

DECISION AND FINDINGS
IN THE
CONSISTENCY APPEAL OF
GULF OIL CORPORATION
BEFORE THE SECRETARY OF COMMERCE

December 23, 1985

SYNOPSIS OF DECISION

Gulf Oil Corporation submitted a Plan of Exploration (POE) to the Minerals Management Service of the Department of the Interior and to the California Coastal Commission (Commission) seeking permission to drill eight exploratory wells on Outer Continental Lease tract P 0505 which lies approximately 4 miles offshore the San Luis Obispo-Santa Barbara County line. The POE was later amended to reduce the number of proposed wells to one.

The Commission, California's federally-approved coastal zone management agency, objected to Gulf's consistency certification for the POE on the ground that the proposed exploratory drilling was inconsistent with the California Coastal Management Program because of (1) the lack of onshore facilities to ensure the safest and most efficient method of oil exploration, development and transportation, and (2) the cumulative adverse effects of offshore operations on coastal resources.

Under Sections 307(c)(3)(A) and (B) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. § 1456(c)(3)(A) and (B), the Commission's objection to the POE precludes all Federal agencies from issuing any permit or license necessary for the exploratory drilling to proceed, unless the Secretary of Commerce finds that the objected-to activity may be Federally approved because it is consistent with the objectives of the CZMA (Ground I) or is otherwise necessary in the interest of national security (Ground II). If the requirements of either Ground I or Ground II are met, the Secretary must sustain the appeal.

On March 13, 1985, under 15 CFR 930 Subpart H, Gulf filed a Notice of Appeal with the Secretary of Commerce. The Secretary, upon consideration of the information submitted by Gulf, the Commission, Federal agencies and interested persons, as well as other information in the administrative record of the appeal, made the following findings pursuant to 15 CFR 930.121 and 930.122:

Ground I

(a) Exploratory drilling on OCS P 0505 would contribute to the national interest of attaining energy self sufficiency and thereby furthers one or more of the competing national objectives or purposes contained in Sections 302 or 303 of the CZMA (p. 4)

(b) The adverse effects of the project on the natural resources of the coastal zone are not substantial enough to outweigh its

contribution to the national interest (pp. 5-18).

(c) The project will not violate the Clean Air Act or the Clean Water Act (pp. 18-20).

(d) There is no reasonable alternative available to Gulf which would permit the project to be carried out in a manner consistent with the California Coastal Management Program (pp. 20-24).

Ground II

Gulf has not met the requirements of Ground II to demonstrate that its proposed exploratory well directly supports national defense or national security interests and that such interests will be significantly impaired if the drilling cannot go forward as proposed. (pp. 24-26).

The Secretary has found that Gulf's appeal has met the requirements of Ground I as set forth in 15 CFR 930.121, and, therefore, that Gulf's proposed exploratory well on OCS P 0505, although inconsistent with the California Coastal Management Program, is consistent with the objectives of the CZMA and may be permitted by Federal agencies (p. 26).

Factual Background

Gulf Oil Corporation ^{1/} and Texaco Inc. were awarded Outer Continental Shelf (OCS) Federal Oil and Gas Lease P 0505 [hereinafter tract P 0505] on February 1, 1984, after a successful bid in Lease Sale 73. Gulf Oil's Supporting Brief 4 [hereinafter Gulf's Brief] [all materials cited in this decision are in the administrative record of this appeal]. Gulf, the designated operator of the tract, and Texaco each have a half interest in the lease. Id. Tract P 0505 lies 4.2 miles from the California shore in the northern Santa Maria River Basin west of Point Sal, near the Santa Barbara-San Luis Obispo County line, and is located entirely on the OCS. See Figure 1.

The Department of the Interior (hereinafter Interior) proposed to lease tract P 0505 as part of Lease Sale 53, but that tract, along with much of the northern Santa Maria Basin, was withdrawn by Interior in 1981 on the recommendation of the California Coastal Commission (Commission). Gulf's Brief, Exhibit 3, Commission's Revised Findings 2 [hereinafter Revised Findings]. The Commission is California's Federally-approved coastal zone management agency under sections 306 and 307 of the Coastal Zone Management Act (CZMA) and 15 CFR Parts 923 and 930 of the Department of Commerce's implementing regulations.

In 1983, Interior again proposed to lease the withdrawn area, this time as part of Lease Sale 73. Revised Findings at 2. Prior to the sale, Interior and the State of California entered into a Memorandum of Agreement (MOA) which provides that, where appropriate, various stipulations or conditions would be included in the leases to cover such things as biological concerns, vessel and aircraft safety, pipelines, oil spill containment and cleanup, and air quality. Gulf's Brief, Exhibit 4, Lease Agreement 7-13. The Commission was not a party to the MOA.

The Commission objected to the consistency with the California Coastal Management Program (CCMP) of Lease Sale 73 in its entirety. The Commission believed and continues to believe that further analysis is needed to determine the most environmentally-protective method of transporting oil produced from the lease area and to determine the cumulative impacts of offshore operations on vessel traffic safety, commercial fishing, air and water quality and other coastal resources. Revised Findings at 2. In November, 1983, the Commission filed suit against the Secretary of the Interior seeking a preliminary injunction preventing the sale. The U.S. District Court for the Central District of California issued the requested preliminary injunction. However, on December 20, 1983, the United States Supreme Court stayed the injunction and the sale proceeded. In January 1984, the Supreme Court ruled that Federal

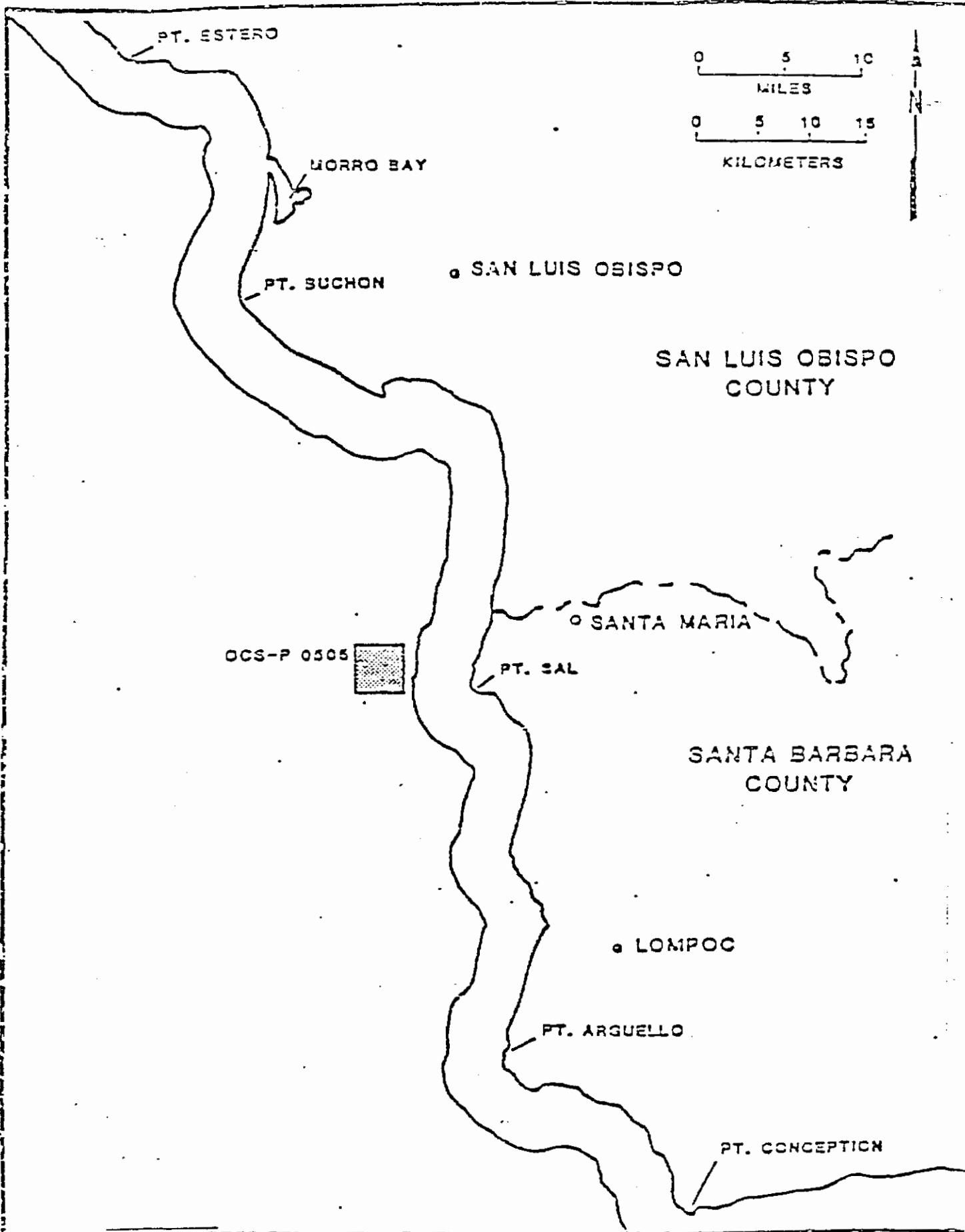


FIGURE 1

LOCATION OF LEASE OCS-P 0505
IN THE SANTA MARIA BASIN OFFSHORE

oil and gas lease sales on the OCS are not subject to state consistency review under section 307(c)(1) of the CZMA. The Court did reaffirm the Commission's authority under section 307(c)(3)(A) and (B) of the CZMA to review the consistency with the CCMP of Plans of Exploration and/or Development for individual tract areas that affect land or water uses in the coastal zone. Secretary of the Interior v. California, 464 U.S. 312 (1984).

