

# County of Santa Barbara Planning and Development

Glenn S. Russell, Ph.D., Director

Dianne Black, Assistant Director



June 9, 2015

Nathan Eady  
Vice President/Project Manager  
SCS Tracer Environmental  
2601 Skyway Drive, Suite A1  
Santa Maria, CA 93445

Re: Emergency Permit 15EMP-00000-00007, Application for Crude Oil Trucking  
Exxon/Mobil – Las Flores Canyon Santa Ynez Unit Facility

Dear Mr. Eady,

Thank you for your emergency permit application submitted on June 4, 2015. The Planning and Development Director has recused himself on this project and has designated me as the decision-maker. I have carefully reviewed and considered your application based upon the findings required in the County's Land Use and Development Code (LUDC), Section 35.82.090 E. 2, the California Environmental Quality Act, and Executive Order B-31-15 issued by Governor Brown.

As explained in more detail below, I am denying this emergency permit application because: 1) there is not adequate evidence that a defined emergency exists, under either the California Environmental Quality Act (CEQA), or the County's Land Use & Development Code; 2) there is not adequate evidence that this proposal requires action more quickly than provided for by the customary procedures for permit processing; 3) there is not adequate evidence that the proposal is consistent with the Comprehensive Plan; and 4) trucking of oil does not fall within the permit waivers or permit expediting directed by Governor Brown's Executive Order B-31-15. The applicant has the option of applying for this proposal through the customary permit process which would include CEQA review, policy and ordinance consistency analysis and a public hearing. In the context of a non-emergency permit application, the applicant should consider whether to continue with the proposal for trucking of 30,000 barrels per day or amend the request to reflect what the applicant reports as the current operating production of 10,000 barrels per day.

### **LUDC Findings and Analysis:**

The County's LUDC, Section 35.82.090 E. 2 contains three findings, all of which must be made in order to grant an emergency permit. The required findings and my analysis are as follows:

***Finding 1. An emergency exists and requires action more quickly than provided for by the customary procedures for permit processing.***

An emergency is defined in the Glossary of the LUDC, Section 35.11, as:

*A sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services. The definition extends to efforts by a public agency or utility performing a public service to restore, repair or maintain public works, utilities or services which have been destroyed, damaged, or interrupted by natural disaster, serious accident, or in other cases of emergency.*

The application includes a section entitled "ExxonMobil-Santa Ynez Unit Emergency Trucking Operations, Justification of Emergency. The two reasons included in the application justifying granting of an emergency permit based upon loss of essential public services are:

1. The All American Pipeline will be out of service for an unknown period of time while repair and evaluation of the line occurs. Since ExxonMobil transports its Santa Ynez Unit (SYU) oil production through that line, their production will be curtailed when storage capacity at the plant is exhausted, estimated by ExxonMobil to occur in the next several weeks at the current (reduced) rate of production. Without the ability to continue production through the trucking of oil, ExxonMobil's provision of natural gas to Southern California Gas Company (SoCalGas) at a rate that normally fluctuates from a low of 20 to a high of 50 million cubic feet per day would temporarily stop. This is due to ExxonMobil's assertion that the facility cannot produce natural gas without producing oil.
2. The second justification is that local schools, including Santa Ynez Valley High School, Allan Hancock Community College and Vista Del Mar District, derive their funding in part from the property tax payments from the ExxonMobil SYU facility. If production ceases, the property tax payments would be reduced, resulting in a loss of funding to these local schools.

The information filed by the applicant with respect to the effects on the natural gas supply in this application does not support loss or damage to an essential public service. The applicant has not presented evidence that an emergency exists or that the proposed trucking plan is necessary to prevent the loss or damage to life, health, property or essential public services.

No evidence was submitted that shows the SoCalGas would be unable to serve its customers absent the gas production from ExxonMobil's Santa Ynez unit. In fact, the County permitted a local extraction and storage expansion project for SoCalGas, and SoCalGas has the capacity to store locally approximately 21.5 billion cubic feet of gas currently. That capacity will be increased by 3-5 billion cubic feet once the native gas in the new target reservoir is extracted. (See Southern California Gas Company La Goleta Storage Field Enhancement Project case files, 12RVP-00000-00056, 08CDP-00000-00185, 08ORD-00000-00018 and 10EIR-00000-00001 on file in the County's Planning and Development Department).

