

## CALIFORNIA COASTAL COMMISSION

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# W10b

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Staff:	K. Huckelbridge - SF
Staff Report:	11-3-10
Hearing Date:	11-17-10

## STAFF REPORT COASTAL DEVELOPMENT PERMIT APPLICATION

**CDP Application No.:** **E-10-011**

**Applicant:** **Signal Hill Petroleum, Inc.**

**Project Location:** 6990 E. 2<sup>nd</sup> St., Long Beach, Los Angeles County

**Project Description:** Remove wetland and non-wetland vegetation from a storm water collection and retention system, and in areas surrounding oil production facilities and buildings, oil pumps, electrical poles and pipelines at Bryant Lease Oil Field.

**Substantive File Documents:** See Appendix A

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## SUMMARY

Signal Hill Petroleum, Inc. is proposing maintenance activities at its Bryant Lease Oil Facility, located in the Los Cerritos Wetlands (see Figure 1). These activities include (1) removing vegetation, debris and soil from the stormwater collection and retention system, (2) controlling vegetation surrounding all oil pumps, electrical poles, and pipelines, and (3) removing vegetation surrounding all oil production facilities and buildings (see Figure 2). Maintenance of the stormwater system would be carried out twice a year using a backhoe to remove accumulated vegetation, debris and soil that have collected in the stormwater trench and retention basins with the purpose of maintaining sufficient stormwater capacity. These activities are mandated by the U.S. Environmental Protection Agency as part of Signal Hill's Spill Prevention Control and Countermeasure Plan. Vegetation control around oil pumps, electrical poles, and pipelines would be conducted twice a year, using hand tools to trim the vegetation to ground level to ensure adequate access for maintenance. The removal of vegetation surrounding the oil production facilities and buildings is necessary for safety and maintenance access purposes and would also occur twice a year. In this case, a scraper or frontend loader would be used to remove all vegetation from the vicinity. The last two activities are required by the Los Angeles County Fire Department (Fire Department).

The proposed project qualifies as a repair and maintenance activity. Although certain types of repair and maintenance projects are exempt from coastal development permit requirements, Section 13252 of the Commission's regulations requires a coastal development permit for repair and maintenance activities that are located in environmentally sensitive habitat areas and include the placement or removal of solid material and/or the presence of mechanized equipment. A significant portion of the proposed vegetation removal would be located within wetlands and would require both the removal of solid material (i.e., soil and vegetation) and the use of excavators and mechanized digging equipment within wetlands. Thus, these project elements require a coastal development permit under Section 13252(a)(3) of the Commission's regulations, although the Commission is limited to reviewing whether the proposed *method* of repair or maintenance is consistent with the Chapter 3 policies of the Coastal Act.

The Chapter 3 policies applicable to this project are the wetlands policy, Section 30233 and the ESHA policy, Section 30240(b). As mentioned above, a significant portion of the vegetation that will be affected by the applicant's proposed activities have been classified as "probable state wetlands" based on the presence of one or more wetland indicators (see Figures 3 and 4). The proposed activities, which include the removal of vegetation and soil, can be classified as "dredging" of a wetland and thus, this project is subject to the requirements of Coastal Act Section 30233. However, because this is a repair and maintenance project, the Commission can only review whether the proposed *method* of repair or maintenance, not the project itself, is consistent with the Chapter 3 policies of the Coastal Act. As a result, only the last two tests of Coastal Act Section 30233(a) that authorize dredging in wetlands, are applicable to this project. The applicant has taken steps to reduce the impact to wetland vegetation and will provide an annual payment of \$10,000 to the Los Cerritos Wetlands Authority (LCWA), or other entity approved by the Executive Director, to be used for wetland restoration and enhancement in the Los Cerritos Wetlands. Staff believes the applicant has satisfied the last two tests of Coastal Act Section 30233(a) and thus, the project is consistent with Section 30233 of the Coastal Act. In

addition to wetlands, the site also contains a significant patch of southern tarplant (*Centromadia* [=*Hemizonia*] *parryi* ssp. *australis*) in the developed area of the Bryant lease (see Figure 4). The southern tarplant is on the California Native Plant Society list 1B (plants considered rare, threatened, or endangered in California and elsewhere), and is thus considered to be environmentally sensitive habitat area (ESHA). The applicant has agreed to avoid this ESHA completely, thus satisfying the requirements of Section 30240(b).

