

MEMORANDUM

TO: HONORABLE MAYOR & CITY COUNCIL MEMBERS
FROM: CAROLYNN PETRU, AICP, ACTING CITY MANAGER
DATE: FEBRUARY 4, 2014
SUBJECT: BORDER ISSUES STATUS REPORT
REVIEWED: CAROLYN LEHR, CITY MANAGER 
Project Manager: Kit Fox, AICP, Senior Administrative Analyst 

RECOMMENDATION

Receive and file the current report on the status of Border Issues.

EXECUTIVE SUMMARY

This month's report includes:

- An update on the *Ponte Vista* project at the former Navy housing site on Western Avenue in Los Angeles (San Pedro);
- An update on recent issues and events related to the Rancho LPG butane storage facility in Los Angeles (San Pedro); and,
- A final report on the draft Los Angeles County General Plan Housing Element for the unincorporated County "islands" on the Palos Verdes Peninsula.

BACKGROUND

The following is the regular bi-monthly report to the City Council on various "Border Issues" potentially affecting the residents of Rancho Palos Verdes. The complete text of the current status report is available for review on the City's website at:

http://palosverdes.com/rpv/planning/border_issues/2014/20140204_BorderIssues_StatusRpt.cfm

MEMORANDUM: Border Issues Status Report

February 4, 2014

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DISCUSSION

Current Border Issues

Ponte Vista Project at Former Navy Housing Site, Los Angeles (San Pedro)

The Planning and Land Use Management (PLUM) Committee of the Los Angeles City Council considered the *Ponte Vista* project at its meeting on Tuesday, December 17, 2013 (see attached agenda and Staff report). The Committee received the November 14th recommendation of the Planning Department Staff and the City Planning Commission (CPC), and public testimony from the project proponent, several supporters and one (1) opponent. Staff addressed the Committee and asked it to consider:

- Affording our Public Works Department the opportunity to participate in the annual review of the efficacy of the project's traffic mitigation measures; and,
- Obligating the project proponent to resolve any future traffic impacts that are found to be not fully mitigated, as described in the Final EIR.

At the conclusion of the hearing, the Committee directed the City Attorney to finalize the ordinances for the project. These will come back to the PLUM Committee again for review before they are forwarded to the Los Angeles City Council. The full City Council is expected to take final action on the *Ponte Vista* project sometime in the first quarter of 2014. Staff will continue to monitor this project in future Border Issues reports.

Rancho LPG Butane Storage Facility, Los Angeles (San Pedro)

As the City Council may recall from the October 1st Border Issues Status Report, Senator Ted Lieu sent a letter to the State Fire Marshal on July 31, 2013, asking her to investigate a number of issues related to the Rancho LPG facility. On December 12, 2013, *Rolling Hills Riviera* Homeowners' Association President Jeanne Lacombe forwarded to Staff a copy of the response from the State Fire Marshal (see attachments). The State Fire Marshal's letter states that bulk LPG storage facilities are not within that agency's "statutory and regulatory responsibilities," and referred Senator Lieu to the State Office of Emergency Services and the Los Angeles Fire Department.

As the City Council may recall, on August 1, 2013, President Obama issued Executive Order No. 13650 (EO 13650) regarding the safety and security of chemical facilities in the United States, shortly after explosions at a fertilizer plant in Texas and a propane plant in Florida. Under EO 13650, a working group of high-level officials of various Federal agencies was formed to address this issue. On January 8, 2014, Staff learned from Representative Henry Waxman's office that the working group would be hosting two (2) public "listening sessions" to receive input on EO 13650 over the next two (2) days. Staff attended the daytime session held at UCLA on Friday, January 10, 2014 (see attached handouts), and also sent an e-mail regarding these "listening sessions" to subscribers of the City's Border Issues listserve group.

MEMORANDUM: Border Issues Status Report

February 4, 2014

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At the January 10th meeting, Staff addressed officials of the Environmental Protection Agency (EPA), the Occupational Health and Safety Administration (OSHA), the Department of Homeland Security (DHS) and the Department of Transportation (DOT). We asked that the EO 13650 working group to:

- Take a holistic approach to reviewing the safety and security of all liquid bulk storage facilities in the Los Angeles Harbor area;
- Make the existing risk management plans for these facilities more easily accessible for public review than is currently the case; and,
- Facilitate the preparation of a quantitative risk assessment for Rancho LPG and similar facilities in the Harbor area by an independent, neutral third party.

Rancho LPG opponents and the facility's operator also addressed the EO 13650 working group at the meeting.

On Monday, January 13, 2014, Lisa Pinto, District Director for 33rd District U.S. Congressman Henry Waxman, was invited to address the Northwest San Pedro Neighborhood Council (NWSPNC). Last summer Congressman Waxman sent a letter to the then-Secretary of DHS, Janet Napolitano, asking DHS to explain apparent discrepancies between the EPA and DHS assessments of the preparedness of the Rancho LPG facility to respond to an accident (see attached letter). Ms. Pinto stated that Congressman Waxman was still waiting for a response from DHS. She also stated that, with respect to the EPA notice issued to Rancho LPG last March, she was aware of updates to the status of this enforcement action but was not yet at liberty to discuss them publicly. On Tuesday, January 21, 2014, sent the attached e-mail to NWSPNC meeting attendees and other interested parties, confirming that there was very little that could be shared publicly about the status of the open EPA enforcement action.

In the past two (2) months, interested parties have continued to forward items regarding and related to the facility via e-mail. Copies of these e-mails are attached to tonight's report. Staff will continue to monitor this project in future Border Issues reports.

Los Angeles County General Plan Housing Element Update, Unincorporated Areas of the Peninsula

On December 3, 2013, the Los Angeles County Board of Supervisors considered and approved the Draft Negative Declaration (ND); and the proposed revisions to the County's General Plan Housing Element (see attached Minutes and Staff report). Staff will remove this item from future Border Issues reports.

New Border Issues

There are no new Border Issues on which to report at this time.

MEMORANDUM: Border Issues Status Report

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Attachments:

- PLUM Committee agenda and Staff report for *Ponte Vista* project (dated 12/17/13)
- E-mail and letter from Janet Gunter regarding *Ponte Vista* project (dated 12/16/13)
- *Daily Breeze* article regarding *Ponte Vista* project (published 12/19/13)
- E-mail from Jeanne Lacombe regarding response to Senator Lieu's letter to the State Fire Marshal (dated 12/12/13)
- EO 13650 "Listening Session" handouts (dated 1/10/14)
- Letter from Congressman Waxman to then-Secretary Napolitano regarding Rancho LPG facility (dated 7/31/13)
- E-mail from Lisa Pinto regarding status of EPA investigation of Rancho LPG facility (dated 1/21/14)
- E-mails and Late Correspondence regarding Rancho LPG facility (miscellaneous dates)
- BOS Minutes and Staff report for County General Plan Housing Element Update (dated 12/3/13)

PLANNING AND LAND USE MANAGEMENT COMMITTEE

TUESDAY, DECEMBER 17, 2013

BOARD OF PUBLIC WORKS EDWARD R. ROYBAL HEARING ROOM 350 - 2:30 PM
200 NORTH SPRING STREET, LOS ANGELES, CA 90012

MEMBERS: COUNCILMEMBER JOSE HUIZAR, CHAIR
COUNCILMEMBER GILBERT A. CEDILLO
COUNCILMEMBER MITCHELL ENGLANDER

(Sharon Gin - Legislative Assistant – (213)-978-1074 or Sharon.Gin@lacity.org)

Note: For information regarding the Committee and its operations, please contact the Committee Legislative Assistant at the phone number and/or email address listed above. The Legislative Assistant may answer questions and provide materials and notice of matters scheduled before the City Council. Sign Language Interpreters, Communication Access Real-Time Transcription (CART), Assistive Listening Devices, or other auxiliary aids and/or services may be provided upon request. To ensure availability, you are advised to make your request at least 72 hours prior to the meeting/event you wish to attend. Due to difficulties in securing Sign Language Interpreters, five or more business days notice is strongly recommended. For additional information, please contact: Sharon Gin at (213) 978-1074.

FILE NO.

SUBJECT

(1)

13-1584
CD 5

TIME LIMIT: 1/9/14; LAST DAY FOR COUNCIL ACTION: 1/8/14

Communication from the Mayor relative to the appointment of Ms. Jaime L. Lee to the West Los Angeles Area Planning Commission for the term ending June 30, 2017.

Community Impact Statement: None submitted

(2)

13-1612
CD 5

TIME LIMIT: 1/16/14; LAST DAY FOR COUNCIL ACTION: 1/15/14

Communication from the Mayor relative to the appointment of Ms. Janny H. Kim to the South Valley Area Planning Commission for the term ending June 30, 2015.

Community Impact Statement: None submitted

(3)

13-1541
CD 15

TIME LIMIT: 1/3/14; LAST DAY FOR COUNCIL ACTION: 12/18/13

Communication from the Mayor relative to the appointment of Mr. Mitchell Harmatz to the Harbor Area Planning Commission for the term ending June 30, 2014.

Community Impact Statement: None submitted

(4)

13-1646
CD 15

TIME LIMIT: 2/19/14; LAST DAY FOR COUNCIL ACTION: 2/19/14

Environmental Impact Report, Statement of Overriding Considerations, Mitigation Monitoring and Reporting Program and related California Environmental Quality Act findings, reports from the Mayor and the Los Angeles City Planning Commission, Resolution to amend the Wilmington - Harbor City Community Plan to change the land use designation from Open Space and Low Residential to Low Medium II Residential and to amend/add footnotes to the proposed Ponte Vista at San Pedro Specific Plan (PVSP), and proposed Ordinances to: 1) effect a zone change from R1-1XL and OS-1XL to the proposed PVSP zone, 2) establish the PVSP, and 3) amend the Los Angeles Municipal Code to establish the PVSP, for the new construction of up to 700 residential units and a 2.42 acre public park at 26900 South Western Avenue.

Applicant: SFI Bridgeview, LLC

Representative: David P. Waite, Cox Castel and Nicholson, LLP

Case No. CPC-2012-2558-GPA-ZC-SP-CA

Fiscal Impact Statement: Yes

Community Impact Statement: None submitted.

(5)

13-1467
CD 14

Negative Declaration and related California Environmental Quality Act findings, report from the Los Angeles City Planning Commission relative to the proposed Little Tokyo Community Design Overlay (CDO) boundaries and Ordinance establishing the CDO from those parcels within the proposed district from [Q]C2-3D to [Q]C2-3D-CDO, [Q]C2-3D-O to [Q]C2-3D-O-CDO, [Q]C2-4D to [Q]C2-4D-CDO, [Q]C2-4D-O to [Q]C2-4D-O-CDO, [Q]C4-2D to [Q]C4-2D-CDO, [Q]C4-4D to [Q]C4-4D-CDO, C2-2D-O to C2-2D-O-CDO, C2-4D to C2-4D-CDO, M2-2D-O to M2-2D-O-CDO, PF-2D to PF-2D-CDO, and R5-RD-O to R5-RD-O-CDO, for the area of downtown Los Angeles generally bounded by Temple Street to the north, Alameda Street to the east, Third Street to the south, and Los Angeles Street to the west. The Little Tokyo CDO provides guidelines and standards for

Planning and Land Use Management Committee
Tuesday, December 17, 2013

development projects to provide design guidance, enhance the visual identity and appearance and reinforce the walk-ability of Little Tokyo.

Applicant: City of Los Angeles

Case No. CPC-2012-3308-CDO-ZC

Fiscal Impact Statement Submitted: Yes

Community Impact Statement: None submitted

(6)

13-1365
CD 13

Motion (O'Farrell - Parks) relative to amending Los Angeles Administrative Code Section 5.530 to make it consistent with the goals of the Vermont-Western Station Neighborhood Area Plan pertaining to the provision of childcare facilities for project employees.

Community Impact Statement: None submitted

(7)

07-1175

Director of Planning's oral status report relative to ongoing development of City planning policies, work program, operations, and other items of interest.

COMMENTS FROM THE PUBLIC ON ITEMS OF PUBLIC INTEREST
WITHIN THIS COMMITTEES SUBJECT MATTER JURISDICTION

If you challenge this Committee's action(s) in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at or prior to, the public hearing. Any written correspondence delivered to the City Clerk before the City Council's final action on a matter will become a part of the administrative record.

Materials related to an item on this agenda submitted to the committee after distribution of the agenda packet are available for public inspection in the City Clerk's Office at 200 North Spring Street, Room 395, City Hall, Los Angeles, CA 90012 during normal business hours.

PL121713

To: The Council

Date: DEC 06 2013

From: Mayor

Council District: 15

Proposed General Plan Amendment,
Zone Change, Specific Plan and Code Amendment on
Property Located at 26900 South Western Avenue within the
Wilmington-Harbor City Community Plan
(CPC-2012-2558-GPA-ZC-SP-CA)

I herewith concur with the City Planning Commission's action
approving the General Plan Amendment, Zone Change, Specific Plan
and Code Amendment, and transmit this matter for your consideration.



ERIC GARCETTI
Mayor

DEPARTMENT OF
CITY PLANNING

200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
AND
6262 VAN NUYS BLVD., SUITE 351
VAN NUYS, CA 91401

CITY PLANNING COMMISSION

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JAMES WILLIAMS
COMMISSION EXECUTIVE ASSISTANT II
(213) 978-1300

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CALIFORNIA



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MAYOR

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FAX: (213) 978-1275

INFORMATION
www.planning.lacity.org

Date: NOV 27 2013

City Plan Case No. CPC-2012-2558-
GPA-ZC-SP-CA
Council District No. 15

Honorable City Council
City of Los Angeles
City Hall, Room 395
Los Angeles, CA 90012

Dear Councilmembers:

PROPOSED GENERAL PLAN AMENDMENT, ZONE CHANGE, SPECIFIC PLAN AND CODE AMENDMENT ON PROPERTY LOCATED AT 26900 SOUTH WESTERN AVENUE WITHIN THE WILMINGTON – HARBOR CITY COMMUNITY PLAN

Pursuant to the provisions of Section 551, 555 and 558 of the City Charter, transmitted herewith is the November 14, 2013 action of the City Planning Commission recommending approval of a proposed General Plan Amendment to change the land use designation of the subject property from Open Space and Low Residential to Low Medium II Residential within the Wilmington – Harbor City Community Plan ("Community Plan"). The City Planning Commission recommended approval of a concurrent Zone Change from OS-1XL and R1-1XL to PVSP. The City Planning Commission also recommended approval of the Code Amendment and the establishment of the Ponte Vista at San Pedro Specific Plan.

The City Planning Commission, as evidenced by the attached Findings, has determined that the proposed land use designation and zone change will conform to the City's General Plan, will be compatible with adjacent land uses, and is appropriate for the site.

The proposed General Plan Amendment was submitted to the Mayor whose recommendation will be forwarded to you as specified by Section 11.5.6 of the Los Angeles Municipal Code.

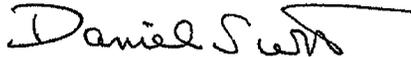
RECOMMENDATION

That the City Council:

1. Certify that it has reviewed and considered the information contained in the Draft and Final Environmental Impact Report ENV-2005-4516-EIR, SCH 2010101082 and Adopt the Statement of Overriding Considerations.
2. Adopt the attached Findings of the City Planning Commission as the Findings of the City Council; and
3. Concur in the attached action of the City Planning Commission relative to its recommended approval of the General Plan Amendment for the subject property; and
4. Adopt by Resolution, the proposed Plan Amendment to the Wilmington – Harbor City Community Plan as set forth in the attached exhibits; and
5. Adopt the ordinance changing the zone to PVSP as set forth in the attached exhibit; and
6. Adopt the Code Amendment to add the ordinance establishing the Ponte Vista at San Pedro Specific Plan; and
7. Direct staff to revise the Community Plan Map in accordance with this action.

Very truly yours,

MICHAEL J. LOGRANDE
Director of Planning



Dan Scott
Principal City Planner

Attachments:

1. City Plan Case File
2. City Planning Commission action, including Findings
3. General Plan Amendment Maps
4. Zone change and Specific Plan ordinance maps

**DEPARTMENT OF
CITY PLANNING**

200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
AND
6262 VAN NUYS BLVD., SUITE 351
VAN NUYS, CA 91401

CITY PLANNING COMMISSION

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CITY OF LOS ANGELES
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INFORMATION
www.planning.lacity.org

Date: **NOV 27 2013**

City Plan Case No. CPC-2012-2558-
GPA-ZC-SP-CA
Council District No. 15

Honorable Eric Garcetti, Mayor
City of Los Angeles
City Hall, Room 305
Los Angeles, CA 90012

Dear Mayor:

PROPOSED GENERAL PLAN AMENDMENT, ZONE CHANGE, SPECIFIC PLAN AND CODE AMENDMENT ON PROPERTY LOCATED AT 26900 SOUTH WESTERN AVENUE WITHIN THE WILMINGTON – HARBOR CITY COMMUNITY PLAN

Pursuant to the provisions of Section 551, 555 and 558 of the City Charter, transmitted herewith is the November 14, 2013 action of the City Planning Commission recommending approval of a proposed General Plan Amendment to change the land use designation of the subject property from Open Space and Low Residential to Low Medium II Residential within the Wilmington – Harbor City Community Plan ("Community Plan"). The City Planning Commission recommended approval of a concurrent Zone Change from OS-1XL and R1-1XL to PVSP. The City Planning Commission also recommended approval of the Code Amendment and the establishment of the Ponte Vista at San Pedro Specific Plan.

The proposed General Plan Amendment is submitted to you for your recommendation, which is to be forwarded to the City Council as specified by Section 11.5.6 of the Los Angeles Municipal Code. The Zone Change, Code Amendment and Specific Plan will be transmitted to you following City Council's action.

The City Planning Commission, as evidenced by the attached Findings, has determined that the proposed land use designation will conform to the City's General Plan, will be compatible with adjacent land uses, and is appropriate for the site.

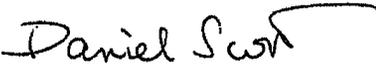
RECOMMENDATION

That the Mayor:

1. Concur in the attached action of the City Planning Commission relative to its recommended approval of the proposed General Plan Amendment for the subject property; and
2. Recommend that the City Council Adopt the attached Findings of the City Planning Commission relative to the General Plan Amendment; and
3. Recommend that the Council Adopt, by Resolution, the Plan Amendment to the Wilmington – Harbor City Community Plan, as shown in the attached exhibit; and
4. Recommend that the City Council direct staff to revise the Community Plan in accordance with this action.

Very truly yours,

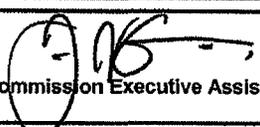
MICHAEL J. LOGRANDE
Director of Planning


Daniel Scott
Principal City Planner

Attachments:

1. City Plan Case File
2. Resolution
3. City Council Package

TRANSMITTAL TO CITY COUNCIL

Case No.(s)	Planning Staff Name(s) and Contact No.	C.D. No.
CPC-2012-2558-GPA-ZC-SP-CA	HENRY CHU 213-978-1324	15
Items Appealable to Council:	Last Day to Appeal:	Appealed:
N/A	N/A	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Location of Project (Include project titles, if any.)		
26900 S. WESTERN AVENUE		
Name(s), Applicant / Representative, Address, and Phone Number		
SFI BRIDGEVIEW, LLC/ ISTAR FINANCIAL STEVEN MAGEE 4350 VON KARMAN AVE. 225 NEWPORT BEACH, CA 92660	DAVID P. WAITE COX, CASTLE & NICHOLSON 2049 CENTURY PK EAST 2800 LOS ANGELES, CA 90067 310-284-2218	
Name(s), Appellant / Representative, Address, and Phone Number		
N/A		
Final Project Description (Description is for consideration by Committee/Council, and for use on agendas and official public notices. If a General Plan Amendment and/or Zone Change case, include the prior land use designation and zone, as well as the proposed land use designation and zone change (i.e. "from Very Low Density Residential land use designation to Low Density land use designation and concurrent zone change from RA-1-K to (T)(Q)R1-1-K). In addition, for all cases appealed in the Council, please include in the description <u>only</u> those items which are appealable to Council.)		
<p>Establishment of a Specific Plan for approximately 61.5 gross acres to allow for the demolition and removal of 245 residential units, a community center, and commercial building (all a part of former U.S. Navy housing) for the new construction of up to 700 residential units and a 2.42 acre public park.</p>		
Fiscal Impact Statement <small>*Determination states administrative costs are recovered through fees.</small>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Environmental No. ENV-2005-4516-EIR, SCH-2010101082
		Commission Vote: 6 - 0
 JAMES WILLIAMS, Commission Executive Assistant II		NOV 27 2013 Date: _____



LOS ANGELES CITY PLANNING COMMISSION

200 N. Spring Street, Room 272, Los Angeles, California, 90012, (213) 978-1300
www.lacity.org/PLN/index.htm

Determination Mailing Date: NOV 27 2013

CASE NO.: CPC-2012-2558-GPA-ZC-SP-CA
CEQA: ENV-2005-4516-EIR (SCH. No. 2010101082)

Location: 26900 S. Western Avenue
Council District: 15 – Buscaino
Plan Area: Wilmington-Harbor City
Request(s): General Plan Amendment, Zone Change, Specific plan, Code Amendment

Applicant: SFI Bridgeview, LLC
Representative: David P. Waite, Cox Castle & Nicholson, LLP

At its meeting on November 14, 2013, the following action was taken by the City Planning Commission:

1. **Approved a General Plan Amendment** to the Wilmington – Harbor City Community Plan map to:
 - a. Change the land use designation from Open Space and Low Residential to **Low Medium II Residential** land use designation.
 - b. Amend Footnote No. 2 to read "Maximum height of 30 feet from adjacent grade except for the PVSP zone."
 - c. Add a footnote establishing the proposed Ponte Vista at San Pedro (PVSP) Specific Plan as the land use regulatory document for the project and provide correspondence of the Low Medium II residential land use designation with the PVSP zone.
2. **Approved a Zone Change** from R1-1XL and OS-1XL to the proposed **PVSP zone**.
3. **Approved a Code Amendment** to add the ordinance establishing the **Ponte Vista at San Pedro Specific Plan**.
4. **Approved** the establishment of the **Ponte Vista at San Pedro Specific Plan**.
5. **Certified** that it has reviewed and considered the information contained in the Draft and Final Environmental Impact Report, and Supplemental Analysis, Environmental Clearance No. **ENV-2005-4516-EIR**, (SCH. No. 2010101082).
 - a. Adopted the Statement of Overriding Considerations setting forth the reasons and benefits of adopting the EIR with full knowledge that significant impacts may occur.
 - b. Adopted the Mitigation Monitoring and Reporting Program and adopt the related Environmental Findings.
6. **Advised** the Applicant that, pursuant to California State Public Resources Code Section 21081.6, the City shall monitor or require evidence that mitigation conditions are implemented and maintained throughout the life of the project and the City may require any necessary fees to cover the cost of such monitoring.
7. **Advised** the Applicant that pursuant to the State Fish and Game Code Section 711.4, a Fish and Game and/or Certificate of Game Exemption is now required to be submitted to the County Clerk prior to or concurrent with the Environmental Notices and Determination (NOD) filing.

RECOMMENDATIONS TO CITY COUNCIL:

1. **Recommend** that the City Council **Approve a General Plan Amendment** to the Wilmington – Harbor City Community Plan map to:
 - a. Change the land use designation from Open Space and Low Residential to **Low Medium II Residential** land use designation.
 - b. Amend Footnote No. 2 to read "Maximum height of 30 feet from adjacent grade except for the PVSP zone."
 - c. Add a footnote establishing the proposed Ponte Vista at San Pedro (PVSP) Specific Plan as the land use regulatory document for the project and provide correspondence of the Low Medium II residential land use designation with the PVSP zone.
2. **Recommend** that the City Council **Approve a Zone Change** from R1-1XL and OS-1XL to the proposed PVSP zone.
Recommend that the City Council **Approve a Code Amendment** to add the ordinance establishing the **Ponte Vista at San Pedro Specific Plan**.
3. **Recommend** that the City Council **Approve** the establishment of the **Ponte Vista at San Pedro Specific Plan**.
4. **Recommend** that the City Council **Certify** that it has reviewed and considered the information contained in the Draft and Final Environmental Impact Report, and Supplemental Analysis, Environmental Clearance No. **ENV-2005-4516-EIR**, (SCH. No. 2010101082).

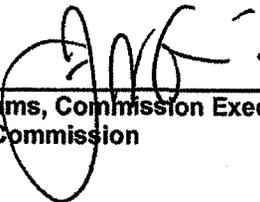
- a. Adopt the Statement of Overriding Considerations setting forth the reasons and benefits of adopting the EIR with full knowledge that significant impacts may occur.
- b. Adopt the Mitigation Monitoring and Reporting Program and adopt the related Environmental Findings.

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

This action was taken by the following vote:

Moved: Dake-Wilson
Seconded: Segura
Ayes: Ahn, Choe, Katz, Perlman
Absent: Ambroz, Mack

Vote: 6 - 0



James K. Williams, Commission Executive Assistant II
City Planning Commission

Effective Date: The decision of the City Planning Commission is effective upon the mailing date of the determination letter and is final.

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachments: Ordinances, Maps, Findings, Resolution
City Planner: Henry Chu

Kit Fox

From: Janet Gunter <arriane5@aol.com>
Sent: Monday, December 16, 2013 7:33 PM
To: Sharon.Gin@lacity.org
Cc: MrEnvirlaw@sbcglobal.net; noelweiss@ca.rr.com; det310@juno.com; lisa.pinto@mail.house.gov; maurice_yles@boxer.senate.gov; michael_davies@feinstein.senate.gov; rob.wilcox@lacity.org; jcynthiaperry@aol.com; lpryor@usc.edu; rgb251@berkeley.edu; carl.southwell@gmail.com; Kit Fox; hanslaetz@gmail.com; connie@rutter.us
Subject: TUESDAY DEC. 16TH MEETING...PLEASE SUBMIT!! Planning Committee Agenda Item: Ponte Vista
Attachments: pontevista planning commission dec 2013.doc; rancho rail accident photo.jpg; la_times_apr4_1977.pdf; la_times_jul16_1977.pdf; saftyelt.pdf

PLEASE DISTRIBUTE THIS LETTER AT TOMORROW'S MEETING.

THANK YOU

JANET GUNTER

Janet Schaaf-Gunter
PO Box 642 – San Pedro, CA 90733
Ph: (310) 251-7075 – Email: arriane5@aol.com

December 16, 2013

RE: AGENDA ITEM # 13-1646 COUNCIL DISTRICT 15
PONTE VISTA HOUSING DEVELOPMENT

Planning and Land Use Management Committee
Councilmember Chair: Jose Huizar
Councilmembers: Gilbert Cedillo, Mitchell Englander

Dear Councilmembers,

It is **incredibly reckless** of the City of LA to have moved the Ponte Vista project this far through the approval process of development. While the City of LA, and in particular our own City Councilman Joe Buscaino, profess to embrace a stringent policy of “Public Safety First” the approvals of this project thus far prove a demonstrative disregard of that pledge.

Within ½ mile of this newly proposed housing lays a massive ticking time bomb, the Rancho liquefied petroleum gas storage facility (a limited liability corporation...meaning uninsured from liability to the City). This facility stores greater than 25 MILLION gallons of extremely explosive Butane and Propane gasses. The volume of gas in these tanks represents over 50 atomic bombs in stored energy. The facility originally located at this site in order to transport the majority of their gas by ship. Since the port has discontinued the use of its original pipeline to a wharf in the harbor, all gas is now being transported throughout the community and port by rail cars and trucks daily. This is an extraordinarily hazardous situation in such a densely populated and highly sensitive terrorist target area as the Port of LA.

Located at it's Gaffey St. location over 40 years ago under the name “Petrolane”, the facility (with significant political favor) was allowed to circumvent a proper CEQA/public and permitting process and also received an “emergency exemption” from the City of Los Angeles fire regulations. Also, this facility's huge and now antiquated tanks sit in an actual (LA City Planning Department designated) “Earthquake Rupture Zone”. (see SAFTYELT document LA City Planning) The CEO of Petrolane at the time (1970's) was R.J. Munzer, close friend and major campaign supporter of President Richard Nixon. The Middle East oil crisis was in full bloom. Liquid Petroleum gasses were perceived at the time to be a great energy source of the future with an expected broad range of uses associated with that optimism. Every effort was made to accommodate this facility. The spectrum of anticipated uses of these gasses were never realized, and Petrolane filed for bankruptcy in the 1980's. Subsequent owners have taken charge since with the Plains All American Pipeline subsidiary, Rancho LPG LLC being the latest.

This ultra hazardous facility was located and approved by the City of LA in the early 1970's despite knowing the existing vulnerabilities of it. Residents have **always** been located within a mere 1,000 ft. of this extreme source of danger, with 4 schools that also fall between 900 ft. to 1/2 mile from it. Adding greatly to an influx of potential victims is the new busy Home Depot, well within 250 feet of the facility and within another block or so a large and bustling "Target" store.

LA City Council itself has acknowledged the unacceptable risk posed to the local population and has introduced motions in the past to seek relocation of the facility. However, fears of lawsuits, costs and legal red tape have terrified the LA "leadership" from doing what they all know is the wise and prudent thing here. That is to **remove** the threat in the interest of public safety. One way to begin that process simply is to "discontinue" the monthly roll over rail permit that the Port of LA approves to Rancho. During that moratorium, the *long absent* proper risk analysis could be performed on the facility to establish the level of its risk, along with a demand for insurance from Rancho commensurate with that risk, to be provided to the City of LA and its residents.

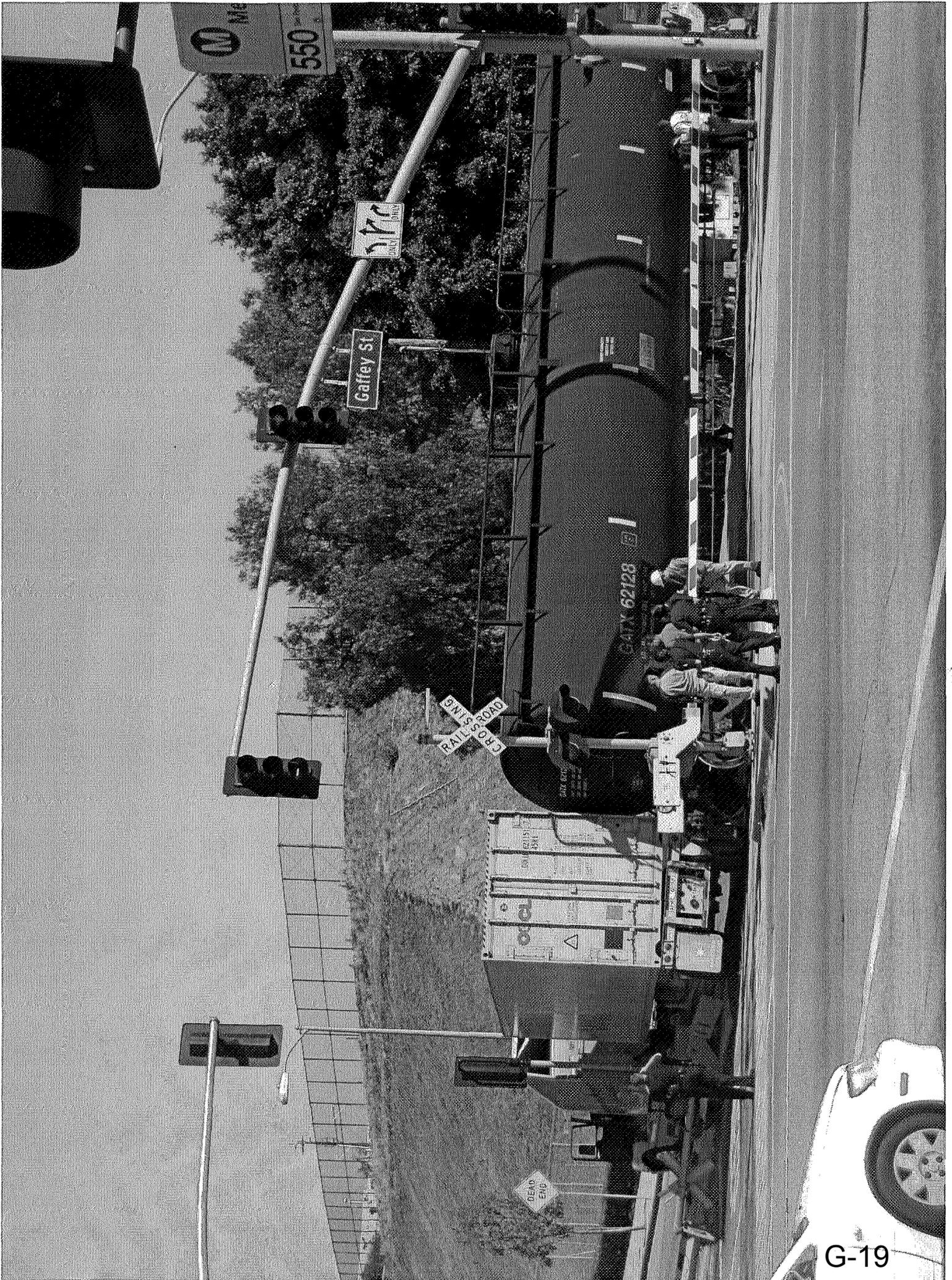
The greatest offense of all of this is the sheer audacity reflected by the City of LA in continuing the abuse and neglect of public safety by embracing, even through the concept, the introduction of more innocent potential victims into this menacing situation. And in this particular case that is over 2,000 people! This is the height of irresponsibility.

