

SANTA BARBARA COUNTY

FISHERIES ENHANCEMENT FUND

\*\*\* GUIDELINES \*\*\*

MAY 14, 1987

County of Santa Barbara  
Resource Management Department  
Energy Division  
1226 Anacapa Street  
Santa Barbara, CA 93101  
(805) 568-2040

## TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
1. Purpose of the Fund .....	1
2. Source of the Fund .....	1
2.1 Contributors .....	1
2.2 Fee Amounts .....	2
2.3 Timing .....	3
3. Use of the Fund .....	3
3.1 Needs Assessment .....	4
3.2 Mitigation Plan .....	4
3.3 Eligible Projects .....	5
3.4 Eligible Applicants .....	5
3.5 Project Selection .....	6
4. Administration of the Fund .....	6
4.1 Groups and Individuals Involved .....	7
4.2 Fund Designation .....	8
4.3 Fee Assessment and Collection .....	8
4.4 Proposal Solicitation, Review, Selection .....	9
4.5 Project Implementation .....	9
4.6 Fund Expenditures .....	10
4.7 Periodic Review .....	10
<u>Attachment A: Company Stipulation</u> .....	11
<u>Attachment B: Preliminary List of Eligible Projects</u> ...	14

## FISHERIES ENHANCEMENT FUND

### 1. PURPOSE OF THE FISHERIES ENHANCEMENT FUND

Environmental Impact Report/Statements (EIR/S) have shown that offshore oil and gas facilities and their operations preclude commercial fishing in their vicinity, particularly during the construction phase of offshore facilities, and create competition for onshore and offshore resources. Santa Barbara County has established the Fisheries Enhancement Fund to help offset this impact. Based on impacts to commercial fishing identified in EIR/S documents prepared for individual oil and gas projects in Santa Barbara County, a condition of approval requires each applicant to contribute to the Fisheries Enhancement Fund. The Fisheries Enhancement Fund, a "mitigation" fund, is designed to provide mitigation for project-specific impacts and cumulative impacts to affected commercial fisheries. The fundamental target of the Enhancement Fund is the affected commercial fishermen.

### 2. SOURCE OF THE FUND

#### 2.1 Contributors

The source of monies for this Fund is from assessments to offshore oil and gas projects with approval from the County. In general, contributions to the Fund are to be made annually for the life of the project; however, as impacts are larger during the construction period, larger contributions may be assessed for that phase of the project. Impacts identified include destruction of habitat, preclusion from fishing grounds, competition for onshore and offshore resources, and conflicts with support vessels and equipment. To date, contributions to the Fund have been assessed for four projects: Exxon/Santa Ynez Unit, Chevron/Point Arguello, Gaviota Terminal Company/Gaviota Marine Terminal, and Union/Point Pedernales. (Sizeable impacts may also occur during abandonment and restoration of projects. Environmental documents for future projects will examine the specific impacts for abandoning and restoring that particular project. If it is determined that restoration impacts are greater than operation impacts, projects previously permitted will be re-evaluated in terms of their specific restoration impacts to commercial fishing.)

#### 2.2 Fee Amounts

The EIR/S for each project examined the historical fish catch data for the commercial fish blocks in which the project occurs. Also, for some of the

environmental documents, interviews with fishermen were conducted to assess the value to fishermen of the proposed project's area. From these, the amount of space from which fishing would be precluded (including buffer zones) was determined and the amount of harvest which would be lost during construction and operation, was estimated and adjusted for current market wholesale prices. The duration of the construction period and the equipment and methodology required for each specific project was used to determine the impact to commercial fishing. Contributions are based on the impact analysis presented in the environmental document. The cumulative contribution from the projects approved to date, tentatively projected through the 1987/88 Fiscal Year, are shown below. The exact amount will vary depending on GTC's construction schedule. The Exxon/Santa Ynez Unit project has been assessed a fee of \$400,000 to be paid over the first three years of the project. Exxon will be assessed annually for three years once offshore construction begins. In Exxon's case, the Santa Ynez Unit is located within a particularly productive fishing area, thus the three platforms preclude a significant area.

