FINDINGS AND DECISION

IN THE MATTER OF THE APPEAL BY EXXON COMPANY, U.S.A. TO THE CONSISTENCY OBJECTION BY THE CALIFORNIA COASTAL COMMISSION TO EXXON'S PROPOSED DEVELOPMENT OF THE SANTA YNEZ UNIT BY MEANS OF DEVELOPMENT OPTION A

February 18, 1984

SYNOPSIS OF DECISION

Exxon Company, U.S.A., as operator of the Santa Ynez Unit (SYU) the Western Santa Barbara Channel on the Outer Continental Shel (OCS), submitted a Development and Production Plan (DPP) to the Minerals Management Service (MMS) of the Department of Interior requesting approval to develop further and increase production from its SYU reserves.

Two development options, which differ in the manner of crude oil treatment, storage and transportation, were proposed in the DPP. Both options would involve the installation of up to four oil and gas production platforms and associated pipelines on the OCS and the expansion of a natural gas treating facility under construction in Las Flores Canyon.

Under Option A, the oil would be treated and stored on a currently operating Offshore Storage and Treatment vessel (OS&T) located on the OCS about 3.2 miles from shore, and then off-loaded to U.S. flag marine tanker vessels for shipment to refineries in Texas. No State or local permits are required for the facilities described in Option A that are located outside California's three-mile territorial limit.

Under Option B, the oil would be transported via subsea pipeline to an onshore oil treating and storage facility which would be constructed in Las Flores Canyon. From there, the oil would move via a pipeline to a modernized marine terminal which would be constructed about one mile offshore for shipment by U.S. flag tankers to refineries. Exxon has applied to the State and local government permitting agencies in California for permits necessary to proceed with Option B.

The California Coastal Commission objected to Exxon's consistency certification for all facilities proposed in Option A. The Commission's objections focused on the expanded use of the OS&T and Exxon's alleged failure to consider a pipeline rather than tankers to transport the crude oil to refineries in Texas. The Commission concurred with Exxon's consistency certification for the "offshore" portion (OCS platforms and pipelines seaward of the three-mile limit) of Option B, but took no action with respect to the "onshore" portion (the pipeline to shore, onshore storage and treatment facilities, and marine terminal) because Exxon temporarily withdrew that portion from the Commission's consideration.

Under Subparagraphs A and B of Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended (CZMA) (16 U.S.C. § 1456(c)(3)(A) and (B)), and 15 CFR 930.131 of the Department of Commerce's implementing regulations, the Commission's objection to Option A precludes all Federal agencies from issuing any permit or license necessary for the activity to proceed, unless the Secretary of Commerce finds that the activity may be Federally approved because it is consistent with the objectives and purposes of the CZMA or is otherwise necessary in the interest of national security.

On July 22, 1983, pursuant to Subparagraphs A and B of Section 307(c)(3) of the CZMA and Subpart H of 15 CFR Part 930, the Department of Commerce's regulations governing the Secretary's review of an objected-to activity, Exxon (Appellant) filed with the Secretary of Commerce a Notice of Appeal together with a supporting statement requesting that the Secretary find that Option A is consistent with the objectives or purposes of the CZMA or is otherwise necessary in the interest of national secur

The Secretary deferred making a final decision on the appeal until April, 1984, when the final Environmental Impact Review/ Environmental Impact Statement (EIR/EIS) on the activities proposed in the DPP being jointly prepared by the County of Santa Barbara, the State of California, and the Minerals Management Service (MMS) of the Department of the Interior, is expected to be completed and made available, when the State and local governm permitting agencies in California are expected to have completed action on Exxon's applications for the permits necessary to carry out the "onshore" portions of Option B, and when the County of Santa Barbara's pipeline feasibility study is expected to be completed and made available. (pp. 6-27). The Secretary stated that the information in the final EIR/EIS would help him identify the activity's adverse effects on the natural resources of the coastal zone and its contribution to the national interests and to perform the required weighing. (pp. 8-12). The Secretary also stated that based on whether the State and local government permits are issued for Option B, on the information in the final EIR/EIS, on information in the County of Santa Barbara's pipeline feasibility study, and on information already in the record, he would then be able to find whether there is a "reasonable alternati available" to Exxon that would be consistent with the California Coastal Management Program and whether the national security interest would be significantly impaired if Exxon is not able to develop the SYU by means of Option A. (pp. 14-19).

The Secretary made several but not all of the findings required by the regulations before Federal agencies can consider whether to issue permits for Option A despite the consistency objection of the California Coastal Commission:

1. <u>Ground I: "consistent with the objectives or purposes of the Act" (15 CFR 930.121)</u>.

   (a) The Secretary found that development of the SYU by means of Option A would further one or more of the competing national objectives or purposes of the CZMA. (pp. 6-8).

   (b) The Secretary delayed finding whether when performed separately or when its cumulative effects are considered, Option A would not cause adverse effects on the natural resources of the coastal zone substantial enough to outweigh its contribution to the national interest pending the complet of the final EIR/EIS. (pp. 8-12).

   (c The Secretary found that Option A would not violate any

requirements of the Clean Air Act, as amended, or the Feder Water Pollution Control Act, as amended. (pp. 12-14).

(d) The Secretary delayed finding whether there is no reasonable alternative to Option A available which would permit the activity to be conducted in a manner consistent with the coastal zone management program of California until the State and local government permitting agencies in Califor complete action on Exxon's application for the State and loca permits necessary for Exxon to proceed with Option B, until the final EIR/EIS is made available, and until the County of Santa Barbara's pipeline feasibility study is made available. (pp. 14-19).

2. <u>Ground II: "necessary in the interest of national security" (15 CFR 930.122).</u>

The Secretary found that the development of the sizable oil and gas reserves of the SYU is in the interest of national securit and that if the SYU could not be developed by any means, the national security interest would be significantly impaired. (pp. 21-28). However, the Secretary delayed making any finding whether national defense or security interests would be significan impaired if the Appellant is not permitted to develop its SYU rese as proposed under Option A, pending the completion of final action by the State and local government permitting agencies in Californi on Exxon's applications for permits necessary for Exxon to proceed with Option B, until the final EIR/EIS is made available, and until the County of Santa Barbara's pipeline feasibility study is made available. (pp. 19-26).

The Secretary stated that if the Commission later finds that Option B is inconsistent with the California Coastal Management Program or if the County of Santa Barbara or the State of Californi deny the permits necessary to implement Option B <u>or impose unreasonable permit conditions</u>, he would resume consideration of the appeal and find that Option B is <u>not an alternative available to the Appellant.</u>

DECISION

Factual Background

On October 25, 1982, Exxon Company, U.S.A. (Appellant) as operator of the Santa Ynez Unit (SYU), 19 contiguous tracts leased to the Appellant, Chevron U.S.A., Inc., and Shell Oil Company for oil and gas development in the Western Santa Barbara Channel on the Outer Continental Shelf (OCS), submitted a Development and Production Plan (DPP) to the Minerals Management Service (MMS) of the Department of the Interior (Interior) requesting approval to develop further and increase production from its SYU oil and gas reserves. Admin. Record, Appellant's Supporting Statement, pp. 1-2. On December 27, 1982, MMS determined the submission of the DPP to be in accordance with its regulations. Admin. Record, DPP, Letter from E.T. Cypher, Regional Supervisor, Offshore Field Operations Pacific OCS Region, to Exxon Company, U.S.A., December 29, 1982. On January 5, 1983, MMS submitted the DPP and Exxon's accompanying Environmental Report (ER) to the Commission for its consistency review under Subparagraphs A and B of Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. § 1456(c)(3)(A) and (B). Admin. Record, Commission's Revised Findings, p. 6.

