abandoned in-place except under the following circumstances:
 - a. Presence of the pipeline would inhibit future land uses.
 - b. Modeling approved by the U.S. Army Corp. of Engineers or U.S. Bureau of Reclamation indicates that segments of the pipeline in erosive locations would become exposed at some time during the next 100 years, and environmental review determines that impacts from exposure and subsequent removal during inclement weather are more significant than removal at the time of abandonment.
13. Appropriate notification has been recorded with the County Clerk-Recorder to update, supersede or release the recorded rights-of-way where a subsurface pipeline is abandoned in-place. This notice shall describe the presence and location of the abandoned pipeline, any material placed in the pipeline for abandonment, and the operator and owner of the pipeline prior to abandonment.

14. The site shall be assessed for ~~unknown~~ previously unidentified contamination. Any discovery of contamination shall be reported to the Director and the Fire Department. ~~and~~ ~~the~~ permittee shall diligently seek all necessary permit approvals, including revisions to the Demolition & Reclamation Permit, if any are required in order to remediate the contamination.
15. The Director, in consultation with other County agencies, may impose other appropriate and reasonable conditions or require any changes to the project as deemed necessary to protect the health, safety, and welfare of the public, protect property, preserve the character, natural resources, or scenic quality of the area, or implement the purpose of this Chapter or any other chapter of the County Code.
16. In the case of an Independent Business function of a Permitted Land Use, the Director shall have discretion to determine the timing and extent of the requirements of the Demolition & Reclamation Permit. Factors that the Director may consider include:
 - a. Whether removal of the Independent Business function would substantially reduce the overall footprint of the Permitted Land Use, reduce any significant visual impact, or reduce any significant risk to public safety.
 - b. Whether site restoration is feasible at the time the Independent Business function is removed, compared to deferring site restoration to such time that the entire Permitted Land Use is removed.
17. Appropriate notification has been recorded with the County Clerk-Recorder to describe the presence and location of any contamination left in place under the authority of the Fire Department.

Sec. 35-170.14. Revocation of Entitlement to Land Use.

1. All entitlements provided in any use permits issued under this ordinance, or under any preceding zoning ordinance, to use the facilities shall be automatically revoked and no longer effective upon the County's denial of an application to defer abandonment and the exhaustion of available administrative remedies. Requirements of use permits necessary to ensure continued protection of public and environmental health, safety and welfare shall continue in full force and effect, including:
 - a. Conditions that specify liability of the owner, operator, and other persons.
 - b. Conditions that specify payment of County fees and costs.
 - c. Conditions that indemnify the County.
 - d. Where applicable, conditions that specify the County's authority to require abatement of public nuisances or require mitigation of environmental impacts that may occur prior to issuance of a Demolition & Reclamation Permit.
 - e. Where applicable, conditions that require oil spill prevention, preparedness, and response.
 - f. Where applicable, conditions that require emergency preparedness and response.
 - g. Where applicable, conditions that require safety inspections, maintenance, and quality assurance.
 - h. Where applicable, conditions that require site security.
 - i. Where applicable, conditions that require fire prevention, preparedness, protection and response.

- j. Where applicable, conditions that require payment of fees, including fees that provide mitigation for ongoing impacts to the environment (e.g., payments to the Coastal Resource Enhancement Fund).

- k. Substantive conditions that address abandonment; however procedural requirements for abandonment, demolition, and reclamation shall conform to Section 35-323 of this Chapter.

Upon revocation of entitlements in a use permit, the Director shall notify the owner or operator and include a list of permit conditions that remain in full or partial force.

2. All use permits issued under this ordinance, or under any preceding zoning ordinance, shall be automatically revised to remove any entitlement to continue the use any independent business function of a permitted land use determined to be abandoned in accordance with Section 35-170. However, permit conditions necessary to ensure continued protection of public and environmental health, safety and welfare, such as those identified in Sec. 35-170.14.1, shall continue in full force and effect.
3. The permittee shall have a grace period of two years from the date of revocation of entitlements in use permits in order to secure a Demolition & Reclamation Permit. The Director may extend the grace period no more than one year, cumulatively, for good cause, or for longer periods for delays attributable to circumstances beyond the permittee's control.
4. Upon completion of the grace period, the abandoned land use or independent business function shall be treated as a deserted and illegal land use until such time that the permittee secures approval of a Demolition & Reclamation Permit.

Sec. 35-170.15. Expiration of a Demolition & Reclamation Permit.

1. Requirements. The permittee shall complete all requirements of the Demolition & Reclamation Permit prior to the expiration of the permit, including any extensions thereof. Failure to do so shall constitute a violation of this Article.
2. Term. Demolition & Reclamation Permits shall expire upon issuance of a "Reclamation Complete" letter by the Director, which shall be issued upon the satisfactory completion of the required work, or seven years after the date of issuance, whichever occurs sooner. The Director's "Reclamation Complete" letter shall certify completion of all required work except for remediation of contamination, which is certified by other agencies.
3. Extensions. The Director may extend the expiration date of the permit without penalty if the closure or re-vegetation of the site was delayed by circumstances reasonably beyond the permittee's control. Otherwise, Director may extend the expiration date of the permit with penalties, pursuant to Section 35-185 of this Article, in order to realize completion of all site closure and post-closure requirements. If the permittee requests a time extension for this project, the Director may revise the Demolition & Reclamation Permit to revise conditions and mitigating measures or to add new conditions and mitigating measures, which reflect changed circumstances, including newly identified impacts.

SECTION 4:

Division 12 “Oil and Gas Facilities” in Article II, Chapter 35 of the Santa Barbara County Code is hereby amended, by revising Section 35-182.2, “Appeals” to read:

Sec. 35-182.2.

1. Except for those actions on Coastal Development Permits which are appealable to the Coastal Commission as provided for under Sec. 35-182.4., the decisions of the Planning and Development Department on the approval, denial, or revocation of Coastal Development Permits, final approval of projects under the jurisdiction of the Director, or decisions of the Board of Architectural Review may be appealed to the Planning Commission by the applicant, an aggrieved person (see definition) or any two members of the Coastal Commission. The appeal and accompanying fee must be filed with the Planning and Development Department as follows:
 - a. Within the ten calendar days following the date of decision for projects under the jurisdiction of the Director, ***except for appeals pursuant to Sec. 35-170, in which case, filing ~~must~~ shall occur within thirty calendar days following the date of decision.***
 - b. Within the ten calendar days following the posting date for the notice of Coastal Development Permit approval, as required by Section 35-181.3, or if denied, within the ten calendar days following the decision of the Planning and Development Department to deny such permit application.
 - c. Within the ten calendar days following the date of final decision by the Board of Architectural Review (BAR). If final approval by the BAR is appealed, the hearing on the appeal shall only be held after the decisions on the Coastal Development Permit but, prior to the issuance of the Coastal Development Permit for such project. The BAR appeal shall be processed concurrently with any appeal of the Coastal Development Permit. If a denial by the BAR is appealed, a separate hearing shall be held on the BAR appeal prior to the decision on the Coastal Development Permit. No permits shall be issued until all appeals have been heard and/or resolved.
 - d. The appellant shall state specifically in the appeal how 1) the decision of the Planning and Development Department on a Coastal Development Permit ***or on applications under Sec. 35-170***, or a decision of the Director of the Board of Architectural Review is not in accord with the provisions and purposes of this Article or 2) there was an error or an abuse of discretion by the Planning and Development Department, Director or BAR. If the approval of a Coastal Development Permit (not subject to Section 35-182.4) required by a previously approved discretionary permit is appealed, the appellant must identify how the Coastal Development Permit is inconsistent with the previously approved discretionary permit, how the discretionary permit’s conditions of approval have been unfulfilled, or how the approval is inconsistent with Sec. 35-181. (Noticing).

