

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
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VOICE AND TDD (415) 904-5200  
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**Tu-13a**

February 27, 1998

**Memo**

**To:** Coastal Commissioners  
and Other Interested Parties

**RECORD PACKET COPY**

**From:** Peter Douglas, Executive Director  
Susan Hansch, Deputy Director  
Alison Dettmer, Supervisor, Energy Unit  
John Bowers, Staff Counsel

**Subject:** Minerals Management Service (MMS) Department of the Interior,  
Proposed Notice to Lessees and Operators:  
**Marine Transportation of Federal Outer Continental Shelf (OCS)  
Crude Oil Produced Offshore California**

**ITEM 13A TUESDAY, MARCH 10, 1998**

Attached please find:

- 1) Proposed draft comment letter from the Coastal Commission to the Minerals Management Service. The Commission will discuss this draft letter during March Commission meeting (Item 13a Tuesday March 10). The deadline for comments to the MMS is April 6, 1998.
- 2) Federal register notice that we are commenting on.
- 3) Draft comments by County of Santa Barbara.
- 4) Policy Directive to the Minerals Management Service, John Garamendi, Deputy Secretary of the Interior, June 1996.

Please call Susan Hansch (415) 904-5244 if you have any questions or before the Commission meeting.

susan/mms298.doc

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**DRAFT  
SUBJECT TO REVISION**

March \_\_\_\_, 1998

Dr. J. Lisle Reed, Regional Director  
Pacific OCS Region  
Minerals Management Service  
770 Paseo Camarillo  
Camarillo, CA 93010-6064

RE: Proposed Notice to Lessees and Operators: Marine Transportation of Federal  
Outer Continental Shelf Crude Oil Produced Offshore California

Dear Dr. Reed:

The California Coastal Commission and its staff have reviewed the proposed Notice to Lessees (NTL) regarding Marine Transportation of Federal Outer Continental Shelf (OCS) crude oil produced offshore California as published in the Federal Register on December 5, 1997, with comments now due April 6, 1998.

The NTL comes as a result of the June 17, 1996, *Policy Directive to the Minerals Management Service* by Deputy Secretary of the Interior, John Garamendi. Deputy Secretary Garamendi directed the MMS to:

"undertake such policies or programs as appropriate to support to the fullest extent practicable the policies of the State of California, the county of Santa Barbara, and other jurisdictions within California relating to the transportation of petroleum. The policies should, to the maximum extent practicable, assist the State and local governments in accomplishing their environmentally sound objectives and programs that involve transportation of oil — including oil produced from the Federal OCS. Such MMS policies should particularly attempt to ensure that new and, where appropriate, amended Development and Production Plans adequately reflect the principle that transportation of OCS crude be consistent with State and local policies."

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The NTL provides a great opportunity for the MMS to further its mandate to encourage domestic production of oil and gas resources on the OCS in a manner consistent with state and local coastal and ocean protection policies. The draft NTL recognizes and memorializes several important policy directions, including Deputy Secretary John Garamendi's 1996 Policy Directive, and regulatory responsibilities. In particular, we applaud the following statement:

MMS strongly supports the right of California to exercise its Federal consistency authorities under the CZMA and believes that consistency is an important tool for the State and its local governments to address, among other factors, the marine transportation component of DPPs.

However, the proposed NTL needs to effectuate a meaningful change in the DPP process that will ensure that California's long-held pipeline preference policy is addressed **before** the Development and Production Plans (DPPs) are submitted for consistency review.

**Key Components Necessary in an Effective Notice to Lessees (NTL)**

The Commission believes that the NTL must be revised and clarified to provide direction to lessees that will ensure companies develop and implement DPPs that protect California's coastal resources and are consistent with the California Coastal Management Program (CCMP). To be useful and effective the Notice to Lessees must:

- direct lessees to develop projects that meet the enforceable policies of the CCMP which require the protection of ocean and coastal resources;
- acknowledge the rights and responsibilities of the Coastal Commission to carry out the CZMA process with active participation of local governments and the public;
- affirm MMS's support of and commitment to the Coastal Commission's comprehensive consistency review authority that encompasses, among other subjects, transportation of oil from OCS production platforms to the final refinery destination;
- recognize that the Commission has consistently found that its enforceable policies establish a preference for the transportation of oil by land pipeline;
- specify the geographic scope of lessees' obligation under the OCSLA and the CZMA to address oil transportation issues;
- specify the legal standards that are applicable to a decision by MMS to require submittal of revised DPPs;

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- clarify that in exercising discretion to require an amendment to an existing DPP, the MMS Regional Director will take into account increases in pipeline capacity to refinery centers that can feasibly displace marine transportation; and
- notify lessees that with the completion of the Pacific Pipeline there will be adequate pipeline capacity to refinery destinations in Los Angeles for Pacific OCS crude.

The draft NTL does not meet all these important objectives. In the following comments we offer explanations as to where we believe the NTL is lacking and offer suggestions for changes.

**Enforceable Policies of the California Coastal Management Program (CCMP)**

Since 1977, when California Coastal Management Program (CCMP) was approved and the Coastal Commission received federal consistency review authority, the Commission has considered the mode of oil transportation from OCS oil and gas facilities to the final refinery destination to be a critical issue in its federal consistency actions. The Commission has reviewed fifteen DPPs and numerous coastal permits and conducted consistency reviews for related marine terminals and onshore facilities. In these regulatory actions, the Commission prepared a case-by-case review and has consistently found that it is environmentally preferable to transport oil to the final refinery destination by land pipeline rather than marine tanker. The Commission has also consistently recognized that in some cases and for some periods of time pipeline transportation has not been feasible due to lack of pipeline capacity to the refinery destination of choice. Under those limited circumstances the Commission has authorized marine tankering.

With the forthcoming completion of the Pacific Pipeline there will be available to all Pacific OCS producers adequate and feasible onshore pipeline capacity to refinery destinations in the greater Los Angeles area. The MMS needs to acknowledge these changed circumstances and on this basis review all existing operations to ensure that the most environmentally protective form of oil transportation is being employed.

The "enforceable policies" of the CCMP that the Commission applies in consistency reviews are the policies of Chapter 3 of the California Coastal Act. These policies mandate strong protections against oil spills. Chapter 3 policies also give coastal-dependent industrial facilities (like offshore oil and gas exploration and production) special considerations. Coastal Act section 30260 states that new or expanded coastal-dependent industrial facilities that cannot be accommodated fully consistent with all

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coastal resource protection policies of Chapter 3 may be nonetheless permitted if they meet several special criteria, including a requirement that "adverse impacts are mitigated to the maximum extent feasible." The majority of offshore oil and gas facilities have been permitted under 30260 with maximum feasible mitigation. Whenever feasible, pipeline transportation of oil to the refinery has been considered a necessary component of maximum mitigation.

In the "Conclusion" section of the MMS's remarks preceding the NTL, the MMS "encourages California to review the enforceable marine transportation policies in its coastal management program," and, on the basis of such a review, make a number of "determinations" regarding such policies.

In our judgment the perceived need for such review and "determinations" is not necessary and results from an incomplete understanding of the nature and content of the CCMP. Specifically:

1. The CCMP contains a number of enforceable policies (within the meaning of that term as it is defined in section 304(6a) of the CZMA) that the Commission has consistently implemented and applied to require the transportation of crude oil by pipeline, whenever feasible. Among these policies is section 30232 (requiring "protection against spillage" to be provided in connection with the transportation of, among other materials, crude oil), sections 30230/30231 (requiring development activity to be conducted in a manner in which "marine resources" and the "biological productivity and the quality of coastal waters ... appropriate to maintain optimum populations of marine organisms" are "maintained"), and, as noted, section 30260 (requiring the "adverse environmental effects" of "coastal-dependent industrial facilities" to be "mitigated to the maximum extent feasible").
2. In 1978, these and other policies of the CCMP were upheld against legal challenge that they were lacking in "requisite specificity ... so as to enable private users in the coastal zone ... to predict with reasonable certainty whether or not their proposed activities will be found 'consistent' with the program under § 307(c)."<sup>1</sup> *American*

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<sup>1</sup> In the preface to the NTL MMS suggests that the need for California's CMP policies to meet a minimum standard of "clarity and specificity" is to render its "consistency determinations understandable." The Commission is not, prior to this suggestion, aware of any problem with the "understandability" of its consistency determinations relative to the subject of oil transportation. To the contrary, the Commission believes its consistency determinations on this subject have been unambiguous and consistent in articulating a policy preference for pipelines as the preferred mode of transportation for OCS crude oil.

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*Petroleum Institute v. Knecht* (C.D. Cal. 1978) 456 F. Supp. 889, 918-919, *aff'd* (9th Cir. 1979) 609 F.2d 1306, 1312.<sup>2</sup>

3. Finally, once certified under the Coastal Act as consistent with the policies of the CCMP, local coastal programs (LCP's), and the policies contained in them, are incorporated into and become constituent elements of the CCMP. Thereafter, local policies incorporated into the CCMP in this manner provide guidance to the Commission in conducting its consistency reviews.

**Geographic Scope: the Notice to Lessees Must Address Oil Transportation from Production to the Final Refinery Destination.**

The MMS needs to clarify the geographic scope of requirements for oil transportation analysis the NTL imposes on lessees. In the preface to the NTL, the MMS states that it "regulates activities which occur ... generally up to the point of landfall." If this statement is interpreted as establishing the geographic (or durational) limit of the requirement the NTL imposes for oil transportation analysis, the policy goal articulated in Deputy Secretary Garamendi's directive will remain substantially unrealized.

The NTL needs to make it clear that lessees need to include in their DPPs oil transportation analysis and impact assessment of any transportation of crude oil extracted from OCS leased lands which poses a risk to or otherwise affects the marine resources or coastal environment that either the MMS or the State of California has a legal responsibility to protect under their respective legislative mandates. This requirement should be understood to be applicable regardless of whether the effect occurs before or after initial landfall.

