

CALIFORNIA COASTAL COMMISSION

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Filed: August 15, 1996
90th Day: One-Year Extension
Staff: MH-SF
Staff Report: April 24, 1997
Hearing Date: May 14, 1997

TO: Commissioners and Interested Parties

FROM: Susan M. Hansch, Deputy Director
Alison J. Dettmer, Supervisor, Energy and Ocean Resources Unit
Melanie Hale, Coastal Program Analyst

RE: **SANTA BARBARA COUNTY LCP AMENDMENT 2-96-C**, Measure A96--Voter-approved initiative to require voter approval of onshore support facilities for offshore oil and gas projects located outside of Gaviota and Las Flores Canyon Consolidated Oil and Gas Planning Areas.

SYNOPSIS

BACKGROUND

The County of Santa Barbara submitted Local Coastal Program (LCP) Amendment 2-96 on August 5, 1996. The submittal consisted of three separate components:

- (A) Modifications to the Summerland Community Plan;
- (B) Modifications to the LUP and CZO to address slant-drilling oil and gas development along the Gaviota Coast; and
- (C) Modification of the County's LUP and CZO to incorporate the voter-approval initiative, Measure A96. The initiative subjects to voter approval any County legislative approvals authorizing new or expanded onshore energy facilities for offshore oil and gas projects (unless sited within the consolidated sites at Gaviota and Las Flores Canyons).

This staff report addresses (C) only.

On November 13, 1996, the Commission approved an extension of up to one year for the processing of LCP amendment 2-96-C.

AMENDMENT DESCRIPTION

On March 26, 1996, the Santa Barbara County electorate, by majority vote, approved Measure A96, titled the "Voter Approval Initiative for Onshore Support Facilities to Offshore Oil and Gas Activity." The County proposes to amend its certified LCP by adding text extracted verbatim from Sections 1--3 of "Measure A" to both the Land Use Plan and Implementation Plan (Coastal Zoning Ordinance) components (See Exhibits 1 and 2). Unless the Commission certifies LCP amendment 2-96-C, "Measure A" has no force or effect in the coastal zone.

Measure A requires County voter affirmation of legislative approvals (such as LCP amendments) that authorize or allow the development, construction, installation, or expansion of any onshore support facility for offshore oil and gas activity on the South Coast of Santa Barbara County. Measure A does not apply to approvals allowing development within the County's Gaviota or Exxon Las Flores Canyon Consolidated Oil and Gas Planning Areas. Specific permit approvals are generally considered adjudicatory, rather than legislative, and therefore would not be subject to the provisions of Measure A.

The County has also developed an administrative guideline as a reference for the implementation of Measure A96. The guideline, attached as Exhibit 3, is advisory only. The guideline will not be appended to the LCP, but will be available as a handout at County offices. Since the County has not submitted the guideline for Commission consideration, the guideline will not become part of the certified LCP. As an advisory document only, the guideline will have no force or effect within the coastal zone.

The County's administrative guideline correctly notes that Measure A does not affect the Coastal Commission's authority to review appeals from decisions by the County. Further, the provisions of Measure A do not affect the Commission's authority to consider potential LCP amendments pursuant to the provisions of Public Resources Code Section 30515.

If the voters of Santa Barbara County reject a County-approved Coastal Land Use Plan or Coastal Zoning Ordinance amendment affecting energy facility development, Coastal Act Section 30515 allows the project proponent to seek approval for such an LCP amendment directly from the Coastal Commission. Moreover, actions taken by the Coastal Commission, either directly or on appeal, are not subject to voter approval.

STAFF RECOMMENDATION

The staff recommends that the Commission approve the amendment request as submitted.

I. STAFF RECOMMENDATION

Staff recommends the adoption of the following Motions and Resolutions:

A. Approval of the Land Use Plan as Submitted

Motion I.

I move that the Commission certify the Land Use Plan Amendment 2-96-C to the Santa Barbara County LCP as submitted.

Staff recommends a YES vote on Motion I and the adoption of the following resolution of certification and related findings. A majority of the appointed Commissioners must vote affirmatively to pass the motion.

Resolution I

The Commission hereby certifies Land Use Plan Amendment 2-96-C to the Santa Barbara County Local Coastal Program as submitted. The Commission finds for the reasons discussed below that the Land Use Plan Amendment meets the requirements of and is in conformity with the policies of Chapter 3 (commencing with Section 30000). Amendment 2-96-C to the Land Use Plan as submitted will have no adverse impacts on the environment and is therefore consistent with the requirements of the California Environmental Quality Act.

