August 8, 2011

President Cindy Miscikowski
PORT OF LOS ANGELES
425 S, Palos Verdes Street
P.O. Box 151
San Pedro, CA 90733-0151
Phone/TDD: (310) 630-PORT

RE: DERATED TANKS-REQUEST FOR INJUNCTION "ULTRAHAZARDOUS ACTIVITY"
RANCHO LPG 25 MILLION GALLONS OF BUTANE AT PETROLEUM STORAGE FACILITY,
2011 NORTH GAFFEE STREET, SAN PEDRO, CALIFORNIA

Dear President Miscikowski,

In reading the City Council file on this 25 million gallon LPG facility it appears you were concerned in 2005 about the public safety of the community while on the City Council. The Port of Los Angeles is still involved with this facility. The rail tracks used by Rancho LPG go over Port of Los Angeles property. When the Port closed Rancho’s pipeline to berth 120 a change of operations occurred that should have triggered a review of their permit. Railcar and truck traffic was increased.

Carl Southwell, USC doctoral candidate, has written the most compelling evaluation of Rancho LPG:

"IN MY BACK YARD: A CASE STUDY OF INSTITUTIONAL ODDURACY IN THE FACE OF PUBLIC SAFETY OR A CONSEQUENCE ANALYSIS OF A TERRORIST ATTACK ON THE RANCHO LPG FACILITY.

Footnote 5: "This area lies in a well-documented area of seismic activity. An earthquake similar to the recent Christchurch temblor (i.e., near the surface, long duration, approx. 6.3 magnitude) would be both consistent with the Long Beach Earthquake of 1933 and could collapse the Rancho LPG butane tanks. In the event of such an earthquake-induced collapse, a huge pool fire would probably ensure, but the severity from the facility collapse alone relative to the terrorism event outlined in this report would probably be smaller. However, it should also be noted that, due to simultaneous and/or cascading effects of an earthquake (and perhaps a following tsunami) (i.e., the Naval Depot tanks might collapse, the ConocoPhillips refinery might have numerous failures), a catastrophic fire greater in scope that the event outlined in this report could occur." The Japanese events, of course, make this even more prescient.

Professor Southwell’s conclusion, "the facility should be condemned, and, if there is a continued need for such a facility, it should be situated in a more appropriate location after a thorough and complete environmental review".

There was a heck of a propane explosion in Kansas on August 3, 2011. It is informative to note that this facility stored about 1/1500 the amount of LPG stored at Rancho LPG. This would imply that a similar event at the Rancho LPG would be as much as 1500 times worse.


The City of Los Angeles has kept their head in the sand since 2005 and done nothing. Please see the below City Council file on this facility.

Council File Number
04-1645-S1
Title
AMERIGAS PROPANE, LP / PERMIT / TERMINATE
Subject
Motion - AmeriGas Propane, L.P., reputed to be the nation's largest propane company, has been operating a liquefied petroleum gas (LPG, such as butane or propane) receiving and loading facility
at Berth 120 in the West Basin of the Port of Los Angeles under a Port permit for use of a pipeline right-of-way and a tertiary berth assignment. AmeriGas has been receiving excess butane by underground pipeline primarily from two oil refineries (BP North America and Valero) and has been storing the butane in two 12 million-gallon, refrigerated storage tanks, which are located on privately-owned land on North Gaffey Street in San Pedro. AmeriGas has been transporting its butane by pipeline to Berth 120 for loading onto ships for export. Knowing that its permit for use of the pipeline right-of-way was to expire on May 27, 2004, AmeriGas asked the Port in December 2003 to begin negotiations for a successor permit. The Harbor Department notified AmeriGas in February 2004 that its permit would not be renewed because, under the Port Master Plan, the preferred use for the area occupied by the pipeline is to be for expansion of the adjacent container storage uses. On February 19, 2004, the Port Community Advisory Committee (PCAC, a standing committee of the Board of Harbor Commissioners), approved a Motion proposing that the Board of Harbor Commissioners not renew the pipeline permit with AmeriGas. PCAC’s action was in response to local residents who have feared that the flammable material stored in AmeriGas’ tanks pose a dangerous risk to nearby communities. Prior to the expiration of AmeriGas’ pipeline permit in May 2004, the Board granted “month-to-month holdover status” to AmeriGas, pending the outcome of a public forum on the permit, to be sponsored by local neighborhood councils. News articles indicate that the three neighborhood councils in San Pedro have supported the immediate termination of AmeriGas pipeline permit, but that neighborhood councils in Wilmington and Harbor City have preferred to allow AmeriGas to continue using its pipeline until it can relocate its storage tanks. If AmeriGas cannot use its pipeline; its representatives have said that they will have to transport butane supplies by truck and by rail through local neighborhoods - an undesirable result from the Neighborhoods’ perspectives. The public forum for neighborhood councils, held on July 18, 2004, concluded with a request that AmeriGas and its two oil refinery clients find a way to terminate the storage tank facility operations on North Gaffey Street. Unfortunately, during the intervening year, the Harbor Department and AmeriGas have been unable to find another suitable location for its storage tanks in the vicinity of either the Port of Los Angeles or the Port of Long Beach. While AmeriGas says that it needs 20 acres to operate its two storage tanks, no land area that large has been identified to be available. On Tuesday, June 21, 2005, the Commerce, Energy & Natural Resources Committee recommended that the Harbor Commission be asked to postpone for 30 days any action on the PCAC Motion proposing that AmeriGas’ pipeline permit not be renewed, pending an attempt by a proposed City-led task force to work with the involved parties to find a solution for relocation of AmeriGas’ storage tank operation. The Committee felt, on a vote of 2-1, that the City should make one last effort to find a way to avoid the dangerous transport of butane by truck or rail though local communities. However, the Board of Harbor Commissioners chose to act on Wednesday, June 22, 2005 to concur with the Port Community Advisory Committee, and terminated AmeriGas’ permit for use of the pipeline right-of-way that connects Berth 120 with AmeriGas’ storage tanks in San Pedro. THEREFORE MOVE that, pursuant to Charter Section 245, the City Council hereby asserts jurisdiction over the action taken by the Board of Harbor Commissioners on June 22, 2005 to terminate AmeriGas’ permit for use of a pipeline right-of-way at the Port (Board Agenda Item E.III.1 re PCAC Recommendation No. 17 - Unloading of LPG and Like Products at Berth 120 and the Pipeline Permit Not Be Renewed), in order to allow the Council the opportunity to hold a broader discussion of the potential impacts of closing AmeriGas’ access to its pipeline, as well as to allow additional time for efforts to be made to relocate AmeriGas’ huge butane storage tanks; and FURTHER MOVE that, upon assertion of jurisdiction, this matter be referred to the Commerce, Energy and Natural Resources Committee for further review.

