CALENDAR ITEM
47

A 53 | 12/10/10
PRC 5574.1
S 28 | A. Scott
C. Oggins
M. Meier

***CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT (EIR) AND ISSUANCE OF A NEW GENERAL LEASE - INDUSTRIAL USE TO CHEVRON U.S.A. INC. FOR THE CHEVRON EL SEGUNDO OFFSHORE MARINE OIL TERMINAL, CITY OF EL SEGUNDO*, LOS ANGELES COUNTY**

APPLICANT:

Chevron U. S. A. Inc.
324 West El Segundo Boulevard
El Segundo, CA 90245

AREA, LAND TYPE, AND LOCATION:

221 acres, more or less, of sovereign lands in Santa Monica Bay, Pacific Ocean, near the city of El Segundo, Los Angeles County.

AUTHORIZED USE:

Operation, use and maintenance of an offshore marine oil terminal, comprised of two seven-buoy spread point mooring berths and associated underwater pipeline systems together with a rock groin and beach fill protecting the landfall area of the underwater pipelines.

LEASE TERM:

30 years, beginning October 1, 2010

CONSIDERATION:

Annual Base Rent in the amount of $1,290,000; with the State adjusting the Annual Base Rent each year by application of the Consumer Price Index (CPI); however, the adjusted annual rent will never be lower than the Base Rent. This CPI adjustment will continue until the tenth anniversary of the lease, when a new Base Rent will be established pursuant to terms and conditions of the lease. The Applicant has agreed to pay additional rent in the amount of $2,400,000 for the period of October 1, 1992, through September 30, 2008, being the difference between annual agreed rent paid and that annual rent adjusted by CPI.

SPECIFIC LEASE PROVISIONS:

Insurance:

Combined single limit coverage of not less than $10,000,000. Applicant may satisfy all or part of the insurance requirement through maintenance of an existing staff approved self-insurance program as outlined in the lease.

Bond:

$2,000,000

Other Recommended Lease Provisions:

1. With respect to all parts and elements of Chevron's marine terminal facility, whether located on or off the lands subject to the California State Lands Commission's (CSLC or Commission) lease, Chevron will comply with any and all applicable regulations and requirements governing marine oil terminal operations, engineering and maintenance.

2. Chevron will comply with the mitigation monitoring program as contained in Exhibit C.

3. Chevron will indemnify the Commission from liability and agrees to reimburse the Commission for all reasonable costs and attorney's fees that the Commission may incur in connection with the defense of any action brought against the Commission challenging the issuance of the lease, any provision of the Lease, the environmental review upon which the issuance of the lease is based, the interpretation or enforcement of the conditions of the lease, or any other matter related to the lease or its issuance, the total obligation will not exceed $1,000,000.

BACKGROUND INFORMATION:

Operations of the upland refinery and offshore facilities began in 1911, which predates the creation of the California State Lands Commission. The Commission was established in 1938 and thereafter began issuing various leases for offshore improvements in the area of the current marine terminal. In 1978, the Commission authorized the issuance of Lease No. PRC 5574.1 which consolidated all the existing offshore leases into a single lease covering four existing offshore berth areas and underwater pipelines. Lease No. PRC 5574.1 had an initial term of 15 years beginning on October 1,1977 and included three successive renewal periods of 10 years each.

Prior to and during the ensuing years of the lease, the offshore improvements have undergone various modifications. These include the abandonment in place of some pipelines and consolidation of berthing operations into two offshore berths. Berth 1, the berth closest to shore, was removed in 1985, and its pipelines were abandoned in place. Berth 2 was removed in 1992, and its pipelines were extended to Berth 3, making Berth 3 a mixed-use berth. The current lease covers two multiple buoy berths, Berths 3 and 4, together with a number of active and abandoned pipelines. The rock groin and beach fill were incorporated into the marine terminal lease in 1983-84 as a means of protecting the near shore pipelines and other upland facilities associated with the marine terminal from storm waves. Ongoing maintenance activities have also occurred to ensure that the Marine Terminal Facility is up to or exceeds current engineering and safety standards.

The original 15-year term of the lease expired in 1992. Chevron exercised the first of the three 10-year renewal periods under the belief that it had a right to renew the lease without any approval by the Commission. The Commission disagreed and indicated that formal approval of the renewal was required and because it was a discretionary act of the Commission, environmental review under the California Environmental Quality Act (CEQA) was required. The disagreement between Chevron and the Commission was resolved and an Environmental Impact Report (EIR) was prepared in 1996. Processing of the EIR raised issues concerning air quality between Chevron and the U. S. Environmental Protection Agency (EPA) which further delayed processing the lease beyond the first renewal period. Air quality issues between the EPA and Chevron concerning the offshore marine terminal operations were eventually resolved and processing of a new lease continued.

