

Staff Report 59

PARTY:

California State Lands Commission

PROPOSED ACTION:

Consider granting authority to the Executive Officer to solicit a Request for Qualifications for consultant services, negotiate a fair and reasonable price, award and execute agreements, for the preparation of an Analysis of Public Trust Resources and Values (APTR) to assess the risks and impacts to Public Trust resources of all 12 leases for offshore oil and gas pipelines under the Commission's leasing jurisdiction.

Consider authorizing a temporary moratorium on the acceptance and consideration of new lease applications involving offshore oil and gas pipelines, as well as the issuance of new offshore oil and gas pipeline leases, until the APTR is complete, and its results are considered by the Commission.

BACKGROUND:

There are currently 12 leases for offshore oil and gas pipelines, under the Commission's jurisdiction, that transport oil and gas from platforms located offshore of Santa Barbara, Ventura, Los Angeles, and Orange Counties. The Commission has already received or anticipates receiving applications over the next 10 years for the continued use of these existing pipelines. Much of the infrastructure under lease at these locations was placed on or before the 1980s and 1990s and continues to be regulated by state and federal authorities; however, the Commission, through the APTR, plans to assess whether the surrounding environment has changed since their initial installation, allowing for an updated evaluation of potential risks and impacts of these offshore oil and gas pipelines. The updated evaluation will address many topics, including the impacts of the pipelines and associated operations on the health of local ecosystems, the communities they serve, and distinct resources subject to the Public Trust.

Typically, the Commission maintains exclusive jurisdiction over state sovereign lands, as outlined in Public Resources Code sections 6216 and 6301. As a trustee of Public Trust lands, the Commission is tasked with the responsibility to consider and uphold the Public Trust in the planning and management of these lands and resources, ensuring the protection of Public Trust uses and resources wherever feasible. (*San Francisco Baykeeper, Inc. v. State Lands Com.* (2015) 242 Cal.App.4th 202, 233-234.) In light of this responsibility and considering the risk and benefits of oil production and transportation, the climate crisis, the state's energy needs, environmental concerns, and other factors, a thorough risk assessment of the existing offshore oil and gas pipelines under lease is warranted. The APTR is intended to fulfill this analytical need, providing essential information to guide the Commission in its future application reviews and decision-making processes.

PROJECT DESCRIPTION:

Staff proposes to prepare an APTR to evaluate impacts to Public Trust resources and values for all 12 existing offshore oil and gas pipeline leases located in the counties of Santa Barbara, Ventura, Los Angeles, and Orange. The APTR will provide essential information to help guide the Commission in its future reviews and decision-making processes for offshore oil and gas pipeline lease applications. In particular, the APTR will evaluate each pipeline lease's (1) spill risks and pipeline integrity; (2) potential impacts to coastal and marine ecosystems and economies; (3) consistency with the State's efforts to address the climate crisis; (4) consistency with the public's current needs and uses of the coastal and marine environments, with a particular focus on the needs of underserved communities and tribal governments and communities; and (5) impacts to tribal cultural resources and sacred landscapes. These areas will be addressed with the assistance of an external interdisciplinary consultant team. This effort will include robust outreach and engagement with Tribal governments and communities, underserved communities, and other stakeholders. In addition, staff will engage with existing lessees for their meaningful participation in providing facts and data to help inform the APTR.

ENGINEERING ASSESSMENT OF SPILL RISKS

The APTR will evaluate technical information related to each of the pipelines to analyze spill risks and preventive measures. It will examine the management and integrity of the existing pipeline infrastructure, evaluate the current inspection framework, and conduct an analysis of any pipeline degradation. Ensuring the integrity of the pipelines, particularly at connection points, is critical to prevent potential leaks and safety hazards. Inspection and maintenance regimes utilized by

the operators will be verified to validate the reliability of each offshore pipeline under lease.

ENVIRONMENTAL ASSESSMENT OF SPILL RISKS AND IMPACTS

The APTR will also evaluate external risk factors such as seismic events, anchor strikes, or extreme weather events that could increase a pipeline's spill risk. It will include spill trajectory modeling to identify the locations potentially affected by an oil spill and will evaluate the associated impacts on coastal marine species, habitats, protected areas, economic impacts, underserved communities, and tribal and cultural resources.