B. Approval of the Implementation Measures as Submitted

Motion II

I move that the Commission approve the Implementation Plan Amendment 2-96-C to the Santa Barbara County Local Coastal Program as submitted.

Staff recommends a YES vote, which would result in the adoption of the following resolution of certification and related findings. A majority of the appointed Commissioners present must vote affirmatively to pass the motion.

Resolution II

The Commission hereby certifies amendment 2-96-C to the Implementation Plan of the Santa Barbara County Local Coastal Program on the grounds that the amendment to the Local Coastal Program Coastal Zoning Ordinance conforms with and is adequate to carry out the provisions of the LCP Land Use Plan as certified. Amendment 2-96-C to the

Coastal Zoning Ordinance as submitted will have no adverse impacts on the environment and is therefore consistent with the requirements of the California Environmental Quality Act.

II. RECOMMENDED FINDINGS

A. Findings for Resolution I (Land Use Plan)

1. Standard of Review

The proposed amendment of the certified Land Use Plan must meet the requirements of, and conform with, the policies of Chapter 3 of the Coastal Act (Coastal Act Sections 30512--30514)

2. Proposal

The amendment proposal would add new text to Coastal Land Use Plan Section 3.6 INDUSTRIAL AND ENERGY DEVELOPMENT, Subsection 3.6.4 Land Use Proposals as follows (new text shown in underline):

The following section has been added pursuant to the Measure A96 voter approval initiative passed by the voters of Santa Barbara County on March 26, 1996:

Policy 6-5B: Voter Approval

1. Any legislative approvals (e.g. zoning amendment, General Plan amendment, Local Coastal Plan amendment, Development Plan, or other legislative action) which would authorize or allow the development, construction, installation, or expansion of any onshore support facility for offshore oil and gas activity on the South Coast of the County of Santa Barbara (from Point Arguello to the Ventura County border) shall not be final unless such authorization is approved, in the affirmative, by a majority of the votes cast by the voters of the County of Santa Barbara in a regular election. For the purpose of this measure, the term "onshore support facility" means any land use, installation, or activity proposed to effectuate or support the exploration, development, production, storage, processing, or other activities related to offshore energy resources.

2. The voter approval requirement set forth in 1 above shall not apply to onshore pipeline projects or to onshore support facilities that are located entirely within an existing approved consolidated oil and gas processing site at Las Flores Canyon (designated as of June 13, 1995 as APN 81-220-14, 81-230-19) or

Gaviota (designated as of June 13, 1995 as APN 81-130-07, 81-130-52, 81-130-53).

3. The terms, policies, and zoning amendments set forth herein shall expire at the end of twenty-five (25) years after the effective date of this ordinance unless extended by the Board of Supervisors or by another vote of the electorate.

3. Background; Legislative History; Public Hearings

A majority of Santa Barbara County voters approved "Measure A" on March 26, 1996. The initiative requires approval by the voters of legislative approvals by the County that authorize or allow new or expanded onshore facilities related to offshore energy projects. Measure A passed as the result of public response to an onshore-to-offshore directional drilling project first proposed by the Molino Energy Company in 1994. That proposal would have located the slant drilling project on agriculturally designated lands located outside of two consolidated energy development areas (Gaviota, Las Flores Canyon) designated in the County's certified LCP. Strong public opposition to the project, and particularly to its location, persuaded the Molino Energy Company to revise its proposal to a parcel within the Gaviota consolidated oil and gas processing site. Nevertheless, County voters approved Measure A while the revised Molino project was undergoing environmental review.

On July 23, 1996, by a 5--0 affirmative vote, the Santa Barbara County Board of Supervisors amended the County's certified LCP to incorporate the language of Measure A. The Board incorporated verbatim text from the measure into the County's Land Use Plan (Resolution 96-296/96-GP-012) and Coastal Zoning Ordinance (Ordinance No. 4234/96-OA-007). The County also approved a Measure A96 administrative guideline for use within the coastal zone, but the guideline is an informal advisory document only and is not before the Commission for certification.

On September 11, 1996, the Commission certified Santa Barbara County LCP amendment 2-96-B, which for the first time set forth specific policies and provisions to govern the County's consideration of slant drilling projects. The Molino Energy Company's proposal triggered the County's adoption of LCP amendment 2-96-B, which the County processed concurrently with the Molino physical project application during 1996. On November 13, 1996, the Commission approved a one-year time extension for Commission consideration of LCP amendment 2-96-C (Measure A).