Figure 1: Location Map of Signal Hill Petroleum, Inc. Bryant Lease

Figure 2: Site Map showing the locations of all oil wells, pipelines, power poles and catch basins

Figure 3: Location of probable wetlands, oil wells and power poles in the northwestern part of the site.

Figure 4: Location of probable wetlands, oil wells and power poles in the southeastern part of the site.

## **1. STAFF RECOMMENDATION**

### **Approval**

The staff recommends conditional approval of the permit application

### **Motion:**

*I move that the Commission approve Coastal Development Permit E-10-011 subject to conditions set forth in the staff recommendation specified below.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

### **Resolution:**

The Commission hereby approves the Coastal Development Permit for the proposed project and adopts the findings set forth below on grounds that the development will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## 2. STANDARD CONDITIONS

This permit is subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## 3. SPECIAL CONDITIONS

This permit is subject to the following special condition:

1. **Wetland Mitigation.** The applicant shall provide an annual fee of \$10,000 to offset the impacts from this vegetation maintenance project on wetland vegetation at the Bryant lease property. This required fee shall be deposited into an interest-bearing account, to be established and managed by the Los Cerritos Wetlands Authority (LCWA) or another entity approved by the Executive Director of the Coastal Commission. The fee will be deposited into this account annually before the end of each calendar year until such time as the applicant is required to relocate its facilities, per the Grant of Easement between Signal Hill Petroleum, Inc. (Signal Hill) and the Los Cerritos Wetland Authority (LCWA).

**PRIOR TO EXPENDITURE OF ANY FUNDS CONTAINED IN THIS ACCOUNT,** the LCWA shall enter into a memorandum of understanding (MOU) with the Commission, which shall include at least the following provisions: (1) a description of how the funds will be used for wetland restoration in the Los Cerritos Wetlands; (2) a requirement that the funds be used for activities that will create or enhance wetland vegetation, including, but not limited to, new vegetation plantings, removal of invasive species, etc., and (3) an agreement that the LCWA will obtain all necessary regulatory permits and approvals.

## 4. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

### 4.1 Project Description and Background

The Signal Hill Bryant Lease Oil Facility is located in the Los Cerritos Wetlands, southeast of the City of Long Beach (see Figure 1). The site straddles the San Gabriel River, encompasses about 50 acres and includes 12 oil wells, 10 of which are actively produced. Although oil wells are found on both sides of the River, all oil production and management facilities are found on the east side of the River (see Figure 2). Historically, the site likely consisted of tidal salt marshes that formed at the mouth of the San Gabriel River. However, when the area was developed for oil production in the 1920's the wetlands were filled in and cut off from tidal influence by the construction of levees along the banks of the San Gabriel River. Only one area of the property, the Zedler Marsh, located on the eastern portion of the property, maintains a connection to the San Gabriel River at high tides. Although the rest of the site is highly disturbed, there are several areas that have been identified as potential wetlands based on the presence of wetland hydrology, wetland vegetation or hydric soils (see Figures 3 and 4). Wetland vegetation includes patches of pickleweed (*Salicornia virginica*), salt grass (*Distichlis spicata*) and sicklegrass (*Parapholis incurva*).

Signal Hill Petroleum acquired the Bryant lease in the Seal Beach Oil Field in 2006 from a private landowner and Chevron/Texaco. The property was acquired in partnership with the Rivers and Mountains Conservancy and the Coastal Conservancy. The State acquired the surface fee and Signal Hill acquired the mineral fee and oil operations. Shortly thereafter, the surface fee interest was transferred to the newly formed Los Cerritos Wetland Authority (LCWA), a partnership between the City of Long Beach, City of Sunset Beach and the Rivers and Mountains Conservancy. The LCWA, whose mission is to provide for the acquisition, protection, conservation, restoration, maintenance and operation, and environmental enhancement of the Los Cerritos Wetlands area, is currently active in two areas of historic and existing salt marsh on the Bryant lease property (outside the oil operations).