SECTION 5:

This ordinance and any portion of its approved by the Coastal Commission shall take effect and be in force shall take effect and be in force thirty (30) days from the date of its passage or upon the date that it is certified by the Coastal Commission pursuant to Public Resources Code 30514, whichever occurs later; and before the expiration of fifteen (15) days after its passage, this ordinance, or a summary of it, shall be published once, together with the names of the Board of Supervisors voting for and against the same in the Santa Barbara News Press, a newspaper of general circulation published in the County of Santa Barbara.

Before the expiration of fifteen (15) days after its passage, this ordinance, or a summary of it, shall be published once, together with the names of the Board of Supervisors voting for and against the same in the Santa Barbara News Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this twenty-first day of September, 2004, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Joseph Centeno, Chair
Board of Supervisors of the County of Santa Barbara
State of California

ATTEST:

MICHAEL F. BROWN
County Clerk of the Board

By _____
Deputy Clerk of the Board

APPROVED AS TO FORM:

STEPHEN SHANE STARK
County Counsel

By _____
Deputy County Counsel

|

Attachment D

Ordinance Adopting Amendments to the
Santa Barbara County Inland Zoning Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE SANTA BARBARA COUNTY CODE
BY REVISING ARTICLE III OF CHAPTER 35, TITLED "INLAND ZONING ORDINANCE

CASE No.: 04-ORD-00000-00009

The Board of Supervisors of the County of Santa Barbara, State of California, ordains as follows:

SECTION 1:

Division 2 "Definitions" of Article III of the Santa Barbara County Code in hereby amended by adding the following new definitions to read;

ABANDONED (or ABANDONMENT), as used in Section 35-323 of this Article, shall mean the discontinuance of any permitted land use, or any independent business function of a permitted land use, and there is no evidence of a clear intent on the part of the owner to restart operations of the permitted land use, or the independent business function of a permitted land use.

IDLED (or IDLE), as used in Section 35-323 of this Article, shall mean a permitted land use or an independent business function of a permitted land use has had a zero throughput (enter and exit) for a period of one continuous year.

NATURAL CONDITIONS, as used in Section 35-323 of this Article, shall mean the reasonable and feasible return of land to a state that reflects the natural environment of the area without development. Retention of certain improvements or other items such as pipeline support footings would qualify as natural conditions if their removal would result in undesired environmental outcomes such as undesired destabilization of slopes due to removal of a retaining wall. Natural conditions do not necessarily equate to original or pre-development conditions.

PERMITTED LAND USE shall mean any land use, facility, activity, or site subject to this Chapter.

RECLAMATION, as used in Section 35-323 of this Article, shall mean conversion of a host site to natural conditions, or other conditions, in compliance with applicable laws and permits, including remediation of contamination, contouring of topography, re-vegetation and landscaping.

SECTION 2:

Division 10 "Permit Procedures" in Article III, Chapter 35 of the Santa Barbara County Code is hereby amended, by adding a new Section 35-323 to read:

Sec. 35-323. Abandonment of Certain Oil/Gas Land Uses.

Sec. 35-323.1. Purpose and Intent.

This section establishes procedures to achieve the timely abandonment of applicable land uses, and following such abandonment, the timely and proper removal of applicable oil and gas facilities, and reclamation of host sites, and final disposition of pipelines, in compliance with applicable laws and permits. Such procedures ensure appropriate due process in differentiating idled from abandoned facilities and protect the vested rights of permittees while also ensuring that facilities with no reasonable expectation of restarting are removed, pursuant to the intent of enabling development permits. Timely abandonment provides a public benefit by avoiding unnecessary delays in remediating any residual contamination that may result during operations, and providing an effective means of mitigating several significant environmental and socioeconomic effects, including aesthetics, compatibility with surrounding land uses, and risk of default on demolition and reclamation obligations by the permittee.

Sec. 35-323.2. Applicability.

Section 35-323 shall apply to the following land uses within the unincorporated area of the County:

1. All permitted uses defined in Sections 35-296 and 35-298 of this Chapter that handle, or at one time handled, oil, natural gas, natural gas liquids, produced water, or waste water that originated from an offshore reservoir, regardless of whether these uses were permitted in accordance with this Chapter or any preceding ordinance.
2. All permitted uses defined in Section 35-297 of this Chapter, regardless of whether these uses were permitted in accordance with this Chapter or any preceding ordinance.
3. All pipeline systems defined in Section 35-290, except for public utility natural gas transmission and distribution systems such as The Gas Company, that transport, or at one time transported, oil, natural gas, produced water, or waste water that originated from an offshore reservoir, regardless of whether these uses were permitted in accordance with this Chapter or any preceding zoning ordinance.
4. Unless specifically stated otherwise, reclamation of sites and corridors used to support any of the operations identified in 35-323.2.1, 2 or 3, above.

Sec. 35-323.3. Requirement to File an Application.

1. The permittee of a permitted land use shall submit an application to the Director for a Demolition & Reclamation Permit (ref. Sec. 35-323.9 et. seq.) upon intentional abandonment of a permitted land use, or an independent business function thereof.
2. The permittee of a permitted land use shall submit an application to the Director either to defer abandonment (ref: Section 35-323.4 et. seq.) or to obtain a Demolition & Reclamation Permit (ref: Section 35-323.9 et. seq.) upon the occurrence of either of the following:
 - a. Any event designated in an existing County permit that would require consideration of abandonment; or
 - b. The permitted land use or a independent business function of a permitted land use has become idle.

Sec. 35-323.4. Filing an Application to Defer Abandonment.

Any permittee subject to the requirements of Section 323.3.2 may file an application to defer abandonment, which shall be considered by the Director. The application shall be filed no later than 90 days after an event specified in Section 323.3.2 has occurred.

Sec. 35-323.5. Contents of Application to Defer Abandonment.