It is crucial that the NTL clearly state that lessees are required to describe their complete plan for all oil transportation modes from production to the final refinery destination. The lessee has the burden of proof to show consistency with the enforceable policies of the CCMP which the Commission has consistently determined to result in a preference for oil transportation by pipelines. Soon there will be adequate onshore pipeline capacity to most refinery destinations used by OCS operators. Therefore, to demonstrate consistency with the enforceable policies of the CCMP, in

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<sup>2</sup> The court held that in the CZMA "Congress did not intend ... to require that [coastal management] programs establish such detailed criteria that private users be able to rely on them as predictive devices for determining the fate of projects without interaction between the relevant state agencies and the user." (*Id.*)

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**SUBJECT TO REVISION**

their DPPs all OCS lessees should use onshore pipelines to the refineries or show why such use is not feasible.

**Revisions to Development and Production Plans**

The MMS needs to conform the language in the second paragraph of the "Revised DPP's" section of the NTL to the language contained in 30 CFR § 250.34(q)(2). As so modified, the provision should provide for the Regional Supervisor to require a proposed DPP revision to comply with "all the procedures contained in 30 CFR § 250.34" if, among other things, the DPP revision "proposes activities not previously identified and evaluated [in the original DPP]."

The NTL should also acknowledge that the standards in section 250.34(q)(2)(including whether or not a lessee is engaging in activity "not previously identified and evaluated") for when a DPP revision needs to undergo a consistency review, also govern the Regional Supervisor in exercising his or her discretion under OCSLA § 25(h)(3) to require a DPP revision in the first instance. It would indeed be anomalous for the Regional Supervisor to fail to require a DPP revision for activity which under the MMS's regulations is required to undergo all review procedures applicable to a new DPP.<sup>3</sup> Accordingly, the second sentence of the second paragraph of the "Revised DPP's" section of the NTL should be revised to read as follows: "If, *on the basis of the standards contained in section 25(h)(3) of the OCSLA and in 30 CFR §§ 250.34(q)(1) and (2)*, the Regional Supervisor determines ..."

We join Santa Barbara County in urging the MMS to add language to the NTL clarifying that in conducting its reviews under section 25(h)(3) of the OCSLA the MMS will give substantial weight to such "changes in ... onshore conditions ... affecting ..." DPP activities as the development of onshore pipeline capacity additional to that which may have existed at the time of initial DPP submittal and approval. Specifically, the third sentence of the first paragraph of the "Revised DPP's" section of the NTL should be modified to read as follows: "The Regional Supervisor will pay particular attention to any change in *either* the marine transportation component of the DPP and, specifically, to tankering activity *or onshore pipeline capacity to destinations to which the lessee is shipping the crude oil produced from the OCS lease.*"

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<sup>3</sup> A concrete example of a correct application of these standards by the MMS is that agency's March 28, 1995, letter to Exxon regarding Exxon's tankering activity between the San Francisco Bay and Los Angeles areas. Unfortunately, in our view, in later stages of its handling of the Exxon matter the MMS abandoned the position it had taken in this letter.

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Finally, the NTL should advise lessees that, as an alternative to requiring an "after-the-fact" DPP revision, the MMS has the authority under to section 25(j) of the OCSLA to institute judicial proceedings to cancel the OCS lease in the event of a failure on the part of an OCS lessee to comply with the oil transportation related provisions of a DPP.

**Conclusion**

The Coastal Commission strongly urges the MMS to make the changes described in this letter to strengthen and clarify the NTL. If the MMS chooses not to follow the recommendations, we request that the MMS **not** issue a NTL because the NTL as now written provides little improvement over the existing situation.

Thank you for the opportunity to comment. The Commission staff is available to assist in any way possible in preparing a final NTL that addresses the California Coastal Management Program. Please call Susan Hansch, Deputy Director (415) 904-5244 if you have any questions.

Sincerely,

Peter M. Douglas  
Executive Director

cc: Coastal Commissioners  
Senator Barbara Boxer  
Senator Diane Feinstein  
State Senator Jack O'Connell  
State Assemblyman Brooks Firestone  
Santa Barbara County Board of Supervisors  
Cynthia Quartman, Minerals Management Service  
Deputy Secretary John Garamendi, Department of Interior  
Jeff Benoit, OCRM  
Mr. Robert Hight, Executive Officer, State Lands Commission  
Ms. Ruth Brackett, Chair, San Luis Obispo County  
Mr. John Flynn, Chair, Ventura County Board of Supervisors  
Mr. Ed Cassano, Channel Islands National Marine Sanctuary  
William Douros, Monterey Bay National Marine Sanctuary  
Ed Ueber, Gulf of the Farallones National Marine Sanctuary  
Mr. John Euphrat, San Luis Obispo County Planning  
Mr. Keith Turner, Ventura County Planning



RECEIVED  
DEC 08 1997CALIFORNIA  
COASTAL COMMISSION**DEPARTMENT OF THE INTERIOR****Minerals Management Service****Marine Transportation of Federal Outer Continental Shelf (OCS) Crude Oil Produced Offshore California****AGENCY:** Minerals Management Service (MMS), Interior.**ACTION:** Proposed Notice to Lessees and Operators (NTL).

**SUMMARY:** MMS proposes to issue an NTL concerning information requirements on marine transportation of OCS crude oil produced offshore California. MMS recognizes that the State of California and its localities have concerns about potential impacts on the environment from the transportation of such oil. The proposed NTL would assist Federal lessees and operators and State and local governments in meeting their responsibilities and addressing their concerns in this area.

**DATES:** MMS will consider all comments received by February 3, 1997.

**ADDRESSES:** Mail or hand-carry comments to MMS Pacific Region; 770 Paseo Camarillo; Camarillo, CA 93010; Attention: E. Aronson. E-mail comments to [transportation.ntl@mms.gov](mailto:transportation.ntl@mms.gov).

**FOR FURTHER INFORMATION CONTACT:** Ellen Aronson at 805-389-7511 or e-mail to [transportation.ntl@mms.gov](mailto:transportation.ntl@mms.gov).

**SUPPLEMENTARY INFORMATION:** On June 17, 1996, Deputy Secretary of the Interior John Garamendi issued a Policy Directive to MMS, which provides in pertinent part that:

The policies of the State of California and the county of Santa Barbara prefer that oil and gas production, including offshore resources, be transported by onshore pipeline, rather than by offshore tanker, whenever pipelines are economically and technically feasible.

The Minerals Management Service (MMS) regulates activities which occur within OCS lease boundaries, and generally up to the point of landfall.

The MMS policies should particularly attempt to ensure that new and, where

appropriate, amended Development and Production Plans adequately reflect the principle that transportation of OCS crude be consistent with State and local policies.

**Statutory Authority**

The Outer Continental Shelf Lands Act (OCSLA), as amended, 43 U.S.C. 1331 *et seq.*, provides the Secretary of the Interior with broad authority relating to the development and production of mineral resources of the OCS. The Secretary is required to provide for the suspension or temporary prohibition of activities if a threat of serious, irreparable, or immediate harm or damage to the marine, coastal, or human environment exists. The Secretary may also take action to cancel a lease if continued activity under it would probably cause serious harm to such environments and the threat of such harm will not decrease to an acceptable level in a reasonable period of time. 43 U.S.C. 1334(a). The Secretary may also disapprove or require modification of a new Development and Production Plan (DPP) if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the marine, coastal or human environment. 43 U.S.C. 1351(h)(1). To carry out these responsibilities, MMS must monitor those activities proximately related to the development and production of oil and gas resources on the OCS and safeguard against activities that may threaten the environment.

Through the OCSLA, the Congress has also recognized the OCS activities may have significant impacts on the States. The OCSLA emphasizes that State and local governments whose interests are affected by activities on the OCS are entitled to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, minerals located in the OCS. 43 U.S.C. 1332(4)(C). Furthermore, the rights and responsibilities of all States and, where appropriate, local governments, to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized. 43 U.S.C. 1332(5).

MMS performs its statutory responsibilities with respect to development activities principally through the approval and periodic review of DPP's. 43 U.S.C. 1351; 30 CFR 250.34. The lessee or operator must

provide a wide range of information that enables the MMS Regional Supervisor to take action on the plan. This includes assessing the effects on the environment expected as a result of implementing the plan, identifying specific and cumulative impacts that may occur both onshore and offshore, and the measures proposed to mitigate these impacts.<sup>1</sup>

States that have coastal management programs approved by the Secretary of Commerce under the Coastal Zone Management Act of 1972 (CZMA), 16 U.S.C. 1451 *et seq.*, as well as their local governments, play a critical role in the review of both new and revised DPP's, primarily through the Federal consistency section of the CZMA. 16 U.S.C. 1456. The part of the consistency section dealing with OCS exploration plans and DPP's specifies the authorities and responsibilities of Federal lessees, the Secretary of the Interior, and the coastal States affected by OCS operations. 16 U.S.C. 1456(c)(3)(B).

This OCS-specific provision of the CZMA requires that any person who submits a DPP to the Secretary of the Interior under the OCSLA shall attach to the plan a certification that each activity described in the plan which affects the land, water, or natural resources of the State's coastal zone complies with the enforceable policies of the State's management program, and will be carried out in a manner consistent with that program. Generally, under this provision and under section 25(d) of the OCSLA (43 U.S.C. 1351(d)), the Secretary of the Interior may not grant a license or permit for any such activity unless the State concurs with the consistency certification attached to the DPP. Further, under section 25(h)(1)(B) of the OCSLA (43 U.S.C. 1351(h)(1)(B)), the Secretary shall disapprove the entire DPP if the State does not concur with the certification. Section 25(h)(1) of the OCSLA also provides that any modification to a DPP required by the Secretary, involving activities for which a Federal license or permit is required and that affect coastal zone resources, must receive concurrence of the certification by the affected State.<sup>2</sup>

### Conclusion

MMS strongly supports the right of California to exercise its Federal consistency authorities under the CZMA and believes that consistency is an important tool for the State and its local

governments to address, among other factors, the marine transportation component of DDP's. MMS encourages California to review the enforceable marine transportation policies in its coastal management program. The State should determine whether such policies: (1) Meet the definition of "enforceable policy" in section 304(6a) of the CZMA; (2) are of sufficient clarity and specificity to make consistency determinations understandable; and (3) incorporate, to the extent consistent with State law and the CZMA, the marine transportation policies of local governments.