On June 2, 1984, Gulf, on behalf of itself and Texaco, applied to the Minerals Management Service (MMS) of Interior for permits to drill up to eight exploratory wells on tract P 0505. Gulf's Brief at 8. In connection with its application, Gulf submitted to MMS a draft Plan of Exploration (POE), an Environmental Report (ER), an Oil Spill Contingency Plan, a Critical Operations and Coastal Plan, and a Hydrogen Sulfide Contingency Plan. Id.

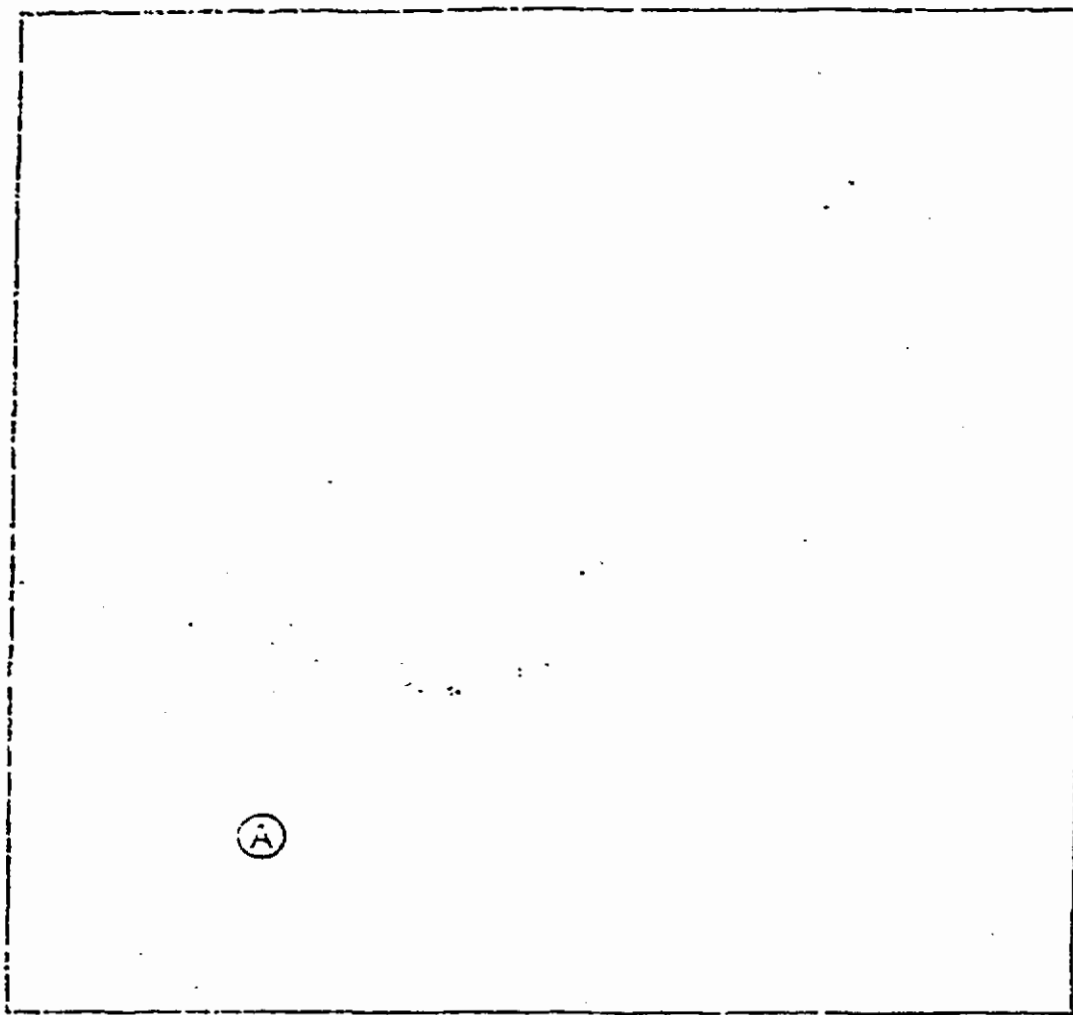
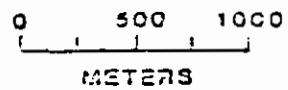
In September 1984, the MMS forwarded to the Commission for consistency review under section 307(c)(3)(A) and (B) of the CZMA Gulf's POE along with Gulf's certification that the activities proposed in its POE would be conducted in a manner consistent with the CCMP. Gulf's Brief at 5.

In January 1985, in response to air quality concerns voiced by the Commission's staff, Gulf amended its POE to reduce the number of exploratory wells from eight to one. Id. As amended, the POE proposes the drilling of a single exploratory well 10,600 feet deep by a semi-submersible drill ship anchored in 325 feet of water. Gulf's Brief, Exhibit 12, MMS Environmental Assessment 3, 6 [hereinafter Environmental Assessment]. The well would be located in the southeast corner of tract P 0505. See Figure 2. The drilling is expected to take no longer than 60 days, with an additional 30 days for testing and abandonment, if necessary. ER, Appendix C at 56. Because the proposed well is exploratory, transportation of large quantities of oil and gas is not anticipated. Any oil recovered during testing will be transported by vessel to shore at Port Hueneme. Environmental Assessment at 7.

On February 14, 1985, the Commission formally objected to Gulf's certification that its POE, as amended, was consistent with the CCMP.

Appeal to the Secretary of Commerce

On March 13, 1985, Gulf Oil Corporation filed a Notice of Appeal with me under subsections 307(c)(3)(A) and (B) of the CZMA (16 U.S.C. §1456(c)(3)(A) and (B)) and 15 CFR §§930.121 and 930.122. On April 16, Gulf filed a supporting brief together with numerous exhibits.



LEGEND

— LEASE BOUNDARY

○ WELL LOCATION

FIGURE 2

PROPOSED WELL LOCATION
ON LEASE OCS-P 0505

The Department of Commerce published notice of the receipt of Gulf's appeal in the Federal Register (50 FR 16122 (1985)) and in the Santa Maria Times (March 29, 1985), a newspaper in circulation in Santa Barbara County. By letter dated May 31, 1985, the Commission filed a response to Gulf's appeal (hereinafter Commission Response to Appeal). No public hearing was requested or held. Comments on whether, how and to what extent the activities in Gulf's POE, as amended, would contribute to the national interest, including national security, were requested and received from the Departments of Defense, Energy, Interior, Labor, State, Transportation, and Treasury and from the Fish and Wildlife Service of the Department of the Interior, and the National Marine Fisheries Service of the Department of Commerce. Additional comments and information were received from Gulf, the Commission, the Minerals Management Service of the Department of the Interior, various oil companies, Friends of the Sea Otter, Friends of the Earth, and others. All information received during the course of this appeal has been included in the administrative record.

I find that the appeal is properly under consideration and that the parties -- Gulf and the Commission -- have complied with Commerce's regulations governing the conduct of this appeal (15 CFR Part 930, Subparts E and H).

Grounds for Sustaining an Appeal

Under subsection 307(c)(3) of the CZMA, and 15 CFR §930.131, the Commission's consistency objection precludes the MMS and other Federal agencies from granting the permits necessary for Gulf's proposed exploratory drilling, unless I determine as set forth in 15 CFR §930.120 that the activity proposed in Gulf's POE is consistent with the objectives or purposes of the CZMA (hereinafter Ground I) and/or is otherwise necessary in the interest of national security (hereinafter Ground II). Gulf has pleaded both statutory grounds. 2/ Gulf's Brief at 12, 30.