The application to defer abandonment shall be in a form and content specified by the Director and this chapter. Such applications shall contain the following:

1. Name, address, and contact information for permittee.
2. Name, address, and general description of the permitted land use.
3. Date when permitted land use first became idle.
4. Reason for idle status.
5. Status of upstream production facilities, where applicable.
6. Listing of facility equipment that has been identified on a plan (submitted in satisfaction of a County, *Fire*, or APCD permit) and has been either removed from the site or is not currently in operational condition. Include an explanation of the affect this missing or inoperable equipment has on ability to restart operations and run all processes. Also explain measures necessary to bring inoperable equipment back into operational condition.
7. Plans and schedule to restart operations and identification of any facility components that would remain inactive after restart.
8. Identification of reasonable circumstances that may hinder the restart of operations according to plan and schedule.
9. Any other information deemed necessary by the Director.

Sec. 35-323.6. Processing of Application to Defer Abandonment.

1. The Director shall determine the completeness of any application and issue a completeness letter within 30 days of receipt. If the application is deemed incomplete, the Director shall specify in detail the deficiencies in the application.
2. The applicant shall submit information in response to an incompleteness letter within 60 days of receipt or, if it is not practicable to respond within a 60-day period, shall request an extension, not to exceed 60 additional days (total of 120 days to respond), within which to provide the required information.
3. The Director may choose, at his or her discretion, to conduct a public hearing to consider any application to defer abandonment. The public shall be given all reasonable opportunity to review the Director's recommended decision no less than ten days prior to conducting a public hearing on any application to defer abandonment in accordance with applicable noticing procedures specified in Sec. 35-326.

Sec. 35-323.7. Decision on Application to Defer Abandonment.

1. Decisions for Idle Facilities. The Director shall grant the application unless the evidence shows that an idle facility has no reasonable possibility of being restarted or the owner has no intent of restarting the facility within a reasonable period of time. Notwithstanding the above, the Director shall approve the application for any pipeline subject to the jurisdiction of the Federal Energy Regulatory Commission if that Commission has determined that abandonment is not appropriate. The Director shall

consider all relevant evidence in determining if a permitted land use has been abandoned, including whether any of the following have occurred:

- a. The oil and gas leases that have supplied the permitted land use with product have terminated.
- b. The oil and gas operations that have supplied the permitted land use with product have been abandoned.
- c. For oil/gas land uses designated as consolidated facilities and sites under the zoning code, there are no other existing offshore leases that may reasonably be expected to use the consolidated facility or site in the next 10 years.
- d. Major and essential components of a land use, or an independent business function thereof, have been removed from the site or have fallen into such disrepair that they are no longer functional.
- e. Permits or other entitlements for the land use, such as permits from the Air Pollution Control District, have been surrendered, expired, revoked or otherwise rendered invalid and no intent has been demonstrated to renew or reacquire such permits.
- f. *The Fire Department has issued an order requiring abandonment.*
- g. Any other evidence that shows clear intent to abandon.

2. Decisions For Consideration of Abandonment Under Permit Conditions. The Director shall grant the application unless:
 - a. The Director finds under the applicable existing permit condition that abandonment of the permitted land use or independent business function thereof is required without further delay, *or the Fire Department has issued an order requiring abandonment;* and
 - b. The permittee no longer has a vested right to continue operation.
3. The Director's decision shall be transmitted by a public notice pursuant to applicable provisions of Section 35-326.
4. The Director's decision may be appealed to the Planning Commission within 30 days of noticing such decision. The Director's decision shall be final upon conclusion with the 30-day appeal period if no appeals have been filed. All appeals shall follow procedures specified in Section 35-327.

Sec. 35-323.8. Deferral Period and Extensions of Approval to Defer Abandonment.

The Director may approve an abandonment deferral for a period not to exceed 24 months from the occurrence of an event defined in Sec. 35-323.3.2.a or b. The Director may extend this period for one-year increments upon timely application by the operator. Applications for extensions shall be filed 90 days prior to the end of the approved abandonment-deferral period and shall contain the information specified in section 35-323.5, above. *Deferrals and extensions shall not be granted if another County agency, such as the Fire Department, has properly denied the deferral or extension.*

Section 35-323.9. Filing an Application for a Demolition & Reclamation Permit.

Any permittee of a permitted land use that has not filed an application to defer abandonment pursuant to Section 35-323.4, or who has filed and that application has been denied, shall file an application for a Demolition & Reclamation Permit. The application for a Demolition & Reclamation Permit shall be filed no later than 180 days after an application to defer abandonment has been denied and all administrative appeals have been exhausted. If no application to defer abandonment has been filed, an application for a Demolition & Reclamation

Permit shall be filed no later than 180 days after an event in Section 35-323.3.1 or 35-323.3.2 has occurred. The Director may grant extensions of time for good cause.

Section 35-323.10. Content of Application for a Demolition & Reclamation Permit.

The application for a Demolition & Reclamation Permit shall contain the following.

1. Name, address, and contact information for permittee.
2. Name, address, and general description of the permitted land use.
3. Gross and net acreage and boundaries of the property.
4. Location of all structures, above and underground, proposed to be removed.
5. Location of all structures, above and underground, proposed to remain in-place.
6. Location of all utilities on the property.
7. Location of all easements on or adjacent to the property that may be affected by demolition or reclamation.
8. **To the extent known, ~~The estimated~~ type and extent of all ~~known~~ contamination and proposed remedial actions to the level of detail that can be assessed through environmental review. *This information does not require a new or modified Phase 2 site assessment in advance of any such requirement by the Fire Department or State agencies with regulatory oversight of site assessments.***
9. Location of areas of geologic, seismic, flood, and other hazards.
10. Location of areas of prime scenic quality, habitat resources, archeological sites, water bodies and significant existing vegetation.
11. Location and use of all buildings and structures within 50 feet of the boundaries of the property.
12. A proposed decommissioning plan that details the activities involved in removing structures from the site, including the following details: estimated number of workers required on site to decommission facilities and structures, disposition of equipment and structures proposed for decommissioning, projected method of transporting equipment, structures, and estimated debris from the site to the place of disposition as well as number of trips required, and an estimated schedule for decommissioning facilities.
13. A proposed waste-management plan to maximize recycling and minimize wastes.
14. Other permit applications as may be required by the Santa Barbara County Code to retain any existing structures, roadways, and other improvements to the property that were ancillary to the oil or gas operations and are proposed to be retained to support other existing or proposed uses of the property following abandonment of the oil and gas operations.
15. A proposed grading and drainage plan.
16. A proposed plan to convert site to natural condition or convert to another proposed land use, including a detailed schedule for restoring the site. In the latter case, include other applicable permit applications required, if any, for the proposed land use.
17. A statement of intent as to the disposition of utilities that served the oil and gas operations, including water, power, sewage disposal, fire protection, and transportation.
18. Measures proposed to be used to prevent or reduce nuisance effects, such as noise, dust, odor, smoke, fumes, vibration, glare, traffic congestion, and to prevent danger to life and property.
19. Any other information deemed necessary by the Director to address site-specific factors.

Section 35-323.11. Processing of Demolition & Reclamation Permit.