In addition, SoCalGas operates an interconnected network of gas transmission and high pressure distribution pipelines within its service territory. The territory includes the counties of Fresno, Imperial, Kern, King, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, Tulare and Ventura. Operation is similar in principal to an electric grid, in that the gas is put in at multiple locations and withdrawn at multiple locations from a common distributed network. Local areas are not dependent on local gas resources. Gas is purchased from producers within and outside California and fed into the network.

A 2014 report by SoCalGas estimates total natural gas available in the network in 2014 to be 3,875 million cubic feet, of which 3,565 million cubic feet are from out of state production and 310 million cubic feet are from California production. Of the California sources, 150 million cubic feet are from coastal zone production including the ExxonMobil SYU (POPCO) production of 25.5 million cubic feet (based on POPCO monthly reports to SSRRC). Therefore, ExxonMobil SYU provided 0.66 percent of SoCalGas' total 2014 supply. Total gas withdrawn from the system, i.e., usage, totaled 2,804 MMCF/D. (reference: [http://www.socalgas.com/regulatory/documents/cgr/2014%20CALIFORNIA%20GAS%20REPORT%20REDACTED%20WORKPAPERS\\_SOCALGAS.pdf](http://www.socalgas.com/regulatory/documents/cgr/2014%20CALIFORNIA%20GAS%20REPORT%20REDACTED%20WORKPAPERS_SOCALGAS.pdf))

The evidence regarding funding effects to local schools similarly does not demonstrate loss or damage to an essential public service. If tax revenue is lost due to the ruptured pipeline, the school districts can file a claim through the claims process with Plains All American Pipeline provided to address these financial effects.

Therefore, I find that the evidence submitted by the applicant does not support a finding that an emergency exists that requires action more quickly than is provided by the customary procedures for permit processing.

***Finding 2. The action proposed is consistent with the policies of the Comprehensive Plan, including any applicable community or area plan and the requirements of this Development Code.***

A full analysis of the request through the customary procedures for permit processing, including environmental review, is necessary to determine consistency. Attachment A includes an initial listing of applicable LUDC requirements and Comprehensive Plan policies. The applicant has not provided adequate information or evidence that the

proposed project is consistent with the policies of the Comprehensive Plan or in compliance with the provisions of the LUDC.

***Finding 3. Public comment on the proposed emergency action has been reviewed.***

I have reviewed and considered all of the public comments I have received to date, including the emails and letters included in Attachment B, as well as several phone call comments and the public testimony given during the public comment period at the County Board of Supervisors hearing on June 8, 2015. The Emergency Permit Application has been posted on the County's website for public review since June 5, 2015 and the method to provide public comment has been posted on the County's website since June 6, 2015.

**Review under the California Environmental Quality Act (CEQA):**

The emergency permit request does not qualify for an exemption from the CEQA. CEQA Section 15269 and Public Resources Code section 21080 provides an exemption for emergency projects. Section 15269 (c) exempts "Specific actions necessary to prevent or mitigate an emergency..." Under CEQA, Emergency is defined as:

"Emergency" means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage.

The applicant has not provided evidence that the proposed project qualifies for an emergency exemption under CEQA and has not provided evidence that trucking of oil is necessary to prevent or mitigate the loss of, or damage to, life, health, property, or essential public services.

**Applicability of Section 4 of Governor Brown's Executive Order B-31-15:**

Governor Brown issued an Executive Order to ensure a quick, efficient response to the oil spill resulting from the Plains All American Pipeline 901. That order states in Section 4 in part:

...all agencies, including the Coastal Commission pursuant to its authority under section 30600(e) of the Public Resources Code, with notice to and coordination with the administrator, shall take all necessary steps to issue on an emergency basis any necessary waivers or permits to facilitate the reopening of fishing, public access, and impacted beaches and waters, including Refugio State Beach and El Capitan State Beach.

