

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
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Agenda Number:
Prepared on: 5/5/05
Department Name: Planning and Development
Department No.: 053
Agenda Date: 5/17/05
Placement: Administrative
Estimate Time: 1 hour on June 7, 2005
Continued Item: NO
If Yes, date from:

F:\GROUP\ENERGY\WP\POLICY\Cal v Norton\CZMA review\Board Agenda Letter-Set 6-7-05 hearing

TO: Board of Supervisors

FROM: Dianne Meester, Assistant Director
Planning and Development Department

STAFF CONTACT: Doug Anthony, Interim Deputy Director
Energy Division, 568-2046

SUBJECT: California Coastal Commission's Review of Consistency Determinations for
Extension of Undeveloped Lease in Federal Waters Offshore Ventura, Santa Barbara,
and San Luis Obispo Counties

Recommendation(s): That the Board of Supervisors set a hearing for June 7, 2005 to consider a proposed letter to the California Coastal Commission, commenting on its review of consistency determinations made by the Minerals Management Service for purposes of extending the terms of 41 undeveloped oil and gas leases offshore the tri-county region of Ventura, Santa Barbara, and San Luis Obispo.

Alignment with Board Strategic Plan: The recommendation is primarily aligned with Goal Nos. 2 and 5: A Safe and Healthy Community in Which to Live, Work, and Visit; and A High Quality of Life for All Residents, respectively.

Executive Summary and Discussion: The U.S. Department of the Interior, Minerals Management Service (MMS), has determined its action to grant suspensions operations or production requested by lessees for 41 undeveloped oil and gas leases offshore the tri-county region is consistent to the maximum extent practicable with the *California Coastal Management Program* (hereinafter referred to as *Consistency Determinations*). The MMS submitted its consistency determinations to the California Coastal Commission on April 7, 2005, for a 75-day review, in which the Commission may either concur with or object to each of the *Consistency Determinations*. Should the Coastal Commission object to any of the *Consistency Determinations*, the MMS may disagree with the objections, retract its initial *Consistency Determinations*, or attempt to address the specific concerns and re-submit the *Consistency Determinations* to the Coastal Commission for re-consideration. Any lease that is not renewed would automatically expire. The State of California has the choice of litigation should the MMS disagree with the objections and conclude the proposed activity is consistent with the *California Coastal Management Program* to the maximum extent practicable. There is no course for administrative appeal.

Initial review by Coastal Commission staff found that MMS's submittal contained insufficient information necessary to concur with the MMS's finding of consistency. Commission staff formally requested more information from the MMS on April 22, 2005 and requested an extension in the 75-day period of review. Both the counties of Santa Barbara and San Luis Obispo subsequently requested the same of MMS. The California Coastal Commission will consider the MMS's *Consistency Determinations* during its regularly scheduled hearing during the week of June 6, 2005, unless the MMS agrees to an extension in the period of review.

Background: The U.S. Department of the Interior (DOI) initially granted suspensions for 36 of the 41 oil and gas leases in November of 1999, and contended that such action did not qualify as an action subject to federal consistency provision of the U.S. Coastal Zone Management Act.¹ The State of California challenged the DOI on procedural grounds in court (*California v Norton*); several parties intervened on behalf of the Coastal Commission in the lawsuit, including the counties of Santa Barbara and San Luis Obispo. The challenge contended that DOI failed to comply with federal consistency review provisions of the U.S. Coastal Zone Management Act and environmental review provision of the National Environmental Policy Act. The State of California ultimately won in both the lower and appellate courts. The *Consistency Determinations* that are the subject of this letter were submitted as required by the court rulings.

Earlier this year, the MMS issued Final Environmental Assessments and Findings of No Significant Impacts in order to satisfy the courts' findings that it did not previously comply with the National Environmental Policy Act. Subsequently, the Natural Resource Defense Council and the local Environmental Defense Center filed a lawsuit against the MMS, challenging the adequacy of the environmental documents in light of the action being taken.

Mandates and Service Levels: There is no mandate to submit the proposed letter. Review of Federal *Consistency Determinations* is conducted primarily by the California Coastal Commission; however, both the Coastal Zone Management Act and the California Coastal Management Program encourage input by affected local jurisdictions. Santa Barbara County often participates as an interested party 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: Expenses incurred in analyzing and preparing comments on the *Consistency Determinations* are budgeted in Fund 0001, Program 5080, Project PKS2 as shown on page D-300 of the County's FY 04-05 budget book, under expenditure item *Long Range Planning*. These expenses are offset by revenue from the Coastal Impact Assistance Program of 2001 administered by the National Oceanic and Atmospheric Administration, as shown on page D-300 of the County's FY 04-05 budget book, under the revenue source listed as *Grants*.

Special Instructions: None.

Concurrence: N/A.

¹ The USDOl granted requests to extend 36 leases in 1999, and denied extensions for four other leases, because they did not contain payable quantities of oil and gas reserves. Lessees have appealed the latter denial of these four requested suspensions. This past April, MMS added another lease to the list of those addressed by the *Consistency Determinations*, that being the quarter of currently producing lease OCS P 0450 situated in the Bonito Unit. Production from the lease is counted only to the three-quarters situated in the adjacent Point Arguello Unit. As a result, the number of leases subject to consistency determinations varies from 36 to 37 and from 40 to 41.