1. The Planning and Development Department shall process applications for Demolition & Reclamation Permits through environmental review after determining such applications to be complete.
2. The Planning and Development Department shall process complete applications for Demolition & Reclamation Permits independently of any other permit applications to develop the site in question. However, Demolition & Reclamation Permits may be processed concurrently with development permits, provided that long delays in securing approval of development permits do not unduly hinder timely demolition of facilities and reclamation of host sites.
3. The Planning and Development Department shall process complete applications for Demolition & Reclamation Permits independently of any other permit applications to develop the site in question. However, Demolition & Reclamation Permits may be processed concurrently with development permits, provided that long delays in securing approval of development permits do not unduly hinder timely demolition of facilities and reclamation of host sites.
4. The Director's decision shall be transmitted by a public notice pursuant to applicable provisions of Section 35-326.
5. The Director's decision may be appealed to the Planning Commission within 30 days of noticing such decision. The Director's decision shall be final upon conclusion with the 30-day appeal period if no appeals have been filed. All appeals shall follow procedures specified in Section 35-327.
6. Upon approval of the Demolition & Reclamation Permit or upon abandonment of operations, whichever occurs later, the Demolition & Reclamation Permit shall supercede any discretionary use permit issued for construction and operation of the facilities.

Section 35-323.12. Findings Required for Approval of a Demolition & Reclamation Permit.

A Demolition & Reclamation Permit shall only be approved if all of the following findings are made:

1. That significant adverse impacts to the environment due to demolition and reclamation are mitigated to a level of insignificance or, where impacts cannot feasibly be mitigated to insignificance, they are mitigated to the maximum extent feasible.
2. That, where applicable, streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed demolition and reclamation.
3. That any conditions placed upon *the operator or responsible party for assessment or* remediation of soil or water contamination fully conform with the permitting process and requirements of the Regional Water Quality Control Board and the Santa Barbara County Fire Department.
4. That the proposed reclamation will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood, and will not be incompatible with the surrounding area.
5. That the site will be restored to natural conditions unless any of the following conditions apply:
 - a. Areas within the site are subject to approved development, in which case restoration and landscaping of these areas will conform to the newly permitted development. In cases where development is proposed but not yet permitted, restoration of affected areas to natural

conditions may be waived, provided that such development is permitted within five years and the permittee has posted financial assurances acceptable to the Director to assure restoration to natural conditions if the proposed development is not permitted.

b. Areas within the site are subject to agricultural uses that do not require a County permit, in which case the restoration will conform to conditions appropriate for such agricultural uses where they occur.

For purposes of this finding, ~~restoration to natural conditions~~ *The Director* may allow abandonment in-place of specific improvements such as retaining walls or *emergency access roads* ~~other items such as pipeline support footings~~ if *the Director* finds that their removal would *be detrimental to the health, safety or welfare of the public or the environment* ~~result in significant undesired environmental outcomes~~ (e.g., undesired destabilization of slopes due to removal of a retaining wall). ~~Under these specific circumstances, the Director shall exact a mitigation fee equal to the estimated costs of removing the improvements or other items, and use the fee to protect or improve natural habitat or natural visual aesthetics on lands within the unincorporated areas of the County. Such exactions do not apply to underground inter-facility pipelines that are abandoned in-place.~~

6. That any retention of improvements to land has been duly permitted in accordance with the County Code where permits are required.
7. That the proposed reclamation will leave the site in a condition that is compatible with any existing easements or dedications for public access through, or public use of a portion of the property.
8. That the permit conditions contain specific enforceable requirements to ensure the timely closure of the host site and completion of post-closure activities.

Section 35-323.13. Performance Standards for Demolition & Reclamation Permits.

1. All equipment shall be cleaned of oil or other contaminants prior to dismantlement in order to reduce any risk of contamination of soils or water during demolition of the facility to the maximum extent feasible. Where applicable, the permittee shall prepare and submit a **Contaminant** Spill Contingency Plan to the Fire Department. This plan shall identify measures to prevent and contain spills during dismantling and removal of facilities, *as well as how spills will be cleaned up once they have occurred.*
2. The permittee shall obtain all other necessary permits from other agencies and, where applicable, submit proof of permits issued by the California Division of Oil, Gas, and Geothermal Resources to plug and abandon wells or to inject waste water for purposes of disposal into any State oil and gas field prior to issuance of the Demolition & Reclamation Permit.
3. The demolition and reclamation shall be adequately monitored by a qualified individual, funded by the permittee and retained by the County, to ensure compliance with those conditions designed to mitigate anticipated significant, adverse effects on the environment, and to provide recommendation instances where effects were not anticipated or mitigated by the conditions in the permit.

Pre- and post-reclamation surveys of sensitive resources shall be employed as appropriate to measure compliance.

4. Topsoil shall be stockpiled, covered, and saved for use as topsoil when excavated areas are back-filled, unless such soil is treated onsite or removed for offsite disposal due to contamination.
5. If appropriate, truck traffic transporting materials to and from the site shall avoid arriving or departing the site during the peak traffic hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. weekdays (or other peak-hour periods applicable to the location of the traffic).
6. Adequacy of sight distance, ingress/egress and emergency access shall be verified by the Public Works Department and Fire Department.
7. Measures shall be implemented to inhibit dust generation, where appropriate. Unavoidable generation of dust shall be kept to a minimum through effective controls.
8. The permittee implements a viable recycling plan that meets County approval and includes provisions to maximize recycling of equipment, asphalt, and concrete, and to minimize disposal of wastes into hazardous waste and solid waste management facilities to the maximum extent feasible.
9. Contouring of the land shall be compatible with the surrounding natural topography, unless otherwise approved to accommodate another permitted use or required drainages.
10. Appropriate measures shall be implemented to control erosion both during and after site closure.
11. Establishment of vegetation shall be in conformance with an approved revegetation plan and the following standards:
 - a. *In accordance with the County's Fire Plan, as implemented by the County Fire Department, a*All disturbed areas identified for vegetation shall be disked or ripped to an appropriate depth to eliminate compaction and establish a suitable root zone in preparation for planting, except where such requirement poses a significant adverse environmental impact.
 - b. Native seeds and plants shall be used when returning the area to natural conditions. *The Director shall define an acceptable geographic area from which genetically compatible, native –seed stocks may be selected for site restoration in order to protect the genetic integrity and the habitat value of the site and its surrounding area.* Other seeds, such a pasture mix, shall be allowed in areas designated for such use.
12. Subsurface segments of inter-facility pipelines may be abandoned in-place except under the following circumstances:
 - a. Presence of the pipeline would inhibit future land uses proposed in an active development application.
 - b. Modeling approved by the U.S. Army Corp. of Engineers or U.S. Bureau of Reclamation indicates that segments of the pipeline in erosive locations would become exposed at some time during the next 100 years, and environmental review determines that impacts from exposure and subsequent removal during inclement weather are more significant than removal at the time of abandonment.
13. Appropriate notification has been recorded with the County Clerk-Recorder to update, supersede, or release the recorded rights-of-way where a subsurface pipeline is abandoned in-place. This notice shall describe the presence and location of the abandoned pipeline, any material placed in the pipeline for abandonment, and the operator and owner of the pipeline prior to abandonment.
14. *The site shall be assessed for previously unidentified contamination. Any discovery of contamination shall be reported to the Director and the Fire Department. The permittee*

shall diligently seek all necessary permit approvals, including revisions to the Demolition & Reclamation Permit, if any are required in order to remediate the contamination.