Commerce's regulations interpreting these two statutory grounds are found at 15 CFR §§930.121 and 930.122.

Ground I: Consistent with the Objectives of the CZMA

To find that the activity is consistent with the objectives of the CZMA, I must determine that it satisfies all four elements specified in 15 CFR §930.121.

First Element: The Activity Furthers One or More of the Competing National Objectives Contained in Sections 302 or 303 of the CZMA

Sections 302 and 303 of the CZMA identify a number of objectives which can be generally stated as follows:

1. To preserve, protect, and, where possible, restore or enhance the resources of the coastal zone (sections 302(a), (b), (c), (d), (e), (f), (g) and (i) and 303(1));
2. To develop the resources of the coastal zone (sections 302(a), (b) and (i) and 303(1)); and
3. To encourage and assist the states to exercise their full authority over the lands and waters in the coastal zone, giving consideration to the need to protect as well as to develop coastal resources, in recognition by the Congress that state action is the "key" to more effective protection and use of the resources of the coastal zone (sections 302(h) and (i) and 303(2)).

In addition, the CZMA also recognizes a national objective in achieving a greater degree of energy self-sufficiency through the provisions of financial assistance to state and local governments (section 302(j)).

As I have stated in an earlier decision, OCS exploration, development, and production activities and their effects on land and water uses of the coastal zone are included within the broad objectives and purposes of the CZMA. Further, because Congress has broadly defined the national interest in coastal zone management to include both protection and development of coastal resources, this element will "normally" be found to be satisfied on appeal. Decision and Findings in the Matter of Exxon (February 18, 1984), 49 FR 8274 (March 6, 1984) [hereinafter Exxon Santa Ynez Decision].

Gulf's amended POE involves the search for oil and gas from an area offshore California. As stated above, exploration, development, and production of offshore oil and gas resources and a consideration of the effects of such activities on the resources of the coastal zone are among the objectives of the CZMA when such activities require Federal permits. Because the record shows that Gulf's POE falls within and furthers the broad objectives of sections 302 and 303 of the CZMA, I find that Gulf's project satisfies the first element of Ground I.

Second Element: When Performed Separately or When Its Cumulative Effects are Considered, the Activity Will Not Cause Adverse Effects on the Natural Resources of the Coastal Zone Substantial Enough to Outweigh Its Contribution to the National Interest

The second element of 15 CFR §930.121 requires that I identify: (1) the adverse effects of the objected-to activity on the natural resources of the coastal zone from the activity itself (that is, ignoring other activities affecting the coastal zone); and (2) the objected-to activity's cumulative adverse effects (that is, effects from the activity being performed in combination with other activities affecting the coastal zone). Then the second element requires me to identify the activity's contribution to the national interest. Finally, it requires me to determine whether the adverse effects are substantial enough to outweigh the activity's contribution to the national interest.

Adverse effects on the natural resources of a coastal zone could arise from the normal conduct of an activity either by itself or in combination with other activities affecting the coastal zone. Adverse effects also could arise from non-planned or accidental events such as an oil spill or vessel collision. I consider both types of effect, below.

Adverse Effects

The Commission found that routine conduct of the exploratory drilling and support activities proposed in Gulf's POE by themselves will not significantly affect marine species in the vicinity of the activities. Revised Findings at 3-4. This finding is in accord with Federal agency evaluations of the project.

On June 8, 1983, the U.S. Fish and Wildlife Service (FWS) of the Department of the Interior issued a biological opinion pursuant to the Endangered Species Act which concluded that Lease Sale 73 and subsequent exploration activities would not likely jeopardize the continued existence of the southern sea otter or various other area fauna. Letter from Robert A. Jantzen, Director, U.S. Fish and Wildlife Service, to Anthony J. Calio, Deputy Administrator, National Oceanic and Atmospheric Administration (NOAA) 1-2 (August 6, 1985).

Likewise, the National Marine Fisheries Service (NMFS) of the Department of Commerce, which has jurisdiction over grey whales and fishery resources in Federal waters, in comments on Gulf's appeal stated that the planned seismic exploration and exploratory drilling would not significantly harm living marine resources under its purview. Memorandum from William G. Gordon, Assistant

Administrator, NMFS, to Anthony J. Calio, Deputy Administrator, (NOAA) (July 22, 1985).

Accordingly, I find that the routine conduct of the activities proposed in Gulf's POE by themselves will not have a significant adverse effect on marine species in the coastal zone.

Based on an extensive review of evidence pertaining to the effects of drilling muds and cuttings on marine habitat areas and biota, the Commission found that discharges from an individual exploratory well located more than 1000 meters from the coastal zone generally do not adversely affect the natural resources of the coastal zone. Revised Findings at 4.

Since under Gulf's POE the closest possible location for an exploratory well would be over 4000 meters from the coastal zone, I find that drilling muds and cuttings from the well by itself will not cause any significant adverse effects on the natural resources of the coastal zone.

Further, because the proposed drilling will be located over three miles from the shoreline and will take only about 60 days, I find that the activities proposed in Gulf's POE will have an insignificant short-term adverse visual impact on the sea view from the shoreline.

With respect to interference with commercial and sport fishing, the Commission found that Gulf's proposed exploratory drilling would not interfere with trawling in the area. Id. at 5. However, the Commission, without specifying how, or to what extent, found that nearshore commercial fishing operations may be displaced. Id. Presumably, this would be because of support vessels traveling to and from the drillship, although I note that Gulf's POE contemplates helicopter access for crew members and small supplies. Environmental Assessment at 6. Gulf sent a notice of the proposed project to the Fishermen's Liaison Office in Santa Barbara, and to the Marine Advisory Program for publication in the Oil and Gas Project Newsletter for Fishermen and Offshore Operators, in an effort to bring to light any potential problems perceived by fishermen in the Santa Maria and the Santa Barbara areas. The notice was published in five consecutive monthly issues and yet Gulf did not receive any complaints from fishermen. Gulf's Brief at 20; Gulf's Brief, Exhibit 6, Vol. 1, Appendix D.

While drillship support activities such as the passage of a support vessel conceivably could cause a minor momentary displacement of nearshore commercial or sport fishing operations, there is nothing in the record to indicate that any such displacement or disruption would be significant or substantial.

Therefore, I find that the activities proposed in Gulf's POE will not cause any significant adverse effects on sport or commercial fishing in the coastal zone.

I will discuss adverse effects from air emissions from the activities proposed in Gulf's POE under Element III of Test I.

With respect to adverse effects arising from geologic hazards from the activities proposed in Gulf's POE, the Commission found that the activities would be conducted in a geologically safe manner. Revised Findings at 5. I find that no significant adverse effects on the natural resources of the coastal zone will arise because of any geologic hazard associated with the activities proposed in Gulf's POE.

I will consider adverse effects which could arise from any hazard to vessel traffic safety caused by the activities proposed in Gulf's POE in the context of accidental occurrences below.

Cumulative Adverse Effects

The Commission argues that the activities proposed in Gulf's POE together with other activities affecting the coastal zone cumulatively will have significant adverse effects on the California coastal zone. Gulf's tract is nearly adjacent to California's three-mile coastal zone. The Commission characterizes the portion of this zone nearly adjacent to Gulf's tract as being relatively undeveloped, environmentally sensitive and scenic. Commission's Response to Agency Comments, Letter from Ray Gorman and Carolyn Small, Commission, to Robert J. McManus, General Counsel, NOAA 3 (September 5, 1985) [hereinafter Commission Response to Comments].

The Commission has identified support vessel traffic, air pollutant emissions, and drill mud and cutting discharges as possibly having significant cumulative adverse effects on the natural resources of the coastal zone. The Commission also states that it is concerned with cumulative impacts on marine and coastal biota and commercial fishing. Revised Findings at 10.

Gulf in its supporting brief presents Interior data showing that on the ten leases proximal to tract P 0505, exploratory activities are occurring on only two leases - P 0408 (6 miles west of P 0505) and P 0434 (20 miles south of P 0505) and only one proposed development plan has been filed. Gulf's Brief at 24, Exhibit 7; Gulf Summary Statement, Exhibit A. In addition,

Gulf cites a California Air Resources Board (CARB) finding that while exploratory drilling is scheduled before and after Gulf's proposed drilling, no OCS emission sources will be near Gulf's exploratory vessel during the drilling of the well. Gulf argues that the number of drilling rigs active offshore California has declined from a high of 13 in 1983, to five as of July 31, 1984, and that a further reduction is anticipated. Gulf's Brief at 25. Gulf urges that I conclude that because of the decrease in exploratory drilling "coupled with the intermittent and dispersed nature of ongoing and anticipated activities in the Santa Maria Basin OCS area," it is reasonable to conclude that air emissions from the project will not create cumulative impacts which affect the [resources of the coastal zone]." Id. at 24-25.

