

## CALIFORNIA COASTAL COMMISSION

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# Th8.5a

January 25, 2006

**TO:** Commissioners and Interested Persons

**FROM:** Alison Dettmer, Manager, Energy and Ocean Resources Unit  
Robin Blanchfield, Coastal Energy Analyst

**SUBJECT: LCP Amendment SB-MAJ-02-04 Part A**  
Request by Santa Barbara County to amend its local Land Use Plan and Implementation Program to conform with Coastal Act Section 30262 (a)(7)-(8), as amended in 2003 by stats 2003, Chapter 420 (Assembly Bill 16)

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Santa Barbara County Local Coastal Program (“LCP”) Amendment SB-MAJ-02-04 Part A was first brought before the Coastal Commission at its February 16, 2005 meeting. At that time, pursuant to PRC Section 30517, the Commission postponed action on the amendment, for a period of up to one year, in order to allow the County and Commission staffs additional time to resolve issues raised by the Western States Petroleum Association (“WSPA”) concerning the consistency of the proposed amendment language with the intent and language of Coastal Act Section 30262(a)(7)-(8). To meet the one-year deadline, the Commission must take action on this item by its February 9, 2006 meeting. Alternatively, the County may withdraw the amendment and resubmit at a later time.

The County staff is in the process of requesting its Board of Supervisors’ approval to formally withdraw the amendment before February 9, 2006. However, if unforeseen circumstances arise that would prevent the County from delivering its formal withdrawal, the Commission would be required to take action. The purpose of this staff report is to provide the Commission with a staff recommendation in the event it is required to take action.

## 1.0 BACKGROUND

The proposed amendments submitted in SB-MAJ- 2-04 Part A are an update of the County’s Coastal Plan oil transportation policies and Coastal Zoning ordinances to bring them into conformance with the amended provisions of Coastal Act Section 30262(a)(7)-(8) and present-day circumstances, in which pipeline capacity now exceeds the amount of oil that is produced offshore and transported through the County. Coastal Act Section 30262(a)(7)-(8) was amended in 2003 (stats. 2003, Chapter 420 [Assembly Bill 16]) and now requires that all oil produced from

new or expanded oil and gas operations offshore California be transported onshore to processing and refining facilities by pipeline only (except under specific special circumstances).

Specifically, LCP Amendment SB-MAJ-02-04 Part A proposes revisions to the text and policies of *Section 3.6.4* of Santa Barbara County's Coastal Plan and to the standards in *Article II, Chapter 35* of the Coastal Zoning Ordinance to:

- (1) Specify that all oil produced from offshore oil reserves, and landed in Santa Barbara County, shall be transported to onshore processing facilities and final refining destination by pipeline, except where marine tankering is a vested right, or under special circumstances where there is a governor-declared emergency that prevents pipeline transport or the oil is too viscous for pipeline transport. The proposed revisions do not apply to facilities supporting onshore oil and gas extraction fields.
- (2) Prohibit marine terminals or expansion of existing ones. Allows existing marine terminals to continue operating under vested right.<sup>1</sup>

WSPA<sup>2</sup> objected to the Commission's certification of the County's proposed LCP amendment asserting that the proposed amendment will not conform the County's LCP to existing law and is in conflict with the policies of the Coastal Act and the federally certified California Coastal Management Program ("CCMP") for the following reasons:

- (1) The new pipeline transport provisions of Coastal Act Sections 30262(a)(7)-(8), as amended in 2003 by stats. 2003, Chapter 420 (Assembly Bill 16), have not yet been approved for inclusion into Commission's federally certified CCMP, and therefore the proposed changes to the LCP are inconsistent with the policies of the Commission's CCMP.
- (2) The County's LCP amendment is not consistent with the Coastal Act because the new provisions of Coastal Act Section 30262(a)(7)(C)(iii), require pipeline transport of oil produced only from "new or expanded" offshore operations, and places no restrictions on the transportation of oil produced from existing offshore oil operations. WSPA asserts that although the County's proposed LCP pipeline requirements are expressly directed at oil produced from "new or expanded" offshore production facilities, the proposed prohibition on new or expanded marine terminals would put in place a near absolute ban on marine transportation of oil produced offshore, even from existing production facilities.
- (3) The County is seeking to regulate beyond its territorial boundaries and parameters of its Coastal Zoning Ordinance because the proposed amendment seeks to regulate the transport of oil by pipeline to the final refining destination, which occurs outside the County boundary.