#### FISHERIES ENHANCEMENT PROJECTED COMPANY CONTRIBUTIONS

<u>Project</u>	<u>FY 1987/88</u>
Union Pt. Pedernales*	\$13,200
Chevron Pt. Arguello*	21,500
Gaviota Interim Marine Terminal	25,000
TOTAL	<u>\$ 59,700</u>

\* NOTE: Contribution includes construction in 1985 and 1986.

For the first few years of the Fund, contributions are limited. However, contributions will occur throughout the lifetime of these and future projects. The annual figures will vary depending on several factors:

- (1) Delays or advances in proposed construction schedules for offshore oil facilities would, correspondingly, modify contribution to the Fund (although not change the absolute value of the contribution); and
- (2) Permits for future offshore oil development facilities that affect commercial fishing will require additional contributions to the Fund.

#### 2.3 Timing

Fee requirements may be included as a condition of project approval or of any plan or permit issued by the Resource Management Department. Relevant approvals and permits include, but are not limited to, Preliminary Development Plans, Final Development Plans, Conditional Use Permits, Special Use Permits, Coastal Development Permits, and Specific Plans. In no case will different

permits for the same project duplicate assessed fees. Modifications to a project may, however, trigger reassessment of fee amounts. To reassess fee amounts, a Planning Commission hearing must be held to discuss the project modifications and their impacts, and review the environmental document (if prepared). Public and applicant comment will be considered along with staff's recommendations. New information arising after a project is permitted, which describes impacts greater (or less) than those reviewed, may also trigger the need for Planning Commission reassessment of contribution fees.

Once a specific contribution amount is identified, the developer (permit holder) will sign a stipulation (see Attachment A) for fee payment. For most projects, the fee for the construction phase is paid at the onset of construction, and the annual fee is to be paid each year (pro-rated for the first year of operation) for the life of the project, including facility abandonment and site restoration.

### 3. USE OF THE FUND

Because the impact (preclusion of space) from a particular project may be impossible to directly mitigate, alternate mitigation strategies must be employed. Contributions to the Fisheries Enhancement Fund are to be used for a variety of fisheries improvement projects that are not presently provided for under the project permit conditions. Projects or programs eligible to receive Fisheries Enhancement Fund monies may be onsite of or offsite from, but not necessarily specific to, any one development project. Additionally, funds from this account may be used to offset cumulative or area-wide impacts, which are often difficult to mitigate through project-specific permit conditions.

As the purpose of the Fisheries Enhancement Fund is to mitigate impacts to the commercial fisheries, it is the County's intent to actively seek and provide financial assistance to appropriate enhancement projects. The County Board of Supervisors, with the help of the Technical Review Panel, will ultimately determine how Fund monies are awarded.

Project proposals from the commercial fishing industry and processors will be given priority, and emphasis will be made to fund projects which are local in nature; that is, they reflect local problems and provide local solutions. The opportunity exists to apply for matching funds from other organizations (e.g. the Coastal Conservancy, County Fish and Game Commission, Sea Grant) to complement the Fisheries Enhancement Fund. Those submitting proposals to the Fisheries Enhancement Fund will be encouraged to explore the potential for obtaining matching funds. The County would like to solicit the names of other such funding sources so that these organizations can be made aware of this Fund.

The administrative costs of implementing the fund will be paid for by the fund.

### 3.1 Needs Assessment

Because of the myriad of potential fund uses and the relatively small amount of money available, it will be necessary to clearly define the types of projects which most efficiently enhance the affected commercial fisheries. The County proposes to conduct an initial Needs Assessment and develop a Mitigation Plan. The overall goal of the Needs Assessment will be to narrow down the list of enhancement projects to a prioritized list which includes projects which could enhance the affected commercial fishing industry's ability to catch, land, and process commercially valuable fish stocks. From this list, the County will develop a Mitigation Plan which will establish the long range priorities, goals, and proposed schedule which will be used by the Technical Review Panel and the Board of Supervisors to determine which projects should be funded.