Apparently, the Commission would have me weigh the entire body of adverse effects from all activities affecting the coastal zone against the objected-to activity's contribution to the national interest. Exactly what part of the coastal zone the Commission would have me consider is unclear since part of the Commission's argument focuses on the generally undeveloped nature of the California coast nearly adjacent to tract P 0505 while other parts focus on activities up and down a great area of the California coastline.

Gulf, on the other hand, apparently would have me consider activities only in the "Santa Maria Basin, OCS area" and then would have me weigh effects from the activity itself together with only those cumulative adverse effects which the activity "creates" or "causes."

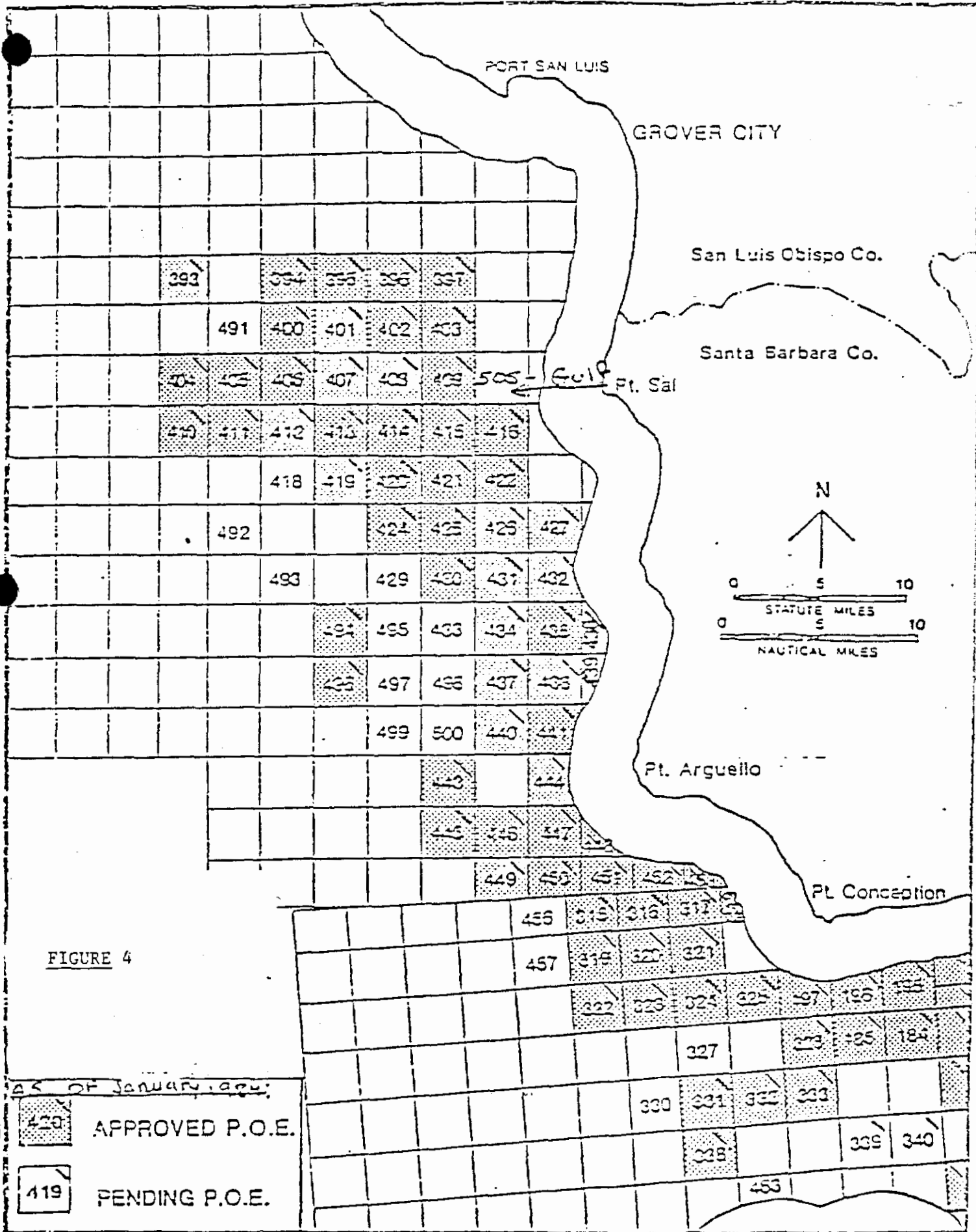
I find neither of these positions persuasive and choose rather to construe the term "cumulative effects" in 15 CFR §930.121 as meaning the effects of an objected-to activity when added to the baseline of other past, present and reasonably foreseeable future activities occurring in the area of, and adjacent to, the coastal zone in which the objected-to activity is likely to contribute to adverse effects on the natural resources of the coastal zone. This interpretation allows me fairly to weigh the national interest of the objected-to activity against those adverse effects which the activity itself causes or to which it contributes. For activities which are temporary or short term, such as the drilling of an exploratory well over a 60-day period, effects which would not be present after that time, such as the risk of a vessel collision, air pollutant emissions, and adverse visual impact, would not cumulate with future actions after that time period, but only with similar effects scheduled to be occurring during the drilling period.

Initially, I must determine what portion of the coastal zone and adjacent OCS should be considered for purposes of cumulative impact analysis -- that is, what boundaries, if any, should confine my determination of past, present, and reasonably foreseeable future activities which might have cumulative adverse effects to which the objected-to activity contributes or causes. For example, the California coastal zone has a shoreline of well over 1000 miles. In order to make the cumulative balancing workable and meaningful, the zone of activities to be considered, as I have said, should be those activities located in an area where the objected-to activity could reasonably be expected to affect.

For purposes of the present appeal, I have chosen the activities in an area which falls between the area urged by the Commission (an area bordered by the northernmost border of Lease Sale 73 and in the south by the Channel Islands near Santa Barbara), and that of Gulf (an area embracing only the lease tracts immediately adjacent to P 0505) since I do not believe that the objected-to activity could reasonably be expected to add to activities which have natural resource impacts from any larger area. The area I have chosen is bordered on the north by the northernmost border of Lease Sale 73 tract 154 (west of Culver City) and on the south by the southernmost border of OCS Tracts 0424-0427. See Figure 3. For purposes of this appeal, I shall refer to this area as the northern Santa Maria Basin.

Part of the northern Santa Maria Basin will be covered by an EIR/EIS being prepared for Cities Service's Development and Production Plan (DPP) for a tract immediately west of Gulf's P 0505. Commission's Response to Appeal, Exhibit A, Notice of Preparation of Draft EIR/EIS 2 [hereinafter Notice of Cities Service EIS]. The Commission argues that completion of the Cities Service EIS is needed to determine the cumulative effects of the activities proposed in Gulf's POE and that I must defer making these findings until the EIR/EIS is completed and made available to me. I disagree. Given the very small incremental additions expected from the activities proposed in Gulf's POE and their short term or temporary nature, the information already in the record on Cities Service's Development and Production Plan (DPP) and other projects in the northern Santa Maria Basin, including the information in the Final Environmental Impact Statement for OCS Lease Sale No. 73 prepared by MMS in 1983, delaying my decision until the Cities Service final EIS is available is not required.

For example, the Commission has certified the consistency of POEs for lease tracts to the south and west of P 0505 in the northern Santa Maria Basin, and it is reasonable to assume that such exploratory drilling will take place. See Figure 4; Revised



Findings at 3. Earlier exploratory drilling on P 0408 (6 miles west) and on Cities Service's tract, both in the Basin, have uncovered oil and gas reserves, and an application for exploratory drilling on P 0403 (cater-corner to Gulf's tract) is expected. Gulf's Brief, Exhibit 1, Consistency Certification and Staff Recommendation 3 [hereinafter Staff Recommendation]. 3/ The MMS has estimated that seven platforms will be necessary to develop the northern Santa Maria Basin, and Cities Service has filed a DPP which proposes an onshore treatment facility and pipeline stemming from the development of its lease tract bordering P 0505. See Figure 4; Commission's Response to Appeal, Exhibit B, Memorandum from Thomas W. Dunaway, MMS, to Regional Supervisor, Office of Field Operations, MMS (January 29, 1985). Thus, it is clear that a fairly high level of exploration activities will be occurring in the northern Santa Maria Basin but not necessarily at the same time Gulf would be drilling. It is also clear that no development activities are now occurring in the northern Santa Maria Basin and none are projected until 1987. Summary Statement at 15. Therefore, the activities proposed in Gulf's POE likely will occur at a time when they will not contribute to other possible adverse effects from oil and gas exploration and development activities in the Basin.