Last Change Date
07/12/2025
Council District
15
Mover Second
CINDY MSCIKOWSKI BERNARD PARKS
Archive History
6-28-05 - This day’s Council session
6-28-05 - File to Calendar Clerk for placement on next available Council agenda
7-5-05 - Council Action - Motion RECEIVED and FILED

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Since no one has acted to protect the community for over 6 years I am asking you to step up to the plate and ask your City Attorney to file for an injunction, something never before pursued by the previous City Attorney, our District Attorney or United States Attorney.

Whether an activity is ultra hazardous is a question of law. SKF Farms v. Sup. Ct. (1984) 153 Cal. App. 3d 902. California has adopted the Rest. 2d Torts approach for determining whether activities are abnormally dangerous:

1. Existence of a high degree of risk of some harm to the person, land, or chattel of others;
2. Likelihood that the harm that results will be great;
3. Extent to which the activity is not a matter of common usage;
4. Inability to eliminate the risk by the exercise of reasonable care;
5. Inappropriateness of the activity to the place where it is carried out;
6. Extent to which its value to the community is outweighed by its dangerous attributes.

The essential question is whether the risk created is so unusual, either because of its magnitude or because of the circumstances surrounding it, as to justify the imposition of strict liability from the harm that results, even though it is carried on with all the reasonable care.

SKF Farms involved herbicide spraying at a neighboring farm. The court found that crop dusting is not a matter of common usage and, therefore, could be an ultra hazardous activity if it met the other criteria.

Strict liability applies only to the harm within the scope of risk. Courts will construe the land and scope of risk narrowly where possible. Goodwin v. Reilly (1985) 176 Cal.App.3d 86.

Rest. 2d rejects the view that an intervening act such as negligence is a superseding cause. The creator of the ultra hazardous activity is responsible for the consequences, even where another’s negligence occurs. (Environmental Science for Prosecutors 1997)

The facts of this case satisfy the elements of an Ultra hazardous Activity.

“There is the existence of a high degree of risk of some harm to the person, land or chattel of others.” Look at the San Jacinto disaster of ’94. 2.91 million gallons killing 600 people and burning thousands more. Here there is over 25 million gallons.

“There is likelihood that the harm that results will be great.”

“This is not a matter of common usage.”

“Inability to eliminate the risk by the exercise of reasonable care.”

Because of the sheer volume of storage of LPG at this facility, it is a disaster waiting to happen.

“Inappropriateness of the activity to the place where it is carried out.”

“Extent to which its value to the community is outweighed by its dangerous activities”. The dangerous activity has been exposed by the recent San Bruno disaster and Kansas City explosion. Where is the value to the community?

The essential question is whether the risk created is so unusual, either because of its magnitude or because of the circumstances surrounding it, as to justify the imposition of strict liability from the harm that results, even though it is carried on with all the reasonable care.

The magnitude of storage at the Rancho facility (over 25 million gallons) is like no other in the United States. I submit there is justification in our request for the filing of an injunction in Superior Court by the City Attorney.

The City Council vote was 12-0-1 in 2005 on Termination.

We need your help. If you have any questions call me anytime.

Sincerely,

Anthony G. Patchett
CC: Dan Weikel, LA Times