



**CITY OF HUNTINGTON BEACH  
SUPPLEMENTAL COMMUNICATION  
Joan L. Flynn, City Clerk  
Office of the City Clerk**

**TO:** Honorable Mayor and City Council  
**FROM:** Joan L. Flynn, City Clerk  
**DATE:** November 5, 2012  
**SUBJECT: SUPPLEMENTAL COMMUNICATIONS FOR THE NOVEMBER 5, 2012,  
REGULAR CITY COUNCIL/PFA MEETING**

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Attached is Supplemental Communications to the City Council (received after distribution of the Agenda Packet):

**Public Hearing**

**#19.** Communication received from Gordon W. Smith, Chairman of the Huntington Beach Wetlands Conservancy, dated October 31, 2012 regarding the Magnolia Oil Storage Tanks Demolition and Transfer Piping Removal: Draft Mitigated Negative Declaration No. 2010-007.

**#19.** Communication received from Mary Jo Baretich, President, Cabrillo Wetlands Conservancy, dated November 4, 2012 regarding the appeal of Planning Commission's approval of Mitigated Negative Declaration No. 10-007 and Coastal Development Permit No. 10-011.

**Councilmember Item**

**#23.** Communication received from Robert Dettloff, dated November 5, 2012 regarding the proposed resolution regarding the San Onofre Nuclear Generating Station.

**#23.** Communication received from Donald Mosier, Councilmember of the City of Del Mar, dated November 5, 2012 regarding the opposition of the restart of Unit 2 at San Onofre Nuclear Generating Station.

**#23.** Communication received from Marilyn Wigglesworth of San Clemente Green, dated November 4, 2012 regarding the San Onofre Nuclear Generating Station.



**HUNTINGTON BEACH  
WETLANDS CONSERVANCY**

A Nonprofit Corporation  
www.hbwetlands.org

21900 Pacific Coast Highway  
Huntington Beach, CA 92646  
(714) 536-0141

City Council  
City of Huntington Beach  
2000 Main Street  
Huntington Beach, CA 92648

October 31, 2012

RE: Magnolia Oil Storage Tanks Demolition and Transfer Piping Removal:  
Draft Mitigated Negative Declaration No. 2010-007

Hon. Mayor and Councilmembers:

In a letter to Mary Beth Broeren dated January 19, 2011, the Huntington Beach Wetlands Conservancy expressed its objections to and concerns with the Mitigated Negative Declaration for the demolition of the oil tank farm owned by Plains All American Pipeline. Because this matter is before you as an appeal from action by the Planning Commission, we are writing again to voice our objections and to inform you of events that have occurred since the Planning Commission's decision on March 8, 2011, including our good-faith efforts to reach a mutually agreeable resolution of this matter.

On April 29, 2011, Mayor Carchio convened a meeting between Tom McLane of Plains and myself to explore the possibility of a letter of agreement between Plains and the Conservancy. Also attending were Councilmember Boardman, City Manager Fred Wilson, and Planning Director Scott Hess. An agreement was reached that, in essence, obligated Plains to remove the oil lines from Conservancy land providing that there was no further commercial value to the lines once the tank farm was demolished and the land sold. The Conservancy was agreeable to that, as the language of the easement limits the use to transfer of petroleum; thus, unless the next owner of the tank farm site were to use it for oil storage and transfer, there would be no further value to the easement.

Unfortunately, the agreement Plains drafted for us to sign contained the proviso "Plains decides that there is no commercial value in the Pipelines." That unilateral language was not acceptable to the Conservancy, and on July 11, 2011, we met with Tom McLane to explain our objections to the proviso given the opinion of our attorney, the attorney for the State Coastal Conservancy, and others, that the language of the easement severely limits the value and future use of the easement and pipelines. Mr. McLane indicated that Plains would not yield on this position, and we have had no further communication with him.

**SUPPLEMENTAL  
COMMUNICATION**

Meeting Date: 11-5-2012

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Should Council approve the Mitigated Negative Declaration and approve the issuance of the permit to demolish the tank farm while leaving in place the abandoned oil lines on our property, we would be faced with a permanent blight on our land, and would be prevented from completing the restoration of the wetland area the lines cross.