The Final Environmental Impact Statement for OCS Lease Sale 73 presents considerable information on an area adjacent to the California Coastal Zone which includes the northern Santa Maria Basin. Gulf's Brief, Final Environmental Impact Statement for OCS Lease Sale No. 73 II-2 [hereinafter FEIS for Lease Sale 73]. The unavoidable adverse impacts of offshore oil and gas exploration and development for the entire OCS Lease Sale 73 area (including cumulative impacts) are presented as follows:

Offshore operations would have low to very low unavoidable impacts on water quality. Drilling, construction activities, and pipe laying would cause an increase in turbidity in surrounding waters. Discharge of treated sewage from rigs and platforms would increase levels of suspended solids, nutrients, chlorine, and BOD in a small area. Chronic spills from platforms and the discharge of formation waters would cause increases in hydrocarbons and possibly trace metals in the surrounding waters. Moderate impacts on water quality would be expected from the one predicted oil spill in the proposed lease sale area.

Offshore oil and gas development would cause slight increases in onshore concentration of NO_x , SO_x , TSP, CO and O_3 . Emission controls or appropriate emission offsets may be necessary to insure compliance with ambient air quality standards. This could limit growth of certain onshore industrial activities.

Minor alterations in subtidal benthic communities would occur in the vicinity of production platforms and drilling and pipeline laying and burying operations. Toxic materials from the discharge of drilling fluids and cuttings may adversely affect some hardbottom communities in a limited area in the vicinity of platforms.

High mortality to the northern fur seal population requiring one or two decades for recovery could occur if the one oil spill expected to contact the Northern Channel Islands buffer zone were to take place during pupping or breeding season. Low to moderate mortality to the California seabird population requiring five to 10 years for recovery would occur due to the oil spill expected to contact the Northern Channel Islands buffer zone. Low impacts to seabirds would be expected in other areas. A small mortality to endangered or threatened brown pelicans, sea otters, and gray whales would be expected with recovery occurring in less than two years.

Moderate impacts would be expected to trawl fishermen in the proposed lease sale area causing a 10 to 20 percent economic loss to the trawl fishing industry for at least three years. Overall, the expected regional impacts to commercial fisheries would be low (less than a 10 percent economic loss to the industry).

The proposed project would cause minor degradation in visual quality from offshore structures.

High impacts to Port San Luis (or an alternative site that is approved by State and local planning jurisdictions) would be expected due to the need for additional docks, berths, and related facilities. Low impacts to marine traffic offshore Central California and the Santa Barbara Channel would occur due to increases in tanker traffic, support vessel activity, and number of offshore structures.

Impacts on military operations would be expected due to an increase in the surveillance/clearing efforts of an area prior to hazardous operations, and a small increased risk of potential life/property threatening accidents. Although serious impacts to military operations are expected as a result of the proposal, all except the impacts listed above could be avoided by the adoption of military stipulations.

No significant unavoidable, adverse impacts to other resources would be expected. However, although unlikely, the proposal could result in: 1) damage or destruction of a few marine

cultural resources by structure siting and anchoring or by oil spills; and 2) damage to biological or other resources from oil spills.

FEIS for Lease Sale 73, IV-255 to 56 (cross references omitted).

Since Gulf's proposed activity would impact only the northern Santa Maria Basin, a much smaller area than that baselined in the FEIS for Lease Sale 73 and an area where considerably less activity has taken place, is taking place, or is projected to take place, the adverse cumulative impacts from Gulf's proposed activity will be substantially less. This is especially true since Gulf's proposed activity is temporary and short-termed and so would be most of its effects.

The Commission has articulated that Gulf's activity will have cumulative adverse effects but has not well-documented what these effects will be. Much of what the Commission has placed in the record pertains to activities outside of the northern Santa Maria Basin which can not reasonably be expected to cumulate with activities from that area. With respect to the cumulative effects of drilling muds and cuttings, the Commission cites its General Policy Statement on the Ocean Disposal of Drilling Muds and Cuttings which states that while drilling muds and cuttings from an individual well located at least 1000 meters from the coastal zone will not have an adverse effect on coastal zone resources, the cumulative effect of drilling muds and cuttings could adversely affect coastal zone resources. A restrictive NPDES permit, to which Gulf has agreed, limits the metal content of drilling muds, eliminates the use of diesel fuel, requires the use of low toxicity muds, and bars the discharge of mud containing any substances other than those approved by the Environmental Protection Agency (EPA). Gulf's Brief, Exhibit 10, Letter from Mike Muse, Chief, Permits Administration Section, Office of Policy and Management, EPA, to L.M. Wilson, Manager, Gulf (March 18, 1985). Given the level of drilling activity expected for the northern Santa Maria Basin and the restrictive NPDES permit, I find that significant adverse cumulative effects from drilling muds and cuttings are not likely.

With respect to cumulative interference with commercial fishing operations, most of what the Commission cites pertains to other areas. For example, the Commission cites a Central Santa Maria Basin Draft EIR/EIS as presenting data on how offshore oil and gas development is or will interfere with set gear fishermen. Commission Response to Appeal at 23-24. As to the northern Santa Maria Basin, the record shows that while there could be some interference in that area, there will not be substantial interference there given the schedule of development and the short drilling period.

The Commission states that there will be cumulative adverse effects on marine resources and species from the construction and operation of offshore and nearshore facilities. Commission Response at 24. As proof, the Commission states that large scale onshore processing and disposal of waste water at Santa Maria, Oceana, Gaviota, Coal Oil Point, and Las Flores could lead to cumulative oxygen depletion and ammonia related stress and that geoseismic exploration activities could cause significant adverse effects on cetaceans. *Id.* at 24. Once again, most of the sources cited lie outside of the northern Santa Maria Basin. Given my findings regarding the temporary and insignificant adverse effect on marine resources and species that would be caused by the activities proposed in Gulf's POE and based on information in the record concerning adverse effects on marine resources and species from all activities in the northern Santa Maria Basin which could affect the adjacent coastal zone, I find that Gulf's activities will not cause substantial cumulative adverse effects on marine resources and species in the coastal zone.

Before considering adverse effects associated with non-planned or accidental events, I also must consider any adverse effects associated with the emission of air pollutants from the activities proposed in Gulf's POE. In this context, I have considered both emissions from the activities proposed in Gulf's POE by themselves and emissions from those activities in combination with existing or expected levels of pollution which of course come from a wide variety of sources both within and without the northern Santa Maria Basin. While I will discuss my rationale for the following findings under Element III of Ground I below, I find that by themselves or in combination with emissions from other sources affecting the air quality of the coastal zone, the emissions from the activities proposed in Gulf's POE will not cause significant adverse effects on the natural resources of the coastal zone.

Adverse Effects Which Could Arise By Accidental Events

The Commission found and argues that while marine resources and species in the vicinity of the activities proposed in Gulf's POE would not be significantly impacted by routine operations, in the event of an oil spill, there could be extreme adverse impacts on them. Revised Findings at 4; Commission Response at 25.

Gulf argues that the risk of an oil spill is extremely low and that it has proposed adequate measures to mitigate the effect of an oil spill should one occur. Gulf's Brief at 2. To support this assertion, Gulf cites its Oil Spill Risk Analysis which shows that from 1980 to early 1983, only 4.1 barrels of oil were spilled as a result of OCS exploratory drillings, and that a major oil spill from exploratory drilling activities has

never occurred offshore the U.S. Id. at 1, Exhibit 6, Vol. 2, Appendix B, Oil Spill Risk Analysis 4 [hereinafter Oil Spill Risk Analysis]. Gulf also notes that its proposed drilling site is remote from reserves, refuges, marine sanctuaries, and other biologically-sensitive areas established to protect threatened species and that MMS and the United States Coast Guard had approved its Oil Spill Contingency Plan which provides state-of-the-art on site containment equipment, cleanup equipment and personnel training. Gulf's Brief at 18; Revised Findings at 7.

In an August 8, 1985 letter, FWS indicated that while certain portions of the lease area were highly vulnerable to oil spills, the possibility of a blowout during exploration was remote and it had approved the exploration as set forth in the POE and the Oil Spill Contingency Plan with this in mind. Letter from Robert A. Jantzen, Director, U.S. Fish and Wildlife Service, to Anthony J. Calio, Deputy Administrator, NOAA (August 6, 1985).

