

Role of Attorney and Chumash leader in LNG Debate Under Fire

Advance Copy of Pro-LNG Column Leads to Challenge of Environmental Credentials

By Hans Laetz, Malibu Surfside News, 2/8/07 page 5.

A nationally-famous environmental lawyer has weighed into the Cabrillo Port controversy with a newspaper column that backs liquefied natural gas imports, but has LNG opponents furious.

Robert F. Kennedy Jr. now says people should not misinterpret his recent newspaper column as an endorsement of the proposed BHP Billiton liquefied natural gas terminal near Malibu. But that has not satisfied many coastal activists, who are charging Kennedy with hypocrisy and with playing along with the company's public relations effort.

"If people are interpreting my general endorsement of LNG imports as an endorsement of Cabrillo Port, they are making an erroneous leap," Kennedy told the *Malibu Surfside News* in an interview from his New York office on Monday.

In Sunday's *Ventura County Star*, Kennedy wrote he "supports Ventura Coastkeeper Mati Waiya's courageous consideration of offshore liquefied natural gas facilities near Ventura County." Kennedy's opinion column did not specifically endorse BHP Billiton's proposed Malibu LNG terminal, or even mention the project 13.8 miles off Malibu's north end.

But many who read it saw an implied ringing endorsement of Cabrillo Port. Among those who reacted this way are Keely Shaye Brosnan, the Malibu activist and wife of actor Pierce Brosnan.

In a opinion piece also published in Sunday's *Ventura* paper, she said "For a respected lawyer who built his reputation on the strictest enforcement of environmental laws, Mr. Kennedy seems indifferent to BHP's ongoing efforts to secure an exemption from the Clean Air Act."

"He could have reached out to the communities of Oxnard and Malibu and asked them why they opposed the BHP Billiton LNG terminal project. He could have supported legislation that would have required a neutral evaluation of all pending LNG terminals in California," Brosnan said in her rebuttal.

At the center of the controversy is Mati Waiya, director of the Wishtoyo Foundation and Ventura Coastkeeper, the nonprofit agencies he founded to promote native culture and clean water on the Malibu and Ventura coasts.

A highly-visible participant at many official Malibu functions, Waiya is a Chumash

Indian who has in the past filed comments critiquing some technical aspects of Cabrillo Port, the proposed LNG terminal midway between Malibu and Anacapa Island, a water route held sacred by the Chumash.

Waiya told the *News* Monday he supports importing LNG to the United States, but not necessarily the \$800 million BHP Billiton project. "I support an LNG import plant, but only if it can meet all federal environmental laws. I am not going to support anything that doesn't comply with the law, period."

Waiya said the visual impact of Cabrillo Port would be less than the cumulative private development that has crowded the Malibu coast.

Kennedy said he and Waiya are on record as supporting the concept of LNG imports to replace coal and other power sources, that they say are dirtier. "I have supported LNG facilities near my house if they can be built to comply with environmental laws," Kennedy said. "But I have not endorsed this particular project, and in fact, the Cabrillo Port project has all kinds of problems that I think may be fatal to it."

"If that thing is built, right now it would be the largest source of smog in Ventura County," Kennedy said. "We have three children at home with asthma, and that's a huge concern for us."

In the interview, Kennedy noted he has supported LNG terminals near his New England home. But detractors point out that Kennedy has publicly opposed a clean energy wind turbine project proposed near his Hyannisport, Mass. family home on the grounds it will spoil a pristine view.

BHP Billiton is seeking two major rulings on clean air laws in order to get permits for the 484 tons of smog-causing chemicals that the LNG terminal would send up each year just upwind of Malibu. It wants its LNG ship to be regulated as if it were on an island, eliminating the need to buy smog offsets that may prove to be an insurmountable obstacle to the LNG project.

The company has also just requested a waiver from a requirement that it use industry-standard air pollution scrubbers, because the company says the devices are too big, unsafe and unproven for use on a swaying ship.

The Kennedy opinion was reportedly drafted nearly two months ago, and environmentalists charge that its release was timed by BHP Billiton's law and public relations firm to coincide with upcoming public hearings. The firm, Manatt, Phelps & Phillips, has a million-dollar lobbying contract for BHPB's Malibu project.

The alleged source of the document before its publication, Manatt attorney David Huard, was asked by the *News* if the firm had manipulated the timing of the release of the Kennedy report, and he replied with a terse "I have no comment."

When asked why he might have e-mailed the Kennedy column to others last week, before it was published, he replied he had "shared the document with a friend of mine in the environmental movement, as it came across my desk."

Huard said he would not explain how Manatt got the Kennedy document ahead of its publication date. "If I thought I was

talking to an objective viewer of the circumstances, I would. But I am familiar with the publication, and I won't," Huard said Monday. He then sent the reporter an e-mail saying "just to repeat - I have no comment."

Waiya expressed concern that his public opinion on LNG imports in general have been confused with his opinion on the BHP Billiton project. "We all act so righteous about this, but then we all turn on our lights at home," he said. "The energy has to come from somewhere, and this is so much better than burning more coal."

As to Cabrillo Port, Waiya said "I've never endorsed it, I've considered their arguments and I cannot endorse it unless it meets every single environmental rule."

Waiya noted that some of the anger aimed at him comes from the fact that his Wishtoyo Foundation has been partly funded by BHP Billiton. "I took money (for Wishtoyo) from BHP Billiton, and I paid the experts to review that before I accepted that to everyone and anyone, because I knew it might be misinterpreted, and I wanted to be transparent.

"It didn't color my opinion of them, and I haven't endorsed it (Cabrillo Port) even after we took the grant to help our cause." Waiya said. "I have considered that the natural gas might be needed, but I don't trust this governor, and I don't trust this president, on this project."

Despite the narrow phrasing of the Kennedy opinion article, anti-LNG activists said it clearly implies an endorsement for Cabrillo Port, the marketing term chosen by the Australian company for its proposed floating aircraft-carrier-sized energy terminal proposed for the ocean 16 miles southwest of Point Dume.

"Of course, that's what it was," said Mike de Martino, an LNG opponent. "I don't see how you can read it as anything else than an endorsement of BHP."

De Martino said Kennedy's record is sullied by his campaigning for LNG imports at the same time he is leading the fight against a proposed wind turbine farm offshore of the famous Kennedy family compound at Hyannisport, Mass.

The Kennedy column can be downloaded at http://www1.venturacountystar.com/vcs/pulse_speak_out/article/0,1375,VCS_126_5327650,00.html.

The Brosnan response can be downloaded at http://www1.venturacountystar.com/vcs/pulse_speak_out/article/0,1375,VCS_126_5327662,00.html.