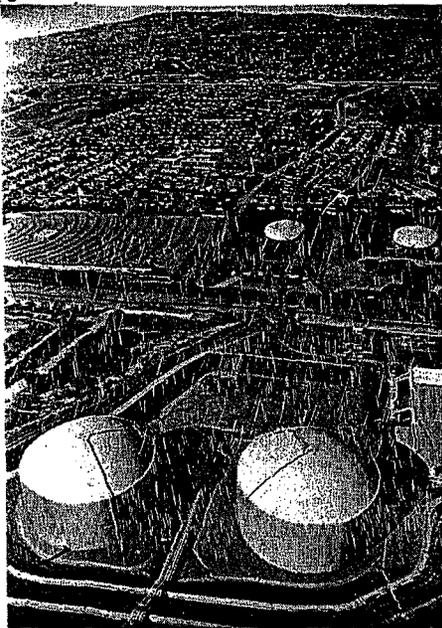
A thought for you to consider is that the serious explosions that took place only a few months ago at The Blue Rhino LPG facility in Florida, that demanded a one mile evacuation of a sparsely populated area, represented approximately 1% of the volume of gas held at Rancho LPG! For God's sake, STOP the insanity and take care of LA constituents BEFORE the catastrophe is allowed to happen. Then, and only then, can you think **responsibly** about building more homes in that area for our LA families.

Sincerely,

Janet Gunter
Homeowner
Member: San Pedro Peninsula Homeowners United

Attachments: Railcar accident Mar. 2013 (narrowly escaping car rupture)
Archived LA Times articles 1977
Saftyelt





'ONE OF OUR GRAVEST CONCERNS' —The two LPG tanks in San Pedro and map showing their close proximity to the Palos Verdes Fault. Times photo by Steve Fantanali from KMPC helicopter Times map by John Sawyer

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 microfilm.

Two San Pedro LPG Tanks Worry Officials

Liquefied Petroleum Gas Facility Was Built Without Risk Analysis

BY LARRY PRYOR
 Times Staff Writer

Two storage tanks containing a highly hazardous substance, liquefied petroleum gas, are operating near a densely populated area in San Pedro, although the facility was built without a risk analysis or comprehensive safety review, The Times has learned.

The \$9 million fuel storage and distribution facility, built by Petrolane, Inc., of Long Beach in 1973, suddenly has come under official scrutiny as a result of increasing controversy over the safety of port operations.

"This facility is one of our gravest concerns," said Los Angeles Fire Marshal John C. Gerard. "LPG has some of the same properties as LNG (liquefied natural gas) and should be treated on the same level of discipline."

But in contrast with the intense review and planning now going into the location of proposed LNG terminals for California, the San Pedro LPG terminal went through a fragmented permit process and much of its operation is unregulated.

As a result, state and local officials now believe the Petrolane facility has serious safety problems. For example:

—The storage tanks, which have a capacity of 25 million gallons, are in the immediate vicinity of a potentially active geological fault, the Palos Verdes Fault. The tanks were built to

The nearest home is about 1,000 feet away from the tanks.

an earthquake design criteria far below that of a proposed LNG terminal for Los Angeles Harbor.

—The Los Angeles Fire Department believes the wooden offloading wharf, where Petrolane intends to bring in as many as 20 LPG tankers a year, is inadequate. The LPG wharf also is within 150 feet of other combustible materials—a lumber yard and an oil-storage area.

—The storage facility is unguarded, and its personnel are unlicensed. No standards are in effect to regulate the 6,000-foot pipeline from the wharf to the storage tanks or the operation of the LPG distribution facility.

The pipeline from the wharf to the storage tanks goes under the Harbor Freeway and along Gaffey St. The storage area at 2110 N. Gaffey is a complex of offices and equipment, including the large, white storage tanks, pressure vessels, compressors

and a loading area for trucks and railroad tank cars.

There is a drive-in movie theater across Gaffey about 500 feet away. The nearest residence is about 1,000 feet to the west. One school is about 2,000 feet from the facility and two others are slightly more than a mile away.

The site is zoned by the city of Los Angeles for heavy industrial use but is adjacent to residential zoning.

"This doesn't make any more sense than building an outhouse upstream," said one fire official. "There should be a general plan for the Harbor District that addresses itself to safety and isolates hazardous cargoes."

Part of Petrolane's predicament is both a growing awareness of hazardous materials and new information that has come to light since the project was conceived.

"We asked ourselves if this was a good safe place for the facility and we believed it was," said John May, an investment officer and spokesman for Petrolane. "We designed it and constructed it in excess of the requirements. That was a voluntary act . . . We complied with the law."

When it comes to hazards, safety experts class LPG—which in its commercially marketable form is mostly propane—in a category of its own. And its use is becoming more widespread.

Since the 1930s, propane has been used as a fuel in rural areas not served by natural gas lines. It is still a favored fuel for cabins and farms. But in recent years, it has been increasingly used in urban areas as a motor fuel and as a supplement for industries faced with natural gas curtailments.

When refrigerated to 44 degrees below zero or kept under pressure, the propane turns into a liquid, which makes it convenient to transport and store.

A state Energy Commission report on LPG estimated that about 570 million gallons were sold in California in 1974 and that demand for the efficient, clean-burning fuel is rising about 5% per year.

But the increased demand means LPG companies no longer can rely on domestic sources of LPG, which so far have met all but about 10% of demand. They are planning to import large quantities from Venezuela and the Middle East.

Some energy analysts predict there will be a worldwide surplus of LPG in 1980, which would tend to drive the price down and make it competitive with fuel oil. Imports would then increase substantially.

The trend toward large-scale im-

portation of LPG in specially designed tankers began on the East and Gulf coasts and has spread westward. Petrolane's San Pedro terminal, the only one in the state capable of storing LPG imports by ship, received its first delivery last November.

A second large distributor, California Liquid Gas Corp., is planning to build a similar facility in Contra Costa County in the Bay Area, although that project has been delayed because of adverse public opinion.

For the most part, Petrolane was able to build and operate its facility with remarkably little attention. Because of the peculiar regulatory status of LPG compared with other substances, the company had to seek a minimal number of permits.

One was from the regional Coastline Commission, which in October, 1973, unanimously voted to approve

LPG is so powerful that the military uses it in concussion bombs.

revisions to the berth and construction of the pipeline. (The storage tanks were outside the coastal zone.)

But the public notice of Petrolane's hearing made no mention of LPG, saying only that the permit involved "installation of a permanently mounted marine arm, with two connecting buried steel pipelines."

The commission's staff, relying on the analysis of the Los Angeles city Engineering Department, recommended approval of the permit. "We didn't have any idea of what that facility was all about," one staff member said.

Petrolane also needed, and received, the approval of the Los Angeles Harbor Commission to build the terminal. An environmental impact report filed with the commission as part of the permit process made no mention of the existence of the Palos Verdes Fault and avoided discussing hazardous aspects of LPG.

"Control measures are so stringent during ship unloading operations that a large-quantity spill is extremely unlikely," the EIR said. "If by chance liquid propane contacted harbor area water, intense boiling action would occur converting the propane into gaseous form which would then quickly disperse."

But interviews with safety specialists and a review of the literature on LPG accidents failed to confirm such a prediction.

LPG is such a powerful explosive

that it is used by the Defense Department in concussion bombs. These weapons were employed in Vietnam to create, among other things, instant helicopter pads in the jungle and are now being sought by the Israeli government because they are the only bomb that can penetrate Egypt's underground jet hangars.

So far, the largest events involving commercial LPG have been a result of accidents to 10,000-gallon tank trucks and railroad cars. The fires and explosions from these incidents are among the worst industrial accidents on record.

What would happen if 25 million gallons of LPG were released to the atmosphere or were subjected to intense heat while still in their storage tanks is not known.

LPG is more easily stored and transported than LNG because it does not have to be kept as cold. But unlike LNG, which is mostly methane and tends to rise when it vaporizes, LPG is a heavy gas and hugs the ground, making it difficult to disperse.

LPG is highly flammable and there is evidence that an unconfined propane air cloud will explode. LPG tanks exposed to fire can detonate with enormous force, a phenomenon known as a "BLEVE," which is pronounced "blevee" and stands for "boiling liquid expanding vapor explosions."

One such explosion in Kingman, Ariz., in 1973, for example, involved the rupture of a railroad tank car that killed 13 persons and injured 95 others. The fireball rose several hundred feet in a mushroom cloud and was 800 to 1,000 feet in diameter.

One evaluation of fragments from 84 LPG tank car accidental explosions showed that at least 20% of the fragments traveled more than 1,000 feet. Another study showed that 41% of the tank car accidents involving a release of LPG resulted in an explosion and 25% in a fire.

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Gas Tanks Worry Officials

Continued from First Page

Data on the accident rate of fixed storage facilities is sparse because no federal agency has responsibility for these facilities, and accident reports are not required. One study done last year by the IIT Research Institute of Chicago concluded: "There are as many explosions and/or serious fires at fixed installations as there are LPG transportation accidents."

There also is evidence of an increase of accidents involving fixed facilities. An article in Fire Command pointed out that "in the five years since 1970 there has been a dramatic increase in the number of fatalities and injuries as the result of BLEVEs." Twelve incidents reported resulted in the death of 18 fire fighters and six civilians, with injuries to 300 persons.

The January issue of LP-Gas, a trade journal, said "several major accidents over the past two years, resulting in extraordinary claims, have left the insurance companies jittery and skeptical of the risks involved in issuing LPG dealers coverage."

As a result, the journal said, liability insurance costs have escalated sharply, amounting to 29.5% of one dealer's total 1977 projected costs and only two major insurance companies are now quoting a price for LPG liability.

Petrolane's spokesman, John May, said the company had been handling LPG for 50 years and "we can't see propane as an onerous material. It isn't unusually difficult to handle and we've been handling it safely."

The safety of the Petrolane facility in San Pedro has been questioned at the state and local level recently for a number of reasons, not the least being the explosion of the oil tanker Samsinena last fall, which reminded the public that the Port of Los Angeles was indeed there.

An application by Pacific Lighting Corp. to locate an LNG terminal in the harbor has stirred further interest in port safety, including an investigation by a multiagency Hazardous Cargo Task Force.

But Petrolane, itself, is forcing the issue by proposing to import about 120 million gallons per year of propane through its San Pedro facility, starting the third quarter of next year. The company expects to offload a large LPG tanker in the harbor every 19 to 23 days.

The main customer for this fuel would also be Pacific Lighting, which plans to take the propane to Wilmington by pipeline, put it in a proposed air-mixing plant and inject it into its gas system. This propane would be about 2% of Southern California's gas supply.

To do this, Pacific Lighting's subsidiary, Southern California Gas Co., applied to the state Public Utilities Commission for a certificate to build the mixing facility, a step that would ordinarily require an environmental impact report.

The examiner in the case, however, concluded that safety questions involved were "insignificant" and proposed issuing a "negative declaration," which would exempt the gas company from having to prepare an EIR and address questions of vessel safety or the operation of the storage facility.

However, on March 15, the state Coastline Commission filed an exception to the proposed PUC action, expressing "strong concerns" about the safety of the LPG terminal complex.

The Coastline Commission said the examiner's decision appeared to have been due "primarily to the unfamiliarity with the potential

hazards involved" and a reliance on other regulatory bodies to handle safety problems.

Among concerns raised by the coastal commission's staff:

—The increase in LPG vessel traffic that will result from the project.

—The suitability of the berth at the terminal.

—The potential land use conflicts and safety hazards presented by the project's "proximity to open flame sources, lumber storage yards, petroleum storage and residential activities."

Although the Los Angeles Fire Department initially approved the Petrolane project in 1973, an internal department memorandum dated January 26 raises a number of problems connected with the marine terminal and recommends that the wharf be rebuilt, this time out of concrete.

It also pointed out that all electrical installations in the terminal should be surveyed by the Department of Building and Safety's electrical division.

The Petrolane terminal, because of the way the city's building-safety and fire codes are written, received piecemeal inspection from the Department of Building and Safety. The two large storage tanks, for example, were built without a city building permit, according to public records.

The building code exempts a storage tank for flammable fluids from the permit and inspection

Published maps show the fault running adjacent to the San Pedro property.

process if the tank is built with a dike around it. The dike is supposed to contain the fluid if the tank ruptures.

The storage tanks at the Petrolane facility are not diked, but a section of the National Fire Protection Assn.'s (NFPA) LPG code says that a dike is not necessary "where spillage of hydrocarbons can be adequately contained by topography."

Therefore, the Petrolane tanks, if ruptured, would flow into a catchbasin built below them. But both the NFPA code and the city Fire Code state that the capacity of the basin need only be sufficient for the contents of one tank.

Although the Petrolane tanks can hold 25 million gallons of LPG, documents show that the basin below the tanks has a capacity of 13 million gallons. One fire official explained that it was considered highly unlikely that both tanks would rupture simultaneously.

Petrolane's May pointed out that the nature of the storage tanks provide a conservative measure of protection, since they are double-walled and have a layer of insulation between the two shells.

Storage tanks also are known for their ability to withstand destruction during severe earthquakes. This was proved during the Alaska quake of 1964 and the San Fernando earthquake of 1971.

Since no risk analysis was done on the Petrolane facility, there is no way to determine the likelihood of various events in addition to earthquakes, such as the effects on the storage tanks from a fire or "BLEVE" in a nearby tank truck or railroad tank car.

A seismic study was done for Petrolane in

1972 by Converse, Davis & Associates, but the study was not made part of the public record by the regional Coastline Commission, the Harbor Department or the PUC.

Robert A. Reid, manager of engineering services for Petrolane, said the consulting firm calculated that the Palos Verdes Fault was about a mile to the north of the facility. It was therefore built to withstand an earthquake of 6 magnitude on the Richter scale and a peak ground force acceleration of .35 of the force of gravity.

Reid said these values were considerably above what was required by the city's Uniform Building Code and the company had decided to use conservative assumptions on seismic activity.

Moreover, Reid said, the storage site, which is carved into a hill below a Union Oil Co. refinery, had "foundation conditions that are the best in the South Coast Basin. That is San Pedro sandstone, which is a very hard structure and had construction advantages."

But published maps by the U.S. Geological Survey, the state Division of Mines and Geology and the Los Angeles Planning Department indicate the fault is closer to the Petrolane facility than one mile. Although the scale of these maps is not precise enough to be site-specific, they show the fault running immediately adjacent to the property.

The fault does not break the surface at this point and slopes at an angle about 2,000 feet down. Geologists therefore refer to it as a fault zone and the Petrolane facility is shown on the city's seismic map as lying within that zone.

The Palos Verdes Fault is considered "potentially active," which means it has showed no sign of movement in recent times, or within about the last 11,000 years.

Geologists, nevertheless, treat it with respect. Pacific Lighting's proposed LNG plant also would lie within the Palos Verdes Fault zone, but Dames and Moore, the seismic consultants for the LNG project, have recommended anticipating a 6.5 magnitude earthquake on the Palos Verdes Fault and ground accelerations totaling .7 of the force of gravity, counting both vertical and horizontal movement.

One seismic consultant, Dr. Jim Slosson, former state geologist and now with Engineering Geology Consultants, Inc., of Van Nuys, considers the maximum credible earthquake for the Palos Verdes Fault to be 7 magnitude. On a project he worked on recently, Slosson estimated peak accelerations to be .6 Gs at three-fourths of a mile from the fault.

"This (Slosson's prediction), is a credible event," said Dr. Roger Sherburne, a seismologist with the state Division of Mines and Geology.

Because of the way state laws and regulations are written, an existing facility not subject to a seismic safety review and containment of hazardous materials has been given a low priority.

"The state is just getting into this whole business," said Peter Stromberg, a seismic safety specialist with the state Seismic Safety Commission. "For some reason, we just haven't gotten into the energy field."

Each local, state or federal agency contacted by The Times said it had either no jurisdiction over the Petrolane facility or jurisdiction over only a particular aspect of it.

An official with the federal Office of Pipeline Safety, for example, said the 6,000-foot pipeline from the wharf to the storage area did not fall under federal jurisdiction because it carried liquefied propane. If the propane were in its gaseous form, it would be covered by federal regulations, he said.

The U.S. Coast Guard has jurisdiction over the facility from the time the LPG tankers enter U.S. territorial waters to the point they are

unloaded. A Coast Guard spokesman said the agency does not now consider that it has jurisdiction over the inland storage facility.

The Coast Guard is circulating a draft of a permit procedure for marine terminals handling hazardous materials. This procedure would regulate all aspects of new LFG tidewater facilities, including inland storage areas. It also would apply retroactively to facilities such as Petrolane's if "reasonable improvements" were required "at the discretion of the commandant."

Under the proposed permit procedure, the Coast Guard would inspect the design, construction and operation of terminal facilities and require that operators and supervisory personnel be required to hold licenses.

A terminal applicant would have to supply a chart of all areas within 5,000 feet showing various structures such as schools, hospitals, buildings with more than 100 persons, recreation areas and other facilities handling flammable, explosive or toxic materials.

"No specific guidelines are implied in this listing of structures and zones of human activity," the Coast Guard said, "but the applicant would have the burden of proof using professional risk analysis techniques to show that the site and waterway route chosen presents no more risk than (the) population is exposed to in that area from such natural risks as hurricanes, earthquakes, fatal heart attack and death by cancer."

Gas Facility Quake Safety Questioned in PUC Report
LARRY PRYOR
Los Angeles Times (1923-Current File); Jul 16, 1977;
ProQuest Historical Newspapers Los Angeles Times (1881 - 1987)
pg. A1

Gas Facility Quake Safety Questioned in PUC Report

BY LARRY PRYOR
Times Staff Writer

A liquefied petroleum gas (LPG) storage facility in San Pedro was not designed to withstand the maximum credible earthquake from two nearby fault zones, the staff of the Public Utilities Commission said in a draft safety report.

The facility, which can hold up to 25.2 million gallons of the hazardous fuel, was built on the assumption that the maximum earthquake on the Newport-Inglewood Fault would be 5.5 magnitude and the Palos Verdes Fault would be 6.0 magnitude.

Recent studies, the report said, indicate a maximum earthquake for the Newport-Inglewood of 7.0, and for the Palos Verdes, 7.0 to 7.2 on the Richter scale. Both are considered by geologists to be active faults.

The conclusion that could be drawn, the PUC draft report said, is: "Within their lifetime, the LPG tanks may experience an earthquake of such magnitude as to severely

damage both tanks, spilling their contents.

"The actual effects of such an occurrence . . . depends on a number of factors, but mostly upon the amount of LPG actually in the tanks at the time of rupture and whether the escaping liquid vaporizes and is ignited.

"Certainly if the tanks were empty, little impact would result other than the loss of the tanks, but if both were full or nearly full and both ruptured, the impact could be disastrous, especially since the catch basin can only hold the contents of one tank."

The PUC staff recommended that the reservoir at the base of the LPG tanks be expanded to hold the volume of both tanks. If the impoundment were deepened, the report said, the chance of spillage of LPG onto nearby Gaffey St. "would be minimized in the event the dike cracked."

The report said that if the LPG

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Gas Facility Safety Questioned

Continued from First Page

tanks rupture while full, the propane-based liquid would flow into an adjacent drainage channel and exceed its capacity.

"The liquid would flow southward along Gaffey St. and would accumulate in a large pool around the intersection of Gaffey and Battery Sts.," the report said. "From there it would enter the storm sewers which flow into the harbor about 800 feet away."

Unlike liquefied natural gas (LNG), which is liquefied methane that is kept at minus 260 degrees, LPG is stored at minus 45 degrees, or even higher temperatures if it is under pressure. When it turns into a gas, however, LPG hugs the ground and is more volatile than LNG vapors which rise.

The PUC report declined to speculate on the possibility of ignition or explosion of an LPG spill at San Pedro, noting that results from experiments by federal agencies are not available.

A spokesman for the U.S. Coast Guard said further experiments with large-scale LPG spills would be carried out at China Lake in about four weeks, but he said a great deal of research on LPG spills already had been done.

"It's a matter of confirmation of the behavior (of propane vapor clouds) rather than going into a new area," he said.

Numerous reports by the National Transportation Safety Board (NTSB) document open-air detonations of LPG in transportation accidents, several with devastating results.

An explosion of unconfined vapor from a railroad tank car at Decatur, Ill., in 1974, for example, set off a

Some accidents have resulted in devastating LPG explosions.

shock wave that was felt 40 miles away, damaged 700 homes and 11 schools. Losses totaled \$18 million. Seven railroad employees were killed.

Another explosion in Franklin County, Mo., in 1970, caused by a ruptured LPG pipeline, "extensively damaged 13 homes within a 2-mile radius, sheared telephone poles, snapped tree trunks, smashed windows 12 miles away, and registered on a seismograph in St. Louis, 55 miles distant," the NTSB report said.

The fatality rate would have been high, the NTSB said, except the rural area had been swiftly evacuated.

The San Pedro LPG facility, operated by Petrolane, Inc., of Long Beach, is on industrially zoned land but is within 1,000 feet of a residential street. The adjacent area also has schools, apartment houses and a drive-in theater.

A spokesman for Petrolane said Chicago Bridge and Iron, Inc., which built the plant for Petrolane, is reviewing its specifications to see if the tanks can withstand greater shaking than anticipated.

"The preliminary numbers they are willing to stand by indicate the tanks will not fail even if a .7g force is exerted on them," said Frank Maple vice president of the LPG Gas Division of Petrolane.

The plant was designed to sustain a peak acceleration of .45g, or slightly less than half the force of gravity.

Maple said these studies would be turned over to the PUC. "If somebody said those tanks were not safe, we wouldn't want to operate them," he concluded.

The facility is coming under increasing scrutiny because the Southern California Gas Co. has proposed buying 5 to 6 million barrels per year of propane from Petrolane, mixing it with air in a facility in Wilmington and injecting the gas into its distribution system.

This requires approval of the PUC. An examiner in the case initially recommended that an environmental impact report, which would include a safety analysis, was not necessary. This ruling is being contested by a number of agencies, including the state Coastal Line Commission and the city of Los Angeles.

The city attorney's office has filed a petition with the PUC pointing out that compressors at the Petrolane facility are creating noise and vibration problems in the adjacent residential area in violation of the city noise ordinance.

Petrolane's Maple said the company had installed a muffler on one of three compressors and was evaluating the results.

Critics of the facility argue that noise, seismic and other problems—such as the adequacy of the design of a 6,000-foot pipeline from the harbor to the storage facility—should be evaluated.

The LPG demand created by the gas company project would require 21 to 23 shiploads of LPG into the inner Los Angeles Harbor per year, but the Coastline Commission staff has argued that a risk analysis and risk management plan for Petrolane's operations should be done "before another LPG tanker is permitted to berth at the LPG terminal."

"The existing unloading and transfer facility appears to be poorly sited and equipped for receiving LPG tankers," the Coastline Commission staff said in comments in the PUC study. It said the terminal is adjacent to petrochemical transport and storage facilities and to a large lumber yard.

"An LPG accident with major consequences could result not only from direct LPG operations, but also from accidents occurring at these nearby

facilities," the Coastline Commission staff said.

A recent report by the city's Hazardous Cargo Task Force commended the safety procedures at the facility as being "very adequate," but recommended that the offloading berth "be considered for relocation to the outer harbor."

The task force said the city's Building and Safety Department had "evaluated the seismic design of the storage facility and found design and construction to be adequate and is in the process of issuing permits approving the installation."

Although the storage tanks were put in operation in 1974, they were built without a building permit. Petrolane officials said they applied for permits but were told by the city the tanks were exempt.

The Building Department revised that ruling after a story appeared in the April 4 edition of *The Times*

City evaluations of facility found seismic design adequately safe.

pointing out that the tanks had been built without a building permit.

John Robb, a seismic safety specialist with the department, said the original consultants in the project, Converse Davis Dixon Assn., had been asked to reevaluate the Petrolane project on the basis of more complete seismic data.

Considerable study has been devoted to the Palos Verdes and Newport-Inglewood faults recently because of a proposal to put an LNG facility on Terminal Island, which is in the same area.

The PUC staff also said the seismic safety design of the storage tanks "should be reviewed in light of recent studies indicating the potential activity of the Palos Verdes Fault."

This leaves open the possibility that the \$9 million facility will be found to be obsolete only three years after it started operations.

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San Pedro's Ponte Vista housing project takes step forward

By Donna Littlejohn, *The Daily Breeze*
Wednesday, December 18, 2013

DailyBreeze.com



A San Pedro housing proposal that sparked loud protests, petition drives and heated speeches appears headed — finally — for approval in its latest downsized format.

The planning committee of the Los Angeles City Council this week met and unanimously approved the Ponte Vista development for consideration by the full council early next year.

Only one of 15 community speakers raised objections to the plan.

"You've been through a lot of hours and hours of discussion and vetting," Councilman Mitchell Englander told residents who attended Tuesday's meeting of the Planning and Land Use Management Committee. "To be here to support any project at all is huge, and it's a testament to the people in this community that care so much that they've dedicated so much time."

The ordinance now goes to the city attorney and will be returned to the committee, which likely will waive further action and forward it to the council.

If approved by the full City Council, the developer will have the go-ahead to begin work next year on the 61.5-acre former Navy property at 26900 S. Western Ave.

Englander also lauded "the applicant team, attorneys, the land-use experts — everyone who's been willing to sit down" and reach what appears to be a consensus after eight years of contentious debate.

Ever since it was rolled out by a previous developer, Bob Bisno, in 2005, Ponte Vista has commanded much of the community's attention as the project was debated in Neighborhood Council meetings, city hearings and at citizen task force sessions.

First proposed for 2,300 homes, the project in its latest version — under a new developer, Star Financial, Inc., since 2010 — has brought that number down to 676 units featuring for-sale, single-family homes as well as town homes and single-level flats.

The response to the original plan, Englander said, "was horrific" due to density and traffic issues.

The reduced plan has the support of Councilman Joe Buscaino, who represents the Harbor Area, and also is backed by the three chambers of commerce that serve the surrounding area.

Steven Magee, executive vice president for iStar Financial Inc., commended those in the community who have long supported building new housing on the parcel.

"I also thank our detractors who forced us to rethink the project many, many times," he said.

Several speakers told committee members that the time had come to develop what they described as a long-standing eyesore along one of the main entry ways into San Pedro.

"The area is blighted, it's time to move forward," said Irene Mendoza of San Pedro.

"Currently it's an eyesore," said resident Louis Dominguez, who was among the early supporters of Bisno's original plans. "If you come into San Pedro by way of Western Avenue, you see this abandoned Navy housing, which looks horrible ... It's definitely time to get moving. These people (the developers) have gone out of their way, they've downsized it even more than I wanted it downsized."

However, Noel Weiss, who spoke at Tuesday's meeting, told the committee that the developers did not sufficiently evaluate the potential impact of an accident or failure of two large propane and butane storage tanks nearby.

Residents have been trying to move the Rancho LPG Holdings tank operation out of the area but so far have not succeeded.

In a "worse-case scenario," Weiss said, there would be a 3.6-mile blast radius that would reach the new homes.

The developer disagreed, saying a maximum blast ratio would be no more than .5 acres and the homes are .7 acres from the tanks.

"This was looked at and evaluated," Magee said. "Rest assured, it was not ignored."

Kit Fox, a senior analyst for the city of Rancho Palos Verdes, asked that his city be included in plans to monitor Western Avenue traffic, including a number of intersections that impact RPV.

Benefits cited by several speakers focused on needed for-sale family housing in the community known for its multi-generational loyalty.

Included also in the latest Ponte Vista housing proposal is a 2.42-acre park and walking trails that would be open to the public. Other possibilities for the more than 24 acres of open space include a playground and dog park.

Early opposition to the housing galvanized around maintaining the current R1 zoning that would have reduced the number of homes to a few hundred.

All along developers said building large, single-family homes wouldn't result in affordable housing.

While many would have preferred to keep the land as open space, it was sold by the Navy as surplus property, purchased at auction first by Bisno in 2005 for \$125 million and later changing hands as subsequent private developers stepped in.

A number of speakers said Ponte Vista would be a popular option for many older residents as they downsized their homes to pass on their larger houses to their children.

The Los Angeles Planning Commission approved the downsized plan in November.

If the plan is approved by the full City Council, groundbreaking could occur in the first half of 2014, beginning with demolition of the abandoned Navy houses.

Kit Fox

From: chateau4us@att.net
Sent: Thursday, December 12, 2013 3:47 PM
To: Kit Fox
Subject: Fw: SFM response letter
Attachments: Senator Lieu-8 15 13-Bulk LPG Storage Facilities (3).pdf

Hi Kit,

I was following up on the Rancho issue before Thanksgiving. I'm not sure if you received this response, but it's a typical reply (it's not my job) for any agency we have reached out to in the past. I'm sure this will go in a full circle and another agency will point their finger at the State Fire Marshall.

Jeanne

From: Zivkovic, Jennifer
Sent: Thursday, December 12, 2013 3:33 PM
To: <mailto:chateau4us@att.net>
Subject: SFM response letter

Hi Jeanne,

I have attached the response we received from the State Fire Marshal. I didn't realize you had not seen it, sorry about that. As you will see, they referred us to the Office of Emergency Services and we are in communication with the staff there. Thanks.

Regards,

Jennifer Zivkovic
District Director
Office of Senator Ted W. Lieu, 28th District
2512 Artesia Blvd., Suite 320
Redondo Beach, CA 90278
Phone: 310-318-6994
Fax: 310-318-6733



DEPARTMENT OF FORESTRY AND FIRE PROTECTION
OFFICE OF THE STATE FIRE MARSHAL

P O. Box 944246
SACRAMENTO, CA 94244-2460
(916) 445-8200
Website: www.fire.ca.gov



August 15, 2013

The Honorable Ted W. Lieu
Senator, Twenty Eighth Senate District
State Capitol, Room 4061
Sacramento, California 95814

Dear Senator Lieu:

Thank you for your letter requesting the CAL FIRE – Office of the State Fire Marshal (OSFM) conduct an investigation and risk analysis of a Bulk Liquefied Propane Gas (LPG) storage facility owned and operated by Rancho LPG Holdings LLC., located at 2110 North Gaffey Street, San Pedro California. The OSFM has broad authority given to it under the Health and Safety Code, however bulk LPG storage facilities is outside of our statutory and regulatory responsibilities. I feel your request is more appropriate for the Office of Emergency Services (OES) which has statutory authority for Hazardous Materials Area Planning and the Los Angeles Fire Department (LAFD) which is the authority having jurisdiction for community risk mitigation and emergency response.