The facilities on the east side of the River are served by a stormwater collection and retention system that consists of an earthen trench and five earthen stormwater retention basins (see Figures 2 and 4). The stormwater collection and retention system is part of the Spill Prevention Control and Countermeasure Plan (SPCCP) developed by Signal Hill as required by the U.S. Environmental Protection Agency (EPA).<sup>1</sup> Stormwater collected from the east portion of the oil field flows into the trench and then into the retention basins. The last basin contains a valve that is normally closed and locked. In the event that stormwater needs to be drained off-site, the basins are first visually inspected for oil or an oily sheen. If oil or oil sheen is detected, the oil is removed using a vacuum truck and sent to the oil production facility or transported off-site. Then, the drain valve is opened and the stormwater drains into a wetland southwest of the Signal

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<sup>1</sup> This requirement applies to non-transportation related onshore oil production facilities with a storage capacity of greater than 1,320 gallons of oil (see 40 CFR 112.3)

Hill property, and eventually into the San Gabriel River. After the draining is complete, the valve is closed and locked. Discharges from the stormwater system are regulated by the Regional Water Quality Control Board.

In this coastal development permit application, Signal Hill requests to remove and/or control vegetation as part of on-going maintenance activities associated with the stormwater collection retention system, oil production facilities and buildings and other facilities. Specifically, Signal Hill is proposing to remove vegetation, debris and soil that have collected in the stormwater trench and retention basins to maintain sufficient stormwater capacity, as required by the SPCCP plan. A backhoe would be used to remove any collected material twice a year (once in the spring and once in the fall). The specific amount of soil and debris to be removed would depend on the amount of rainfall received but is generally expected to be between 20 and 50 cubic yards per year. Any soil removed from the trench or basins would be used on site for road and pad maintenance.

Signal Hill is also proposing to remove vegetation surrounding all oil pumps, electrical poles, pipelines, and oil production facilities and buildings, as required by the Los Angeles County Fire Department (Fire Department). For oil pumps, electrical poles and pipelines, the Fire Department requires that vegetation be kept at ground level to allow for maintenance access. Vegetation should be controlled within a radius of 50 feet for the oil and injection pumps, 6 feet for the power poles and 20 feet for the pipelines. Signal Hill proposes to control the vegetation surrounding these facilities twice a year (once in the spring and once in the fall) using hand operated equipment only (i.e., machetes and weed wackers). On the east side of the property, the Fire Department requires that most of the area surrounding the oil production facilities and buildings be kept vegetation-free for safety and access purposes. Signal Hill proposes to remove all vegetation in this area twice a year (once in the spring and once in the fall) using a scraper or frontend loader and hand tools when needed. A patch of southern tarplant (*Centromadia* [=*Hemizonia*] *parryi* ssp. *australis*) (see Figure 4) located in this area will remain in place and will not be removed during vegetation clearing activities. To compensate for the impacts to existing vegetation from these activities, Signal Hill will provide \$10,000 to the LCWA, or other entity approved by the Executive Director, to be used for wetland vegetation restoration activities, including new wetland vegetation plantings, removal of invasive vegetation, etc.

#### **4.2 Permit Authority, Extraordinary Methods of Repair and Maintenance.**

As discussed in *Project Description and Background Findings* Section 4.1 above, the proposed project involves the repair and maintenance of the stormwater collection and retention system, oil production facilities and other facilities on Signal Hill's property.

Coastal Act Section 30610(d) generally exempts from Coastal Act permitting requirements the repair or maintenance of structures that does not result in an addition to, or enlargement or expansion of the structure being repaired or maintained. However, the Commission retains authority to review certain extraordinary methods of repair and maintenance of existing structures that involve a risk of substantial adverse environmental impact as enumerated in Section 13252 of the Commission regulations.