The MMS Pacific OCS Region recognizes that the marine transportation of OCS crude oil may cause significant impacts on the marine, coastal, and human environments and contribute to the cumulative environmental risks of an OCS development project. To respond to the level of concern regarding marine transportation of OCS crude in California, to reaffirm the agency's commitment to strong coastal State and local involvement in OCS decisions, and to implement Deputy Secretary Garamendi's Policy Directive regarding Federal support of State and local policies with respect to the transportation of Pacific OCS crude oil, the MMS Pacific OCS Region adopts the following procedures for addressing new DPP's and proposed changes in the marine transportation component of existing DPP's for leases offshore California.

**COMMENTS INVITED:** The proposed NTL is designed to assist Federal lessees and operators and State and local governments in meeting their responsibilities and concerns regarding marine transportation of Federal OCS crude oil produced offshore California. Comments on the proposed NTL are invited.

Dated: December 1, 1997.

J. Lisle Reed,  
Regional Director, Pacific OCS Region,  
Minerals Management Service.

United States Department of the Interior,  
Minerals Management Service, Pacific OCS  
Region

Proposed Notice to Lessees and Operators of  
Federal Oil and Gas Leases, Pacific OCS  
Region

NTL 97-

Effective Date: \_\_\_\_\_

*Lessee Responsibilities for Information on the  
marine Transportation of Federal Outer  
Continental Shelf (OCS) Crude Oil Produced  
Offshore California*

*In General:* The Marine transportation of  
OCS minerals is an activity that the Secretary

of the Interior has determined must be described in detail in a Development and Production Plan (DPP). As such, it is an activity that requires the approval of the Secretary and the concurrence of the State with the certification of federal consistency. Proposed changes in the marine transportation component of a DPP may require a revision to an approved DPP, and such revision is also subject to Secretarial approval (delegated to the Regional Supervisor). This revision would need the concurrence of the State with the required certification of Federal consistency unless it is overridden on appeal to the Secretary of Commerce as authorized by section 307(c)(3)(B)(iii) of the Coastal Zone Management Act (CZMA).

**New DPP's:** To address the concerns of California State and local governments about potential significant effects of oil spills, particularly those from tankering activity, in the State's sensitive marine ecosystem, lessees or operators preparing new DPP's should pay special attention to the marine transportation component of their plans. Such lessees and operators are advised to develop plans to transport the OCS minerals in a manner that is consistent with the enforceable marine transportation policies of the State's CZM program.

Specifically, the procedures of 30 CFR 250.34 shall be followed in the preparation and submission of a new DPP, including the requirement for certification of coastal zone consistency as provided in 15 CFR part 930. Concurrence by California with the certification is a necessary condition for approval of the new DPP by the Regional Supervisor unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of the CZMA.

**Revised DPP's:** The conditions and procedures under which revisions to existing DPP's are required are generally provided for in sections 25(h)(3) and 25(i) of the OCSLA and implemented in MMS' regulations at 30 CFR 250.34(q). Based on those authorities, the Regional Supervisor will conduct periodic reviews of existing DPP's based on changes in information and onshore or offshore conditions affecting or affected by the DPP activities. The Regional Supervisor will pay particular attention to any change in the marine transportation component of the DPP and, specifically, to tankering activity. If a lessee or operator acting under an approved DPP anticipates any change in the mode, manner, or degree of marine transportation of OCS crude activity described in the plan, the lessee or operator shall provide information related to such changes to the Regional Supervisor.

Based on the Regional Supervisor's periodic review or the lessee or operator's notification, the Regional Supervisor will notify appropriate State and local officials about such changes and provide to the State and local officials copies of the information submitted by the lessee or operator. If the Regional Supervisor determines that the proposed change in activity requires a revision to the DPP, the Regional Supervisor will order a revision to the DPP. If the Regional Supervisor determines that a proposed revision either ordered by the

<sup>1</sup> 30 CFR 250.34(b)(11).

<sup>2</sup> Procedures to implement the CZMA consistency certification section are set forth generally in 15 CFR part 930. The OCS-specific provisions regarding new or amended DPP's are processed in accordance with Subpart E of those regulations (15 CFR 930.70 *et seq.*).

Regional Supervisor or initiated by the operator could result in significant change to previously identified and evaluated impacts or to one not previously identified or evaluated, the proposed revision shall be subject to all of the procedures contained in 30 CFR 250.34, including the requirement, under 250.34(b)(13), that a certification of coastal zone consistency be submitted with the revision. The Regional Supervisor may not approve the revision unless the State concurs with the certification, or the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of the CZMA. The Regional Supervisor shall prepare the appropriate environmental documentation under the National Environmental Policy Act for the decision to approve, require further modifications to, or disapprove revisions to DPP's.

This notice is provided to assist lessees and operators in planning the development of the Pacific OCS leases. Questions concerning this information should be directed to the Regional Supervisor for Development, Operations, and Safety at (805) 389-7560.

The collection of information referred to in this notice provides clarification, description, or interpretation of requirements contained in 30 CFR Part 250, Subpart B. The Office of Management and Budget has approved the collection of information required by these regulations and assigned OMB Control Number 1010-0049. This notice does not impose additional information collection requirements subject to the Paperwork Reduction Act of 1995.

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Regional Supervisor, Office of Development,  
Operations, and Safety, Pacific OCS  
Region, Minerals Management Service.

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Date

[FR Doc. 97-31944 Filed 12-4-97; 8:45 am]

BILLING CODE 4310-MR-M

A-12

**SANTA BARBARA COUNTY  
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors

**Agenda Number:**

**Prepared on:** 2/24/98  
**Department:** P&D, Energy  
**Budget Unit:** 053  
**Agenda Date:** 3/3/98  
**Placement:** Administrative  
**Estimate Time:** N/A  
**Continued Item:** Yes  
**If Yes, date from:** 2/17/98

Post-It® Fax Note	7671	Date	2/27/98	# of pages	20
To	Susan Hansch	From	Michelle Gasperini		
Co./Dept.	CCC	Co.	Energy Division		
Phone #		Phone #	568-2046		
Fax #	415 904 5100	Fax #	568 2522		

**TO:** Board of Supervisors

**FROM:** John Patton, Director of Planning & Development

**STAFF CONTACT:** Alan Seltzer, Chief Deputy County Counsel, ext. 2950  
Michelle Gasperini, Chris Price, P&D, Energy Division ext. 2046

**SUBJECT:** Proposed MMS Oil Transportation Policy of Federal Outer Continental Shelf (OCS) Crude Oil Produced Offshore California

98 FEB 20 AM 8:13  
COUNTY OF SANTA BARBARA  
CLERK OF THE BOARD OF SUPERVISORS

**RECOMMENDATIONS:**

That the Board of Supervisors:

- A) Conceptually approve the draft comment letter (attached) to Minerals Management Service on its proposed Oil Transportation Policy for the purpose of communicating the County's intended position to the California Coastal Commission (CCC); and,
- B) Set hearing for March 24, 1998 to receive information on the CCC's action, and finalize the comment letter to the MMS.

**ALIGNMENT WITH BOARD STRATEGIC PLAN:**

The recommendations are primarily aligned with Goal No. 5: Maintain and Enhance the Quality of Life for All Residents.

**EXECUTIVE SUMMARY AND DISCUSSION:**

On December 5, 1997, the Minerals Management Service (MMS) published a proposed new policy in the Federal Register titled, "Marine Transportation of Federal Outer Continental Shelf (OCS) Crude Oil Produced Offshore California." The intent of the proposed policy is to implement a directive of

20763

Deputy Secretary for the Department of Interior, John Garamendi, issued June 17, 1996, to support the pipeline preference policies of the State of California and the County of Santa Barbara. The County's oil transportation policy requires those companies who process offshore-produced oil in Santa Barbara County to ship that oil to refineries by pipeline, if one is available. Comments on this draft policy are due to the MMS by April 6, 1998.

On February 17, 1998, the Board provided conceptual direction to staff on issues to be included in the County's comment letter to the MMS. The Board also directed staff to prepare a draft comment letter for conceptual approval on the Administrative Agenda at the March 3, 1998 hearing. The draft letter would be made available to the California Coastal Commission (CCC) for its March 10-12 hearing. The Board would then finalize the letter on March 24, 1998, following the CCC's action. A draft comment letter for the Board's conceptual approval is attached.

#### **MANDATES AND SERVICE LEVELS:**

No response to the MMS draft policy is mandated and no change in service levels are anticipated.

#### **FISCAL AND FACILITIES IMPACTS:**

The Energy Division's adopted budget (BU 053) for FY 97/98 authorizes use of General Fund money to pay for staff costs to participate with the federal government in developing federal oil transportation policies. Staff costs associated with preparing comments on the draft policy, preparing a staff report for the Board are not expected to exceed \$5,000. There will be no facilities impacts associated with this action.

#### **SPECIAL INSTRUCTIONS:**

- o Clerk of the Board will notice the March 24, 1998 hearing.
- o Clerk of the Board will forward a copy of the March 3, 1998 Minute Order to Planning and Development Staff following the Board's action.

**CONCURRENCE:** County Counsel

#### **ATTACHMENTS:**

- A - Draft Board Comment Letter (dated March 24, 1998) to MMS Regional Director, Dr. J. Lisle Reed, on MMS' Proposed Oil Transportation Policy
- B - Partial transcript of MMS Regional Director, Dr. J. Lisle Reed, testifying before the Santa Barbara County Board of Supervisors, January 21, 1997.