Appellant began oil and gas production in April, 1981, from the existing Hondo A platform in the SYU. Most of the gas produced from this platform is currently reinjected. The oil produced from Hondo A platform is transferred via subsea pipeline to the nearby Offshore Storage and Treatment vessel (OS&T) for treatment and storage. The OS&T, which is located 3.2 miles from the California shore (i.e., 0.2 miles outside the State's coastal zone), is a converted 50,000 deadweight-ton oil tanker with a length of 743 feet, a beam of 102 feet, and when fully loaded, a height of 155 feet above the water. The OS&T is attached to the ocean bottom by a Single Anchor Leg Mooring (SALM), which allows the OS&T to roll and pitch independently of the SALM and to rotate around it in response to shifting wind and surface currents. Tankers arrive once every 5 days to take on treated crude from the OS&T for shipment to Gulf Coast refineries. The OS&T can currently store 210,000 barrels of treated crude oil, 36,000 barrels of "offspec" crude, and 18,000 barrels of produced and treated water. Current production is 40 thousand barrels of oil per day (MBD). Admin. Record, Appellant's Supporting Statement, pp. 13-14; Appellant's Environmental Report, pp. 2-2, 2-3, 2-4.

The Appellant presented two proposals in its DPP for the further development and production of its SYU reserves, which it estimates to be approximately 300 to 400 million barrels of crude oil and 600 to 700 billion standard cubic feet of

natural gas over a period of 25 to 35 years. Admin. Record, Appellant's Supporting Statement, p. 10. Appellant designated these proposals as development Options A and B. These options differ mainly in the size and location of the oil treating facilities and associated storage and transportation systems. Common to both options is the installation of up to four new production platforms in the SYU and an interconnecting pipeline system to transport the oil and gas to treating and storage facilities. Admin. Record, Appellant's Supporting Statement, pp. 2-4. Under both Options A and B, construction and installa of facilities will not start until 1986. Production from the first new platform is not expected until late 1988. Admin. Record, Appellant's Development and Production Plan, pp. I-6, XI-1; Appellant's Environmental Report, pp. 1.4-1, 2-8. Under Option A, the Appellant would increase the capacity of the existing OS&T from 40 MBD to 80 MBD by installing additional processing equipment in space allocated in the vessel's original design. After treatment, the crude oil will be stored on the OS&T and transported via tankers to the Appellant's refineries at Baytown, Texas. Natural gas would be processed at the gas treating facility under construction at Las Flores Canyon, which would be expanded from 30 to 90 million standard cubic feet of gas per day. Admin. Record, Appellant's Supporti Statement, pp. 3, 32-34.

Under Option B, the Appellant proposes to locate oil and gas storage and treatment facilities onshore. An oil treating facility with a capacity of 140 MBD, or almost twice the capacity of the expanded OS&T as planned under Option A, would be constructed in Las Flores Canyon. Treated crude oil would be stored at this site, and pipelined to a nearshore marine terminal for shipment to the Appellant's Gulf Coast refineries. Natural gas would be processed at the Las Flores Canyon gas treating facility, which would be expanded from 30 to 135 million standard cubic feet of natural gas per day. Once these treating and storage facilities are completed, the Appellant would discontinue the use of the OS&T and the SALM, and remove them from the SYU. Admin. Record, Appellant's Environmental Report, pp. 2-4, 2-5, 2-6; Appellant's Development and Production Plan, IX-24, 25, and 26.

Option B has two components - an "onshore" portion which comprises the nearshore marine terminal and the Las Flores Canyon oil and gas treating facilities; and an "offshore" portion consisting of the proposed new production platforms and an interconnecting pipeline system, both located outside the State's waters. Admin. Record, Commission's Revised Findings, pp. ii-v, 14; Appellant's Supporting Statement, p. 5.

MMS has declared that its approval of the Appellant's proposed development of the SYU would be a major Federal action signific affecting the quality of the human environment under the National Environmental Policy Act of 1969, as amended (NEPA), 42 U.S.C. § 4321 et seq., which requires the preparation of an Environmental Impact Statement (EIS). The facilities

proposed for the onshore portion of Option B to be located in State waters and in Santa Barbara County require State and local permits, and also must comply with the California Environmental Policy Act, which requires the preparation of an Environmental Impact Report (EIR).

MMS, the State of California and the County of Santa Barbara are preparing a joint EIR/EIS which will identify and assess the environmental consequences of Appellant's DPP, and consider alternatives to the proposed action. Admin. Record, Letter from Reid T. Stone, Regional Manager, MMS, to Peter L. Tweedt, Director, Office of Ocean and Coastal Resource Management (OCRM), National Oceanic and Atmospheric Administration (NOAA), August 18, 1983; Letter from Pasquale A. Alberico, Acting Director, Office of Federal Activities, EPA, to Peter L. Tweedt, Director, OCRM, NOAA, May 23, 1983; Commission's Response to Appeal, p. 7. The joint EIR/EIS is expected to be completed by March, 1984. Admin. Record, Joint Comments, City of Santa Barbara and County of Santa Barbara, September 27, 1983, pp. 15-17; Transcript of Public Hearing, October 4, 1983, Statement of County of Santa Barbara, pp. 37, 39.

The Appellant has applied for the necessary State and local permits for the onshore portion of Option B. Both the State and County, in accordance with California law, must reach their decisions whether to issue permits for the proposed onshore facilities by April, 1984. Admin. Record, Commission's Reponse to Appeal, p. 7; Joint Comments, City of Santa Barbara and County of Santa Barbara, September 27, 1983, pp. 15-17.

On June 23, 1983, the California Coastal Commission (Commission), the State of California's Federally-approved coastal zone management agency under Sections 306 and 307 of the CZMA and 15 CFR Parts 923 and 930 of the Department of Commerce's implementing regulations, objected to Exxon's consistency certification for development Option A. The Commission's objection focused primarily on the expanded use of the OS&T and Exxon's alleged failure to consider adequately a pipeline rather than tankers to transport SYU crude oil to refineries in Texas.

The Commission concurred with Exxon's consistency certification for the "offshore" portion (OCS platforms and pipelines seaward of California's three-mile territorial limit) of Option B, but took no action with respect to the "onshore" portion (the pipeline to shore, onshore storage and treatment facilities, and marine terminal) because Exxon temporarily withdrew that portion from the Commission's consideration.

Under Subparagraphs A and B of Section 307(c)(3) of the CZMA and 15 CFR 930.131 of Commerce's implementing regulations, the Commission's objection to Option A on the grounds that it is inconsistent with the California Coastal Management Program

(CCMP) precludes all Federal agencies from issuing any permit or license necessary for the activity to proceed, unless the Secretary of Commerce determines that the activity may be Federally approved because the activity is consistent with the objectives or purposes of the CZMA, or is necessary in the interest of national security. However, because the Commission concurred with the "offshore" portion of Option B, Federal agencies may consider the issuance of any permit or license described in detail in the DPP concerning this portion of Option B.

Appeal to the Secretary of Commerce

On July 22, 1983, the Appellant, pursuant to Subparagraphs A and B of Section 307(c)(3) of the CZMA and 15 CFR 930 Subpart H, Commerce's regulations governing the review of an objected-to activity, filed with the Secretary of Commerce (Secretary) a Notice of Appeal together with supporting information requesting that he find that Option A is consistent with the objectives or purposes of the CZMA or is otherwise necessary in the interest of national security. The Secretary has reserved the authority to decide such appeals. Department Organization Order 25-5A, Section 3.01(w).

Following receipt of Appellant's appeal and supporting information by the Secretary, Commerce published a public notice of the appeal in the Federal Register (48 Fed. Reg. 35692 (1983)), and in local newspapers in San Francisco, Los Angeles and Santa Barbara, California. Commerce held a public hearing in this appeal in Santa Barbara, California, on October 4, 1983.

Comments on the national security interests related to Exxon's proposed activity were requested and received from the Departments of Defense, State, Interior, Treasury, Labor, Transportation and Energy. Comments on the air and water pollution aspects of the activity were requested and received from the Environmental Protection Agency (EPA) and Interior.

Additional comments and information have been received from the Appellant, the Commission (including the record of Appellant's proceedings before it) and Interior. Numerous comments by individuals and organizations were received during the course of the appeal and particularly as a result of the public hearing in Santa Barbara on October 4, 1983. The County of Santa Barbara and the City of Santa Barbara also filed joint comments. All material regarding this appeal received by Commerce during the course of the appeal has been included in the record.