Section 30610 of the Coastal Act provides, in relevant part:

*Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas: ...*

*(d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter. [EMPHASIS ADDED]*

Section 13252 of the Commission's administrative regulations (14 CCR 13000 *et seq.*) provides, in relevant part:

*(a) For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:...*

*(3) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:*

*(A) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach material or any other forms of solid materials;*

*(B) The presence, whether temporary or permanent, of mechanized equipment or construction materials.*

*All repair and maintenance activities governed by the above provisions shall be subject to the permit regulations promulgated pursuant to the Coastal Act, including but not limited to the regulations governing administrative and emergency permits...[EMPHASIS ADDED]*

The proposed project is considered a repair and maintenance activity because the work is required to keep Signal Hill's stormwater management system and oil production infrastructure in working order, and the project does not involve an addition to or enlargement of the stormwater management system or oil production facilities. Although certain types of repair projects are exempt from coastal development permit requirements, Section 13252 of the regulations requires a coastal development permit for repair and maintenance activities that are located in environmentally sensitive habitat areas and include the placement or removal of solid material and/or the presence of mechanized equipment. A significant portion of the proposed vegetation removal would be located within wetlands, which are considered environmentally sensitive habitat areas, and would require both the removal of solid material (i.e., soil and

vegetation) and the use of excavators and mechanized digging equipment within wetlands. Thus, these project elements require a coastal development permit under Section 13252(a)(3) of the Commission regulations.

In considering a permit application for a repair or maintenance project pursuant to the above-cited authority, the Commission reviews whether the proposed *method* of repair or maintenance is consistent with the Chapter 3 policies of the Coastal Act. In other words, the Coastal Commission's authority over repair and maintenance activities applies only to the methods by which a repair and maintenance activity is carried out, not the repair and maintenance activity itself. Also, the Commission's evaluation of such repair and maintenance projects does not extend to an evaluation of the underlying existing development's conformity with the Coastal Act.

### **4.3 Environmentally Sensitive Resources**

#### **4.3.1 Wetlands**

Coastal Act Section 30233 states in relevant part:

*(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
- (2) Maintaining existing, or restoring previously dredged depths on existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
- (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
- (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- (6) Restoration purposes.*
- (7) Nature study, aquaculture, or similar resource dependent activities.*

For purposes of Coastal Act Section 30233, the excavation, removal, or any other artificial disturbance of any sediment or soil in a wetland constitutes an act of "dredging" such material. Signal Hill's project, which involves the removal of soil and vegetation within the Los Cerritos

wetlands, is classified as a dredging activity within a wetland and is therefore subject to the policies of Coastal Act Section 30233.

Much of the site is classified as wetlands based on the presence of wetland vegetation, hydric soils or wetland hydrology. In July of 2010, Signal Hill hired Marin Research Specialists and ENTRIX to conduct a “Vegetation and State Wetlands Constraints Evaluation” (see Appendix A). The purpose of the evaluation was to identify potential state wetlands and sensitive vegetation including state and federally listed species on the site. Although a detailed wetland delineation was not conducted, potential wetland areas were identified based on the state definition of a wetland, indicated by the presence of at least one of three wetland indicators: wetland hydrology, wetland vegetation or hydric soils. Several potential wetlands were identified throughout the site (see Figures 3 and 4). The study found that although the site is highly disturbed, small communities of native vegetation, including salt marsh vegetation, occur alongside non-native species and unvegetated areas. The Commission staff estimates that about one-half acre to one acre total of degraded wetland vegetation will be cut or removed annually.

In general, the Commission may authorize a project that includes dredging of wetlands if the project meets the three tests of Coastal Act Section 30233(a). The first test requires that the proposed activity fit into one of seven categories of uses enumerated in Coastal Act Section 30233(a)(1)-(7). However, in this case, because the Commission is solely reviewing the method by which the applicant executes the repair and maintenance activities, the first test under Section 30233(a) is not applicable. The second test requires that there be no feasible less environmentally damaging alternative. The third and final test mandates that feasible mitigation measures be provided to minimize the project’s adverse environmental effects.

As discussed in Section 4.1, the maintenance work proposed in this application is required by either the U.S. EPA or the Los Angeles County Fire Department for safety and public health reasons. Therefore, avoiding the work, or the “no project” alternative, is not a viable option. The Fire Department originally required Signal Hill to completely remove vegetation around utility poles, pumps and pipelines. But Signal Hill successfully negotiated to allow the vegetation to be cut to ground level instead of being fully removed, thus proposing an alternative that decreased the impact of the proposed project to the affected vegetation. In addition, Signal Hill will use less damaging hand tools to minimize potential damage. For the stormwater management system, total removal of accumulated soil and vegetation is the only way to restore the capacity of the stormwater collection basins, and thus, there is no feasible less environmentally damaging alternative. For the reasons described above, the Commission finds this project consistent with the second test of Coastal Act Section 30233(a).