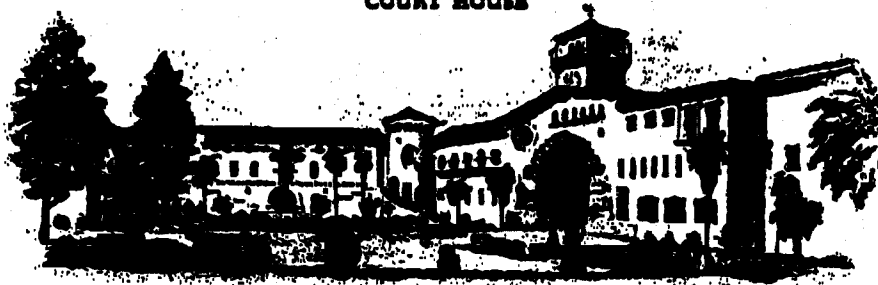
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COUNTY OF SANTA BARBARA

March 24, 1998

ATTACHMENT A

Dr. J. Lisle Reed, Regional Director  
Pacific OCS Region  
Minerals Management Service  
770 Paseo Camarillo  
Camarillo, CA 93010-6064

**DRAFT**

RE: Proposed Notice to Lessees and Operators: Marine Transportation of Federal Outer Continental Shelf Crude Oil Produced Offshore California

Dear Dr. Reed:

The Santa Barbara County Board of Supervisors has received and reviewed the proposed Notice to Lessees (NTL) regarding marine transportation of federal Outer Continental Shelf (OCS) crude oil produced offshore California as published in the Federal Register on December 5, 1997. As you know, ensuring the environmentally safe and feasible transportation of OCS crude oil to refining centers beyond the County's borders has long been an issue paramount to Santa Barbara County. This Board is very concerned that the proposed NTL does not meet the spirit or intent of Department of Interior (DOI) Deputy Secretary Garamendi's policy directive of June 17, 1996, nor does it reflect commitments made by MMS to the County in January 1997. As discussed below, DOI's policy directive was a key element in this Board's decision to enter into a settlement agreement with Exxon over the use of marine tankers to transport crude oil produced offshore of Santa Barbara County. For these reasons, the County urges MMS to substantially revise the NTL or pursue another more effective method of fulfilling the Secretary's directive.

**Background**

Before commenting on the substance of the draft NTL, we believe it is important to provide a summary of events leading up to Deputy Secretary Garamendi's directive. On June 18, 1984, the County adopted Local Coastal Program (LCP) policy 6-8 (attached). This policy mandates that permits for all oil and gas processing facilities be conditioned to require that crude oil produced offshore Santa Barbara County shall be transported via pipeline to refining centers, unless demonstrated to be infeasible for a particular shipper. Because adoption of this pipeline preference policy predated the existence of a regional pipeline network from the County to any major refining center, the policy included a requirement of technical and economic feasibility.

After adoption of Policy 6-8, substantial new pipeline systems have been developed. The All American Pipeline, with a capacity of approximately 300,000 barrels per day, was completed in 1991 and now provides connections to regional refining centers in Los Angeles, the San Francisco Bay Area, the mid-continent and the Gulf Coast. The Pacific Pipeline System, with a design capacity of 130 thousand barrels per day, is under construction to Los Angeles. In addition, expectations regarding peak production volumes from offshore reserves were never realized. Therefore, both now and in the foreseeable future, there will be surplus pipeline capacity from the County all the way to a variety of refining centers for OCS crude oil processed in Santa Barbara County.

LCP Policy 6-8 makes clear that the County's oil transportation policies were intended to require the use of feasible pipelines all the way from County-approved oil and gas processing facilities to refining destinations. In late-1994, however, Exxon claimed inadequate pipeline capacity to Los Angeles and shipped crude oil produced and processed in Santa Barbara via marine tanker from San Francisco to refineries in Los Angeles. The County informed Exxon that it did not consider such tankering to be consistent with either Exxon's permit or LCP policy 6-8, without the appropriate demonstration of inadequate pipeline capacity and commitment to future pipeline use. In response, Exxon sued the County in Federal Court seeking to prevent the County from affecting its crude oil transportation. Exxon sought to create a regulatory void by contending that the County and State had no authority to impose conditions on its Las Flores Canyon onshore processing facilities governing crude oil transportation to refineries beyond the County's borders. In May 1996, the District Court partially granted Exxon's request for relief against the County, but limited its ruling to Exxon's SF-to-LA tankering. By disregarding the County's state-certified oil transportation policy and the statewide interest in preferring pipeline transportation to avoid the risk of oil spills, the Court's ruling underscored the need for a complementary Federal oil transportation policy.

This need was also emphasized in the County's January 1995 comments to the MMS on its 5-yr. leasing program. The Board of Supervisors offered its cautious and tentative support to consideration of a plan for offering a small number of leases that, owing to advancements in technology, would not require any additional infrastructure than would be required if existing leases are developed. This support was offered on the condition that several critical obstacles, including one specific to oil transportation, are successfully overcome:

"Enforceable guarantees that OCS oil produced offshore California will be transported to refineries via pipeline rather than marine tanker, train, or trucks must be a requirement of any new lease sales. These guarantees must be structured in a manner that does not force State oil production out of pipelines. Such guarantees will require concerted efforts by federal, state, and local government...." (Condition #8 of County Board of Supervisors letter of January 24, 1995 to MMS).

### **MMS Policy Directive**

The need for a complementary Federal oil transportation policy was acknowledged by MMS Director Cynthia Quarterman when she sent correspondence confirming that the federal government: (1) recognized the rights and responsibilities of the State and County to protect their coastal environments through appropriate regulation of OCS oil development under the Outer

Continental Shelf Lands Act (OCSLA) and the Coastal Zone Management Act (CZMA); and, (2) encouraged strengthened cooperation between federal, state and local governments concerning issues relating to the impacts of such development. (See Director Quarterman's letters of February 7 and June 18, 1996, attached). Ms. Quarterman's correspondence reflected the policy direction of Deputy Secretary John Garamendi, who, on June 17, 1996, sent a memo to the MMS Director, directing the MMS to:

"...undertake such policies and programs as appropriate to support to the fullest extent practicable the policies of the state, the county of Santa Barbara and other jurisdictions within California relating to the transportation of petroleum. The policies should, to the maximum extent practicable, assist the State and local governments in accomplishing their environmentally sound objectives and programs that involve transportation of oil, including oil produced from the Federal OCS." (full text attached).

In announcing Deputy Secretary Garamendi's policy directive in her letter of June 18, 1996, Ms. Quarterman recognized that the State and County of Santa Barbara have adopted policies which establish onshore pipelines as the environmentally preferred means of OCS crude oil transportation and that the County had been frustrated in its attempts to apply those policies. Ms. Quarterman promised that the MMS would create policies in response to Deputy Secretary Garamendi's policy directive that would "to the maximum extent practicable, support the programs and policies of the State of California and its citizens relating to onshore transportation of Federal Outer Continental Shelf (OCS) crude oil."

In response, this Board sent a letter to Secretary Garamendi on December 17, 1996 stating its appreciation for his proposal to develop a federal policy that explicitly supports the County's oil transportation policies. Our Board stated its expectation that such policies would be developed as he directed, especially because DOI's policy directive was an important factor in the County's decision to settle Exxon's federal litigation.

### County Expectations of MMS Policy

On January 21, 1997, this Board urged MMS to implement Garamendi's directive by developing a federal policy that would parallel County and State pipeline preference policies by ensuring that new and revised Development and Production Plans (DPPs) require all new oil produced offshore of the County be transported in the most environmentally sound manner (i.e., in a pipeline all the way to a refinery, where feasible). We were assured of MMS' commitment to pursue a policy which would include the following elements:

1. New Operations. All new federal permits (DPPs) approved by the MMS to develop leases offshore Santa Barbara would include a requirement that all producers ship all of their oil to refineries entirely by pipeline when feasible. Prior to approving the DPP, MMS would require the producer to submit a plan describing, in detail, how the producer will meet the pipeline requirement. MMS indicated it might also require a "transportation contingency plan" as part of new DPPs to describe any tankering that may be necessary in the case of emergency, such as pipeline rupture or refinery upset. Such a plan would also include the loading site for the tanker to be used, the types of tankers, routes, operating restrictions and other information.



2. Modifications to Existing Operations. When an operator of an existing project requests a production-related amendment to its DPP, the transportation component would need to comply with the policy for new operations -- to ship via pipeline when feasible. MMS stated that all oil produced under the DPP would be subject to this pipeline requirement, not just additional volumes produced under the DPP amendment.

3. Existing Operations. MMS indicated it would send a letter to existing operators requesting information about any planned, future tanker transportation. MMS would then scrutinize proposed tankering from existing operations to determine if it was consistent with the County's oil transportation policies and the Regional Director's duty to assure that OCS production does not result in adverse environmental consequences.

In addition, MMS described a process for approving new DPPs and amendments to existing DPPs that would allow the Board of Supervisors to provide comments to the MMS at a County public hearing prior to approval of the DPP or amendment.

### Critique of Proposed NTL

Although MMS suggested the proposed NTL to implement the directive of Deputy Secretary Garamendi, no preference for pipeline transportation of offshore crude oil to refining centers is provided. The proposed NTL does not even mention the word "pipeline," much less set forth a substantive requirement that the transportation component of new or amended DPPs require use of operational pipelines to refining centers. Consequently, the County is disappointed with MMS' lack of support for oil transportation policies that were specifically adopted for OCS development offshore Santa Barbara and certified by the State under the CZMA.

MMS can do much more to accomplish its stated goal to ensure that transportation components of DPPs are consistent with California's Coastal Act and Coastal Management Program (CCMP). DOI has authority under the OCSLA to regulate "the marine transportation component" of DPPs beyond initial landfall, where the resumption of transportation of production by marine tankering on the OCS to refining centers re-exposes the Coastal Zone to the risk of oil spills. Minimizing this risk was the regulatory interest at stake in Exxon's S.F.-L.A. tankering that prompted Deputy Secretary Garamendi's policy directive in the first instance. As discussed below, MMS should acknowledge this interest and address it directly as contemplated by Deputy Secretary Garamendi.