I have copied the OES and the LAFD in this reply so that they are aware of your concerns. If you should have additional questions or if clarification is needed please contact CAL FIRE Deputy Director of Legislation, Caroline Godkin at (916) 653 -5333 or caroline.godkin@fire.ca.gov

Sincerely,


TONYA L. HOOVER
State Fire Marshal

cc: Caroline Godkin, CAL FIRE
Dawn Mehlhaff, OES
Brian Cummings, LAFD
Mark Storms, LAFD

CONSERVATION IS WISE—KEEP CALIFORNIA GREEN AND GOLDEN

PLEASE REMEMBER TO CONSERVE ENERGY. FOR TIPS AND INFORMATION, VISIT "FLEX YOUR POWER" AT WWW.CA.GOV.

Executive Order 13650

Improving Chemical Facility Safety and Security

January 10, 2014 Listening Session

Hosted by the Department of Homeland Security (DHS), the Environmental Protection Agency (EPA), and the Department of Labor (DOL)

Location: University of California Los Angeles, James West Alumni Center (JWAC), 325 Westwood Plaza, Los Angeles, CA 90095

Agenda

- 8:00 a.m. – 9:00 a.m. **Registration**
- 9:00 a.m. – 9:25 a.m. **Welcome, Introductions, and Overview**
Jack Eisenhower, Facilitator
- Mathy Stanislaus, EPA, Executive Order 13650 Working Group Co-Chair**
Assistant Administrator, Office of Solid Waste and Emergency Response
- Jay Vicory, Department of Labor/Occupational Safety and Health**
Administration (OSHA)
- Amy Graydon, Department of Homeland Security (DHS)**
- Joe Riehl, SAC/Wesley Beck, Department of Justice/ Bureau of Alcohol, Tobacco, Firearms and Explosives**
- Representative, Department of Agriculture (USDA)**
- Earl (Jack) Whitley and Sean Lynam, Department of Transportation (DOT)**
- 9:25 a.m. – 9:45 a.m. **Section 6 a Overview**
Lisa Long, Director, Office of Engineering Safety, OSHA
- 9:45 a.m. – 10:00 a.m. **Listening Session Format**
Jack Eisenhower, Facilitator
- 10:00 a.m. – 1:50 p.m. **Comments from Listening Session Participants**
- 1:50 p.m. – 2:00 p.m. **Closing Remarks**
- Mathy Stanislaus, EPA, Executive Order 13650 Working Group Co-Chair**
Assistant Administrator, Office of Solid Waste and Emergency Response
- 2:00 p.m. **Adjournment**

Persons may also submit written comments to NPPD/ISCD/Mailstop 0610, Department of Homeland Security, 245 Murray Lane, SW, Arlington, VA 20598-0610. Comments will also be accepted by email at: EO.Chemical@hq.dhs.gov or through the Federal eRulemaking Portal at <http://www.regulations.gov>.

For more information on EO 13650, please visit <https://www.osha.gov/chemicalexecutiveorder/index.html> and <https://www.dhs.gov/topic/chemical-security>.

EXECUTIVE ORDER 13650



In follow up to the tragedy that struck West, Texas, in April 2013, the President issued Executive Order 13650 - *Improving Chemical Facility Safety and Security* (EO) on August 1, 2013 to improve chemical facility safety and security in coordination with owners and operators. The EO directs the Department of Homeland Security (DHS), the Environmental Protection Agency (EPA), the Department of Labor (DoL), the Department of Justice (DoJ), the Department of Agriculture (USDA), and the Department of Transportation (DoT) to identify ways to improve operational coordination with State and local partners; enhance Federal agency coordination and information sharing; modernize policies, regulations and standards in order to enhance safety and security in chemical facilities; and work with stakeholders to identify best practices to reduce safety and security risks in the production and storage of potentially harmful chemicals. The EO also established a Chemical Facility Safety and Security Working Group, which includes each of these agencies.



Since the EO was issued, the Working Group has taken important steps towards substantial improvements in practices, operations, protocols, and policies to improve chemical facility safety and security. This fact sheet provides a brief update on Working Group progress and is intended to supplement ongoing public engagement. Agencies will continue to work on improving chemical facility safety and security as outlined within the EO.

Stakeholder Input

Engaging and partnering with State regulators, State, local, and tribal emergency responders, chemical facility owners and operators, and local and tribal communities is critical to improving chemical facility safety and security. The Working Group has scheduled listening sessions across the country as well as conducted two webinars in order to solicit comments, best practices and suggestions from stakeholders on issues pertaining to improving chemical facility safety and security. Nearly two hundred individuals attended the first four sessions, which were held in Texas City, TX, Washington, DC, Springfield, IL, and Orlando, FL. Announcement of the sessions was published in the Federal Register [Docket No. DHS-2013-0075], posted online, and shared with stakeholders who have expressed interest in participating in the EO process. Moving forward, the Working Group will seek additional input on a range of preliminary options for action. The Working Group has developed a web page to provide information and receive comments from interested parties - visit www.osha.gov/chemicalexecutiveorder/index.html. Stakeholders can also submit written input to eo.chemical@hq.dhs.gov. Suggestions and ideas provided by stakeholders will serve as the basis for developing the Working Group's plan for implementing practical and effective improvements to chemical facility risk management.

Coordination with State and Local Partners

Federal, State, local, and tribal governments have different responsibilities in addressing risks associated with chemical facilities, including response planning for potential emergencies. To improve the effectiveness and efficiency of risk management and response measures, the Working Group has made progress in coordinating operations and sharing information among Federal agencies and State, local, and tribal partners with jurisdiction over chemical facility safety or security. The Working Group is drawing on input provided by these partners through listening sessions, a pilot program in New York and New Jersey, State and local responder participation with Federal agencies on Regional Response Teams, as well as other mechanisms. Using this input, the Working Group has identified needs and developed a matrix of programs that could address these needs and support communities in their safety and security efforts. The matrix includes programs to better engage facilities in the local planning process, additional training for first responders, technical support to State Emergency Response Commissions (SERCs) and Local Emergency Planning Commissions (LEPCs), and improving data management and sharing. An initial draft plan to support and further enable Federal, State, and local entities and industry in their efforts to work together to improve chemical safety and security will be completed in early 2014. Subsequently, the Working Group will seek further input with all stakeholders, via listening sessions and stakeholder meetings, with the goal of bringing local entities and industry together and providing tools to address chemical risk in their communities.

In addition, as directed by the EO, the DoJ Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and DHS assessed their ability to more effectively share data with SERCs, Tribal Emergency Planning Committees (TEPCs), and LEPCs in order to ensure key information is readily available to assist with preparedness planning while providing necessary protection of sensitive materials. For example, ATF is exploring opportunities to share explosive licensing and permitting data with vetted members of the SERCs who have explosive storage in their jurisdiction. ATF also is working to update regulations to require any person who stores explosive material to notify local fire officials on an annual basis. DHS is exploring opportunities to share certain Chemical Facility Anti-Terrorism Standards (CFATS) data with vetted members of the SERCs, LEPCs, and TEPCs. Presently that information is available to certain personnel within Federal agencies, State and local government, and State fusion centers that manage the flow of information and intelligence across levels and sectors of government to integrate information for analysis. DHS is continuing to evaluate information sharing mechanisms for CFATS data in coordination with the stakeholder community to ensure the appropriate protection of sensitive information. In addition to the work that ATF and DHS are doing in accordance with the EO, EPA and OSHA also are continuing to identify ways to improve information sharing with SERCs, TEPCs, and LEPCs. As a next step, the Working Group will continue to gather feedback during the listening sessions and evaluate best practices identified through the New York and New Jersey pilot program to inform the development of a standard operating procedure of a unified Federal approach for integrating with State, local, and tribal assets, for identifying and responding to risk in chemical facilities.

Federal Coordination and Information Sharing

In August 2013, the EO Working Group launched a pilot program in the New York and New Jersey region, the *Effective Chemical Risk Management Project, Federal Region Two*. The pilot program was established to evaluate best practices and test innovative methods for interagency collaboration on chemical facility safety and security. The pilot's objectives include developing innovative and effective methods of collecting, storing, and using facility information to determine, locate and manage chemical risks; drafting an operating plan for Federal, State, local, and tribal governments for collection, storage, and use of facility information as well as methods for effective outreach to stakeholders; and, determining the challenges and opportunities in conducting joint inspections of high risk facilities. Under the pilot program, the Working Group currently is formulating an understanding of chemical facility risk throughout the region, ensuring that local responders have access to key information, and evaluating processes and protocols for sharing of information. The pilot also is improving coordination of inspections, such as sharing inspection schedules, cross-training inspectors, and inter-agency referrals of possible regulatory non-compliance as it begins development of a unified Federal approach for identifying and responding to risks in chemical facilities. As part of that effort, EPA, ATF, and OSHA officials continue to hold discussions with the Chemical Safety Board (CSB) to improve coordination and exchange of information during investigations of chemical incidents.

Collection and Interagency exchange of information

The Working Group is exploring ways to harmonize the collection and exchange of information to streamline enforcement processes, inform decision-makers at all levels of government and first responders, and avoid duplication of regulatory requirements. The Group also is assessing methods that Federal and State agencies can use to identify chemical facilities that have not met their regulatory obligation or are otherwise out of compliance with important safety and security requirements. To date, the EO Working Group members have exchanged data to help evaluate chemical facility compliance with existing Federal requirements and identify appropriate enforcement actions. Additionally, these Agencies have defined data collection and sharing needs, such as establishing terminology that would be used by all agencies in referring to and collecting the same data; identified a tool to assist with integrating and searching regulatory databases; and developed protocols to facilitate the sharing of information with Federal, State, local, and tribal entities. These findings are guiding work over the next 90 days to produce a proposal for a coordinated, flexible data-sharing process. Specifically, the findings will be used to make facility information more readily accessible, propose a common way to identify facilities and chemical substances, and identify mechanisms to ensure information is available to those who need it without compromising facility security. Lastly, the findings will be used to formulate a proposal for a way to increase Federal efficiency and decrease the burden to those required to submit information by creating a single data input point for regulated or potentially regulated chemical facilities, so that data provided by a facility can be provided once and used by all relevant Federal agencies.

Modernizing policies, programs, and requirements

The Working Group has identified options to improve chemical facility risk management practices through agency programs, private sector initiatives, government guidance, outreach, standards, and regulations. For example, the Working Group is specifically considering options to improve the safe and secure storage, handling, and sale of ammonium nitrate; opportunities to address additional regulated substances and hazards under EPA's Risk Management Program (RMP) regulation, OSHA's Process Safety Management (PSM) standard and revisions to DHS' CFATS chemicals-of-interest list; as well as other potential improvements. We developed these options by reviewing existing programs, lessons learned from major incidents, recommendations from safety and security communities, and feedback from EO listening sessions. The Working Group intends to engage stakeholders and collect public comments on these options. We will use that input to develop a plan for implementing practical and effective improvements to chemical risk management.

Further supporting this effort, EPA, OSHA, and ATF issued an interim chemical advisory on August 30 (www.epa.gov/emergencies/guidance.htm#rmp) focused on the safe storage, handling, and management of ammonium nitrate. The advisory provides facility owners and operators, as well as emergency planners and first responders, the lessons learned from recent ammonium nitrate incidents, including the explosion in West, TX. The advisory will be updated, as necessary, with any new information from stakeholders regarding the safe storage, handling, and management of ammonium nitrate.

In another important step, OSHA released a request for information (RFI) related to modernization of PSM and related standards to meet the goal of preventing major chemical accidents. The OSHA RFI, <https://www.federalregister.gov/articles/2013/12/09/2013-29197/process-safety-management-and-prevention-of-major-chemical-accidents>, also seeks input on specific areas of interest including application of the PSM standard to ammonium nitrate, reactive chemicals, or certain retail facilities that handle highly hazardous chemicals.

Chemicals and the facilities that manufacture, store, distribute and use them are essential to our economy. However, recent incidents have reminded us that the handling and storage of chemicals present serious risks to communities and the public that must be addressed. The EO Working Group has taken positive steps to improve safety and security and build on Federal agencies' ongoing work to reduce the risks associated with hazardous chemicals:

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

August 1, 2013

EXECUTIVE ORDER

- - - - -

IMPROVING CHEMICAL FACILITY SAFETY AND SECURITY

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Purpose. Chemicals, and the facilities where they are manufactured, stored, distributed, and used, are essential to today's economy. Past and recent tragedies have reminded us, however, that the handling and storage of chemicals are not without risk. The Federal Government has developed and implemented numerous programs aimed at reducing the safety risks and security risks associated with hazardous chemicals. However, additional measures can be taken by executive departments and agencies (agencies) with regulatory authority to further improve chemical facility safety and security in coordination with owners and operators.

Sec. 2. Establishment of the Chemical Facility Safety and Security Working Group. (a) There is established a Chemical Facility Safety and Security Working Group (Working Group) co-chaired by the Secretary of Homeland Security, the Administrator of the Environmental Protection Agency (EPA), and the Secretary of Labor or their designated representatives at the Assistant Secretary level or higher. In addition, the Working Group shall consist of the head of each of the following agencies or their designated representatives at the Assistant Secretary level or higher:

- (i) the Department of Justice;
- (ii) the Department of Agriculture; and
- (iii) the Department of Transportation.

(b) In carrying out its responsibilities under this order, the Working Group shall consult with representatives from:

- (i) the Council on Environmental Quality;
- (ii) the National Security Staff;
- (iii) the Domestic Policy Council;
- (iv) the Office of Science and Technology Policy;
- (v) the Office of Management and Budget (OMB);
- (vi) the White House Office of Cabinet Affairs; and

(vii) such other agencies and offices as the President may designate.

(c) The Working Group shall meet no less than quarterly to discuss the status of efforts to implement this order. The Working Group is encouraged to invite other affected agencies, such as the Nuclear Regulatory Commission, to attend these meetings as appropriate. Additionally, the Working Group shall provide, within 270 days of the date of this order, a status report to the President through the Chair of the Council on Environmental Quality and the Assistant to the President for Homeland Security and Counterterrorism.

Sec. 3. Improving Operational Coordination with State, Local, and Tribal Partners. (a) Within 135 days of the date of this order, the Working Group shall develop a plan to support and further enable efforts by State regulators, State, local, and tribal emergency responders, chemical facility owners and operators, and local and tribal communities to work together to improve chemical facility safety and security. In developing this plan, the Working Group shall:

(i) identify ways to improve coordination among the Federal Government, first responders, and State, local, and tribal entities;

(ii) take into account the capabilities, limitations, and needs of the first responder community;

(iii) identify ways to ensure that State homeland security advisors, State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), Local Emergency Planning Committees (LEPCs), Tribal Emergency Planning Committees (TEPCs), State regulators, and first responders have ready access to key information in a useable format, including by thoroughly reviewing categories of chemicals for which information is provided to first responders and the manner in which it is made available, so as to prevent, prepare for, and respond to chemical incidents;

(iv) identify areas, in collaboration with State, local, and tribal governments and private sector partners, where joint collaborative programs can be developed or enhanced, including by better integrating existing authorities, jurisdictional responsibilities, and regulatory programs in order to achieve a more comprehensive engagement on chemical risk management;

(v) identify opportunities and mechanisms to improve response procedures and to enhance information sharing and collaborative planning between chemical facility owners and operators, TEPCs, LEPCs, and first responders;

(vi) working with the National Response Team (NRT) and Regional Response Teams (RRTs), identify means for Federal technical assistance to support developing, implementing, exercising, and revising State, local, and tribal emergency contingency plans, including improved training; and

(vii) examine opportunities to improve public access to information about chemical facility risks consistent with national security needs and appropriate protection of confidential business information.

(b) Within 90 days of the date of this order, the Attorney General, through the head of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), shall assess the feasibility of sharing data related to the storage of explosive materials with SERCs, TEPCs, and LEPCs.

(c) Within 90 days of the date of this order, the Secretary of Homeland Security shall assess the feasibility of sharing Chemical Facility Anti-Terrorism Standards (CFATS) data with SERCs, TEPCs, and LEPCs on a categorical basis.

Sec. 4. Enhanced Federal Coordination. In order to enhance Federal coordination regarding chemical facility safety and security:

(a) Within 45 days of the date of this order, the Working Group shall deploy a pilot program, involving the EPA, Department of Labor, Department of Homeland Security, and any other appropriate agency, to validate best practices and to test innovative methods for Federal interagency collaboration regarding chemical facility safety and security. The pilot program shall operate in at least one region and shall integrate regional Federal, State, local, and tribal assets, where appropriate. The pilot program shall include innovative and effective methods of collecting, storing, and using facility information, stakeholder outreach, inspection planning, and, as appropriate, joint inspection efforts. The Working Group shall take into account the results of the pilot program in developing integrated standard operating procedures pursuant to subsection (b) of this section.

(b) Within 270 days of the date of this order, the Working Group shall create comprehensive and integrated standard operating procedures for a unified Federal approach for identifying and responding to risks in chemical facilities (including during pre-inspection, inspection execution, post-inspection, and post-accident investigation activities), incident reporting and response procedures, enforcement, and collection, storage, and use of facility information. This effort shall reflect best practices and shall include agency-to-agency referrals and joint inspection procedures where possible and appropriate, as well as consultation with the Federal Emergency Management Agency on post-accident response activities.

(c) Within 90 days of the date of this order, the Working Group shall consult with the Chemical Safety Board (CSB) and determine what, if any, changes are required to existing memorandums of understanding (MOUs) and processes between EPA and CSB, ATF and CSB, and the Occupational Safety and Health Administration and CSB for timely and full disclosure of information. To the extent appropriate, the Working Group may develop a single model MOU with CSB in lieu of existing agreements.

Sec. 5. Enhanced Information Collection and Sharing. In order to enhance information collection by and sharing across agencies to support more informed decisionmaking, streamline reporting requirements, and reduce duplicative efforts:

(a) Within 90 days of the date of this order, the Working Group shall develop an analysis, including recommendations, on the potential to improve information collection by and sharing between agencies to help identify chemical facilities which may not have provided all required information or may be non-compliant with Federal requirements to ensure chemical facility safety. This analysis should consider ongoing data-sharing efforts, other federally collected information, and chemical facility reporting among agencies (including information shared with State, local, and tribal governments).

(b) Within 180 days of the date of this order, the Working Group shall produce a proposal for a coordinated, flexible data-sharing process which can be utilized to track data submitted to agencies for federally regulated chemical facilities, including locations, chemicals, regulated entities, previous infractions, and other relevant information. The proposal shall allow for the sharing of information with and by State, local, and tribal entities where possible, consistent with section 3 of this order, and shall address computer-based and non-computer-based means for improving the process in the short-term, if they exist.

(c) Within 180 days of the date of this order, the Working Group shall identify and recommend possible changes to streamline and otherwise improve data collection to meet the needs of the public and Federal, State, local, and tribal agencies (including those charged with protecting workers and the public), consistent with the Paperwork Reduction Act and other relevant authorities, including opportunities to lessen the reporting burden on regulated industries. To the extent feasible, efforts shall minimize the duplicative collection of information while ensuring that pertinent information is shared with all key entities.

Sec. 6. Policy, Regulation, and Standards Modernization.

(a) In order to enhance safety and security in chemical facilities by modernizing key policies, regulations, and standards, the Working Group shall:

(i) within 90 days of the date of this order, develop options for improved chemical facility safety and security that identifies improvements to existing risk management practices through agency programs, private sector initiatives, Government guidance, outreach, standards, and regulations;

(ii) within 90 days of developing the options described in subsection (a)(i) of this section, engage key stakeholders to discuss the options and other means to improve chemical risk management that may be available; and

(iii) within 90 days of completing the outreach and consultation effort described in subsection (a)(ii) of this section, develop a plan for implementing practical and effective improvements to chemical risk management identified pursuant to subsections (a)(i) and (ii) of this section.

(b) Within 90 days of the date of this order, the Secretary of Homeland Security, the Secretary of Labor, and the Secretary of Agriculture shall develop a list of potential regulatory and legislative proposals to improve the safe and secure storage, handling, and sale of ammonium nitrate and identify ways in which ammonium nitrate safety and security can be enhanced under existing authorities.

(c) Within 90 days of the date of this order, the Administrator of EPA and the Secretary of Labor shall review the chemical hazards covered by the Risk Management Program (RMP) and the Process Safety Management Standard (PSM) and determine if the RMP or PSM can and should be expanded to address additional regulated substances and types of hazards. In addition, the EPA and the Department of Labor shall develop a plan, including a timeline and resource requirements, to expand, implement, and enforce the RMP and PSM in a manner that addresses the additional regulated substances and types of hazards.

(d) Within 90 days of the date of this order, the Secretary of Homeland Security shall identify a list of chemicals, including poisons and reactive substances, that should be considered for addition to the CFATS Chemicals of Interest list.

(e) Within 90 days of the date of this order, the Secretary of Labor shall:

(i) identify any changes that need to be made in the retail and commercial grade exemptions in the PSM Standard; and

(ii) issue a Request for Information designed to identify issues related to modernization of the PSM Standard and related standards necessary to meet the goal of preventing major chemical accidents.

Sec. 7. Identification of Best Practices. The Working Group shall convene stakeholders, including chemical producers, chemical storage companies, agricultural supply companies, State and local regulators, chemical critical infrastructure owners and operators, first responders, labor organizations representing affected workers, environmental and community groups, and consensus standards organizations, in order to identify and share successes to date and best practices to reduce safety risks and security risks in the production and

storage of potentially harmful chemicals, including through the use of safer alternatives, adoption of best practices, and potential public-private partnerships.

Sec. 8. General Provisions. (a) This order shall be implemented consistent with applicable law, including international trade obligations, and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department, agency, or the head thereof; or

(ii) the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

THE WHITE HOUSE,
August 1, 2013.

#

Executive Order 13650, Section 6(a) – Solicitation of Public Input on Options for Policy, Regulation, and Standards Modernization

Introduction and Purpose

In follow-up to the tragedy that struck West, Texas, in April, 2013, President Obama signed Executive Order 13650, Improving Chemical Facility Safety and Security, which established a working group of federal agencies. Section 6(a) of the Executive Order tasks the working group with considering options intended to improve and modernize key policies, regulations, and standards to enhance the safety and security of chemical facilities.

The working group includes representatives from the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) and Mine Safety and Health Administration (MSHA); U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); U.S. Department of Homeland Security, National Protection and Programs Directorate (NPPD), Transportation Security Administration (TSA), and U.S. Coast Guard (USCG); U.S. Department of Agriculture (USDA); U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA); and U.S. Environmental Protection Agency (EPA) (collectively, “we” or “the working group”). Based upon feedback that we have received, we developed a preliminary list of options for improving chemical facility safety and security for further discussion and comment. We set forth these options here and intend to engage stakeholders and collect public comments on these options, as well as any additional improvements to existing risk management practices that should be considered.

Within this document, we provide background on existing applicable regulations, as well as a summary of Section 6 of the Executive Order. After this summary, we present the preliminary list of discussion topics under Section 6(a) for improved chemical facility safety and security. The options and key questions identified by the working group resulted from review of existing programs, investigation of major incidents, review of recommendations from the safety and security communities, and feedback from the EO listening sessions. We are accepting comments on these options, which will inform a plan for implementing the practical and effective improvements to chemical risk management, for approximately 90 days. Consistent with the EO, the topics for discussion include, but are not limited to:

- options for improving the safe and secure storage, handling, and sale of ammonium nitrate (AN)
- options for expanding OSHA’s Process Safety Management (PSM) standard and EPA’s Risk Management Program (RMP) rule to address additional regulated substances and types of hazards
- options for adding chemicals to the Chemical Facility Anti-Terrorism Standards (CFATS) Chemicals of Interest (COI) list
- issues about which OSHA is seeking further comment through its request for information (RFI) on potential improvements to PSM and related standards, including a discussion concerning potential revisions to the PSM retail exemption and maximum commercial grade interpretation.

OSHA’s RFI, as well as instructions for submitting comments, can be found at:

<https://www.federalregister.gov/articles/2013/12/09/2013-29197/process-safety-management-and-prevention-of-major-chemical-accidents>. For guidance purposes, Appendix A of this report contains a table summarizing agency jurisdiction for AN regulations in the United States.

The purpose of this document is to provide preliminary options as a starting point for additional stakeholder discussion. The stakeholder discussion and comment that follows the release of these preliminary options is a critical step in our effort to evaluate the practicality and effectiveness of options to inform a plan for implementing improvements to chemical risk management. This document is a tool for prompting additional thought and obtaining additional information necessary to further evaluate, refine, and supplement these initial options, and we anticipate that the options may change significantly in the coming months. Moreover, this effort does not supersede official or standard processes for agency actions, such as notice and comment rulemaking.

A public docket (OSHA-2013-0026) has been opened for Section 6 of the Executive Order, and we invite the public to submit comments on the options listed below. Appendix B of this report contains instructions for submitting comments to the Section 6 docket. Additional information on Section 6 of the Executive Order is available at:
<http://www.osha.gov/chemicalexecutiveorder/index.html>

Background on Existing Regulations

OSHA

OSHA's PSM standard (29 CFR 1910.119) sets requirements for the management of highly hazardous substances to prevent and mitigate catastrophic releases of flammable, explosive, reactive, and toxic chemicals that may endanger workers. The standard allows employers flexibility to develop and implement management systems tailored to their processes. The PSM standard covers the manufacturing of explosives and processes involving threshold quantities of flammable liquids and flammable gasses, as well as 137 other highly hazardous chemicals.

OSHA's Flammable and Combustible Liquids standard (29 CFR 1910.106) is primarily based on the National Fire Protection Association's (NFPA's) publication NFPA 30, Flammable and Combustible Liquids Code. The standard applies to the handling, storage, and use of flammable and combustible liquids with a flash point below 200°F. There are two primary hazards associated with flammable and combustible liquids: explosion and fire. In order to prevent these hazards, this standard addresses the primary concerns of design and construction, ventilation, ignition sources, and storage.

OSHA's Spray Finishing Using Flammable and Combustible Materials standard (29 CFR 1910.107) applies to flammable and combustible finishing materials when applied as a spray by compressed air, "airless" or "hydraulic atomization," steam, electrostatic methods, or by any other means in continuous or intermittent processes. This standard is discussed in conjunction with the Flammable and Combustible Liquids standard because current consensus standards and best practices generally apply to both industries.

OSHA's Explosive and Blasting Agents standard (29 CFR 1910.109) sets requirements for the manufacture, keeping, having, storage, sale, transportation, and use of explosives, blasting agents, and pyrotechnics. The standard also states that the manufacturing of explosives and pyrotechnics shall also meet the requirements of PSM. The standard specifically covers

ammonium nitrate storage in paragraph (i), describing requirements for general storage, bulk storage, contaminants, electrical protection, and fire protection.

While the PSM standard has been effective in improving process safety in the United States and protecting workers from many of the hazards associated with uncontrolled releases of highly hazardous chemicals, major incidents have continued to occur. OSHA's Flammable Liquids standard and Spray Finishing standard were first published in 1974 based on NFPA consensus standards from the 1960s, and OSHA's requirements for storage of ammonium nitrate, contained in §1910.109, are based on a 1970 NFPA consensus standard. The format and requirements of the standards may therefore be out of date and in need of updating based on the latest applicable consensus standards. As such, OSHA is seeking public input on potential areas where we could improve these standards. Areas to consider include:

- Modernizing the PSM standard;
- Updating the PSM Appendix A list of coverage substances;
- Clarifying the retail and atmospheric storage tank exemptions in PSM;
- Updating and clarifying covered concentrations of the Appendix A list of PSM regulated chemicals;
- Exploring options for improving coverage of reactive substances, reactivity hazards, and explosive chemical hazards;
- Exploring a reporting requirement for PSM covered facilities;
- Updating the Flammable and Combustible Liquids standard;
- Updating the Spray Finishing Using Flammable and Combustible Materials standard;
- Evaluating the implementation of best practices and lessons learned such as the "safety case" regulatory model to reduce risk in complex industrial processes;
- Assessing safer alternatives as mechanisms to reduce chemical risk; and
- Evaluating opportunities for increasing worker involvement and labor-management cooperation in hazard investigations.

There are a number of potential mechanisms to improve these areas, including voluntary programs, policy changes, new agency guidance, and regulations. Many of these options are discussed, in detail, in OSHA's PSM RFI.

As set forth in the Executive Order, OSHA published its PSM RFI in the Federal Register (<https://www.federalregister.gov/articles/2013/12/09/2013-29197/process-safety-management-and-prevention-of-major-chemical-accidents>). The PSM RFI requests comment on potential revisions to OSHA's PSM standard, Explosives and Blasting Agents standard, Flammable Liquids standard and Spray Finishing standard, and potential changes to PSM enforcement policies. The PSM RFI asks for information and data on specific rulemaking and policy options, and the workplace hazards they address. OSHA will use the information received in response to this RFI to determine what action, if any, it may take.

EPA

EPA implements the Emergency Planning and Community Right to Know Act (EPCRA) (40 CFR part 355 and 370), which was designed to promote emergency planning and preparedness at the state, local, and tribal levels. EPCRA helps ensure local communities and first responders have the information they need about chemical hazards within their communities to develop community emergency response plans. Under the emergency planning sections of EPCRA,

facilities with Extremely Hazardous Substances (EHS) must notify the State Emergency Response Commission (SERC) or Tribal Emergency Response Commission (TERC) and Local Emergency Planning Committee (LEPC) or Tribal Emergency Planning Committee (TEPC), as well as participate in local emergency planning activities. LEPCs and TEPCs are then responsible for developing a community emergency response plan. Within the community right-to-know requirements of EPCRA, facilities that have either (1) a hazardous chemical present at or above 10,000 pounds or (2) an EHS present at or above its Threshold Planning Quantity (TPQ) or 500 pounds—whichever is less, are required to submit an Emergency and Hazardous Chemical Inventory form (Tier II) and a Material Safety Data Sheet (MSDS) for that chemical to their SERC, LEPC and local fire department. Local fire departments receive this information and should use it to understand the chemical present at facilities in their community and what to do to respond to an accident at the facility. Additionally, the information about chemicals in the community is made available to the public.

EPA's RMP rule (40 CFR 68), established under the Clean Air Act, is aimed at reducing chemical risks at the local level. EPA's rules require owners and operators of a facility that manufactures, uses, stores, or otherwise handles certain listed flammable and toxic substances to develop a risk management program that includes a hazard assessment (including an evaluation of worst-case and alternative accidental release scenarios), prevention mechanisms, and emergency response measures. The "Hazard Review" must identify opportunities for equipment malfunction or human error (such as flood or fire), that could in turn cause the accidental release of the covered substance, as well as safeguards to prevent the potential release, and steps to detect and monitor for a release. These elements are documented in a risk management plan that is submitted to EPA and shared with the state, LEPC and local responders. Covered facilities must implement and update their risk management plans every 5 years or when certain changes occur. The goal of EPA's RMP rule is to prevent accidental releases of substances that can cause serious harm to the public and the environment, and to mitigate the severity of releases that do occur. RMP information helps local fire, police, and emergency response personnel prepare for and respond to chemical accidents, while allowing citizens to understand chemical hazards in their communities. EPA conducts chemical plant safety inspection and enforcement efforts at covered facilities based upon this rule.