145. The Director, in consultation with other County agencies, may impose other appropriate and reasonable conditions or require any changes to the project as deemed necessary to protect the health, safety, and welfare of the public, protect property, preserve the character, natural resources, or scenic quality of the area, or implement the purpose of this Chapter or any other chapter of the County Code.

156. In the case of an Independent Business function of a Permitted Land Use, the Director shall have discretion to determine the timing and extent of the requirements of the Demolition & Reclamation Permit. Factors that the Director may consider include:

a. Whether removal of the Independent Business function would substantially reduce the overall footprint of the Permitted Land Use, reduce any significant visual impact, or reduce any significant risk to public safety.

b. Whether site restoration is feasible at the time the Independent Business function is removed, compared to deferring site restoration to such time that the entire Permitted Land Use is removed.

17. Appropriate notification has been recorded with the County Clerk-Recorder to describe the presence and location of any contamination left in place under the authority of the Fire Department.

Sec. 35-323.14. Revocation of Entitlement to Land Use.

1. All entitlements provided in any use permits issued under this ordinance, or under any preceding zoning ordinance, to use the facilities shall be automatically revoked and no longer effective upon the County's denial of an application to defer abandonment and exhaustion of available administrative remedies. Requirements of use permits necessary to ensure continued protection of public and environmental health, safety and welfare shall continue in full force and effect, including:

a. Conditions that specify liability of the owner, operator, and other persons.

b. Conditions that specify payment of County fees and costs.

c. Conditions that indemnify the County.

d. Where applicable, conditions that specify the County's authority to require abatement of public nuisances or require mitigation of environmental impacts that may occur prior to issuance of a Demolition & Reclamation Permit.

e. Where applicable, conditions that require oil spill prevention, preparedness, and response.

f. Where applicable, conditions that require emergency preparedness and response.

g. Where applicable, conditions that require safety inspections, maintenance, and quality assurance.

h. Where applicable, conditions that require site security.

i. Where applicable, conditions that require fire prevention, preparedness, protection and response.

j. Where applicable, conditions that require payment of fees, including fees that provide mitigation for ongoing impacts to the environment (e.g., payments to the Coastal Resource Enhancement Fund).

k. Substantive conditions that address abandonment; however procedural requirements for abandonment, demolition, and reclamation shall conform to Section 35-323 of this Chapter.

Upon revocation of entitlements in a use permit, the Director shall notify the owner or operator and include a list of permit conditions that remain in full or partial force.

2. All use permits issued under this ordinance, or under any preceding zoning ordinance, shall be automatically revised to remove any entitlement to continue the use of any independent business function of a permitted land use determined to be abandoned in accordance with Section 35-323. However, permit conditions necessary to ensure continued protection of public and environmental health, safety and welfare, such as those identified in Sec. 35-323.14.1, shall continue in full force and effect.
3. The permittee shall have a grace period of two years from the date of revocation of entitlements in use permits in order to secure a Demolition & Reclamation Permit. The Director may extend the grace period no more than one year, cumulatively, for good cause, or for longer periods for delays attributable to circumstances beyond the permittee's control.
4. Upon completion of the grace period, the abandoned land use or independent business function shall be treated as a deserted and illegal land use until such time that the permittee secures approval of a Demolition & Reclamation Permit.

Sec. 35-323.15. Expiration of a Demolition & Reclamation Permit.

1. Requirements. The permittee shall complete all requirements of the Demolition & Reclamation Permit prior to the expiration of the permit, including any extensions thereof. Failure to do so shall constitute a violation of this Article.
2. Term. Demolition & Reclamation Permits shall expire upon issuance of a "Reclamation Complete" letter by the Director, which shall be issued upon the satisfactory completion of the required work, or seven years after the date of issuance, whichever occurs sooner. Director's "Reclamation Complete" letter shall certify completion of all required work except for remediation of contamination, which is certified by other agencies.
3. Extensions. The Director may extend the expiration date of the permit without penalty if the closure or re-vegetation of the site was delayed by circumstances reasonably beyond the permittee's control. Otherwise, Director may extend the expiration date of the permit with penalties, pursuant to Section 35-330 of this Article, in order to realize completion of all site closure and post-closure requirements. If the permittee requests a time extension for this project, the Director may revise the Demolition & Reclamation Permit to revise conditions and mitigating measures or to add new conditions and mitigating measures, which reflect changed circumstances, including newly identified impacts.

SECTION 3:

Division 11 "Administration" in Article III, Chapter 35 of the Santa Barbara County Code is hereby amended, by revising Section 35-372.2 "Appeals" to read (revised language is indicated in *bold italics*):

Sec. 35-327.2.

1. The decision of the Planning and Development Department on the approval, denial, or revocation of Land Use Permits, final approval of projects under the jurisdiction of the

Director, or decisions of the Board of Architectural Review may be appealed to the Planning Commission by the applicant or any interested person adversely affected by such decision. The appeal, which shall be in writing, and accompanying fee must be filed with the Planning and Development Department within ten (10) calendar days of the date of the decision of the Planning and Development Department *or thirty (30) days with regard to appeals pursuant to Sec. 35-323* as follows:

- a. Within the ten calendar days following the date of decision for projects under the jurisdiction of the Director, *except for appeals pursuant to Sec. 35-323, in which case, filing shall occur within thirty calendar days following the date of decision.*
- b. Within the ten calendar days following the posting date for the notice of Land Use Permit approval, as required by Section 35-326, or if denied, within the ten calendar days following the decision of the Planning and Development Department to deny such permit application.
- c. Within the ten calendar days following the date of final decision by the Board of Architectural Review. If final approval by the Board of architectural Review is appealed, the hearing on the appeal shall only be held after the decisions on the Land Use Permit but, prior to the issuance of the Land Use Permit for such project. The Board of Architectural Review appeal shall be processed concurrently with any appeal of the Land Use Permit. If a denial by the Board of Architectural Review is appealed, a separate hearing shall be held on the Board of Architectural Review appeal prior to the decision on the Land Use Permit. No permits shall be issued until all appeals have been heard and/or resolved.
- d. The appellant shall state specifically in the appeal how 1) the decision of the Planning and Development Department on a Land Use Permit *or on applications under Sec. 35-323*, or a decision of the Director of the Board of Architectural Review is not in accord with the provisions and purposes of this Article or 2) there was an error or an abuse of discretion by the Planning and Development Department, Director of the Board of Architectural Review. If the approval of a Land Use Permit required by a previously approved discretionary permit is appealed, the appellant must identify how the Land Use Permit is inconsistent with the previously approved discretionary permit, how the discretionary permit's conditions of approval have been unfulfilled, or how the approval is inconsistent with Sec. 35-326. (Noticing).