### MMS Authority

In enacting OCSLA, Congress declared that "the Outer Continental Shelf is a vital national resource held by the Federal Government for the public." (43 U.S.C. § 1332(3).) A principal purpose of OCSLA is to ensure that "operations in the Outer Continental Shelf should be conducted in a safe manner...to prevent or minimize... occurrences that may cause damage to the environment or to property, or endanger life or health." (43 U.S.C. § 1332(6).) OCSLA requires that a DPP include "a description of all facilities and operations located on the Outer Continental Shelf which are proposed by the lessee or known to him (whether or not owned or operated by such lessee) to be directly related to the proposed development..." (43 U.S.C. § 1351(c)(2).)

MMS promised the Board of Supervisors that implementation of the policy directive would affect both new and existing DPPs, which is consistent with the authority provided the Secretary of the Interior by OCSLA. First, with respect to new DPPs, 43 U.S.C. § 1351(h)(1) requires the Secretary to "require modification of a [proposed DPP] if he determines that the lessee has failed to make adequate provisions in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment..." (Emphasis added.) Second, 43 U.S.C. § 1351(h)(1) and (3) requires the Secretary to conduct periodic reviews of approved DPPs and require revisions "based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production...." (See also, 30 CFR § 250.34(q)(1).)

Santa Barbara County has approved onshore facilities for the initial processing of OCS crude oil. However, there are no refining centers within Santa Barbara and, therefore, transportation of OCS crude to refining centers outside the County is required so that the crude oil may be converted into marketable products. When this transportation occurs by marine tanker on the OCS, it constitutes operations on the OCS directly related to proposed oil development and, therefore, must be described in the transportation component of a DPP. Thus, where a lessee proposes a transportation component for its OCS operations that includes marine tankering on the outer Continental Shelf to refining centers after initial onshore processing, MMS' policy should require modification of the proposed DPP to provide for use of available pipelines to protect the human, marine and coastal environment. This is true whether such tankering to refining centers is originally planned from marine terminals associated with onshore processing facilities in Santa Barbara, as was described in Section X of Exxon's approved DPP, or occurs after DPP approval from marine terminals in other jurisdictions such as San Francisco, San Luis Obispo or Ventura.<sup>1</sup> Finally, the availability of additional onshore pipeline capacity to refining centers, as in the case of the Pacific Pipeline, is a *change in available information and onshore conditions* that should prompt revisions to an approved DPP to require appropriate use of new pipeline capacity.

It can be anticipated that comments from Exxon and other oil industry advocates again will seek to create a regulatory void by arguing that the OCSLA does not authorize MMS to regulate the resumption of transportation of crude oil production on the OCS to refining centers after initial landfall, that the County cannot regulate transportation beyond its borders, and the State and its Coastal Commission have no enforceable marine transportation policies, only a general preference for pipelines. Each of these claims are without merit and are analyzed below.

First, as discussed above, the scope of a DPP is defined by 43 U.S.C. § 1351(c) to include a description of all operations on the OCS directly related to proposed development, as well as such other relevant information as the Secretary may require by regulation. The Secretary has provided himself broad authority to regulate operations and activities conducted pursuant to a lease: "Subject to the supervisory authority of the Secretary, drilling and production operations, handling, measurement, transportation of production, and other operations and activities conducted pursuant to a lease or right-of-way by or on behalf of a lessee or right-of-way holder

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<sup>1</sup> Periodic review is required to include "proposed activities not previously identified." See 30 CFR § 250.34(q)(2). While section X of Exxon's DPP identified tankering from Santa Barbara, tankering from Martinez was an activity not previously identified in the DPP and, therefore, should have been the subject of a DPP revision.

are subject to the regulations in this part and are under the jurisdiction of the director." (30 CFR § 250.4(a).)<sup>2</sup>

Transportation of production is not defined by the Act or implementing regulations. Although 43 U.S.C. § 1331(m) defines "production" as "those activities which take place after the successful completion of any means for the removal of minerals, *including... transfer of minerals to shore*," the term "including" in a statute is ordinarily a word of enlargement and not limitation. Therefore, the Secretary may, and should, consider the resumption of transportation of production by marine tanker on the OCS to refining centers so that crude oil may be further refined into marketable products as an activity separate and distinct from the initial transfer of minerals to shore. Even assuming that transportation of production could be limited to "transfer of minerals to shore," any assumption that minerals reach shore at a Santa Barbara-approved onshore processing facility is not valid where subsequent tankering to refining centers such as Los Angeles takes place after initial shorefall.<sup>3</sup>

In addition, it cannot be overlooked that the OCS is "held by the Federal government for the public." 43 U.S.C. § 1332(3). As lessors of lands held in the public trust, MMS may impose lease terms that protect the environment by preferring pipeline transportation consistent with the OCSLA and CZMA. Indeed, 43 U.S.C. § 1334(a) grants the Secretary broad authority to adopt and amend rules and regulations, "as he determines to be necessary and proper", "relating to the leasing of the OCS" to provide for, among other things, "conservation of natural resources of the OCS". It cannot be disputed that the MMS has the authority and tools to directly implement Deputy Secretary Garamendi's policy directive.

#### ***Consistency Certification: Enforceable Marine Transportation Policies***

Nonetheless, MMS has chosen to implement the policy directive indirectly through federal consistency certification procedures provided by OCSLA and the CZMA. However, the proposed NTL and MMS' published introductory comment ignore the County's state-certified LCP and misapprehend the role the County's oil transportation policies play in both constituting and implementing enforceable state marine transportation policies. MMS' encouragement that California review the enforceable marine transportation policies in its Certified Coastal Management Plan (CCMP) implies an infirmity that does not exist. It is unnecessary with respect to the three determinations MMS suggests be made by the State, and revisits issues already decided by the Ninth Circuit Court of Appeals in *American Petroleum Institute v. Knecht* (1979) 609 F.2d 1306, wherein the Court rejected the oil industry's challenge to the approval of the CCMP.

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<sup>2</sup> The term "operations" is not defined by OCSLA or implementing regulations, and may be more broadly construed than the terms "development" and "production".

<sup>3</sup> 30 CFR § 250.34(b)(8)(i)(B) requires description of "[t]he means proposed for transportation of oil, gas, sulfur to shore; the routes to be followed by each mode of transportation..." Nothing in this subsection limits this transportation description to initial shorefall where additional marine transportation to shore is required. In addition, 30 CFR § 250.34(b)(8)(i)(C) does not contain any express reference to "transportation.... to shore" in requiring information on boat routes and onshore location of terminals. Finally, 30 CFR § 250.34(b)(17) authorizes MMS to require that a DPP contain information in addition to that expressly required by its regulations. This could include transportation components of DPPs involving the resumption of transportation of production by marine tankers on the OCS to final shorefall for refining before delivery to the marketplace.

In *Knecht*, the Court confirmed that the enforceable substantive policies and procedural requirements of the CCMP certified by the Secretary of Commerce included, among its five elements, the California Coastal Act and Chapter 11 of the combined program description and final environmental impact statement. Chapter 11, entitled "Managing the Coast: The National Interest and the Consistency of Federal Actions," provides "that... local coastal programs...when certified, form one basis for the Coastal Commission's consistency determination." Chapter 11 emphasizes the interest that other agencies have in providing information and assistance to local governments in preparing their LCPs, since "after certification of the LCP, all governmental agencies with the exception of certain [unrelated] Federal activities, must carry out their development activities within the coastal zone consistent with the LCP." Chapter 11 further states: "Because local governments will participate in the State's implementation of the Federal Consistency Provisions, LCPs can affect Federal actions; therefore, it is essential that the views of federal agencies affected by the local program be considered in its development." (See attached excerpt from CZMP, Chapter 11.)

The term "enforceable policy" is defined by the CZMA to mean "State policies which are legally binding through...land use plans, ordinances,...by which a State exerts control over private and public land and water uses and natural resources in the coastal zone." 16 U.S.C. § 1453 (6a). The County's LCP consists of a state-certified land use plan and implementing coastal zoning ordinance, thus meeting the requirements of this definition. In *Knecht*, the Ninth Circuit recognized and affirmed the role of local coastal programs in providing enforceable policies of California's certified Coastal Management Program and, therefore, guidance for consistency determinations. The Court found the requisite coordination within the CCMP between local, area wide and interstate plans applicable to Coastal Zone areas "by virtue of the requirements of the Coastal Act that all local coastal jurisdictions must develop or amend local programs and zoning ordinances in conformance with the policies of the Coastal Act..." *Id* at 1312.<sup>4</sup>

In 1984, pursuant to this federally-approved statutory framework, the County's Oil Transportation Plan preferring pipeline transportation from onshore oil and gas processing facilities to refining centers was incorporated into the County's Local Coastal Program at the urging of the California Coastal Commission as "the best way to establish up-to-date and binding energy policies...." (See attached May 3, 1984 letter to Board Chair David Yaeger from Michael Fisher, Coastal Commission Executive Director.) In that year, the Commission certified the County's LCP Policy 6-8, making findings that it: (1) implemented the resource protection policies in the Coastal Act requiring protection against the spillage of crude oil in relation to any development or transportation of crude (see Cal. Pub. Res. Code §§ 30230-32); and (2) provided a clear and enforceable crude oil transportation policy for OCS oil development requiring use of feasible pipelines to refining centers, all of which are located beyond the County's borders. In addition, the Legislature amended the Coastal Act to incorporate findings relating to the

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<sup>4</sup> The California Public Utilities Commission has recognized that, when certified, the County's LCP implements a statewide statutory scheme and has equal dignity with state law. (See CPUC Decisions 94-06-014 and 96-02-024; cf. *Orange County Air Pollution Control District v. Public Util. Com.* (1971) 4 Cal.3d 945.)