Measure A adds a procedural, administrative layer of review and approval (by the electorate of Santa Barbara County) before certain legislative approvals by County decision makers could become final. Coastal Land Use Plan or Coastal Zoning

Ordinance amendments, for example, are legislative actions.¹ As such, these actions would be subject to the provisions of Measure A. Not all discretionary actions by County decision-makers are legislative. For example, the granting of permits, decisions on appeals, and similar actions, are discretionary but not usually legislative actions. These actions apply existing policies and provisions to specific development proposals and therefore are usually considered adjudicatory. Measure A does not apply to adjudicatory actions, and thus such approvals would not require voter affirmation.

No initiative that amends an LCP becomes effective within the coastal zone until it has been reviewed and approved by the Commission. (70 Ops. Cal. Atty. Gen. 220 (1987).)

4. Previous Commission Review of Other Energy-Related Voter Initiatives

The Commission has previously certified two other voter initiatives related to coastal energy development (San Luis Obispo County, San Mateo County).

San Luis Obispo County

San Luis Obispo County LUP Amendment 1-88 (certified by the Commission on February 25, 1988) resulted from an initiative approved by the County voters at the November 4, 1986, general election. Santa Barbara County's Measure A requires voter endorsement subsequent to specified legislative approvals; however, San Luis Obispo County's initiative gave voters the ability to deny coastal development permits. The initiative requires that any permits approved for onshore facilities supporting offshore oil and gas development be approved by the voters of San Luis Obispo County in a general or special election. The County provided a statement clarifying that the initiative applied only to actions taken by the County of San Luis Obispo and not, either directly or on appeal, to actions taken by the Coastal Commission. The actions of the Coastal Commission are not subject to voter approval.

Santa Barbara County's Measure A, in contrast to the San Luis Obispo County initiative, applies only to legislative actions and not to individual permit approvals.

¹ Measure A lists "Development Plans" among the examples of County approvals that may be legislative in character. The Commission has historically treated development plan approvals as "permits" subject to the Commission's appellate jurisdiction. (See, for example, A-E-85-12 (Chevron Gaviota Oil and Gas Processing Facility); A-4-STB-96-048 (Molino Gas Project).) The issue of the precise character of "Development Plan" approvals by the County is outside the scope of the County's request that the Commission certify Measure A as an amendment to the County's LUP. It is thus unnecessary for the Commission to resolve that issue in order to render a decision on the County's LCP amendment request.

San Mateo County

The Commission certified San Mateo County Local Coastal Program Amendment 1-87 on December 10, 1987. That amendment resulted from a voter initiative that in pertinent part: (a) required voter approval of any County revisions of LCP policies affecting the location of energy facilities to serve offshore oil and gas development; and (b) added a prohibition on onshore facilities to serve offshore gas development (the LCP already prohibited such facilities for offshore oil development), unless such prohibition was preempted by the requirements of State or Federal law.

Santa Barbara County's Measure A, in contrast to the San Mateo County initiative, does not affect or revise the existing policies or provisions of the County's certified LCP. Measure A only adds a procedural layer of review (voter approval) before certain legislative actions are finalized (or made ripe for review by the Commission) at the local level.

5. Effects of Measure A

Measure A requires County legislative approvals that would authorize or approve new or expanded onshore facilities to support offshore oil and gas development on the County's South Coast (outside of the two consolidated sites--Gaviota and Las Flores Canyon) to be additionally approved by a majority of the voters of Santa Barbara County. If the voters do not approve a County decision, the subject legislative approval could not be finalized. As the result, the County could not submit for Commission consideration an LCP amendment that failed to receive voter affirmation. Proponents of a voter-rejected LCP amendment could seek the Commission's consideration of their amendment directly, pursuant to the provisions of Coastal Act Section 30515.

If the County voters affirm a decision subject to the provisions of Measure A, the amendment would subsequently be submitted for Commission consideration in the same manner as any other LCP amendment approved by the County.

The only practical affect of Measure A on County actions is to introduce potential delays before a decision could be considered by the voters of Santa Barbara County in a regular election. The amount of time necessary to wait for an election outcome would vary case-by-case.

Measure A has no affect on the Commission's authority to review potential LCP amendments affecting energy facility development in Santa Barbara County. Further, Measure A does not affect potential appeals to the Commission from local decisions affecting major public works projects or major energy facilities, pursuant to the provisions of Coastal Act Section 30603(a)(5).