I find that this appeal is properly under consideration and that the parties -- the Appellant and the Commission -- have complied with Commerce's regulations governing my consideration of this appeal (Subparts E and H of 15 CFR Part 930).

Grounds for Sustaining an Appeal

Subparagraphs A and B of Section 307(c)(3) of the CZMA provide that Federal licenses or permits for activities described in an OCS exploration or development plan may not be granted until either the State concurs in the consistency of such activities with its Federally-approved coastal zone management program (its concurrence may be conclusively presumed in certain circumstances), or the Secretary of Commerce finds, "after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state," that each activity described in detail in such plan is consistent with the objectives of the CZMA or is otherwise necessary in the interest of national security.

The regulations interpreting these two statutory grounds for allowing Federal approval despite a State's consistency objection are found at 15 CFR 930.121 ("consistent with the objectives or purposes of the Act") and 930.122 ("necessary in the interest of national security").

15 CFR 930.121:

> The term "consistent with the objectives or purposes of the [CZM] Act" describes a Federal license or permit activity, or a Federal assistance activity which, although inconsistent with a State's management program is found by the Secretary to be permissible because it satisfies the following four requirements:
>
> (a) The activity furthers one or more of the competing national objectives or purposes contained in sections 302 and 303 of the Act,
>
> (b) When performed separately or when its cumulative effects are considered, it will not cause adverse effects on the natural resources of the coastal zone substantial enough to outweigh its contribution to the national interest,
>
> (c) The activity will not violate any requirements of the Clean Air Act, as amended, or the Federal Water Pollution Control Act, as amended, and
>
> (d) There is no reasonable alternative available (e.g., location[,] design, etc.) which would permit the activity to be conducted in a manner consistent with the management program.

15 CFR 930.122:

> The term "necessary in the interest of national security" describes a Federal license or permit activity, or a Federal assistance activity which, although inconsistent with a State's management

> program, is found by the Secretary to be permissible because a national defense or other national security interest would be significantly impaired if the activity were not permitted to go forward as proposed. Secretarial review of national security issues shall be aided by information submitted by the Department of Defense or other interested Federal agencies. The views of such agencies, while not binding, shall be given considerable weight by the Secretary. The Secretary may seek information to determine whether the objected-to activity directly supports national defense or other essential national security objectives.

The regulations governing the Secretary's consideration of an appeal provide:

> [T]he Secretary shall find that a proposed Federal license or permit activity ... is consistent with the objectives or purposes of the [CZMA], or is necessary in the interest of national security, when the information submitted supports this conclusion.
> 15 CFR 930.130.

This regulation must be read in conjunction with the regulations at 15 CFR 930.121 and 930.122 interpreting the two statutory grounds in order to determine whether the information received during this appeal supports making either of the requisite findings.

<u>Ground I: Consistent with the Objectives of the CZMA</u>

The first statutory ground (Ground I) for sustaining an appeal is to find that the activity "is consistent with the objectives of [the CZMA]." To make this finding, the Secretary must determine that the activity satisfies all four of the elements specified in 15 CFR 930.121.

<u>First Element</u>

To satisfy the first of the four elements, the Secretary must find that:

> The activity furthers one or more of the competing national objectives or purposes contained in Sections 302 or 303 of the [CZMA].
> 15 CFR 930.121(a).

Sections 302 and 303 of the CZMA identify a number of objectives and purposes which, in the context of this appeal, may be generally stated as follows:

1. To preserve, protect and where possible to restore or enhance the resources of the coastal zone (Section 302(a),(b),(c),(d),(e),(f),(g), and (i); and Section 303(1));

2. To develop the resources of the coastal zone (Section 302(a),(b) and (i); and Section 303(1)); and

3. To encourage and assist the States to exercise their full authority over the lands and waters in the coastal zone, giving consideration to the need to protect as well as to develop coastal resources, in recognition by the Congress that State action is the "key" to more effective protection and use of the resources of the coastal zone (Section 302 (h) and (i); and Section 303(2)).

These broadly-stated objectives of the CZMA concern the resources of the "coastal zone," which is defined by Section 304(1) of the CZMA to include "coastal waters ... to the outer limits of the United States territorial sea." California coastal zone extends seaward to the three-mile limit of the territorial sea. While Appellant's proposed OCS development activity primarily concerns resources located outside the coastal zone, the CZMA recognizes that activities requiring Federal permits involving the development of resources outside the coastal zone may affect coastal zone land and water resources:

1. By acknowledging the need to resolve conflicts among the competing demands for "food, energy, minerals, defense needs, recreation, waste disposal, transportati and industrial activities" in "coastal and <u>ocean waters</u>" (Section 302(f), emphasis added);

2. By providing Federal financial assistance to meet State and local needs resulting from new or expanded energy activities in or <u>affecting the coastal zone</u>, as a means of attaining the national objective of energy self-sufficiency (Section 302(j), emphasis added); and

3. By requiring coastal States to develop management programs that give priority consideration "to coastal-dependent uses and orderly processes for citing major facilities related to national defense, <u>energy</u>, fisheries development, recreation, ports and transportat ... (Section 303(2)(c), emphasis added).

Indeed, requiring OCS exploration, development and production activities to be consistent with Federally-approved State coastal management programs under Section 307(c)(3)(B) of the CZMA when such activities affect land and water uses of the coastal zone is itself an indication that OCS development activities are included within the objectives and purposes of the Act.

Because Congress has broadly defined the national interest in coastal zone management to include both protection and development of coastal resources, this element will "normally" be found to be satisfied on appeal. 42 <u>Fed</u>. <u>Reg</u>. 43594 (1977)

Appellant's development Option A for the SYU involves the ultimate production of substantial quantities of oil and gas from an area offshore California (supra, pp. 1-2). As discuss above, the development of offshore oil and gas resources and a consideration of the effects of such development on the resources of the coastal zone are among the objectives of the CZMA when such activities require Federal permits. Because the record shows that Option A falls within and furthers one or more of the broad objectives of Sections 302 and 303 of the CZMA, I find that the Appellant's proposed development Option A satisfies the first element of Ground I.

Second Element

To satisfy the second element of Ground I, the Secretary must find that:

> When performed separately or when its cumulative effects are considered, the activity will not cause adverse effects on the natural resources of the coastal zone substantial enough to outweigh its contribution to the national interest.
>
> 15 CFR 930.121(b).

This element requires that the Secretary weigh the adverse effects of the objected-to activity on the natural resources of the coastal zone against its contribution to the national interest.

Adverse Effects

The Commission in objecting to Option A made certain findings, disputed by the Appellant, regarding the adverse effects of Appellant's activity on the natural resources of California's coastal zone. Admin. Record, Commission's Revised Findings, pp. 87-115; Appellant's Supporting Statement, pp. 150-256.

The effects on the natural resources of California's coastal zone which may be caused by Appellant's OCS development activities under Option A are currently being studied as part of the joint Federal/State environmental review of Appellant's DPP. This review will culminate soon in the publication of a final EIR/EIS describing in detail the environmental consequences of Appellant's proposed OCS development activities. The final EIR/EIS will contain information which will help me decide what the adverse effects will be. Therefore, pending the completion of the final EIR/EIS, I am delaying making any findings regarding the adverse effects of the Appellant's activity. Because completion of the joint EIR/EIS is necessary before any Federal permits may be issued allowing the Appellant to implement the OCS development activities under Option A, this action should not lengthen appreciably the permitting process.

Contribution to the National Interest

Section 306(c)(8) of the CZMA provides that a State coastal management program must consider the national interest involve in the planning and siting of facilities, including energy facilities, "which are necessary to meet requirements which are other than local in nature." Commerce's regulations implementing this provision of the Act indicate that there are several ways to determine the national interest in a particular project, including seeking the views of Federal agencies, examining Federal laws and policy statements from the President and Federal agencies, and reviewing plans, reports and studies issued by Federal agencies. 15 CFR Part 923, 44 Fed. Reg. 18590, 18591 (1979); and comment to 15 CFR 923.52(c)(2), 44 Fed. Reg. 18608 (1979). Commerce's regulation also encourage State programs to seek assistance from Commerce in soliciting the views of Federal agencies on the national interest served by a proposed project or activity. 15 CFR 923.52(c), 44 Fed. Reg. 18609 (1979).