CLIMATE CHANGE

Since the pipelines were first installed, global temperatures have steadily increased and the resulting impacts have become significantly more pronounced. The relationship to hydrocarbon extraction, transportation and use has been well established. The State has responded by passing bold climate legislation, including mandates requiring that renewable energy and zero-carbon resources supply 100 percent of electric retail sales to end-use customers by 2045 (SB 100, 2018) and the state must reach net-zero carbon emissions (AB 1279, 20222012) by 2045. To achieve these targets, the State must drastically reduce emissions from oil and gas infrastructure, and by 2045, nearly eliminate the use of fossil fuels in the state.

The APTR will include a study of the greenhouse gas (GHG) emissions caused by the pipelines' transportation of oil and gas, leveraging existing lifecycle assessments and emissions monitoring data from the California Air Resources Board and other sources. Along with this, staff will consider how the continued operation of pipelines aligns with state and federal climate legislation, policies, and strategies to reduce emissions and phase out fossil fuels.

PUBLIC NEEDS, VALUES AND USES OF THE COAST AND OCEAN

In the decades since the pipelines were installed, California's coastal and marine economies and communities, and their needs and priorities, have evolved considerably. Other coastal and marine uses, such as recreation, tourism, and maritime trade have expanded and diversified the State's and local communities' reliance on the coast and ocean. In 2020, recreation and tourism accounted for 54 percent of the state's marine economy GDP and 74 percent of marine economy employment (NOAA, 2022 Marine Economy Report). Burgeoning industries, such as offshore wind and aquaculture, offer new opportunities for sustainable uses and employment. The APTR will analyze whether the presence of and risks posed by the pipelines may impact these newly developing opportunities.

The State and the Commission have become acutely aware of the impacts that heavy polluting industries, such as oil and gas, have on underserved communities and California Native American tribes. Low-income communities and communities of color suffer from disproportionate exposure to pollution and the corresponding health impacts from that exposure. Recent policies, such as SB 1000 (2018) and the Commission's Environmental Justice Policy and Tribal Consultation Policy, highlight the need for meaningful consultation and engagement with tribal nations and disadvantaged communities about high pollution risk industries, like oil and gas.

The APTR will need to evaluate how the pipeline leases align with the state's best interests, taking into account the balance of coastal and marine economies and uses, principles of environmental justice, the preservation of tribal cultural resources and sacred landscapes, and the importance of public outreach and engagement.

ALTERNATIVES TO PIPELINES AND ASSOCIATED RISKS

Pipelines have been the environmentally preferred method of transporting oil and gas produced offshore to shore and are required by state and federal regulators to reduce the impacts and risks of over-water barging. The APTR will examine oil and gas transportation methods beyond pipelines in considering impacts and risks to Public Trust resources, especially as each method has its own environmental trade-offs and strategic considerations. Relative spill risks, emissions output, and implications for the state's oil and gas supply will also be considered. This analysis will be crucial to guide responsible stewardship of the state's coastal and marine resources in line with environmental objectives.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6106, 6216, 6301, and 6501.1; Government Code section 4525 et seq.; California Constitution, article XXII; State Contracting Manual, volume 1, chapter 11.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

The climate crisis and its effects on the ocean, land, and people are among the most urgent issues of our time. An equitable and just transition from fossil fuels to clean energy sources is becoming more realistic as technologies advance. In 2022, clean energy resources accounted for 54.2 percent of total energy generation in California ([California Energy Commission, 2022 Total System Electric Generation](#)). So far in 2023, zero emissions vehicles account for 24 percent of new car sales in the

state ([California Energy Commission, New ZEV Sales](#)). Significant progress has been made to reduce California's reliance on oil and gas in response to greater understanding about the negative impacts from oil and gas production, and California has reached a juncture where critical decisions must be made about how to responsibly phase out oil and gas infrastructure. However, such decisions must be made thoughtfully and responsibly, with focus on the trade-offs in order to avoid or minimize unknown consequences that could cause higher GHG emissions or spill risks or could prematurely decrease energy supplies and exacerbate energy costs for all Californians.

Because of the age of the infrastructure, the climate crisis, and the public's evolving needs and values associated with the marine ecosystem, Commission staff believes it is in the State's best interest to conduct an up-to-date evaluation of the offshore pipelines, based on the best available science and current understanding of California's environmental, economic, cultural, and social settings. Further, due to the existing lease expiration dates, staff plans to begin the outreach and engagement and data collection and analysis for those oil and gas pipeline leases located offshore Santa Barbara County in the development of the APTR.