5. Coastal Act Consistency

As stated previously, the standard of review for a proposed amendment of a certified LUP is that the amendment meets the requirements of the Chapter 3 policies of the Coastal Act (Coastal Act Section 30512). Chapter 3 addresses coastal resources planning and management policies governing public access, recreation, marine environment, land resources, development, and industrial development. The provisions of Measure A do not affect the interpretation or application of the Chapter 3 policies; instead, Measure A simply requires an additional layer of local review (a vote by the County electorate in a regular election) of any County legislative approval that would authorize or allow onshore support facilities for offshore oil and gas activities on the County's South Coast (outside of the two consolidated areas at Gaviota and Las Flores Canyon). Therefore, the Commission finds that Measure A, if incorporated into Santa Barbara County's Land Use Plan as proposed, would pose no inconsistencies with the Chapter 3 policies of the Coastal Act.

6. Coastal Act Section 30515

As explained in the summary, above, the provisions of Measure A do not affect the Coastal Commission's ability to consider a potential LCP amendment submitted pursuant to the provisions of Coastal Act Section 30515, which states:

[A]ny person authorized to undertake a public works project or proposing an energy facility development may request any local government to amend its certified local coastal program, if the purpose of the proposed amendment is to meet public needs of an area greater than that included within such certified local coastal program that had not been anticipated by the person making the request at the time the local coastal program was before the commission for certification. If, after review, the local government determines that the amendment requested would be in conformity with the policies of this division, it may amend its certified local coastal program as provided in Section 30514.

If the local government does not amend its local coastal program, such person may file with the commission a request for amendment which shall set forth the reasons why the proposed amendment is necessary and how such amendment is in conformity with the policies of this division. The local government shall be provided an opportunity to set forth the reasons for its action. The commission may, after public hearing, approve and certify the proposed amendment if it finds, after a careful balancing of social, economic, and environmental effects, that to do otherwise would adversely affect the public welfare, that a public need of an area greater than that included within the certified local coastal program would be met, that there is no feasible, less environmentally damaging alternative way to meet

such need, and that the proposed amendment is in conformity with the policies of this division.

As Section 30515 makes clear, should the voters of Santa Barbara County reject the local approval of a Coastal Land Use Plan or Coastal Zoning Ordinance amendment for energy facility development, the proponent of the rejected amendment may seek such approval directly from the Coastal Commission. A notation to this effect is included in the administrative guidelines prepared by the County for implementation of Measure A. As stated previously, the guidelines have no force or effect in the Coastal Zone, are informational only, and have not been submitted to the Commission for certification.

7. Conclusion: Land Use Plan Amendment

For all of the reasons set forth above, the Commission finds that the incorporation of Measure A into the County's certified LUP as new Policy 6-5B (Voter Approval) does not interfere with the authority of the Commission to consider future amendments to the County's LUP nor does Policy 6-5B affect the Commission's ability to consider specific project approvals or denials on appeal. The Commission further finds that the portion of proposed LCP amendment 2-96-C that incorporates new Policy 6-5B into the County's certified LUP is consistent as submitted with the requirements of Chapter 3 of the Coastal Act.

B. Findings for Resolution II (Implementation Plan)

1. Standard of Review

The standard of review for a proposed amendment of the Implementation Plan of a certified Local Coastal Program, pursuant to Sections 30513 and 30514 of the Coastal Act, is whether the amendment conforms with and is adequate to carry out the provisions of the Land Use Plan. The Coastal Act provides that the Commission may only reject a proposed Implementation Plan amendment if a majority of the appointed Commissioners present find that it does not conform with or is not adequate to carry out the provisions of the certified Land Use Plan.

2. Proposal

The County proposes to amend its certified Implementation Plan in light of the passage of Measure A by incorporating new text into the County's Coastal Zoning Ordinance (CZO) as set forth below. Specifically, the County proposes to amend Section 35-150, Purpose and Intent, of Division 9, Article II of Chapter 35 of the Santa Barbara County Code, to add a voter approval requirement as follows (new text shown in underline):

“The following section has been added pursuant to the Measure A96 voter approval initiative passed by the voters of Santa Barbara County on March 26, 1996:

1. Any legislative approvals (e.g. zoning amendment, General Plan amendment, Local Coastal Plan amendment, Development Plan, or other legislative action) which would authorize or allow the development, construction, installation, or expansion of any onshore support facility for offshore oil and gas activity on the South Coast of the County of Santa Barbara (from Point Arguello to the Ventura County border) shall not be final unless such authorization is approved, in the affirmative, by a majority of the votes cast by the voters of the County of Santa Barbara in a regular election. For the purpose of this measure, the term “onshore support facility” means any land use, installation, or activity proposed to effectuate or support the exploration, development, production, storage, processing, or other activities related to offshore energy resources.
2. The voter approval requirement set forth in 1 above shall not apply to onshore pipeline projects or to onshore support facilities that are located entirely within an existing approved consolidated oil and gas processing site at Las Flores Canyon (designated as of June 13, 1995 as APN 81-220-14, 81-230-19) or Gaviota (designated as of June 13, 1995 as APN 81-130-07, 81-130-52, 81-130-53).
3. The terms, policies, and zoning amendments set forth herein shall expire at the end of twenty-five (25) years after the effective date of this ordinance unless extended by the Board of Supervisors or by another vote of the electorate.
3. Consistency with the certified Land Use Plan