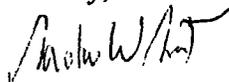
As we demonstrated in our January 19, 2011 letter, as does the State Coastal Conservancy in its March 8, 2011 letter, this is not merely a dispute between two private parties—one a local volunteer-based non-profit land trust, and another a Texas-based conglomerate that owns 18,000 miles of pipelines across the country and 20 million barrels of storage capacity— as some may portray this issue. Rather, it is a matter of compliance with the CEQA, the California Environmental Quality Act, which provides the set of requirements that must be applied properly to this issue.

City staff assure me that the January 19 and March 8 letters are part of the record available to Council. Nonetheless, the critical importance of CEQA compliance as it relates to this Mitigated Negative Declaration compels us to dispel the “framing” of any dispute on this issue as being one of a “private dispute,” or over a potential “takings” by the City if the City were to find our way. Both contentions are off target, and fail to recognize that CEQA controls this issue. In its proper light, and under CEQA, an applicant such as Plains cannot determine itself the scope of the “project” for the very circumstance that exists here: the applicant for its reasons decides to stop demolition at its property line rather than to continue removal of pipeline extending onto the wetlands habitat. Because of this self-serving potential, CEQA requires the “common sense” approach, among other things, to determine whether the project is CEQA compliant. To date, that review has not been done.

I urge you to review this issue in its proper light and under the applicable standards, such as those identified through the January 19 and March 8 letters. Rather than deny our issue, which then forces this issue to navigate through the various administrative and/or legal forums only to come back *later* to the Council, we are asking this Council to require *now* the full and appropriate CEQA review that has yet to occur, namely by incorporating measures that properly address our issue into the existing Mitigated Negative Declaration and/or conditions of approval.

Apart from CEQA and mitigated negative declarations, before Council is the opportunity to take a stand for the community, and to do the right thing for its citizens who give their time and energy to improving the environment in Huntington Beach.

Sincerely,



Gordon W. Smith, PhD  
Chairman,  
Huntington Beach Wetlands Conservancy

November 4, 2012

City Council Members  
2000 Main Street  
Huntington Beach, CA 92648

RE: November 5, 2012 Council Meeting Item 19 - Appeal of the Planning Commission's approval of Mitigated Negative Declaration No. 10-007 and Coastal Development Permit No. 10-011

Dear Council Members,

Please do not approve this Mitigated Negative Declaration No. 10-007 and Coastal Development Permit No. 10-011. As proposed, this application is flawed in that although the tanks are proposed to be removed, no provisions are included to remove the piping that connects the tank farm to the power plant over land owned by the wetlands conservancy. . Once the tanks are demolished there would still remain equipment with no functional purpose. This piping runs across the Huntington Beach Wetlands Conservancy land, and should be required to be removed.

Please refer to the letter from the California Coastal Conservancy, dated March 8, 2011, in you packet, that addresses this issue. Wherein, the letter states in part, "In other words, the easement is solely for the use of equipment on the Wetlands property which serves the petroleum products and crude oil that are stored on or transported or distributed from the Tank Property. Once the tanks are removed from the Tank Property, there will be no remaining use of the Tank Property for transport, storage or distribution of such products. At that point the easement will have no further permitted use...." Since the easement for the transfer piping may only be used in connection with the storage tanks on the Tank Property, which are being removed, there is little question that the piping has no further "commercial value." The easement cannot be used for another purpose.

The letter further states that "Our understanding is that Plains has refused to remove transfer piping located on the "Wetlands Property" on the basis of the erroneous theory that even after the removal of the three empty above-ground crude oil storage tanks from the property adjacent to the Wetlands Property (the Tank Property)", the remaining piping on the Wetlands Property will still have remaining "commercial value" (for use in connection with a desalination plant, for example, according to Plains). That theory is wrong for the simple reason that the easement for the transfer piping across the Wetlands Property and the existing tank farm on the Tank Property are intimately linked under the language of the reserved easement."