While EPA believes the EPCRA and RMP regulation made important progress in preventing and mitigating chemical accidents in the United States and protecting communities from chemical hazards, more needs to be done reviewing and evaluating current program and practices, and applying lessons learned to continuously advance chemical safety and risk management. For that reason, EPA is seeking public input on potential areas to improve the RMP program and further reduce the number of chemical accidents within the United States. There are several categories of items within this document where potential options have been developed based on information gathered during listening sessions, input from stakeholders, and experiences from implementing the program. Categories to consider include:

- Updating the list of regulated substances;
- Exploring options for improving coverage of reactive substances, reactivity hazards, and explosive chemical hazards;
- Expanding inspector training to include best practices and improve chemical safety beyond regulatory requirements;

- Further enhancing EPA software tools for emergency responders (e.g., the suite of software products called Computer Aided Management of Emergency Operations (CAMEO));
- Evaluating the implementation of best practices and lessons learned such as the “safety case” regulatory model to reduce risk in complex industrial processes;
- Identifying ways to use safer alternatives as mechanisms to reduce chemical risk; and
- Evaluating opportunities for increasing worker involvement and labor-management cooperation in hazard investigations.

There are a number of potential mechanisms to implement these categories, including voluntary programs and agency guidance and regulations.

USCG

The United States Coast Guard is responsible for enforcing a wide range of regulations that address safety and security on vessels and on waterfront facilities, including the handling, transfer, and stowage of explosives and hazardous materials. USCG is responsible for maritime security under the Maritime Transportation Security Act (MTSA, 46 USC 70101), which includes authority over certain port facilities that use, store, or transport chemicals or engage in other chemical-related activities. MTSA reinforces the national and global importance of security for the marine transportation system, and provides a crucial framework for ensuring the safety of maritime commerce and our domestic ports. MTSA's key requirement is to prevent a maritime transportation security incident (TSI) - defined as any incident that results in a significant loss of life, environmental damage, transportation system disruption, or economic disruptions to a particular area. Within the maritime venue, preventing TSI's has been a core mission of the Coast Guard since its beginning.

- The Coast Guard is working with NPPD and other elements within the Department of Homeland Security to seek input on improving the safety and security of the nation's maritime critical infrastructure

ATF

ATF is responsible for enforcing federal explosives laws that govern commerce in the explosives industry in the United States – including licensing, storage, record keeping, and conduct of business. ATF conducts inspections of federal explosives licensees who manufacture, import, sell or store explosives in the United States to ensure explosives are managed in accordance with federal law.

ATF does not have jurisdiction over precursor chemicals and materials, such as ammonium nitrate. Although ATF regulatory requirements have been generally effective in ensuring safe and secure storage of explosive materials, there may be certain gaps that could be addressed through voluntary programs, regulatory clarification or amendment, or legislation.

ATF continues to seek stakeholder input on the following opportunities:

- Developing and encouraging best practices related to safety and security of precursor materials used in the explosives manufacturing and operational processes, to include ammonium nitrate;

- Examining potential applications of quantitative risk assessment tools to explosives-related industry operations;
- Continued partnering with industry to develop means to account for bulk materials and ammonium nitrate;
- Effective implementation of outreach programs to identify and report suspicious and unsafe behaviors associated with unregulated explosives and precursor chemical materials;
- Means for mitigating duplicative Federal qualification and inspection requirements; and
- Unsafe making of explosive materials by unregulated persons.

There are a number of mechanisms to address these issues, such as updated publications; effective use of internet and social media; legislation; amended regulations, and clarification of policies and rules.

NPPD

NPPD is responsible for implementing CFATS, the Federal government's primary regulatory authority for security of chemicals at stationary facilities. CFATS is making the nation more secure by requiring high-risk chemical facilities to develop and implement security plans that meet eighteen risk-based performance standards established by DHS. Additionally, since the program's inception, more than 3,000 facilities have voluntarily removed or reduced the onsite quantity of chemicals of interest to the point that the facilities are no longer considered high-risk.

NPPD is also responsible for developing and managing regulations to implement the Secure Handling of Ammonium Nitrate provisions of the Homeland Security Act, which mandated that DHS create a framework to "regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility...to prevent the misappropriation or use of ammonium nitrate in an act of terrorism." Under the Secure Handling of Ammonium Nitrate provisions, certain purchasers and sellers of ammonium nitrate would be required to register with DHS and be screened against the Terrorist Screening Database. Additionally, sellers of ammonium nitrate would be subject to certain recordkeeping requirements as well as requirements to report thefts or losses of ammonium nitrate. DHS is in the process of developing a final rule to implement the Secure Handling of Ammonium Nitrate provisions of the Homeland Security Act to ensure continued access by the public to ammonium nitrate for legitimate purposes, and to improve the security of ammonium nitrate with minimal economic impacts.

While NPPD believes that CFATS has greatly improved the security of the Nation's chemical facilities, and that the Secure Handling of Ammonium Nitrate program, once implemented, will reduce the risk of misuse of ammonium nitrate in a terrorist attack, NPPD remains committed to continual improvement in our programs and to working with our stakeholders to enhance security at America's highest-risk chemical facilities. In light of that, as part of the efforts to implement Executive Order 13650, NPPD is seeking public input on a variety of areas to potentially improve CFATS and the prospective Secure Handling of Ammonium Nitrate programs, including:

- Options to improve the secure storage, handling, and sale of ammonium nitrate;
- Potential updates to the CFATS chemicals of interest list and the screening threshold quantities of certain substances contained on that list;
- Options for improving the coverage of reactive substances and reactivity hazards;

- Options for addressing security of chemicals at agricultural production facilities;
- Opportunities to leverage industry best practices in chemical facility security;
- Methods for identifying economically and mission critical chemical facilities;
- Opportunities to harmonize facility security standards across different programs; and
- Approaches to identifying potential high-risk chemical facilities that have not yet complied with their initial CFATS obligations.

There are innumerable ways to address these issues, including potentially through voluntary programs, updated agency guidance or regulations, or legislative approaches, and NPPD is interested in public input on each of those mechanisms for addressing these challenges.

Summary of the Policy, Regulation, and Standards Modernization Requirements of the Executive Order

Section 6(a) requires the working group to: i) within 90 days, develop options for improved chemical facility safety and security that identify improvements to existing risk management practices through agency programs, private sector initiatives, Government guidance, outreach, standards, and regulations; (ii) within 90 days of developing the options, engage key stakeholders to discuss the options and other means to improve chemical risk management that may be available; and (iii) within 90 days of completing the outreach and consultation effort, develop a plan for implementing the practical and effective improvements to chemical risk management that the agencies identified.

Section 6(b) requires the Secretary of Homeland Security, the Secretary of Labor, and the Secretary of Agriculture to develop a list of potential regulatory and legislative proposals to improve the safe and secure storage, handling, and sale of AN and identify ways in which AN safety and security can be enhanced under existing authorities. EPA and ATF also joined in this effort.

Section 6(c) requires OSHA, within 90 days, to review the chemical hazards covered by the PSM standard¹ and EPA to review similar hazards covered by the RMP rule² to determine if PSM or RMP can and should be expanded to address additional regulated substances and types of hazards. In addition, §6(c) requires OSHA and EPA to develop a plan, including a timeline and resource requirements, to expand, implement, and enforce PSM and RMP in a manner that addresses the additional regulated substances and types of hazards.

Section 6(d) requires NPPD to identify, within 90 days, a list of chemicals, including poisons and reactive substances that should be considered for addition to the CFATS COI list.

Section 6(e) requires OSHA, within 90 days, to: i) identify any changes that need to be made in the retail exemption and maximum commercial grade interpretation in the PSM standard; and ii) publish an RFI on modernizing its PSM standard and related standards. OSHA will consider comments received through the RFI, as well as known issues, in deciding whether to pursue rulemaking to amend the PSM standard, as well as developing changes to enforcement policies

¹ 29 CFR 1910.119

² The term "RMP rule" in this document refers to 40 CFR 68. Where this document refers to potential revisions to or clarification of the RMP rule, EPA could conduct such changes through any of the rulemaking authorities under CAA 112(r)(3)-(5), (7).

in regard to the retail exemption and maximum commercial grade interpretation, and modernizing other standards. (OSHA's RFI, as well as instructions for submitting comments, can be found at <http://www.gpo.gov/fdsys/pkg/FR-2013-12-09/pdf/2013-29197.pdf>).

Section 6(a): Options for Improved Chemical Facility Safety and Security

The working group developed a list of preliminary options for improvements to existing risk management practices based on feedback the agencies received from stakeholders in past years, as well as recent public comments collected in connection with the Executive Order, including public listening sessions. The options identify potential adjustments and improvements to existing risk management practices as well as suggestions for new areas of focus to improve chemical safety and security. The options for this section are listed under key topic areas.

The working group is particularly interested in receiving comments that contain the following information:

- Examples of where implementation of the same or similar options has been successful;
- Information or data that would characterize the positive impacts the options might have, including additional benefits;
- Potential limitations or unintended consequences of the options described;
- Methods for implementing the options, including methods for potentially increasing benefits or reducing costs; or
- Alternatives to the options that could achieve substantially the same result.

1. Improving the Safe and Secure Storage, Handling, and Sale of Ammonium Nitrate

Options:

- a. How could the safety and security of storage, handling, and sale of AN be strengthened through rulemaking, policy changes, or guidance, and do existing AN requirements need to be clarified?* OSHA's existing requirements for AN are contained in 29 CFR 1910.109. OSHA has requested, in its RFI, comments on best practices for storing and handling ammonium nitrate. EPA does not currently regulate AN under the RMP rule, but is seeking input on the need for issuing regulations (e.g., listing AN on the RMP list of regulated substances), or issuing further guidance for AN storage and handling to increase knowledge of industry standards and best practices facilities should follow to ensure compliance with the Clean Air Act (CAA) General Duty Clause (GDC). NPPD is in the process of reviewing public comments submitted on a proposed final rule regarding the sale of AN. The Working Group is also examining how other countries regulate and classify different grades of AN and mixtures containing AN to learn from and make use of successful practices elsewhere.
- b. Should DHS consider lowering the screening threshold quantities for AN under CFATS?* Subject to certain exceptions or extensions, facilities with 5,000 pounds or more of explosives-grade AN, 400 pounds or more of explosives-grade AN in transportation packaging, or 2,000 pounds of agricultural grade AN in transportation packaging must submit a CFATS Top-Screen to DHS to allow DHS to assess the facility's risk level. DHS could consider reducing the threshold quantities of AN under CFATS, which could result in additional facilities with lower quantities of AN being required to complete and submit a CFATS Top-Screen.
- c. Should DHS review the Top-Screen filing extension granted to agricultural production facilities?* Previously, DHS extended until further notice the deadline for

farmers and other agricultural facilities that use COI for certain agricultural purposes to submit CFATS Top-Screens. See 73 Fed. Reg. 1640. Specifically, the deadline for submission of a Top-Screen was extended for any facility required to submit a Top-Screen solely because it possesses any COI, at or above the applicable screening threshold quantity, for use: (a) in preparation for the treatment of crops, feed, land, livestock (including poultry) or other areas of an agricultural production facility; or (b) during application to or treatment of crops, feed, land, livestock (including poultry) or other areas of an agricultural production facility. The extension applies to facilities such as farms (e.g., crop, fruit, nut, and vegetable); ranches and rangeland; poultry, dairy, and equine facilities; turfgrass growers; golf courses; nurseries; floricultural operations; and public and private parks. The extension does not apply to chemical distribution facilities or commercial chemical application services. There are various options DHS could choose in lieu of this extension including eliminating it, making it permanent, or replacing it with a CFATS process specially designed for agricultural production facilities.

- d. *What are potential updates to the August 2013 Chemical Advisory: Safe Storage, Handling, and Management of Ammonium Nitrate or additional AN guidance products that would assist the private sector and state and local governments with improving on-the-ground safety and security? EPA, OSHA, MSHA, and ATF are considering updating the Advisory with new information resulting from the West, TX incident investigation, newly developed procedures and practices, new technical information as well as clarifications or corrections. Additional guidance products may include, but are not limited to, documents that will assist fertilizer distributors with proper AN safety and regulatory compliance.*
- e. *How should the agencies evaluate the implementation of safer alternatives and best practices for AN, and what are the best methodologies for accomplishing this? Safer alternatives and practices involve improving safety by reducing or eliminating hazards inherent in industrial processes. These alternatives and practices may involve reducing the amount of a hazardous substance kept on-site, or entirely eliminating the hazardous chemical by utilizing an alternative chemical pathway or safer intermediate chemicals. Promoting the use of safer alternatives and practices could occur through industry programs (e.g. Responsible Care, ChemStewards, and Responsible Distribution), by issuing alerts and guidance under EPA's RMP program and OSHA's PSM standard to increase knowledge of industry standards, through development and broad availability of a resource center where process safety experts share safer alternative techniques, and through potential rulemaking. Several stakeholders also have suggested incorporating "inherently safer technologies" into risk and process safety programs and the agencies are requesting additional information on how this concept would be defined, accomplished, and measured. In addition, the agencies are requesting comment on the potential costs and benefits of implementing such an approach as opposed to other approaches.*
- f. *Should the agencies examine the use of third-party audits and develop targeted guidance for industries that need assistance in understanding safe practices for handling AN? Third party audits are inspections conducted by appropriate independent auditors (retained by a chemical facility) who make process safety and regulatory compliance recommendations. According to the Center for Chemical Process Safety (CCPS), "Third party auditors (typically, consulting companies who can provide experienced auditors) potentially provide the highest degree of*

objectivity.”³ The U.S. Department of the Interior, Bureau of Safety and Environmental Enforcement’s (BSEE) Safety and Environmental Management Systems (SEMS) standard, 30 CFR 250, Subpart S, requires audits conducted by an independent third party, subject to approval by BSEE, or by designated and qualified personnel if the employer implements procedures to avoid conflicts of interest.

2. Process Safety Improvement and Modernization

Options:

I. Policy, Regulatory, or Guidance Options by the Agencies

- a. *Should EPA and OSHA modernize, clarify, and harmonize the PSM and RMP programs through rulemaking, policy change, or guidance development? If so, please provide specific suggestions.* The agencies are considering whether to initiate rulemakings for updating the PSM standard and RMP rule. EPA and OSHA have collaborated on implementation of these programs, and are considering a number of options for modernization of regulations, policy, and guidance that would maintain parallel requirements and ensure harmony between the regulations. Although some of these specific options are discussed below, EPA and OSHA seek input on any additional opportunities to modernize, clarify, or harmonize these programs.
- b. *How should OSHA clarify the exemption for retail facilities under PSM?* OSHA’s RFI explains this option in further detail.
- c. *Should OSHA adopt EPA’s RMP policy for determining PSM coverage of concentrations of PSM-listed chemicals (replacing OSHA’s existing interpretation that applies the concept of maximum concentration commercially available to determine threshold quantities of covered chemicals)?* The Executive Order refers to this issue as the commercial grade exemption. OSHA’s RFI explains this in further detail.
- d. *What inconsistencies should OSHA and EPA harmonize to achieve consistency between PSM and RMP enforcement policies and guidance?* While the RMP rule is intended to protect the community and environment and the PSM standard is intended to protect workers, PSM and RMP share 12 similar management-system requirements, such as the process hazards analysis, incident investigation, management of change, and mechanical integrity.
- e. *Should EPA, OSHA, and PHMSA initiate rulemaking, policy changes, or guidance to account for human factors in process safety, management of change, facility operating procedures, incident investigation, training, process hazard analysis, and other elements? If so, please provide specific recommendations on how the agencies should better address these?* OSHA’s RFI discusses and requests comment on additional management-system elements.
- f. *Should EPA, OSHA, and PHMSA initiate rulemaking, policy changes, or guidance to use existing leading and lagging indicators to better evaluate performance over time? If so, please provide recommendations on how the agencies may address this and what indicators are most meaningful.* An indicator is any metric that can be used, modeled, or trended to predict future events. Lagging indicators may include frequency of injuries or incidents. Leading indicators include frequency of maintenance orders, frequency of maintenance orders completed late vs. on-time, number of equipment inspections, or percentage of sampled management of change

³Guidelines for Risk Based Process Safety, CCPS. <http://www.aiche.org/ccps>

orders that satisfy regulatory/internal compliance. OSHA's RFI also discusses and requests comments on this issue.

- g. Would it be beneficial for the agencies to develop and publish guidance for employers or operators on conducting root-cause analysis following significant incidents or releases? Root-cause analysis involves identifying the systemic causes of incidents as opposed to the immediate causes. EPA, OSHA, and PHMSA plan to determine what level of root-cause analysis is appropriate and feasible.*
- h. Would it be beneficial for OSHA to develop and publish PSM guidance for small businesses, particularly those that handle highly hazardous chemicals that are not the employer's primary product? Small businesses often lack the resources and expertise of larger businesses for PSM elements such as training and process hazard analysis, and may require additional consultation or guidance from OSHA in order to meet PSM requirements. Businesses that handle highly hazardous chemicals that are not the facility's primary product may similarly lack PSM expertise and require special guidance.*
- i. How should EPA, OSHA, PHMSA and USCG harmonize and standardize terminology in order to clarify requirements and definitions across multiple jurisdictions? If pursued, this could include consideration of input from other agencies with performance-based standards, such as U.S. Department of the Interior, BSEE.*
- j. Should inspector and compliance officer training be expanded to include best practices and to improve process safety beyond regulatory requirements? EPA, OSHA, USCG, and PHMSA recognize that specialized training would allow inspectors and compliance officers to go beyond enforcement and recommend additional best practices to regulated entities to protect their workers, the surrounding community, and the environment. USCG already plans to enhance training and provide additional guidance to shippers of products.*
- k. How could EPA update or upgrade software tools, such as CAMEO/ALOHA, MARPLOT, RMP*Comp, RMP*eSubmit, etc? Computer Aided Management of Emergency Operations (CAMEO) is a suite of software products that includes a chemical hazard database, a mapping application, (MARPLOT - Mapping Applications for Response, Planning and Local Operational Tasks), and an atmospheric dispersion and fire/explosion modeling program (ALOHA - Aerial Locations of Hazardous Atmospheres). CAMEO, ALOHA, and MARPLOT were jointly developed by EPA and the National Oceanic and Atmospheric Administration (NOAA), and are used by local emergency planners and responders worldwide. RMP*eSubmit is an EPA software application used by facilities covered under the RMP regulation to submit risk management plans to EPA. RMP*Comp is an atmospheric dispersion modeling program developed by EPA and NOAA that is used by RMP-covered facilities to conduct worst-case scenario modeling under the RMP regulation.*
- l. Should EPA, OSHA and PHMSA evaluate the implementation of a "safety case" regulatory model to reduce risks in complex industrial processes as low as reasonably practicable? This option could be used to replace, or in the environmental context supplement, existing PSM and RMP safety requirements with a system that requires employers to present to regulators a structured argument, supported by a body of evidence, that provides a compelling, comprehensible and valid case that a system is safe for a given application in a given operating environment. The safety case regulatory model provides employers with increased flexibility and allows regulators to set health and safety standards that are proportionate to the risk involved. For*

example, a description of the United Kingdom's safety case regulation can be found at <http://www.hse.gov.uk/comah/>. The agencies recognize this would be a major departure from the current regulatory model, and it would likely require legislative action to implement.

- m. *Should the agencies evaluate the implementation of safer alternatives and best practices, and what are the best methodologies for accomplishing this?* Safer alternatives and practices involve improving safety by reducing or eliminating hazards inherent in industrial processes. These alternatives and practices may involve reducing the amount of a hazardous substance kept on-site, or entirely eliminating the hazardous chemical by utilizing an alternative chemical pathway or safer intermediate chemicals. Promoting the use of safer alternatives and practices could occur through industry programs (e.g. Responsible Care, ChemStewards, and Responsible Distribution), by issuing alerts and guidance under EPA's RMP program and OSHA's PSM standard to increase knowledge and awareness of industry standards, through development and broad availability of a resource center where process safety experts share safer alternative techniques, and through potential rulemaking. Several stakeholders also have suggested incorporating "inherently safer technologies" into risk and process safety programs and the agencies are requesting additional information on how this would be defined, accomplished, and measured. In addition, the agencies are requesting comment on the potential costs and benefits of implementing such an approach as opposed to other approaches.
- n. *How should EPA and OSHA use RMP accident data to identify trends and use the information to develop guidance or regulatory changes, compliance priorities, and technical assistance? If so, what are the ways that this might be done?* RMP covered facilities are required to submit accidental release data to EPA when a release meets certain criteria, such as causing on- or off-site injuries or significant property damage. OSHA and EPA are interested in recommendations on how best to analyze this data, and what trends may be developed to indicate industry safety performance. Data are available from EPA via the Freedom of Information Act.
- o. *What opportunities exist for increasing worker involvement and labor-management cooperation in hazard investigations, recommending corrective actions, risk management, and preventing retaliation against workers who report unsafe conditions?* Employee participation is currently required in all aspects of PSM and RMP, but OSHA and EPA are interested in any opportunities that would allow for greater workforce involvement. OSHA's RFI also discusses and requests comments on this issue.

II. Options for Collaborating with Private Organizations on External Standards

- p. *What opportunities exist for EPA, OSHA, and NPPD to work with industry associations to leverage industry programs and improve process safety and security through the industry programs and consensus standards, and encourage best practices, as well as to improve regulatory efficiency, especially for small businesses?* The working group is aware of many different industry programs aimed at improving chemical safety and security. Federal agencies could work with industry members to identify existing programs that might be worth leveraging and/or expanding, as well as to identify potential areas where industry-led programs could be developed to improve chemical safety and security.
- q. *In which consensus standard groups should EPA and OSHA participate to stay current on industry best practices and improve chemical process safety?* For

example, NFPA-400 consolidates fundamental safeguards for the storage, use, and handling of hazardous materials in all occupancies and facilities, including ammonium nitrate; ANSI K61.1/CGA G-2.1 addresses the safety requirements for the storage and handling of anhydrous ammonia, including standards for the design, construction, repair, alteration, location, installation, and operation; and CCPS is an initiative of the American Institute for Chemical Engineers and is a non-profit organization that addresses process safety within the chemical, pharmaceutical, and petroleum industries. EPA and OSHA seek ideas on additional consensus standard groups for potential participation.

3. **Coverage of Additional Hazardous Chemicals or Categories of Chemicals under Process Safety and Security Regulations**

Options:

- a. *Should OSHA and EPA initiate rulemaking to cover additional hazardous chemicals under the PSM standard and RMP rule? If so, how should the agencies identify these chemicals?* OSHA's RFI contains a detailed discussion of this option. The list of highly hazardous chemicals in the PSM standard has remained unchanged since the standard was initially published, and the regulated substances originally listed in the RMP rule have been narrowed without the addition of any substances. OSHA's RFI also discusses and requests comments on this issue.
- b. *Is there a method, other than periodically updating the PSM and RMP lists of covered chemicals through rulemaking, that OSHA and EPA could use to expand their lists of covered chemicals?* As noted above, the list of highly hazardous chemicals in the PSM standard has remained unchanged since the standard was initially published, and the regulated substances originally listed in the RMP rule have been narrowed without the addition of any substances. OSHA's RFI also discusses and requests comments on this issue.
- c. *What additional chemicals should NPPD consider adding to the existing CFATS COI list?* NPPD could consider adding additional chemicals to the list of CFATS COI to expand CFATS coverage to potential high-risk chemical facilities that might not currently be identified based on the existing list of CFATS COI. This could include, among other things, coverage of toxic and poisonous chemicals under CFATS.
- d. *Should DHS attempt to harmonize security requirements at chemical facilities exempt from CFATS with the requirements applicable to CFATS-regulated facilities and, if so, how?* Certain chemical facilities are either exempt from coverage under CFATS or are subject to additional security regulations under other regulatory programs. Harmonization of appropriate standards might increase consistency in requirements and reduce any duplicative or conflicting regulatory requirements.

4. **Chemical Reactivity Hazards**

Options:

- a. *Should OSHA and EPA initiate rulemaking, policy changes, or guidance to cover chemical reactivity hazards under the PSM standard and RMP rule? If so, what definitions, terms, and conditions should be used to best define hazards that can lead to reactive incidents?* The U.S. Chemical Safety and Hazard Investigation Board (CSB) has recommended that OSHA extend PSM coverage and EPA extend RMP coverage to chemicals based on a class of highly reactive properties, similar to the way PSM defines a class of flammable liquids or gases. A number of the chemicals

listed in the regulations are highly reactive chemicals based on a variety of metrics, including consensus standard sources, but the lists do not cover all highly reactive chemicals. OSHA's RFI also discusses and requests comments on this issue.

- b. *Should EPA, OSHA, and NPPD develop a definition of high risk chemical reactivity hazards for future rulemaking, policy changes, or guidance, and if so, what should be the basis of that definition?* Currently, there is no consistent definition for reactivity or reactive chemicals. Various consensus groups (such as the NFPA and CCPS) and state laws (New Jersey's Toxic Catastrophe Prevention Act and Delaware's Hazardous Chemicals Act) utilize many different techniques for defining and protecting against reactive chemical hazards, but there is no consensus on the best approach to regulate reactive chemical hazards in the United States.
- c. *How can EPA and OSHA continue to engage in industry initiatives on chemical reactivity such as the CCPS Reactivity Management Roundtable (RMR)?* The RMR was founded in 2003 by a small group of process safety professionals. They meet independently of both AIChE and CCPS with the goal of reviewing the CSB's Reactive Hazard Investigation report. This report analyzed 167 serious chemical reactivity incidents over a twenty-year period. The RMR works to recommend best practices that could reduce or eliminate reactivity incidents in the future. EPA and OSHA are interested in any other initiatives that could help the agencies determine how to regulate or provide guidance on reactive chemical hazards.

5. Explosive Chemical Hazards

Options:

- a. *What opportunities exist for involving stakeholders in the development of guidance, best practices, or regulatory action on explosives hazards? What guidance is specifically needed?* Such input could be obtained through a combination of public meetings and listening sessions, webinars, Federal Register notices such as OSHA's RFI, participation at stakeholder conferences and workshops, etc. ATF and EPA also seek information on such opportunities for stakeholder involvement.
- b. *Should OSHA revise its Explosives and Blasting Agents standard to cover dismantling and disposal of explosives?* The existing standard applies to the manufacture, keeping, having, storage, sale, transportation, and use of explosives, blasting agents, and pyrotechnics. Although dismantling and disposing of explosives can be just as hazardous as the covered activities, dismantling and disposal are not activities covered by the existing standard.
- c. *Should ATF develop guidance to assist retailers in identifying suspicious purchases of explosive materials where minimal or no statutory controls exist, such as smokeless powder, black powder, and binary exploding targets?* ATF has identified potential gaps in requirements under current statutes (purchaser background checks, retailer licensing, records requirements) for retailers and end users of binary exploding targets, smokeless powder, black powder, and black powder substitutes.
- d. *Should ATF update regulatory requirements or develop guidance for voluntary best practices in collaboration with industry associations on more robust locking mechanisms for explosives storage?* ATF has identified potential updates to construction requirements for explosives storage to protect against theft, attempted theft, and diversion of explosive materials.
- e. *Should ATF further collaborate with the Institute of Makers of Explosives to identify permissible deviations or standards for physical factors in bulk storage of explosives?* ATF has found that physical factors (expansion, contraction, equipment

calibration, etc.) can impact a license or permit holder's ability to accurately measure and account for bulk storage of explosives.

6. Oil and Gas Facilities

Options:

- a. *Should OSHA initiate rulemaking to cover oil and gas well drilling and servicing facilities under the PSM standard?* During the original PSM rulemaking, oil and gas well drilling and servicing facilities were exempted from coverage because OSHA intended to issue a separate Oil and Gas standard covering such facilities. However, this standard was never published, leaving a gap in coverage. OSHA's RFI also discusses and requests comments on this issue.
- b. *Should EPA modify the RMP regulation to cover upstream oil and gas production facilities?* EPA is requesting input on whether the Agency should clarify its exemption at §68.115(b)(2)(iii) for naturally occurring hydrocarbon mixtures prior to their entry into a natural gas processing plant or petroleum refining process unit. Under part 68, such mixtures, which include crude oil, field gas, produced water, and condensate, need not be considered when determining whether more than a threshold quantity is present at a stationary source. Also, EPA is requesting whether it is necessary to revise its criteria for coverage of flammable mixtures so as to extend part 68 coverage to additional upstream oil and gas facilities..
- c. *What would be the economic impact of OSHA resuming PSM enforcement for oil and gas production facilities?* OSHA is not currently enforcing PSM requirements at oil and gas production facilities. OSHA is considering whether to resume enforcement of the PSM standard at these facilities after it performs an economic analysis of the costs of PSM compliance on these employers. OSHA's RFI discusses and requests comment on the impacts of resuming PSM enforcement for oil and gas production facilities.
- d. *Should EPA develop a chemical accident prevention advisory on design of Liquefied Petroleum Gas (LPG) installations at natural gas processing plants to emphasize good practices, such as those provided by NFPA and the American Petroleum Institute (API)?* Inspections conducted by EPA revealed that some LPG installations at natural gas processing plants are not designed in full accordance with prevailing NFPA and API industry standards; an advisory detailing these deficiencies could help industry understand and comply with the standards.
- e. *What options from the interagency stakeholder meeting on the Use of Performance-based Regulatory Models in the U.S. Oil and Gas Industry, Offshore and Onshore, jointly held by OSHA, EPA, BSEE, USCG, PHMSA in Texas City, Texas, on September 20 and 21, 2012, should OSHA continue to evaluate?* Expert speakers at the meeting addressed the current regulatory landscape and discussed the challenges and benefits of non-prescriptive, outcome-based approaches to reduce the frequency and severity of harmful events. The meeting also provided time for public comments, and OSHA received 14 written comments in the docket it opened for the meeting, OSHA-2012-0033 . Transcripts and comments from the meeting are available at www.regulations.gov (<http://www.regulations.gov/#!docketDetail;D=OSHA-2012-0033>).

7. Coverage of Bulk Storage of Flammable Liquids under Process Safety and Security Regulations

Options:

- a. *Should EPA clarify the RMP gasoline exemption and revise the NFPA 4 flammability cutoff to increase regulatory coverage of large gasoline-storage terminals? If so, how? Regulated substances in gasoline, when in distribution or related storage for use as fuel for internal combustion engines, are not currently covered under the RMP regulation.*
- b. *Should OSHA clarify the PSM standard's exemption, through regulation, for atmospheric storage tanks, and, if so, what should the exemption cover? In Secretary of Labor v. Meer Corporation (1997) (OSHC Docket No. 95-0341), an administrative law judge ruled that PSM coverage does not extend to flammables stored in atmospheric tanks, even if the tanks are connected to a process. As a result, employers can exclude the amount of flammable liquid contained in an atmospheric storage tank, or in transfer to or from storage, from the quantity contained in the process when determining whether a process meets the 10,000-pound threshold quantity. The Meer decision was contrary to OSHA's interpretation of this aspect of the PSM standard, which was that the standard covers all stored flammables when connected to, or in close proximity to, a process. The CSB recommended that OSHA address relevant hazards through rulemaking. OSHA's RFI discusses and requests comment on this issue.*
- c. *Should OSHA update its Flammable Liquids and Spray Finishing standards to reflect the latest consensus standards? OSHA first published these standards in 1974 and based the requirements on NFPA consensus standards from the 1960s. The format and requirements of the standards may therefore be out of date, and could be updated based on the latest applicable consensus standards. OSHA's RFI discusses and requests comment on this issue.*

8. Process and Hazardous Chemical Security

Options:

- a. *What options should NPPD consider to incorporate economic and mission criticality into the CFATS risk-tiering methodology? Currently, facilities are determined to be high risk chemical facilities subject to CFATS based solely on risks associated with consequences to human life.*
- b. *Should DHS clarify the CFATS reporting requirements as they relate to COI in fuels? Subject to certain exceptions, facilities that possess a threshold level of any CFATS COI are required to submit a CFATS Top-Screen to DHS. This includes COI that are contained in mixtures. Many fuels contain certain COI, but some stakeholders have expressed confusion regarding how the current CFATS regulation treats those fuels.*
- c. *Should EPA develop an alert on prevention of accidental releases due to unauthorized access at oil and gas facilities, and in consultation with NPPD, consider additional strategies to prevent such unauthorized access? The CSB issued a report on Public Safety at Oil and Gas Storage Facilities. The report highlighted a number of fatal accidents that resulted from unauthorized public access (e.g., trespassing) at unmanned oil & gas facilities, and recommended that alert be published and directed to owners and operators of exploration and production facilities with flammable storage tanks.*
- d. *What vetting systems other than National Instant Criminal Background Check (NICS) should ATF use for more frequent vetting of employee possessors of explosives and responsible persons on Federal explosives licenses and permits? The*

existing NICS regulations essentially do not allow ATF to vet employee possessors of explosives and responsible persons on Federal explosives licenses and permits more frequently than every three years (upon new application and renewal application).

