

Landowners' Appeal of Planning Commission's Decision Approving (1) Permit Transfer; (2) Change of Guarantor, and (3) Change of Operator for the Plains Pipeline System

# Board has authority to add conditions of approval or modify existing conditions

- Condition B-2 – County may conduct a “comprehensive review of permit conditions” at any appropriate time and can impose “additional reasonable conditions” where existing conditions are inadequate.
- Condition A-2 – Planning Commission can “revoke, amend, alter, delete, or add conditions to the permit” where operator not in compliance
- Condition A-7 – “New or modified permit” required where modification of:
  - procedures
  - operating techniques
  - design
  - equipment
- Condition A-13 – Operator “shall obtain a new or modified permit” prior to engaging in activities which result in significant changes to impact on the County, e.g. Las Flores GHG Emissions

# Board has authority to add conditions of approval or modify existing conditions

- Decision of consequence – not just “ministerial”
- County Petroleum Code requires
  - Protect “health, safety, public welfare, physical environment and natural resources
- SBMC Chapter 25b [Governing Change of Ownership]
  - Protect public health and safety and safeguard the natural resources and environment
    - Safe operation
    - Adequate financial responsibility,
    - Compliance with all applicable county laws and permits

# Plains/PPC lacks property rights to operate its pipeline

- Permit requires Operator to acquire and maintain property rights
- No question easements have lapsed
  - Easement Language : “It is agreed that all rights and privileges herein granted and given Grantee **shall automatically end and terminate** in the event that Grantee, or its successors and assigns shall fail to install or operate and maintain said pipeline for a period of five (5) consecutive years.”
- No land rights, no restart and no new pipeline
- Failure to enforce permit to protect third-party beneficiaries
  - Landowners are third-party beneficiaries and will enforce their rights in court if necessary

Board must  
include safety  
measures in  
permit  
following  
environmental  
review

- False statements have been made since the Pipeline was built:
  - “County lacks jurisdiction/oversight”
  - “Approve or we’ll go around you”
- Solution
  - Incorporate Consent Decree into Permit
  - Require “best available technology” including Automatic Shutoff Valves
  - Require Environmental Impact Report
  - Enforce new safeguards on Las Flores mitigating GHG

# Safety measures must include ASVs and effective cathodic protection following environmental review

- Issue:
  - Cathodic Protection – complete failure
  - Plains’ lack of maintenance – criminal failure
- Solution
  - Require *effective* cathodic protection
  - If not feasible, require replacement non-insulated pipeline
  - Implement County oversight/reporting
  - Require Environmental Impact Report

# Financial Guarantee must reflect reality

- \$100 MM guarantee inadequate
- Plains spent nearly \$1 billion in clean-up and compensation costs
  - Plains' insurance companies denied coverage for substantial portions
  - Plains disputed claims in every venue
    - Many victims remain uncompensated or forced to accept fractions of their actual losses
- Solution
  - Require financial guarantee of \$1 billion (or more)
  - Ongoing County oversight/audits

# Additional Studies Needed

- Ancient EIR
- Changed Circumstances
  - Risks of Spill – massively increased
  - Mitigation Measures – out of date
  - Impact - evidence from Refugio Oil Spill
- GHG Emissions
  - Never considered in original EIR, must be considered now
  - LFC restart – 40% of County’s GHG emissions
- Environmental Review required to protect public health and safety and safeguard environment