I have considered the information submitted by the parties regarding the risk of an oil spill from the activities proposed in Gulf's POE by themselves, including the potential effects on the southern sea otter and other marine life, as well as the comments of the Federal agencies charged with preserving living resources of the area. I note that the tract itself is located outside a 12-mile buffer zone surrounding the designated sea otter range 4/ which was created at the request of the Commission in its environmental review of Lease Sale 73. Gulf's Brief at 19; Revised Findings at 2. I also recognize that the drilling will take only 60 days and all other activities proposed in Gulf's POE no longer than 30 additional days.

The Oil Risk Spill Analysis, which I find has not been refuted by the Commission, shows that most large oil spills involve tanker accidents and platform production equipment failures; Gulf's proposed project contemplates neither. Oil Spill Risk Analysis 3. I find that spills also could result from a vessel colliding with the drilling vessel, but the likelihood of this occurring appears from the record to be extremely small. Id. at 5. Moreover, a computer modeling analysis of oil slick movements shows that if a spill occurs, the oil likely would travel to the south, southwest or southeast of the lease tract, away from the otter range. Id. at 8-10, 48-59.

I also note that although FWS expressed concern about the effects of an oil spill, it still approved Gulf's POE and Oil Spill Contingency Plan, and that NMFS did not see significant harm to migrating grey whales or fishery resources.

Accordingly, I find that the risk of an oil spill from Gulf's proposed exploratory drilling, well, and support activities is very low, and the possibility of a major oil spill from those activities which could threaten the southern sea otter or the migrating grey whale is even lower.

In order to weigh adverse effects associated with an accidental event, I must multiply the expected effects of the event by the chance of its occurring (normally the risk will be less than one). Since the chance of a significant oil spill occurring during the limited exploratory drilling proposed in Gulf's POE is extremely low, the weight I assign to the adverse effects associated with a major oil spill in this instance is relatively small. While the chance of a small spill of a few barrels of oil is much higher, the effects of such a spill would be very minor, and when multiplied by the chance factor, the total adverse effect is negligible.

While if a loaded oil tanker should collide with the drill vessel, the effects of such a collision on the natural resources of the coastal zone could be severe. But the risk of such a collision is extremely small given that the drill vessel would not be sited where a substantial hazard to vessel traffic might result from the vessel or related operations. Revised Findings at 10. Risks of vessel collisions are further reduced by Gulf's commitment to use an automated radar tracking aid with an audible alarm. Id. at 11. Thus, the weight I assign to the adverse effect associated with a spill as a result of a vessel collision is also relatively small.

The risk of an oil spill from all present and reasonably foreseeable future activities in the northern Santa Maria Basin, including the activities proposed in Gulf's POE, is obviously much higher. However, since all of Gulf's proposed activities will take place over, and be completed during, a maximum 90-day period, I am only concerned here with the cumulative risk and potential effects from Gulf's proposed activity that will be ongoing during that period. As I found earlier (See discussion at p. 10), the activities proposed in Gulf's POE will not likely occur while other oil and gas exploration and development activities are occurring in the Basin. Even if some of the scheduled oil and gas exploration and development activities for the northern Santa Maria Basin were to take place at the time Gulf was conducting its activity, the additional risk would not be significant.

National Interest

Commerce sought the views of the Department of Energy, Interior, Labor, State, Transportation, and Treasury on the national interest in Gulf's project. Their comments are summarized below:

The Department of Energy observed that it is important to begin leasing and exploration of Outer Continental Shelf resources in advance of projected need, that estimates of undiscovered oil and gas have been revised downward, and that data derived from Gulf's exploratory drilling would be valuable in itself. Letter from Danny J. Boggs, Deputy Secretary, to Anthony J. Calio, Deputy Administrator, NOAA 2, 3 (August 5, 1985).

The Department of the Interior stated that potential production from Gulf's tract could contribute to the achievement of national economic goals by improving the U.S. trade position through less reliance on foreign oil imports, making domestic oil and gas resources available as soon as possible, and helping the nation achieve energy self-sufficiency. Letter from J. Steven Griles, Deputy Assistant Secretary, Land and Minerals Management, to Anthony J. Calio, Deputy Administrator, NOAA 3 (August 7, 1985.)

The Department of State indicated that most new discoveries of U.S. oil and gas are in small fields like Gulf's, and new discoveries would contribute to the national interest in having an adequate supply of energy. Letter from E. Allan Wendt, Deputy Assistant Secretary for International Energy and Resources Policy, to Anthony J. Calio, Deputy Administrator, NOAA 1 (July 24, 1985).

The Department of Labor stated that exploratory drillings of the type proposed by Gulf could lead to a more accurate picture of what resources are available for development and should be allowed in the national economic interest. Letter from Everson Hull, Deputy Assistant Secretary for Policy, to Anthony J. Calio, Deputy Administrator, NOAA 1 (July 19, 1985).

The Department of Transportation found that, in general, the development of oil and gas which could decrease dependency on foreign fuel sources, investment in the project stimulating economic growth and increase employment, and increased tax revenues would contribute to the national interest. Letter from Joseph Canny, Director, Office of Transportation and Regulatory Affairs, to Anthony J. Calio, Deputy Administrator, NOAA 1 (July 30, 1985).

The Department of the Treasury noted that while Gulf's tract at most contains only 0.1 percent of known recoverable reserves, there are still significant national interest benefits from general exploration and development of domestic energy resources.

Letter from Manuel H. Johnson, Assistant Secretary for Economic Policy, to Anthony J. Calio, Deputy Administrator, NOAA 1 (July 19, 1985).

Gulf maintains that its exploratory drilling serves the national interest expressed in the CZMA and the Outer Continental Shelf Lands Act (OCSLA) in attaining energy self-sufficiency. Gulf's Brief at 13, 15. Gulf states that the primary purpose of its exploratory drilling operations is to confirm the existence of oil and gas reserves in sufficient quantity to justify commercial development, and estimates that 30 million barrels of oil and 30 billion cubic feet of natural gas may be present in this tract. Id. at 15.

The Commission argues that a significant national interest is promoted by effective state planning for activities which impact the coastal zone. Commission's Response to Appeal 15-16. However, I fail to see how this national interest is not promoted by Gulf's planned exploratory well which will augment oil and gas reserve information available to local planners.

The Commission also states that national interest considerations involve more than oil and gas related development, and that a significant national interest in the protection of coastal zone resources was recognized by me in my November 9, 1984 decision regarding an appeal by Union Oil Company. Commission Response to Appeal 15 (citing Decision and Findings in the Matter of Union Oil Company 16, 17 (November 9, 1984) 50 FR 872 (January 7, 1985)) (hereinafter Union Decision).

Indeed, there is a strong national interest in protecting living marine resources, and I have already found above that the activities proposed in Gulf's POE by themselves will not have a significant adverse effect on living marine resources. While there could be significant adverse impacts on marine species in the event of an oil spill from any of the cumulative activities which could occur in the northern Santa Maria Basin, the probability of a spill causing a significant long-term adverse effect is low and the additional risk added by the activities proposed in Gulf's POE is insignificant.

Although not predicted to tap into reserves the size of the Exxon Santa Ynez Unit project (300-400 million barrels of oil and 600-700 billion cubic feet of gas), I find that Gulf's POE will further the national interest in attaining energy self-sufficiency by delineating information concerning the oil and gas reserves available for production from one area of the northern Santa Maria Basin.

Balancing

Above I have found that the activities proposed in Gulf's POE by themselves will have an insignificant adverse effect on the natural resources of the coastal zone. I have also found that

these activities will contribute only a very small increment to the adverse effects on the natural resources of the coastal zone from existing or planned activities in the northern Santa Maria Basin and that most of this increment is temporary and will cease when the very short term (90 days or less) exploratory activities proposed in Gulf's POE are completed.

I have also discussed the cumulative adverse effects on the natural resources of the coastal zone adjacent to the northern Santa Maria Basin. Most of these known effects are not substantial. While I have not precisely quantified the adverse effects from an oil spill, I found that the risk of an oil spill from Gulf's proposed exploratory drilling well and support activities is very low, and the possibility of a major oil spill from those activities which could threaten the southern sea otter or the migrating grey whale is even lower. I also found that the activities proposed in Gulf's POE will not likely occur while other oil and gas exploration and development activities are ongoing in the Basin. Even if some of the scheduled oil and gas exploration and development activities for the northern Santa Maria Basin were to take place at the time Gulf was conducting its activity, the additional risk would not be significant.

I also found that the activities proposed in Gulf's POE will further the national interest in attaining energy self-sufficiency by delineating information concerning the oil and gas reserves available for production from an area of the northern Santa Maria Basin. Therefore, I conclude that the adverse effects on the natural resources of the coastal zone of the proposed the proposed activity when performed separately or cumulatively are not sufficient to outweigh its contribution to the national interest.

