

# Staff Report 73

## **PARTIES:**

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California State Lands Commission; Department of the Interior, Bureau of Safety and Environmental Enforcement

## **SUMMARY:**

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The Commission and the Department of the Interior, Bureau of Safety and Environmental Enforcement (BSEE) seek to enter into a Memorandum of Understanding (MOU) with respect to coordinating offshore oil and gas pipeline inspections, establishing inspection standards, frequency, and exceptions if required, and sharing information to promote effective, efficient oversight without duplicative or potentially contradictory regulatory requirements.

Under the MOU, the Commission and BSEE agree to coordinate and share offshore oil and gas information within the jurisdiction of each party and conduct regular in-person meetings between staff. Nothing in the MOU alters the regulatory and jurisdictional authority of either agency or creates any binding obligations.

## **BACKGROUND:**

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In the early 1990s, the federal Minerals Management Service (MMS) (now split into BSEE and the Bureau of Ocean Energy Management) and other federal, state, and local agencies became concerned about the condition of aging offshore oil and gas pipelines. In the spring of 1994, the MMS proposed creating a Pipeline Inspection Quality Improvement Team to review existing federal and state pipeline inspection requirements and compile guidelines for conducting external and internal pipeline surveys. A workshop took place in 1995 to develop a Pipeline Memorandum of Agreement and formal process for coordination and cooperation for inspecting pipelines that crossed lands where multiple agencies had jurisdiction, resulting in the Offshore California Pipeline Inspection Survey (OCPIS) Plan. The MMS, the U.S. Department of Transportation, the Commission, the California

Geologic Energy Management Division (CalGEM, but at the time known as the Division of Oil & Gas and Geothermal Resources), and the Office of the State Fire Marshal (OSFM) were signatories to the MOA (collectively "The Parties"). The OCPIS Plan was published and implemented in December 1995. The OCPIS Plan has been used routinely and applied to all federal/state oil and gas pipelines that cross multiple jurisdictions.

The Parties have regulatory and leasing authority over offshore facilities and pipelines within their respective jurisdictions. The Commission issues and manages leases for offshore oil production facilities, pipelines, and leases within 3 nautical miles of the California coast. BSEE oversees offshore oil and gas production facilities, including pipelines, seaward of 3 nautical miles on the U.S. Outer Continental Shelf (OCS). Offshore oil and gas activities span across the Federal-State 3-mile boundary.

The Parties therefore agree that an MOU is needed to ensure consistent coordination and consultation regarding regulatory requirements, to facilitate desirable outcomes for both the State and Federal government, and to streamline communication, avoiding unnecessary conflict and duplication.

## **STAFF ANALYSIS AND RECOMMENDATION:**

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### **AUTHORITY:**

The Commission has exclusive jurisdiction over all ungranted tidelands and submerged lands owned by the State and issues and manages leases for existing oil and gas operations in State waters from the ordinary high-water mark, as measured by the mean high tide line, to 3 miles offshore, as established by the United States Supreme Court consent decree in *United States v. California* (2014) 574 U.S. 105. Beyond the State's remaining offshore oil and gas production leases, the Commission manages right of way leases previously issued for pipelines and conduits that cross State waters and support the 23 oil platforms in the federal waters of the OCS. The Commission's inspection and management authority for prevention of spills and preservation of health and environmental safety is contained in Title 2, California Code of Regulations, Article 3 (starting with sec. 2101).

BSEE has responsibilities for developing and enforcing regulations for the promotion of safe operations, protection of the environment, and conservation of the natural resources of the OCS, in accordance with the OCS Lands Act (OCSLA) (43 U.S.C. §

1331 et seq.), the Federal Oil and Gas Royalty Management Act of 1982, as amended in 2015, for oil and gas production measurement; the Oil Pollution Act of 1990 (OPA); and the Federal Water Pollution Control Act, as amended by the OPA and implemented under Executive Order 12777. These responsibilities apply to oil and gas operations located in federal waters on the OCS offshore of California, as authorized under OCSLA. BSEE is authorized to enter this MOU under the provisions of OCSLA, including 43 U.S.C. § 1345(e).

### **DISCUSSION:**

A memorandum of understanding is a type of agreement expressing the intent between parties, indicating a common line of action. Unlike other types of agreement, however, it is not legally binding, nor does it expand or limit an agency's authority or discretion. The proposed MOU is intended to create an additional avenue for information sharing that will aid in lease administration and decision making. The Parties will agree to share information related to offshore oil and gas activities, pipeline rights-of-way, studies and analyses, inspection and maintenance schedules, reports, and incidents, and notify each other of any proposals, projects, or permit applications submitted for approval that may be of mutual interest. In addition, Commission and BSEE staff will meet twice a year, to discuss pending projects and the implementation of the MOU.