The needs assessment may be conducted by County staff or by an independent consultant to clearly determine the needs and desires of the impacted commercial fisheries with direct input from the commercial fishing industry. Approximately 60 to 80 hours will be allotted to the Needs Assessment. The specific tasks will include:

- o Determine the commercial fisheries most affected
- o Interview affected commercial fishermen
- o Conduct a literature search
- o Identify the projects which address the needs of the affected commercial fisheries

### 3.2 Mitigation Plan

The Mitigation Plan, to be developed by County staff, will establish an overall plan for how the Fund will be implemented. The Plan will outline the County's priorities and goals, and based on the Needs Assessment and estimated funds available, will describe the types of projects which could be funded during the first proposal period and will address the types of projects to be funded over an extended period of time, 5 to 10 years perhaps. In a public hearing(s), the Planning Commission will review and comment on the Mitigation Plan. Public input, as well as guidance from other affected County departments, will be solicited throughout development and adoption of the Plan. After all comments are adequately addressed, the final Mitigation Plan will be approved by the Planning Commission.

### 3.3 Eligible Projects

At present, five general categories have been identified for potential projects:

Pier or harbor improvements that benefit affected commercial fishermen;

Research/development with direct application to commercial fishing and fish marketability (such as alternate gear development, market development for underutilized species, etc.);

Enhancement of the commercial fishery resource (e.g., flatfish, rock cod, crab, shrimp, lobster, seabass, sharks, swordfish, squid, abalone, urchins, sea cucumbers);

Contribution toward administration of a Commercial Fishermen's Liability Insurance Pool; and,

Fishermen communication/education (hearings, travel monies, library).

NOTE: The Enhancement Fund money cannot be used to support lobbying efforts or any other activities which are not seen as educational or information-gathering by the Technical Review Panel.

Attachment B is a preliminary list of potential projects; the needs assessment will provide more focus as to the types of projects which would be most effective at enhancing resources.

The goal of the Fund is to mitigate impacts as directly as possible to affected commercial fisheries. Local enhancement projects will receive highest priority. For projects proposed in Ventura or San Luis Obispo County, justification as to their enhancement of Santa Barbara commercial fisheries will be necessary. Those non-local projects which can demonstrate that they sufficiently benefit the affected commercial fisheries and meet other criteria for approval may be selected for funding.

### 3.4 Eligible Applicants

Project proposals will be solicited from commercial fishermen, public individuals, public agencies, municipalities, non-profit corporations, and private groups. Project proposals from the commercial fishing industry and processors, which could enhance the industry, will be given priority. Other individuals and groups, researchers, and fish market operators may apply for funding, provided their proposed projects could directly benefit commercial fishermen affected by oil and gas projects.

### 3.5 Project Selection

The Technical Review Panel will review all project proposals and will recommend to the Board of Supervisors which projects should be funded. Proposals will be recommended based on the quality of the proposal, feasibility, and consistency with the Needs Assessment and the Mitigation Plan. Prior to recommending a project to the Board, the Technical Review Panel will be required to make a finding that the affected commercial fisheries are enhanced and the project is consistent with the Mitigation Plan.

The TRP and the Board may give priority to projects where combined funding sources, such as matching grants, are available to increase the effectiveness of County expenditures. Similarly, a single major project may be funded, or allocation of monies may be spread among several projects. If it is determined to be advantageous to the goals of the Fisheries Enhancement Fund

the TRP may recommend to the Board, or the Board itself may choose, to fund no projects and carry funds over into the next proposal cycle. Proposal cycles will be defined in the Mitigation Plan.

#### 4. ADMINISTRATION OF THE FUND

The County proposes an administrative process designed to minimize administrative costs and time. Overall coordination of all Fund activities will be provided by a "Fund Administrator," a County staff person designated for this role or a staff person under contract to the County. The administrative costs of implementing the fund will be covered by the monies collected for the Fund.

A Technical Review Panel (TRP) will be made up of the Fund Administrator, a representative who is a local fisherman, and a representative from the oil industry. Members would be selected from the existing Joint Committee, which is comprised of five members from the commercial fishing industry and five from the oil industry. As appropriate, others such as a representative from the City of Santa Barbara, UCSB, or the Marine Advisory Program, may sit on the TRP in an advisory capacity. Utilization of this existing framework will allow the Fund to capitalize on the Joint Committee's experience and expertise. The TRP will forward recommendations to the Board of Supervisors, who will take final action on which projects to fund.

The responsibilities of these individuals and groups are described below.