Third Element: Activity Will Not Violate Clean Air Act and Clean Water Act

Section 307(f) of the CZMA (16 U.S.C. §1456(f)) incorporates the requirements of the Clean Air Act and the Federal Water Pollution Control Act in all State coastal programs approved under the CZMA.

Sections 301(a) and 402 of the Federal Water Pollution Control Act, as amended (hereinafter the Clean Water Act) (33 U.S.C. §§ 1311(a) and 1342) provide that the discharge of pollutants is unlawful except in accordance with a National Pollution Discharge Elimination System (NPDES) permit issued by the Environmental Protection Agency (EPA).

An individual NPDES permit covering discharges from oil and gas facilities operating on P 0505, including the disposal of drill muds and cuttings, was issued by EPA in March 1985 subject to

concurrence by the Commission. Gulf's Brief, Exhibit 10, Letter from Mike Muse, Chief, Permits Administration Section, Office of Policy and Management, EPA, to L.M. Wilson, Manager, Gulf 1 (March 18, 1985). This permit restricts the discharge of toxic substances and contaminated products to the maximum extent justified by the Clean Water Act or the EPA Ocean Discharge Criteria regulations. Id. at 3.

Moreover, the Commission found that the muds and cuttings discharge associated with Gulf's proposed exploratory well had been mitigated to the maximum extent feasible and therefore was consistent with section 30260(3) of the California Coastal Act. Revised Findings at 5.

Because Gulf cannot conduct its proposed exploratory drilling without meeting the terms and conditions of EPA's NPDES permit (and thus meet the standards of the Clean Water Act), I find that Gulf's proposed well will not violate the requirements of the Clean Water Act.

Section 109 of the Clean Air Act (CAA) (42 U.S.C. §7409) directs the Administrator of EPA to prescribe national ambient air quality standards (NAAQSs) for air pollutants to protect the public health and welfare. Section 110 (42 U.S.C. §7410) requires each state to prepare and enforce an implementation and enforcement plan for attaining and maintaining the NAAQSs for the air mass located over the state.

The California Air Resources Board (CARB) identified the major sources of air pollutants from Gulf's POE as the large diesel engines on the drilling vessel, flaring during well testing, and vessels used to transport workers and supplies to the well site. Revised Findings, Exhibit 4, Letter to Michael Fischer, Executive Director, Commission, from James D. Boyd, Executive Director, CARB 1 (November 2, 1984). After Gulf completed a cumulative analysis, CARB reviewed the models and found that air quality standards would not be exceeded if Gulf completed its drilling by the end of April, as promised. Gulf's Brief, Exhibit 9, Letter from James D. Boyd, Executive Director, CARB, to Michael Fischer, Executive Director, Commission 1, 2 (February 19, 1985). CARB also conducted an independent worse case analysis for ozone emissions for the month of April and determined that Gulf's proposed single exploratory well would not violate state or Federal ozone AAQSs. Id. at 2.

The Commission's objection to Gulf's POE was based originally on the possibility that Gulf's drilling would extend into the "ozone season" occurring between April and October. Revised Findings at 9. As noted above, Gulf has agreed to complete its drilling by the end of April. Therefore, the CARB found no air quality violations would occur.

The Department of the Interior has exclusive jurisdiction under the Outer Continental Shelf Lands Act (OCSLA) to regulate air emissions from oil and gas activities on the OCS. California v. Kleppe, 604 F.2d 1187 (9th Cir. 1979). Interior must set these emission standards at levels permitting state and local governments to attain the air quality standards of the CAA. 604 F.2d at 1196; Exxon Santa Ynez Decision at 13. The Secretary of the Interior has also promulgated regulations ensuring compliance with CAA ambient air standards for OCS activities, including exploratory drilling, which affect the air quality of a state. See 45 FR 15142. Gulf must comply with these regulations. Environmental Assessment at 8-9.

Because Gulf cannot conduct its proposed exploratory drilling without complying with Interior's regulations and has agreed to complete its drilling activities by April 30, it appears Gulf's single proposed exploratory well will meet the relevant standards of the Clean Air Act. Accordingly, I find that Gulf's proposed activity will not violate any requirement of the Clean Air Act.

Fourth Element: No Reasonable Alternative Available Permitting the Proposed Activity to be Conducted in a Manner Consistent with the State Coastal Management Program

The Commission admits that Gulf has agreed to measures which would mitigate the adverse impacts of the project to the maximum extent feasible and that no environmentally preferable location can be found. Revised Findings at 12. As an alternative to Gulf's project, originally scheduled to begin in the Spring of 1985, the Commission asks that Gulf delay its exploratory drilling until local government planning for pipelines, onshore processing facilities and other industrial infrastructure can be completed. Commission Response to Appeal 28.

The Commission argues that proper planning, in advance of project approvals, will enable the Commission and Gulf to identify additional mitigation measures to compensate for cumulative development harm. Commission Response to Comments 8. The Commission states that Gulf's mitigation measures may be adequate, but that the Commission does not have adequate information concerning cumulative development impacts to make a judgment. Id. The Commission admits that local planning may take "several years" but points out that Gulf's proposed project is not entirely foreclosed, only delayed, and that the oil and gas reserves would still be available for exploration once a planning structure is in place. Id. at 7; Commission Response to Appeal at 28.

In response, Gulf argues that it has provided adequate information concerning cumulative effects to the Commission and that planning for onshore treatment facilities is unnecessary because its project does not require any. Gulf's Summary Statement 12-14, 27.

The Commission has identified at least two prerequisites for proper local planning: (1) the completion of an EIR/EIS for the first Development and Production Plan filed for the northern Santa Maria Basin, and other ongoing but unidentified environmental studies; and (2) the deferral of exploration and development of all Lease Sale 73 tracts, including Gulf's P 0505, until OCS tracts leased earlier have been fully developed.

The Commission notes that a joint EIR/EIS is now being prepared by MMS and San Luis Obispo County which will discuss the northern Santa Maria Basin. Commission Response to Appeal at 13. This EIR/EIS concerns a DPP proposed by Cities Service Oil and Gas Corporation covering a lease tract directly west of Gulf's parcel. Id. at 10, 11. The Cities Service EIS is expected to be completed in the Spring of 1986 and production from the Cities Service site is expected to begin at the earliest in the Spring of 1987. Commission Response to Appeal at 1; Summary Statement at 11.

The Commission also points out that I have found the deferral of development appropriate where completion of environmental studies and planning is necessary. Commission's Response 12, 13 (citing Exxon Santa Ynez Decision at 12). This information is critical, according to the Commission, because Gulf's project reports inadequately address cumulative effects in conjunction with the growth of onshore and offshore facilities. Commission Response to Appeal at 13.

Gulf argues that the Cities Service EIS does not deal with potential production from Gulf's lease, as P 0505 lies outside the reservoir delineated by Cities Service's exploratory drilling, and the hypothetical locations of wells in the EIS do not include one from Gulf's tract. Summary Statement at 11; See Figure 5. Gulf also states that while the Cities Service EIS will provide "baseline information" to evaluate other DPPs, other lessees desiring to construct additional platforms must conduct site-specific studies subject to full National Environmental Policy Act compliance. Notice of Cities Service EIS at 3.

Gulf contends that extensive planning and environmental studies for development are unnecessary for its one exploratory well and that infrastructure planning can only be accomplished once exploratory drilling delineates the oil and gas reserves to be developed, if any. Summary Statement at 10. As an example, Gulf points to the exploration of the Atlantic OCS, where the reserves found were insufficient to warrant development. Id. at

3. Gulf also observes that the Exxon Appeal cited by the Commission concerned development activities and that the EIR/EIS in that case was specifically for the Exxon project. Id. at 10. The Commission also recommends delaying the exploration of Gulf's tract, as part of Lease Sale 73, until after other OCS tracts leased in earlier sales have been fully exploited. This "phased development," in the Commission's opinion, would allow local governments to determine the full extent of development impacts and assist them in consolidating redundant onshore structures and mitigating environmental harm. Gulf's Summary Statement at 27. However, Gulf states that if commercial reserves are discovered, consideration would be given to consolidating facilities or to unitizing common reserves, but that this determination can only be made after subsurface data are acquired through exploratory wells. ER, Appendix C at 54, 55.

As I have stated in earlier appeals, Commerce regulations governing consistency appeals at 15 CFR 930.121(d) indicate that an alternative to an objected-to activity may require changes in "location" or "design" of the activity. I have also found in earlier appeals that changes in "timing" could also be required. Union Decision at 12. Whether an alternative will be considered reasonable depends upon its feasibility and upon balancing the estimated increased costs of the alternative against its advantages. Decision and Findings in Exxon Santa Rosa Appeal 14 (November 24, 1984), 50 FR 324 (January 3, 1985).