At the request of the Commission and prior to the Commission's reaching its consistency decision on Appellant's DPP, Commerce sought the views of certain Federal agencies concerning the national interest in the Appellant's project to develop and produce SYU oil and gas reserves as proposed in the DPP, including both Option A and Option B, and forwarded their responses to the Commission. Admin. Record, Letter from Secretary Baldrige, April 25, 1983.

Summaries of the views expressed by Federal agencies regarding the national interest in this project follow below:

Interior stated that the development of the SYU will reduce the Nation's dependence on foreign crude oil and will provide economic benefits at the local, State and national levels. Admin. Record, Letter from J.J. Simmons III, Acting Secretary, Department of the Interior, to Malcolm Baldrige, Secretary of Commerce, June 7, 1983.

The Department of Defense supported development of the SYU in order to reduce dependence on unstable sources of oil in the interest of national security. Admin. Record, Letter from R.D. Webster, Deputy Assistant Secretary of Defense, to Peter Tweedt, Director, OCRM, NOAA, May 13, 1983.

The Department of Energy commented that the development of offshore oil would offset the decline in domestic crude oil production from the lower 48 states, and reduce the dependence on imported oil. Admin. Record, Letter from Donald P. Hodel, Secretary of Energy, to Malcolm Baldrige, Secretary of Commerce, May 25, 1983.

The Federal Energy Regulatory Commission (FERC) noted that development of the SYU would reduce dependence on foreign energy sources, and stated that such development:

> [S]hould proceed in a manner which is compatible with the environment and which gives full considerati to all practical efforts to mitigate any expected impact from the project.

FERC also expressed the view that the increased gas production from the SYU is expected to lower costs to natural gas users. Admin. Record, Letter from William G. McDonald, Executive Director, FERC, to Peter L. Tweedt, Director, OCRM, NOAA, May 10, 1983.

The Department of Transportation stated that development of the SYU would stimulate economic growth and provide jobs, increase Federal, State and local government revenues, and reduce dependence on foreign sources of oil. The Department commented that these benefits would result "regardless of which of the two oil storage and treatment plans ... is utilized." Admin. Record, Letter from Charles Swinburn, Deputy Assistant Secretary for Policy and International Affairs, Department of Transportation, to Peter L. Tweedt, Director, OCRM, NOAA, May 20, 1983.

The Department of Labor noted that development of the SYU would provide new jobs and reduce dependence on foreign oil imports, and also stated that transportation of the crude oil from California to Gulf region refineries would support the U.S. shipping industry. Admin. Record, Letter from Daniel R. Benjamin, Acting Assistant Secretary for Policy, Department of Labor, to Peter L. Tweedt, Director, OCRM, NOAA, June 30, 1983.

The National Marine Fisheries Service (NMFS) commented that the impacts of Appellant's project on commercial and recreational fisheries, marine mammals and endangered species would be addressed in the joint Federal/State environmental review process, and that NMFS would participate in this process. Admin. Record, Memorandum from William Gordon, Director, NMFS, to Peter L. Tweedt, Director, OCRM, NOAA, June 28, 1983.

The EPA noted its participation in the joint Federal/State review, and identified air and water quality as national interests affected by Appellant's project. Specifically, EPA's comments concern the separate and cumulative effects of routine operational discharges and oil spills on the marine environment. Admin. Record, Letter from Pasquale A. Alberico, Acting Director, Office of Federal Activities, EPA, to Peter L. Tweedt, Director, OCRM, NOAA, May 23, 1983.

The Appellant cites the national policies of the Outer Continental Shelf Lands Act, as amended (OCSLA), 42 U.S.C. § 1331 et seq., and the CZMA as sources for determining the national interest in its project, and asserts that the development of the SYU as proposed under Option A contributes to these goals. Admin. Record, Appellant's Supporting Statement, p. 176. The Appellant submits that the development

and production of the SYU as proposed in Option A will contribute to each of the national interests cited in the purposes section of the OCSLA, namely, "to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade." 43 U.S.C. § 1802. Admin. Record, Appellant's Supporting Statement, pp. 179-201. With respect to energy policy goals, the Appellant asserts that development of SYU reserves would reduce dependence on foreign oil. Under Option A, SYU peak production of 80 MBD of crude oil would represent 2.5 percent of total U.S. crude imports during the first five months of 1983. Admin. Record, Appellant's Supporting Statement, pp. 180-181. The Appellant contends that its proposed development would promote national security mainly by providing a secure domestic source of energy, and by adding at least seven tankers with the capacity of almost 400,000 deadweight tons to the U.S. merchant fleet. Admin. Record, Appellant's Supporting Statement, pp. 183-186. The Appellant also asserts that the SYU project will generate substantial tax revenues to the Federal, State and local governments, and create approximately 45,000 new jobs from a capital expenditure of $1.2 billion to develop the SYU. Admin. Record, Appellant's Supporting Statement, pp. 187-193. According to the Appellant, the SYU project will help maintain a favorable balance of payments by reducing the need for purchases of imported oil which would improve the net U.S. balance of trade position by about $1.5 to $2.5 billion in the peak production year. Admin. Record, Appellant's Supporting Statement, p. 193.

Although the Commission objected to Appellant's development Option A, it concluded that the development of SYU reserves would be "undeniably in the national interest ...." Admin. Record Commission's Response to Appeal, pp. 9-10. However, the Commission asserts that the development of SYU by the means proposed in Option A would not contribute to the national interest because Option A "presents unacceptable risks and precludes sound comprehensive planning." Admin. Record, Commission's Response to Appeal, p. 21. For example, the Commission contends that the expanded use of the OS&T as proposed in Option A would prevent the State and local governments from achieving their goal of consolidating marine transportation facilities, which is necessary in order to mitigate adverse individual and cumulative impacts on the coastal zone. Admin. Record, Commission's Response to Appeal, p. 27.

After considering the information submitted by the parties to this appeal, and the comments provided by Federal agencies concerning the national interests served by the Appellant's project, I find that the production of the oil and gas resources of the SYU is in the national interest. The record in this appeal indicates that the parties are in substantial agreement on the national interests served by the ultimate production of the sizable oil and gas reserves of the SYU.

Such production would contribute to the national interest by reducing the Nation's dependence on foreign sources of oil, thereby furthering national security and economic interests, including employment opportunities and maintaining a favorable balance of payments in world trade. Although development of the SYU reserves is in the national interest, I am delaying making any finding regarding the national interests served by Option A.

I have already delayed making any findings regarding the adverse effects caused by Appellant's project until the joint EIR/EIS is completed. The EIR/EIS also will provide information germane to the national interests expressed in the CZMA which may be affected by Option A. Specifically, I expect that the final EIR/EIS will contain information which will help me decide whether Option A would contribute to the national interest in the effective management, beneficial use, protection and development of the coastal zone expressed in Section 302(a) of the CZMA. Pending completion of the EIR/EIS, I am unable to weigh the adverse effects of Appellant's Option A on the natural resources of California's coastal zone against its contributions to the national interest.

Third Element

To satisfy the third element of Ground I, the Secretary must find that:

> The activity will not violate any requirements of the Clean Air Act, as amended, or the Federal Water Pollution Control Act, as amended.
>
> 15 CFR 930.121(c).

The Clean Air Act

The Clean Air Act (CAA), 42 U.S.C. § 7401 et seq., directs the Administrator of the EPA to prescribe national ambient air quality standards (NAAQS's) for air pollutants to protect the public health and welfare. Each State is required to prepare, for EPA approval, and enforce an implementation plan for attaining and maintaining the NAAQS's for the air mass over the State. 42 U.S.C. § 8410.