SECTION 4:

This ordinance shall take effect and be in force thirty (30) days from the date of its passage. Before the expiration of fifteen (15) days after its passage, this ordinance, or a summary of it, shall be published once, together with the names of the Board of Supervisors voting for and against the same in the Santa Barbara News Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this twenty-first day of September, 2004, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Joseph Centeno, Chair
Board of Supervisors of the County of Santa Barbara
State of California

ATTEST:

MICHAEL F. BROWN
County Clerk of the Board

By _____
Deputy Clerk of the Board

APPROVED AS TO FORM:

STEPHEN SHANE STARK
County Counsel

By _____
Deputy County Counsel

Attachment E

Finding of Categorical Exemption
For Adoption of Amendments

NOTICE OF EXEMPTION

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Doug Anthony, Planning and Development Dept., Energy Division, 568-2046

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

APN(s) N/A Case Nos.: 04GPA-00000-00006 and 00007

04ORD-00000-00008 and 00009

Location: Countywide

Project Title: Abandonment policies and ordinance

Project Description: Amend the Coastal Plan, Land Use Element, Coastal Zoning Ordinance, and Inland Zoning Ordinance by adopting policies and permit processes that promote timely and proper abandonment of oil refineries and of those onshore oil and gas facilities that support development of offshore reserves.

Exempt Status: (Check one)

Ministerial

Statutory

X Categorical Exemption

Emergency Project

No Possibility of Significant Effect [§15061(b,3)]

Cite specific CEQA Guideline Section: 15308

Reasons to support exemption findings (attach additional material, if necessary)

Adoption of these policies and ordinances do not pose significant, adverse impacts to the environment. Instead, these policies and ordinances establish regulatory mechanisms to affect timely and proper closure of applicable oil and gas sites following permanent cessation of use. Such requirements benefit, or hold the potential to benefit, the environment in several ways; for example, coastal view sheds may be improved sooner, rural lands may be returned to agricultural uses sooner, natural habitats may be restored if the host site is not immediately developed for another use. Additionally, the policies and ordinances take particular care not to cause premature closure of onshore oil and gas facilities/sites that are designated for consolidated use in the zoning code. Premature closure could result in construction-related adverse impacts if new facilities need to be re-established to handle foreseeable oil and gas production in the future.

The policies and ordinances also establish a dedicated and discretionary permitting path, with environmentally protective findings and performance standards. (One such finding based permit approval on

Attachment F

Staff Report to the Santa Barbara County
Planning Commission, July 7, 2004

| Included as Separate Document

| =

Attachment G

Planning Commission Action Letter

July 14, 2004

TO THE HONORABLE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, CALIFORNIA

PLANNING COMMISSION
HEARING OF JULY 7, 2004

RE: *Abandonment Policies and Ordinances, 04GPA-00000-00006, 04GPA-00000-00007, 04ORD-00000-00008, 04ORD-00000-00009*

Hearing to consider Planning Commission recommendations to the Board of Supervisors regarding the Planning and Development Department's proposal to amend the Comprehensive Plan and Zoning Codes as follows:

- a) **04GPA-00000-00006** proposing to amend the Santa Barbara County Comprehensive Plan Coastal Land Use Plan by adding a new section 3.6.8 (Abandonment of Onshore Infrastructure) and new policy 6-30 to Chapter 3.6 (Industrial and Energy Development), addressing timely and proper removal of onshore infrastructure related to the recovery of offshore oil and gas and reclamation of host sites upon permanent cessation of use;
- b) **04GPA-00000-00007** proposing to amend the Santa Barbara County Comprehensive Plan Land Use Element, Land Use Development Policies, by adding new policy 13, addressing timely and proper removal of onshore infrastructure related to the recovery of offshore, removal of oil refineries regardless of source of crude oil, and reclamation of host sites upon abandonment;
- c) **04ORD-00000-00008** to consider an ordinance amending Article II (Coastal Zoning Ordinance) of Chapter 35 of the Santa Barbara County Code, by amending Division 9, Section 35-158 (Onshore Exploration and/or Production of Offshore Oil and Gas Reserves), by adding a new section, 35-170 (Abandonment of Certain Oil/Gas Land Uses), to Division 11 (Permit Procedures) to establish procedures for permitting deferral of abandonment, demolition of onshore infrastructure related to the recovery of offshore oil and gas, and reclamation of host sites, by amending Division 12, Section 35-182 to designate the appeal period for actions taken under new section 35-170, and by adding new definitions to Division 2 to define abandonment, idle, natural conditions, permitted land uses, and reclamation as used in new section 35-170;
- d) **04ORD-00000-00009** to consider an ordinance amending Article III (Inland Zoning Ordinance) of Chapter 35 of the Santa Barbara County Code, by adding a new section, 35-323 (Abandonment of Certain Oil/Gas Land Uses), to Division 10 (Permit Procedures) to establish procedures for permitting deferral of abandonment, demolition of onshore infrastructure related to the recovery of offshore oil and gas, demolition of oil refineries regardless of source of crude oil, and reclamation of host sites; by amending Division 11, Section 35-327 to designate the appeal period for actions taken under new section 35-323, and by adding new definitions to Division 2 to define abandonment, idle, natural conditions, permitted land uses, and reclamation as used in new section 35-323;

and to accept the Exemption pursuant to Section 15308 of the State Guidelines for Implementation of the California Environmental Quality Act.

Dear Honorable Members of the Board of Supervisors:

At the Planning Commission hearing of July 7, 2004, the Commission took the following action:

Commissioner Frisk moved, seconded by Commissioner Valencia and carried by a vote of 4-0 (Jordan absent) to recommend that the Board of Supervisors:

1. Adopt revisions to the County's *Coastal Plan*, adding a new policy (6-30) and preamble to Chapter 3.6, INDUSTRIAL AND ENERGY DEVELOPMENT, as recommended in Attachment A of the staff report dated June 23, 2004, as revised at the hearing of July 7, 2004;
2. Adopt revisions to the County's *Land Use Element*, adding a new policy (13) to "Land Use Development Policies, as recommended in Attachment B of the staff report dated June 23, 2004;
3. Adopt revisions to the Article II (*Coastal Zoning Ordinance*) of Chapter 35 of the Santa Barbara County Code, adding new permit procedures (Sec. 35-170) to Division 11 (*Permit Procedures*), revising permit requirements in Sec. 35-158 (Onshore Exploration and/or Production of Offshore Oil and Gas Reserves) of Division 9 (*Oil and Gas Facilities*) to be consistent with new Sec. 35-170, revising appeal procedures in Sec. 35-182, and adding new definitions to Division 2, as recommended in Attachment C of the staff report dated June 23, 2004, as revised at the hearing of July 7, 2004;
4. Adopt revisions to the Article III (*Inland Zoning Ordinance*) of Chapter 35 of the Santa Barbara County Code, adding new permit procedures to Division 11 (*Permit Procedures*), revising appeals procedures in Sec. 35-327, and adding new definitions to Division 2, as recommended in Attachment D of the staff report dated June 23, 2004, as revised at the hearing of July 7, 2004; and
5. Adopt the CEQA finding contained in Section 6.5.1 of this report, determining the revisions to the *Environmental Thresholds and Guidelines Manual* to be categorically exempt from environmental evaluation pursuant to the Public Resource Code § 21084(a) and CEQA Guidelines § 15308; and adopt legislative findings, determining the proposed amendments to be consistent with applicable laws and regulations.

