

April 30, 2010

To: Members, Assembly Environmental Safety & Toxic Materials Committee

From: Pedro Nava, Chairman

Subject: Investigative Hearing on Public Health Impacts and Environmental Regulation of Oil Drilling and Production

The Assembly Committee on Environmental Safety & Toxic Materials is conducting oversight hearing on public health and environmental protections needed to adequately regulate oil drilling and production in California. The hearing will be held on Friday, April 30, at the Hermosa Beach City Council Chambers. The Committee will be reviewing the policies and actions of California state and local agencies to reduce the environmental hazards, habitat damage and public health impacts of oil drilling and production in California's coastal zone.

**Part 1. Background.**

Since 1969 when over 3.2 million gallons of crude oil spilled off the coast of Santa Barbara County, Californians have been concerned about offshore oil drilling. This concern has resulted in a series of oil and gas leasing prohibitions, included in the California Coastal Sanctuary Act of 1994.

California's ocean waters are also home to four important sanctuaries: the Monterey Bay National Marine Sanctuary; the Gulf of the Farallones National Marine Sanctuary; the Cordell Bank National Marine Sanctuary; and the Channel Islands National Marine Sanctuary, these sanctuaries are, by definition, areas of special conservation, recreational, ecological, historical, cultural, archaeological, scientific, educational, and esthetic qualities; and are particularly sensitive to the impacts of oil development.

Offshore and onshore drilling, be it for oil or gas, generates large amounts of pollution in the form of toxic drilling muds, produced waters, and air emissions. A catastrophic spill, like the one which occurred off the coast of Santa Barbara in 1969, can devastate the ecology of the area and wreak havoc on coastal economies. Additionally, oil and gas drilling is the slowest, dirtiest, and most expensive way to produce energy. There are cleaner and more efficient long term energy solutions, such as energy efficiency and clean renewable energy, that will save consumers money and protect our beaches, marine waters, and coastal economies.

## **Part 2. State and local regulation of oil drilling and production.**

### **California regulation of on-shore oil and gas drilling.**

Current state law<sup>1</sup> directs the State Oil and Gas Supervisor (supervisor) to supervise the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities used in oil and gas production. In particular, well owners must designate an agent who will receive and accept orders from the supervisor, notify the supervisor of a sale or exchange of a well, and to notify the supervisor of well acquisitions. The supervisor is the chief of the Division of Oil, Gas, and Geothermal Resources (DOGGR) of the Department of Conservation.

The California Attorney General's opinion in 1976 outlines the role of the State, as well as local agencies, in regulating oil drilling and production facilities in California<sup>2</sup>

"The principal state legislation regulating drilling for the production of oil and gas is contained in Division 3 of the Public Resources Code, sections 3000-3690 and 3780-3787, and is placed under the administration of the Department of Conservation and the State Oil and Gas Supervisor. Public Resources Code section 3106 sets forth the duties of the Supervisor and the purposes and objectives of the statutory scheme. Briefly, these duties are: The supervision of .the drilling, operation, maintenance, and abandonment of wells [so] as to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil and gas deposits from infiltrating water and other causes; loss of oil, gas or reservoir energy; and damage to underground and surface waters suitable for irrigation or domestic purposes by the infiltration of, or the addition of, detrimental substances. .... to increase the ultimate recovery of oil and gas and to encourage the wise development of the oil and gas resources...

The provision with respect to damage to life, health, property and natural resources. was added to Public Resources Code section 3106 and to certain other sections (3208, 3218, 3224) by Statutes of 1970, chapter 799. "

### **California requires oil spill response.**

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act<sup>3</sup> requires that any person, without regard to intent or negligence, who spills any oil into the marine waters of the state to immediately contain, cleanup, and remove the oil in a manner that minimizes environmental damage and is in accordance with applicable contingency plans.

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<sup>1</sup> Public Resources Code §3000 et.seq.

<sup>2</sup> *California Attorney General's Opinion, Regulations on Drilling, Operation, Maintenance, Abandonment of Oil, Gas, and Geothermal Wells*, Opinion No. 76-32, August 24, 1976

<sup>3</sup> Government Code, §8670.1, et. seq.