The final test requires that feasible mitigation measures be provided to minimize the project’s adverse effects. As discussed previously, Signal Hill will provide an annual fee of \$10,000 to offset the impacts from these maintenance activities. The fee will be provided to the LCWA, or other entity approved by the Executive Director, to be used for wetland restoration in the Los Cerritos Wetlands. **Special Condition 1** lays out the details of this arrangement, including a requirement that the money be used for the restoration or enhancement of wetland vegetation including, but not limited to such activities as new wetland vegetation plantings and removal of invasive species. The Commission believes implementation of **Special Condition 1** is adequate

to mitigate the unavoidable disturbance to or loss of wetland vegetation. Consequently, the Commission finds that the third and final test of Coastal Act Section 30233(a) is also satisfied. Therefore, the proposed project, with the inclusion of **Special Condition 1**, is consistent with Section 30233 of the Coastal Act.

#### **4.3.2 Environmentally Sensitive Habitat Areas**

Coastal Act Section 30240(b) states:

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The “Vegetation and State Wetlands Constraints Evaluation” conducted by the applicant identified several areas of southern tarplant (*Centromadia [=Hemizonia] parryi ssp. australis*). The southern tarplant is on the California Native Plant Society list 1B (plants considered rare, threatened, or endangered in California and elsewhere), and is thus considered to be environmentally sensitive habitat area (ESHA). It is particularly prevalent in disturbed habitats on the margins of salt marshes where the competition with other species is low. The southern tarplant is present on the site, most notably, in a particularly abundant patch found in the area Signal Hill termed the “vegetation-free zone” (see Figure 4). Signal Hill will leave this large patch of southern tarplant in place, and not remove it while conducting its vegetation removal and maintenance activities, thus avoiding impacts to this ESHA, and satisfying the requirements of Section 30240(b). In fact, because southern tarplant thrives in disturbed habitats, it is possible that the vegetation removal and maintenance activities will enhance the suitability of other portions of the site for further southern tarplant colonization. The Commission thus finds that the proposed project will not degrade adjacent ESHA and is consistent with Coastal Act Section 30240(b).

## **5. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 13096 of the Commission’s administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts that the activity may have on the environment. As discussed above, the proposed project has been conditioned to be found consistent with the policies of the Coastal Act. Mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, that would substantially lessen any significant adverse impact that the activity would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of CEQA.

**Appendix A:** Substantive File Documents

Documents

Marine Research Specialists and ENTRIX. *Signal Hill Petroleum Bryant Lease Vegetation and State Wetlands Constraints Evaluation*, July 2010.

Email Correspondence

October 6, 2010. From: John Peirson, Agent for Signal Hill Petroleum, Inc. To: California Coastal Commission. Subject: Signal Hill Vegetation Maintenance Project Description Modification.

October 28, 2010. From: John Peirson, Agent for Signal Hill Petroleum, Inc. To: California Coastal Commission. Subject: Signal Hill Vegetation Maintenance CDP.

**Figure 1**      **Location of Bryant Lease**



Figure taken from Signal Hill Petroleum Bryant Lease Vegetation Maintenance Project, California Coastal Commission CDP Application Package, September 1, 2010.

**Figure 2**      **Locations of Oil Facilities and Vegetation Maintenance Areas**



Figure taken from Signal Hill Petroleum Bryant Lease Vegetation Maintenance Project, California Coastal Commission CDP Application Package, September 1, 2010.



Figure taken from Signal Hill Petroleum Bryant Lease Vegetation and State Wetland Constraints Evaluation, Marine Research Specialists and ENTRIX. July 2010



Figure taken from Signal Hill Petroleum Bryant Lease Vegetation and State Wetland Constraints Evaluation, Marine Research Specialists and ENTRIX. July 2010.