Appellant's offshore facilities for its proposed Option A activities, including the OS&T, will be located on the OCS outside the State of California's three-mile territorial limit, with the exception of pipelines carrying gas through State waters to processing and storage facilities located onshore. Emissions from the offshore facilities, however, will likely affect Santa Barbara and Ventura counties, neither of which has yet met the NAAQS for ozone.

The Commission asserts that the Appellant has not met its burden of proof that its activities under Option A will not violate any requirements of the CAA, and that those activities may have substantial air quality impacts onshore which may

jeopardize the efforts of Santa Barbara and Ventura counties to meet the NAAQS's established by EPA. The Commission further asserts that notwithstanding Interior's jurisdiction to regulate emissions on the OCS under the OCSLA (42 U.S.C. § 133-(a)(8)), the CZMA and consistency regulations prescribe that requirements of the CAA determine the air quality standards of the State program, and that they are also the standards which must be considered in this appeal. Admin. Record, Commission's Response, p. 27.

The Appellant maintains that Option A will not violate the CAA because, according to the provisions of the OCSLA, Interior has been granted exclusive jurisdiction to regulate OCS emissions from its OS&T to ensure onshore compliance with NAAQS's, and that by meeting Interior's standards, the Appellant will necessarily comply with the CAA. The Appellant cites, in support of its position, California v. Kleppe, 604 F.2d 1187 (9th Cir. 1979), which held that Interior has exclusive jurisdiction under the OCSLA to regulate air emissions from oil and gas activities on the OCS, and that Interior must set OCS emission standards at a level which will permit State and local governments to attain the air quality standards of the CAA. Kleppe, p. 1196.

Interior stated in a letter to Commerce regarding the CAA aspects of this appeal that it has promulgated regulations to ensure that OCS activities including the Appellant's proposed activities comply with the ambient air quality standards established pursuant to the CAA. The letter emphasized that it is mandatory that all OCS activities including Appellant's Option A comply with those regulations. Admin. Record, Letter from Garrey E. Carruthers, Assistant Secretary for Land and Minerals Management, Interior, to John V. Bryne, Administrator, NOAA, January 10, 1984.

Under Kleppe, the Secretary of the Interior must set emission standards for Appellant's development activities on the OCS at levels which will ensure that CAA requirements are met. Further, the Secretary of the Interior has promulgated regulations to ensure that OCS activities including Appellant's Option A meet CAA requirements and the Appellant is required to comply with those requirements. Therefore, I find that Appellant's proposed activity will not violate any requirement of the Clean Air Act.

The Clean Water Act

The Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., as amended, (the Clean Water Act), provides that the discharge of pollutants is unlawful except in accordance with a National Pollution Discharge Elimination System (NPDES) permit issued by the Administrator of EPA. Sections 301 and 402 of the Clean Water Act, 33 U.S.C. §§ 1311(a), 1342. Thus, a facility operated in compliance with the terms and conditions of its NPDES permit would comply with the requirements of the Clean Water Act. Letter from Josephine S. Cooper, Assistant

Administrator for External Affairs, EPA, to John V. Byrne, Administrator, NOAA, December 22, 1983. Among the categories of discharges regulated under the Clean Water Act are drill muds and cuttings.

A general NPDES permit is currently in effect which covers the area of Appellant's proposed OCS activities. This permit has been extended to July 1, 1984. However, the extended permit will not cover Appellant's proposed activities which are scheduled to begin in 1987. EPA has stated that a new general NPDES permit for Appellant's geographic area will be issued in July, 1984. After issuance of the new general permit, the Appellant may request that its proposed activities in the SYU be covered by the general permit. EPA will then determine whether the general permit applies to Appellant's project, or may require the Appellant to apply for an individual permit. In either case, the Appellant's activities will have to comply with the NPDES permit issued by EPA. Id.

The Administrator of EPA must include terms and conditions in the NPDES general or individual permit covering Appellant's proposed activities that will assure that the activities will not violate any requirement of the Clean Water Act. Because the Appellant cannot construct or operate the proposed facilities without such an NPDES permit and must comply with its terms and conditions, I find that the Appellant's activity will not violate any requirement of the Clean Water Act.

Fourth Element

To satisfy the fourth element of Ground I, the Secretary must find that:

> There is no reasonable alternative available (e.g., location[,] design, etc.) which would permit the activity to be conducted in a manner consistent with the [State coastal zone] management program.
>
> 15 CFR 930.121(d).

The regulation cited above indicates that an alternative may involv major changes in the "location" or "design" of a proposed project to make it consistent with the State's coastal management program. Whether such an alternative is reasonable depends upon its feasibility and upon balancing the estimated increased costs of the alternative against its expected advantages. In the present case, the Appellant has itself proposed and initially certified as consistent with the CCMP both Options A and B, and the Appellant is now pursuing Federal, State and local permits which, if issued, will allow the Appellant to implement Option B (supra, p. 3). The record in this appeal does not at this time support the finding that Option B or any of its elements (project "location[,] design, etc.") is an "unreasonable" alternative to Option A or its constituent elements, and no argument has been offered to this effect.

Appellant argues, however, that development Option B is not a "reasonable alternative available" to it because:

(1) Option B has not yet been "deemed," or concurred in by the Commission to be, consistent and, therefore, does not meet the requirement that an alternative be consistent with the State's coastal management program (Admin. Record, Appellant's Supporting Statement, p. 323); and

(2) Option B is not "available" immediately to the Appellant because implementation of Option B requires Federal, State and local approvals which have not yet been received by the Appellant (Admin. Record, Appellant's Supporting Statement, pp. 323-324).

This argument misconstrues 15 CFR 930.121(d), which does not require that an alternative must be "deemed" to be consistent with a State's coastal management program, in the sense that the State coastal management agency must have already issued a formal consistency concurrence, or that the alternative must be immediately available to the Appellant, without further action by Federal, State and local agencies, before the Secretary may find that there is a reasonable alternative available which would permit the activity to be conducted in a manner consistent with the State's coastal management program.

While a State coastal management agency is required, when it objects to a proposed activity included in an OCS plan, to describe:

> (1) how the proposed activity is inconsistent with specific elements of the management program, and (2) alternative measures (if they exist) which, if adopted by the applicant, would permit the proposed activity to be conducted in a manner consistent with the management program (15 CFR 930.64(b)),

this requirement does not mean that the State agency must formally "concur" in the consistency of the identified alternative with the State's program. In this case, the Appellant has withdrawn its consistency certification for the "onshore" portion of Option B, precluding the Commission's concurrence as well as its objection to Option B in its entirety. The record indicates that the Appellant and the Commission agreed upon this procedure in order to allow the State and local decisionmaking process to go forward on Appellant's permit applications concerning Option B. Admin. Record, Commission's Administrative Record, Transcript of Hearing, June 23, 1983, pp. 012102-012105; 012180-12182.

The requirement that an alternative must be "available" to an appellant does not mean that the alternative must not require any approval by Federal, State and local agencies before it may be carried out. The expectation that Federal, State and

local agencies may impose certain restrictions on the alternat project consistent with their permitting authority does not mean that the alternative is "unavailable." Of course, decisic by State and local agencies denying the permits necessary to implement an alternative or imposing unreasonable permit conditions would mean that the alternative is not "available.

The record in this appeal indicates that the Commission has concurred in the consistency certification by the Appellant that a major portion of Option B related to the construction and operation of the offshore OCS platforms and interconnecting pipelines is consistent with the CCMP. Admin. Record, Commission's Administrative Record, Transcript of Hearing, June 23, 1983, pp. 012251-012252. The Appellant, with the approval of the MMS and the Commission, on the day of its hearing before the Commission on the SYU DPP, June 23, 1983, withdrew its consistency certification for the elements of development Option B other than the offshore OCS platforms and interconnecting pipelines. In response to Appellant's action, the Commission made no findings regarding the consistency of the remaining "onshore" elements of Option B, including the proposed marine terminal and the onshore oil and gas treating and storage facilities described in the DPP, pending the completion of the joint EIR/EIS and studies by the County of Santa Barbara concerning the onshore elements of Option B and other aspects of the DPP. Admin. Record, Commission's Administrative Record, Transcript of Hearing, June 23, 1983, p. 012252. The record indicates that the Appellant stated it would resubmit its consistency certification on the "onshore" portion of Option B as soon as this necessary information and data are completed. Admin. Record, Commission's Administrative Record, Transcript of Hearing, June 23, 1983, p. 012103.

