

**CALENDAR ITEM**

**63**

A: Statewide

10/29/10  
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S: Statewide

**CONSIDER STAFF RECOMMENDATIONS FOR  
OIL SPILL POLLUTION PREVENTION AND OFFSHORE  
OIL OPERATIONS DERIVED FROM THE AUGUST 20, 2010  
"REPORT TO COMMISSIONERS - PRODUCTION AND MARINE TERMINAL  
OPERATIONS IN STATE WATERS AND THE CALIFORNIA STATE LANDS  
COMMISSION'S OIL POLLUTION PREVENTION PROGRAMS  
PROTECTING STATE WATERS," AND THE MEMO FROM LIEUTENANT  
GOVERNOR MALDONADO, "APPLYING LESSONS LEARNED FROM THE  
DEEPWATER HORIZON OIL SPILL."**

**PARTY:**

California State Lands Commission

**BACKGROUND:**

At its June 28, 2010, California State Lands Commission (CSLC) meeting, the Chair of the Commission asked CSLC staff to review oil production operations in State waters in light of the events occurring in the Gulf of Mexico relating to the British Petroleum (BP) Deepwater Horizon oil spill, and to report its findings to the Commission at its August meeting. The Chair also asked CSLC staff to report on the CSLC's oil spill prevention activities and programs for oil production operations and marine oil terminal operations in State waters. CSLC staff prepared and submitted the report (Report), Exhibit A attached hereto, including a presentation of the Report's content to the Commissioners at the CSLC meeting on August 20, 2010, held in Sacramento, California.

The Report, and presentation, discussed CSLC's safety, pollution prevention, and resource management programs, and described individual Division responsibilities to carry out and implement those programs. The Report concluded with a discussion of the current and future challenges to the program.

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It also included recommendations staff is proposing to amend current regulations, policies and practices regarding oil operations in order to further strengthen CSLC's ability to protect the state's sovereign lands and its waters and enhance the current CSLC programs.

Additionally, Lieutenant Governor Maldonado gave a presentation on his personal fact finding visit to the Gulf spill and lessons learned during that visit, and asked staff to investigate the federal recommendation regarding third-party certification of blowout prevention equipment (BOPE) and drilling operations. The Lieutenant Governor also proposed that the Commission recommend to the Administrator of the Office of Oil Spill Prevention and Response (OSPR) that the standard for oil spill response planning for an uncontrolled release be expanded from the current 7 day period to 30 days. Lieutenant Governor Maldonado also delivered this request in a written communication to the other Commissioners (Exhibit B, attached hereto), and subsequently executed, as Acting Governor, an Executive Order (E.O. S-16-10) regarding these matters. Staff has analyzed the federal recommendations regarding third-party certification of the BOPE and drilling programs, as well as the current requirements for third-party structural reviews in light of California operations. A staff report regarding third-party certification is attached as Exhibit C, and concludes that such certification would be beneficial for providing enhanced oil spill prevention capabilities involving offshore wells in state waters. Staff believes that the most expeditious way to implement the third-party certification for BOPE and new drilling programs is by requesting the lessees to voluntarily implement the certifications. Our lessees have voluntarily adopted Commission proposals in the past, and have indicated that they are amenable to this request.

Staff is also preparing an update to the Commission's current regulations and this could be added under the Commission's general authority to promulgate regulations, and under the authority of the 1991 Lempert-Keene-Seastrand Oil Spill Act. Legislation has been introduced in Congress to require certification in both state and federal waters. To become law the current bills will have to be enacted prior to the close of the current session in January. Staff is following the current federal legislation regarding these matters, and will wait to update the current regulations pending the outcome of that Federal legislation which may include state water drilling.

If any problems arise with the voluntary acceptance of the third-party inspection proposals, or updating of the Commission regulations, staff recommends seeking legislation to enact a new state statute to require this practice. Legislation is also necessary to implement certain other recommendations discussed in this report.

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Staff was also asked to elicit public comment on the Report, and to present concise recommendations for the Commission to consider supporting. The Report was posted on the Commission's website and staff notified its lessees, industry, and the public for review and comment. No comments were received.

The staff reconsidered the recommendations in the Report, and reviewed the proposal for third-party certification. Based on the Report, the discussion of the Commissioners, the request of the Lieutenant Governor, and its own investigation, staff has derived the following recommendations for Commission consideration.