Chevron exercised the second renewal at the end of the first renewal period, although the Commission approved neither of these renewals and considers the lease to be in "holdover" pursuant to terms contained in the original lease. Because of various processing delays, the need for environmental review and the passage of time, Chevron has applied to the Commission for a new 30-year lease. As a part of this application process and because of the age of the previous 1996 EIR, Chevron agreed to update the environmental review of the offshore marine terminal. Throughout this holdover period, Chevron continued to pay annual rent as agreed to and approved by the Commission on July 19, 1993, at which time an annual rent was established with the understanding that the parties would adjust the annual rent based upon negotiations. The parties have reached a negotiated agreement on a method of annual rent adjustment using the Consumer Price Index and have applied that method to the 1993 agreed rent resulting in a rental difference of $2,400,000 for the period October 1992 through

September 2009, which Chevron has agreed to pay upon approval by the Commission.

ENVIRONMENTAL PROCESS:

The Notice of Preparation (NOP) for the current EIR was circulated for a 45-day review period on March 22, 2006. The NOP was sent to federal, state and local agencies, environmental and public interest groups, affected landowners, local libraries, newspapers and other interested parties. A public scoping meeting was held to provide an opportunity for the general public to learn about the proposed project and to participate in the environmental analysis by providing oral or written comments on the proposed project to be included in the EIR. The meeting was held on April 5, 2006 in the city of El Segundo.

On August 16, 2010, the Commission issued a Notice of Availability (NOA) for the Draft EIR and a Notice of Public Hearing. The Draft EIR was initially circulated for a 45-day public review period which started on August 16, 2010, and was scheduled to end on September 30, 2010. However, after the Commission received a request to extend the public review period, the deadline for public comments was extended 15 days to October 15, 2010.

The Commission held two public hearings on September 22, 2010, in the city of El Segundo. At these public hearings, the public was given the opportunity to ask questions about the project and present oral and/or written testimony on the Draft EIR and its contents. The Commission,s decision-making process was also explained. Issues raised during the scoping and public comment period on the Draft EIR are addressed in the Final EIR that was released on November 22, 2010. The Commission issued a Notice of Intent to Certify the EIR on the same day.

ENVIRONMENTAL ISSUES:

The Final EIR identifies the following potentially significant adverse impacts associated with the environmental issue areas listed below that, with the application of all feasible mitigation measures, cannot be reduced to less than significant, and a Statement of Overriding Considerations (SOC) has been prepared (see Exhibit E). These significant impacts are attributed to the risk of oil spills in the marine environment and emissions from additional marine tankers.

1. System Safety and Reliability (SSR)

   SSR-1, Potential for Fires and Explosions: There would be a potential in the future for fires, explosions, releases of flammable or toxic materials and other accidents at the Marine Terminal that could affect workers and public boating in the area near the berths as well as increase the frequency of spills due to explosion and fire.

SSR-2, Potential for Spills: The potential for spills at the Marine Terminal or while vessels are in transit exists with continued operations at the Marine Terminal.

2. Water and Sediment Quality (WSQ)

   WSQ-1, Oil Spills: Spills of petroleum products during loading and unloading operations at the Marine Terminal, or from a tanker vessel in transit to shipping lanes, would pollute water with toxic substances and violate aesthetic water-quality objectives for the preservation of beneficial uses.

3. Biological Resources (BIO)

   BIO-1, Oil Spill Impacts to Marine Biological Resources: Accidental discharge of petroleum hydrocarbons into marine waters would adversely affect biological resources.

   BIO-2, Oil Spill Impacts to Commercial and Recreational Fishing: Accidental discharge of petroleum hydrocarbons into marine waters would adversely affect commercial and recreational fishing.

   BIO-5, Oil Spill Impacts to Onshore Biological Resources: Accidental discharge of petroleum hydrocarbons into the environment could adversely affect onshore biological resources.

4. Air Quality (AQ)

   AQ–2, Emissions of Greenhouse Gases (GHG) within the South Coast Air Basin (SCAB) Could Exceed South Coast Air Quality Management District (SCAQMD) Thresholds: Operational GHG emissions from additional marine tankers could exceed SCAQMD significance thresholds.

5. Aesthetics (AES)

   AES–1, Oil Spills and Resultant Cleanup Operations Affect Visual Quality: Oil spills would substantially degrade the character of the site and would result in changes in the expectations of viewers.

