

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
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(805) 568-2240

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TO: Board of Supervisors

FROM: Valentin Alexeeff, Director
Planning and Development Department

STAFF CONTACT: Alice McCurdy (568-2522)
Joddi Leipner (568-2514)

SUBJECT: National Pollutant Discharge Elimination System (NPDES) Permit for OCS Oil and Gas Facilities Discharges

Recommendation(s):

That the Board of Supervisors authorize the Chair to execute a letter (Attachment A) to the US Environmental Protection Agency (US EPA) commenting on the General NPDES Permit for offshore oil and gas facilities.

Alignment with Board Strategic Plan: The recommendation aligns with Goal No. 2. A Safe and Healthy Community in Which to Live, Work, and Visit, and Goal 5: A High Quality of Life for All Residents.

Executive Summary and Discussion: On March 16, your Board authorized the chair to send a letter to the California Coastal Commission (CCC) commenting on, and recommending against certification of the US EPA's revised General NPDES Permit for OCS oil and gas platform discharges. A copy of the letter was also forwarded to the US EPA Region 9. The revised permit eliminates commitments previously made by the US EPA to require that produced water discharges from the facilities meet the most stringent discharge standards. The Coastal Commission's review was mandated under the U.S. Coastal Zone Management Act (CZMA).

On March 17, 2004, the CCC objected to the US EPA's consistency certification for the revised General Permit submitted on December 10, 2003. As allowed by federal regulations, the EPA is moving forward with the issuance of the General Permit. However, because of the permit changes, the EPA is reopening the public comment period on the permit. The notice of

availability of the revised permit was published in the Federal Register on April 8, 2004. Comments are due not later than May 15, 2004.

Because of the CCC objection to the US EPA's consistency certification, once the permit is issued by the US EPA it cannot become effective for a given discharger until the discharger files for and receives an individual consistency certification from the CCC. If the CCC fails to concur on the individual certification, the discharger may appeal the decision to the Secretary of Commerce who may override the CCC objection. During the period in which the individual certifications are pursued and when an appeal is filed and not yet acted on by the Secretary of Commerce, the platforms will continue to discharge under significantly less stringent, 20 year old water quality standards.

As discussed during the March 16 Board hearing, the current permit proposed by US EPA contains less stringent standards for approving discharges of toxic effluents into the ocean than the US EPA agreed to in 2001. At that time the US EPA agreed to require either the more stringent of the California Ocean Plan or Federal Clean Water Act standards. Based on the analysis presented to your Board in March, the California Ocean Plan standards are, for almost all pollutants, more stringent than the federal standards. The California standards are significantly more stringent with respect to cadmium and hexavalent chromium. US EPA's criteria do include many constituents that are not included in the Ocean Plan.

In addition, the proposed revision to standards and US EPA's action to proceed with the issuance of the permit absent CCC certification continues to challenge California's authority under the CZMA to manage its coastal resources and to reduce undue impacts to those resources from federal or federally approved activities on the Outer Continental Shelf.

The letter provided for your signature (Attachment A) mirrors the letter submitted to the CCC on March 16 and reaffirms the County's request that the most stringent standards be applied to platform produced water discharges.

Mandates and Service Levels: The US EPA publishes the draft General NPDES permit for public comment in the Federal Register in order to meet the applicable Clean Water Act (CWA) procedural requirement to provide "an opportunity for a hearing" (CWA Section 402(a), 33 U.S.C. 1342(a)). Although not mandated, Santa Barbara County often participates as an interested party in reviewing oil and gas related items listed in the Federal Register because the Federal government historically has concentrated most of its oil and gas leasing and development offshore California in the Santa Barbara Channel and Santa Maria Basin, offshore Santa Barbara County.

Fiscal and Facilities Impacts: There are no direct fiscal impacts associated with this action. Staff time to draft the comment letter and supporting analysis is budgeted in the Energy Division's FY 03-04, in the line-item "Long Range Planning," on page D-298 of the budget book. The expenditures are charged to Program 5080, Project PKS2, and revenue to cover these expenditures comes from the U.S. Department of Commerce pursuant to the Coastal Impact Assistance Program of 2001.

