

‘Stop the Clock’ is Almost Over: Agencies Get Ready to Make LNG Decisions Soon

• Trio of Meetings by Mid-April Will Chart Fate of Malibu’s Horizon

BY HANS LAETZ / Malibu Surfside News / February 22, 2007 / page 2

Three separate agencies will hold three separate hearings within two weeks of each other in late March and early April to decide if an aircraft-carrier-sized energy terminal can be anchored 16 miles off Zuma Beach.

The lead agency handling BHP Billiton's liquefied natural gas terminal - marketed as Cabrillo Port - is rushing to meet deadlines set into law, a Coast Guard official said Tuesday. The Coast Guard is one of six federal and state agencies that the Australian company is seeking permits or licenses from, and is acting as lead agency in the matter.

Cmdr. Mark Prescott, who heads the Coast Guard's Deepwater Ports Standards office in Washington, said a massive Environmental Impact Report will be released in about two weeks. That will be followed by the Coast Guard's final hearing on the matter, probably in Oxnard and "probably at the end of March."

While federal officials consider their decision in Washington, the California State Lands Commission will hold its hearing and take its critical vote in Oxnard on April 9. Three days later, on April 12 in Santa Barbara, the California Coastal Commission will review the LNG terminal to see if it complies with California's Coastal Zone Management Act plans.

Although the facility will be closest to Malibu and will be visible from most of the city on most days, no public hearings will be held here. Plant opponents say the lands commission may be the best chance at blocking the \$800 million project, which will be visible from the Malibu Civic Center west to Point Mugu.

"The whole process is ridiculous given the serious nature and long term ramifications of this decision," said Susan Jordan, executive director of California Coastal Protection Network. "And having to attend three major hearings in a matter of two weeks places an undue and unfortunate burden on the public."

Triggering the flurry of public meetings is the imminent publication of the third version of Cabrillo Port's Environmental Impact Report, which will again assess the project's impact on the air, sea, wildlife, national security and neighbors. Two previous versions, each the size of two telephone books, have triggered more than 1400 specific objections about supposed problems, dangers and omissions that must be addressed in this version.

Officials had hoped to have the massive new study published next week, but report delays in readying it. That document is now scheduled to be released no earlier than Friday, March 2, giving LNG opponents as little as three weeks to analyze what is expected to be two phone books' worth of data.

"It is so frustrating to receive information that only the agencies and BHP Billiton have been working with for months, and then have only four weeks to analyze it," said lead attorney Linda Krop at the Environmental Defense Center.

"Yes, that's a short window," said Prescott. "But people will have already seen the draft environmental report, and the second draft report, and although obviously there will be changes, the bulk of the document will be the same."

Krop, the attorney who heads the legal and scientific fight against the project, says it has been impossible to analyze new studies that the Coast Guard and BHP Billiton have been negotiating over. "For example, now they are talking about a revised cooling process that will include releasing amounts of chlorine and copper into the ocean. We haven't had any chance to see their studies or examine them.

"This whole thing has been such a moving target, and now we receive all this new information that only the applicant and the agencies have had to work with for all these months," she said.

John Lockhart, an Oxnard public relations representative working for BHP Billiton, said, "We don't set the hearing dates. We just attend them when they are set by the regulatory agency."

The first draft of the EIR was extensively updated in 2005, and public hearings on the second version generated another 1400 specific comments about alleged errors, omissions or other concerns in the revised document. Among changes expected in the new document are answers to more than 120 major operational questions posed by the federal government in 2005.

These questions ranged from such basic issues as where exactly the ship would be anchored - BHP Billiton had supplied two different spots - to such issues as how the ship would be protected against terrorists, and how two pipelines would be laid across 22 miles of seabed and through a bird sanctuary.

Less than two weeks after the federal hearing, two state agencies will hold back-to-back hearings on Cabrillo Port. At a daylong public hearing in Oxnard on April 9, the three members of the California State Lands Commission will take testimony and decide if BHP Billiton's twin gas pipelines may cross state tidelands near Oxnard to come ashore.

The three commission members are Lt. Gov. John Garamendi, new State Controller John Chiang and the governor's finance director, Michael Genest. By law, Chiang and Genest

may send an alternate person to vote, and the commission has the right to reject the proposal or approve it with conditions.

State law mandates that an environmental report that has been significantly changed should be sent back out for more public review and comment, and that is what happened in 2004. Although delaying Cabrillo Port's permits might decrease the likelihood that it will be built, coastal advocates say they want the Lands Commission to kill the project outright.

"We don't want it recirculated (for comment)," said Jordan at the California Coastal Protection Network, which is partly funded by the City of Malibu and by local contributors. "We want the project killed, which is why we will be asking them not to certify the environmental document and to deny the lease."

Even after the Coast Guard, State Lands Commission and Coastal Commission all vote, the Environmental Protection Agency must decide on the company's request to avoid strict local smog rules that would appear to block the company's proposed release of 484 tons of smog ingredients per year at Cabrillo Port.

The EPA permit process is the subject of a Congressional probe, and a matter of great controversy, after it was reported in a Malibu newspaper that the White House had intervened on behalf of BHP Billiton to get a waiver from federal and state air pollution laws.

And finally, the federal hearing in Oxnard will trigger a 45-day clock for Gov. Arnold Schwarzenegger to consider and possibly reject the project.

Note: The headline over this article in the print edition states that the "stop the clock" period is over; when in fact the "stop the clock" period is *almost* over.