



Transmitted via email [sbcob@co.santa-barbara.ca.us](mailto:sbcob@co.santa-barbara.ca.us)

January 31, 2011

Mr. Michael Allen  
Chief Deputy Clerk of the Board of Supervisors  
105 East Anapamu Street, Room 407  
Santa Barbara, CA 93101

**Re: Amendments to Chapter 25 of the County Code of Santa Barbara;  
County of Santa Barbara, Legislative File ID 11-00015**

Dear Mr. Allen:

Greka appreciates the opportunity to submit these comments on the proposed ordinance amending Chapter 25, Petroleum Code, to Address Regulation of "High Risk" Petroleum Operations and Operators (the "Revised Ordinance") that will be considered by the Board at its February 1 and 15, 2011 hearings.

We urge the Board not to adopt that portion of the proposed Revised Ordinance containing the amendment to parts (b) and (c) in the definition of "High Risk Operation" for the reasons stated below.

And, we request that this letter be included in the administrative record regarding consideration of the proposed Revised Ordinance.

Part (b): The Reduced Threshold for Designating an Operation as "High Risk" is Arbitrary and Capricious

There is no reasonable justification for establishing 15 barrels as the revised threshold, reduced from 25 barrels. At least when this Board adopted the High Risk Operations Ordinance in December 2008, County Staff substantiated the selection of 25 barrels as it related to 40 CFR Part 300 §300.5. (*see County Staff Letter for Agenda of 1/4/11 at Page 3: "The current threshold of 25 barrels was originally adopted because it is the current federal threshold for when an oil release constitutes a minor discharge as defined in federal regulations, 40 CFR Part 300 §300.5 "*.) Even County Staff recognizes that the amount of 25 barrels constitutes a *minor* discharge under the federal regulations, yet the proposed Revised Ordinance seeks to reduce this threshold even further. In contrast, however, County Staff currently offers no rational connection whatsoever to any regulation or citation, making the number of 15 barrels arbitrary and capricious in meeting the County's objective.

Furthermore, the County's objective to ensure compliance with the Petroleum Code has already been met and therefore reducing the threshold for designating an operation as "high risk" is a further exercise of power without reasonable justification. "The intent of the [high risk operations] ordinance is to ensure that Onshore Petroleum Operators are in compliance with the Petroleum Code, minimizing potential health and safety issues that pose a significant risk to our County's environment and its resources." (*see County Staff Letter for Agenda of 1/4/11 at Page 2, Background*) Yet during the May 11, 2010 Board hearing, County Staff advised the Board that the Onshore Petroleum Operators *are* in compliance with the Petroleum Code. So, lowering the threshold for designating an operation as "high risk" serves no purpose as intended.

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Greka submits that an adoption by the Board of any amount less than the current 25 barrel release, and /or any amount less than the current three separate occasions of such a release, as the threshold for designating an operation as "high risk" is an arbitrary action by the County undertaken in the exercise of power without any reasonable justification serving the County's objective.

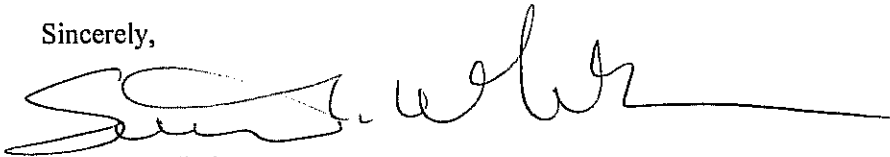
Part (c):The New Threshold for Designating an Operation as "High Risk" is Arbitrary and Capricious

There is also no reasonable justification for establishing yet another, *new* threshold for designating an operation as high risk. Nor is there any reasonable basis for selecting "five" as the threshold amount of releases of a barrel or more.

If the intent of the ordinance (as Staff asserts in its *Letter for Agenda of 1/4/11 at Page 2, Background*) is to ensure that operations are in compliance with the Petroleum Code and compliance of such operations has been met, adding yet another threshold and one with arbitrary volumes serves no purpose.

Greka submits that an adoption by the Board of a new threshold, and one that bears volumes of five occasions for releases greater than a barrel, for designating an operation as "high risk" is an arbitrary action by the County undertaken in the exercise of power without any reasonable justification serving the County's objective.

Sincerely,



Susan M. Whalen  
Sr. Vice President and General Counsel

cc: Michael Ghizzoni, Esq., Chief Deputy Counsel (via email to [Mghizzoni@co.santa-barbara.ca.us](mailto:Mghizzoni@co.santa-barbara.ca.us))  
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Michael Allen (via hand delivery February 1, 2011)