The amendments to Section 35-150 of the County’s certified Coastal Zoning Ordinance (CZO) echo the same language the County proposes to incorporate into the LUP (Policy 6-5B). The Commission finds that the proposed amendment has no practical affect on the interpretation or implementation of other policies of the County’s certified LUP or on the provisions of the certified CZO. Therefore, based on all of the information set forth above, the Commission finds that, as submitted, the CZO amendment component of proposed LCP Amendment 2-96-C, is consistent with, and adequate to carry out, LUP Policy 6-5B set forth above. The Commission further finds that the proposed CZO amendment as submitted is consistent with, and adequate to carry out, the policies of the certified LUP.

C. California Environmental Quality Act (CEQA)

The Coastal Commission's LCP review process has been designated by the Secretary of Resources as the functional equivalent of CEQA. CEQA requires consideration of less environmentally damaging alternatives; the imposition of mitigation measures to lessen significant adverse effects arising from the request; and the benefits of the project.

The Commission has herein evaluated and found the proposed policy and implementing measures for incorporation into the certified LCP of the Santa Barbara County voter initiative known as Measure A to have no potential adverse environmental effects. Thus, there is no need for the Commission to consider less environmentally damaging alternatives.

Therefore, the Commission finds that LCP Amendment 2-96-C, as submitted, is consistent with the provisions of the CEQA and with the provisions of the California Coastal Act.

EXHIBIT NO. 1
APPLICATION NO. Santa Barbara County
LCPA 2-96-C
Measure A

ATTACHMENT A

RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF APPROVING)	RESOLUTION NO. 96-296
AMENDMENTS TO THE SANTA BARBARA)	CASE NOs. 96-OA-007
COUNTY LOCAL COASTAL PLAN AND)	and 96-GP-012
ARTICLE II (COASTAL ZONING)	
ORDINANCE) OF CHAPTER 35 OF THE)	
SANTA BARBARA COUNTY CODE TO ADD)	
LANGUAGE SET FORTH IN THE MEASURE)	
A96 INITIATIVE, APPROVED BY THE)	
VOTERS OF THE COUNTY ON MARCH 26,)	
1996; AND)	
)	
SUBMITTING THE PROPOSED)	
AMENDMENTS TO THE CALIFORNIA)	
COASTAL COMMISSION.)	
)	

WITH REFERENCE TO THE FOLLOWING:

- A. On January 7, 1980, by Resolution No. 80-12, the Board of Supervisors of the County of Santa Barbara adopted the Santa Barbara County Local Coastal Plan; and
- B. On July 19, 1982, by Ordinance 3312, the Board of Supervisors of the County of Santa Barbara adopted the Santa Barbara County Coastal Zoning Ordinance, Article II of Chapter 35 of the Santa Barbara County Code; and
- C. On March 26, 1996, by Voter Initiative Measure A96, the People of Santa Barbara County elected to amend the Santa Barbara County Local Coastal Plan, Coastal Zoning Ordinance, General Plan, and County Code Zoning Ordinance to require that any legislative approvals which would authorize or allow onshore support facility for offshore oil and gas activity on the South Coast of the County of Santa Barbara and outside the South Coast Consolidation Areas shall not be final unless such authorization is approved, in the affirmative, by a majority of the votes cast by the voters of Santa Barbara County in a regular election; and
- D. It is now deemed in the interest of the orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of said County, to amend the Coastal Land Use Plan, Section 3.6 INDUSTRIAL AND ENERGY DEVELOPMENT, and the Coastal Zoning Ordinance, Article II, Section 35-150 OIL AND GAS FACILITIES as specified below.

