



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

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

Department Name: General Services
Department No.: 063
For Agenda Of: February 6, 2018
Placement: Administrative
Estimated Time:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: General Services Janette D. Pell, Director (805) 560-1011
Contact Info: Skip Grey, Assistant Director, General Services (805) 568-3083
SUBJECT: Resolution Declaring Forfeiture of the Public Franchise Agreement with Ellwood Pipeline, Inc., for New Line 96, Santa Barbara; Second District (R/P File No.: 003779)

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form:

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Approve and authorize the Chair to execute the attached Resolution Declaring the Forfeiture of Public Franchise Agreement, which:
 - 1) declares the forfeiture of the County's public franchise agreement with Ellwood Pipeline Inc., a wholly-owned subsidiary of Venoco, Inc. (collectively "Venoco"), which has been previously rejected by Venoco in bankruptcy proceedings and relates to the currently idled common carrier pipeline known as New Line 96, which consists of approximately 8 ½ miles of pipeline located within the unincorporated area of the County of Santa Barbara, through certain County roadway along Calle Real Road (Second District); and
 - 2) thereby makes payable to the County the \$100,000 bond posted by Venoco pursuant to the public franchise agreement; and
- b) Determine that the proposed action of terminating the franchise agreement is not a "Project" as defined in the California Environmental Quality Act (CEQA) guidelines, Section 15378, finding that the action consists of government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment, and is therefore exempt from further review under CEQA.

Summary Text:

This item is being brought to the Board of Supervisors to request the Board's approval and execution of the Resolution Declaring the Forfeiture of Public Franchise Agreement, which declares the public franchise agreement with Venoco forfeited on the grounds that Venoco rejected the franchise agreement during bankruptcy proceedings. The surety for a \$100,000 bond posted by Venoco has requested that the County adopt a resolution of forfeiture pursuant to the franchise agreement before it makes payment under the bond.

Background:

On February 14, 2012, the County Board of Supervisors approved a Public Franchise Agreement, also known as Ordinance No. 4824, with Venoco for the operation and maintenance of the Line 96 Modification Project. The Line 96 Modification project consisted of a 6-inch diameter oil common carrier pipeline for the transportation of petroleum products within certain portions of Calle Real, a County road right-of-way. This pipeline is a common carrier pipeline in that various operators are authorized use of the pipeline to transfer petroleum substances. The franchise was for a term of twenty (20) years with an annual franchise fee of Five Thousand Six Hundred Thirty and 42/100 Dollars (\$5,630.42). The annual franchise fee is calculated according to the California Public Utility Code Section 6231.5 for the 6-inch pipeline that covers approximately 22,810 lineal feet of public right-of-way, in the unincorporated area of the County.

On May 19, 2015, the Plains All American Pipeline Oil Spill occurred, which immediately disrupted all operation of New Line 96, as well as any operator's use of the pipeline. Thus, the pipeline has been sitting idle since that time. Venoco subsequently filed for bankruptcy. During bankruptcy proceedings, Venoco rejected the franchise agreement, evidencing its intent not to comply with its obligations to remove the pipeline, or abandon it in place in accordance with all applicable rules and procedures. However, the bankruptcy court required Venoco to de-inventory the pipeline of approximately 1,800 barrels of crude oil, which was completed in November 2017.

Section 8, BOND, of the franchise required Venoco to have on file with the County a bond in the amount of One Hundred Thousand and 00/100 Dollars (\$100,000.00). Pursuant to Section 9, FORFEITURE, of the franchise agreement, any failure or refusal of Venoco to comply with any term or condition of the franchise is adequate grounds for the County Board of Supervisors to declare by resolution an automatic forfeiture of the franchise. Upon the passage of a resolution declaring forfeiture, the County may claim the bond proceeds. The surety for the bond has requested that the County adopt such a resolution before it makes payment under the bond. The basis for the resolution is Venoco's rejection of the franchise through bankruptcy proceedings. The resolution will not result in the County taking title to or responsibility for the pipeline and will not increase the County's liability for the pipeline.

CEQA Guidelines Section 15378 defines a "Project" for purposes of CEQA as an action which has a potential for resulting in either a direct or foreseeable indirect physical change in the environment. 15378(b)(4) specifically states a project does not include government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. In this case, the Board adopting the resolution forfeiting the franchise is a fiscal matter required to recover the bond that was required by the franchise. The franchise has already been rejected through bankruptcy proceedings and there are no actions being approved that could result in any direct or indirect physical change in the environment.

Fiscal and Facilities Impacts:

Budgeted: Yes

Any proceeds recovered under the bond will be deposited into Fund 1065, Depositor 003779.

There will be no other fiscal or facilities impacts.

Special Instructions:

After Board action, please distribute as follows:

1. Original Resolution: Clerk of the Board files
2. Copy of the Resolution and Minute Order: General Services Real Property Division, Attn: A. Kinsella

Attachments:

1. Resolution of Termination of Franchise Agreement