9. **Identifying Facilities Covered under Existing Process Safety and Security Regulations**

Options:

- a. *Should facilities covered under PSM but not RMP be required to register under the RMP reporting system?* OSHA does not require PSM-covered facilities to register with OSHA. However, EPA requires RMP-covered facilities to register with EPA a risk management plan that indicates whether the facility is also covered under PSM. This presents an opportunity for EPA and OSHA to collaborate by using EPA's existing RMP reporting system to identify PSM-covered facilities, even when not covered under RMP.
- b. *How can DHS most effectively identify entities that have not submitted required CFATS' Top-Screens?* DHS believes that it has received CFATS Top-Screens from the majority of facilities that should have submitted them, but like any regulatory program that relies in part on self-reporting, 100% compliance is difficult to achieve. The expansive and dynamic nature of the business communities that use CFATS COI further increases the difficulty of doing so under CFATS. Nevertheless, DHS is committed to pursuing all reasonable measures to identify potential high-risk chemical facilities that are not among those that have already complied with initial CFATS requirements, and we will continue to work to get those facilities into compliance.

APPENDIX A – Ammonium Nitrate Jurisdiction Table

Agency	Regulatory Scope	AN-Specific Regulations	Explosive Grade Coverage	Non-Explosive Grade Coverage
DHS (CFATS)	Regulates COI (including AN) and regulates facilities that sell and transfer AN to prevent misappropriation or use in acts of terrorism	Requires facilities storing 5,000 pounds or more of explosives-grade AN, 400 pounds or more of explosives-grade AN in transportation packaging, or over 2,000 lbs of agricultural grade AN in transportation packaging to submit "top screen survey application" (6 CFR Part 27)		
DOT (PHMSA)	Regulates packaging and hazard communication of hazardous materials (including AN) transported by air, highway, rail, and water	Requires transporters of 1,000 lbs or more of AN to train employees, register with DOT, have a security plan, and comply with packaging, emergency communications, stowage and other safety requirements		
DOL (OSHA)	Classifies hazards of chemical products, regulates communication of those hazards, and regulates storage of certain chemical products	Requires storage facilities to make SDS' available in the workplace, and prescribes storage facility design and operating practices standards	Regulates Manufacture of Explosives and blasting agents, 1910.109	Also covered by 1910.109.
DOL (MSHA)	Classifies hazards of chemicals and chemical products, regulates communication of those hazards, and regulates storage of hazardous chemicals for mining and milling as defined under the Federal Mine Safety and Health Act Metal and nonmetal surface mines: 30 C.F.R. Part 56, Subpart E, Explosives, Sections 56.6000- 56.6905 Metal and nonmetal underground		Regulates storage, transportation, use, and maintenance of explosives and explosive devices at mining operations	

	mines: 30 C.F.R. Part 57, Subpart E, Explosives, Sections 57.6000-57.6905 Coal underground mines: 30 C.F.R. Part 75, Subpart N, Explosives and Blasting, Sections 75.1300-75.1328 Coal surface mines and surface work areas of underground mines: 30 C.F.R. Part 77, Subpart N, Explosives and Blasting, Sections 77.1300-77.1304				
DOJ (ATF)	Regulates the commerce and storage of commercial explosives	Separation distances are required between blasting agents or high explosives and ammonium nitrate where these materials are co-located (27 CFR 555.220)	Not applicable to AN	Not applicable to AN	
U.S. Coast Guard	Regulates security, trade and commerce carried out at U.S. ports and waterways, including the safety and security of bulk cargoes such as AN	Bulk shipments of AN are considered "cargo of particular hazard" or "certain dangerous cargo" for shipments exceeding 1,000 lbs by the USCG. Handling of bulk AN at waterfront facilities requires a permit, marking, ventilated storage, storage in areas at a safe distance from sources of heat, debris, and at least 30 ft. from organic or flammable materials. Spills must be promptly cleaned up and a source of water for fire-fighting readily available.			
EPA	Require facilities to submit Material Safety Data Sheet (MSDS) and Hazardous Chemical Inventory Form (Tier I/Tier II) to State and local officials and fire departments on any hazardous chemical defined under OSHA's Hazard Communication				

		Standard at or above the reporting threshold. OSHA hazardous chemicals includes AN. (40 CFR part 370)		
		General Duty Clause under CAA - Self-implementing statutory provision applicable to owners of stationary sources with extremely hazardous substances (any substance that, as a result of an accidental release, can cause death, serious injury, or substantial property damage). (CAA §112(r)(1))		
Non-Regulatory	Scope	Recommendations		
National Fire Protection Agency (NFPA)	NFPA 400 Hazardous Materials Code	Covers storage, use, handling of solid and liquid AN (Chapter 11).		
Institute of Makers of Explosives (IME)	Safety Library Publication (SLP) 28 – Recommendations for Accountability and Security of Bulk Explosives and Bulk Security Sensitive Materials. SLP 23 – Recommendations for the Transportation of Explosives, Division 1.5, Ammonium Nitrate Emulsions, Division 5.1, Combustible Liquids, Class 3, and Corrosives, Class 8 in Bulk Packaging			

Appendix B – Submitting Comments to the Section 6 Docket

DATES: We invite the public to submit comments on the options in this document and Section 6 of the Executive Order by March 31, 2014. All submissions must bear a postmark or provide other evidence of the submission date. The following section describes the available methods for making submissions.

ADDRESSES: Submit comments and additional materials by any of the following methods:

Electronically: Submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

Facsimile: OSHA allows facsimile transmission of comments and additional material that are 10 pages or fewer in length (including attachments). Send these documents to the OSHA Docket Office at (202) 693-1648. OSHA does not require hard copies of these documents. Instead of transmitting facsimile copies of attachments that supplement these documents (for example, studies, journal articles), commenters must submit these attachments to the OSHA Docket Office, Technical Data Center, Room N-2625, OSHA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210. These attachments must identify clearly the sender's name, the date, subject, and docket number (OSHA-2013-0026) so that the Docket Office can attach them to the appropriate document.

Regular mail, express mail, hand delivery, or messenger (courier) service: Submit comments and any additional material (for example, studies, journal articles) to the OSHA Docket Office, Docket No. OSHA-2013-0026, Technical Data Center, Room N-2625, OSHA, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210; telephone: (202) 693-2350. (OSHA's TTY number is (877) 889-5627.) Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, and messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency's name and the docket number for Section 6 of the Executive Order (that is, OSHA-2013-0026). OSHA will place comments and other material, including any personal information, in the public docket without revision, and these materials will be available online at <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting statements they do not want made available to the public and submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

If you submit scientific or technical studies or other results of scientific research, OSHA requests (but is not requiring) that you also provide the following information where it is available: (1) identification of the funding source(s) and sponsoring organization(s) of the research; (2) the extent to which the research findings were reviewed by a potentially affected party prior to publication or submission to the docket, and identification of any such parties; and (3) the nature of any financial relationships (e.g., consulting agreements, expert witness support, or research funding) between investigators who conducted the research and any organization(s) or entities having an interest in the rulemaking, policy, and guidance options discussed in the Section 6

report. Disclosure of such information is intended to promote transparency and scientific integrity of data and technical information submitted to the record. This request is consistent with Executive Order 13563, issued on January 18, 2011, which instructs agencies to ensure the objectivity of any scientific and technological information used to support their regulatory actions. OSHA emphasizes that all material submitted to the record will be considered by the agencies in the event of rulemaking.

Docket: To read or download submissions or other material in the docket, go to <http://www.regulations.gov> or the OSHA Docket Office at the address above. The <http://www.regulations.gov> index lists all documents in the docket. However, some information (e.g., copyrighted material) is not available publicly to read or download through the Web site. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

For Further Information Contact:

Press inquiries: Mr. Frank Meilinger, Director, OSHA Office of Communications, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-1999; e-mail: meilinger.francis2@dol.gov.

General and technical information: Ms. Lisa Long, Director, Office of Engineering Safety, OSHA Directorate of Standards and Guidance, Room N-3609, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC, 20210; telephone: (202) 693-2222; email: long.lisa@dol.gov

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (202) 225-2827
Minority (202) 225-3641

July 31, 2013

The Honorable Janet Napolitano
Secretary of Homeland Security
Washington, DC 20528

Dear Madame Secretary:

This week, explosions at a propane gas plant in Florida underscored the potential dangers to local communities from facilities that store liquefied gas. The Florida plant was relatively small, but the incident there injured workers, some critically, and forced an evacuation of the surrounding community.

In my district, there is a facility with much larger tanks that stores liquefied gas. My investigation indicates that the Department does not appear to be taking the steps necessary to protect the public from the risks of explosions. In fact, the Department is reaching conclusions that conflict with those of EPA inspectors, creating confusion and potentially delaying safety measures. I am writing to call this facility to your attention and to urge the Department to take all necessary steps to safeguard the local community.

Earlier this year, community leaders brought to my attention the liquefied petroleum gas storage facility owned by Rancho LPG Holdings LLC in San Pedro, California. Like the Blue Rhino facility that exploded in Florida, Rancho holds significant quantities of flammable gases, including propane. Unlike the Florida facility, the Rancho facility's holdings are stored in large tanks, posing a threat of a larger scale explosion than what was seen in Florida.

The community leaders in Rancho Palos Verdes are concerned about the risks Rancho poses to its neighboring residents. They told me that unexplained flaring has occurred at the site without proper notification and that mitigation measures have not been performed at the site to prevent an accident or terrorist attack. They are concerned that the tanks are simply too close to homes and schools, given the possibility of a large-scale explosion.

On March 14, 2013, the U.S. Environmental Protection Agency (EPA) initiated an enforcement action against Rancho for violations of legal requirements of EPA's Risk Management Program. Rancho was cited for failure to share the facility's emergency response plan with first responders who would have a role in responding to a release at the facility, failure

to assess risks in its rail storage area, and a failure to properly plan for seismic events. Essentially, EPA said that Rancho is not prepared for an earthquake or accident.

When I learned of these facts, my staff contacted the Department of Homeland Security (DHS) to learn what the Department was doing to protect the community. Under the current system, federal oversight of a facility like Rancho is split between EPA, which is charged with protecting against chemical accidents, and DHS, which is charged with protecting against chemical releases that are caused by terrorist or criminal acts.

What we learned from DHS was surprising. While EPA has taken action to protect the community from deficiencies in the Rancho facility's preparedness, DHS found no significant or disqualifying problems at Rancho. An official of the Department told my staff that the facility had just undergone a "successful CFATS inspection."¹ No explanation was given as to how Rancho could be a danger to the community according to EPA but perfectly safe according to the Department of Homeland Security.

Last week, my staff reviewed the records from that inspection, and they reveal serious inadequacies in the DHS inspection at the facility. Most of the information DHS relied upon was self-reported by the facility. And when the inspectors went to the facility to conduct the inspections, their verification efforts were minimal.

For example, the DHS inspector "verified" that the facility's emergency response plan had been communicated to local emergency responders based on an interview with a senior representative of the company's management who did not work at the facility, whereas EPA found by checking with employees and local emergency responders that the facility's emergency response plan was not on file.

Similarly, the DHS inspector "verified" that employees had been trained on their roles and responsibilities in emergency situations by reviewing training records and interviewing the same senior manager, but EPA discovered by checking with the employees that they did not know what their roles and responsibilities are for emergency response.

As I hope you can understand, the DHS actions have the potential to create considerable confusion for the community. EPA says Rancho is not prepared for an accident; DHS says the company is prepared for an intentional attack. The EPA inspection appears thorough; the DHS inspection seems cursory. The EPA findings are alarming; the DHS conclusions are reassuring.

I believe the root cause of the problem may be deficiencies in the Chemical Facility Anti-Terrorism Standards (CFATS) program administered by DHS. The CFATS program has a long

¹ Oral communication between DHS staff and Energy and Commerce Committee staff (Mar. 21, 2013).

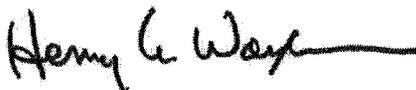
The Honorable Janet Napolitano
July 31, 2013
Page 3

record of ineffectiveness. As Rep. Bennie Thompson, the Ranking Member of the Committee on Homeland Security, and I wrote President Obama earlier this year, CFATS appears to be a “failing” program that has shown a “distressing lack of progress in securing these facilities since the program was established nearly six years ago.”² Now, this example suggests that the benchmarks for progress through the CFATS program are not reliable indicators of a facility’s security. It is troubling to think that we might never have become aware of the deficiencies in the CFATS inspection if not for EPA’s work. Significant changes to the CFATS program appear warranted.

I urge you to review the Department’s actions at Rancho and the larger CFATS program. I hope you will then take whatever steps are necessary to ensure public safety.

Thank you for your attention to this matter.

Sincerely,



Henry A. Waxman
Ranking Member

² Letter from Rep. Henry A. Waxman, Energy and Commerce Committee Ranking Member, and Rep. Bennie Thompson, Homeland Security Committee Ranking Member, to President Barack Obama (May 2, 2013) (online at <http://democrats.energycommerce.house.gov/index.php?q=news/ranking-members-waxman-and-thompson-urge-president-to-establish-blue-ribbon-commission-on-chemi>).

Kit Fox

From: Pinto, Lisa <Lisa.Pinto@mail.house.gov>
Sent: Tuesday, January 21, 2014 11:43 AM
To: Janet Gunter; Swanson, Elise; michael.picker@gov.ca.gov; rgb251@berkeley.edu; lpryor@usc.edu; carl.southwell@gmail.com; MrEnvirlaw@sbcglobal.net; det310@juno.com; noelweiss@ca.rr.com; connie@rutter.us; jacob.haik@lacity.org; jynthiaperry@aol.com; rob.wilcox@lacity.org; michael_davies@feinstein.senate.gov; maurice_lyles@boxer.senate.gov; kyle_chapman@boxer.senate.gov; laura_schiller@boxer.senate.gov; wesling.mary@epamail.epa.gov; helmlinger.andrew@epa.gov; blumenfeld.jared@epa.gov; jnmarquez@prodigy.net; sally.magnani@doj.ca.gov; brian.hembacher@doj.ca.gov; Susan Brooks <Subrooks08@gmail.com>; Brian Campbell <b.camp@cox.net>; Jim Knight <knightjim33@gmail.com>; Jerry Duhovic; niki.tennant@asm.ca.gov; jennifer.zivkovic@sen.ca.gov; jennifer.lucchesi@slc.ca.gov; apadilla@coastal.ca.gov; don.holmstrom@csb.gov; dan.tillema@csb.gov; Beth.Rosenberg@csb.gov; Rafael.Moure-Eraso@csb.gov; Mark.Griffon@csb.gov; STsumura@elsegundo.org; gknatz@portla.org; jody.james@sbcglobal.net; marciesmiller@sbcglobal.net; bonbon90731@gmail.com; richard.vladovic@lausd.net; igornla@cox.net; dwgkaw@hotmail.com; lhermanpg@cox.net; pjwrome@yahoo.com; katyw@pacbell.net; jwebb@usc.edu; c.jjkondon@earthlink.net; rcraemer@aol.com; goarlene@cox.net; burling102@aol.com; pmwarren@cox.net; fbmjet@aol.com; ksmith@klct.com; diananave@gmail.com; overbid2002@yahoo.com; carriescoville@yahoo.com; guillermovillagran@sbcglobal.net; mandm8602@att.net; dlrivera@prodigy.net; peter.burmeister@sbcglobal.net; roamerbill@yahoo.com; Zenponee@aol.com; tdramsay@gmail.com; maltbielong@aol.com; Betwixt1@yahoo.com; seinhorn@prodtrans.com; rueski1@cox.net; adcanizales@yahoo.com; ljonesin33@yahoo.com; owsqueen@yahoo.com; john@nrcwater.com; d.pettit@nrdc.org; bill.orton@sen.ca.gov; rkim@lacbos.org; horsefam1@q.com; litaesq@aol.com

Cc: Maier, Brent; chateau4us@att.net; Rudy Svorinich, Jr. (rudy@svorinich.com); Ronald Conrow (Ronald.Conrow@plainsmidstream.com); board@nwsanpedro.org; Kit Fox; Brooks, Susan W.; Carolyn Lehr; Pinto, Lisa

Subject: Update on EPA Enforcement Action and Rancho Tanks

Attachments: EPA Memo on Restriction of Information.pdf

Hello friends,

I am writing to share an update on the EPA Enforcement Action against Rancho Tanks.

There was some initial confusion as to the scope I what I could share. The memo above was given to me about restrictions of information that EPA staff may share. It does not apply to what Congressional staff may share. I wanted to forward the memo for your review.

In terms of the update, the action is still in enforcement settlement negotiations with Rancho.

As you know, there are one of three outcome that will take place:

1. EPA will take no action. This is very unlikely given the Show Cause letter we are all familiar with.
2. Second, a settlement is another option. If the parties can agree on the disputed items, an administrative order or consent will be entered.
3. Finally, the US Department of Justice could file a complaint against Rancho on behalf of the EPA.

EPA has informed me that is a high priority for them and they are hopeful it is nearing the end.

I want to thank the NW San Pedro Neighborhood Council again for allowing me the opportunity to visit with them and share an update on the Rancho Tanks.

As always, please don't hesitate to reach out to discuss this or any other issue of interest.

Lisa

Lisa Pinto
District Director
Congressman Henry A. Waxman
323/651-1040



**Environmental Protection Agency (EPA)
Memo on Restriction of Information
March 8, 2006**

Attachment 0



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR -8 2006

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Restrictions on Communicating with Outside Parties Regarding Enforcement Actions

FROM: Granta Y. Nakayama

TO: Assistant Administrators
Deputy Assistant Administrators
Associate Administrators
Regional Administrators
Deputy Regional Administrators
General Counsel

This memorandum reiterates earlier guidance and memoranda outlining restrictions on communicating with parties external to the Environmental Protection Agency (EPA) about enforcement actions. Continuing to implement these procedures will ensure an open and fair process, and will allow enforcement staff to negotiate and conclude cases successfully. When sensitive enforcement information is released by EPA through either discussions or written communications, it may result in less protection of public health and the environment and jeopardize settlement negotiations. I request that you relay the information in this memorandum to all of your managers and staff and continue to reiterate the importance of this policy.

Historical EPA Directives on External Communications

EPA has traditionally directed employees not to disclose information that will interfere with an investigation, settlement negotiation, or litigation. Since 1990, various policy statements and ethics advisories have addressed this issue, including EPA Ethics Advisory 90-2, and, most recently, an October 28, 2003, memorandum from Assistant Administrator J.P. Suarez, entitled, "Restrictions on Communicating with Outside Parties Regarding Enforcement Actions", which is substantially the same as this memorandum. Copies are attached for your reference.

I am hereby endorsing those past directives through this memorandum, and am providing further guidance to ensure that such information is maintained as privileged and confidential to the fullest extent allowed by law. We must also continue to work openly, fairly, and in accordance with all legal requirements while simultaneously protecting enforcement-sensitive and privileged information.

Outline of General Principles

Central to our enforcement work is the need to keep information that is not already in the public domain confidential while EPA is engaged in an enforcement matter. Although oftentimes the existence of an enforcement action is widely known, specific and sensitive enforcement information should be closely guarded. Therefore, communication with outside parties about enforcement-sensitive information should not occur.

Outside parties include, but are not limited to:

- Members of Congress or Congressional staff;
- Representatives of state or local governments that do not enter into a joint prosecution or confidentiality agreement with EPA or the federal government;
- Representatives of the media;
- Industry, trade associations, environmental groups, public interest groups; and
- Members of the general public, except when they are involved, as necessary, in a settlement involving a Supplemental Environmental Project (SEP).

Information that should not be shared with outside parties includes, but is not limited to:

- Information on the status of an investigation, negotiation, or settlement discussion, including strategy and tactics;
- Non-public information concerning pending litigation;
- Sensitive information that may affect how a case proceeds, even though the information may not be privileged;
- Non-public information that was inadvertently or otherwise disclosed by EPA or other parties;
- Information that is required to be treated as Confidential Business Information (CBI) pursuant to 40 C.F.R. Part 2; and
- Draft press and communications documents, such as press releases.

While there are many details within enforcement matters that are confidential and may not be shared with outside parties, public documents that can be shared with outside parties may include:

- Information requests to initiate investigations;
- Judicial complaints;
- Notices of violations;
- Administrative orders;
- Final settlement agreements;
- Motions and other documents filed with courts or filed in administrative proceedings; and
- Court decisions.

These types of public information can be shared with outside parties, although when communicating with outside parties about information that is already in the public domain, staff must be mindful of avoiding the release of confidential, non-public, and/or enforcement-sensitive information.

Protecting Settlement Communications

It is common practice that once settlement negotiations begin in any given enforcement matter, that the parties agree, in writing, that such communications will be held confidential between the parties to the fullest extent allowed by law. These agreements are not only for the protection of the party subject to the enforcement proceeding, but also to protect EPA if the matter is not settled and proceeds to adjudication. In addition to upsetting the unique balance of offers and counteroffers presented in negotiations, a violation of a confidentiality agreement may constitute a violation of ethical standards. Certain legal privileges, such as attorney-work-product and attorney-client communications, may also be waived inadvertently if privileged information is made public. Enforcement staff should not discuss settlement negotiations with outside parties whether or not a confidentiality agreement exists.

During the negotiation process with a specific party or within the EPA internal case development phase, it is not uncommon that legal claims are discussed and litigation risks analyzed, as they are present in any case. Such communications are highly sensitive and must be protected from disclosure. The fact that EPA and a party are in settlement negotiations may not be confidential, but should not be disclosed with respect to a case that has been referred to the Department of Justice (DOJ) without prior consultation with DOJ. The details of exchange of offers, counteroffers, and other settlement dynamics are confidential and must not be disclosed to outside parties. In particular, discussions on the remedy being sought in settlement should be confined to the settlement room where only EPA and other government personnel involved in the enforcement matter and the opposing party are present. Discussions with outside parties relating to the remedy necessary to settle a given case are inappropriate and should not occur.

Communications with Congress

As to Congressional inquiries on pending enforcement matters, Members of Congress and Congressional staff should be handled in the same way as any other outside party when enforcement information is requested. This has consistently been EPA's policy for many years, and I reiterate it again today. While outside parties may contact Congress on legislative, policy, and statutory implementation issues, it is inappropriate for Congress to mediate, participate, or in any way influence the enforcement process against a specific individual or company. Congress is not a party in enforcement actions and should not be privy to settlement exchanges on the appropriate remedy required to settle an enforcement matter, penalty demands, and other case-specific matters. The details of exchange of offers, counteroffers, and other settlement dynamics are confidential and must not be disclosed to outside parties.

If you receive a request from a Member of Congress or Congressional staff, please refer that person to EPA's Office of Congressional and Intergovernmental Relations or the regional Congressional Liaisons. DOJ should be notified and consulted with respect to any communications with Congress regarding an ongoing judicial action or a referred case, and may be present at any meetings with Congressional representatives concerning any such case. Please keep in mind that it is never appropriate to have a Member of Congress or Congressional staff present during settlement negotiations, and any such request must be denied.

Conclusion

Enforcement of the nation's environmental laws is an important component of EPA's mission to protect public health and the environment. Development and the progression of an enforcement case is highly sensitive, and all EPA employees involved in or with knowledge of an enforcement matter are responsible for ensuring that the process is protected and professionally maintained. Failure to adhere to the restrictions outlined in this memorandum may result in disciplinary action. If you have any questions relating to communicating enforcement matters to outside parties, including Congress, please contact my office. If you or anyone on your staff is uncertain about what information should or should not be disclosed in a specific situation, please contact my office or your Deputy Ethics Official (DEO) so that we can evaluate the situation.

Thank you for your attention to this important policy. I look forward to continuing to work together to make sure we are doing all we can to protect our land, air, and water.

cc: Stephen L. Johnson, Administrator
Marcus C. Peacock, Deputy Administrator
Charles Ingebretson, Chief of Staff
Roger R. Martella, Jr., Designated Agency Ethics Official
Regional Counsels
Regional Enforcement Managers
Regional Enforcement Coordinators
OECA Office Directors and Deputy Office Directors

Attachments:

EPA Ethics Advisory 90-2, "Outside Communications Regarding Matters Under Investigation, in Pre-Litigation Stages, or in Litigation"
Memorandum from Assistant Administrator J.P. Suarez, dated October 28, 2003, "Restrictions on Communicating with Outside Parties Regarding Enforcement Actions"

Forwarded message -----

From: **Secretary, ACS Division of Chemical Health and Safety**

<secretary@dchas.org>

Date: Tue, Dec 17, 2013 at 5:06 AM

Subject: [SAFETY2] CSB Draft Report Proposes Overhaul of Refinery Industry Regulatory System in California

To: SAFETY2@lists.asu.edu

In Wake of Chevron 2012 Pipe Rupture and Fire in Bay Area Q and Urges Adoption of the Safety Case Regime to Prevent Major Chemical Accidents

Richmond, California, December 16, 2013 - In a draft report released to the public today, the U.S. Chemical Safety Board (CSB) proposes recommendations for substantial changes to the way refineries are regulated in California. Entitled "Regulatory Report: Chevron Richmond Refinery Pipe Rupture and Fire," the CSB draft calls on California to replace the current patchwork of largely reactive and activity-based regulations with a more rigorous, performance-based regulatory regime - similar to those successfully adopted overseas in regions such as the United Kingdom, Norway, and Australia - known as the "safety case" system.

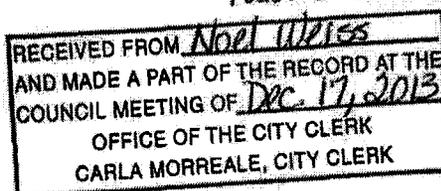
LINK TO REPORT: <http://www.idevmail.net/link.aspx?l=3&d=86&mid=414620&m=1280>

The draft report is the second part of three in the CSB's investigation of the August 2012 process fire in the crude unit at the Chevron refinery in Richmond, California. That fire endangered 19 workers and sent more than 15,000 residents to the hospital for medical attention.

CSB Chairperson Dr. Rafael Moure-Eraso said, "After exhaustively analyzing the facts, the CSB investigation team found many ways that major refinery accidents like the Chevron fire could be made less likely by improving regulations. Refinery safety rules need to focus on driving down risk to the lowest practicable level, rather than completing required paperwork. Companies, workers, and communities will all benefit from a rigorous system like the safety case. I believe California could serve as a model for the nation by adopting this system. We applaud the work of the Governor's Interagency Task Force for their proactive approach and highly positive recommendations to protect worker and public safety in California. I have great confidence that California will embrace the recommendations in our draft report and carry them forward to implement policy change."

The draft report is available at www.csb.gov for public comment until Friday, January 3, 2014. Comments should be sent to chevroncomments@csb.gov. All comments received will be reviewed and published on the CSB website.

Public Comments



As detailed in the CSB draft report, the safety case regime requires companies to demonstrate to refinery industry regulators - through a written "safety case report" - how major hazards are to be controlled and risks reduced to "as low as reasonably practicable," or ALARP. The CSB report notes that the safety case is more than a written document; rather, it represents a fundamental change by shifting the responsibility for continuous reductions in major accident risks from regulators to the company.

To ensure that a facility's safety goals and programs are accomplished, a safety case report generated by the company is rigorously reviewed, audited, and enforced by highly trained regulatory inspectors, whose technical training and experience are on par with the personnel employed by the companies they oversee, the draft report says.

The draft report - which is expected to be considered for formal adoption by the Board at a public meeting at 6:30 p.m. on January 15, 2014, at Richmond City Hall - follows the CSB's first, interim report on the accident, which was approved by the Board and released in April 2013. That report found that Chevron repeatedly failed over a ten-year period to apply inherently safer design principles and upgrade piping in its crude oil processing unit, which was extremely corroded and ultimately ruptured on August 6, 2012. The interim report identified missed opportunities on the part of Chevron to apply inherently safer piping design through the use of more corrosion-resistant metal alloys. The interim report also found a failure by Chevron to identify and evaluate damage mechanism hazards, which if acted upon, would likely have identified the possibility of a catastrophic sulfidation corrosion-related piping failure. There are currently no federal or state regulatory requirements to apply these important preventative measures. The investigation team concluded that enhanced regulatory oversight with greater worker involvement and public participation are needed to improve petroleum refinery safety.

The draft CSB Chevron Regulatory report released today states there is a considerable problem with significant and deadly incidents at petroleum refineries over the last decade. In 2012 alone, the CSB tracked 125 significant process safety incidents at U.S. petroleum refineries. Seventeen of these took place in California. The draft report also notes that the U.S. has experienced financial losses from refinery incidents that are at least three times that of industry counterparts in other countries, citing insurance industry statistics.

The existing California system of regulation can be significantly improved, the report concludes. Since 2010, the CSB has examined the extent to which a safety case regime would improve regulatory compliance and better prevent major accidents, both onshore and offshore. The safety case regime, which originated in Europe, requires high hazard facilities to demonstrate, to the satisfaction of a

competent regulator, that they are able to operate safely, in conformance with the latest safety standards, and at the lowest practicable risk levels. The report illustrates that under a safety case approach, demonstrating control of major hazards is a pre-condition for a refinery to operate.

Dr. Rafael Moure-Eraso said, "**In contrast to the safety case, the current regulatory system for process safety is largely reactive, at both the state and federal level; companies have a default right to operate, and are subject to penalties when accidents occur or their activities otherwise draw negative attention from regulators.** In the case of the Chevron refinery fire, **the reactive system** of regulation simply did not work to prevent what was ultimately a preventable accident."

Don Holmstrom, Director of the CSB's Western Regional Office, which is conducting the Chevron investigation, said, "**The Process Safety Management [PSM] standard, the EPA's Risk Management Program, and California's system do not work consistently to prevent industrial process accidents. What is lacking, and what the safety case regime requires, is an adaptable, rigorously inspected, goal-setting approach, aimed at continuously reducing risks to "as low as reasonably practicable - known in the industry as ALARP."**

The OSHA PSM standard is a set of requirements for facilities to identify, prevent or mitigate major chemical releases and catastrophic accidents. The current PSM standard requires companies to implement 14 elements to control the hazards from processing chemicals - such as hazard analysis, management of change, and worker training programs.

Only two of these 14 elements contain goal-based requirements - Process Hazard Analysis and Mechanical Integrity. Companies are able to comply with the other twelve elements by simply conducting highly specified activities, such as a "management of change" review. The current PSM standard does not require refineries to reduce their risks to a specific level, and companies are not required to submit their safety programs to regulators for review.

A 2007 CSB report on an explosion at a BP refinery in Texas found that only a handful of comprehensive process safety compliance inspections were occurring at thousands of refineries and chemical plants covered by the PSM standard across the U.S. Federal OSHA instituted an expanded refinery inspection National Emphasis Program following the explosion in Texas City, but that program was subsequently dropped due to lack of resources.

The CSB draft regulatory report contains an extensive analysis comparing actions required by Chevron under the OSHA PSM standard over the years and actions that would have been required had Chevron operated under a safety case regulatory

regime. For example, Chevron employees recommended implementing the inherently safer approach of upgrading piping materials to prevent sulfidation corrosion through PSM activities. However, the CSB draft report found that the California process safety regulations do not require that these preventative measures be implemented. Prior to the fire, Chevron had repeatedly failed to implement the proposed recommendations; using inherently safer approaches, on the other hand, is required under the safety case. The CSB found that had Chevron implemented these recommendations, the incident could have been prevented.