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<sup>1</sup> Transmittal letter for LCP submittal dated November 12, 2004, from Doug Anthony, County of Santa Barbara, to Robin Blanchfield and Gary Timm, California Coastal Commission.

<sup>2</sup> Letters, dated January 31, 2005 and February 14, 2005, respectively, sent on behalf of WSPA by Joclyn Thompson, Weston Benshoof Rochefort Rubalcava & MacCuish LLP, to Meg Caldwell, Chair of California Coastal Commission.

- (4) The proposed amendment improperly seeks to regulate activities in areas under the exclusive jurisdiction of the federal government because it seeks to regulate transport of crude oil produced at platforms in offshore federal waters.
- (5) Lastly, the proposed LCP amendment will create practical problems of compliance and enforcement. The original producer may not retain title to the crude oil all the way to the refining destination. It is not clear how the proposed ordinance would apply to the producer after he relinquished ownership and control.

The County and Commission staffs have been working with WSPA throughout 2005, and believe that progress has been made; however, the process is not yet complete and outstanding issues remain. Therefore, in order to continue the issue resolution effort, Santa Barbara County staff has agreed to request its Board of Supervisors to withdraw LCP Amendment SB-MAJ-02-04 Part A, and resubmit a revised LCP amendment to the Commission at a later time.

Accordingly, County staff has written a letter requesting withdrawal of the LCP amendment. However, this letter needs approval by the County's Board of Supervisors and has been scheduled for action at the Board's next meeting on February 7, 2006. Pending the Board's action, the County staff plans to submit the formal letter of withdrawal to the Commission before its February 9, 2006 meeting, so that the Commission will not need to take action.

However, if unforeseen circumstances arise that would prevent the County from delivering the letter of withdrawal to the Commission by February 9, 2006, then the Commission would be required to take action on LCP Amendment SB-MAJ-02-04 Part A. Therefore, the Commission staff must provide a staff recommendation to the Commission, in case it needs to take action.

In light of the unresolved nature of the outstanding issues, staff is unable, at this time, to make a favorable recommendation with respect to the certification of the subject LCP amendment based on the merits of its consistency with the Coastal Act. Staff therefore recommends that the Commission **deny** certification of Santa Barbara County's proposed LCP Amendment SB-MAJ-04-02 Part A, as submitted, based on the need for additional time to address the outstanding issues regarding consistency of the proposed amendment with the new provisions of amended Coastal Act sections 30262(a)(7)-(8).

## 2.0 STAFF RECOMMENDATIONS, MOTIONS AND RESOLUTIONS

### 2.1 Land Use Plan ("LUP") Amendment

#### Motion:

*I move that the Commission **certify** Land Use Plan Amendment SB-MAJ-02-04 Part A as submitted by Santa Barbara County.*

Staff Recommendation To Deny Certification of the LUP Amendment As Submitted:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the Land Use Plan amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

Resolution To Deny Certification of the LUP Amendment As Submitted:

*The Commission hereby denies certification of the Land Use Plan Amendment SB-MAJ-02-04 Part A as submitted by the County of Santa Barbara and adopts the findings set forth in the Staff Report dated January 25, 2006, on the grounds that the amendment, as submitted, does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures that could substantially lessen any significant adverse impact that the Land Use Plan Amendment may have on the environment.*

**2.2 Implementation Program Amendment**

Motion:

*I move that the Commission **reject** the Implementation Program amendment SB-MAJ-02-04 Part A for the County of Santa Barbara as submitted.*

Staff Recommendation to Deny Certification of the Implementation Program Amendment As Submitted:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of the Implementation Program amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution to Deny Certification of the Implementation Program Amendment As Submitted:

*The Commission hereby denies certification of the Implementation Program Amendment SB-MAJ-02-04 Part A as submitted by the County of Santa Barbara and adopts the findings set forth in the Staff Report dated January 25, 2006, on the grounds that the Implementation Program amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Santa Barbara County Land Use Plan as amended. Certification of the Implementation Program amendment would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted.*