##### 4.1 Groups and Individuals Involved in Administration of the Fund

###### 4.1.1 Board of Supervisors

The Board of Supervisors, based on the Needs Assessment, the Mitigation Plan, and recommendations from the TRP, will ultimately determine how the Fisheries Fund monies will be used. Their activities, specific to this Fund, include:

- o Adoption of the Work Program and these guidelines;
- o Approval of selected enhancement projects; and
- o Approval of modifications to these guidelines, if necessary.

###### 4.1.2 Planning Commission

The Planning Commission, as a permitting authority and a land use planning body for the County, plays both a discretionary and master planning role in implementing the Fisheries Enhancement Fund. Specific responsibilities include the following:

- o Review the guidelines and Work Program and forward a recommendation to the Board of Supervisors;

- o Review, modify, and approve the Mitigation Plan;
- o Grant permits for enhancement projects according to existing County procedures;
- o Periodically evaluate the effectiveness of these guidelines and the Fund; and
- o Approve adjustments to mitigation fee amounts at five-year intervals, if warranted.

#### 4.1.3 Fund Administrator

This person is responsible for managing the Fisheries Fund through all phases of implementation. More specifically, he or she will be responsible for:

- o Coordination of the Needs Assessment and Mitigation Plan;
- o Issuing annual invoices for fee payments and monitoring the amount of monies available in the Fund;
- o Soliciting enhancement project proposals according to the Mitigation Plan, and assisting applicants with enhancement proposals;
- o Coordinating the review of enhancement project proposals through the Technical Review Panel;
- o Conducting contract negotiations with enhancement project sponsors;
- o Monitoring the progress of approved enhancement projects;
- o Developing alternate sources for matching funds; and
- o Coordinating the periodic review of these guidelines and of the effectiveness of the Fisheries Fund.

#### 4.1.4 Technical Review Panel

The responsibilities of the Technical Review Panel (TRP) include several review processes and several recommendation roles. Foremost, the TRP will review the conclusions of the Needs Assessment and the Mitigation Plan and will determine what Request for Proposal (RFP) announcements will be drafted. Upon receipt of proposals for projects, the TRP will review all proposals and, based on the conclusions of the Needs Assessment and the Mitigation Plan, will make a recommendation to the Board of Supervisors on which projects should be funded.

The TRP will be comprised of three members:

- o The Fund Administrator

- o One Joint Committee representative from the commercial fishing industry
- o One Joint Committee representative from the oil industry

In addition, as appropriate the TRP may ask others, such as a representative from the City of Santa Barbara, UCSB, or the Marine Advisory Program, to sit on the panel in an advisory capacity. The representatives from the fishing community and industry will be appointed by the Joint Committee. If necessary, membership could be based on a rotation basis. Only the Fund Administrator will be paid by the Fund.

#### 4.2 Fund Designation

The Fisheries Fund will be designated as a Special Revenue Fund in the County treasury. Fund balances will earn interest based on the prevailing County treasury rate. Interest will accrue to the Fund and be used toward administrative costs. All Fund monies will be appropriated and expended in accordance with County budgetary authority.

#### 4.3 Fee Assessment and Collection

##### 4.3.1 Determination

Energy Division project managers, who are familiar with the environmental documents prepared for individual projects, and the Fund Administrator, will recommend fee amounts to the Planning Commission as part of the project permitting process. The Planning Commission, and the Board of Supervisors upon appeal, will make a final determination of fee assessments during public hearings for the project's permits.

##### 4.3.1 Collection

The companies will enter into an agreement, shown in Attachment A for fee payment. The Fund Administrator will issue annual invoices to each contributor and collect fee payments from them.

##### 4.3.3 Reassessment

The Planning Commission will hold hearings to reassess the fee amount determined in the initial planning stages of each development project; when projects are modified; or when additional information becomes available which suggests that the initial assessment may not be equitable, either to the contributor or to the commercial fishing industry.

Once every five years, Energy Division project managers will assess actual impacts and anticipated impacts in order to determine if initial fee assessments were accurate and if a fee adjustment is warranted. The results of this reassessment will be presented to the Planning Commission in a noticed public hearing. If the Planning Commission determines that fee adjustments

are warranted, the County will enter into a new contract with each affected contributor. Any modifications to permit conditions made by the County would be appealable based on regulations in pertinent and relevant ordinances and bylaws (for instance, see Section 35-182.3 in the County Coastal Zoning Ordinance).