In concurring in the Appellant's certification that the "offshore" portion of Option B is consistent with the CCMP, the Commission found that the adverse effects resulting from the construction and operation of the OCS platforms and interconnecting pipelines were mitigated to the maximum extent feasible in accordance with California law, and, therefore, it could approve the "offshore" portion of Option B. The mitigation measures accepted by the Appellant in connection with the "offshore" portion of Option B concern such matters as oil spill contingency planning and equipment; the disposal of drill muds and cuttings; commercial fishing; and effects on coastal visual and scenic resources. Admin. Record, Commission's Revised Findings, pp. 61-69.

The "offshore" portions of both development Options A and B are similar, except with respect to the alternative mitigation measures recommended by the Commission and incorporated into Option B by the Appellant. Therefore, regarding that portion of Option A describing the OCS platforms and interconnecting pipelines, I find that the "offshore" portion of Option B as

approved by the Commission is "a reasonable alternative available" to the Appellant.

Regarding the second major portion of development Option A, which proposes the expanded use of the existing OS&T, I am delaying making any finding whether "there is no reasonable alternative available" to the Appellant which would permit the activity to be conducted in a manner consistent with the CCMP. 15 CFR 930.121(d). The Appellant initially certified that Option B is consistent with the CCMP. Admin. Record, Appellant's Supporting Statement, p. 4. Further, the Appellant the County and the Commission, in addition to other State and Federal agencies, are currently reviewing Options A and B as part of the joint Federal/State environmental review process, and a final EIR/EIS is expected by April, 1984. The Appellant has also applied for the local and State permits necessary to construct and operate the marine terminal, the storage and treatment facilities, and interconnecting pipelines included in Option B. Admin. Record, Appellant's Supporting Statement, pp. 322-324. Under California law, decisions on the local and State permits must be made no later than one year from the date of application, in this case, by April, 1984. The results of the joint EIR/EIS, and local and State decisions on the permits required for the "onshore" portion of Option B, will help me to determine whether Option B is a "reasonable alternative available" to the Appellant. Therefore, a short period during which further consideration of the appeal is delayed pending the completion of the final EIR/EIS and action by the State and County on Exxon's permit applications is justified.

In addition to development Option B proposed by the Appellant and under review by the County and State, the Commission has identified, as an alternative to the expanded use of the OS&T, the construction and operation of an onshore pipeline as "the preferred method of transportation," if feasible, pursuant to its policy expressed in Section 30232 of the California Coastal Act "requiring protection of the marine environment from any spilling of crude oil, gas petroleum products, or other hazardous substances." Admin. Record, Commission's Preliminary Staff Recommendations, pp. 82-85, 121-125; Commission's Revised Findings, pp. 87-90, 127-131; and Commission's Response, pp. 22-24. The Commission's preference for an onshore pipeline rather than tankers to transport SYU oil to refineries is based on its view that onshore pipelines have less adverse effects on the coastal environment than tankers, and, therefore, if its construction and operation are feasible, an onshore pipeline is the preferre alternative. Admin. Record, Commission's Preliminary Staff Recommendations, p. 82; and Commission's Revised Findings, p. 87. In determining the feasibility of the construction and operation of the onshore pipeline, the Commission has indicated that it will rely heavily upon the pipeline feasibility study being prepared by the County of Santa Barbara. Admin. Record, Commission's Consistency Certification

and Preliminary Staff Recommendation, p. 123; Commission's Revised Findings, p. 130. The Commission has stated that, if the pipeline is infeasible, "a second alternative would be development of a consolidated marine terminal." Admin. Record Commission's Preliminary Staff Recommendations, p. 121; Commission's Revised Findings, p. 128.

The Appellant has stated that it is not opposed to transportation of oil by pipeline if that method is economically efficient. Admin. Record. Applicant's Supporting Statement, p. 339. However, the Appellant has argued that it lacks the refining capacity at its Benicia, California facility to process the heavy, "sour" SYU crude oil, but has the capacity at its Baytown, Texas plant to handle SYU crude; that no "west to east" pipeline exists from California to Texas, and, although feasibility studies are currently underway concerning such a pipeline, the technical and regulatory uncertainties make it impossible to predict if and when such a pipeline will be built; that a "west to east" pipeline is not justified for SYU oil alone; and that proposals to build a joint crude upgrade facility to allow existing refineries in California to complete the processing of SYU oil have not resolved the "economic, timing, technical and environmental/permitting issues" associated with a crude upgrader facility. Admin. Record, Appellant's Supporting Statement, pp. 339-353.

Appellant also questions whether the CCMP incorporates an enforceable coastal management policy requiring the use of onshore oil pipelines rather than tankers to transport OCS oil, and argues that such a policy, if part of the CCMP, is unconstitutional under the Supremacy Clause of the United States Constitution. Admin. Record, Appellant's Supporting Statement, pp. 354-371. The Commission argues to the contrary that its policies do not require crude oil transportation by pipeline, but that, because pipelines have fewer adverse environmental impacts, pipelines are "preferable" to tankers whenever their use is "feasible." Admin. Record, Commission's Response, p. 22.

The Commission also notes that the issue of feasibility of an onshore oil pipeline "is not before the Secretary on appeal because it relates to the interpretation of the CCMP and is not one of the stated grounds for an override contained in the regulations." Admin. Record, Commission's Response, p. 23. However, I find that the issue of feasibility of an onshore pipeline is also a necessary aspect of the pipeline's reasonableness as an alternative to the expanded use of the OS&T and that the issue may be considered on appeal.

The Commission and the County have not yet determined the feasibility of an onshore pipeline. I have already concluded that a brief delay in the consideration of this appeal is appropriate to allow the permitting process with regard to the "onshore" portion of development Option B to be concluded. A brief delay also will allow time for the County and State

to complete their review of the pipeline feasibility issue. The County's study is scheduled for completion by April, 1984. Admin. Record, Commission's Response, pp. 6-7; Joint Comments of the City of Santa Barbara and the County of Santa Barbara, September 27, 1983, pp. 14-15.

Ground II: National Security

The second statutory ground (Ground II) for sustaining an appeal requires that the Secretary find that an activity is "necessary in the interest of national security." To make this finding, the Secretary must determine that "a national defense or other national security interest would be significanly impaired if the activity were not permitted to go forward as proposed." The Secretary must seek and accord considerable weight to the views of the Department of Defense and other Federal agencies in determining the national security interests involved in a project, although he is not bound by them (supra, pp. 5-6). 15 CFR 930.122.

The Appellant contends that there are national defense and security interests in the production of domestic energy resources, a healthy United States economy and the maintenance of a strong U.S. merchant marine fleet. The Appellant argues that these interests would be significantly impaired if the SYU development were not permitted to go forward as proposed. Admin. Record, Appellant's Supporting Statement, pp. 55-65; Appellant's Statement in Response, pp. I-1, 5 and 6.

The Appellant describes the SYU as one of the largest undeveloped oil and gas reserves in the continental United States, estimated to contain between 300 to 400 million barrels of crude oil and between 600 and 700 billion cubic feet of natural gas, and contends that the development of SYU reserves would reduce U.S. dependence on oil imports with a consequent reduction in U.S. vulnerability to supply disruption. Admin. Record, Appellant's Supporting Statement, pp. 66, 69. The Appellant argues that transporting SYU crude oil will add an estimated 400,000 deadweight tons to the U.S. merchant marine fleet, and that the additional capacity will increase its ability to transport petroleum during a supply emergency. Admin. Record, Appellant's Supporting Statement, pp. 71-72; Appellant's Statement in Response, p. I-2. In addition, the Appellant asserts that the gas produced from the SYU will reduce the need to import oil as a replacement energy source as gas production declines in the future, thereby contributing to energy self-sufficiency. Admin. Record, Appellant's Supporting Statement, pp. 69-70, 180-181. Also, the Appellant submits that SYU production is a secure source close to U.S. refining centers which would be easier to defend than foreign sources should an energy disruption be caused by military conflict. Admin. Record, Appellant's Supporting Statement, p. 69; Appellant's Statement in Response, p. I-1. The Appellant concludes that the reduced dependence on oil imports resulting from SYU production would benefit national security. Admin. Record, Appellant's Supporting Statement, p. 70.

