

Appeal of Pacific Pipeline Company's Line 901-903 Valve Upgrade Amendment

Case Nos. 23APL-00022;
and 21AMD-00000-00009 & 22CDP-00000-00048

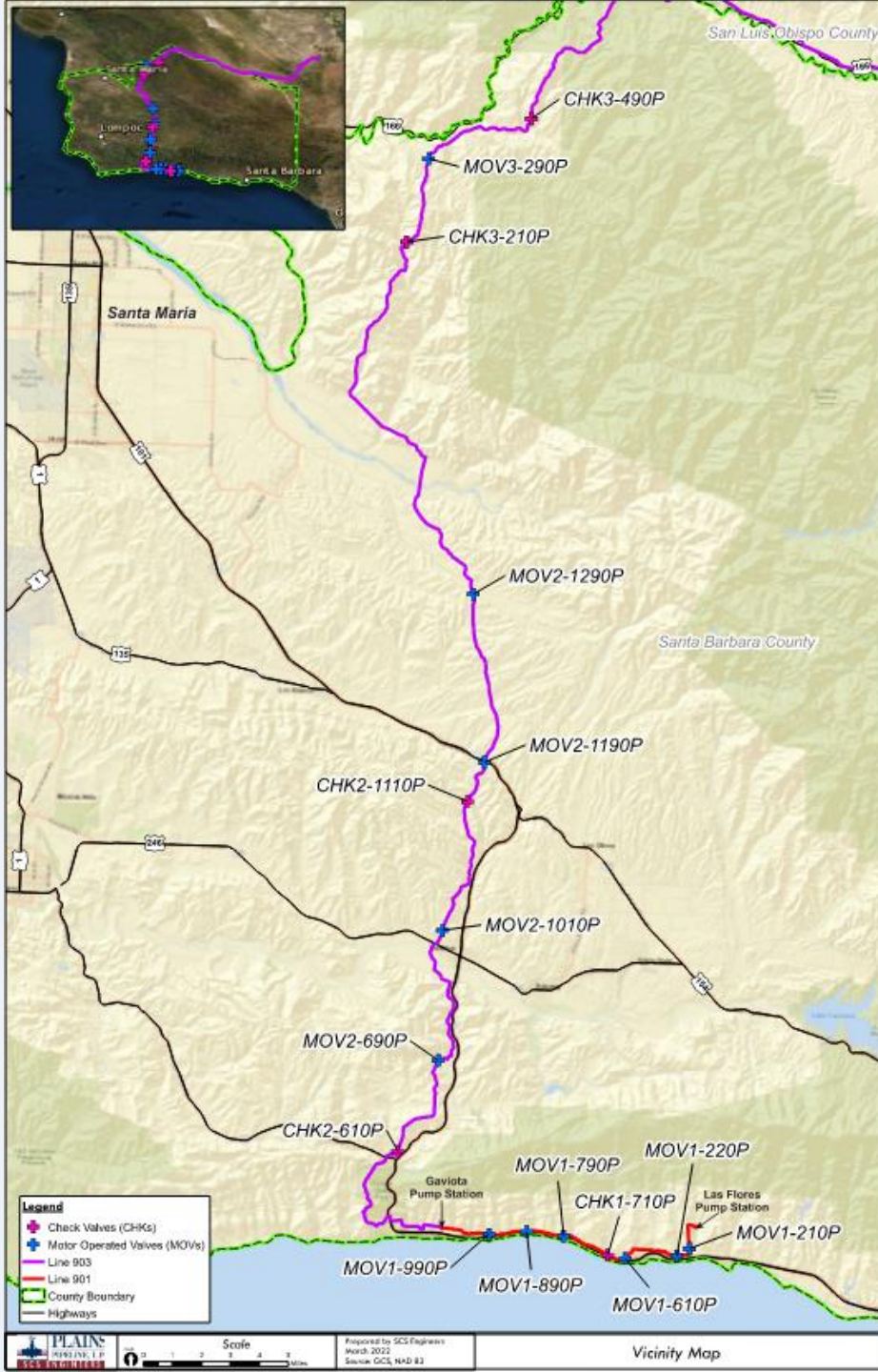
County Board of Supervisors
August 22, 2023