6. Geological Resources (GEO)

GEO–1, Rupture of Facilities from Earthquake Motion: Oil spills from ruptures of pipelines and other facilities could occur as a result of earthquake motion.

GEO–2, Oil Spills From Tsunami Wave Damage: Increased wave activity during a tsunami condition could create hazards for vessels in the berths and result in spilled crude oil or petroleum products during vessel unloading procedures.

GEO–3, Oil Spills as a Result of Liquefaction: Liquefaction could cause settling of the ground surface and associated facilities, causing damage to pipelines and other facilities, which would result in an oil spill.

7. Land Use, Planning and Recreation (LUPR)

LUPR-1, Accidental Oil Releases Could Affect Recreational Activities: A number of sensitive habitats and high quality recreational resources are within the potential area that would be impacted by the spread of oil from an accidental release at the Marine Terminal or from vessels in route to the facilities. Shoreline and water-related uses would be disrupted by oil on the shoreline and in the water and would result in significant impacts

OTHER ISSUES:

During the processing of the lease application and EIR, one significant issue that became apparent is the importance of the offshore marine terminal to the local, regional and state economy. The refinery served by this offshore terminal is a major supplier of gasoline to Southern California and the loss of its output would have a significant negative impact on the economy of the region and the State. More than 100 comments were received in support of the marine terminal remaining in place. One of the alternatives to maintaining the offshore terminal is to move operations to one of the nearby ports. Although this may be a viable alternative to this offshore terminal, it could result in the loss of an alternative supply of crude oil for not only this refinery but others should a disruption of port operations occur in the form of civil unrest (i.e., terrorist attack) or a natural disaster (i.e., earthquake), either of which could make crude oil originating from the alternative port location unavailable for extended periods of time. As a matter of national security, it is valuable to have multiple sources of access to strategic supplies.

Other comments were received that the subject marine terminal, which began operating in its current location in 1911, is outdated. However, Chevron has performed ongoing maintenance, repair, replacement, and in some cases removal operations (e.g., the removal of Berths 1 and 2) at the marine terminal during the past 100 years to keep the pipelines and associated facilities in compliance with current engineering and safety codes.

OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.

2. Issuance of a New Lease: Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15025), staff prepared an EIR identified as CSLC EIR No. 735, State Clearinghouse No. SCH No. 2006031091. Such EIR was prepared and circulated for public review pursuant to the provisions of CEQA.

3. A Mitigation Monitoring Program has been prepared in conformance with the provisions of the CEQA (Public Resources Code section 21081.6) and is contained in Exhibit C, attached hereto.

4. CEQA Findings, made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, section 15091) are contained in Exhibit D, attached hereto.

5. A Statement of Overriding Considerations made in conformance with CEQA Guidelines (Title 14, California Code of Regulations, section 15093) is contained in Exhibit E, attached hereto.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

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

RECOMMENDED ACTION:
It is recommended that the Commission:

CEQA FINDING:

1. Certify that an EIR, CSLC EIR No.735 (State Clearinghouse No. 2006031091), was prepared for this project pursuant to the provisions of CEQA, that the Commission has reviewed and considered the information contained therein, and that the EIR reflects the Commission's independent judgement and analysis.

2. Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

3. Adopt the findings, made in conformance with Title 14, California Code of Regulations, section 15091, as contained in Exhibit D, attached hereto.

4. Adopt the Statement of Overriding Considerations made in conformance with Title 14, California Code of Regulations, section15093, as contained in Exhibit E, attached hereto.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370, et seq.

AUTHORIZATION:

1. Authorize the acceptance of additional rent in the amount of $2,400,000 for the period of October 1, 1987 through September 30, 2010, being the difference between rent previously paid and rent adjusted by the Consumer Price Index during that period.

2. Authorize the issuance of a General Lease - Industrial Use to Chevron U. S. A. Inc. beginning October 1, 2010, for a term of 30 years, for the continued operation, use, and maintenance of an existing offshore marine oil terminal as shown on Exhibit A (for informational purposes only) and as described in Exhibit B, attached and by this reference made a part hereof; beginning October 1, 2010; annual Base Rent of $1,290,000, with the State adjusting the annual Base Rent each year by the Consumer Price Index and with the State reserving the right to fix a different Base Rent periodically during the lease term as provided in the lease; combined single limit liability insurance of not less than $10,000,000, or an equivalent staff-approved self-insurance program; and a surety bond in the amount of $2,000,000.