Other examples in the report detail how a safety case would have required Chevron to conduct root-cause investigations, including an evaluation and incorporation of inherent safety and implementation of safety recommendations that more broadly address safety system performance. Effective implementation of the safety case requires strong workforce involvement, proactive inspections and enforcement by a well-resourced regulator, as well as incorporation of best practice performance standard requirements.

The draft report notes that promulgation of new standards by OSHA requires about seven years, and that process has made few - if any - changes to its process safety rules in more than two decades. The report contrasts this ineffectual system for updating federal safety regulations through rulemaking with the greater adaptability of the safety case regime. Under a safety case system, changing safety standards, new technologies, and findings from accident investigations are required to be incorporated by facilities.

"In the last decade," the draft report states, "the CSB has made a number of process-safety related recommendations to OSHA and the EPA in its investigation reports and studies (e.g. Motiva, BP Texas City, and Reactive Hazards). However, none of these important regulatory recommendations have been implemented, and there have been no substantive changes made to the PSM or RMP regulations to improve the prevention of major accidents."

In contrast, regulators in countries such as the UK and Norway are able to more quickly implement appropriate safety improvements. Available studies summarized in the report illustrate that the safety case continues to be effective. For example, data from Norway and the UK show a reduction in hydrocarbon releases offshore under the safety case regime. The draft report concludes that "Independent studies of the safety case in the UK have identified improvements to safety performance from the safety case regulatory regime and support of the safety case by major oil companies."

Chairperson Moure-Eraso said, "**The safety case is being increasingly adopted around the world, and the U.S. safety system has fallen behind.** Workers, the public and the industry itself would benefit greatly from the enhanced advantages of this more adaptable and effective approach to regulation. Other regimes have long since

recognized the need for increased participation by workers and their representatives, transparency of information and the use of key process safety indicators to ensure the system works to prevent major accidents."

Subject to a vote by the board, the draft report would recommend that California "Develop and implement a step-by-step plan to establish a more rigorous safety management regulatory framework for petroleum refineries in the state of California based on the principles of the "safety case" framework in use in regulatory regimes such as those in the UK, Australia, and Norway." The recommendation urges specific steps to accomplish this, including ensuring that workers are formally involved in the development of a safety case approach. The report also urges California to work with industry in gathering refinery safety indicator data to be shared with the public.

CSB Investigator Amanda Johnson said, "We believe our draft report provides a definitive examination of the advantages of the safety case system, one that would not only benefit California but the U.S. as well."

Ms. Johnson continued, "We have reviewed the literature, studied systems in place overseas, and held hearings to gather data and opinions. Some critics of the system fear it would lead to self regulation; by the industry; however, the safety case regime requires highly qualified regulators, whose technical abilities and experience match those of the technical staff at refineries. And it provides the regulator with the authority to accept or reject the safety case report to ensure that the employer has demonstrated that effective safeguards are in place."

The CSB is an independent federal agency charged with investigating serious chemical accidents. The agency's board members are appointed by the president and confirmed by the Senate. CSB investigations look into all aspects of chemical accidents, including physical causes such as equipment failure as well as inadequacies in regulations, industry standards, and safety management systems.

The Board does not issue citations or fines but does make safety recommendations to plants, industry organizations, labor groups, and regulatory agencies such as OSHA and EPA. Visit our website, www.csb.gov
<http://www.idevmail.net/link.aspx?l=4&d=86&mid=414620&m=1280>

For more information, contact Communications Manager Hillary Cohen, cell 202-446-8094 or Sandy Gilmour, Public Affairs, cell 202-251-5496.

This e-mail is from the SAFETY2@asu.edu list.
Archives of list discussions can be found at <http://lists.asu.edu/archives/safety2.html>

Kit Fox

From: Janet Gunter <arriane5@aol.com>
Sent: Friday, January 03, 2014 2:44 PM
To: chevroncomments@csb.gov
Cc: lisa.pinto@mail.house.gov; maurice_lyles@boxer.senate.gov;
elise.swanson@mail.house.gov; michael_davies@feinstein.senate.gov;
helmlinger.andrew@epa.gov; wesling.mary@epamail.epa.gov; Kit Fox; rgb251@berkeley.edu; carl.southwell@gmail.com; lpryor@usc.edu
Subject: PLEASE ADD REMARKS BELOW COMMISSIONER MOURE-ERASO LETTER to Chevron Report as official comments. Thank you.

Dear Mr. Moure-Eraso,

Please accept my thanks to you and the CSB for intervention on the issues related to safety regarding hazardous facilities. As you may or may not know, our homeowners have long been fighting the presence of a massive butane and propane gas storage facility located a mere 1,000 feet from neighborhoods and schools in San Pedro (near the Port of LA). We were elated to find your comments regarding more proactive safety measures...but, find that the term "practicable level" (see below).....leaves a great deal of legal wiggle room for hazardous operations. In a heart beat, the LPG facility that we are dealing with was introduced in 1972 during the Arab-Israeli oil crisis by President Nixon's close friend and campaign supporter, RJ Munzer CEO of "Petrolane LPG". There was great emphasis placed on broad based future use of these gasses as a means to off set oil as an energy source. The facility was expedited through a deficient EIR and permitting process and awarded an "emergency exemption" from LA City Fire Regulations. The tank facility was built in the Earthquake Rupture Zone of the Palos Verdes Fault (mag. 7.3) in tanks built to a seismic sub-standard of 5.5 to 6.0. Obviously, the future expectation of butane and propane uses were never met. The Petrolane facility went bankrupt in the 1980's and was picked up by UGI/Amerigas and more recently was sold to its current operators, Rancho LPG LLC./ Plains All American Pipeline. The extremely hazardous transfer of these butane and propane gasses by rail and truck are a daily occurrence. There have been two rail accidents within 7 years. Miraculously, neither of them ruptured the rail car. The great predicted California earthquake has not occurred yet either. However, it is only a matter of time. The blasts and "cascading failure event" potential from this facility and its operations far exceed any recent disasters that we have witnessed. We drastically need the assistance of all agencies that have authority over these types of facilities. The "wiggle room" afforded by less restrictive language should be eliminated. The safety of our people should be the greater concern, not the well being of such hazardous operations. We look to you and the CSB to be the leaders in assuring a stronger, wiser and more protective policy of public safety.

Thank you again,
Janet Schaaf-Gunter
Member: San Pedro Peninsula Homeowners United, Inc.

PLEASE ADD THE FOLLOWING TO ABOVE COMMENTS REGARDING THE CHEVRON ACTION

To All Agencies and Officials Responsible For Public Safety:

In addition to this letter, I would like to express a strong sense of outrage at the lack of attention paid to so called "Grandfathered" facilities as they relate to common sense public safety policy. As with the Rancho LPG facility in San Pedro, CA, it has been acknowledged by multiple City, State and

Federal officials that the huge LPG facility is of extreme concern. Yet, for over 40 years now the facility has been allowed to exist without ever engaging in any independent comprehensive risk analysis to establish that level of risk. The "hands off" attitude regarding this facility has been attributed to government's unwillingness to stand up to industry completely frozen in their fear of a lawsuit. To hell with the lives of those being threatened! The typical answer by government across the board has been that the facility is "grandfathered in" and is in "legal compliance". One has to wonder how any coherent mind can make that statement in light of the fact that the existing facility does NOT comply with existing distance requirements.... was exempted from LA City Fire regulations when built...and maintains a seismic sub-standard while being located in an earthquake rupture zone with a magnitude of potential that far exceeds tank durability! There are many, many questions about how rationale minds can ignore the extreme risk presented by this facility. None of which could ever be answered in any reasonable or responsible way.

While we respectfully recognize that there are MANY hazardous and ultra hazardous facilities that exist now threatening members of the public, we underscore this one because of it's prime location for concern. As a facility so close to the economic hub of the State of California, the Ports of LA and Long Beach, this facility makes a choice target for terrorism. The Ports of LA and Long Beach rank #'s 3 and 5 on a known list of terrorism targets identified after 9/11. Abutting this facility is a major Conoco Phillips refinery, while across the street is the Naval Fuel Depot storing huge volumes of jet fuel and propellants. A "cascading failure event" at this Rancho LPG facility has the potential to cause an unimaginable inferno, decimate both ports and cause death and destruction to the densely populated Harbor communities representing many thousands. The potentials of disaster caused by earthquake, tsunami, antiquated infrastructure and human error are all very real for this facility as well.

It is incumbent upon all responsible agencies to identify the current deficiencies associated with **all** hazardous facilities, new and "grandfathered", and to begin the process of prioritizing public safety rather than bowing to the agenda of the powerful Oil and Energy Industry. As we have witnessed multiple times this year alone, there are major voids in their system of public protection that have simply been accepted. Any and all further losses must be prevented! It is time for government to grow a backbone and protect its people and its own assets... rather than the assets and profits of industry!

Janet Schaaf-Gunter

From: **Secretary, ACS Division of Chemical Health and Safety** <secretary@dchas.org>

Date: Tue, Dec 17, 2013 at 5:06 AM

Subject: [SAFETY2] CSB Draft Report Proposes Overhaul of Refinery Industry Regulatory System in California

To: SAFETY2@lists.asu.edu

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similar to those successfully adopted overseas in regions such as the United Kingdom, Norway, and Australia - known as the "safety case" system.

LINK TO REPORT: <http://www.idevmail.net/link.aspx?l=3&d=86&mid=414620&m=1280>

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For more information, contact Communications Manager Hillary Cohen, cell 202-446-8094 or Sandy Gilmour, Public Affairs, cell 202-251-5496.

Kit Fox

From: Janet Gunter <arriane5@aol.com>
Sent: Monday, January 06, 2014 10:46 AM
To: don.holmstrom@csb.gov; dan.tillema@csb.gov; Beth.Rosenberg@csb.gov;
Mark.Griffon@csb.gov; Rafael.Moure-Eraso@csb.gov;
michael_davies@feinstein.senate.gov; chateau4us@att.net; jody.james@sbcglobal.net;
Kit Fox
Subject: Fwd: IPT Article 1977....LPG TANKS MIGHT BE "ILLEGAL"These bombs still stand.....and
the beat goes on.....but, for how much longer?

-----Original Message-----

From: Janet Gunter <arriane5@aol.com>
To: lisa.pinto <lisa.pinto@mail.house.gov>
Sent: Mon, Jan 6, 2014 10:37 am
Subject: IPT Article 1977....LPG TANKS MIGHT BE "ILLEGAL"....and the beat goes on.....

<http://www.newspapers.com/clip/262779/independent/#>

Quake hazard, building permit at issue**LPG tanks might be 'illegal'**

A controversial liquefied petroleum gas (LPG) storage facility built in 1973 in San Pedro could be declared illegal and condemned, according to the Los Angeles Building and Safety Department.

If the tanks cannot be redesigned to withstand current earthquake standards, they might have to be classified as "illegal structures" and condemnation hearings started, according to John Robb, assistant chief of engineering and development.

However, Jack M. Fratt, department executive officer, said that is not a likely prospect. His agency reviews the two tanks at 2110 N. Gaffey St. The tanks can hold 26 million gallons of propane.

When they were built, a building permit was not required, but the building department is now requiring one. This is because of recent publicity about the tanks and because earthquake standards have been raised.

The tanks and related facilities are owned by Petrolane Inc. of Long Beach and cost \$9 million. The facility figures in plans by Southern California Gas Co. to import LPG to mix with natural gas to expand supplies of natural gas.

LPG is similar to natural gas, but can be easily liquefied and

stored at approximately 44 degrees below zero.

Fratt said that when the tanks were built there were differing interpretations as to whether a permit was needed. He now says that a permit should have been required.

John May, a spokesman for Petrolane, said Friday that the company is "not in agreement with the change of mind. We feel it was done right the first time." The company was told that a building permit was not necessary, but it did receive 43 other permits from public agencies.

Even so, May said, Petrolane is cooperating with the building department in seeking a permit. He maintains that the tanks are safe, even based on recent earthquake research.

The building department is currently reviewing plans submitted by Petrolane, its consultants and the designers of the tanks to determine if the tanks could withstand what is now considered the maximum earthquake possible at the site.

Besides condemnation, the city could require some redesign of the tanks or limit the amount of LPG in them, Fratt said.

The updated earthquake data

was revealed in a draft report being prepared by the staff of the State Public Utilities Commission last week. It showed that the tanks were not designed to withstand maximum quakes on the nearby Newport-Inglewood and Palos Verdes faults.

The draft does not specify damage that might occur if both tanks were damaged in a quake. However, general descriptions were presented.

"If a hazardous amount of propane were to escape," according to the draft, "two general scenarios could take place. The resulting propane-air mixture could ignite relatively soon after release or ignition could be delayed while propane vapor accumulated in the atmosphere.

"Damage from an early ignition would probably be experienced in the immediate area of the site."

If "ignition" were delayed, damage "could be inflicted over a wider area than the first scenario," according to the draft.

The tanks are on Gaffey Street across from a drive-in theater and large oil storage facilities. They also are next to the Union Oil Co. fuel storage tanks and near the Rolling Hills Highlands housing tract and Navy housing.

Clipped By:



marciesmiller
Sun, Jan 5, 2014

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Kit Fox

From: Janet Gunter <arriane5@aol.com>
Sent: Monday, January 06, 2014 10:40 PM
To: noelweiss@ca.rr.com; MrEnvirlaw@sbcglobal.net; connie@rutter.us; det310@juno.com; igornla@cox.net; dwgkaw@hotmail.com; stanley.mosler@cox.net; lpryor@usc.edu; carl.southwell@gmail.com; Kit Fox; chateau4us@att.net; lisa.pinto@mail.house.gov; maurice_yles@boxer.senate.gov; michael_davies@feinstein.senate.gov
Subject: Fwd: ASSEMBLY ACTION 1977 RE: REMOTE SITES FOR LNG SITES...(LPG IS MORE EXPLOSIVE THAN LNG)

Archived news article:

-----Original Message-----

From: Newspapers.com Member: marciesmiller <members@newspapers.com>
To: arriane5 <arriane5@aol.com>
Sent: Mon, Jan 6, 2014 10:16 pm
Subject: Come see the Spotlight I created on Newspapers.com

marciesmiller has sent you a message through Newspapers.com. Replies will go to marciesmiller@sbcglobal.net

I thought you might like to see a clipping that I created on Newspapers.com.

Click this link to go to the spotlight:
<http://www.newspapers.com/clip/264825/lng/>

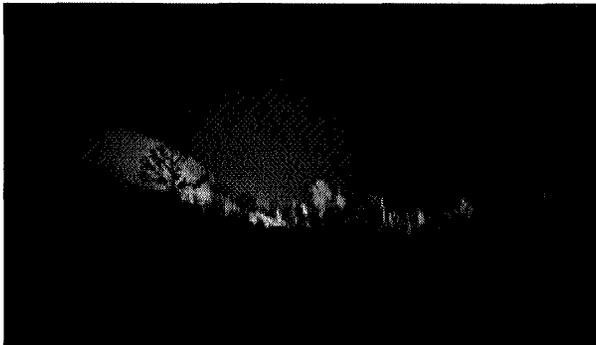
Kit Fox

From: Janet Gunter <arriane5@aol.com>
Sent: Wednesday, January 08, 2014 11:36 AM
To: lisa.pinto@mail.house.gov; maurice_lyles@boxer.senate.gov; elise.swanson@mail.house.gov; michael_davies@feinstein.senate.gov; det310@juno.com; MrEnvirlaw@sbcglobal.net; noelweiss@ca.rr.com; marciesmiller@sbcglobal.net; connie@rutter.us; burling102@aol.com; geichfamily@yahoo.com; chateau4us@att.net; Kit Fox; jhwinkler@me.com; hanslaetz@gmail.com; fmillar@erols.com; mandm8602@att.net; peter.burmeister@sbcglobal.net; dlrivera@prodigy.net; fbmjet@aol.com; igornla@cox.net; dwgkaw@hotmail.com; overbid2002@yahoo.com; wesling.mary@epamail.epa.gov; lpryor@usc.edu; rgb251@berkeley.edu; carl.southwell@gmail.com; amartinez@earthjustice.org
Cc: dan.weikel@latimes.com; ronkil@aol.com
Subject: Yet another train explosion involving LPG in Canada!!! AND.....San Pedro continues to sit on the 25 Million Gallon LPG powder keg!!

Oh...yes...and the City of LA is inviting **another** 2000 new residents at Ponte Vista's housing development to their imminent and explosive demise within 1/2 mile of Rancho LPG! Another example of the City of LA's responsible, wise and prudent planning!

world

Canadian oil train derailed, catches fire



© AP Photo: The Canadian Press, Tom Bateman

January 8, 2014; 1 hr ago | By Solarina Ho of Reuters

A freight train carrying crude oil and propane derailed and caught fire in a sparsely populated region of New Brunswick, leading to the evacuation of about two dozen nearby homes.

TORONTO - A Canadian National Railway train carrying crude oil and propane derailed and caught fire after the emergency brakes were activated, the Transportation Safety Board (TSB) of Canada said on Wednesday.

TSB spokesman John Cottreau said the derailment late on Tuesday included propane tankers, crude tankers, a locomotive and hopper cars, but said it was not clear whether the cars were full at the time of the crash.

The derailment occurred in northwest New Brunswick, Canada, the latest in a string of train accidents that have put the surging crude-by-rail business under scrutiny.

Forty-five nearby homes were evacuated after the accident at around 7 p.m. but no one was injured, local officials said. Cottreau said the derailment was caused by an "undesired brake application" - a term used to describe the application of emergency brakes in response to a problem.

"As soon as the connection between two cars is separated, is broken, trains go into emergency braking," he said, adding the agency didn't yet know why it happened in this case.

CN spokesman Mark Hallman said that reports indicated the ensuing fire had diminished considerably from last night.

The company's dangerous goods specialists had approached the site early on Wednesday, but had not yet determined which cars were on fire, he said.

CN Chief Executive Claude Mongeau told a news conference that 17 cars derailed, five carrying crude and four carrying propane.

The Canadian province issued an air quality advisory east of the derailment and asked residents to take precautions.

Broadcaster CBC reached Tim Corbin, fire chief of nearby Plaster Rock, New Brunswick, before sunrise.

"The biggest concern is the propane cars," Corbin told the CBC. "That's our biggest concern because if they happen to explode, we're looking at major damage."

CN said the train originated from Toronto and was headed to Moncton, New Brunswick, about 185 miles east of the site of the accident. The cars were headed to a number of destinations in Atlantic Canada.

Related: Senators: Put cameras on train tracks, engineers

Kit Fox

From: Janet Gunter <arriane5@aol.com>
Sent: Thursday, January 16, 2014 2:37 PM
To: lisa.pinto@mail.house.gov; elise.swanson@mail.house.gov; MrEnvirlaw@sbcglobal.net; noelweiss@ca.rr.com; Kit Fox; rob.wilcox@lacity.org; jcynthiaperry@aol.com; amartinez@earthjustice.org; det310@juno.com; connie@rutter.us; marciesmiller@sbcglobal.net; fmillar@erols.com; lonna@cope-preparedness.org; lonnacalhoun@me.com; igornla@cox.net; dwgkaw@hotmail.com; stanley.mosler@cox.net; mandm8602@att.net; peter.burmeister@sbcglobal.net; dlrivera@prodigy.net; burling102@aol.com; pmwarren@cox.net; ljonesin33@yahoo.com; fbmjet@aol.com; diananave@gmail.com; overbid2002@yahoo.com; jhwinkler@me.com; geichfamily@yahoo.com; carl.southwell@gmail.com; lpryor@usc.edu; bea@ce.berkeley.edu; michael.picker@gov.ca.gov; sally.magnani@doj.ca.gov; Brian Campbell <b.camp@cox.net>; chateau4us@att.net; don.holmstrom@csb.gov; dan.tillema@csb.gov; Rafael.Moure-Eraso@csb.gov; Beth.Rosenberg@csb.gov; Mark.Griffon@csb.gov; blumenfeld.jared@epa.gov; helmlinger.andrew@epa.gov; jody.james@sbcglobal.net
Subject: This Wall St. Journal article from yesterday CONFIRMS that what is making crude oil EXPLODE in rail accidents is the additive of LPG!!!! BUTANE!!!
Attachments: rancho rail accident photo.jpg

So, a small amount of BUTANE apparently goes a very LONG way....now...just imagine how far 25 MILLION GALLONS OF IT WILL GO..or should I say BLOW?!!

Attached find the photo of a collision with a Rancho LPG rail car on March 8, 2012 at the base of Gaffey St. and Westmont as the children were getting out of school within 1200 feet away! "Miraculously" the rail car did not rupture! How long do residents leave this incredible risk in lady luck's hands? And WHY IS THE CITY OF LA INTRODUCING 750 NEW HOMES WITHIN 1/2 MILE OF THIS ULTRA HAZARDOUS FACILITY????!!!!

<http://online.wsj.com/news/articles/SB10001424052702303819704579320971969135440?KEYWORDS=cities+grapple+with+rail&mg=reno64-wsj&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2FSB10001424052702303819704579320971969135440.html%3FKEYWORDS%3Dcities%2Bgrapple%2Bwith%2BBrail>

Kit Fox

From: Janet Gunter <arriane5@aol.com>
Sent: Tuesday, January 21, 2014 12:15 PM
To: Lisa.Pinto@mail.house.gov; Elise.Swanson@mail.house.gov; michael.picker@gov.ca.gov; rgb251@berkeley.edu; lpryor@usc.edu; carl.southwell@gmail.com; MrEnvirlaw@sbcglobal.net; det310@juno.com; noelweiss@ca.rr.com; connie@rutter.us; jacob.haik@lacity.org; jynthiaperry@aol.com; rob.wilcox@lacity.org; michael_davies@feinstein.senate.gov; maurice_lyles@boxer.senate.gov; kyle_chapman@boxer.senate.gov; laura_schiller@boxer.senate.gov; wesling.mary@epamail.epa.gov; helmlinger.andrew@epa.gov; blumenfeld.jared@epa.gov; jnmarquez@prodigy.net; sally.magnani@doj.ca.gov; brian.hembacher@doj.ca.gov; Susan Brooks <Subrooks08@gmail.com>; Brian Campbell <b.camp@cox.net>; Jim Knight <knightjim33@gmail.com>; Jerry Duhovic; niki.tennant@asm.ca.gov; jennifer.zivkovic@sen.ca.gov; jennifer.lucchesi@slc.ca.gov; apadilla@coastal.ca.gov; don.holmstrom@csb.gov; dan.tillema@csb.gov; Beth.Rosenberg@csb.gov; Rafael.Moure-Eraso@csb.gov; Mark.Griffon@csb.gov; STsumura@elsegundo.org; gknatz@portla.org; jody.james@sbcglobal.net; marciesmiller@sbcglobal.net; bonbon90731@gmail.com; richard.vladovic@lausd.net; igornla@cox.net; dwgkaw@hotmail.com; lhermanpg@cox.net; pjwrome@yahoo.com; katiw@pacbell.net; jwebb@usc.edu; c.jjkondon@earthlink.net; rcraemer@aol.com; goarlene@cox.net; burling102@aol.com; pmwarren@cox.net; fbmjet@aol.com; ksmith@klct.com; diananave@gmail.com; overbid2002@yahoo.com; carriescoveville@yahoo.com; guillermovillagran@sbcglobal.net; mandm8602@att.net; dlrivera@prodigy.net; peter.burmeister@sbcglobal.net; roamerbill@yahoo.com; Zenponee@aol.com; tdramsay@gmail.com; maltbielong@aol.com; Betwixt1@yahoo.com; seinhorn@prodtrans.com; rueski1@cox.net; adcanizales@yahoo.com; lljonesin33@yahoo.com; owsqueen@yahoo.com; john@nrcwater.com; d.pettit@nrdc.org; bill.orton@sen.ca.gov; rkim@lacbos.org; horsefam1@q.com; litaesq@aol.com
Cc: Maier.Brent@epa.gov; chateau4us@att.net; board@nwsanpedro.org; Kit Fox; INBrooksSusan@mail.house.gov; Carolyn Lehr
Subject: Re: Update on EPA Enforcement Action and Rancho Tanks

Lisa-

Thank you so much for this update. Glad to see that the intimidation tactic brought by Rancho LPG did not work in withholding truth from the public in the end. In light of the fact that the "negotiations" with Rancho have now already exceeded 10 months, (8 months after the May 15, 2013 date stated by EPA to take official legal action) do we have any time frame of expectation in the EPA's decision on *what* that action might be and *when* it will be initiated? I would hate for the long expected earthquake (the "big one") or other potential for disaster to take place while everyone is still "thinking" about how they are going to contend with this high risk facility. I consider this issue every bit as potentially dangerous to the population as Fukushima. (Albeit with different circumstances) It feels like the precarious nature of this situation and its magnitude for catastrophe is not being fully understood. For those of us on the doorstep of this facility, time is of the essence.

Thanks again,
Janet Gunter

-----Original Message-----

From: Pinto, Lisa <Lisa.Pinto@mail.house.gov>
To: Janet Gunter <arriane5@aol.com>; Swanson, Elise <Elise.Swanson@mail.house.gov>; michael.picker <michael.picker@gov.ca.gov>; rgb251 <rgb251@berkeley.edu>; lpryor <lpryor@usc.edu>; carl.southwell <carl.southwell@gmail.com>; MrEnvirlaw <MrEnvirlaw@sbcglobal.net>; det310 <det310@juno.com>; noelweiss <noelweiss@ca.rr.com>; connie <connie@rutter.us>; jacob.haik <jacob.haik@lacity.org>; jynthiaperry

<jcynthiaperry@aol.com>; rob.wilcox <rob.wilcox@lacity.org>; michael_davies <michael_davies@feinstein.senate.gov>; maurice_lyles <maurice_lyles@boxer.senate.gov>; kyle_chapman <kyle_chapman@boxer.senate.org>; laura_schiller <laura_schiller@boxer.senate.gov>; wesling.mary <wesling.mary@epamail.epa.gov>; helmlinger.andrew <helmlinger.andrew@epa.gov>; blumenfeld.jared <blumenfeld.jared@epa.gov>; jnmarquez <jnmarquez@prodigy.net>; sally.magnani <sally.magnani@doj.ca.gov>; brian.hembacher <brian.hembacher@doj.ca.gov>; subrooks08 <subrooks08@gmail.com>; b.camp <b.camp@cox.net>; knightjim33 <knightjim33@gmail.com>; jerry.duhovic <jerry.duhovic@rpv.com>; niki.tennant <niki.tennant@asm.ca.gov>; jennifer.zivkovic <jennifer.zivkovic@sen.ca.gov>; jennifer.lucchesi <jennifer.lucchesi@slc.ca.gov>; apadilla <apadilla@coastal.ca.gov>; don.holmstrom <don.holmstrom@csb.gov>; dan.tillema <dan.tillema@csb.gov>; Beth.Rosenberg <Beth.Rosenberg@csb.gov>; Rafael.Moure-Eraso <Rafael.Moure-Eraso@csb.gov>; Mark.Griffon <Mark.Griffon@csb.gov>; STsumura <STsumura@elsegundo.org>; gkntatz <gkntatz@portla.org>; jody.james <jody.james@sbcglobal.net>; marciesmiller <marciesmiller@sbcglobal.net>; bonbon90731 <bonbon90731@gmail.com>; richard.vladovic <richard.vladovic@lausd.net>; igornla <igornla@cox.net>; dwgkaw <dwgkaw@hotmail.com>; lhermanpg <lhermanpg@cox.net>; pjwrome <pjwrome@yahoo.com>; katiyw <katiyw@pacbell.net>; jwebb <jwebb@usc.edu>; c.jjkondon <c.jjkondon@earthlink.net>; rcraemer <rcraemer@aol.com>; goarlene <goarlene@cox.net>; burling102 <burling102@aol.com>; pmwarren <pmwarren@cox.net>; fbmjet <fbmjet@aol.com>; ksmith <ksmith@klct.com>; diananave <diananave@gmail.com>; overbid2002 <overbid2002@yahoo.com>; carriescville <carriescville@yahoo.com>; guillermovillagran <guillermovillagran@sbcglobal.net>; mandm8602 <mandm8602@att.net>; dlrivera <dlrivera@prodigy.net>; peter.burmeister <peter.burmeister@sbcglobal.net>; roamerbill <roamerbill@yahoo.com>; Zenponee <Zenponee@aol.com>; tdramsay <tdramsay@gmail.com>; maltbielong <maltbielong@aol.com>; Betwixt1 <Betwixt1@yahoo.com>; seinhorn <seinhorn@prodtrans.com>; rueski1 <rueski1@cox.net>; adcanizales <adcanizales@yahoo.com>; lljonesin33 <lljonesin33@yahoo.com>; owsqueen <owsqueen@yahoo.com>; john <john@nrcwater.com>; d.pettit <d.pettit@nrhc.org>; bill.orton <bill.orton@sen.ca.gov>; rkim <rkim@lacbos.org>; horsefam1 <horsefam1@q.com>; litaesq <litaesq@aol.com>

Cc: Maier, Brent <Maier.Brent@epa.gov>; chateau4us <chateau4us@att.net>; Rudy Svorinich, Jr. (rudy@svorinich.com) <rudy@svorinich.com>; Ronald Conrow (Ronald.Conrow@plainsmidstream.com) <Ronald.Conrow@plainsmidstream.com>; board <board@nwsanpedro.org>; Kit Fox (KitF@rpv.com) <KitF@rpv.com>; Brooks, Susan W. <INBrooksSusan@mail.house.gov>; Carolyn Lehr (clehr@rpv.com) <clehr@rpv.com>; Pinto, Lisa <Lisa.Pinto@mail.house.gov>

Sent: Tue, Jan 21, 2014 11:43 am

Subject: Update on EPA Enforcement Action and Rancho Tanks

Hello friends,

I am writing to share an update on the EPA Enforcement Action against Rancho Tanks.

There was some initial confusion as to the scope of what I could share. The memo above was given to me about restrictions of information that EPA staff may share. It does not apply to what Congressional staff may share. I wanted to forward the memo for your review.

In terms of the update, the action is still in enforcement settlement negotiations with Rancho.

As you know, there are one of three outcomes that will take place:

1. EPA will take no action. This is very unlikely given the Show Cause letter we are all familiar with.
2. Second, a settlement is another option. If the parties can agree on the disputed items, an administrative order or consent will be entered.
3. Finally, the US Department of Justice could file a complaint against Rancho on behalf of the EPA.

EPA has informed me that is a high priority for them and they are hopeful it is nearing the end.

I want to thank the NW San Pedro Neighborhood Council again for allowing me the opportunity to visit with them and share an update on the Rancho Tanks.

As always, please don't hesitate to reach out to discuss this or any other issue of interest.