In conjunction with the proposed APTR, staff are recommending a temporary moratorium on accepting and considering new lease applications involving offshore oil and gas pipelines, as well as the issuance of new offshore oil and gas pipeline leases until the APTR can be completed and its findings are considered by the Commission at a properly noticed public meeting. This moratorium is in the state's best interest because it will allow time to develop the APTR and fully evaluate the impacts of the 12 offshore oil and gas leases on the state's environmental, economic, cultural, and social settings, while also providing opportunities for important tribal consultation, engagement with underserved communities, and public stakeholder input. Lastly, neither the preparation of the APTR nor the moratorium will substantially interfere with Public Trust resources.

CLIMATE CHANGE:

The climate crisis is an existential threat, and California is already beginning to feel the impact. According to a [report by the Legislative Analyst's Office](#), the years from 2014 through 2020 (except for 2019) experienced the six highest annual average temperatures ever recorded in the State. The summer of 2021 set the State's record for hottest average summer temperatures, beating the previous record that was set only a few years prior in 2017. In addition to hotter temperatures, California is also already experiencing more frequent and intense droughts, setting numerous drought records over the past decade. The warming and drying climate has also created conditions that lead to high-severity wildfires. Seven of the 20 most

destructive wildfires in the State's history occurred in 2020 and 2021. The extreme temperatures, drought, wildfires, and other impacts of climate change will continue to worsen if GHGs and atmospheric carbon are not drastically reduced in the coming decades.

The most effective way to reduce the worst impacts of the climate crisis is to reduce GHG emissions by transitioning the state's energy portfolio from fossil fuels to clean energy. While advances in clean energy development are enabling California to decrease its reliance on fossil fuels and reduce GHG emissions, California will require much deeper GHG emissions reductions to reach its 2030 target of 40 percent below 1990 levels and carbon neutrality no later than 2045.

In 1994, California banned new leases for the extraction of offshore oil and gas in state waters through the California Coastal Sanctuary Act; however, the remaining offshore oil and gas development in state and federal waters continue to produce hydrocarbons and GHGs. Further, California has also prohibited any new leases authorizing new construction of oil- and gas-related infrastructure, including pipelines, in state waters associated with any Pacific Outer Continental Shelf leases issued after January 1, 2018, pursuant to California Public Resources Code section 6245. Methane leaks, venting, flaring, and gas and diesel power generation are sources of emissions from offshore oil and gas production. Recent studies of offshore oil and gas infrastructure in the U.S. found they can leak methane at significantly higher rates than typical onshore production ([Ayasse et al., 2022](#), [Negron et al., 2023](#)). Methane is a major driver of global warming – it is 80 times more potent at warming the planet than carbon dioxide. Oil spills can negatively impact marine and coastal ecosystems that provide important climate mitigation and resilience benefits. The risk of an oil spill, and the economic and environmental catastrophe that could follow, coupled with the fact that fossil fuels are the primary cause of climate change, warrant a comprehensive assessment of the 12 leases for offshore oil and gas pipelines.

ENVIRONMENTAL JUSTICE:

Environmental justice is defined by California law as “the fair treatment and meaningful involvement of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.” (Gov. Code, § 65040.12.) This definition is consistent with the Public Trust Doctrine's principle that management of Public Trust lands is for the benefit of all people. Through its [2018 Environmental Justice Policy](#), the Commission reaffirmed its commitment to an informed and open process in which all people are treated equitably and with dignity, and in which its decisions are tempered by environmental justice considerations. A key goal in the

policy is to minimize additional burdens on and increase benefits to marginalized and disadvantaged communities resulting from a proposed Project or lease. Staff recommends that the APTR include an analysis of the impacts of these pipeline leases on environmental justice communities.

Oil and gas operations are a significant source of air pollution that affects the public health, safety, and environment of surrounding communities. These communities do not have access to resources to address the environmental and public health impacts that come with these activities. Not only are environmental justice communities burdened by pollution associated with oil and gas operations, but they also often face cumulative pollution burdens from industrial activities and interstate traffic. These forms of pollution are known to cause significant human health effects, including cancer, cardiovascular diseases, low birth weights and premature birth, and premature death. Consequently, many of these neighborhoods also rank very high on [CalEnviroScreen](#) 4.0 for health issues such as asthma and low birth weight, as well as many other population characteristics that increase vulnerabilities to pollution, including poverty, housing burdens, and unemployment. A deeper analysis of these environmental justice communities and the impacts they face is needed to fully understand the disparities associated with the continued operations of oil and gas facilities on State lands.