In the long term, indirect impacts to the County's coastal resources could result should California and its political subdivisions lose standing in the CZMA consistency review process to minimize the impacts of federal or federally approved activities on the Outer Continental Shelf.

Special Instructions: Clerk of the Board will forward the executed letter to Planning and Development for distribution.

Concurrence: N/A

ATTACHMENT A
BOARD COMMENT LETTER

May 4, 2004

Environmental Protection Agency Region 9
Attn: Lisa Honor
CWA Standards and Permits Office (WTR-5)
75 Hawthorne Street
San Francisco, Ca 94105-3901

Re: General NPDES Permit for Pacific OCS Oil and Gas Operations (WTR-5)

Dear Ms. Honor:

On behalf of the Board of Supervisors of Santa Barbara County, I am submitting the following comments on the US Environmental Protection Agency's (EPA) revised draft General National Pollutant Discharge Elimination System (NPDES) Permit for discharges of pollutants from offshore oil and gas platforms on the Outer Continental Shelf. Because of the presence of numerous discharging platforms off of the Santa Barbara coastline, the County has participated in discussions and review of the General Permit for nearly two decades. The County was in agreement with the consistency determination for the proposed General Permit made by the Coastal Commission in January 2001. This consistency determination was based on a commitment from the EPA to use the most stringent water quality standards for produced water discharges, either those standards contained in the Clean Water Act or the California Ocean Plan, whichever are more stringent.

We were surprised and disappointed to learn that the EPA did not issue General NPDES Permit CAG280000. We expected that the permit would have been issued by EPA immediately following the Coastal Commission consistency certification in January 2001. This permit included significant improvements to the water quality standards contained in the 20-year old General NPDES Permit under which 14 platforms (10 off the Santa Barbara coast) continue to discharge into Santa Barbara's coastal waters. The standards of this older General Permit are significantly less protective of ocean water quality than those included in the proposed General Permit. The permit would have also replaced several existing individual permits and their outdated standards.

A preliminary analysis conducted by the County's consultant MRS to compare the federal and state standards demonstrated that, regardless of the methodology (EPA or California State Water Resources Control Board) used to convert EPA and Ocean Plan water quality criteria to a common statistic, the California Ocean Plan criteria are in almost all cases more stringent and more protective of the environment. The only exception to this is cyanide and the absolute

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difference between the federal and state standard for this pollutant is not significant. The California Ocean Plan standards are significantly more stringent with respect to cadmium and hexavalent chromium. Further, from a technological standpoint, it appears feasible for the operators to meet these more stringent standards.

The County is actively trying to manage and improve its coastal water quality under the County's Clean Water Project and under the federal and state storm water discharge regulations. Considering the state and federal mandates to improve water quality, use of the most protective standards for OCS discharges is critical to ensuring the protection of California's coastal waters and marine life.

In permitting oil and gas related development, the County of Santa Barbara has always depended on the commitment of regulatory agencies and industry to implement maximum feasible mitigation. When faced with the impact of offshore oil and gas development on regional air quality, we advocated for and successfully required the extension of State and local air quality standards to platform related emissions. Similarly, we feel it is critical that platform discharges meet the most stringent water quality standards. Further, we fully support the Coastal Commission's position that the Coastal Zone Management Act specifically provides for state standards to be included in the Coastal Management Plan and for those standards to be applied at the site of the federally permitted activity. To allow otherwise would significantly and adversely affect the State's and the County's ability to manage and protect its coastal resources. Therefore, we urge the EPA to restore its 2001 commitment regarding implementation of the most stringent produced water discharge standards.

Thank you for considering our comments. Please contact Mr. Steve Chase, Deputy Director of the Energy Division or Ms. Alice McCurdy at (805) 568-2040 if you have any questions regarding our comments.

Respectfully submitted,

Joseph Centeno, Chair
Board of Supervisors

Cc: Peter Douglas, Executive Director, California Coastal Commission
Eugene Bromley, EPA Region 9
Alexis Strauss, EPA, Region 9