The Coastal Conservancy provided the funding to the Huntington Beach Wetlands Conservancy to acquire the land, and the deed gave them contingent interest in the property. They do have valid concerns regarding use of the property in violation of the restrictions in the deed covenants.

I agree with the Coastal Conservancy that the City should require removal of the piping as a condition to any approval of or permitting for the project.

I further feel that the Tank Property should be fully remediated and used for recreational purposes such as parkland. It is adjacent to a sensitive wetlands and should have a passive use, not additional Industrial use.

Respectfully,

Mary Jo Baretich  
President, Cabrillo Wetlands Conservancy  
Huntington Beach, CA

**SUPPLEMENTAL  
COMMUNICATION**

Meeting Date: 11-5-2012

Agenda Item No. 19

**Esparza, Patty**

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**From:** Fikes, Cathy  
**Sent:** Monday, November 05, 2012 10:26 AM  
**To:** Boardman, Connie; Bohr, Keith; Carchio, Joe; Dwyer, Devin; Hansen, Don; Harper, Matthew; Shaw, Joe; Connie Boardman; Devin Dwyer; Joe Shaw; Keith Bohr; Matthew Harper  
**Cc:** Wilson, Fred; Emery, Paul; Hall, Bob; Flynn, Joan; Esparza, Patty; McGrath, Jennifer  
**Subject:** FW: Testimony for tonights meeting

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**From:** Robert Dettloff [mailto:rodettloff@socal.rr.com]  
**Sent:** Monday, November 05, 2012 10:03 AM  
**To:** Fikes, Cathy  
**Subject:** Testimony for tonights meeting

Cathy; please distribute the following to members of the City Council and other appropriate City officials.  
Thanks! 😊

Unfortunately, I will be setting up a polling place on Monday evening and will not be able to testify in person at the City Council meeting where Council Member Boardman has a resolution.

I suggest that it is inappropriate to raise this issue at this time. A new City Council will be installed in a month and they should have the right to make this decision for the citizens of Huntington Beach, not a subset of outgoing City Council members.

I know of no reason for a hasty submittal of a resolution to the regulatory agencies. I also suggest that this is not an appropriate position for the City Council to take with only one night of testimony for or against the resolution as written. As late as last Saturday, the agenda item on San Onofre, was not posted on the Cities web site. Therefore, I doubt that very many residents are aware of the proposed resolution and therefore will not be at the meeting to voice their opinion. I don't doubt that a faction of the environmental community, both within the City and outside the City, has been rallied to show up in force and try to overwhelm the Council into a position without the entire Huntington Beach citizens aware of the meeting and resolution in their name.

The regulatory agencies are the ones who will make the final decision of required modifications and other operational and cost issues based on their findings. City resolutions are fine and appropriate to let the regulatory agencies know the position of the cities on the future of San Onofre.

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It is acceptable, to me, to attach the other Cities resolution to the Huntington Beach resolution, but I firmly believe that the prestige of the City of Huntington Beach warrants its own firmly worded resolution and not appear as a "me to" city.

I would like the City of Huntington Beach's resolution to be more of a stand alone and to, as a part of the resolution, ask the regulatory agencies to look at the latest technology in determining the safety requirements for the facility and imposing them, to ask the regulatory agencies to look at the latest methods of determining the reliability of the hardware and the design of the facility and imposing them, to ask the regulatory agencies to determine the latest technology in Quality Control/Assurance of the hardware, the design, the implementation of the design, and the operational aspects of the facility and imposing them.

The Safety, Reliability, and the Quality Control/Assurance are the keys to a successful operation of the best technology that we have for pollution free atomic energy.

The use of atomic energy to produce energy within the United States has had only one minor malfunction, as far as I know. When one takes into consideration the number of successful hours of operation of atomic energy plants within our border as well as the number of kilowatt hours produced, we have had a very safe and successful use of atomic energy.