- E. The Board now wishes to approve these amendments and submit them to the California Coastal Commission for certification.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above recitations are true and correct.
2. Pursuant to the provisions of Section 30514 of the Public Resources Code, the changes described below are hereby adopted as amendments to the Santa Barbara County Local Coastal Plan and Coastal Zoning Ordinance text.
3. Section 3.6 INDUSTRIAL AND ENERGY DEVELOPMENT of the Local Coastal Plan, Subsection 3.6.4 Land Use Plan Proposals is hereby amended to read as follows:

"The following policy has been added pursuant to the Measure A96 voter approval initiative, passed by the voters of Santa Barbara County on March 26, 1996:

Policy 6-5B: Voter Approval

1. Any legislative approvals (e.g. zoning amendment, General Plan amendment, Local Coastal Plan amendment, Development Plan, or other legislative action) which would authorize or allow the development, construction, installation, or expansion of any onshore support facility for offshore oil and gas activity on the South Coast of the County of Santa Barbara (from Point Arquello to the Ventura County border) shall not be final unless such authorization is approved, in the affirmative, by a majority of the votes cast by the voters of the County of Santa Barbara in a regular election. For the purpose of this measure, the term "onshore support facility" means any land use, installation, or activity proposed to effectuate or support the exploration, development, production, storage, processing, or other activities related to offshore energy resources.
2. The voter approval requirement set forth in 1 above shall not apply to onshore pipeline projects or to onshore support facilities that are located entirely within an existing approved consolidated oil and gas processing site at Las Flores Canyon (designated as of June 13, 1995 as APN 81-220-14, 81-230-19) or Gaviota (designated as of June 13, 1995 as APN 81-130-07, 81-130-52, 81-130-53).
3. The terms, policies, and zoning amendments set forth herein shall expire at the end of twenty-five (25) years after the effective date of this ordinance unless extended by the Board of Supervisors or by another vote of the electorate."
4. Section 35-150, Purpose and Intent of Division 9, Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to read as follows:

"The following section has been added pursuant to the Measure A96 voter approval initiative, passed by the voters of Santa Barbara County on March 26, 1996:

Section 35-150.1 Voter Approval

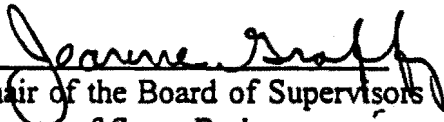
1. Any legislative approvals (e.g. zoning amendment, General Plan amendment, Local Coastal Plan amendment, Development Plan, or other legislative action) which would authorize or allow the development, construction, installation, or expansion of any onshore support facility for offshore oil and gas activity on the South Coast of the County of Santa Barbara (from Point Arquello to the Ventura County border) shall not be final unless such authorization is approved, in the affirmative, by a majority of the votes cast by the voters of the County of Santa Barbara in a regular election. For the purpose of this measure, the term "onshore support facility" means any land use, installation, or activity proposed to effectuate or support the exploration, development, production, storage, processing, or other activities related to offshore energy resources.
2. The voter approval requirement set forth in 1 above shall not apply to onshore pipeline projects or to onshore support facilities that are located entirely within an existing approved consolidated oil and gas processing site at Las Flores Canyon (designated as of June 13, 1995 as APN 81-220-14, 81-230-19) or Gaviota (designated as of June 13, 1995 as APN 81-130-07, 81-130-52, 81-130-53).
3. The terms, policies, and zoning amendments set forth herein shall expire at the end of twenty-five (25) years after the effective date of this ordinance unless extended by the Board of Supervisors or by another vote of the electorate."
5. The Board certifies that these amendments are intended to be carried out in a manner fully in conformity with the California Coastal Act.
6. The Board submits these Local Coastal Plan and Coastal Zoning Ordinance amendments to the California Coastal Commission for review and certification.
7. The Chair and the Clerk of this Board are hereby authorized and directed to sign and certify all maps, documents and other materials in accordance with this Resolution to reflect the above described action by the Board.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 23rd day of July, 1996, by the following vote:

AYES: Supervisors Schwartz, Graffy, Wallace, Staffel Urbanske

NOES: None

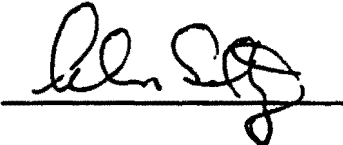
ABSENT: None


Chair of the Board of Supervisors
County of Santa Barbara

ATTEST: KENT TAYLOR
Clerk of the Board of Supervisors

By 

APPROVED AS TO FORM: STEPHEN SHANE STARK
County Counsel

By 

energy\wp\ellwood\measure.a96\96gp012.res

EXHIBIT NO. 2
APPLICATION NO. Santa Barbara County
LCPA 2-96-C
Measure A

ATTACHMENT B

ORDINANCE NO. 4234

AN ORDINANCE AMENDING ARTICLE II OF CHAPTER 35 OF THE SANTA BARBARA COUNTY CODE BY AMENDING DIVISION 9 OIL AND GAS FACILITIES AND DIVISION 12 ADMINISTRATION TO ADD A VOTER APPROVAL REQUIREMENT FOR ONSHORE OIL FACILITIES SUPPORTING OFFSHORE OIL AND GAS ACTIVITY ON THE SOUTH COAST OF SANTA BARBARA COUNTY PURSUANT TO MEASURE A96, APPROVED BY THE VOTERS OF THE COUNTY OF SANTA BARBARA ON MARCH 26, 1996.