#### 4.4 Proposal Solicitation, Review, and Selection

##### 4.4.1 Proposal Solicitation

The Fund Administrator will draft Request for Proposals (RFP) dependent on direction from the Board, the Mitigation Plan, the TRP, and fund monies available. The RFP will indicate the types of projects desired, short-term and long-range enhancement project priorities, the amount of funds available, and financial assistance options available.

##### 4.4.2 Review

The Fund Administrator and Technical Review Panel will review proposals and, based on the Needs Assessment and the Mitigation Plan, will forward a recommendation to the Board of Supervisors on which project(s) should be funded.

##### 4.4.3 Selection

The Board of Supervisors will select the proposal(s) and authorize the Fund Administrator to prepare a contract with the project sponsor. It is the Board's discretion to approve entire packages, select separate projects within the package, or grant monies for only portions of a project.

Projects that are not selected for funding may be resubmitted during the next proposal cycle provided they are consistent with the Mitigation Plan.

#### 4.5 Project Implementation

##### 4.5.1 Contract

The Board of Supervisors will enter into a contract with the project sponsors. Contracts will specify the project review and permitting process, project schedule, and project accounting and reporting requirements. Specific contract provisions are determined on a case-by-case basis, subject to the unique characteristics of each project.

##### 4.5.2 Permitting

Proposals will go through the County's application review and permitting process, if required. Enhancement projects may be subjected to permits issued by the County, the California Coastal Commission, the California Department of Fish and Game and other agencies. It is the responsibility of the project

sponsor, though the Fund Administrator will provide assistance, to obtain the required permits and approval for their project.

#### 4.5.3 Monitoring

Project sponsors will report at regular, pre-determined intervals to the Fund Administrator who monitors progress of all projects. The Fund Administrator reports to the Planning Commission and the Board of Supervisors on the status of all enhancement projects and the availability of Fund monies.

#### 4.6 Fund Expenditures

All Fund administration costs, except the initial fee determination, are paid by the Fund. Management costs of the Fund Administrator include the direct and indirect interdepartmental costs of:

- o The Needs Assessment and Fisheries Mitigation Plan development;
- o RFP preparation and distribution;
- o Proposal review and selection;
- o Project monitoring; and
- o Impact and fee reassessments.

Costs associated with the initial fee determination for each project are reimbursed by the developer of that project.

#### 4.7 Periodic Review of Guidelines

The Fund Administrator and Technical Review Panel will evaluate Fund operations and effectiveness within two years of adoption of these guidelines. Results are presented to the Planning Commission for approval, and recommended modifications, if any, are forwarded to the Board of Supervisors for adoption. If it becomes apparent, prior to the review date, that aspects of the Fund are not functional, then public members, contributors, or staff may request to hold a hearing before the Planning Commission to discuss and/or amend the apparent problems.

ATTACHMENT A

COMPANY STIPULATION FOR THE  
FISHERIES ENHANCEMENT FUND  
COUNTY OF SANTA BARBARA

Stipulation made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,  
by \_\_\_\_\_ (hereafter referred to as "Developer").

WHEREAS the County of Santa Barbara (hereafter referred to as "County") is required by the California Environmental Quality Act and the California Coastal Act to ensure that significant environmental impacts of a development project issued a permit by the County are mitigated to the maximum extent feasible; and

WHEREAS environmental review for the permitted project determined that certain environmental impacts could not be fully mitigated by direct measures, but could be partially mitigated by other programs, or that cumulative environmental impacts could most effectively be mitigated by programs that exceed the scope attributable to that portion of the Developer's project impacts, and

WHEREAS County has created the Fisheries Enhancement Fund (hereinafter referred to as "FEF") for the purpose of enhancing the environment, and

WHEREAS, as a condition of permit approval, County has required the Developer to contribute to FEF; and

WHEREAS the Developer has agreed, as part of permit acceptance, to contribute to FEF,

NOW THEREFORE THE DEVELOPER STIPULATES THE FOLLOWING:

1. Developer stipulates and agrees to contribute to FEF for the purpose of fulfilling its obligation under permit condition \_\_\_\_\_ of the Final Development Plan for the \_\_\_\_\_ project; a copy of the condition is attached hereto as Exhibit A and made a part herein.