Commissioner Frisk moved, seconded by Commissioner Valencia and carried by a vote of 4-0 (Jordan absent) to:

1. Direct staff to provide the Board of Supervisors with revised language regarding mitigation fees under Section 35-170.12.5 of the Coastal Zoning Ordinance and 35-323.12.5 of the Inland Zoning Ordinance.

Commissioner Frisk moved, seconded by Commissioner Cooney and carried by a vote of 4-0 (Jordan absent) to:

1. Direct staff to provide the Board of Supervisors with revised language regarding use of native plants and native seeds under Section 35-170.13 of the Coastal Zoning Ordinance and Section 35-323.13 of the Inland Zoning Ordinance.

REVISIONS TO THE COASTAL LAND USE PLAN

Section 3.6.8, Abandonment of Onshore Infrastructure, Policy 6-30, Applicability, language is amended:

Applicability

Policy 6-30 applies to all onshore land uses that are, were or at one time were, wholly or partially dedicated to the production, processing, storage, and transportation of oil or gas derived from offshore reservoirs.

Section 3.6.8, Abandonment of Onshore Infrastructure, Policy 6-30, Implementing Procedures, Item (a), Second Sentence, language is deleted:

- (a) The County shall also establish a discretionary process to permit the removal, retention, or abandonment in-place of facilities, structures, and improvements associated with permitted land uses determined to be abandoned, and to reclaim host sites site to natural conditions, or other conditions, in compliance with applicable laws and permits.

REVISIONS TO THE COASTAL AND INLAND ZONING ORDINANCES

Division 2, Definitions, Abandoned, Idled and Reclamation, language is deleted:

ABANDONED (or ABANDONMENT) OF CERTAIN OIL AND GAS FACILITIES

IDLED (or IDLE) OF CERTAIN OIL AND GAS FACILITIES)

RECLAMATION OF CERTAIN OIL AND GAS SITES

Division 2, Definitions, Natural Conditions, language is amended:

NATURAL CONDITIONS, as used in Section 35-170 of this Article, shall mean the reasonable and feasible return of land to a state that reflects the natural environment of the area without development, although Retention of certain improvements or other items such as pipeline support footings would qualify as natural conditions if their removal would result in undesired environmental outcomes such as undesired destabilization of slopes due to removal of a retaining wall. Natural conditions do not necessarily equate to original or pre-development conditions.

REVISION TO THE COASTAL ZONING ORDINANCE

Division 11, Permit Procedures, Section 35-170.1, Purpose and Intent, Second Sentence, language is amended:

Such procedures ensure appropriate due process in differentiating idled from abandoned facilities and protects the vested rights of permittees while also ensuring that facilities with no reasonable expectation of restarting are removed, pursuant to the intent of enabling development permits.

Division 11, Permit Procedures, Section 35-170.2, Applicability, Items 1 and 2, language is added:

1. All permitted uses defined in Sections 35-154, 35-155, 35-156, and 35-158 of this Chapter that handle, or at one time handled, oil, natural gas, natural gas liquids, produced water, or waste water that originated from an offshore reservoir, regardless of whether these uses were permitted in accordance with this Chapter or any preceding ordinance.
2. All marine terminals and oil storage tanks, regardless of whether these uses were permitted in accordance with this Chapter or any preceding ordinance.

Division 11, Permit Procedures, Section 35-170.7, Decision on Application to Defer Abandonment, Item 1, language is added:

1. Decisions for Idle Facilities. The Director shall grant the application unless the evidence shows that an idle facility has no reasonable possibility of being restarted or the owner has no intent of restarting the facility within a reasonable period of time. Notwithstanding the above, the Director shall approve the application for any pipeline subject to the jurisdiction of the Federal Energy Regulatory Commission if that Commission has determined that abandonment is not appropriate. The Director shall consider all relevant evidence in determining if a permitted land use has been abandoned, including whether any of the following have occurred:

Division 11, Permit Procedures, Section 35-170.13, Performance Standards for Demolition & Reclamation Permits, Item 3, language is amended:

3. The demolition and reclamation shall be adequately monitored to assure the following performance:
 - ~~a. Compliance with conditions to mitigate anticipated significant, adverse effects on the environment and recommendation of measures to mitigate such effects.~~
 - ~~b. Identification of unanticipated, significant, adverse effects on the environment and recommendation of measures to mitigate such effects.~~

The demolition and reclamation shall be adequately monitored by a qualified individual, funded by the permittee and retained by the County, to ensure compliance with those conditions designed to mitigate anticipated significant adverse effects on the environment, and to provide recommendations in instances where effects were not anticipated or mitigated by the conditions in the permit.

Pre- and post-reclamation surveys of sensitive resources shall be employed as appropriate to measure compliance.

Division 11, Permit Procedures, Section 35-170.13, Performance Standards for Demolition & Reclamation Permits, Item 11, language is deleted:

- ~~11. Establishment of vegetation shall be in conformance with an approved revegetation plans and the following standards:~~

Division 11, Permit Procedures, Section 35-170.13, Performance Standards for Demolition & Reclamation Permits, Item 13, language is added:

13. Appropriate notification has been recorded with the County Clerk-Recorder to update, ~~or~~ supersede or release the recorded rights-of-way where a subsurface pipeline is abandoned in-place. This notice shall describe the presence and location of the abandoned pipeline, any material placed in the pipeline for abandonment, and the operator and owner of the pipeline prior to abandonment.

Division 11, Permit Procedures, Section 35-170.13, Performance Standards for Demolition & Reclamation Permits, Item 16 is added:

16. In the case of an Independent Business function of a Permitted Land Use, the Director shall have discretion to determine the timing and extent of the requirements of the Demolition and Reclamation Permit.

Division 11, Permit Procedures, Section 35-170.14, Revocation of Entitlement to Land Use, Item 1, language is added:

1. All entitlements provided in any use permits issued under this ordinance, or under any preceding zoning ordinance, to use the facilities shall be automatically revoked and no longer effective upon the County's denial of an application to defer abandonment and the exhaustion of available administrative remedies. Requirements of use permits necessary to ensure continued protection of public and environmental health, safety and welfare shall continue in full force and effect, including:

Division 11, Permit Procedures, Section 35-170.14, Revocation of Entitlement to Land Use, Item 1f, comma is deleted:

1. f. Where applicable, conditions that require emergency, preparedness and response.

