



June 2<sup>nd</sup>, 2015

Governor Brown  
 c/o State Capitol, Suite 1173  
 Sacramento, CA 95814  
 Fax: (916) 558-3160

Re: **Refugio Oil Spill – Proclamation of a State of Emergency**

Dear Governor Brown,

This letter is submitted by environmental organizations throughout the State of California who are deeply concerned about the Refugio Oil Spill, which began in Santa Barbara County and may have spread to other coastal regions to the south. The spill will have long-term impacts on our coastal environment and communities. Unfortunately, it appears that the spill was caused, in part, due to weakened regulatory oversight that resulted in a delayed shutdown of the pipeline. It is imperative that the response and ultimate restoration be legally robust and not impaired by a similar weakening of the State’s legitimate regulatory authority.

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Accordingly, we ask you to immediately rescind the suspension of Chapter 7 of the Coastal Act, which is included as section 5 of the Proclamation of a State Emergency issued on May 20, 2015. This suspension eliminates the application and enforcement of the substantive provisions of the Act, including important protections for environmentally sensitive habitat areas (“ESHA”), wetlands, marine resources, and more. The damage that has occurred to date is unacceptable – more than 40 miles of the coast fouled with oil, at least 80 dead birds and 45 dead marine mammals, two popular State Parks closed and 138 square miles closed to fishing. Now is the time when we need the greatest possible protections for the coastal environment, not a weakening of California’s signature coastal protection law.

We understand and sympathize with the need to respond quickly to an emergency. The Coastal Act was written with the recognition that emergencies will happen, and both the Act and its regulations provide for procedures to immediately deal with such emergencies. Public Resources Code section 30624 and California Code of Regulations (“CCR”) sections 13136 et seq. provide for the issuance of emergency permits, and Public Resources Code section 30611 and CCR section 13144 further provide for an even more expeditious process whereby a permit waiver can issue to authorize an immediate emergency response. Either scenario could have been applied to Plains All American Pipeline (“Plains”) as the applicant (even with initial verbal approval by Coastal Commission staff to expedite the process), while providing for a future basis to require, if necessary, a subsequent coastal development permit (“CDP”) to mitigate harm and restore our precious coastal environment in compliance with the standards required by the Coastal Act.

In the case of the Refugio oil spill, the Commission has jurisdiction from the mean high tideline seaward, while the County retains jurisdiction from the mean high tide line inland. In fact, the County of Santa Barbara followed the protocol established in its Coastal Zone ordinance and issued a verbal approval of an emergency permit for Plains on May 20, is awaiting submittal of the written emergency permit, and will then issue subsequent CDPs that will outline enforceable conditions for future restoration and mitigation. This emergency permit demonstrates that cleanup activities have not been delayed by procedures designed to address emergencies like this. However, there is some discussion that suspension of Chapter 7 may apply to both the Commission and the County and that some could try to use the suspension to attempt to undermine the County’s permits in the future. Thus, the lifting of the suspension of Chapter 7 is critical so that both the County and the Commission can apply and enforce the policies of the Coastal Act and the County’s Local Coastal Program.

Emergency permits have been issued pursuant to the Coastal Act in other similar situations, such as the Torch Oil Spill in 1997. In these situations, the emergency response was allowed to proceed, a subsequent CDP was required, and the Coastal Commission was able to require necessary restoration.

While we are aware that other laws and regulations are at play, they do not share the same substantive policies of the Coastal Act, and no other agencies have the legal authority to enforce the requirements of the Act. For example, the Coastal Act provides broader protections for the coastal and nearshore marine environment. The definition of ESHA is broader and more protective than similar provisions in other laws. The definition of wetlands under the Coastal Act is broader than in other laws. The protections for marine water quality and biological productivity are more all-encompassing than those required by other laws. Protections for cultural resources and commercial and recreational fishing are similarly more robust under the Coastal Act than under other laws. Each of these concerns is best addressed if the Coastal Act is in full force and effect. This suspension creates a significant regulatory gap that must be closed.

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In conclusion, we urge you to lift the suspension immediately. Rescinding this suspension will not cause any delay or interference with response and clean-up operations, but will ensure that they are undertaken with environmental sensitivity and with the guarantee of full restoration and mitigation once the emergency has passed.

We thank you for your consideration of this request, and we look forward to supporting the State's efforts to recover from this tragic oil spill.

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Environmental Defense Center

Susan Jordan, Director  
California Coastal Protection Network

Damon Nagami, Director, Southern California Ecosystems Project  
Natural Resources Defense Council

Kathryn Phillips, Director  
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Mark Morey, PhD, Chair  
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Graham Hamilton, Executive Committee Chairman  
Surfrider Foundation, West LA/Malibu Chapter

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Surfrider Foundation, South Bay Chapter

Michael Lyons, President  
Get Oil Out!

Sejal Choksi-Chugh, Executive Director & Baykeeper

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San Francisco Baykeeper

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Environmental Action Committee of West Marin

Kira Redmond, Executive Director  
Santa Barbara Channelkeeper

Jason Weiner, General Counsel  
Ventura Coastkeeper

Liz Crosson, Executive Director  
Los Angeles Waterkeeper

Garry Brown, Executive Director  
Orange County Coastkeeper

Matt O'Malley, Legal and Policy Director  
San Diego Coastkeeper

Gordon Hensley, Director  
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Phil McKenna, President  
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Nancy Weiss, Interim Executive Director  
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Marell Brooks, President  
Citizens Planning Association of Santa Barbara County

Mike Wondolowski, President  
Carpinteria Valley Association

cc: *California Senate President pro Tempore Kevin de León*  
*Speaker of the Assembly Toni G. Atkins*