In support of the feasibility of delaying Gulf's exploratory drilling until after local planning has been completed, the Commission points out that the resources still will be available at a later date and that Gulf may benefit by tapping into existing processing, transportation and treatment facilities rather than creating new infrastructure. Commission Response to Appeal at 28. On the other hand, I note that Gulf's lease will expire in early 1989 unless it produces oil and gas in paying quantities. Gulf's Brief, Exhibit 4, Lease Agreement at 1, 2. After considering these arguments, I find that it is feasible for Gulf to delay its exploratory drilling until after the Cities Service EIS is completed. However, I find it would take a considerably longer time to complete the development of tracts leased in earlier sales, and, therefore, it is more likely that Gulf's lease would lapse before it could begin drilling. Thus, the feasibility of this latter alternative is in doubt.

Even if delaying Gulf's project is feasible, I also must determine whether delaying this single exploratory well until after local planning is complete is also reasonable. I note that the Commission has already approved exploratory wells on almost all lease tracts surrounding Gulf's without the benefit of the Cities Service EIS, and has failed to show why

Gulf's tract should be subject to different treatment. The Initial Findings of the Commission's staff, attached as an Exhibit to Gulf's Brief, indicate that planning for onshore processing and oil transportation facilities is already underway and major decisions from Santa Barbara County and the Commission, regarding the siting and capacity of these facilities, have already been made or will be shortly. Staff Recommendation at 12. See note 3, p. 27. In any case, I also find that Gulf's proposed project will not require any additional onshore facilities and that planning for hypothetical facilities could be premature in this situation.

Although I am sympathetic to the Commission's desire to pace offshore oil and gas exploration and development in order to give state and local governments adequate time to plan for onshore impacts of OCS development, I find in this case that additional time is not required in order to plan for the effects of Gulf's one exploratory well which requires no additional onshore facilities. Whether such planning is required before other tracts can be developed remains to be seen on a case-by-case basis. Local government can continue to evaluate projects and plan for onshore processing facilities even while Gulf is drilling, and may ultimately benefit from the information produced by this well. The Commission also will continue to review all POEs and DPPs from this area, and can control onshore development by not permitting infrastructure to be constructed in sensitive areas.

In summary, although it is feasible for Gulf to delay its proposed drilling for some time because the hydrocarbon resources will still be exploitable, it would be unreasonable to do so in light of the speculative benefit to be derived from the completion of the Cities Service EIS on an unrelated tract for development and production activities, the unproven relationship between the infrastructure planning and Gulf's one exploratory well, and the opportunity for local planning which already exists. Therefore, I find that delaying Gulf's project until after the Cities Service EIS has been completed and pre-Lease Sale 73 tracts fully exploited is not a reasonable alternative.

I find, consequently, that the Commission's recommendation that Gulf delay its exploratory drilling until after the Cities Service EIS is completed and after the full development of pre-Lease Sale 73 tracts is not a reasonable alternative available to Gulf under the test of Element IV. I further find that no reasonable alternative is available to Gulf which would allow its proposed exploration activities to be conducted in a manner consistent with the California Coastal Management Program.

Accordingly, I find that Gulf has satisfied Element IV of Ground I.

Conclusion Regarding Ground I

On the basis of the findings I have made above, I find that Gulf has satisfied all elements of Ground I.

Ground II: National Security

The second statutory ground for sustaining an appeal requires that I find the activity is "necessary in the interest of national security." 15 CFR §930.120. To make this finding, I must determine that "a national defense or other national security interest would be significantly impaired if the activity were not permitted to go forward as proposed." 15 CFR §930.122. I also must seek and accord considerable weight to the views of the Department of Defense and other Federal agencies in determining the national security interests involved in this project, although I am not bound by such views.

Gulf states that its project will further the national security interest by increasing domestic production of oil and gas, thereby reducing dependence on foreign energy sources. Gulf's Brief at 30. Gulf estimates P 0505 reserves at 30 million barrels of oil and 30 billion cubic feet of natural gas. Id. The Commission argues that Gulf has not demonstrated that failure to carry out exploratory drilling on this lease tract will "significantly impair" the national defense or other national security interest or that the proposed project "directly supports" a national defense or security issue. Commission Response to Appeal 30, 31; Commission Response to Comments 2.

The views of the Departments of Defense, Energy, Interior, State, Transportation, and Treasury were sought concerning the national security interest in Gulf's project and are summarized below:

The Department of Defense indicated that no current or planned military operations would be adversely affected by Gulf's proposal, but that anticipated production of 30 million barrels of oil and 30 billion cubic feet of gas would contribute to alleviating future energy supply interruptions, and contribute significantly to domestic energy resources. "[A]ny net gain in or replacement of America's energy resources contributes to national security." Letter from James P. Wade, Jr., Assistant Secretary of Defense, to Anthony J. Calio, Deputy Administrator, NOAA 2 (July 23, 1985).

The Department of Energy found that exploration for production of oil and gas from the OCS plays an important role in supporting national defense and security, and that hydrocarbon production will become even more important in the future. Letter from Danny J. Boggs, Deputy Secretary, to Anthony J. Calio, Deputy Administrator, NOAA 1 (August 5, 1985). Because estimates have been revised downwards, new discoveries will require expeditious exploratory drilling. Id. at 2, 1.

The Department of the Interior commented that any potential production from P 0505 "would be secure from foreign, economic, military or political interruption, and, thus, is important to the national defense and security by permitting a safer and a greater degree of energy self-sufficiency." Letter from J. Steven Griles, Deputy Assistant Secretary, Land and Minerals Management, to Anthony J. Calio, Deputy Administrator, NOAA 3 (August 7, 1985). Damage to national security could also occur from an increased trade balance caused by a need to import more foreign oil. Id.

The Department of State viewed Gulf's proposed exploration as possibly leading to domestic oil production that would make a contribution to U.S. national security. Letter from E. Allan Wendt, Deputy Assistant Secretary for International Energy and Resources Policy, to Anthony J. Calio, Deputy Administrator, NOAA (July 24, 1985).

The Department of Transportation stated that if production results from the exploratory activities and if tankers are used to carry crude oil to domestic refineries, additional employment for U.S. flag vessels, a potential for new tanker construction, and maintenance of militarily-useful vessels could result and thus help to maintain military readiness. Letter from Joseph Canny, Director, Office of Transportation Regulatory Affairs, to Anthony J. Calio, Deputy Administrator, NOAA 2 (July 30, 1985).

The Department of Treasury stated that rejection of POEs could inhibit future exploration and development which would have an aggregate adverse impact on the national security. Letter from Manuel H. Johnson, Assistant Secretary for Economic Policy, to Anthony J. Calio, Deputy Administrator, NOAA 1 (July 19, 1985).

I have found in an earlier appeal that the development of proven oil and gas reserves in the Exxon Santa Ynez Unit (SYU) of 300-400 million barrels of oil and 600-700 billion cubic feet of gas is necessary in the interest of national security. Exxon Santa Ynez Decision at 26. The issue here is whether exploratory drilling to delineate a field estimated to contain considerably less oil and gas reserves than the Exxon SYU directly supports

NOTES

1. While Gulf Oil Corporation was merged into Chevron U.S.A. on July 1, 1985, for purposes of this appeal, Appellant is referred to as Gulf Oil Corporation or Gulf.

2. Gulf also alleges that the Commission's finding of inconsistency is incorrect, but as I have stated in a previous appeal, the validity of a state agency's objection to a consistency certification is not an issue before me on appeal. Decision and Findings of the Secretary of Commerce in the Matter of Southern Pacific Transportation Company 4, 50 FR 4172 (Oct. 15, 1985).

3. The Staff Recommendation was not accepted by the Commission when it reviewed Gulf's POE and consistency certification, and the Staff Recommendation is considered in this appeal only to the extent it reflects factual information before the Commission during its review.

4. Lease P 0505 is located 51 miles south-southeast of the southern boundary of the California Sea Otter Refuge, and the southernmost boundary of the otter range is 15 miles north of the lease site. Gulf's Brief, Exhibit 5, Gulf Response to Commission Comments on Lease Sale 73 at 1; ER, App. 4 at 24-25. A small number of otters have been sighted south of this designated range. Gulf's Brief at 19; Letter to Robert J. McManus, General Counsel (NOAA), from Rachel T. Saunders, Staff Biologist, Friends of the Sea Otter 4 (May 23, 1985).