County's OTP and transportation studies concluding that pipelines are environmentally preferable to other forms of crude oil transport. (Pub. Res. Code sec. 30265.)<sup>5</sup>

Until the Exxon litigation, there had never been a question regarding the requirements of LCP Policy 6-8. The requirements of the Coastal Act and County's implementing LCP Policy 6-8 have been consistently interpreted and applied by the California Coastal Commission in three permit appeals involving Chevron tankering from the Gaviota Interim Marine Terminal. In all cases, the Commission has interpreted these policies to require use of feasible pipelines all the way to refining centers beyond the County's borders. (The Federal Court's ruling in the Exxon litigation acknowledged the reach of the LCP, but was misfocused with respect to Exxon's permit language and misinformed regarding the alleged absence of any environmental threat to the County from marine tankering in deciding that Exxon's S.F.-L.A. tankering was "consistent with" the LCP.)

Santa Barbara County hosts a substantial fraction of domestic OCS crude oil production. The County's LCP oil transportation policies were developed to provide state-certified regulation of crude oil transportation for this offshore development and constitute an enforceable pipeline policy preference under the CZMA. No additional analysis of the issues identified by MMS is warranted or needed before effective implementation of the Deputy Secretary's policy directive.

#### ***Proposed Standards for DPP Revisions***

Finally, we are concerned that the decision-making process outlined in the proposed NTL for determining when to require a DPP revision, thus triggering the consistency certification relied upon to implement the policy directive, is flawed. The proposed NTL appears to authorize the Regional Supervisor to require a DPP revision only if he or she determines that proposed changes in lease operations or associated activities could result in a significant change to previously identified or evaluated impacts, or a significant impact not previously identified or evaluated. This approach improperly allows environmental review considerations to override the threshold inquiry in deciding whether a DPP revision is necessary; i.e. does the proposed activity constitute a departure from the approved DPP. If the answer is yes, a revision would be required; the potential for environmental impact relates to the scope of NEPA and CEQA review.

Moreover, the decision as to whether a proposed modification requires a DPP Revision rests solely with the Regional Supervisor. While the draft NTL includes a step whereby the Regional Supervisor would notify appropriate State and local officials about changes in the marine transportation components of existing DPPs and provide them with copies of the information submitted by the operator, it does not describe what, if any, consultation would take place. As

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<sup>5</sup> MMS' request that the State determine whether the CCMP properly incorporates County's LCP transportation policies reflects a fundamental misunderstanding of the relationship between the marine transportation policies of County's certified LCP and State Law. The Coastal Act does not incorporate local government policies; rather, the enforceable marine transportation policies of the State are implemented through certified LCPs and conditions on permits issued under those LCPs. The Coastal Act contemplates both local and state involvement in coastal planning, with final approval by the Coastal Commission in deference to statewide policies and limitations. (*Knecht, supra* at 1312-13.)

mentioned above, MMS had previously committed to developing a consultative process whereby both new and revised DPPs would be brought to the County Board of Supervisors for County and public input.

In addition, the NTL is unclear as to what types of project changes or changes in onshore or offshore conditions would trigger a DPP revision. Operational modifications that may directly or indirectly affect marine transportation should be subject to a DPP revision and the requirements of the NTL. The NTL should also clarify the minimum frequency of "periodic" DPP reviews performed by the Regional Supervisor. We understand that MMS currently reviews DPPs annually and suggest that this continue to be the minimum frequency.

In sum, the proposed NTL does not address any of the process deficiencies that occurred during MMS' review of Exxon's S.F.-L.A. tankering. The proposed policy does not assist enforcement of LCP policies preferring pipeline transportation of crude oil and may, in fact, shield certain federal actions from the consistency certification process based on the discretion of the Regional Supervisor.

### Conclusion

In conclusion, the County has grave concerns with the proposed NTL as written. It fails to meet the spirit or intent of Deputy Secretary Garamendi's policy directive; it falls short of MMS commitments made to the County one year ago. We believe that, under its existing authority, MMS can do much more to accomplish its stated goal to ensure that transportation components of DPPs are consistent with California's Coastal Act and Coastal Management Program.

We appreciate the opportunity to comment on this draft NTL and hope to be able to work with MMS on a revised marine transportation policy that will satisfy the interests of Santa Barbara County and the coast of California.

Respectfully submitted,

Gail Marshall, Chair  
Board of Supervisors

### Attachments

cc: Deputy Secretary John Garamendi, Department of Interior  
Ms. Cynthia Quarterman, Director, MMS  
Senator Barbara Boxer  
Senator Dianne Feinstein  
State Senator Jack O'Connell  
State Assemblyman Brooks Firestone  
Mr. Peter Douglas, Executive Director, California Coastal Commission  
Mr. Robert Hight, Executive Officer, State Lands Commission  
Ms. Ruth Brackett, Chair, San Luis Obispo County

Mr. John Flynn, Chair, Ventura County Board of Supervisors  
Mr. William J. Douros, Monterey Bay National Marine Sanctuary  
Mr. Ed Cassano, Channel Islands National Marine Sanctuary  
Mr. John Euphrat, San Luis Obispo County Planning  
Mr. Keith Turner, Ventura County Planning

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**Attachments  
to March 24, 1998 Comment Letter to MMS**

- 1. Santa Barbara County Local Coastal Plan Policy 6-8 (including preamble text)**
- 2. Letter from MMS Director Cynthia Quarterman to Supervisor Jeanne Graffy, February 7, 1996.**
- 3. Letter from MMS Director Cynthia Quarterman to Supervisor Jeanne Graffy, June 18, 1996.**
- 4. DOI Deputy Secretary John Garamendi memorandum to MMS Director Cynthia Quarterman, June 17, 1996.**
- 5. Excerpt from Chapter 11 of the Coastal Zone Management Plan (CZMP).**
- 6. Letter from California Coastal Commission Executive Director Michael Fischer to County Supervisor David M. Yeager, May 3, 1984.**



## **Santa Barbara County Local Coastal Plan**

### **Oil and Gas Processing Facilities**

The County currently has twelve oil and gas processing facilities located in the coastal zone, two of which are not in operation (Texaco--St. Augustine and Texaco--Gaviota.) Eight of these facilities process oil and gas from offshore fields and are therefore coastal dependent (Union--Pt. Conception, Arco--Gaviota, Chevron--Gaviota, Shell--Molino, Phillips--Tajiguas, POPCO--Las Flores Canyon, ARCO Dos Pueblos and ARCO--Ellwood. Although somewhat lower than previously anticipated, production forecasts in 1986 continue to indicate that offshore oil and gas production will increase considerably above historic levels, possibly peaking during the mid-1990s and perhaps again sometime after year 2000. The associated demand to develop onshore processing facilities requires a special planning focus to address long-term land-use and environmental management concerns. The coastal zone area west of the City of Santa Barbara to Point Arguello is expected to be most affected by increased oil and gas production offshore. Consequently, this area plus a parallel strip of land outside of the coastal zone, has been designated as the South Coast Consolidation Planning Area. Such designation allows the County to focus policies on reducing the proliferation of oil and gas processing facilities in the area. (Revised 12/14/87, B/S Resol. 87-616).

Oil transportation is one of the key issues associated with oil development in Santa Barbara County. Pipelines have been found to be environmentally superior to tankers. Tanker transportation presents greater impacts to marine, visual, recreation and air resources than do pipelines. General pipeline "feasibility" will be determined through the market based on producer choice of refining center, refining capacity in that center, and economic feasibility being tested through ability to obtain financing and the choice to build and operate the pipeline. Once constructed and operational to the refining center of a producer's choice (e.g. Houston, San Francisco, Los Angeles), pipelines shall be the required mode of transportation because they are less environmentally damaging than other modes of transportation. This requirement is based on the assumption that, when operational, pipelines serving various refining centers will have adequate capacity and that the tariffs and costs of transporting the oil to its ultimate refining destination will be reasonable. This "reasonableness" will be based on the balancing of public and private interests in economic and environmental factors. (Adopted by B/S 6/18/84, Resol. #84-284).

The County should assure that producers have access to competitive markets, however, the County need not provide unlimited flexibility to all producers. Since pipelines are not yet in place and may not be constructed to all refining centers, other methods of oil transportation are needed for production that precedes pipeline construction and operation and for refining centers not served by pipeline. (Adopted by B/S 6/18/84, Resol. #84-284).

The County recognizes the potential for transportation demand to exceed system capacity and should take affirmative measures to ensure equitable, pro-rata access to the transportation system by all shippers consistent with the County's goals of consolidation. (Adopted by B/S 6/18/84, Resol. #84-284).

Because of uncertainty regarding crude oil production volumes, industry economics, and permits, there is a need for periodic review of the County's oil transportation policies. (Adopted by B/S 6/18/84, Resol. #84-284).

## **Policy 6-8**

If an onshore pipeline for transporting crude oil to refineries is determined to be technically and economically feasible, proposals for expansion, modification, or construction of new oil and gas processing facilities shall be conditioned to require transportation of oil through the pipeline when constructed, unless such condition would not be feasible for a particular shipper.

- a) Pipeline transportation of crude oil to a refining center served by a pipeline is presumed to be technically and economically feasible and the required method of transportation to that center.
- b) Pipeline transportation of crude oil is presumed feasible for a particular shipper if a pipeline is in operation to the refining center of the shipper's choice.
- c) Crude oil processing facilities shall be conditioned to require that each shipper's oil leaving those facilities be transported by pipeline when a pipeline is in operation to the refining center of the shipper's choice.
- d) Until pipelines become available, and for refining centers not served by pipeline, other modes of oil transportation are allowed consistent with County policies. Rail is not preferred for large volume shipments of oil.
- e) For refining centers served by pipeline, other modes of transportation up to the limits of permitted capacity for those modes, and with assurances that the shipper or transportation facility operator can and will mitigate the environmental impacts caused by the alternate transportation mode, are allowed only under the following circumstances:
  - 1) Pipeline unavailability or inadequate capacity; or
  - 2) A refinery upset lasting no longer than two (2) months and only where the alternate refining center is not served by pipeline; or
  - 3) An emergency which may include a national state of emergency.