County of Santa Barbara
Planning and Development
Katie Nall

Project Description

- 5 Check Valves
 - Automatic shut off system with one-way flow closure
 - No above-ground infrastructure, lockable steel-lid closure
- 11 Motor Operated Valves
 - Electrical shut off connected to utility line or solar
 - Above ground fenced off equipment



Assembly Bill 864

- California State Assembly Bill (AB) 864 overseen by the California Office of State Fire Marshal (OSFM)
- Best Available Technology (BAT) to on all pipelines by April 1, 2023
- BAT Plan reviewed and approved by OSFM
- Intended to protect sensitive resources in the Coastal Zone by limiting the volume of a potential spill

California Environmental Quality Act

- Addendum to previous EIR/EIS pursuant to Section 15164
 - Impact Areas discussed: Aesthetics, Biological & Cultural resources, Land Use & Recreation, Noise, and Hazardous Materials
- Categorical & Statutory Exemptions pursuant to:
 - Section 15301(b) [Existing Facilities]
 - Section 15303(d) [New Construction or Conversion of Small Structures]
 - Section 15311 [Accessory Structures]
 - Statutes Section 15284 [Pipelines]

Appeal

- County Zoning Administrator Approval on 8/22/2022
 - Appealed by Tautrim Family, Gaviota Coast Conservancy & GreyFox LLC
- County Planning Commission Denial on 4/26/2023
 - Appealed by Pacific Pipeline Company (Applicant)
- Board of Supervisors 8/22/2023

Issue Area 1

Denial Contradicts Purpose and Findings of AB 864

- Risk Analysis, OSFM's approval, and intent of AB 864 is to increase safety of the pipeline.
- PC's denial states the valves will be detrimental to safety of neighborhood and environment.

Staff Response:

- ✓ The County's role is to ensure compliance with the County's codified requirements.
- ✓ AB 864 provides for State level requirements related to hazardous liquid pipeline safety.

Issue Area 2

Inland Valves cannot be denied with Coastal Findings.

- The Coastal Zoning Ordinance findings for denial do not apply to the 9 inland valves.

Staff Response:

- ✓ Findings for denial were made for both inland and coastal zoning ordinances.
 - ✓ Inland: 35.84.040.D.3 (CUP); 35.84.040.D.3 (FDP)
 - ✓ Coastal: Sections 35-172.11.2 (CUP); 35-174.10.2 (FDP)

Issue Area 3

Undisputed evidence demonstrates MOV valves within the Coastal Zone are compatible with the established physical scale of the area

- The PC's denial contradicts the only expert evidence provided on the record: Pleinaire Design Group's Visual Impact Analysis (9/29/2022)

Staff Response:

- ✓ Visual Impact Analysis concluded 3 valves are minimally visible & 1 may be distantly visible from Hwy 101.



Issue Area 4

Finding for denial 2.1.1.3 does not apply to CHK valves that are entirely below ground.

- Visual incompatibility is not applicable to check valves located underground.

Staff Response:

- ✓ The valves are reviewed together and represent one project under CEQA. The finding is not made for each valve site independently.

Issue Area 5

Speculation on pipeline operations is outside the Commission's jurisdiction.

- The PC concluded the pipeline's integrity has degraded to a point of increasing the frequency of potential future spills.
- The PC had no basis to deny the safety valves based on speculative conclusions about the safety of future pipeline operations.

Staff Response:

- ✓ Risk Analysis concludes that the proposed valves would reduce the baseline worst-case spill volume by 48%.
- ✓ De Novo hearing: Board to determine if the findings can be made.