The emergency permit requested would not facilitate the reopening of fishing, public access, and impacted beaches and waters, including the State beaches listed. Therefore

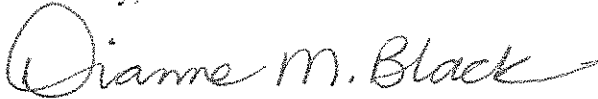
action to not grant the requested Emergency Permit is consistent with the Governor's Executive Order.

**CONCLUSION:**

After careful review and consideration, and based on the foregoing, I hereby deny granting of the Emergency Permit, 15EMP-00000-00007.

Pursuant to Section 35.82.090(1)(4) of the County's LUDC, the decision is within the sole discretion of the Director. This decision is final and not subject to appeal.

Sincerely,

A handwritten signature in cursive script that reads "Dianne M. Black". The signature is written in black ink and includes a long horizontal flourish at the end.

Dianne M. Black,  
Assistant Director

Attachments:

- A. Initial List of Applicable LUDC Provisions and Comprehensive Plan Policies
- B. Written Public Comments

## ATTACHMENT A

### Initial List of Applicable LUDC Provisions and Comprehensive Plan Policies

#### Applicable Ordinances:

- Condition VI-1 of ExxonMobil's FDP states that transportation of oil by a mode other than pipeline may be permitted only in accordance with CZO Section 35-154.5i
- LUDC Section 35.84.040.E.(Revisions)
- LUDC Section 35.51.070.B (Onshore Processing Facilities Related to Offshore Oil and Gas Development – Development Standards)
- LUDC Section 35.52.060.B (Treatment and Processing Facilities – Development Standards)
- LUDC Section 35.55.040 (Treatment and Processing Facilities - Findings for Development Plans)

#### Applicable Policies:

##### Land Use Element

- Hillside and Watershed Policy 7. Degradation of the water quality of groundwater basins, nearby streams, or wetlands shall not result from development of the site. Pollutants, such as chemicals, fuels, lubricants, raw sewage, and other harmful waste, shall not be discharged into or alongside coastal streams or wetlands either during or after construction.
- Land Use Development Policy 12. Proposals for expansion, modification, or construction of new oil and gas processing facilities, oil storage facilities, or pipeline terminals, which receive oil from offshore fields exclusively or from both offshore and onshore fields, shall be conditioned to require transportation of oil by pipeline, to processing facilities and final refining destination, except as provided in this policy.

“Final Refining Destination” shall mean a refinery in California where final refining of the subject oil into products is accomplished. Exceptions: Oil shall be considered to reach its final refining destination if (a) the oil has been transported out of the State of California, and does not reenter before final refining; or (b) the oil has been transferred to truck or train after leaving the County by pipeline, and does not reenter the County by truck or train, and is not transferred to a marine vessel for further shipment to a port in California prior to final refining.

Crude oil received onshore from offshore production facilities may be transported by highway or rail if the Director determines that the oil is so

highly viscous that pipeline transport is infeasible, taking into account available options such as modifications to existing pipelines, blending of NGLs, etc.

Any shipment of oil by highway or rail under this policy shall be limited to that fraction of the oil that cannot feasibly be transported by pipeline and shall not exceed the limits of permitted capacity for these transportation modes. The shipper or carrier shall mitigate to the maximum extent feasible any environmental impacts caused by use of the alternate transportation mode.

Temporary transport of oil by waterborne vessel may be authorized under an emergency permit if the Governor of the State of California declares a state of emergency pursuant to Public Resources Code Sec. 30262(a)(8) for an emergency that disrupts the pipeline transportation of oil produced offshore Santa Barbara County. In such a case, the oil transported by alternate mode shall be limited to that fraction which cannot feasibly be transported by pipeline. Transport by the alternate mode shall cease immediately when it becomes technically feasible to resume pipeline transport.

- Visual Resource Policy 2: In areas designated as rural on the land use plan maps, the height, scale, and design of structures shall be compatible with the character of the surrounding natural environment, except where technical requirements dictate otherwise. Structures shall be subordinate in appearance to natural landforms; shall be designed to follow the natural contours of the landscape; and shall be sited so as to not to intrude into the skyline as seen from public viewing places.

