



April 10, 2007

**MEMO**

To: News media covering the proposed BHP Billiton LNG plant

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Re: What happens now?

**The impact of the California State Lands Commission vote**

In a stinging rebuke to BHP Billiton, the California State Lands Commission (CSLC) last night voted to refuse to certify the Final Environmental Impact Report (FEIR) for BHP Billiton's proposed Cabrillo Port Liquefied Natural Gas (LNG) plant. The Commission also refused to grant a lease on state underwater lands to BHP for the pipeline that would travel from the LNG terminal to land at Ormond Beach in Oxnard.

Lt. Governor John Garamendi and Controller John Chiang prefaced their votes against the project with extensive comments detailing the project's failure to mitigate significant impacts to air quality, marine life and public health and safety. They also noted that BHP had failed to demonstrate a need for the project.

The CSLC's decision means that the pipeline would not be able to be built. This action effectively dooms the current project, because BHP Billiton would not have any way to get the natural gas from the terminal to the distribution system on land.

During the twelve hour hearing, the Commissioners heard opposition from elected officials in Los Angeles and Ventura Counties and an outpouring of local residents opposed to the plant. A total of 1,778 opponents to the plant signed in at the Sierra Club table posted outside of the hearing room, and hundreds asked to testify. At 6 pm, over 700 people had crowded into the hearing room exceeding its capacity and security officers closed down the room. Hundreds more who could not get into the hearing room filled the courtyard where hearing proceedings were broadcast over speakers. Bright blue opposition T-shirts made it clear that the overwhelming majority of hearing attendees opposed the facility.

The CSLC decision is not appealable to any other agency or governmental entity. BHP Billiton's only recourse is to challenge the CSLC decision in court.

## **The Governor's role**

The clock started ticking for Governor Schwarzenegger's decision to approve or veto the BHP Billiton project on April 4, 2007, when the U.S. Coast Guard held its hearing. That means the Governor has until May 21 to issue a decision.

The Governor has said that he supports LNG development but is neutral on the BHP Billiton proposal. After yesterday's vote, the Governor issued a troubling statement indicating that he was prepared to ignore the State Lands Commission decision and proceed with his own review of the project.

The Governor's statement included:

"Despite the action taken today by the State Lands Commission, my office, pursuant to federal law, is using the allotted 45-day review period to make sure that the project meets strict standards of public and environmental safety."

The BHP Billiton proposal would construct the world's first floating deepwater terminal for LNG supertankers. The federal Deepwater Port Act governs the issuance of licenses for deepwater ports such as the one proposed for this project. Under the Deepwater Port Act, the Governor of the nearest state has 45 days to approve or veto the license for the deepwater port. If the Governor vetoes the project, the federal government cannot issue the license. The Governor's decision is not appealable.

## **Coastal Commission hearing and vote on Thursday, April 12**

The California Coastal Commission will hold a hearing and vote on whether the project is consistent with California's coastal management program, as required by the federal Coastal Zone Management Act. The Coastal Commission staff has recommended that Commissioners vote to object to the project.

If the Coastal Commission objects to the project, the federal government may not issue the Deepwater Port license. However, BHP Billiton could file an appeal with the U.S. Secretary of Commerce to overturn the Coastal Commission decision.

## **Federal license decision**

If either the Coastal Commission or Governor deny the project, the federal Maritime Administration (MARAD) may not issue the license for the project. If the Coastal Commission and Governor approve the project, MARAD has until July 3 to make a decision on the license for the deepwater port.