Can the regulatory agencies do more? Probably. Atomic energy use to create power has come a long way since 1945. The United States on land and on the sea in our nuclear submarines and aircraft carriers has advanced the technology safely beyond the conception in 1945. The rest of the world also produces safe atomic energy. There have been only two notable problems, Chernobyl which was a different design and rampant with numerous human errors, and the Japanese power station that was inundated by the Tsunami.

With the understanding of the past system failure causes and the implementation of current Safety, Reliability, and Quality Control/Assurance technologies, San Onofre can be a safe neighbor creating the electrical energy needed to meet current and future demands.

Robert O Dettloff, Professional Quality Engineer

**Esparza, Patty**

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**From:** Fikes, Cathy  
**Sent:** Monday, November 05, 2012 11:36 AM  
**To:** agendaalerts@surfcity-hb.org  
**Subject:** FW: Resolution about restart at SONGS  
**Attachments:** FAULTY TOWERS.doc

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**From:** Donald Mosier [mailto:donaldmosier44@gmail.com]

**Sent:** Friday, November 02, 2012 2:56 PM

**To:** Boardman, Connie; Shaw, Joe; Harper, Matthew; Dwyer, Devin; Hansen, Don; Bohr, Keith; Carchio, Joe; Fikes, Cathy

**Subject:** Resolution about restart at SONGS

Dear Fellow Councilmembers,

Please join the City Council of Del Mar and 7 other coastal cities in opposing the restart of Unit 2 at San Onofre Nuclear Generating Station. I have attached an article I wrote for a local newspaper highlighting why I believe the restart is a bad experiment with a flawed design that is identical to the Unit 3 steam generator that failed. This is from the NRC inspectors report.

Don Mosier

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Donald Mosier

Councilmember

City of Del Mar

858-784-9121 daytime

858-337-5905 evenings

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## **SUPPLEMENTAL COMMUNICATION**

Meeting Date: 11-5-2012

Agenda Item No. 23

## FAULTY TOWERS

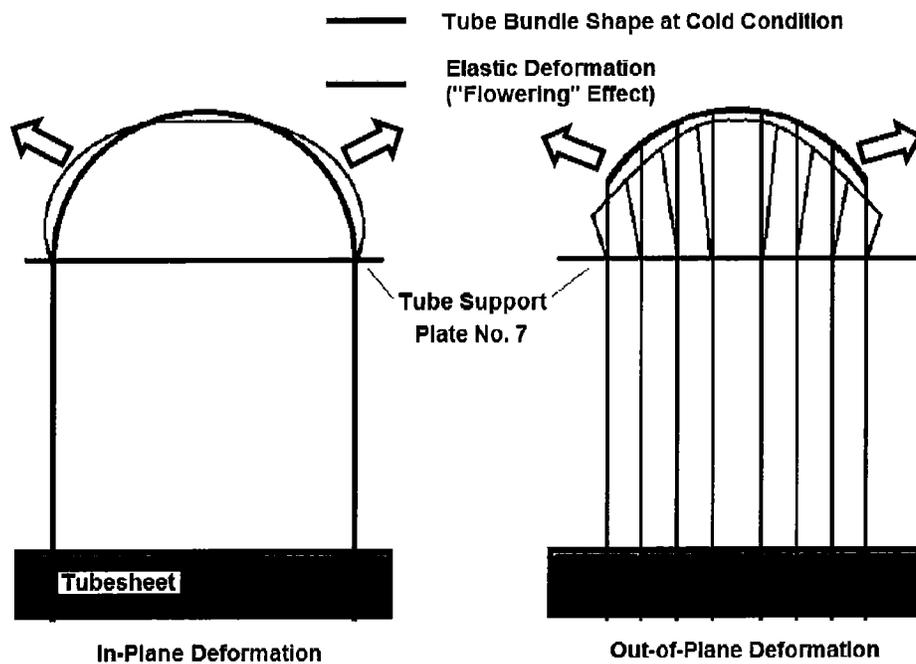
Don Mosier, Councilmember

Southern California Edison (Edison) applied to the Nuclear Regulatory Commission (NRC) for permission to restart damaged Unit 2 of the San Onofre Nuclear Generating Station (SONGS) on October 4<sup>th</sup>, 2012. Lee Haydu and I attended an NRC public meeting in Dana Point on October 9<sup>th</sup>, where I participated as a panelist and stated my opposition to the restart without a full, license amendment hearing with public participation and review by independent experts, many of whom are against the restart. My comments were in line with Del Mar City Council action taken on September 24<sup>th</sup>.