#### Circulation Element

- Policy E: A determination of project consistency with the standards and policies of this Element shall constitute a determination of project consistency with the Land Use Element's Land Use Development Policy #4 with regard to roadway and intersection capacity.

#### Local Coastal Plan

- Policy 6-3: All oil and gas development in areas designated as environmentally sensitive habitats in the land use plan shall be subject to environmental review.
- Policy 6-8: If an onshore pipeline for transporting crude oil to refineries is determined to be technically and economically feasible, proposals for expansion, modification, or construction of new oil and gas processing facilities shall be conditioned to require transportation of oil through the pipeline when constructed, unless such condition would not be feasible for a particular shipper. (Revised 6/18/84, B/S Resol #84-284; 11/19/91, B/S Resol#91-670).

a. Pipeline transportation of crude oil to a refining center served by a pipeline is presumed to be technically and economically feasible and the required method of transportation to that center. (Revised 6/18/84, B/S Resol #84-284).

b. Pipeline transportation of crude oil is presumed feasible for a particular shipper if a pipeline is in operation to the refining center of the shipper's choice. (Revised 6/18/84, S/S Resol #84-284).

c. Crude oil processing facilities shall be conditioned to require that each shipper's oil leaving those facilities be transported by pipeline when a pipeline is in operation to the refining center of the shipper's choice. (Revised 6/18/84, S/S Resol #84-284).

d. Until pipelines become available, and for refining centers not served by pipeline, other modes of oil transportation are allowed consistent with County policies. Rail is not preferred for large volume shipments of oil. (Revised 6/18/84, B/S Resol #84-284).

e. For refining centers served by pipeline, other modes of transportation up to the limits of permitted capacity for those modes, and with assurances that the shipper or transportation facility operator can and will mitigate the environmental impacts caused by the alternate transportation mode, are allowed only under the following circumstances:

- 1) Pipeline unavailability or inadequate capacity; or
  - 2) A refinery upset lasting no longer than two (2) months and only where the alternate refining center is not served by pipeline; or
  - 3) An emergency which may include a national state of emergency.
- (Revised 6/18/84, B/S Resol #84-284).

- Policy 6-9: Applicants for oil and gas processing facilities shall prepare and keep updated emergency response plans to deal with the potential consequences of hydrocarbon leaks or fires. These emergency response plans shall be approved by the County's Emergency Services Coordinator and Fire Department.

#### Hazardous Waste Element

- 7-1 The County and cities should promote the strong enforcement of existing laws regarding vehicle safety, inspections, and the hazardous waste manifest system for full protection of public health and the environment.
- 7-2 The County and cities should work with other affected agencies and industries to implement risk management strategies for hazardous waste transportation in the County.



## Safety Element

- Policy Hazardous Facility Safety 1-A: Risk Estimates. The County shall employ accurate estimates of risk associated with hazardous facilities to inform discretionary land-use decisions where substantial, preliminary evidence indicates involuntary public exposure to significant risk may result from the land-use decision.
- Policy Hazardous Facility Safety 2-B: Unacceptable Risk Involving Modifications To Existing Development. Proposed modifications to existing development that require a discretionary land-use permit and meet any of the following three criteria shall represent an unacceptably high level of risk and constitute a *prima facie* standard for denial.
  - 1) Modifications that increase risk and the resulting mitigated risk registers in the red zone of the County's risk thresholds, unless the proposed modification is required to comply with law, the modification does not increase significant risk to highly sensitive land uses, and no other feasible alternatives are achievable.
  - 2) Modifications that increase risk and the resulting mitigated risk registers in the red zone of the County's risk thresholds, unless the proposed modification is made to an urban dependent land use and highly sensitive land uses are not exposed to significant risk as a result of the modification.
  - 3) Modifications that increase risk and the resulting, mitigated risk registers in the amber zone of the County's risk thresholds if exposure of a highly sensitive land use would occur as result of project approval.