## United States Department of the Interior

MINERALS MANAGEMENT SERVICE  
Washington, D.C. 20240

FEB - 7 - 1996

Honorable Jeanne Graffy  
Chairperson  
Santa Barbara County Board of Supervisors  
105 East Anapamu Street, 4th Floor  
Santa Barbara, California 93101

Re: Tankering of OCS Oil Production

Dear Chairperson Graffy:

Through recent correspondence and conversations between your office and Department of the Interior and Minerals Management Service (MMS) officials, you have expressed a number of concerns relating to the transportation of oil production from the Federal Outer Continental Shelf. Specifically, you have indicated concern regarding possible constraints on communications between your county, the MMS and other pertinent agencies and expressed the desire that this communication remain open and constructive. You have also expressed concern about the long-term fate of OCS transportation along the California coast. This latter concern includes issues raised by their MMS letter of July 12, 1995, in which MMS determined that limited tankering by Exxon Company, U.S.A. (Exxon) of Santa Ynez Unit crude oil does not constitute a significant change in activity from Exxon's approved Development and Production Plan. I am writing to clarify the position of the MMS on these issues.

Federal law governing activities on the Outer Continental Shelf (OCS) and in the coastal zone provides a framework that recognizes and encourages full cooperation, participation, and communication with state and local governments. In the Outer Continental Shelf Lands Act (OCSLA), Congress has recognized that OCS activities will have significant impacts on the states and expresses as Federal policy that state and local governments whose interest are affected by development of the OCS

are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, minerals of the Outer Continental Shelf....

43 U.S.C. 1332(4) (C).

ATTACHMENT 2

The OCSLA further states:

The rights and responsibilities of all State and, where appropriate, local governments, to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized....

43 U.S.C. 1332(5).

Likewise, the Coastal Zone Management Act (CZMA) encourages participation and cooperation among the public, state and local governments, and Federal agencies having programs affecting the coastal zone. 16 U.S.C. 1452(4). The CZMA seeks to assist states in developing effective coastal zone management programs that, among other things, provide for:

continued consultation and coordination with, and the giving of adequate consideration to the views of, affected Federal agencies....

16 U.S.C. 1452(2) (H).

The MMS reiterates its continued commitment to this cooperative effort. We remain dedicated to maintaining consultation, coordination and participation by and with state and local governments and other interests affected by development of the OCS. Like you, we believe that such uninhibited communication is essential to ensuring environmentally sound and mutually beneficial policies for the OCS. We believe that the expression to MMS of the County's view on tankering of OCS production, including issues raised by MMS's July 12 determination regarding Exxon's tankering, is fully consistent with the goal of mutual cooperation and appropriate to informed Federal decision-making as intended by Congress in the OCSLA and the CZMA.

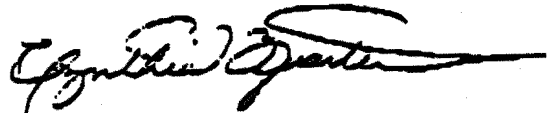
In regard to the scope of MMS' July 12 determination, I wish to make clear that MMS addressed solely the issue of whether Exxon's proposed limited tankering activity was in compliance with Exxon's Santa Ynez Unit Development and Production Plan. MMS did not and does not express any view as to how the condition of the County's permit for Exxon's on-shore processing facility should be interpreted and applied. MMS recognizes the County's right under the OCSLA and CZMA to preserve and protect the coastal environment by appropriate regulation of OCS-related activities within the County's jurisdiction.

Finally, consistent with its commitment to work with state and local government in addressing impacts of OCS activities, MMS generally supports State of California and local policies which favor pipelines as the environmentally preferred method of

transporting OCS oil and gas production. MMS looks forward to a continued positive relationship with all affected parties as the best means of facilitating development of adequate pipeline capacities sufficient to transport OCS production in an economical and environmentally sound manner.

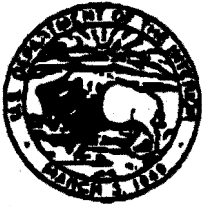
Please be assured that the MMS intends to continue all possible efforts toward resolving the concerns of Santa Barbara County and to secure as fully as possible the commitment of California OCS producers to pipeline transportation.

Sincerely,



Cynthia Quarterman  
Director

cc: California Coastal Commission  
Exxon Company, U.S.A.



## United States Department of the Interior

MINERALS MANAGEMENT SERVICE  
Washington, DC 20240

JUN 18 1996

Honorable Jeanne Graffy  
Chair, Santa Barbara County  
Board of Supervisors  
105 East Anapamu Street  
Santa Barbara, California 93101

Dear Chairperson Graffy:

The citizens of California have worked for decades to assure that offshore oil production is accomplished in a safe and environmentally sound manner. The State, the counties, and other jurisdictions have been particularly concerned that the threats of oil spills associated with offshore oil production be minimized and mitigated to the maximum extent. As the enclosed directive illustrates, the Minerals Management Service (MMS) is undertaking the creation of policies which will, to the maximum extent practicable, support the programs and policies of the State of California and its citizens relating to onshore transportation of Federal Outer Continental Shelf (OCS) crude oil.

That oil has been safely produced from the OCS for many years is due in no small part to the active participation by the State and coastal communities in issues relating to the planning, development, production, and transportation of OCS crude oil. For example, since the infamous Santa Barbara oil spill of 1969, more than 750 million barrels of crude oil have been produced in the Federal waters offshore California. Platforms, piping, and onshore processing facilities have been constructed and operated, all without significant detriment to the sensitive coastal environment. The Department of the Interior appreciates the continuing concerns of affected communities for protection of the scenic and other important values of the California coast.

The Department, through the MMS, seeks to encourage and strengthen continual cooperation and participation between Federal, State and local governments concerning issues related to production of crude oil on the OCS. Offshore mineral development cannot take place in an orderly and efficient manner without the cooperation of all levels of government. Indeed, both the Outer Continental Shelf Lands Act and the Coastal Zone Management Act recognize the rights and responsibilities of states and localities to protect their coastal zones by appropriate regulation of certain activities related to development of OCS oil and gas.

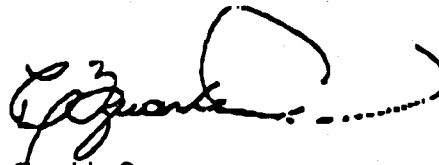
The State of California and the county of Santa Barbara have adopted policies which establish pipelines as the environmentally preferred means of onshore transportation of OCS crude oil. Recently the county has been frustrated in its attempts to apply its oil transportation policies to tankering from outside the county of OCS crude oil processed in the county.

Honorable Jeanne Graffy

The enclosed directive is intended to ensure that the State of California, onshore local jurisdictions, regulated industry, and members of the public have the opportunity to participate and make their views known as the policy is developed. The MMS believes that this policy will be a positive step in continuing cooperative efforts to regulate OCS related activities in an environmentally sound and reasonable manner.

An identical letter has been sent to Honorable David Blakely, Honorable Frank Schillo, Mr. Peter Douglas, and Mr. Robert Hight.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Quarterman', with a large, stylized loop at the end.

Cynthia Quarterman  
Director

Enclosure

## **Excerpts from Chapter 11:**

### **3. Federal Consistency Determinations**

Section B of this chapter outlines in some detail the procedures that California will use in evaluating the consistency of Federal activities and projects subject to the requirements of Section 307 of the CZMA. The consideration of national interest are required to be incorporated into the development of local coastal programs which will, when certified, form one basis for the Coastal Commission's consistency determination; and (2) the State Coastal Commission will retain the primary authority for evaluating projects and activities subject to the Federal Consistency determinations.

### **4. Local Coastal Program Development**

...public agencies - local, regional, State and Federal - have an obligation to provide information and assistance to the local governments. Moreover, it is in their interest to do so, because, after certification of the LCP, all governmental agencies, with the exception of certain Federal activities, must carry out their development activities within the coastal zone consistent with the LCP.

Because local governments will participate in the State's implementation of the Federal consistency provisions, LCPs can affect Federal actions; therefore, it is essential that the views of Federal agencies affected by the local program be considered in its development.



## ATTACHMENT B

Testimony of Lisle Reed, Regional Director of MMS  
January 21, 1997  
County Board of Supervisors

*Chairman Urbanske:*

"Next, back to staff. Did you want to respond?"

*Bill Douros, Deputy Director, Energy Division:*

"No, we think it would be best to have Dr. Reed come up and summarize his concept at this point regarding the policy."

*Chairman Urbanske:*

"Ok, that's fine. Dr. Reed."

*Dr. Lisle Reed, Regional Director, MMS:*

"Good afternoon, Mr. Chair, Members of the Board, this is my first appearance here this year, so Happy New Year, and congratulations Supervisor Marshall for your election to the Board. I hope to have an opportunity to get better aquatinted with you at some point in the near future and be able to brief you on the business of the offshore oil and gas that we get into in the Minerals Management Service. I will just briefly summarize where we are coming from in the MMS and I will remain for questioning that you have or any of your constituents have.

"As was reported in the staff report, the implementation of our policy, the process, I think, is very important if it is a process whereby the MMS will do a lot of data gathering and working with the operator and the permittee, but before I make decisions I will bring them here to the Board for you to ponder on and receive comments from your constituency and give me guidance on what you think should be done. And that I report back to you on that, I think, this is a very important thing we are entering into here.

"Now, Supervisor Graffy asked a key question; 'Is policy law?' Well, no it isn't. What is going to count is how we go about implementing it and the way we issue a permit and the way we administer the permit will be the key to that. But basically what we're attempting to do is run our business in the federal domain in accordance with or be consistent with the policies you have established. That's what we will attempt to do and I must point out that we did not previously worry alot about the oil when it was on the land. We're not for sure the extent of our jurisdiction but we do have broad general guidance by law that says we're to look at the impact of what we create, and the offshore oil is created by our actions, so I certainly think there is an obligation on the feds to look into and indeed to be responsible for the oil flow and we will attempt to do that.