Case No. 96-OA-007

The Board of Supervisors of the County of Santa Barbara ordains as follows:

SECTION 1:

Section 35-150, Purpose and Intent of Division 9, Article II of Chapter 35 of the Santa Barbara County Code is hereby amended to add a voter approval requirement as follows:

"The following section has been added pursuant to the Measure A96 voter approval initiative, passed by the voters of Santa Barbara County on March 26, 1996:

Section 35-150.1 Voter Approval

1. Any legislative approvals (e.g. zoning amendment, General Plan amendment, Local Coastal Plan amendment, Development Plan, or other legislative action) which would authorize or allow the development, construction, installation, or expansion of any onshore support facility for offshore oil and gas activity on the South Coast of the County of Santa Barbara (from Point Arquello to the Ventura County border) shall not be final unless such authorization is approved, in the affirmative, by a majority of the votes cast by the voters of the County of Santa Barbara in a regular election. For the purpose of this measure, the term "onshore support facility" means any land use, installation, or activity proposed to effectuate or support the exploration, development, production, storage, processing, or other activities related to offshore energy resources.
2. The voter approval requirement set forth in 1 above shall not apply to onshore pipeline projects or to onshore support facilities that are located entirely within an existing approved consolidated oil and gas processing site at Las Flores Canyon (designated as of June 13, 1995 as APN 81-220-14, 81-230-19) or Gaviota (designated as of June 13, 1995 as APN 81-130-07, 81-130-52, 81-130-53).
3. The terms, policies, and zoning amendments set forth herein shall expire at the end of twenty-five (25) years after the effective date of this ordinance unless extended by the Board of Supervisors or by another vote of the electorate."

SECTION 2:

A note will be added to the end of the Administrative Section 35-180.5 of Division 12, Article II for processing Amendments to a Certified Local Coastal Program that cross references the section describing the voter approval requirement as follows:

"Note: Any legislative approval by the Board of Supervisors (i.e., LCP amendments, ordinance amendments, general plan amendments, rezones) which would authorize or

allow the development, construction, installation, or expansion of any onshore support facility for offshore oil and gas activity on the South Coast of the County of Santa Barbara (from Point Arguello to the Ventura County border) and outside the South Coast Consolidation Areas is subject to a vote by the voters of the County of Santa Barbara in a regular election as described in Section 35-150.1. This voter approval requirement was added to the ordinance pursuant to the Measure A96 voter approval initiative, passed by the voters of Santa Barbara County on March 26, 1996 and is effective twenty-five (25) years hence."

SECTION 3:

Except as amended by this ordinance. Divisions 9 and 12 of Article II of Chapter 35, of the Code of the County of Santa Barbara, California, shall remain unchanged and shall continue in full force and effect.

SECTION 4:

This ordinance and any portion of it approved by the California Coastal Commission shall take effect and be in force thirty (30) days from the date of its passage or upon the date that it is certified by the Coastal Commission pursuant to Public Resources Code Section 30514, whichever occurs later; and before the expiration of fifteen (15) days after its passage it, or a summary of it, shall be published once, together with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News Press, a newspaper of general circulation published in the County of Santa Barbara.

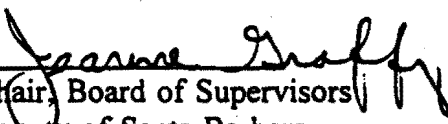
PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 23rd day of July, 1996, by the following vote:

AYES: Supervisors Schwartz, Graffy, Wallace, Staffel, Urbanske


NOES: None

ABSTAINED: None

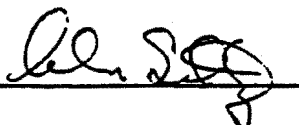
ABSENT: None


Chair, Board of Supervisors
County of Santa Barbara

ATTEST: KENT TAYLOR
Clerk of the Board of Supervisors

By 

APPROVED AS TO FORM: STEPHEN SHANE STARK
County Counsel

By 

**ADMINISTRATIVE GUIDELINES FOR IMPLEMENTING
MEASURE A96 - VOTER APPROVAL INITIATIVE**
as approved on March 26, 1996

EXHIBIT NO. 3
APPLICATION NO. <i>Santa Barbara County</i>
<i>LCPA 2-96-C</i>
<i>MEASURE A</i>

The following guidelines are intended to clarify and assist with the implementation of the Voter Approval Initiative, Measure A96, as approved by the electorate on March 26, 1996. Pursuant to the mandate of the initiative as incorporated in Section 35-150.1 of Article II, "any legislative approvals which would authorize or allow the development, construction, installation, or expansion of any onshore support facility for offshore oil and gas activity on the South Coast of the County of Santa Barbara (from Point Arguello to the Ventura County border) shall not be final unless such authorization is approved, in the affirmative, by a majority of the votes cast by the voters of the County of Santa Barbara in a regular election."