Lisa

Lisa Pinto
District Director
Congressman Henry A. Waxman

Kit Fox

From: Marcie Miller <marciesmiller@sbcglobal.net>
Sent: Tuesday, January 21, 2014 1:05 PM
To: Pinto, Lisa
Cc: Janet Gunter; Swanson, Elise; michael.picker@gov.ca.gov; rgb251@berkeley.edu; lpryor@usc.edu; carl.southwell@gmail.com; MrEnvirlaw@sbcglobal.net; det310@juno.com; noelweiss@ca.rr.com; connie@rutter.us; jacob.haik@lacity.org; jynthiaperry@aol.com; rob.wilcox@lacity.org; michael_davies@feinstein.senate.gov; maurice_yles@boxer.senate.gov; kyle_chapman@boxer.senate.gov; laura_schiller@boxer.senate.gov; wesling.mary@epamail.epa.gov; helmlinger.andrew@epa.gov; blumenfeld.jared@epa.gov; jnmarquez@prodigy.net; sally.magnani@doj.ca.gov; brian.hembacher@doj.ca.gov; Susan Brooks <Subrooks08@gmail.com>; Brian Campbell <b.camp@cox.net>; Jim Knight <knightjim33@gmail.com>; Jerry Duhovic; niki.tennant@asm.ca.gov; jennifer.zivkovic@sen.ca.gov; jennifer.lucchesi@slc.ca.gov; apadilla@coastal.ca.gov; don.holmstrom@csb.gov; dan.tillema@csb.gov; Beth.Rosenberg@csb.gov; Rafael.Moure-Eraso@csb.gov; Mark.Griffon@csb.gov; STsumura@elsegundo.org; gknatz@portla.org; jody.james@sbcglobal.net; bonbon90731@gmail.com; richard.vladovic@lausd.net; igornla@cox.net; dwgkaw@hotmail.com; lhermanpg@cox.net; pjwrome@yahoo.com; katyw@pacbell.net; jwebb@usc.edu; c.jjkondon@earthlink.net; rcraemer@aol.com; goarlene@cox.net; burling102@aol.com; pmwarren@cox.net; fbmjet@aol.com; ksmith@klct.com; diananave@gmail.com; overbid2002@yahoo.com; carriescoveville@yahoo.com; guillermovillagran@sbcglobal.net; mandm8602@att.net; dlrivera@prodigy.net; peter.burmeister@sbcglobal.net; roamerbill@yahoo.com; Zenponee@aol.com; tdramsay@gmail.com; maltbielong@aol.com; Betwixt1@yahoo.com; seinhorn@prodtrans.com; rueski1@cox.net; adcanizales@yahoo.com; lljonesin33@yahoo.com; owsqueen@yahoo.com; john@nrcwater.com; d.pettit@nrdc.org; bill.orton@sen.ca.gov; rkim@lacbos.org; horsefam1@q.com; litaesq@aol.com; Maier, Brent; chateau4us@att.net; Rudy Svorinich, Jr. (rudy@svorinich.com); Ronald Conrow (Ronald.Conrow@plainsmidstream.com); board@nwsanpedro.org; Kit Fox; Brooks, Susan W.; Carolyn Lehr; Pinto, Lisa
Subject: Re: Update on EPA Enforcement Action and Rancho Tanks

Dear Lisa,

Thank you for clarifying EPA disclosure restriction policy. As I was not at the NW Neighborhood Council meeting, it is unclear whether any information about the Rancho LPG, LLC/EPA negotiation was disclosed. I will contact my colleagues who were at that meeting to fill me in on what happened. I am currently out of town.

What I would like to stress here is how constructive this open dialogue about Rancho has become since Congressman Waxman called for a hearing into the unacceptable, unmanageable, unconscionable risks posed by 26 million gallons of LPG and Butane located inappropriately close to Wilmington, San Pedro, Rancho Palos Verdes, Harbor Gateway communities and port facilities of LA and Long Beach.

Congressman Waxman and his constituents are lucky to have such a bright and decent representative such as yourself, dialoguing here, for example, with 85 plus interested parties copied herewith. The history of silence from our elected politicians and government agencies - including agencies deliberately created to protect citizens from environmental, transportation, pipeline, rail, chemical, work and infrastructure calamity - enabled oil and chemical industries to enrich themselves by publicizing risks to disadvantaged communities. The result

of decades of poor oversight is now spilling (literally) into every street, rail track, and waterway through which deadly chemicals pass by.

I also applaud President Obama for sending, by Executive Order, EPA, DHS, OSHA, and other chemical safety oversight agency representatives across this country to "listening sessions." A half dozen of us spoke to the many complicated, troubling Rancho-related issues.

We have four decades of documents detailing the history of what is now called Rancho LPG, LLC. The astonishing story the sum total of these documents tell - in their own words - is as fascinating as "All The President's Men," and as sickening as the inevitable Daiichi Fukushima catastrophe. We are in the process of getting them published and would welcome any assistance your office or any of the 86 recipients might offer. In 2014, we need all the facts open to public scrutiny.

Respectfully,

Marcie Miller
Researcher
(310) 483-3767 .

Sent from my iPhone

On Jan 21, 2014, at 11:43 AM, "Pinto, Lisa" <Lisa.Pinto@mail.house.gov> wrote:

Hello friends,

I am writing to share an update on the EPA Enforcement Action against Rancho Tanks.

There was some initial confusion as to the scope of what I could share. The memo above was given to me about restrictions of information that EPA staff may share. It does not apply to what Congressional staff may share. I wanted to forward the memo for your review.

In terms of the update, the action is still in enforcement settlement negotiations with Rancho.

As you know, there are one of three outcomes that will take place:

1. EPA will take no action. This is very unlikely given the Show Cause letter we are all familiar with.
2. Second, a settlement is another option. If the parties can agree on the disputed items, an administrative order or consent will be entered.
3. Finally, the US Department of Justice could file a complaint against Rancho on behalf of the EPA.

EPA has informed me that this is a high priority for them and they are hopeful it is nearing the end.

I want to thank the NW San Pedro Neighborhood Council again for allowing me the opportunity to visit with them and share an update on the Rancho Tanks.

As always, please don't hesitate to reach out to discuss this or any other issue of interest.

Lisa

Lisa Pinto
District Director
Congressman Henry A. Waxman

323/651-1040

<EPA Memo on Restriction of Information.pdf>

Kit Fox

From: Noel Weiss <noelweiss@ca.rr.com>
Sent: Tuesday, January 21, 2014 6:48 PM
To: Pinto, Lisa; Janet Gunter; Swanson, Elise; michael.picker@gov.ca.gov; rgb251@berkeley.edu; lprior@usc.edu; carl.southwell@gmail.com; MrEnvirlaw@sbcglobal.net; det310@juno.com; connie@rutter.us; jacob.haik@lacity.org; jcynthiaperry@aol.com; rob.wilcox@lacity.org; michael_davies@feinstein.senate.gov; maurice_lyles@boxer.senate.gov; kyle_chapman@boxer.senate.gov; laura_schiller@boxer.senate.gov; wesling.mary@epamail.epa.gov; helmlinger.andrew@epa.gov; blumenfeld.jared@epa.gov; jnmarquez@prodigy.net; sally.magnani@doj.ca.gov; brian.hembacher@doj.ca.gov; Susan Brooks <Subrooks08@gmail.com>; Brian Campbell <b.camp@cox.net>; Jim Knight <knightjim33@gmail.com>; Jerry Duhovic; niki.tennant@asm.ca.gov; jennifer.zivkovic@sen.ca.gov; jennifer.lucchesi@slc.ca.gov; apadilla@coastal.ca.gov; don.holmstrom@csb.gov; dan.tillema@csb.gov; Beth.Rosenberg@csb.gov; Rafael.Moure-Eraso@csb.gov; Mark.Griffon@csb.gov; STsumura@elsegundo.org; gkntatz@portla.org; jody.james@sbcglobal.net; marciesmiller@sbcglobal.net; bonbon90731@gmail.com; richard.vladovic@lausd.net; igornla@cox.net; dwgkaw@hotmail.com; lhermanpg@cox.net; pjwrome@yahoo.com; katyw@pacbell.net; jwebb@usc.edu; c.jjkondon@earthlink.net; rcraemer@aol.com; goarlene@cox.net; burling102@aol.com; pmwarren@cox.net; fbmjet@aol.com; ksmith@klct.com; diananave@gmail.com; overbid2002@yahoo.com; carriescville@yahoo.com; guillermovillagran@sbcglobal.net; mandm8602@att.net; ddrivera@prodigy.net; peter.burmeister@sbcglobal.net; roamerbill@yahoo.com; Zenponee@aol.com; tdramsay@gmail.com; maltbielong@aol.com; Betwixt1@yahoo.com; seinhorn@prodtrans.com; rueski1@cox.net; adcanizales@yahoo.com; lljonesin33@yahoo.com; owsqueen@yahoo.com; john@nrcwater.com; d.pettit@nrhc.org; bill.orton@sen.ca.gov; rkim@lacbos.org; horsefam1@q.com; litaesq@aol.com

Cc: Maier, Brent; chateau4us@att.net; rudy@svorinich.com; Ronald.Conrow@plainsmidstream.com; board@nwsanpedro.org; Kit Fox; Brooks, Susan W.; Carolyn Lehr; Pinto, Lisa

Subject: Re: Update on EPA Enforcement Action and Rancho Tanks

Attachments: Sample of Rent Check to Port on Rancho Lease of Rail Spur.pdf; Page 103 (Rancho 'equity' owned by Plains LPG Services, LP) and.pdf; Alberta (Criminal) Charges Plains Midstream For 2011 Oil Spill - Global News - April, 2013.pdf; Calgary Herald Report - July 5, 2013 On Impact of Sanctions Against Plains Mainstream Canada Over Alberta Oil Spills.pdf; Full Blown Audit Ordered Against Plains Midstream Canada - Global News - July 4, 2013.pdf; Alberta Regulator Slams Plains Midstream Over Massive 2011 Oil Pipeline Spill - Global News (Feb. 26, 2013).pdf

Lisa:

Not one word. . . none about the need for adequate insurance coverage, demonstrated financial capability to respond in damages, or the imposition of a strict liability or modified strict liability standard. . .

Not one word about openness and transparency. . . or about the use of the imposition of fees to pay local fire personnel to more aggressively inspect above ground storage facilities. . . or provide a federal fund of insurance paid for by the industry and/or the Ports to compensate individuals who are injured or whose property has been damaged as a result of 'incidents' emanating from facilities who deal in hazardous chemical storage or manufacture (the analogue here would be the FDIC where Congress decided during the depression to 'insure' deposits so people would keep their money in the banks. . the insurance premiums paid by the banks created the fund used to provide the insurance. . . that fact, backed by an aggressive regulatory regime of inspection coupled with the ability to shut-down bad banks was a more 'business

friendly resolution because it created a quasi-private-public insurance fund (and insurance is the way to spread and 'privatize' the risk of loss instead of socializing the loss on the people the way things are currently). . . . We can do that here Lisa. . . . Isn't this why we elect people to Congress?

Not one word about giving citizens legal standing to challenge the safety of these facilities in a nuisance abatement litigation (the 'comparable' would be the right of citizens under the Fair Debt Collection Practices Act);

Not one word about the appointment of an inspector general, equipped with subpoena power and empowered to enforce the rights of the people under the law;

Not one word about giving whistle-blower protection to individuals who blow the whistle on facilities which are unsafe. . . .

Not one word about local initiatives (like those of Contra Costa County praised by Senator Boxer at her June, 2013 hearing) which, should be adopted by the City of Los Angeles. A competent risk management ordinance like the Contra-Costa Ordinance was offered to the government officials of West Virginia last year. If adopted it would have obviated and possibly removed the risk posed by Freedom Industries as tons of hazardous chemicals ended up leaking from its above-ground storage tank into the drinking water of 9 West Va. counties. . here is a quote from an article of today from 'IndyStar' (on line publication): <http://www.indystar.com/story/opinion/readers/national/2014/01/21/too-much-silence-over-west-virginia-chemical-spill/4719987/>

"Coal and chemicals are two of West Virginia's biggest and most powerful industries, together employing about 90,000 residents.

Officials there have powerful economic incentives to see this spill as an aberration. But there is every reason to believe similar episodes can and will happen again."

This is reflective of what is wrong in Washington. . . Well-meaning (I assume) bureaucrats which presume to regulate. . . then when they regulate, we get obfuscation instead of clarity; egregious detail instead of relative simplicity; offering to the crony-corporate capitalists who go out of their way to socialize the risks and privatize the gains the ability to defer, deflect, delay, and defeat the ability of local citizens to protect themselves from bureaucratic malpractice and regulatory capture. . . . So far, all we have witnessed with this EPA 'investigation' of Rancho is delay. . . . Rancho should be made to cease all operations until the matter is resolved. . . We need some firm deadlines here Lisa. . . If the bureaucrats in the EPA or the Justice Department are not up to the task, they need to be called out by Congressman Waxman. . . .

Meanwhile our representatives in Washington pretend to want to solve the problem by professing and promoting a 'study' the issues. . such as what is described in this attachment. . . .

There are no provisions for Congressional hearings; no provisions for how this is going to be followed-up. . . . and no provisions for meaningful Congressional Action. . . .

Again Lisa, our issue with Rancho does have national implications because the overriding question here is:

"What happens if Rancho is wrong? We can add the question:

"What happens if the regulators are captured by those whom they regulate; or are otherwise incompetent or negligent?"

We know that Rancho is not only incapable of responding in damages should an accident occur. We know this based on the FERC filings, the intra-company debt of \$49 Million which renders Rancho insolvent as an independent going concern; the fact that Rancho can't even pay a meager rent out of its own bank account, but uses a bank account maintained by Plains Marketing, LP from a Wells Fargo Bank Branch in an Ohio town with 10,000 people. Rancho also continues to violate the Tidelands Trust law by using Tidelands Trust assets (the rail spur and the railroad tracks fronting Gaffey Street) for non-Tidelands Trust purposes. Rancho is also taking undue advantage of the Harbor's refusal to meet its responsibilities and intelligently manage the risk posed by the Rancho facility. Rancho promised the City Council of Rancho Palos Verdes (the City of Los Angeles never bothered to publicly ask) that it would provide evidence of its insurance to the City Attorney, and then decided to renege on its promise. . . This is obviously a company who cannot keep its word.

The problem with the kind of 'studies' to which your email refers is that in the absence of a firmly spoken commitment (and I mean 'firm'), the people are lulled into a false sense of security; Rancho is given a further incentive to stay buried under its rock while it continues to deflect away from the main issue cited above with false assurances of safety which it refuses

to back-up with substantive, open-debate (either as to its financial condition or as to the operational risks. . . which we are prepared to debate four-square. . . with Professor Robert Bea on our side. . . . an extremely qualified, experienced, and credentialed individual with whom Rancho refuses to engage. . . . It is time for Rancho to emerge beneath its rock and publicly engage Professor Bea on the issue of operational risk. . . It is a debate Rancho will lose which is why Rancho refuses to engage. . . . That fact alone should give the EPA and Congressman Waxman pause. . . . What is Rancho afraid of? If its position is sound, then it should welcome an open debate and discussion instead of deflect off of a public debate of its operations.

Rancho's RMP (Risk Management Program) is not available to the public Lisa. . . . Rancho and the EPA are using the pending investigation now 10 months old to prevent this document from being released. . . which should be made available regardless of the investigation. . . I would feel better if the EPA would release this document. . . It would demonstrate that the EPA is truly on our side and not on Rancho's side. We have Inergy's RMP (showing a 3.36 mile blast radius for a comparable facility to that of Rancho (22 million gallons of butane stored in above-ground tanks – one of which is a 15 million gallon tank; another a 5 million gallon tank). . . We have access to Conoco's RMP (showing a 2 mile blast radius based on the largest butane tank it has. . . 5 million gallons). . . . But not Rancho's. . . . This is not right, and using the excuse of an investigation is sophistry. . . This only serves Rancho's interests and undermines the broader public interest. . . . Given Inergy's estimates and Conoco's estimates, Rancho's estimates look not just silly, but borderline absurd. . . . EPA should know this. . . and EPA needs to be able to explain to the public how it could possibly reconcile the difference when the Inergy butane storage facility is comparable to Rancho's. . . Ditto Conoco. . . .

We know this Rancho facility is run out of Canada by Plains Mainstream Canada. . . We know also that this Canadian operation is responsible for the largest pipeline spill in the last 36 years in Quebec. . . We know also that this same Canadian operation is being criminally prosecuted by the Quebec authorities; we know that the Canadian authorities are pretty much fed-up with Plains Mainstream Canada and its continuing obfuscation, deflection, and excuses for its incompetence and negligence. . . to the point that a full audit of Plains operations was ordered. . . (See attached news reports from last year). Of course, that Canadian audit (can the EPA 'audit' Rancho Lisa? Where is that alternative listed here among these various items?) will only be against the Plains' pipelines operations. . . We need openness and transparency here Lisa. . . We need some serious discussion about the core policy issue which underlies this entire matter. . . **"Who assumes the risk of loss if Rancho is wrong?"**.

As things stand now, it is the public, not Rancho. . . who has gone out of its way to render itself insolvent and financially incapable of responding in damages should an incident occur. I believe it is reckless and irresponsible for the political leaders of our country and our city to give that kind of power to this company. . . It is not entitled to that kind of trust. . . It has not earned the right to be trusted. . . and trust aside, isn't it time to practice some old-fashioned American capitalism here. . . where both the profits and the losses are privatized? This business model which has the risks being socialized on the backs of the people needs to be seriously debated. Any public official who shies away from this debate, or permits Rancho to intimidate or persuade him or her to deny the public the benefit of such a debate is breaching his or her fiduciary duties to the people. . . . On a matter of this consequence. . . where an accident could result in hundreds of millions of dollars in damages to the people. . . to say nothing of what it will do to the local economy. . . which, in turn, will seriously impair the City's and the Port's bond rating (and the City is talking about a \$3 Billion bond to repair the roads. . . if the interest rates go up because the City is acting imprudently in failing to mitigate its risks and the costs associated with those risks by passing objectively reasonable legislation designed to hold companies like Rancho responsible for their operation (isn't that the American capitalist way?). . . Ditto the Port. . . which is today committing malpractice in its management of the Tideland's Asset (the Gaffey Street railroad frontage and the rail spur). . . . which in the event of an accident leaves the City with claims against the Port. . . . and against an entity (Rancho) which is insolvent as an independent going concern. . . . again based on the FERC filings which are enclosed with this email.

Instead we are getting this bureaucratic gibberish designed to placate and pander and give the impression that something meaningful is happening when nothing meaningful is happening beyond giving the people a pat on the head. No bureaucrat is going to take serious action unless it is backed up by the political leadership. . . . it is not worth it. . . and no bureaucrat is going to be promoted for sticking his neck out. . . particularly when few, if any, of the big boys ever get prosecuted for their crimes (and here I am talking about Wall Street. . . where the Obama Administration socialized the losses on the backs of the people by bailing out Wall Street and failed to put anyone in jail for violations of the law. . . Finally JP Morgan is paying some fines. . . . and there is a list against JP Morgan which extends to 30 or more major items of malfeasance. . . but I haven't read where one JP Morgan executive has gone to jail. . . and these are serious crimes Lisa. . . . Ditto the Libor bid-rigging scandal. . . etc., etc. etc.

Respectfully Lisa, we need something more than pretense and pandering here. . . . We need some serious political leadership. . . . on all levels of government. . . and we need some aggressive EPA enforcement. . . not another 'cave' to the special (crony-corporate-capitalist) interests. . . .

Responsible companies like Conoco will not have a problem with responsible regulation. . . . It is the rogue, outlier outfits like Rancho that will continue to 'bob and weave' its way around the rules. . . . going out of its way to create and implement a business model calculated and specifically designed to socialize as much of the risk of loss on the people as possible, while privatizing the gains. . . . Then when any politician stands up to the issue, Rancho gives them a tour of the facility, tells them how safe everything is, and we are all supposed to go home believing everything is fine. . . .

This is wrong Lisa. . . It is political malpractice and a breach of fiduciary duty for politicians to play the public like this. . . . Neither Chevron, nor PG&E thought they had a problem. . . until they had a problem. . . .

None of these political leaders who stand by and do nothing when they are positioned to generate a serious debate on this issue should be able to look themselves in the mirror with a clear conscience should there be an accident at the Rancho facility. . . There is a tremendous amount that can be done. . . Finding excuses to remain silent is the wrong thing to do. . . . It is as reckless as it is irresponsible. . . .

I want to see and hear Congressman Waxman call for the implementation of measures which create a better balance so that the people do not have to assume the risks of error to the degree they currently do. This can occur with the passage of legislation on Federal, state, and local levels which will empower and encourage the local jurisdictions to implement strong safety protection measures. . . . including, if necessary, the kind of insurance protection which is demanded by this situation. . . backed by the imposition of fees to pay for aggressive fire inspection on a quarterly basis and the implementation of a competent, comprehensive risk management law which resembles the law in effect in Contra Costa County (which no responsible oil company or chemical storage operator should oppose). . . .

New York has a strict liability law. . . . Los Angeles and California should as well. . . .

When can we expect something firm and precise coming from Congressman Waxman along these lines?

Until then, I consider this kind of 'study effort' political pandering and patronization of the worst kind. . . . Congressman Waxman knows the issues Lisa. . . . They had hearings over 10 years ago on the issue of imposing insurance requirements on above-ground storage tanks. Congressman Waxman attended those hearings. Nothing was or has been done since. . . even to discuss the issue. . . This is precisely the kind of silence which Rancho loves and which harms and undermines the broader public interest. Why? Because it gives rise to false hope and gives aid and comfort to the Ranchos of the world knowing that they can hide behind the cloud of pending 'study' and 'consideration'. . . . much as Wall Street has done and continues to do. . . much to the ongoing and continuing detriment of the little guy and gal who has reposed faith in a system which, so far, has not demonstrated it is up to the task of doing the right thing for the people. . . .

It is time for an open and transparent debate. . . one which Rancho should both welcome and encourage.

In short, it is time for a turn-around Lisa. . . . not tomorrow. . . . today!

Enough delay, enough deferral. . . Enough socializing losses on the backs of the people. . . .

Let's hit this head on. . . .

The risk of loss is simply too great. . . and it should be Rancho, not the public, who should bear the brunt of any such loss. . . .

Noel
(310) 822-0239

From: Pinto, Lisa
Sent: Tuesday, January 21, 2014 4:25 PM
To: Janet Gunter ; Swanson, Elise ; michael.picker@gov.ca.gov ; rgb251@berkeley.edu ; lpryor@usc.edu ; carl.southwell@gmail.com ; MrEnvirlaw@sbcglobal.net ; det310@juno.com ; noelweiss@ca.rr.com ; connie@rutter.us ; jacob.haik@lacity.org ; jynthiaperry@aol.com ; rob.wilcox@lacity.org ; michael.davies@feinstein.senate.gov ; maurice.ilyes@boxer.senate.gov ; kyle.chapman@boxer.senate.gov ; laura.schiller@boxer.senate.gov ; wesling.mary@epamail.epa.gov ; helmlinger.andrew@epa.gov ; blumenfeld.jared@epa.gov ; jnmarquez@prodigy.net ; sally.magnani@doj.ca.gov ; brian.hembacher@doj.ca.gov ; subrooks08@gmail.com ; b.camp@cox.net ; knightjim33@gmail.com ; jerry.duhovic@rpv.com ; niki.tennant@asm.ca.gov ; jennifer.zivkovic@sen.ca.gov ; jennifer.lucchesi@slc.ca.gov ; apadilla@coastal.ca.gov ; don.holmstrom@csb.gov ; dan.tillema@csb.gov ; Beth.Rosenberg@csb.gov ; Rafael.Moure-Eraso@csb.gov ; Mark.Griffon@csb.gov ; STsumura@elsegundo.org ;

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Cc: Maier, Brent ; chateau4us@att.net ; mailto:rudy@svorinich.com ; mailto:Ronald.Conrow@plainsmidstream.com ; board@nwsanpedro.org ; mailto:KitF@rpv.com ; Brooks, Susan W. ; mailto:clehr@rpv.com ; Pinto, Lisa
Subject: Update on EPA Enforcement Action and Rancho Tanks

Dear Friends,

I also wanted to share information about where you can send public comments on Executive Order 13650, "Improving Chemical Facility Safety and Security."

Thanks again,

Lisa

Lisa Pinto
District Director
Congressman Henry A. Waxman

From: Pinto, Lisa

Sent: Tuesday, January 21, 2014 2:43 PM

To: 'Janet Gunter'; Swanson, Elise; michael.picker@gov.ca.gov; rgb251@berkeley.edu; lpryor@usc.edu; carl.southwell@gmail.com; MrEnvirlaw@sbcglobal.net; det310@juno.com; noelweiss@ca.rr.com; connie@rutter.us; jacob.haik@lacity.org; jcyntiaperry@aol.com; rob.wilcox@lacity.org; michael_davies@feinstein.senate.gov; maurice_lyles@boxer.senate.gov; kyle_chapman@boxer.senate.gov; laura_schiller@boxer.senate.gov; wesling.mary@epamail.epa.gov; helmlinger.andrew@epa.gov; blumenfeld.jared@epa.gov; jnmarquez@prodigy.net; sally.magnani@doj.ca.gov; brian.hembacher@doj.ca.gov; subrooks08@gmail.com; b.camp@cox.net; knightjim33@gmail.com; jerry.duhovic@rpv.com; niki.tennant@asm.ca.gov; jennifer.zivkovic@sen.ca.gov; jennifer.lucchesi@slc.ca.gov; apadilla@coastal.ca.gov; don.holmstrom@csb.gov; dan.tillema@csb.gov; Beth.Rosenberg@csb.gov; Rafael.Moure-Eraso@csb.gov; Mark.Griffon@csb.gov; STsumura@elsegundo.org; gknatz@portla.org; jody.james@sbcglobal.net; marciesmiller@sbcglobal.net; bonbon90731@gmail.com; richard.vladovic@lausd.net; igornla@cox.net; dwgkaw@hotmail.com; lhermanpg@cox.net; pjwrome@yahoo.com; kathyw@pacbell.net; jwebb@usc.edu; c.jjkondon@earthlink.net; rcraemer@aol.com; goarlene@cox.net; burling102@aol.com; pmwarren@cox.net; fbmjet@aol.com; ksmith@klct.com; diananave@gmail.com; overbid2002@yahoo.com; carriescoville@yahoo.com; guillermovillagran@sbcglobal.net; mandm8602@att.net; dlivera@prodigy.net; peter.burmeister@sbcglobal.net; roamerbill@yahoo.com; Zenponee@aol.com; tdramsay@gmail.com; maltbielong@aol.com; Betwixt1@yahoo.com; seinhorn@prodtrans.com; rueski1@cox.net; adcanizales@yahoo.com; lljonesin33@yahoo.com; owsqueen@yahoo.com; john@nrcwater.com; d.pettit@nrdc.org; bill.orton@sen.ca.gov; rkim@lacbos.org; horsefam1@q.com; litaesq@aol.com

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Subject: Update on EPA Enforcement Action and Rancho Tanks

Hello friends,

I am writing to share an update on the EPA Enforcement Action against Rancho Tanks.

There was some initial confusion as to the scope I what I could share. The memo above was given to me about restrictions of information that EPA staff may share. It does not apply to what Congressional staff may share. I wanted to forward the memo for your review.

In terms of the update, the action is still in enforcement settlement negotiations with Rancho.

As you know, there are one of three outcome that will take place:

1. EPA will take no action. This is very unlikely given the Show Cause letter we are all familiar with.
2. Second, a settlement is another option. If the parties can agree on the disputed items, an administrative order or consent will be entered.
3. Finally, the US Department of Justice could file a complaint against Rancho on behalf of the EPA.

EPA has informed me that is a high priority for them and they are hopeful it is nearing the end.

I want to thank the NW San Pedro Neighborhood Council again for allowing me the opportunity to visit with them and share an update on the Rancho Tanks.

As always, please don't hesitate to reach out to discuss this or any other issue of interest.

Lisa

Lisa Pinto
District Director
Congressman Henry A. Waxman
323/651-1040



This email is free from viruses and malware because [avast! Antivirus](#) protection is active.

Kit Fox

From: Janet Gunter <arriane5@aol.com>
Sent: Thursday, January 23, 2014 3:34 PM
To: lisa.pinto@mail.house.gov; MrEnvirlaw@sbcglobal.net; noelweiss@ca.rr.com; det310@juno.com; connie@rutter.us; marciesmiller@sbcglobal.net; igornla@cox.net; burling102@aol.com; pmwarren@cox.net; hanslaetz@gmail.com; elise.swanson@mail.house.gov; jcythiaperry@aol.com; rob.wilcox@lacity.org; dan.tillema@csb.gov; wesling.mary@epamail.epa.gov; don.holmstrom@csb.gov; Kit Fox; chateau4us@att.net; dwgkaw@hotmail.com; guillermovillagran@sbcglobal.net; mandm8602@att.net; bonbon90731@gmail.com; dlivera@prodigy.net; peter.burmeister@sbcglobal.net; diananave@gmail.com; overbid2002@yahoo.com; lljonesin33@yahoo.com; fbmjet@aol.com; jhwinkler@me.com; Zenponee@aol.com; rgb251@berkeley.edu; sally.magnanidag@doj.ca.gov; brian.hembacher@doj.ca.gov; maurice_lyles@boxer.senate.gov; michael_davies@feinstein.senate.gov; amartinez@earthjustice.org; jnm4ej@yahoo.com; sfetti@mpl.co.uk; john@nrcwater.com; Rafael.Moure-Eraso@csb.gov; Mark.Griffon@csb.gov; Beth.Rosenberg@csb.gov
Subject: Fwd: Latest coverage on Rancho LPG in Random Lengths.....EXCELLENT STORY.... On POINT! PLS TAKE THE TIME TO READ!

Page 2 and on

http://issuu.com/randomlengthsnews/docs/rln_01-23-14_edition

Kit Fox

From: Janet Gunter <arriane5@aol.com>
Sent: Wednesday, January 29, 2014 1:35 PM
To: det310@juno.com; MrEnvirlaw@sbcglobal.net; noelweiss@ca.rr.com; marciesmiller@sbcglobal.net; igornla@cox.net; lisa.pinto@mail.house.gov; elise.swanson@mail.house.gov; maurice_yles@boxer.senate.gov; michael_davies@feinstein.senate.gov; burling102@aol.com; pmwarren@cox.net; mandm8602@att.net; lpryor@usc.edu; carl.southwell@gmail.com; jody.james@sbcglobal.net; rgb251@berkeley.edu; dlivera@prodigy.net; dwgkaw@hotmail.com; bonbon90731@gmail.com; jcyntiaperry@aol.com; rob.wilcox@lacity.org; hanslaetz@gmail.com; Kit Fox; chateau4us@att.net; jhwinkler@me.com; peter.burmeister@sbcglobal.net; alsattler@igc.org; jennifer.lucchesi@slc.ca.gov; mark.meier@slc.ca.gov; sally.magnanidag@doj.ca.gov; brian.hembacher@doj.ca.gov; Mark.Griffon@csb.gov; Beth.Rosenberg@csb.gov; Rafael.Moure-Eraso@csb.gov; dan.tillema@csb.gov; don.holmstrom@csb.gov
Subject: NEW YORK TIMES ARTICLE BY CHEMICAL SAFETY BOARD CHAIR! EXCELLENT! WE NEED POLITICAL ACTION BEFORE RANCHO LPG BLOWS!

And...the City of LA wants to build 750 MORE homes in the shadow of these highly explosive tanks with the facility's existing antiquated infrastructure sitting in the rupture zone of the Palos Verdes Fault?? And....the Port of LA (via State Lands) is currently paying for "relocation of pipelines" servicing this privately owned company, Rancho LPG LLC...that has "no lease" at the Port, and "no adequate insurance" to cover catastrophic impacts upon surrounding areas....with PUBLIC FUNDS?! SERIOUSLY?????

See article:

http://www.nytimes.com/2014/01/29/opinion/the-next-accident-awaits.html?ref=opinion&_r=0

THE OPINION PAGES | OP-ED CONTRIBUTOR

The Next Accident Awaits

By RAFAEL MOURE-ERASO JAN. 28, 2014

WASHINGTON — THE United States is facing an industrial chemical safety crisis. The horrifying chemical spill that recently contaminated the drinking water of hundreds of thousands of people in West Virginia is the latest in a relentless series of disasters and near-misses across the country.

It is clear to me, as chairman of the independent federal agency charged with investigating industrial chemical accidents, that urgent steps are required to significantly improve the safety of the nation's chemical industry — an industry vital to our economy, yet potentially dangerous to those who live near the thousands of facilities that process or store hazardous chemicals.

Those facilities include ones like the Chevron refinery in Richmond, Calif., where aging, corroding pipes resulted in a huge fire in August 2012, and the fertilizer plant in West, Tex., where stores of ammonium nitrate exploded last year and laid waste to a large part of the town, killing more than a dozen people.

Sifting through chemical-plant rubble from catastrophic accidents year after year, our board has long called on regulators to require — and for industry to adopt — what is known as inherently safer technology. By this, we mean using safer designs, equipment and chemicals, minimizing the amounts of hazardous chemicals stored and used, and modifying and simplifying processes to make them as safe as practicable.