In responding to the Appellant's position on the national defense and security implications of the proposed SYU development, the Commission concluded that the development and production of the SYU oil and gas reserves "are undeniably in the national interest ...." Admin. Record, Commission's Response to Appeal, p. 10. The Commission does not oppose the eventual production of the SYU reserves and contends that its objection to Option A does not foreclose such development. Admin. Record, Commission's Response to Appeal, p. 9; Commission's Final Response, p. 5. The Commission cites the fact that it approved the offshore portion of Option B as indicative of its concern that the SYU resources be developed, and states that the construction of these facilities can proceed while the transportation issues are resolved by the Appellant, the County and itself. Admin. Record, Commission's Response to Appeal, p. 8.

However, the Commission asserts that Option A is not necessary in the interest of national security even if the development of the SYU is necessary. Admin. Record, Commission's Response to Appeal, p. 8. The Commission argues that under either Option A or Option B the oil and gas resources of the SYU will be developed and contribute equally to the Federal balance of trade, domestic oil supplies, tax and royalties, and employment. Admin. Record, Commission's Response to Appeal, p. 9. The Commission contends that if a consolidated marine terminal is constructed as part of the onshore portion of Option B, the benefits to the U.S. merchant marine would be essentially the same as under Option A. Admin. Record, Commission's Response to Appeal, p. 9. In addition, the Commission argues that, because of Option B's greater oil and gas storage and treatment capacity, SYU development would occur more quickly and efficiently under Option B than under Option A. Admin. Record, Commission's Response to Appeal, p. 9; Commission's Final Response, p. 4. The Commission also asserts that the national defense and security benefits provided by an onshore pipeline could outweigh the advantages of the Appellant's tanker fleet, given the vulnerability of tanker traffic to disruption. Admin. Record, Commission's Response to Appeal, p. 9. The Commission concludes that because less environmentally damaging alternatives exist to develop the SYU which equally serve the national interest and which are consistent with the CCMP, Option A is not necessary in the interest of national security. Admin. Record, Commission Response to Appeal, pp. 8-10; Commission's Final Response, pp. 4-5.

The regulations require that information from the Department of Defense or other interested agencies be sought to aid the review of national security issues in this appeal, and that the views of such agencies, while not binding, shall be given "considerable weight." 15 CFR 930.122. Recognizing that the activity subject to this appeal involves the development of energy resources, and considering the arguments proposed by the Appellant and the Commission, the views of the Departments

of Defense, Energy, Interior, Labor, State, Transportation and Treasury were solicited concerning the national security implications of the development of the SYU oil and gas reserve. A summary of the responses by Federal agencies is set forth be

The Department of Defense (DOD) addressed only the national defense aspects of national security, deferring to other agencies on the broader implications of SYU development on national security interests. Although qualifying its response by stating that the benefits to be derived from the development of Outer Continental Shelf resources are too general to have direct application to specific DOD objectives, the Department identified two primary defense objectives that SYU production would support - peacetime military readiness and "warfighting sustainability." To support these objectives, DOD encourages the development of secure sources of petroleum. In this respect, the development and production of the SYU would increase secure domestic petroleum assets and provide a greater base from which DOD could draw in an emergency.

In assessing whether these two objectives would be significantly impaired if SYU development and production were not permitted to go forward under any means, the Department described the vital role that fuel availability plays in maintaining peacetime readiness of military forces and establishing wartime sustainability for those forces:

> Simply put, without sufficient fuel the forces cannot operate -- in peace or war. For the foreseeable future, the fuel that DOD must depend on is liquid hydrocarbon fuel from traditional sources. Key weapon systems in the inventory and on the drawing boards are designed to operate on liquid hydrocarbon fuels only. Thus it is vital that DOD have ready access to such fuel. It is evident that the most secure sources of that fuel are domestic ones. Current conventional wisdom advises that the Santa Barbara Channel is considered one of the most promising areas for increasing America's oil reserves. But it must be developed to realize that potential. The SYU project is designed to do that. In the absence of that development, America's crude oil reserves will ultimately suffer. And, to the extent that domestic reserves are diminished, military readiness and sustainability are impaired. It is a subjective call on how "significant" that impairment would be. Are there alternative potential sources that promise the equivalent of SYU and other Santa Barbara areas? Can a synthetic fuels industry be developed in time to meet DOD's liquid hydrocarbon needs in a similar time frame? Both are doubtful.
>
> Admin. Record, Letter from Lawrence J. Korb, Assistant Secretary of Defense (Manpower, Reserve Affairs & Logistics) to John V. Byrne, Administrator, NOAA, November 8, 1983.

The DOD concluded that Option A would directly support the identified national defense objectives, and would help maintai an oil transportation capacity in U.S. flag ships that could be used to support DOD in emergencies.

But the DOD was unable to find that either of the identified national defense objectives would be impaired if the development and production of the SYU reserves were not permitted to go forward under Option A, but were allowed to proceed under Option B. DOD concluded that strictly from a national defense perspective Options A and B have identical merits.

Comments from other Federal agencies responding to the national security interest inquiry were not restricted to national defense issues, but encompassed other elements of national security. These comments, with varying degrees of specificity, concern the contribution of SYU development and production to the national economy and the attainment of a greater degree of energy self-sufficiency.

The Treasury Department provided a general statement that the development of domestic energy resources contributes to economic activity and to lower import bills, and reduces dependence on reliable sources of supply, but could not discern the national security contribution of the Appellant's project:

> Rough calculations show the hydrocarbon production and various revenue streams generated by that [SYU] production to be relatively small and inconsequential from a national income account basis. As long as the problem is limited to one specific project, proving national security dependence is unlikely. Admin. Record, Letter from Manuel H. Johnson, Assistant Secretary for Economic Policy, to John V.Byrne, Administrator, NOAA, October 17, 1983.

The Department of Labor, while concluding that its programs would not be affected by the oil and gas activities proposed by the Appellant, deferred to other agencies on the national security implications of the SYU development. Admin. Record, Letter from Daniel K. Benjamin, Acting Assistant Secretary, to John V. Byrne, Administrator, NOAA, November 29, 1983.

The Department of State considered the production of SYU oil and gas a significant contribution to national security by reducing dependence on foreign energy supplies and contributing to the strength of the national economy and the economy of friendly nations:

> New indigenous petroleum production is essential to national security. [W]e need to take every available action to minimize our dependence on insecure foreign energy supplies. The proposed production by Exxon at the Santa Ynez Unit is equivalent to

more than $400 million a year in imported oil, at current prices. Development of this and similar oil fields can make a substantial contribution to strengthening our balance of payments. Such productio will also reduce upward pressure on oil prices .... Mitigating oil price increases that would otherwise occur will benefit both the U.S. and our allies, allowing us to devote more of our resources to production investment and less to energy consumption than would otherwise be the case.
Admin. Record, Letter from E. Allan Wendt, Deputy Secretary for International Energy and Resources Policy, to John V. Byrne, Administrator, NOAA, November 2, 1983.

The Department of State stated that it was not in a position to evaluate the feasibility of the particular methods for developing and producing the field, and therefore did not comment on whether it is necessary to develop the SYU oil and gas reserves by the means proposed in Option A.