Staff believe that executing the MOU is in the State's best interest. BSEE oversees operations on 23 platforms in federal waters of the OCS while the Commission issues and oversees right of way leases for pipelines and conduits that run from the mean-high tide line to three nautical miles offshore. Commission staff monitor these leases for compliance as well as for by requiring regular inspections and testing to ensure pipeline integrity. Pipelines within the Commission's lease boundaries are also heavily regulated by OSFM and/or the U.S. Department of Transportation for safety.

Actions taken by BSEE, as it pertains to OCS infrastructure under its jurisdiction, can affect the Commission and vice-versa. This MOU will serve to improve communication and lease administration and ensure staff can anticipate and brief the Commission on pending actions affecting platforms in the OCS.

### **OTHER PERTINENT INFORMATION:**

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1. This action is consistent with the "Leading Climate Activism," "Meeting Evolving Public Trust Needs," and "Committing to Collaborative Leadership" Strategic Focus Areas of the Commission's [2021-2025 Strategic Plan](#).

2. Authorizing a delegation of authority to enter into a Memorandum of Understanding is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, sections 15060, subdivision (c)(3), and 15378, subdivision (b)(5).

## **EXHIBIT:**

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- A. Memorandum of Understanding

## **RECOMMENDED ACTION:**

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It is recommended that the Commission:

### **AUTHORIZATION:**

Delegate authority to the Executive Officer or designee to enter into a Memorandum of Understanding between the California State Lands Commission and the U.S. Department of the Interior, Bureau of Safety and Environmental Enforcement (substantially in the same form as Exhibit A to this report) to coordinate offshore oil and gas pipeline inspections, establish inspection standards, frequency, and exceptions if required, and share information to promote effective, efficient oversight without duplicative contradictory regulatory requirements.

# Exhibit A

## MEMORANDUM OF UNDERSTANDING

**Between the Department of the Interior  
Bureau of Safety and Environmental Enforcement  
Pacific Outer Continental Shelf Region  
and the California State Lands Commission  
Regarding Information Sharing and the Establishment of Meetings**

### **I. Purpose**

1. This Memorandum of Understanding (MOU) defines the relationship between the California State Lands Commission (Commission), and the Department of the Interior, Bureau of Safety and Environmental Enforcement (BSEE) (hereinafter referred to as "the Parties"), for coordinating offshore oil and gas pipeline inspections, establishing inspection standards, frequency, and exceptions if required, and sharing information to promote effective, efficient oversight without duplicative or potentially contradictory regulatory requirements.
2. The Parties agree to share information through regularly scheduled meetings and other protocols consistent with BSEE and Commission legal requirements and responsibilities, including those established by statute and regulation. Information sharing and protocols will include meetings every 5 to 7 months (either virtual or in person) to share information on oil and gas activities and other topics agreed to through a formalized agenda and to provide notification of offshore incidents, activities, and proposals of mutual interest.

### **II. Background**

1. In the early 1990s, the Federal Minerals Management Service (MMS) and other federal, state, and local agencies became concerned about the condition of aging offshore oil and gas pipelines. In the spring of 1994, the MMS proposed the creation of a Pipeline Inspection Quality Improvement Team to review existing federal and state pipeline inspection requirements and to compile guidelines for conducting external and internal pipeline surveys. A workshop took place in 1995 to develop a Pipeline Memorandum of Agreement (MOA) and formal process for coordination and cooperation to inspect pipelines that crossed lands where multiple agencies had

jurisdiction, resulting in the Offshore California Pipeline Inspection Survey (OCPIS) Plan. The MMS (now split into BSEE and the Bureau of Ocean Energy Management ), the federal Department of Transportation Commission, the California Geologic Energy Management Division (CalGEM, at the time, Division of Oil, Gas and Geothermal Resources), and the Office of the State Fire Marshal were signatories to the MOA. The OCPIS Plan was published and implemented in December 1995. The OCPIS Plan has been used routinely and applied to all offshore federal/state oil and gas pipelines that cross multiple jurisdictions.