TRIBAL CULTURAL RESOURCES:

In keeping with the Commission's [Tribal Consultation Policy](#) and [Strategic Plan](#), which stress the importance of early, often, and meaningful engagement with tribal governments and communities, staff is committed to meaningfully and effectively engaging with California Native American tribes that are traditionally and culturally affiliated with the geographic area near the 12 pipeline lease areas. The central and southern coastal regions of California have been home to many indigenous communities since time immemorial. These tribes have deep connections to the natural resources of the coast and are dependent on the maritime environment this part of the California coast provides. Comprehensive tribal consultation and an analysis of tribal cultural resources is needed to better understand the impacts of these pipelines on California Native American tribes.

CONCLUSION:

For the reasons above, staff believes the proposed authorization to the Executive Officer to solicit a Request for Qualifications for consultant services, negotiate a fair and reasonable price, award and execute agreements, and use funds from the OSPAF for the preparation of an APTR to assess the risks and impacts to Public Trust resources of all 12 leases for offshore oil and gas pipelines under the Commission's

leasing jurisdiction is in the State's best interests. Staff also believes a temporary moratorium on the acceptance and consideration of new lease applications involving offshore oil and gas pipelines, as well as the issuance of new offshore oil and gas pipeline leases, until the APTR is complete and its results are considered by the Commission is in the State's best interests. Authorizing these actions will allow the Commission time to meaningfully evaluate the risks, economic benefit, public concern, and other factors associated with continued offshore oil and gas pipeline use.

OTHER PERTINENT INFORMATION:

1. Under California law, the Commission possesses wide-ranging authority to manage leasing activities in the State's best interest, including the power to enact a temporary moratorium on the review and approval of oil and gas pipeline leases on lands within its jurisdiction.
2. The temporary moratorium on lease applications and lease issuances, development of the APTR, and authorization to solicit proposals for consultant services through the appropriate Procurement Approach(es) are not projects as defined by the California Environmental Quality Act because they are administrative actions that will not result in direct or indirect physical changes to the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

3. This delegation of authority is consistent with the "Leading Climate Activism," "Prioritizing Social, Economic, and Environmental Justice," and "Meeting Evolving Public Trust Needs," Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
4. Staff plans to fund the development of the APTR using its appropriated share of the Oil Spill Prevention Administration Fund (OSPAPF). The OSPAPF was established to support initiatives related to oil spill prevention, response, and post-incident management. Its financing is derived from fees collected from entities involved in the transportation, production, or storage of oil. Given the fund's mandate, allocating resources from OSPAPF for the APTR aligns with its objectives because the APTR's purpose is to assess the risks and impacts to Public Trust resources in relation to offshore oil and gas pipeline use.

RECOMMENDED ACTION:

It is recommended that the Commission:

1. Find that the tasks within the project scope are highly specialized and only needed for a short term. To implement the urgent tasks under a civil service personnel classification would delay their implementation and frustrate their purpose.
2. Find that the selection of consultants under this process does not affect small businesses as defined in California Government Code section 14837, subdivision (d)(1)(B) because they will be accorded equal opportunity to submit statements of qualifications and performance data.
3. Find that the selection of consultants under this process for professional services of oil and gas pipeline spill risk and prevention, environmental impact analysis, and stakeholder outreach will be consistent with procedures and policies adopted by the Commission as specified in Government Code section 4525 et seq. and California Code of Regulations, title 2, section 2980 et seq.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed temporary moratorium, APTR, solicitation for services, and procurement of funding through the OSPAF are in the best interests of the State.

AUTHORIZATION:

1. Direct staff to develop an APTR to assess the long-term risks and impacts to Public Trust resources of all 12 leases for offshore oil and gas pipelines under the Commission's leasing jurisdiction with a target completion date of December 31, 2026.
2. Authorize the Executive Officer, or her designee, to solicit a Request for Qualifications for consultant services to develop the APTR, including negotiating a fair and reasonable price, awarding and executing agreements, and funded by OSPAF.
3. Authorize a temporary moratorium on the acceptance and consideration of new lease applications involving offshore oil and gas pipelines, as well as the issuance of new offshore oil and gas pipeline leases, until the APTR is complete and its results are considered by the Commission.