

January 31, 2005

Ms. Meg Caldwell, Chair
Members of the Commission
California Coastal Commission
45 Fremont Street
San Francisco, CA 94105

Re: Proposed Amendments to Santa Barbara County Local Coastal Plan --
Agenda Item 5.a.

Dear Chairwoman Caldwell and Commissioners:

I am writing to you on behalf of members of the Western States Petroleum Association. At your meeting on February 16-18, 2005, the Commission is expected to consider a proposal from the County of Santa Barbara to amend its Local Coastal Plan (LCP). The proposed amendments include changes to the County's policies relating to production of oil from offshore Santa Barbara County, and the transportation of that oil to its refining destinations. The Western States Petroleum Association (WSPA) is a trade association whose members include companies that own and operate oil and gas production facilities offshore Santa Barbara County and who will be affected by the proposed changes.

WSPA urges the CCC not to certify the proposed amendments. Contrary to the County's assertions, the amendments will not conform the LCP to existing law, and in fact are in conflict with existing law.

The proposed amendments to the Santa Barbara County LCP would require that oil produced offshore Santa Barbara County be transported by pipeline to its ultimate refining destination. The LCP amendments also would repeal policies and ordinances that allow construction or expansion of marine terminals. Although the pipeline mandate is expressly directed at oil produced from new or expanded offshore production facilities, the 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. The County asserts that the changes are required to make the LCP consistent

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with other laws, including the amendments to the California Coastal Act contained in Assembly Bill 16 (AB16), adopted in 2003. But this is not correct. The LCP amendments are not required by other laws, and indeed would conflict with both federal and state law.

First, it is important to note that AB16 is not an approved part of the California Coastal Management Program (CCMP). In December 2003, the Commission submitted AB16 to the National Oceanic and Atmospheric Administration (NOAA) for approval as part of the CCMP. The Commission was hoping for expedited review of AB16 as a "routine program change". WSPA submitted comments to NOAA objecting to the use of the expedited review process. WSPA pointed out that the transportation limitations embodied in AB16 would affect uses of the coastal zone that had not previously been regulated by the State. WSPA also pointed out that the limitations in AB16 are contrary to the national interest as stated in the Coastal Zone Management Act, as well as in the California Coastal Act, Public Resources Code Sections 30001.2 and 30261, which allow existing and new tanker facilities. In light of the substantial and fundamental changes that would result from this law, WSPA urged NOAA to require that AB16 be submitted for thorough review as an amendment to the California Coastal Management Program. Subsequently, by letter dated June 15, 2004, the Commission withdrew its request for incorporation of AB16 into the California Coastal Management Program. Until AB16 is resubmitted to and approved by NOAA, there is a conflict between AB16 on the one hand, and federal law and the California Coastal Management Program on the other. The proposed revisions to the Santa Barbara LCP would only exacerbate this conflict.

Second, the proposed amendments to the LCP are not consistent with AB16 itself. The Santa Barbara proposal aims to regulate all oil production offshore Santa Barbara County. It would essentially forbid all marine transportation of crude oil except for currently permitted production from the South Ellwood Field that is currently barged from the Ellwood Marine Terminal. This sweeping regulatory prohibition is not derived from AB16, and appears to be based on a misunderstanding of state law. For example, in a letter to the Santa Barbara Board of Supervisors that initiated the LCP amendments, the County staff stated: "Marine tankering is now prohibited by state law." But this is not so. For example, AB16 places no restrictions whatsoever on the transportation of oil produced from existing well heads at existing platforms. (See Public Resources Code Section 30262(a)(7)(C)(iii).) While production from the South Ellwood Field may be the only production currently transported by marine vessel, AB16 would not preclude marine transportation of oil produced by existing facilities in other fields, if circumstances

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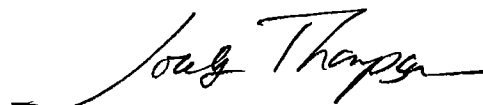
warrant in the future. Contrary to the County's claims, the proposed amendments will not make the LCP consistent with state law.

The LCP amendments also are contrary to other provisions in the California Coastal Act. Section 3001.2 of the Public Resources Code reflects the legislative finding that certain coastal-dependent facilities such as ports and oil and gas development are necessary to ensure the economic development of the state. Section 30260 acknowledges the need to accommodate coastal dependent industrial facilities, and Section 30261 spells out the factors that apply to the design and use of tanker facilities. The balance recognized in the California Coastal Act cannot be achieved if marine oil terminal facilities are banned county-wide in the very location where the oil is produced.

Under the California Coastal Act, the Commission may not certify plans or plan amendments that are not in conformity with the policies of the Act. The proposed amendments will conflict with the policies of the California Coastal Act and the approved Coastal Management Program. As such, the Commission must refuse to certify the LCP amendments proposed by the County of Santa Barbara.

If you have further questions regarding the proposed LCP amendments, please do not hesitate to call me.

Very truly yours,



Jocelyn Thompson
WESTON BENSHOOF

ROCHFORD RUBALCAVA & MacCUIISH LLP

JNT/

cc: Bob Poole – Western States Petroleum Association