2. The Parties have authority over offshore facilities and pipelines within their respective jurisdictions. The Commission manages leases for offshore oil production facilities and pipelines within 3 nautical miles of the California coast. BSEE oversees offshore oil and gas production facilities, including pipelines, seaward of three nautical miles on the U.S. Outer Continental Shelf (OCS). Offshore oil and gas activities occasionally span across the Federal-State 3-mile boundary.
3. The Parties therefore agree that an MOU is needed to ensure consistent coordination and consultation regarding regulatory requirements, to facilitate comparable outcomes, and to avoid conflict and unnecessary duplication.

### III. Authority

**Bureau of Safety and Environmental Enforcement:** BSEE has responsibilities for developing and enforcing regulations for the promotion of safe operations, protection of the environment, and conservation of the natural resources of the OCS, in accordance with the OCS Lands Act (OCSLA) (43 U.S.C. § 1331 *et seq.*), the Federal Oil and Gas Royalty Management Act of 1982, as amended in 2015, (FOGRMA) for oil and gas production measurement; the Oil Pollution Act of 1990 (OPA); and the Federal Water Pollution Control Act (FWPCA), as amended by the OPA and implemented under Executive Order 12777. These responsibilities apply to oil and gas operations located in Federal Waters on the OCS offshore of California, as authorized under OCSLA. BSEE is authorized to enter this MOU under the provisions of OCSLA, including 43 U.S.C. § 1345(e).

**California State Lands Commission:** The Commission has exclusive jurisdiction over all ungranted tidelands and submerged lands owned by the State and

issues and manages leases for existing oil and gas operations in State Waters from the ordinary high water mark, as measured by the mean high tide line, to 3 miles offshore, as established by the United States Supreme Court consent decree in *United States v. California* (2014) 574 U.S. 105. The Commission's jurisdiction is further authorized under the California Public Resources Codes, Division 6 (Public Lands), and the California Code of Regulations, title 2, division 3, chapter 1 (State Lands Commission).

## **IV. Procedures and Responsibilities**

### **A. Information Sharing**

1. The Parties agree to share, to the fullest extent permissible, information related to offshore oil and gas activities, pipeline rights-of-way, studies and analyses, inspection and maintenance schedules and reports, and incidents.
2. The Parties agree to notify each other of any proposals, projects, or permit applications submitted for approval that may be of mutual interest.
3. The Parties agree to identify and attempt to resolve concerns through coordination, collaboration, and negotiations when possible.
4. The Parties agree, subject to limitations imposed by applicable laws and regulations, to share information from relevant offshore oil and gas studies, including studies related to decommissioning, and to provide each other with copies of certain nonprivileged correspondence that may be of mutual interest.
5. The Parties agree to maintain close communications regarding each other's proposed rulemakings to reduce conflict and inconsistent rulemaking. The Parties agree to notify each other of proposed rulemakings that may be of mutual interest prior to commencing the rulemaking process. Each Party must exercise its own rulemaking responsibilities independently and in accordance with applicable laws and procedures, though the Parties will coordinate to the extent practicable on rulemaking initiatives.
6. The Parties agree to notify the other Party of receipt of any external requests for the records or information shared by the Parties, such as requests under the Freedom of Information Act (FOIA, 5 U.S.C. § 552) or

California Public Records Act (CPRA, Cal. Gov. Code § 7920.000 et seq.), as discussed further in Paragraph D, below.

**B. Regularly Scheduled Meetings:** The Parties agree to the following for scheduling and conducting meetings, pursuant to the authorities cited above:

The Parties will strive to schedule a joint agency meeting every 5 to 7 months to discuss:

1. Projects, proposals, and incidents of mutual interest.
2. Implementation of this information-sharing agreement and future information-sharing strategies.
3. The Parties will alternate hosting the biannual meeting.
4. The hosting Party will be responsible for coordinating the meeting date and establishing an agenda, which will be distributed to all attendees before the meeting.
5. The hosting Party will be responsible for taking meeting minutes and distributing the minutes along with copies of any presentation materials.

**C. If mutually agreeable**

1. BSEE will host in-person meetings at their Camarillo office, or meetings will be held virtually.
2. The Commission will host in-person meetings at the Long Beach office, or meetings will be held virtually.