Issue Area 6

The Planning Commission's findings are contrary to the CEQA exemptions that apply to the safety valves.

- The PC disregarded the CEQA exemptions applicable to the safety valves, which would negate entirely the PC's findings of denial.

Staff Response:

- ✓ The findings for denial were not CEQA related, they were administrative findings for the Inland and Coastal Land Use Ordinances.
- ✓ CEQA does not apply to projects that a public agency disapproves (Section 15270)

Issue Area 7

The Planning Commission's determination is contrary to CEQA's subsequent review provisions.

- The PC cannot deny the project based on increased spill potential because the original EIR already acknowledged spill-related impacts would be significant and unavoidable.

Staff Response:

- ✓ The original findings could not be made for the current project, because the risk of spill is greater today than originally analyzed.

Issue Area 8

The denial is preempted by OSFM exclusive jurisdiction

- The grounds for denial is pipeline safety, not valve construction.
- PPC has a vested right to restart through the Consent Decree.
- The County has “no authority over the design, construction and operation” of the pipelines - 2015 Settlement Agreement.

Staff Response:

- ✓ County reviews the Safety Valves compliance with local code.
- ✓ Project is the modification of the existing pipeline, not restart.
- ✓ PPC does have a vested right to restart & the County does not have authority over construction and operation of the pipelines.

2020 Consent Decree

State mandated items required prior to pipeline restart:

1. Pipeline Anomaly Repair

2. Compliance with AB 864

3. Restart Plan

1. Documentation of the completion of all mandated actions

2. Surveillance of the pipeline

3. Technological advancements in the control room's detection, alarm, and shut down systems

4. Corrosion Prevention: A long-term plan to address corrosion

4. State Waiver - to compensate for inadequate cathodic protection

State Waiver

Prior to restart of the pipeline, a State Waiver must be granted by OSFM for the limited effectiveness of cathodic protection on Lines 901 and 903.

State Waiver [Special Permit] – Alternative way to meet the intent of State regulations by adding additional requirements/conditions to the project

- ✓ Valid for 5 years until it must be renewed
- ✓ May be revoked at anytime
- ✓ Intent is to make pipelines safer

Recommendation - Approval

1. Grant the appeal, Case No. 23APL-00022;
2. Make the required findings for approval of the Project as specified in Attachment 1-A of the Board Letter, including California Environmental Quality Act (CEQA) findings;
3. After considering the environmental review documents included as Attachment C-1, C-2, & D of the February 2, 2023 Planning Commission Staff Report (Attachment 1 to the Board Letter) [Addendum dated March 1, 2023 together with previously adopted EIR/EIS and the CEQA exemption Sections 15301(b) [Existing Facilities], 15303(d) [New Construction or Conversion of Small Structures], 15311 [Accessory Structures], and CEQA Statutes Section 15284 [Pipelines], determine that as reflected in the CEQA findings, no subsequent Environmental Impact Report or Negative Declaration shall be prepared for this project;
4. Grant de novo approval of the Project, Case Nos. 21AMD-00000-00009 and 22CDP-00000-00048, subject to the conditions of approval.



Action - Deny

1. Deny the appeal, Case No. 23APL-00022;
2. Make the required findings for denial of the appeal and project, Case Nos. 23APL-00022, 21AMD-00000-00009 and 22CDP-00000-00048;
3. Determine that denial of the appeal and project is exempt from CEQA pursuant to CEQA Guideline Section 15270(a), included as Attachment A of the Planning Commission Action Letter dated May 3, 2023;
4. Deny the Project, Case Nos. 23APL-00000-00022, 21AMD-00000-00009 and 22CDP-00000-00048.

Project Denial – Next Steps

1. PPC prepares a revised Risk Analysis (RA) & Implementation Plan (IP) with alternative options for BAT to increase safety of pipeline
2. Revised IP is submitted to OSFM for review and approval
3. PPC applies for zoning permits to carry out revised IP