"Now also as you can see in the staff report, I envision accomplishing this through the permits that we will grant to people, for facilities; and again there is a difference in people who are already permitted vs. those who are seeking a permit. To go to try to administer a policy to somebody who already has a permit is a little more difficult than starting from scratch with somebody you haven't issued a permit, if you're intending to regulate them through their permit. So I don't think though that that will create a considerable problem because the present operators are either grandfathered or they're not shipping oil, except for Exxon, and that brings us to the future, which is the quantity of oil that could be produced in this area ultimately. We will be writing those permits; and those issues of oil transportation, as well as many other issues, I intend to bring here and put them in front of the Board as to how I am intending to make decisions on them, so we will have adequate opportunity to address those facilities and those permits.

"I think I should mention also that in general I think staff did a fairly good job of recording the some 2 - 3 hours of conversation that we had as to how to implement this policy [excerpts from January 21, 1997 staff report attached]. I will note just a few exceptions. If you will look at 3.3.3., page 16, it emanates their that, for instance, for existing facilities that we will send a letter to lease operators directing them to submit information 60-90 days that shows how they are complying with the policy initiative. It goes on to say that the MMS

that produces a crude that is extremely viscous and not suitable for pipeline, that we would consider that entire project on that basis and look at it on the context of. I mean the operator will have to show that he will not be able to build a line in and operate it feasibly, but there maybe one exception that is technical and economic that would preclude the use of a pipeline for a certain kind of operator in the future.

"But for all practical purposes or for most of the situations that we can envision, we would scrutinize the applicant, the application, their modes of transportation and permit on that basis. For existing operators, we would query them as to any transportation they would be planning that would be by tanker and scrutinize it based on your policy that is very well documented in I think 6.6, is it Bill and use that criteria to make judgments on the need of tankering. And if we thought it merited the exception that your policy provides for, I would bring it forward to you all and receive your comments and thoughts on it.

"That essentially concludes the points I would like to make at this time, and like I say I will field and question you have right now and I will also remain to answer any of your constituents questions or any question you have after you hear your constituents."

California Coastal Commission  
631 Howard Street, 4th Floor  
San Francisco, California 94105  
(415) 543-8555

May 3, 1984

Honorable David M. Yager  
Chairman, Santa Barbara County  
Board of Supervisors  
105 Anapamu Street  
Santa Barbara, CA 93101

Dear Chairman Yager:

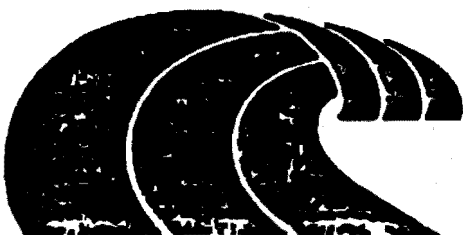
The California Coastal Commission appreciates the opportunities you have provided for our staff to participate in your planning for additional energy development in Santa Barbara County. This development, as you know results directly from increased oil and gas production offshore and is reviewed by the Commission under both the California Coastal Act and the federal Coastal Zone Management Act. The Commission and the County have been working as partners to ensure that State and local concerns are fully addressed as energy development in state and federal waters proceeds in the Santa Barbara region.

In this spirit of mutual cooperation, I would like to explain why we believe it is necessary for the County to amend its certified Local Coastal Program so that both the County and the Coastal Commission can give clear direction to the oil industry and assure the industry that its development proposals will be reviewed expeditiously.

It is particularly important that your Board's decision to provide further direction to industry, based on the conclusions of your Oil Transportation Plan, be made before the July 10, 1984 deadline for action on Exxon's applications. We believe the best way to establish up to date and binding energy policies is through an amendment to your LCP. The energy policies in your current LCP were prepared prior to numerous recent significant crude oil discoveries in the Santa Barbara Channel and Santa Maria Basin. At that time, these policies were based on the assumption that only 118,000 barrels per day of oil would be produced from the western channel. As a result, your present LCP may not be adequate for evaluating the many proposed projects and the increased volume of crude oil that have come about since your LCP was prepared.

The Coastal Act envisions a process where LCPs will be kept up to date to deal with such changes. In this way, all projects can be equitably considered under consistent criteria, avoiding a case-by-case or "first come, first served" approach. Only through an amendment can we address the cumulative impacts projected for the tremendous growth in oil production expected over the next 10 years. We believe that your revised Oil Transportation Plan will provide the necessary basis for an LCP amendment.

ATTACHMENT 6



Honorable David M. Yager  
May 3, 1984  
Page 2

The second and more important reason for amending the County's LCP is that your April 17th decision and proposed resolution could be construed to be a change in the policies contained in your LCP. Any LCP revisions must be approved by the Commission before the County can use the new policies to make any regulatory decisions under the Coastal Act. Therefore, anyone could legally challenge the coastal development permits issued by the County that rely on your policy guidance resolution. To assure legal problems do not delay coastal development permit applicants, or complicate the Commission's review of those permits if there is an appeal, it is far preferable that your guidance be incorporated into an LCP amendment.

The Commission has regulatory jurisdiction seaward of the MHT line. Although the Commission's decisions on applications for development on tidelands must be based on the standards in the Coastal Act rather than the LCP policies, the Commission does look to the LCP for guidance. To ensure that the Commission and the County act in a consistent manner, both of our agencies should adopt an LCP amendment based on up-to-date information.

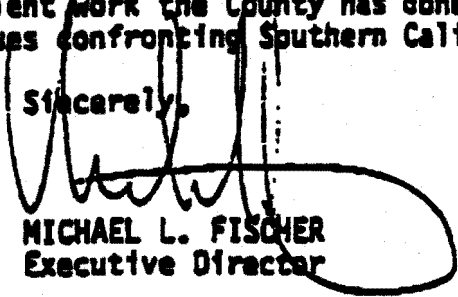
We understand that time constraints prevent an LCP amendment from being adopted by your Board and certified by the Commission prior to your acting on Exxon's project. Nevertheless, we urge the County to process an amendment as expeditiously as possible. The Commission expects to act on the Exxon coastal development permit application and consistency certification for the Santa Ynez Unit's tidelands facilities at its August 21-24, 1984 Commission meeting in Marina del Rey. A public hearing will be held two weeks earlier in Santa Barbara. For the Commission to fully consider the amended LCP in its decision, your Board should adopt it by the first part of July. Without an amended and certified LCP, the Commission will be forced to act on Exxon's project without fully understanding how the County wishes to accommodate the other numerous competing proposals, making it difficult for the Commission to approve Exxon's application.

It is unfortunate that both the Board and the Commission must conduct their deliberations under Exxon's threat that it will retain and expand its OS&T if the company does not get unconditional approval for its onshore option. Exxon's ability to maintain this threat depends on the Secretary of Commerce deciding to overrule the Commission's objection to the offshore option. The Secretary has already considered Exxon's appeal and has decided to wait until the completion of the EIS and the OTP, and until the County and the Commission act on the onshore alternative, before he determines whether the offshore option is necessary. Exxon has filed a request to have the Secretary reconsider his decision. Because I believe the County and the Commission will ultimately approve a transportation system that the Secretary can find is reasonable, meets industry's needs, and protects coastal resources, I believe we no longer have to contend with the expansion of the OS&T as a realistic option available to Exxon.

Honorable David M. Yager  
May 3, 1984  
Page 3

I would like to reiterate our commitment to continue working closely with you and your staff on an LCP amendment which we can put before the Coastal Commission for certification in July. Neither the County nor the Commission can act unilaterally: the County must propose any amendment before the Commission can certify it. The results of this amendment process are therefore controlled by your Board. Again, we greatly appreciate and commend the excellent work the County has done in preparing studies on the complex and difficult issues confronting Southern California.

Sincerely,



MICHAEL L. FISCHER  
Executive Director

MLF/LTT/jde

Enclosures

cc: Supervisors  
Commissioners  
Dianne Guzman



## United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, D.C. 20240

JUN 17 1996

## Memorandum

To: Director, Minerals Management Service

Through: Bob Armstrong *Bob Armstrong*  
Assistant Secretary for Land and Minerals Management

From: John Garamendi *John Garamendi*  
Deputy Secretary

Subject: Policy Directive to the Minerals Management Service

The State of California and the county of Santa Barbara have established policies designed to protect their coastal environments from potential impacts associated with the development and production of petroleum resources. Those policies include measures to minimize any potential environmental harm from the transportation of petroleum resources produced on the Outer Continental Shelf (OCS). Specifically, the policies of the State of California and the county of Santa Barbara prefer that oil and gas production, including offshore resources, be transported by onshore pipeline, rather than by offshore tanker, whenever pipelines are economically and technically feasible.

The Minerals Management Service (MMS) regulates activities which occur within OCS lease boundaries, and generally up to the point of landfall. The MMS has long acknowledged and respects the efforts of States and localities to regulate their land uses, to preserve and protect their marine, human and coastal environments, and to impose appropriate and reasonable regulations on certain activities related to produced crude when it reaches landfall. This includes the manner in which crude oil may be transported. Consistent with the policies established in the Coastal Zone Management Act and the Outer Continental Shelf Lands Act, MMS seeks to encourage and foster cooperative and coordinated activities of all three levels of government in addressing impacts of OCS oil development on the coastal zone.

In furtherance of this policy of coordination and cooperation, I am requesting that the MMS undertake such policies or programs as appropriate to support to the fullest extent practicable the policies of the State of California, the county of Santa Barbara, and other jurisdictions within California relating to the transportation of petroleum. The policies should, to the maximum extent practicable, assist the State and local governments in

accomplishing their environmentally sound objectives and programs that involve transportation of oil, including oil produced from the Federal OCS. Such MMS policies should particularly attempt to ensure that new and, where appropriate, amended Development and Production Plans adequately reflect the principle that transportation of OCS crude be consistent with State and local policies.