Division 11, Permit Procedures, Section 35-170.15, Expiration of a Demolition & Reclamation Permit, Item 2, language is added:

2. Term. Demolition & Reclamation Permits shall expire upon issuance of a “Reclamation Complete” letter by the Director, which shall be issued upon the satisfactory completion of the required work, or seven years after the date of issuance, whichever occurs sooner. The Director’s “Reclamation Complete” letter shall certify completion of all required work except for remediation of contamination, which is certified by other agencies.

REVISIONS TO THE INLAND ZONING ORDINANCE

Division 10, Permit Procedures, Section 35-323.1, Purpose and Intent, Second Sentence, language is amended:

Such procedures ensure appropriate due process in differentiating idled from abandoned facilities and protects the vested rights of permittees while also ensuring that facilities with no reasonable expectation of restarting are removed, pursuant to the intent of enabling development permits.

Division 10, Permit Procedures, Section 35-323.2, Applicability, Items 1 and 2, language is added:

1. All permitted uses defined in Sections 35-296 and 35-298 of this Chapter that handle, or at one time handled, oil, natural gas, natural gas liquids, produced water, or waste water that originated from an offshore reservoir, regardless of whether these uses were permitted in accordance with this Chapter or any preceding ordinance.
2. All permitted uses defined in Section 35-297 of this Chapter, regardless of whether these uses were permitted in accordance with this Chapter or any preceding ordinance.

Division 10, Permit Procedures, Section 35-323.7, Decision on Application to Defer Abandonment, Item 1, language is added:

1. Decisions for Idle Facilities. The Director shall grant the application unless the evidence shows that an idle facility has no reasonable possibility of being restarted or the owner has no intent of restarting the facility within a reasonable period of time. Notwithstanding the above, the Director shall approve the application for any pipeline subject to the jurisdiction of the Federal Energy Regulatory Commission if that Commission has determined that abandonment is not appropriate. The Director shall consider all relevant evidence in determining if a permitted land use has been abandoned, including whether any of the following have occurred:

Division 10, Permit Procedures, Section 35-323.13, Performance Standards for Demolition & Reclamation Permits, Item 3, language is amended:

3. The demolition and reclamation shall be adequately monitored to assure the following performance:
 - a. Compliance with conditions to mitigate anticipated significant, adverse effects on the environment and recommendation of measures to mitigate such effects.
 - b. Identification of unanticipated, significant, adverse effects on the environment and recommendation of measures to mitigate such effects.

The demolition and reclamation shall be adequately monitored by a qualified individual, funded by the permittee and retained by the County, to ensure compliance with those conditions designed to mitigate anticipated significant adverse effects on the environment, and to provide

recommendations in instances where effects were not anticipated or mitigated by the conditions in the permit.

Pre- and post-reclamation surveys of sensitive resources shall be employed as appropriate to measure compliance.

Division 10, Permit Procedures, Section 35-323.13, Performance Standards for Demolition & Reclamation Permits, Item 11, language is deleted:

11. Establishment of vegetation shall be in conformance with an approved revegetation plans and the following standards:

Division 10, Permit Procedures, Section 35-323.13, Performance Standards for Demolition & Reclamation Permits, Item 13, language is added:

13. Appropriate notification has been recorded with the County Clerk-Recorder to update, ~~or~~ supersede or release the recorded rights-of-way where a subsurface pipeline is abandoned in-place. This notice shall describe the presence and location of the abandoned pipeline, any material placed in the pipeline for abandonment, and the operator and owner of the pipeline prior to abandonment.

Division 10, Permit Procedures, Section 35-323.13, Performance Standards for Demolition & Reclamation Permits, Item 16 is added:

16. In the case of an Independent Business function of a Permitted Land Use, the Director shall have discretion to determine the timing and extent of the requirements of the Demolition and Reclamation Permit.

Division 10, Permit Procedures, Section 35-323.14, Revocation of Entitlement to Land Use, Item 1, language is added:

1. All entitlements provided in any use permits issued under this ordinance, or under any preceding zoning ordinance, to use the facilities shall be automatically revoked and no longer effective upon the County's denial of an application to defer abandonment and the exhaustion of available administrative remedies. Requirements of use permits necessary to ensure continued protection of public and environmental health, safety and welfare shall continue in full force and effect, including:

Division 10, Permit Procedures, Section 35-323.14, Revocation of Entitlement to Land Use, Item 1f, comma is deleted:

1. f. Where applicable, conditions that require emergency, preparedness and response.

Division 10, Permit Procedures, Section 35-323.15, Expiration of a Demolition & Reclamation Permit, Item 2, language is added:

2. Term. Demolition & Reclamation Permits shall expire upon issuance of a "Reclamation Complete" letter by the Director, which shall be issued upon the satisfactory completion of the required work, or seven years after the date of issuance, whichever occurs sooner. The Director's "Reclamation Complete" letter shall certify completion of all required work except for remediation of contamination, which is certified by other agencies.

Sincerely,

Jackie Campbell
Secretary Planning Commission

cc: Case File: 04GPA-00000-00006, -00007, 04ORD-00000-00008, -00009
Planning Commission File
Lisa Martin, Planning Technician
Val Alexeeff, Director, Planning and Development
Jackie Campbell, Deputy Director, Development Review
David Allen, Deputy County Counsel
Doug Anthony, Energy Specialist

JC: erb

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Attachment H

Written Testimony Submitted at the
July 7, 2004, Planning Commission Hearing



LEAGUE OF WOMEN VOTERS OF SANTA BARBARA, INC.

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www.lwvsantabarbara.org

July 7, 2004

To: Planning Commission, County of Santa Barbara

Re: Proposed policies and ordinances concerning abandonment of certain oil and gas facilities

The Santa Barbara League of Women Voters is pleased to see another step taken toward the development of orderly procedures to govern the abandonment of on-shore facilities associated with offshore oil and gas production. The Energy Division has devoted a lot of time and effort to this task and we think today's proposal is well crafted and deserves your support. I would also like to add that the League appreciates the Energy Division's willingness to meet with members of the public to explain the proposal and take comments.

The staff report clearly outlines the need for a consistent policy to apply to all facilities – facilities whose permits, issued at different times, may or may not contain abandonment and restoration conditions. Consistency is an advantage for the facility owners as well as the county and other agencies; the owners will be clear as to what will need to be done and on what timetable. The League is pleased with the prospect of assured restoration of sites in a timely manner since we know that this has proven to be a problem in some instances in the past.

We also note that there are installations along our coast which will not be covered by these policies and ordinances, namely those in the cities of Carpinteria and Goleta. However, once the policies and ordinances are put in place for the unincorporated areas and given that the Energy Division is advising both of those cities we would hope that the same protections would be adopted by them.

A handwritten signature in cursive script that reads "Jean Holmes". The ink is dark and the signature is fluid and legible.

Jean Holmes, Energy Committee