While there is now, at last, a strong current within industry to adopt this safer technology as a best practice, many still oppose any actual regulatory requirements, arguing they are too costly and prescriptive. We can't wait for corporations to volunteer, because the accidents continue, often with devastating consequences.

What we need is comprehensive regulatory reform. But achieving safety reforms is complicated and time-consuming. In the interim, the Environmental Protection Agency should step in and use its power under the Clean Air Act's general duty clause to compel chemical facilities to take steps to make their operations inherently safer. The law assigns owners and operators of these facilities a general duty to identify hazards, design and maintain safe facilities and minimize the consequences of leaks. The E.P.A. should follow up by adopting specific regulations to meet those goals.

Twelve years ago, the E.P.A.'s administrator, Christine Todd Whitman, proposed regulations that would have encouraged producers and users of high-risk chemicals to find safer alternatives or processes.

But her proposal stalled in the face of strong opposition from American companies, which are already required to use safer technologies and other risk reduction methods at their European operations. (Insurance data indicate that losses from refinery accidents, for instance, are at least three times lower in Europe than in the United States.) In 2012, Ms. Whitman urged the agency to use the Clean Air Act to require safer technology "before a tragedy of historic proportions occurs."

The E.P.A. said recently that it was considering such an approach. The agency's own National Environmental Justice Advisory Council has urged it to issue new rules to reduce the "danger and imminent threat" posed by chemical plants, manufacturing and transport. Across the nation, an estimated 13,000 facilities store or process chemicals in amounts hazardous enough to endanger the public, according to the E.P.A.

But that estimate understates the dimensions of the problem. For example, the West Virginia facility implicated in the recent spill, which stored chemicals used in the coal industry, would not fall under criteria used by the agency to come up with its estimate.

Consider how a requirement forcing safer practices and technologies might have prevented the three accidents I've mentioned.

The Chevron refinery would have been required to replace aging, corroded pipes with safer corrosion-resistant material that almost certainly would have prevented the rupture that endangered 19 workers caught in the initial vapor

cloud, not to mention the smoke plume that sent 15,000 Bay Area residents to hospitals. The refinery industry accident rate overall is unacceptably high.

The agricultural chemical company in West, Tex., would have used safer storage practices and safer fertilizer blends, and kept far less ammonium nitrate on site. The lives of more than a dozen firefighters and residents might have been spared, and the widespread damage to homes, schools, a nursing home and other structures would not have occurred.

And the decades-old chemical storage tank in West Virginia that leaked as much as 10,000 gallons of chemicals used in coal processing into the nearby Elk River, contaminating the water supply of some 300,000 Charleston-area residents, would have been moved and replaced by modern, anti-leak storage tanks and safer containment.

After the West, Tex., explosion, President Obama issued an executive order requiring federal agencies to review safety rules at chemical facilities. I am strongly encouraged by the White House leadership on this issue. The E.P.A. is working with other agencies to comply. But in the meantime, the agency has the authority to act now, on its own, to require inherently safer design, equipment and processes that would go a long way toward preventing more catastrophes.

Rafael Moure-Eraso is the chairman of the United States Chemical Safety Board.

A version of this op-ed appears in print on January 29, 2014, on page A23 of the New York edition with the headline: The Next Accident Awaits.

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Public Hearing

66. Hearing on updates to the Housing Element consisting of technical revisions to address the Regional Housing Needs Assessment allocation for the unincorporated areas of the County; revisions to reflect recent changes in the State Housing Element Law; updated analyses of housing needs and resources; new programs to meet the County's housing development goals; determine that the Housing Element is compatible with and supports the goals and policies of the Los Angeles County General Plan; consider and adopt the Negative Declaration (ND) together with any comments received during the public review process, find on the basis of the whole record before the Board that there is no substantial evidence that the project will have a significant effect on the environment and that the ND reflects the independent judgment and analysis of the Board. (Department of Regional Planning) (13-5369)

All Persons wishing to testify were sworn in by the Executive Officer of the Board. Connie Chung, representing the Department of Regional Planning, testified. Opportunity was given for interested persons to address the Board. Arnold Sachs, Eric Preven, Jill Shook and John Walsh addressed the Board. No correspondence was presented.

On motion of Supervisor Ridley-Thomas, seconded by Supervisor Knabe, the Board closed the public hearing and took the following actions:

- 1. Considered and adopted the Negative Declaration (ND), together with any comments received during the public review process, made a finding on the basis of the whole record before the Board that there was no substantial evidence that the project will have a significant effect on the environment; and made a finding that the ND reflects the independent judgment and analysis of the Board;**
- 2. Approved the Regional Planning Commission's recommendation as reflected in the Los Angeles County Housing Element 2014-2021, and made a determination that it is compatible with and in support of the goals and polices of the Los Angeles County General Plan; and**

3. Instructed County Counsel to finalize and submit for Board consideration a resolution adopting the Housing Element.

Ayes: 5 - Supervisor Molina, Supervisor Ridley-Thomas, Supervisor Yaroslavsky, Supervisor Antonovich and Supervisor Knabe

Attachments: [Board Letter](#)
[Video](#)
[Audio](#)

VI. MISCELLANEOUS

67. Additions to the agenda which were posted more than 72 hours in advance of the meeting, as indicated on the supplemental agenda. (12-9995)

67-A. Chief Executive Officer's recommendation: Approve the recommendation to appoint Max Huntsman to the position of Inspector General for oversight and monitoring of the Sheriff's Department at an annual salary of \$204,423. (13-5595)

Arnold Sachs, Eric Preven and David Lewis addressed the Board.

On motion of Supervisor Molina, seconded by Supervisor Knabe, this item was approved.

Ayes: 5 - Supervisor Molina, Supervisor Ridley-Thomas, Supervisor Yaroslavsky, Supervisor Antonovich and Supervisor Knabe

Attachments: [Board Letter](#)
[Memo - Appointment of Inspector General](#)
[Video](#)
[Audio](#)



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Richard J. Bruckner
Director of Planning

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

December 03, 2013

#66 OF DECEMBER 3, 2013

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

Dear Supervisors:

**HEARING ON THE LOS ANGELES COUNTY HOUSING ELEMENT, 2014-2021
(ALL SUPERVISORIAL DISTRICTS) (3-VOTES)**

SUBJECT

The proposed update to the Housing Element consists of technical revisions to address the Regional Housing Needs Assessment (RHNA) allocation for the unincorporated areas of Los Angeles County; revisions to reflect recent changes in the State Housing Element Law; updated analyses of housing needs and resources; and new programs to meet the County's housing goals, pursuant to the State Housing Element Law.

IT IS RECOMMENDED THAT THE BOARD:

1. Consider the attached negative declaration together with any comments received during the public review process, find on the basis of the whole record before the Board that there is no substantial evidence that the project will have a significant effect on the environment, find that the negative declaration reflects the independent judgment and analysis of the Board, and adopt the negative declaration; and
2. Approve and adopt by resolution, the recommendation of the Regional Planning Commission as reflected in the attached Los Angeles County Housing Element 2014-2021, and determine that it is compatible with and supportive of the goals and policies of the Los Angeles County General Plan.

IT IS RECOMMENDED THAT THE BOARD AFTER THE PUBLIC HEARING,

N/A

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The State Housing Element Law (California Government Code §§65580-65589.8) requires every local jurisdiction to prepare and regularly update its housing element, which is one of the seven mandated elements of the general plan. The purpose of the Housing Element is to analyze existing, and to plan for future housing needs for all unincorporated areas of Los Angeles County. The Housing Element must address the housing needs of all income levels and accommodate a diversity of housing types and special needs.

If the Housing Element is adopted after February 15, 2014, the County will be required to update the Housing Element in four years rather than eight. After adoption, the County is required to submit the Housing Element to the State Department of Housing and Community Development (HCD), and undergo a 90-day certification review to determine compliance with the State Housing Element Law.

Housing elements are required to be updated periodically to ensure that every local jurisdiction plans for its fair share of the regional housing need. The Southern California Association of Governments (SCAG) has determined that the regional housing need, or RHNA allocation, for the unincorporated areas of Los Angeles County is 30,145 dwelling units over the period January 1, 2014 to October 31, 2021. The RHNA, broken down by income level, is shown below.

RHNA for Unincorporated Los Angeles County, by Area Median Income (AMI)

Very Low ($\leq 50\%$ AMI*) 7,854 units

Lower ($\leq 80\%$ AMI) 4,650 units

Moderate ($\leq 120\%$ AMI) 5,060 units

Above Moderate ($>120\%$ AMI) 12,581 units

The Housing Element provides an assessment of housing needs in the unincorporated areas. For example, more than half of households are overpaying for housing in the unincorporated Los Angeles County. In addition, in 2013, the number of homeless within Los Angeles County increased to 58,423.

Housing elements ensure that local jurisdictions incentivize and encourage the production of a diversity of housing types for a variety of needs and income levels. Compliance with the State Housing Element Law provides the public and private sectors with a clear set of goals and policies to appropriately guide housing development over the next seven years. Furthermore, the State incentivizes compliance by prioritizing funding for state housing programs for local jurisdictions with certified housing elements.

Implementation of Strategic Plan Goals

This action supports the County's Strategic Plan Goal No.1, Operational Effectiveness by identifying constraints to housing for the unincorporated areas, and proposing solutions to removing them. This action also supports Goal No. 3, Integrated Services Delivery by coordinating various County departments and agencies in the delivery of housing services and resources to the unincorporated areas.

FISCAL IMPACT/FINANCING

Adoption of the Housing Element will not result in any significant new costs to the Department of Regional Planning, or other County departments and agencies. The majority of the programs

outlined in the Housing Element are ongoing programs. The implementation of the new programs will be funded by applicable County departments, including the Department of Regional Planning, through the General Fund as part of the overall work program.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

General plans must contain a housing element that sets forth goals, policies and programs for the preservation, improvement and development of housing for all income levels and special needs populations. Housing elements are required, pursuant to the State Housing Element Law, to be periodically updated to ensure that every local jurisdiction properly plans for its fair share of the regional housing need. In addition, §65583(c)(7) of the Government Code requires that a local jurisdiction's housing element describe the means by which consistency will be achieved with other general plan elements and community goals. The Housing Element is compatible with and supportive of the policies outlined in the Los Angeles County General Plan. At the time of adoption of the forthcoming General Plan Update, the County will amend the Housing Element, as needed, to demonstrate consistency and the continued ability to accommodate the RHNA under the updated General Plan Land Use Element.

The State Housing Element Law prescribes the contents of the Housing Element. The Housing Element contains the required analyses, including: a parcel specific inventory of vacant and underutilized sites; a housing needs assessment; an analysis of governmental and non-governmental constraints to housing development; and a list of programs focused on addressing the identified needs and constraints.

In addition, the State Housing Element Law requires that local governments make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element.

The County staff participated in public meetings and focus groups organized by the Community Development Commission for the Consolidated Plan Update, to discuss issues related to housing needs and resources. Participants included members of the public, non-profit and for-profit affordable housing developers, and housing advocates. The staff also reached out to key stakeholder groups, such as representatives from the building industry and fair housing advocates. Furthermore, the staff facilitated outreach through postcard mailings, an online housing survey, and announcements on social media.

Pursuant to Government Code §65585(b), the County submitted the Housing Element to the State Department of Housing and Community Development (HCD) on June 11, 2013 for the mandatory 60-day review and comment period. The County received HCD's comment letter on August 9, 2013.

The Regional Planning Commission conducted a public hearing and heard testimony from the public regarding the Housing Element on October 9, 2013. At the direction of the Regional Planning Commission, the staff incorporated a reference to State law regarding mobilehomes to the Housing Element. In addition, the staff made non-substantive changes to the Housing Element to respond to the attached comment letters, which were received subsequent to the Regional Planning Commission public hearing.

A public hearing is required pursuant to Section 22.16.200 of the County Code and §§65353-65356 of the Government Code. Required notice must be given pursuant to the procedures and requirements set forth in Section 22.60.174 of the County Code. These procedures exceed the minimum standards of §65090 of the Government Code relating to notice of public hearing.

ENVIRONMENTAL DOCUMENTATION

The staff has prepared an Initial Study and Negative Declaration for the Housing Element in compliance with the California Environmental Quality Act (CEQA) and the environmental reporting procedures of the County of Los Angeles.

The Housing Element serves as a policy guide for meeting the existing and future housing needs of all economic segments of the unincorporated areas of Los Angeles County. It analyzes adopted land use policies to ensure that the County plans for its fair share of the regional housing need. The Initial Study determined that there is no substantial evidence that the adoption of the Housing Element will have a significant effect on the physical environment, and therefore, a Negative Declaration was prepared.

A copy of the Negative Declaration was transmitted to all County libraries for public review. Public notice was published in 16 newspapers, including one Spanish language newspaper, of general circulation in the unincorporated areas of Los Angeles County, between September 6, 2013 and September 19, 2013. The public notice provided exceeded the minimum requirements pursuant to Public Resources Code Section 21092.

Based on the attached Negative Declaration, the adoption of the Housing Element will not have a significant effect on the environment.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the Housing Element will not significantly impact County services.

Should you have any questions, please contact Connie Chung in the General Plan Development and Housing Section at (213) 974-6417 or cchung@planning.lacounty.gov.

The Honorable Board of Supervisors

12/3/2013

Page 5

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard J. Bruckner". The signature is fluid and cursive, with a large loop at the end of the last name.

RICHARD J. BRUCKNER

Director

RJB:MC:CC:TE

Enclosures

c: Executive Office, Board of Supervisors
Chief Executive Office
Community Development Commission
County Counsel

Attachment 1

DEPARTMENT OF REGIONAL PLANNING

PROJECT SUMMARY

PROJECT IDENTIFICATION: Proposed update to the Housing Element of the Los Angeles County General Plan

REQUEST: Adoption of the Housing Element Update

LOCATION: Countywide (unincorporated areas)

STAFF CONTACT: Ms. Connie Chung at (213) 974-6417

RPC MEETING DATE: October 9, 2013

RPC RECOMMENDATION: Approval and recommendation to the Board to consider adoption of the Housing Element Update.

MEMBERS VOTING AYE: Commissioners Valadez, Louie, Helsley, and Pedersen

MEMBERS ABSENT: Commissioner Modugno

KEY ISSUES: The proposed update to the Housing Element consists of technical revisions to address the Regional Housing Needs Assessment (RHNA) allocation for the unincorporated areas of Los Angeles County; revisions to reflect recent changes in State Housing Element Law; updated analyses of housing needs and resources; and new programs to meet the County's housing goals, pursuant to Sections 65580-65589 of the California Government Code.

In compliance with State law, Los Angeles County is required to prepare and submit an adopted Housing Element to the State Department of Housing and Community Development (HCD) for certification. If the Housing Element is adopted after February 15, 2014, the County will be required to update the Housing Element in four years rather than eight.

If the County does not adopt a housing element, or does not receive State certification of the adopted Housing Element, the County will be out of compliance with the State Housing Element Law,

thereby resulting in the County being ineligible for State affordable housing and infrastructure funding, and vulnerable to lawsuits.

MAJOR POINTS FOR:

The proposed update to the Housing Element contains policies and programs to responsibly address the housing pressures facing Los Angeles County.

The Housing Element provides a framework for ensuring affordable and accessible housing options for residents at all income levels, as well as special needs groups.

MAJOR POINTS AGAINST:

Some of the programs included in the Housing Element are modest in their commitment to provide new housing opportunities within the next planning period.

Some of the programs included in the Housing Element will require additional staff and consultant resources.

The programs and analyses in the Housing Element are formulated in response to the RHNA allocation of projected housing need provided by the Southern California Association of Governments, as required by the State Housing Element Law. Historically, this allocation has over-estimated population and household growth in the region.

Attachment 2

**SUMMARY OF PROCEEDINGS
REGIONAL PLANNING COMMISSION**

**LOS ANGELES COUNTY HOUSING ELEMENT, 2014-2021
PROJECT NO. R2012-02607
ADVANCED PLANNING CASE NO. 201200011
ENVIRONMENTAL ASSESSMENT NO. 201200284**

October 9, 2013:

The Regional Planning Commission (“Commission”) conducted a public hearing to consider the Los Angeles County Housing Element and a negative declaration, pursuant to CEQA. Following the staff presentation, the Regional Planning Commission provided comments and asked questions on a wide range of topics, including the requirements of the State Housing Element Law, details on the implementation of specific programs, and details on outreach efforts.

In particular, the Commission asked for more information regarding the programs related to making amendments to the Zoning Code. The staff explained that the program would offer an opportunity to remove outdated language and definitions, and to ensure consistency with state laws.

The Commission also asked for more information regarding the Transit Oriented Districts (TOD) program. The staff explained that the TOD program is designed to utilize tools, such as specific plans, within a ½ mile radius of transit stations in the unincorporated areas.

With respect to programs that address CEQA streamlining, the Commission indicated their support for programs that can address environmental impacts in advance in key areas, such as TODs, to streamline future development.

The Commission also asked where more effort can be put into implementing the objectives and goals of the Housing Element. The staff responded that the programs section in the Housing Element provides objectives and funding sources, and identifies responsible agencies. Furthermore, the State Housing Element Law requires that all programs in the Housing Element have a beneficial impact within the planning period, 2014-2021.

Finally, the Commission commented that the Housing Element would benefit from more outreach and comments from developers. The staff shared that the County did reach out to developers and representatives from the building industry.

Three members of the public provided testimony. They emphasized the importance of maintaining community character and the scale of development within established neighborhoods. Also, they expressed concern over the allowance of mobilehomes within single family neighborhoods. The staff provided clarification that the intent of the programs to consider changes to the Zoning Code, including provisions related to mobilehomes, are to be consistent with State law.

The Commission closed the public hearing, instructed the staff to work with County Counsel to add clarification to the Housing Element regarding mobilehomes and the State law, approved the Housing Element, and recommended that the Board of Supervisors hold a public hearing to consider the Housing Element and Negative Declaration for adoption.

Attachment 3

DEPARTMENT OF TRANSPORTATION
DISTRICT 7, TRANSPORTATION PLANNING
IGR/CEQA BRANCH
100 MAIN STREET, MS # 16
LOS ANGELES, CA 90012-3606
PHONE: (213) 897-9140
FAX: (213) 897-1337



*Flex your power!
Be energy efficient!*

October 9, 2013

Mr. Troy Evangelho
Los Angeles County Department of Regional Planning
320 West Temple Street, Room 1356
Los Angeles, CA 90012

IGR/CEQA No. 130919AL-IS/ND
County of Los Angeles 2014-2021 Housing Element
Vic. Countywide
SCH # 2013091033

Dear Mr. Evangelho:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. The proposed project is the update of the County's Housing Element for the 2014-2021 planning period. The Housing Element is to ensure the availability of housing for all income and socio-economic groups, including those who are disabled, homeless, or low-income status. After reviewing the Housing Element report and IS/ND, we have the following comment.

In Caltrans' Guide for the Preparation of Traffic Impact Studies, December 2002, "The level of service (LOS) for operating State highway facilities is based upon measures of effectiveness (MOEs). Caltrans endeavors to maintain a target LOS at the transition between LOS 'C' and LOS 'D' on State highway facilities. If an existing State highway facility is operating at less than the appropriate target LOS, the existing MOE should be maintained." Many of the existing freeway's Level of Service (LOS) are operating at LOS "F" during the peak hours. When additional traffic trips are assigned to those freeways, existing LOS should be maintained.

On page 7 of the Housing Element report, the Regional Housing Needs Allocation (RHNA) indicates that between 2014 and 2021, the County will need to accommodate the development of 30,145 residential units. Those housing units will generate traffic traveling on the State facilities. Caltrans would like to remind you that this traffic volume may contribute significant cumulative traffic trips. Decision makers should be made aware of cumulative traffic impact that may occur on the State facilities from future residential development.

Caltrans understands that mitigating cumulative traffic impacts might present challenges. However, we request that the County support establishment of a funding process for eventual mitigation of the regional cumulative traffic impacts from medium to large sized developments. Funding of this kind might include countywide or areawide traffic impacts fees with neighboring cities and be based on assessments of individual projects. Such funding would help maintain economic vitality and regional livability. A county plan for mitigation of cumulative impacts could include plans for phased transportation improvements.

Mr. Troy Evangelho
October 9, 2013
Page 2 of 2

Caltrans would like to remind you that when updating the Housing Element, the County's Mobility Element in the General Plan should be updated as well to reflect the consistency of allowing 30,145 residential units. This is referenced in Government Code Section 65583 (c)(7), "The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals." Per conversation between Ms. Connie Chung (LA County) and Mr. Alan Lin (Caltrans) on 10/3/13, the County is in the process to update the Mobility Element. The County and Caltrans both agree to meet in the near future to discuss potential cumulative traffic impact and mitigations on the freeways.

Caltrans would like to establish a solid relationship to assist the County to alleviate County's cumulative traffic impact on the freeways as much as possible since the most of the existing Level of Service on the freeways are operating at LOS "F". We would like to explore all traffic congestion solutions on freeways including the coordination for the County to work with other agencies. We are looking forward in working with you.

If you have any questions, please feel free to contact Alan Lin the project coordinator at (213) 897-8391 and refer to IGR/CEQA No. 130919AL-ND

Sincerely,



DIANNA WATSON
IGR/CEQA Branch Chief

cc: Scott Morgan, State Clearinghouse



GAIL FARBER, Director

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100
<http://dpw.lacounty.gov>

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

October 9, 2013

IN REPLY PLEASE

REFER TO FILE: LD-2

TO: Jon Sanabria
Advance Planning Division
Department of Regional Planning

Attention Connie Chung

FROM: Anthony Nyivih
for Land Development Division
Department of Public Works

DRAFT HOUSING ELEMENT 2014-2021 (DHE)

Thank you for the opportunity to review the Draft Housing Element 2014-2021 that was submitted to Public Works for review on April 23, 2013. The purpose of the DHE is to serve as a policy guide to address the comprehensive housing needs in the unincorporated County areas. The primary focus of the DHE is to ensure descent, safe, sanitary, and affordable housing for current and future residents of the unincorporated County areas including those with special needs. The DHE determines the existing and projected housing needs; establishes goals, policies, and implementation programs that guide decision-making on housing needs; implements actions that encourage the private sector to build housing; and ensures that governmental policies do not serve as an unnecessary constraint to housing production.

Public Works reviewed the DHE and has the following general comments:

For specific revisions, additions, or deletions of wording directly from the project document the specific section, subsection, and/or item along with the page number is first referenced then the excerpt from the document is copied within quotations using the following nomenclature:

Deletions are represented by a ~~strikethrough~~.

Additions are represented by *italics* along with an underline.

Revisions are represented by a combination of the above.

Water Resources

1. Infrastructure Constraints, Water, second paragraph, page 114: Modify the second paragraph as follows:

"A major issue in the unincorporated areas is that most of the groundwater basins never fully recharge because the rate of water extraction is much higher than the rate of replenishment. This issue is particularly severe in south Los Angeles County and the Antelope Valley, where urbanization continues to increase impervious surfaces. Another significant problem is that local groundwater basins are increasingly impacted by man-made and naturally occurring contaminants that infiltrate the groundwater basins and degrade the potable water supplies."

2. Infrastructure Constraints, Water, third paragraph, page 114: Modify the third paragraph as follows:

"Most of the imported water utilized in the unincorporated areas is provided by state water contractors, such as Metropolitan Water District (MWD), Castaic Lake Water Agency, Antelope Valley-East Kern Water Agency, Littlerock Creek Irrigation District, and Palmdale Water District. These agencies have exclusive rights to purchase surface water conveyed through the State Water Project (SWP) aqueduct from the California State Department of Water Resources. The reliability of imported water is subject to global climatic changes, environmental restrictions and annual snow and precipitation levels in the watersheds that are tributary to the Sacramento-San Joaquin Delta (Delta). The SWP pumps water from the Delta, and environmental conditions within the Delta can have a significant effect on water deliveries to the SWP. To manage existing and future water supplies, the County coordinates with state agencies and local water districts to operate a complex system that conserves, manages, and efficiently utilizes existing water resources. Some examples of water conservation efforts are the expansion and use of recycled water, development of water banking systems, extensive rebate programs, and source water protection projects and programs. Additionally, in 2010, the County was involved in the planning process to develop the Integrated Regional Water Management Plans (IRWMP) for the Los Angeles Basin, the Antelope Valley, and the Upper Santa Clara River."

For questions regarding the water resources comments, please contact Greg Even of Public Works' Waterworks Division at (626) 300-3331 or geven@dpw.lacounty.gov.

Development Services

1. Program 7, Second Unit Ordinance, page 23: Delete the Department of Public Works as one of the responsible agencies in the table.
2. Impacts Fees, fourth paragraph, page 100: Include "Westside" as a Bridge and Major Thoroughfare District for the Santa Clarita area.

For questions regarding development services comment Nos. 1 and 2, please contact Ruben Cruz of Public Works' Land Development Division at (626) 458-4910 or rcruz@dpw.lacounty.gov.

3. National Pollutant Discharge Elimination System (NPDES) Requirements, second paragraph, page 112: Replace the second paragraph with the following:

"A residential development equal to one acre or greater of disturbed area and adding more than 10,000 square feet of impervious area must comply with special NPDES requirements. Complying with these NPDES requirements increases the costs of creating plans and implementing mitigation measures in residential development."

For questions regarding development services comment No. 3, please contact Ariel Palomares of Public Works' Building and Safety Division at (626) 458-3152 or apalormar@dpw.lacounty.gov.

If you have any other questions or require additional information, please contact Ruben Cruz at (626) 458-4910 or rcruz@dpw.lacounty.gov.

RC:tb

P:\dpub\SUBPCHECK\Plan Check\Zon Permits\Ord.-Adv. Plan VDV LA House Element, 2014-21\ORD -House Element 2014-21 Draft Ord.REV.docx

Attachment 4

**RESOLUTION
LOS ANGELES COUNTY REGIONAL PLANNING COMMISSION
PROJECT NO. R2012
ADVANCE PLANNING CASE NO. 201200011**

WHEREAS, the Regional Planning Commission of the County of Los Angeles has conducted a public hearing on the matter of the update to the Los Angeles County Housing Element, pursuant to the State Housing Element Law (§§65580-65589.8 of the California Government Code), on October 9, 2013; and

WHEREAS, the Commission finds as follows:

1. The Board of Supervisors of the County of Los Angeles adopted the General Plan, pursuant to California Government Code §65300, on November 25, 1980;
2. The General Plan must contain a Housing Element that sets forth goals, policies and programs for the preservation, improvement and development of housing for all income groups and persons with disabilities;
3. The Housing Element is required to be updated periodically to, among other things, evaluate the appropriateness and effectiveness of a jurisdiction's housing goals, objectives and policies with respect to that jurisdiction providing for their fair share of regional housing need, as required by California Government Code §65588;
4. The Southern California Association of Governments (SCAG) undertakes a Regional Housing Need Assessment ("RHNA") and determined that the County's fair share of the regional housing need for the period January 1, 2014 – October 31, 2021 is as follows: 7,854 units for very low income households; 4650 units for lower income households; 5,060 units for moderate income households; and 12,581 units for above moderate income households;
5. A local jurisdiction's inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels, pursuant to §65583.2 of the California Government Code;
6. The County identified the following in the Adequate Sites Inventory to demonstrate its ability to accommodate the RHNA over the 2014-2021 planning period:

- Vacant and underutilized residential sites in the urban unincorporated areas;
 - Vacant and underutilized commercial sites in the urban unincorporated areas where mixed use is permitted; and
 - Remaining capacity of specific plan areas.
7. The County provided a comprehensive analysis, using a combination of technical analyses and the application of local knowledge, to provide a sound basis for realistic capacity. The analyses include adjusting site capacity based on additional standards and/or incentives provided by geographically-specific zoning overlays; and the redevelopment potential of the underutilized sites;
 8. The Housing Element concludes that the County unincorporated areas have the appropriate and realistic capacity to meet the RHNA through a variety of housing types and to address the housing needs of special needs groups;
 9. California Government Code §65583 requires that a housing element include a program that sets forth a schedule of actions during the planning period that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and other means;
 10. The Housing Element includes a list of programs to increase the supply of housing, preserve existing housing stock and provide equal access to housing opportunities;
 11. California Government Code §65583 further requires that a housing element include an analysis of population and employment trends, existing and projected housing needs and other housing analyses;
 12. The Housing Element includes a housing needs assessment, analysis of governmental and nongovernmental constraints to housing development in the unincorporated areas and other analyses required by California Government Code §65583;
 13. Upon adoption, the County will submit the Housing Element to the State Department of Housing and Community Development (HCD) for review and certification;

14. The Housing Element must be certified to comply with the State Housing Element Law;
15. The State prioritizes funding for State housing programs for local jurisdictions with certified housing elements;
16. California Government Code §65583(c)(7) requires that a local jurisdiction's housing element describe the means by which consistency will be achieved with other general plan elements and community goals;
17. The Housing Element is consistent with the purpose, intent and provisions of the General Plan;
18. At the time of adoption of the forthcoming General Plan Update, the County will amend the Housing Element, as needed, to demonstrate the continued ability to accommodate the RHNA;
19. An Initial Study was prepared for the Housing Element in compliance with the California Environmental Quality Act (CEQA), which demonstrates that there is no substantial evidence that the amendments will have a significant effect on the environment. Based on the Initial Study, the Department of Regional Planning has prepared a related Negative Declaration for this project;
20. Upon notice duly provided pursuant to California Government Code §65090 and 22.64.174 of the Los Angeles County Code, the Regional Planning Commission held public hearing on the Housing Element on October 9, 2013;
21. Pursuant to California Government Code §65585(b), the County submitted a draft of the Housing Element to HCD on June 11, 2013 for the mandatory 60-day review and comment period;
22. The County received HCD's comment letter dated August 9, 2013; and
23. The County incorporated the State's comments, as well as public comments, into the Housing Element.

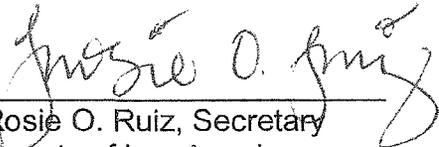
WHEREAS, the Regional Planning Commission, having considered all materials, file information, the negative declaration, all State and public comments and reports from the staff, does make the following findings:

1. The Negative Declaration dated September 3, 2013 was prepared, reviewed, and circulated pursuant to the provisions of the County Code and the California Environmental Quality Act (CEQA) and reflects the independent judgment and analysis of the County; and, the project has no potential to cause significant impacts to the environment;
2. The proposed revision to the Los Angeles County General Plan Housing Element sets forth policies and programs intended to guide the development of housing, including housing for special needs populations and households of all income levels, within the unincorporated areas of Los Angeles County; and
3. There exists within unincorporated Los Angeles County an affordable housing crisis, as well as constraints to the further development of affordable housing related to regulatory, physical, and financial issues. The adoption of the Housing Element is intended to reduce or eliminate these constraints to the greatest extent feasible, while protecting and promoting the public health, safety and welfare.

NOW, THEREFORE BE IT RESOLVED, that the Regional Planning Commission recommends to the Board of Supervisors as follows:

1. That the Board hold a public hearing to consider the Housing Element, 2014-2021, pursuant to §§65580-65589.8 of the California Government Code;
2. That the Board find that the Negative Declaration reflects the independent judgment and analysis of the County, adopt the Negative Declaration and find that the Housing Element, 2014-2021 will not have a significant effect on the environment; and
3. That the Board adopt the Housing Element, 2014-2021, and determine that the Housing Element is compatible with and supports the goals and policies of the Los Angeles County General Plan.

I hereby certify that the foregoing resolution was adopted by a majority of the voting members of the Regional Planning Commission in the County of Los Angeles on October 9, 2013.

By 

Rosie O. Ruiz, Secretary
County of Los Angeles
Regional Planning Commission

APPROVED AS TO FORM:
OFFICE OF THE COUNTY COUNSEL

By 

Jill M. Jones
Principal Deputy County Counsel
Property Division