1. **Legislative Acts** - Only those onshore support projects requiring legislative acts are subject to referendum. Acts by local legislatures (the Board of Supervisors) that are "administrative," "executive," or "quasi-judicial" are not subject to referendum. Whether an action is "legislative" or not is determined by the courts on a case-by-case basis, considering legal principles and applicable facts and circumstances. The basic definitions are:

- An action is "legislative" if it prescribes new policy or plan.
- An action is "administrative" if it applies existing policy.

- ▶ General plan amendments and rezones are legislative actions.
- ▶ Not all discretionary actions by the Board of Supervisors are legislative. The granting of discretionary permits, decisions on appeals, and similar actions are discretionary actions but are not usually legislative actions.
- ▶ Development Plan approvals are not ordinarily legislative actions. A Development Plan may be a legislative action if it makes major land use changes or prescribes new policy or plan. Although Development Plans are listed as types of legislative approvals subject to voter approval under Measure A96, only those Development Plans that as a matter of law are "legislative actions" may constitutionally be subject to referendum.
- ▶ Projects which are determined to be "exempt" from County permits, even if the exemption leads to a change in use or intensity, are administrative actions under California law and are not subject to referendum. Similarly, decisions that a project is entitled to a zoning variance are typically not considered legislative acts. Determinations as to "vested rights" under existing permits are quasi-judicial decisions not subject to referendum.
- ▶ Repair and maintenance projects are processed administratively under Article II, Appendix C and do not require legislative approvals.
- ▶ Limited Exception Determinations for nonconforming industrial uses granted pursuant to Section 35-161.7 or other similar permits for minor modifications that do not expand or extend the life of an existing facility are not legislative approvals.

2. **Onshore Support Facilities** - Measure A96 voter referenda apply solely to legislative approvals of onshore support facilities, defined in the initiative as: "...any land use, installation, or activity proposed to effectuate or support the exploration, development, production, storage, processing, or other activities related to offshore energy resources."

Onshore support facilities include those which, by their nature, are specific and directly related to offshore oil and gas development, but do not include facilities incidental or indirectly related to onshore support of offshore energy resource activities. The determination of whether a particular facility requiring a legislative approval is incidental or indirect, is subject to a case-by-case review.

- ▶ Measure A96 applies to onshore support facilities within the South Coast area, defined as Point Arguello to the Ventura border. Projects north of Point Arguello are not subject to voter referendum, nor are projects within Article IV of the County Zoning Ordinances (Montecito area).
- ▶ Measure A96 does not apply to projects within cities or on other lands exempt from the County's Zoning Ordinance pursuant to Article II, Section 35-51.
- ▶ Onshore pipeline projects are specifically exempt from Measure A96.
- ▶ Onshore support facilities that are located entirely within the existing approved consolidated oil and gas processing sites at Las Flores Canyon or Gaviota are specifically exempt from Measure A96. The approved consolidated oil and gas processing sites for Measure A96 purposes are defined as any and all land within those parcels designated as of June 13, 1995 as APN 81-220-14, 81-230-19 (Las Flores Canyon), or 81-130-07, 81-130-52, and 81-130-53 (Gaviota).

3. **Procedures for Implementing Measure A96** - Elections to consider Board-approved projects would occur at the next regular election according to timelines provided in the California Elections Code.

The California Coastal Commission must approve any changes to the Local Coastal Plan or Coastal Zoning Ordinance. Therefore, the order of "actions" on an onshore support facility project that is determined to be subject to Measure A96 would be:

- (1) Board of Supervisors approval;
- (2) Project consideration by the voters of Santa Barbara County;
- (3) Project consideration by the California Coastal Commission.

Under the California Coastal Act, the Coastal Commission can review Board denials of oil and gas projects and may consider amending the County's Coastal Land Use Plan or Coastal Zoning Ordinance if the County elects not to, provided certain findings can be made under Public Resources Code Section 30515. If the voters reject a Board-approved Coastal Plan or Zoning Ordinance amendment for energy facility development, the project proponent may request approval of the amendment by the Coastal Commission. Actions by the California Coastal Commission are not subject to voter approval pursuant to Measure A96.