The California State Lands Commission (CSLC) Mineral Resources Management Division (MRMD) operates the Safety Audit Program developed pursuant to the Lempert, Keene, and Seastrand Oil Spill Prevention Act. According to the State Lands Commission, the Lempert, Keene, and Seastrand Oil Spill Prevention Act considered existing oil spill prevention programs inadequate in reducing the risk of significant discharges of petroleum into marine waters. This Act specifically required marine facilities to employ the best achievable technology or protection by stressing the prevention of oil spills. MRMD regularly inspects and monitors both onshore and offshore oil and gas drilling and production facilities to ensure the best achievable protection of the public health, safety and the environment. The Safety Audit Program was established to augment the existing inspection program, further preventing oil spills and other accidents. The Safety Audit Program enhances prevention efforts thorough a review of facility design, maintenance, human factors, and other evolving areas.

### **California State regulation of off-shore oil and gas drilling.**

The California State Lands Commission (CSLC) Mineral Resources Management

Division (MRMD) staff is conducting detailed safety audits of operators and/or contractors for lands in which the State has an interest including the state tidelands. The objective of these safety audits is to ensure that all oil and gas production facilities on State leases or granted lands are operated in a safe and environmentally sound manner and comply with Federal, State, and local codes/permits, as well as industry standards and practices. The MRMD provides for the prevention and elimination of any contamination or pollution of the ocean and tidelands, for the prevention of waste, for the conservation of natural resources, and for the protection of human health, safety and property pursuant to the Public Resources Code (PRC)<sup>4</sup>. These PRC sections provide authority for MRMD regulations, as well as for the existing inspection program and the safety audit program that augments it.

### **Local regulation of oil and gas production.**

The State regulatory system overseen by the DOGGR of the Department of Conservation may set standards for oil and gas wells. Local agencies, cities and counties may generally established more stringent standards for oil and gas production as part of local land use planning or to provided public health or environmental protection. The Attorney General's opinion from 1976 provides an opinion on the role of state and local regulation:

"Counties and cities may regulate the drilling, operation, maintenance and abandonment of oil, gas and geothermal wells with respect to phases of such activities not covered by state statute or regulation so long as that regulation does not conflict with state regulation concerning other phases of such activities."<sup>5</sup>

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<sup>4</sup> Public Resources Codes § § 6103, 6108, 6216, 6301, and 6873(d)

<sup>5</sup> Opinion No. 76-32

**Part 3. Major legislation on oil spill prevention and safety from the 2007-2008 legislative session.**

AB 1220 (Laird) – Oil spill response fund.

Clarifies that any state borrowing of monies to clean up an oil spill must be repaid by the assessment of fees on distributors, pipeline operators, refiners, and marine terminal operators. Increases the cap on how much money may be requested for appropriation by the Legislature for the state's Oiled Wildlife Care Network. Revises definition of marine fueling facilities regulated by the Office of Spill Prevention and Response and decreases the frequency of training or testing of a marine facility's oil spill contingency plan.

*(Status: Chaptered by the Secretary of State – Chapter 373, Statutes of 2007)*

AB 1960 (Nava) – Public resources: oil production facilities: oil spill contingency plans.

Establishes new maintenance standards, enforcement authority, and spill contingency planning requirements for oil production facilities, to be administered by the Division of Oil, Gas, and Geothermal Resources.

*(Status: Chaptered by the Secretary of State – Chapter 562, Statutes of 2008)*

AB 2031 (Hancock) – Oil spill prevention and response.

Enhances local response to oil spills; requires the Office of Emergency Service to notify appropriate local government agencies in an area surrounding an oil spill immediately upon receiving notification of a spill; requires the Office of Spill Prevention and Response to provide training and certification to local responders, who then would be authorized to train and certify volunteers to work under their direction; requires OSPR to offer grants to these local governments for oil spill response and cleanup equipment.

*(Status: Chaptered by the Secretary of State – Chapter 563, Statutes of 2008)*

AB 2911 (Wolk) - Oil spill prevention and response: inland spills: wildlife contaminations.

Authorizes the Administrator of the Office of Spill Prevention and Response to serve as a State Incident Commander and direct the removal, abatement, response, containment, and cleanup efforts with regard to all aspects of any placement of petroleum or petroleum product in the waters of the state, including inland, and expands the Oiled Wildlife Care Network to improve search and rescue efforts.