ATTACHMENT A (continued)

2. The payment amount and schedule have been determined in accordance with the condition identified above and the Guidelines for the Fisheries Enhancement Fund adopted by the Board of Supervisors on \_\_\_\_\_ 1987.
3. The Developer shall contribute \_\_\_\_\_ dollars  
(\$ \_\_\_\_\_) and thereafter annually contribute \_\_\_\_\_ dollars  
(\$ \_\_\_\_\_) plus an adjustment calculated according to the change in the consumer price index for the preceeding calendar year (as reported in the Bureau of Labor Statistics, U.S. Department of Labor, "Consumer Price Index for All Urban Consumers, Los Angeles-Long Beach-Anaheim Metropolitan Area") for the life of the project.
4. "Life of the project" is defined, for the purposes of this agreement, as the period (1) beginning with the first date of the initiation of construction in state or federal waters offshore Santa Barbara County; and (2) ending with the date County-approved site restoration has occurred at the last offshore site associated with the project. In all cases, the beginning and ending dates shall be determined by the Director of the Resource Management Department.
5. The amount of the Developer's first payment to FEF shall be calculated by the County to represent the construction share of the Developer's contribution as stated above. Payments thereafter shall be calculated by the County to represent annual contributions.
6. Each annual payment, including the initial payment, is to be made in a single payment for the full amount, and is to be received by the County within thirty (30) calendar days of issuance of an invoice by County. Each invoice shall identify to whom the payment is to be submitted, and in what form (e.g., as a check payable to the "County of Santa Barbara"). The County shall issue a receipt within five (5) working days.
7. Contributions not received within thirty (30) calendar days within issuance of the invoice shall bear an interest rate calculated as the higher of (a) ten percent (10%) or (b) five percent (5%) plus the Federal Reserve Bank's fund rate on the twenty-fifth (25th) day of the month preceding the date of the invoice. A late payment beyond forty-five (45) of the invoice date shall be considered a breach of the permit condition and subject to any and all penalties of permit condition breach, including permit modification or revocation.
8. If any action at law or in equity is brought to enforce or interpret the provisions of this agreement, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which it may be entitled.

ATTACHMENT A (continued)

9. This agreement may be amended only by written agreement executed by the County and Developer. All provisions of this agreement are to be performed in California, and California state law applies in interpreting the provisions of this agreement.

Executed at \_\_\_\_\_, California on \_\_\_\_\_.

By \_\_\_\_\_  
Developer

ATTACHMENT B

Preliminary List of Eligible Enhancement Projects

Commercial Fisheries Enhancement

- o seeding/outplanting of particular species (e.g., abalone, halibut)
- o development of artificial reefs
- o habitat improvement

Research/Development with Direct Application to Commercial Fishing and Fish Marketability

- o fisheries studies
- o mariculture
- o development of novel equipment and approaches to capture and land commercial species
- o lab space/marine facilities
- o sales to research groups
- o development of a computerized marketing system
- o promotion of underutilized fish species (e.g., pinback or dogfish shark, ridgeback shrimp, sheep or spider crabs)
- o advertising campaign for local fish products
- o promoting the export of local fish products to international and new domestic markets

Pier and Harbor Improvements Benefitting Affected Commercial Fishermen

- o seed money for harbor development
- o seafood hoisting equipment; financing the use of hoists
- o additional gear storage facilities (fishing gear types change with the season)
- o additional seafood storage facilities (e.g., live tanks) at harbor fish markets - ice machine and associated facilities
- o funding for weather buoys
- o improving the availability of harbor slips for commercial fishermen

Insurance Fund

- o money for capitalization and administration of a Fishermen's Liability Insurance Pool

ATTACHMENT B (Continued)

Communications and Education of Local Fishermen \*

- o travel money to attend meetings and hearings
- o refunds for time spent reviewing environmental reports and applications
- o establishment of a local library for public/fishery-related information

NOTE: The Enhancement Fund money cannot be used to support lobbying efforts or any other activities which are not seen as educational or information gathering by the Technical Review Panel.

\* No consensus was reached by the Joint Committee regarding this category for potential projects.