The Department of Energy stated that the goal of our national energy policy is:

> an adequate supply of energy at a reasonable price. In this case "adequate" means short and long-range. It means adequate supply for emergencies. It requires reserves to be in place. In a sense "adequate" is a supply of energy sufficient to assure us energy nondependence — that is, the ability of this nation to withstand an interruption of its imported supplies of energy without tremendous adverse impacts on our economy or national capabilities.
>
> "Reasonable" is a term which varies from user to user. For instance, residential consumers should be able to acquire energy supplies adequate to their needs, without forcing a change in life because of the price. Industrial concerns must remain competitive in domestic and international markets, and not be forced from the markets by the cost of energy.
>
> Admin. Record, Letter from Jan W. Mares, Assistant Secretary for Fossil Energy, to John V. Byrne, Administrator, NOAA, November 3, 1983.

The Department of Energy indicated that achieving this goal will improve our national security, and, therefore, that the production of SYU oil and gas reserves is necessary in the interests of national security and national defense. In order to maintain the current ratio of domestic crude productio to imports, the Department of Energy stated that about 90 percent of domestic crude production in the year 2010 will have to come from reserves not yet identified, and that the Nation's oil reserves must be continually replenished through

new discoveries and development of existing fields such as those represented by the SYU.

In commenting on the adverse effects likely to result from a failure to produce the SYU reserves the Department of Energy stated:

> Increasing imports to some higher level would have national security and defense implications. Although there is no consensus as to what level of imports is too much, being forced to tap higher cost domestic resources has at least two types of potentially major adverse implications. First, forcing people to pay more for the same item eliminates money that could be used to stimulate the economy. This in turn lowers tax revenues, puts pressure on funds for national security and defense purposes, and ultimately results in less money being available that would otherwise give greater prosperity. Second, having to extract oil from higher cost resources, in many cases, implies longer lead times than those associated with less expensive oil. This is because the more expensive oil is typically more difficult to access because of geological and/or climatological factors. If there were a prolonged import disruption that created a need to significantly boost domestic production in as short a period as possible, being forced to the more expensive part of the domestic resource could make this very difficult.
> Id.

The Department of Energy concluded that any delay in approving the SYU DPP could adversely affect our national security and defense interests, and stated that "the existing SYU production, and the additional production that would result from approval of Option A, is very much in the interest of national security and defense." However, the Department of Energy considered it immaterial, insofar as these interests are concerned, whether Option A or Option B is followed, as long as the crude oil can find ready access to a refinery.

After deferring to the Department of Defense concerning an overall assessment of the national defense and national security interests involved in the development of the SYU oil and gas reserves, the Department of Transportation (DOT) indicated that the estimated recovery from the SYU of 300-400 million barrels of oil and 600-700 billion standard cubic feet of gas would increase domestic production and reduce our reliance on unstable sources of imported oil, thereby enhancing national security. DOT concluded that the national defense interest would be enhanced under Option A by the addition of 400,000 deadweight tons to the U.S. merchant fleet which could be used to transport military fuels in war or national emergencies. The DOT indicated that Option B would also have national security and defense benefits, but stated that it was unable to

compare the two options with respect to their national defense benefits. Admin. Record, Letter from Elizabeth Hanford Dole, Secretary of Transportation, to John V. Byrne, Administrator, NOAA, November 28, 1983.

In commenting on the national defense and national security interests associated with SYU production, the Department of the Interior specifically addressed the importance of Option A, but noted that the national defense and national security interests to be served under Option B are similar to those under Option A. As an indication of the connection between the Nation's energy program and national defense, the Department of the Interior referenced a July 1, 1983 memorandum of understanding between the Secretary of the Interior and the Secretary of Defense, which reads in pertinent part:

> The Department of Defense (DOD) and the Department of the Interior (DOI) fully support the national goal of exploration and development of our nation's offshore oil and gas resources. The DOD recognizes that the OCS licensing program of the Department of the Interior is an integral part of the nation's energy security program to develop domestic oil and gas resources and thus is important to national defense.
>
> Admin. Record, Memorandum of Agreement Between the Department of Defense and the Department of the Interior on Mutual Concerns on the Outer Continental Shelf, Statement on behalf of the Minerals Management Service, Transcript of Public Hearing, October 4, 1983, p. 57.

Interior described the SYU as the largest undeveloped oil and gas reserve in the continental United States and concluded that developing reserves of this magnitude will significantly improve both national defense and national security. This conclusion is based on Interior's finding that the SYU production, secure from foreign economic, military or political interruption, will help attain a greater degree of energy self-sufficiency, strengthen military readiness, substantially reduce the need to deplete the oil supplies of the Strategic Petroleum Reserves, and substantially increase our country's capacity to refine lower grades of crude oil - the type of oil likely to be available in times of interrupted hydrocarbon imports. Also, Interior considers the continued and expanded use of U.S. tankers for transporting SYU crude a substantial and significant contribution to both national security and national defense, by increasing the carrying capacity of the U.S. merchant marine fleet which would be available to transport petroleum during an emergency. Interior also agrees with the Appellant's assessment of the economic benefits to be derived from development of the SYU oil and gas reserves. Admin. Record, Letter from William P. Pendley, Deputy Assistant Secretary for Energy and Minerals, to John V. Byrne, Administrator, NOAA, November 3, 1983.

The MMS, the agency within the Department of the Interior responsible for leasing and managing the nation's offshore lands for mineral development, has on two separate occasions provided comments regarding the national defense or national security interests associated with the Appellant's proposed activity. These comments are consistent with Interior's position stated above. Admin. Record, Letter from Reid T. Stone, Regional Manager, to Peter L. Tweedt, Director, OCRM, NOAA, August 18, 1983, and Statement on behalf of the Minerals Management Service, Transcript of Public Hearing, October 4, 1983, pp. 49-58.

The Appellant argues, as summarized earlier, that the productio of SYU oil and gas reserves is in the national security interest because, among other reasons, the SYU reserves are sizable and their development will reduce dependence on foreign oil (supra, p. 19). The Commission does not dispute this argument, and, in fact, agrees that certain national security interests, including reducing dependence on foreign sources of oil, will be served by producing SYU reserves (supra, p. 20). Further, the Department of Defense has indicated two defense objectives -- military readiness and "warfighting sustainability" -- which would be supported by SYU production, and other Federal agency comments also support the Appellant's assertion that development of SYU oil and gas reserves will reduce dependence on imported oil (supra, pp. 21-2 Therefore, based on the evidence in the record, I find that the production of the SYU oil and gas reserves directly supports the national defense objectives described by the Department of Defense. However, I am delaying making any findin regarding whether these national defense or security interests would be "significantly impaired" if the Appellant is not permitted to develop the SYU reserves "as proposed" under Option A until the final EIR/EIS and the County of Santa Barbara' report on pipeline feasibility are completed and made available and until the County and the State have taken final action on Appellant's applications for the State and local permits necessary to go forward with Option B. How the State and the County act on the Appellant's applications for the permits for Option B will aid me in determining whether development of the SYU reserves could as well be attained under Option B, thereby securing the national defense or security interests related to SYU production which have been identified by the parties and Federal agencies.

Conclusion

It is evident from the legislative history of the consistency provisions of the CZMA that the Secretary should seek "to reconcile national security needs and the State [coastal] management program in the case of conflicts." S. Rept. No. 92-753, 92d Cong., 2d Sess. (1972), reprinted in Congressional Research Service, Library of Congress, 94th Cong., 2d Sess., Legislative History of the Coastal Zone Management Act of 1972, as Amended in 1974 and 1976, at 211-211 (Comm. Print 1976).

The conflicts between developing STU oil and gas reserves as proposed by the Appellant under Option A, and as required by the Commission to be consistent with the State program, may be resolved by developing the STU reserves under Option B, which the Commission has already indicated may be an alternative consistent with the CCMP. Such resolution of this dispute would conform to the intent of the CZMA by requiring that national security objectives be attained by means which are consistent with a State program, if possible. However, if the Commission later finds that Option B is inconsistent with the CCMP, or if the State or County deny the permits necessary to implement Option B or impose unreasonable permit conditions I would have to resume consideration of this appeal and find that Option B is not an alternative available to the Appellant.

Malcolm Baldrige
Secretary of Commerce