*(Status: Chaptered by the Secretary of State – Chapter 565, Statutes of 2008)*

AB 2935 (Huffman) – Oil spill prevention and response.

Strengthens oil spill contingency plans regarding protection of environmentally and ecologically sensitive areas and establishes procedures for fishery closures following an oil spill.

*(Status: Chaptered by the Secretary of State – Chapter 564, Statutes of 2008)*

SB 1739 (Simitian) – Oil spill contingency plans.

Authorizes the Administrator of the Office of Spill Prevention and Response, if the Administrator, U.S. Coast Guard or other qualified public agency is unable to attend an out-of-state drill of an oil spill contingency plan, to require an owner or operator of a vessel to provide for an independent drill monitor to evaluate the drill; requires the Administrator to adopt regulations to implement this requirement on or before January 1, 2010. Requires,

rather than authorizes, an oil spill response organization to demonstrate that it can deploy response resources consistent with planning requirements.

*(Status: Chaptered by the Secretary of State – Chapter 566, Statutes of 2008)*

## **Part 6. Recent oil drilling facilities accidents.**

### **Deep Water Horizon**

Date of Incident: April 20, 2010 and ongoing

Location: Gulf of Mexico off the Coast of Louisiana

Company: British Petroleum (BP)

Description: On April 20<sup>th</sup> an explosion occurred offshore oil rig operated by Transocean, ltd. and leased by BP. The oil rig called Deep Water Horizon subsequently burned and sank. Over the next 8 days an estimated 6 million gallons of oil spreading over 28,600 square miles.

Efforts to contain the spread of the oil slick have been largely ineffective and the oil is likely to make landfall in the Mississippi River Delta on Friday April 30<sup>th</sup>. There is widespread concern about environmental damage as well as potential risks to local fishing economy.

### **West Atlas**

Date of Incident: August 21 – November 1, 2009

Location: East Timor Sea off the Northern Coast of Western Australia

Company: PTT Exploration and Production Public Company Limited (PTTEP)

Description: On August 21<sup>st</sup> 2009 a blowout followed by an explosion occurred on a the West Atlas rig operated by Atlas and leased by PTTEP off the northern coast of Western Australia.

After 74 days the fifth attempt to plug the leak with drilling muds was successful.

Unfortunately by that time a 10,000 square mile sheen consisting of and estimated 1.2 million to 9.3 million gallons of oil had been released into the sea.

### **Eugene Island**

Date of Incident: July 25<sup>th</sup> 2009

Location: Eugene Island Pipeline System, 33 miles offshore and 60 miles southwest of Houma, Louisiana

Company: Shell Oil

Description: A crack was discovered in a 20-inch pipeline at a depth of about 60 feet approximately 63,000 gallons of oil was released creating a 9 mile sheen.

**- UPDATE -**

UPDATE 12 - Deepwater Horizon Update Transocean Deepwater Horizon – Gulf Coast - April 29, 2010

The unified command continues with a comprehensive oil well intervention and spill-response plan following the April 22 sinking of the Transocean Deepwater Horizon drilling rig 130 miles southeast of New Orleans. More than 1,000 personnel are involved in the response effort both on and offshore with additional resources being mobilized as needed.

The Minerals Management Service remains in contact with all oil and gas operators in the sheen area. Currently, no production has been curtailed as a result of the response effort.

**Incident Facts:**

A flyover on Wednesday, April 28 at 2:00 p.m. (CDT), continued to show a large, rainbow sheen with areas of emulsified crude, approximately 16 miles off the coast of Louisiana.

On April 28 at approximately 4:45 p.m. (CDT), the response team conducted a successful controlled burn and is evaluating conducting additional burns.

More than 174,060 feet of boom (barrier) has been assigned to contain the spill. An additional 243,260 feet is available and 265,460 feet has been ordered.

To date, the oil spill response team has recovered 18,180 barrels (763,560 gallons) of an oil-water mix. Vessels are in place and continuing recovery operations.

76 response vessels are being used including skimmers, tugs, barges and recovery vessels.

98,361 gallons of dispersant have been deployed and an additional 75,000 gallons are available.

126 people were on the Deepwater Horizon drilling rig when the incident occurred. 11 remain unaccounted for; 17 were injured, 3 of them critically. 1 injured person remains in the hospital.