**STAFF RECOMMENDATIONS:**

1. Direct the Mineral Resources Management Division (MRMD) staff to obtain agreements from state lessees to submit third-party certification of all drilling programs, and operation of the BOPE on lessee platforms. Third-party certification would apply to all new wells submitted to CSLC for drilling approval. Certification would be performed by a registered professional engineer with applicable drilling engineering experience. These third-party certifications would be submitted to CSLC with a copy to the Division of Oil, Gas, and Geothermal Resources.
2. Send a letter on behalf of the Commission to the Administrator of the Office of Oil Spill Prevention and Response recommending revising their planning standards from the current 7 day response period to 30 days.
3. Direct MRMD staff to update oil and gas drilling and production regulations.
4. Fill at least four of the six engineering vacancies currently existing in MRMD to ensure continued program efficiency if feasible, given the current budget constraints or seek additional funding in order to do so.
5. Resubmit the reclassification of Mineral Resources Inspector series to include Inspector Specialist positions and seek adjustment of pay scale.
6. Support the creation of two (2) engineer inspector positions in Marine Facilities Division (MFD) to oversee Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS).
7. Support the creation of a Systems Safety Audit Group in MFD (as currently operating in MRMD) for Marine Terminals.

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8. Support the enhancement of Environmental Impact Report (EIR) data and information gathering for modeling trajectory studies, and to make the studies available in Geographic Information Systems (GIS) format to ensure compatibility with other State information.
9. Support legislation to:
  - Give CSLC cease and desist authority over oil and gas and marine terminal operations in State waters;
  - Increase the Oil Spill Prevention Administration Fund (OSPAF) per barrel fee to cover current and increased costs of CSLC and Office of Spill Prevention and Response (OSPR) prevention and response programs including the above recommended staff increases;
  - Allow changes in bonding and insurance requirements for oil and gas leases as needs and conditions change, or review and adjust every five (5) years at a minimum, without requiring a lease amendment, including sufficient bonding for complete platform removal.
  - If necessary, due to failure of any lessee to voluntarily provide third-party certification for BOPE and/or drilling programs, or problems with updating Commission regulations requiring such certification, seek legislation to enact a new State statute to require third-party certification of BOPE and all drilling, workover, and abandonment plans and projects.

**OTHER PERTINENT INFORMATION:**

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of CEQA because it is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060(c)(3) and 15378.

**EXHIBITS:**

- A. Report to Commissioners on the Oil Production and Marine Terminal Operations in State Waters and the California State Lands Commission's Oil Spill Prevention Programs Protecting State Waters
- B. Lieutenant Governor Maldonado's memo to the Commission, Governor and Commission Staff
- C. Staff's report on third-party certification

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**PERMIT STREAMLINING ACT DEADLINE:**

N/A.

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDINGS:**

1. Find that the activity is not subject to the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15060(c)(3) because the activity is not a project as defined by Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15378.

**AUTHORIZATION:**

Direct the Staff to take the following actions:

1. Obtain agreements from state lessees to submit third-party certification of all drilling programs, and operation of the BOPE on lessee platforms. Third-party certification would apply to all new wells submitted to CSLC for drilling approval. Certification would be performed by a registered professional engineer with applicable drilling engineering experience. These third-party certifications would be submitted to CSLC with a copy to the Division of Oil, Gas, and Geothermal Resources.
2. Send a letter on behalf of the Commission to the Administrator of the Office of Oil Spill Prevention and Response recommending revising their planning standards from the current 7 day response period to 30 days.
3. Update oil and gas drilling and production regulations.
4. Fill at least four of the six engineering vacancies currently existing in MRMD to ensure continued program efficiency if feasible, given the current budget constraints or seek additional funding in order to do so.
5. Resubmit the reclassification of Mineral Resources Inspector series to include Inspector Specialist positions and seek adjustment of pay scale.

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6. Seek the creation of two (2) engineer inspector positions in Marine Facilities Division (MFD) to oversee MOTEMS.
7. Seek the creation of a Systems Safety Audit Group in MFD (as currently operating in MRMD) for Marine Terminals.
8. Pursue the enhancement of EIR data and information gathering for modeling trajectory studies, and to make the studies available in GIS format to ensure compatibility with other State information.
9. Seek legislation to:
  - Give CSLC cease and desist authority over oil and gas and marine terminal operations in State waters;
  - Increase the OSPAF per barrel fee to cover current and increased costs of CSLC and OSPR prevention and response programs including the above recommended staff increases;
  - Allow changes in bonding and insurance requirements for oil and gas leases as needs and conditions change, or review and adjust every five (5) years at a minimum, without requiring a lease amendment, including sufficient bonding for complete platform removal.
  - If necessary, due to failure of any lessee to voluntarily provide third-party certification for BOPE and/or drilling programs, or problems with updating Commission regulations requiring such certification, seek legislation to enact a new State statute to require third-party certification of BOPE and all drilling, workover, and abandonment plans and projects.

Direct the Executive Officer or his designee to pursue implementation of the recommendations approved by the Commission, and to execute any documents necessary to implement the Commission's action.