**D. Information Requests from the Public**

1. Both Parties agree to follow all applicable legal authorities regarding the disclosure of agency records, including authorities that provide exemptions from the generally applicable duty that requires the government to disclose records to the public. As noted above, the receiving party will notify the other party of receipt of any external requests for the records or information shared by the Parties, such as requests under the Freedom of Information Act (FOIA, 5 U.S.C. § 552) or California Public Records Act (CPRA, Cal. Gov. Code § 7920.000 et seq.). The Party to whom the request was directed will refer the request



to the Party from which the record(s) originated and consult with the Party having a stake in the information contained in such record(s). To the extent a receiving Party holds any records from the other Party labeled or identified as "Confidential," the receiving Party should strive to notify the other Party prior to their disclosure. Nothing herein may be construed to require any Party to take any action inconsistent with Federal or State laws or regulations.

**E. Administration and Points of Contact**

1. This MOU will be administered by BSEE's Pacific OCS Region Office and CSLC's Mineral Resources Management Division.

**F. Points of Contact**

1. Attachment 1 entitled "Points of Contact," lists the Parties' point(s) of contact for implementing this MOU.
2. The list of points of contact may be updated as needed and will be entitled "Updated Points of Contact" with the version date.
3. All "Updated Points of Contact" must be provided in writing to all points of contact for the Parties.

**G. Modification, Review, and Cancellation Modification**

1. Either of the Parties to this MOU may propose modifications by submitting them in writing to the other Party.
2. No modification may be adopted except with the consent of all Parties. All Parties will indicate their consent to or disagreement with any proposed modification within 60 calendar days of receipt of the proposed modifications.
3. Upon the request of any Party, representatives of both Parties will meet to consider modifications to this MOU.

## **H. Review**

1. The Parties agree to review this MOU every 5 years.
2. One year from the date of this required review (the first review date is 5 years from the effective date), the Parties will meet to discuss the need for revisions. If any revisions are deemed necessary, the Parties will follow their respective standard processes for negotiating a revised MOU.
3. Attachment 2, entitled "Update History," will be updated to reflect the date the MOU was reviewed and what changes, if any, were made.
4. Any updates will become an addendum to the Attachment and incorporated herein for all purposes. The version date must be included in any updated Revisions to Attachment 2.
5. Cancellation: Participation in this MOU may be ended by either Party upon 60 days written notice to the other Party.

## **I. Limitations**

1. Nothing in this MOU alters, limits, or expands the statutory or regulatory authority of either the Commission or BSEE.
2. Nothing in this MOU limits informal consultations that are not otherwise mentioned in this MOU.
3. This MOU is to be executed in full compliance with all applicable laws.
4. Nothing in this agreement may be construed to obligate or commit funds or serve as the basis for a transfer of funds. Nothing in this MOU may be construed to obligate the Commission or BSEE to any current or future expenditure of resources in advance of or more than the availability of appropriations from Congress. Nor does this MOU obligate the Commission or BSEE to spend funds on any project or purpose, even if the funds are available.
5. This MOU is not intended to, and does not, create any right, benefit, or trust responsibility, whether substantive or procedural, enforceable at law or in equity by any party against the United States, the State of California, their respective departments, agencies, or entities, or their officers, employees, or agents, or any other person.

**J. Effective Date**

1. This MOU is effective upon acceptance by both Parties as indicated by the signatures below.

**V. Signatures**

**Bureau of Safety and Environmental Enforcement**

Date: \_\_\_\_\_

\_\_\_\_\_

Bruce H. Hesson, P.E.  
Regional Director, Pacific OCS Region

**California State Lands Commission**

Date: \_\_\_\_\_

\_\_\_\_\_

JENNIFER LUCCHESI  
Executive Officer

## ATTACHMENT 1

### POINTS OF CONTACT

#### Bureau of Safety and Environmental Enforcement

Bruce H. Hesson, PE, Regional Director, Pacific Region

760 Paseo Camarillo, Suite 102, Camarillo, CA 93010

[bruce.hesson@bsee.gov](mailto:bruce.hesson@bsee.gov)

Cell: (805) 400-9700

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#### California State Lands Commission

Peter Regan, Assistant Chief, Mineral Resources Management Division

301 East Ocean Boulevard, Suite 550

Long Beach, CA 90802

[peter.regan@slc.ca.gov](mailto:peter.regan@slc.ca.gov)

Main: (562) 590-5201

Office: (562) 786-5608

## ATTACHMENT 2

### UPDATE HISTORY

- I. This MOU was initially finalized on [DATE].
- II. This MOU was revised on:
  - A. [DATE]:
  - B. [DATE]:
- III. This MOU was reviewed on the following dates and no substantive edits were deemed necessary:
  - A. [DATE]
  - B. [DATE]