Why am I so adamantly opposed to restarting Unit 2? The January leak was in the new Unit 3 steam generator, and there is no proposal to start that reactor. The proposal from Edison is to restart Unit 2 at 70% power in the hope that lower power will reduce the risk of another radiation leak. Here is what the NRC inspectors concluded in July:

“Since generator physical dimensions and design are identical, the operational parameters are basically the same between the Unit 2 and 3 steam generators; therefore, the hydraulic forcing function that caused tube-to-tube wear and accelerated anti-vibration bar and tube support plate wear should also be same. The initial inspections of the Unit 2 steam generators did not indicate significant wear except at the retainer bars (different mechanism caused this wear). However, subsequent follow up inspections in Unit 2 with a more sensitive probe confirmed the existence of minor tube-to-tube wear in two neighboring tubes but in one of the steam generators. The tube-to-tube wear that was found in Unit 2 was in a similar location as that found in both of the Unit 3 steam generators.” (page 58, SAN ONOFRE NUCLEAR GENERATING STATION – NRC AUGMENTED INSPECTION TEAM REPORT 05000, 361/2012007 and 05000362/2012007; July 18, 2012)

So Edison is willing to experiment that the identical design to a failed unit will perform better, and that no further radiation leaks will occur. This experiment ignores the root cause of the problem, which clearly is faulty design and fabrication of the new steam generators, which is described in euphemistic terms as “flowering” (see illustration). This experiment will put 8.4 million southern California residents at risk, and the proposed benefit is generation of 700 megawatts of electricity that makes a small and unneeded contribution to our regional energy needs. It is this poor risk:benefit ratio that may have prompted both the LA Times and the Union-Tribune to reach rare agreement that SONGS should not be restarted. And the risk is increased by the close proximity to active earthquake faults.



Description of "Flowering" Effect (Conceptual Drawing – For Illustration Purposes Only)

Mitsubishi Heavy Industries, who constructed the steam generators for Edison, has proposed that tube-to-tube wear in the U-bend sections at the top of the generators is due to "flowering" at the high temperature, high pressure operating environment. (source: same NRC report of July 18, 2012 cited above).

**Lugar, Robin**

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**From:** Fikes, Cathy  
**Sent:** Monday, November 05, 2012 12:33 PM  
**To:** agendaalerts@surfcity-hb.org  
**Subject:** FW: SONGS

**From:** Marilyn Wigglesworth [mailto:tjandmw@sbcglobal.net]  
**Sent:** Sunday, November 04, 2012 6:05 PM  
**To:** Fikes, Cathy  
**Subject:** SONGS

Dear City Council Member,  
Thank you for putting the critical issue of SONGS on your agenda.  
We need local community leaders to stand up for the safety of their citizens.  
Your voice is critical to ensure that the NRC is held accountable for ensuring public safety.  
Please join other cities in Orange County and San Diego County by supporting the following:

- **Urge the Nuclear Regulator Commission to not allow restart** of San Onofre until and unless Southern California Edison completes a license amendment process with a public, transparent hearing to determine the safety of the restart plan.
- **Urge the California Public Utilities Commission to:**
  - Expedite the OII [Order of Investigation] regarding the financial status and viability of San Onofre to protect the ratepayers; and
  - Not hold ratepayers responsible for errors which led to faulty replacement steam generators being installed, outage expenses, and the need for repair expenses; and
  - Provide additional incentives and programs to support the rapid installation of new power generation, power savings, and grid stabilizing technologies; and
  - Prioritize efficiency and renewable energy resources whenever possible.

Thank you,  
Marilyn Wigglesworth  
San Clemente Green

**SUPPLEMENTAL  
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Meeting Date: 11-5-2012

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