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**CALIFORNIA EARTH CORPS**  
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June 7, 2005

Long Beach Mayor O'Neill and City Council  
333 Ocean, Long Beach 90802

Re: Long Beach LNG Proposal  
MOU with SES

Dear Mayor O'Neill and Councilmembers

California Earth Corps urges that this Council **rescind the MOU** with Safe Energy Systems. Two weeks ago, we urged that this Council send a clear message to the Senate Energy Committee that the Federal preemption reaffirmed in the Energy Bill would preclude any ability for Long Beach to protect its' residents or derive any benefits from an LNG Terminal and Refinery sited here. Last week, absent any protest from Long Beach, the Bill issued from Committee with one dissenting vote. We still need to counter the testimony of the MOU that Long Beach supports this Project to have any chance of amendment on the Senate Floor to strip out the Federal preemption and restore some measure of authority to protect Long Beach residents and interests. Yes, it is a long shot but not the End Game. Actually, we believe it is our best opportunity to reopen the door for meaningful participation by Long Beach and this Council in whether an LNG Facility should be sited here, under what conditions, or not at all. Here is why.

- \* Although Long Beach did file (at the insistence of Bry Myown) as an Intervenor in the FERC proceedings that resulted in the Decree that stripped State and Local Government of any role other than advisory to FERC, Long Beach failed to participate or counter the arguments advanced by SES that the Natural Gas Act gave FERC exclusive jurisdiction and powers, including eminent domain, preempting California Constitutionally ordained regulatory oversight such as the California Public Utilities Commission, or legislative acts, like the Coastal Act and CEQA, the California Environmental Quality Act, although the Coastal Commission, through the Federal Coastal Zone Management Act, and Air Resources Board, through the Clean Air Act, could issue ADVISORY recommendations, so long as they had no potential to delay the construction schedule. And a Federal EIS would be required under NEPA, the National Environmental Protection Act, under the direction of FERC, Certified by FERC and appealable only to FERC. Although Long Beach and the POLB has declined to attend the Technical Meetings, FERC has made it quite clear that anyone who had any problems with their exclusive unilateral decision making process should take it to Court. That is exactly what CPUC and CARE did.
- Although it was requested that Long Beach participate as Real Party at Interest or to file an Amicus Brief, as California Earth Corps and seven States have done, the City Attorney's Office declined. We believe that a very compelling case has been presented showing no authority under the Natural Gas Act for FERC to

assert exclusive jurisdiction, much less sweeping powers such as eminent domain, and that the Plaintiffs CPUC and CARE will prevail. We also believe that FERC and SES agree; that's why they have, so far successfully, attached a rider to the Energy Bill, "clarifying" FERC's exclusive jurisdiction over onshore LNG Facilities, including the Refinery and Pipelines.

- Should Congress pass, and the President sign the Energy Bill with exclusive LNG regulation delegated to FERC, and should the 9<sup>th</sup> Circuit Court rule in favor of CPUC and CARE, SES might have to make a NEW filing with FERC because the Energy Bill should not be retroactive. We believe that the Energy Bill should only reserve exclusive FERC jurisdiction to new filings, not those previously filed under the pre-existing jurisdictional structure, if CPUC and CARE, and our AC Brief, are upheld by the 9<sup>th</sup> Circuit.
- Should these events occur as we believe most probable within the next 60 days, SES will not only be compelled to file for permit (CPCN) with the CPUC, they will also have to complete an EIR under CEQA, need City approval for their pipelines and require POLB and Coastal Commission Approvals for a Port Master Plan Amendment. This not only gives the City a whole new bite at the apple before FERC, it restores the authority of the City, under direction of this Council, to deny Permits found not to be in the best interests of Residents, or to attach Conditions that would produce some Benefits to offset the heavy financial and liability burdens imposed by the Project.

**But this Council must rescind this MOU to be in a position to take advantage of these new opportunities.**

### **We Don't Need It**

Southern California Gas Company (Semptra), SDG&E and PG&E all have Statements on file that they have long term contracts in place to cover California's Natural Gas demand for the next few decades. CPUC must make a firm and reliable 10 year forecast for our future supply and demand; such forecast currently finds that our natural gas needs for the next ten years are reliable and uninterrupted, even without the continued reduction in demand that has occurred despite an increasing population. Further offsets to natural gas demand are projected by CPUC adopted plans for energy conservation, expansion of California's Renewable Energy Portfolio, actualization of the Solar (Photovoltaic) and Regeneration Programs. One approved and one pending new natural gas pipelines are planned to bring new sources of natural gas into southern California. Five other sources of LNG, one in Mexico approved (but under appeal), and three offshore, are under consideration. Long Beach must **rescind this MOU** to keep more economical options open.

### **We Don't Want It**

Long Beach just has too much to lose, financially, with the major increases in Police and Fire Department costs imposed by unfounded security mandates, in increased health costs from the substantial increases in particulate and toxic discharges to the airshed from the

Project, and in liability and risk of loss of life and property damage from accident, earthquake or terrorist attack.

### **We Won't Get Either the Gas or Revenue Anyway**

In a Port complex deemed the #1 terrorist target in the nation, the most vulnerable and undefendable site would be the immense storage tanks holding up to two and one half tankerloads of LNG.

Surrounded by 27 earthquake faults, located between the Inglewood-Newport and Palos Verde faults each capable of a Reichter 7.0 magnitude event and directly over the active Thums HP vertical thrust fault, the site has repeatedly been subjected to focused shear forces resulting in multiple surface ruptures in the slip zone parallel to the I-N and PV faults. No rigid structure like the LNG Storage Tanks can withstand these most probable shear forces.

Breach of these tanks would release up to 15 times the volume of LNG as that modeled for an LNG tanker accident, unavoidably resulting in an inextinguishable pool fire that would burn skin and ignite flammable materials within four miles (see map), based on the very conservative Sandia model of .55 mile explosive arc for a tanker incident. Other far more catastrophic events consider the vapor cloud carried inland with the prevailing onshore breeze before ignition, or the liquid reaching the surrounding harbor waters to be drawn upchannel toward civic center before vaporization and ignition. Any modeled event would shut down the harbor complex for years. Any modeled scenario would result in unacceptable losses of lives, of jobs and to the National economy. **It is too big a risk to even contemplate taking.**

### **We Won't Get Either the Gas or any Revenues Anyway**

Conoco Phillips, as partner and operator of the Facility, will determine whether the product is piped to their Refinery for feedstock or sold on an open market. Since Conoco needs new and more hydrocarbons to remain competitive in the NGL and traditional product marketplace, you can guess what their decision will be. Since they will own all three pipelines, no opportunity exists, now or future, for the City to impose or derive any tax revenues or wheeling charges for revenues from the Project.

**Please, rescind this unwise MOU tonight**

Sincerely,

Don May, President  
California Earth Corps