

CSTR's Andrew Lee Presents at Ocean Protection Council

Earlier this month, the California Ocean Science Trust released to the Ocean Protection Council its final report on method comparisons for decommissioning the oil rigs in Southern California. The study is being made a part of the new regulations proposed in AB 2503 which provides funding from the oil companies to the State and reefing projects (including the rigs) provided the rigs are not removed entirely. A public hearing was held on June 25th at which CSTR's Vice Chairman and VP Science, Andrew Lee expressed CSTR's concerns about some of the study findings, and provided corrections to the information the report included about AB 634.

1. **Title to the Reefs:** The California State Lands Commission has advised CSTR that the State will not take title to ships or other materials sought by us for placement of artificial reefs/fishing/diving attractions. This creates a conflict between the treatment of rigs and other artificial reefs. This conflict could provide a platform for litigation from parties interested in opposing either or both kinds of artificial reefing. Although this kind of litigation would be unlikely to succeed, it could be an effective tool in delaying projects and running up costs contemplated in AB 2503 or by CSTR. Including ALL artificial reefs in the section of AB 2503 dealing with title would prevent this possibility by unifying the treatment of all forms of artificial reefing. Rig/Reef ownership was discussed at the Council meeting and it was indicated that State ownership is required by Federal law; i.e. any rig currently in Federal waters would have to transfer title to State ownership to be reefed.
2. **AB 634:** This bill, sponsored by CSTR, would add SCUBA diving on government waters (State and political subdivisions thereof) to the list of "inherently hazardous activities" for which the governmental entity bears no liability. The provision regarding fees was amended out at the request of the Consumer Attorneys of California, who then dropped their opposition. The governmental property provision, would, we believe, apply to state owned properties (rigs) located in Federal waters. Marker buoys will carry a "Dangerous Conditions, Wreck Below, Dive At Own Risk" disclaimer. AB 634 passed out of the State Senate on 06-28-10 and is on its way to the Governor.
3. **85 Foot Depth Issue:** This is a major issue for SCUBA divers, who will be attracted in large numbers to a reef in relatively shallow (45 to 60 foot minimum depth). SCUBA diving in California is big business. One artificial reef, *HMCS Yukon*, reefed off of San Diego in 2000, brings \$4.5 Million into the San Diego economy in direct diver-related income alone. This does not take into account hotels, restaurants, other hospitality related businesses, and local tourist attractions which divers and/or their families make use of while in the area.

While the depth of the top of the artificial reef may not have much value impact as habitat, it will most definitely impact its economic value. All of the rigs could productively be left as reefs well above the 85 foot cut off level proposed. The Coast Guard routinely approves structure-to-surface clearances of 45 to 60 feet. Limited numbers of divers will go to a reef whose minimum depth is 85 feet (dive time approximately 20 minutes), while many will dive on such a structure in the 45 foot (115+ minutes) to 60 foot (46+ minutes) range, where bottom times are comparatively much longer for a no-decompression dive.

At 45 to 60 feet there is usually much better visibility from more available light than at lower depths, especially in cold water. As a safety issue this means a diver is better able to orient him/herself and keep track of a buddy. As a dive attraction issue, more can be seen of the structure and the life on and around it, and photos or videos can be taken more easily.

One of the reasons given for the 85 foot minimum depth is that at this depth the Coast Guard requires no marking on charts or buoying. **This is not correct**. According to Brian Aldrich, Coast Guard District Eleven (dpw), Private Aids to Navigation (which are Non-Coast Guard Navigational Buoys & Lights), Ships to Reefs Project Review, Offshore Energy Project Review, Scientific Community Liaison, the policy in the Gulf of Mexico is as follows:

“This is the District 8 (Gulf of Mexico) guidance: Yes, D(istrict) 8 developed a policy back in the 80's. It is 65ft - requires a lighted buoy, 66 to 200 (ft.) requires a buoy ... no markings (required at) greater than 200 (ft.).”

In response to a question as to whether, under similar circumstances, one Coast Guard District would follow policy/guidance set in a different district, Mr. Aldrich answered,

“Yes, we would generally follow that guidance. Now that I see the guidance, it looks like we have generally followed it, judging by the lighted shellmound marker buoys off of Santa Barbara: HO, HI, HE, and HA, which were former oil rigs. However, these are in 65 - 200 feet of water and they are lighted, for the sake of local fishermen.”

Therefore there is no savings on marking and/or buoying if the highest point of the rigs are placed at 65 feet rather than 85 feet, other than the cost of a lighted vs unlighted buoy, and no savings at all for a difference between 45 and 65 feet.

Since the rigs are already marked on all navigational charts, all that would be required on new charts would be a change of designation and a note on clearance. Marking and buoying are routinely done on artificial reefs, which also routinely include mooring buoys for dive and/or fishing boats, to prevent anchor damage to the reef. The entity owning and/or operating the reef can provide navigation and mooring buoys in cooperation with the dive boats visiting the reef for roughly \$2,000 to \$4,000 per year, and will find no shortage of participating charter operators to assist in placing and maintaining them.

4. **Reefing the Upper Structure:** What needs to be considered is that removal of the platforms from the jackets, placing them down next to the jackets provides additional habitat but no additional revenue for the State. Taking the platforms to scrapping, if feasible at all, may provide a one time influx of revenue. This would be more than offset by the massive carbon footprint that would be created by all of the transporting on the sea and on land. Also, at an estimated cost of \$384 per ton just for material handling costs on the land, CSTR would question if any real influx of cash would be generated. Plus, there is no facility on the West Coast currently that can handle this sort of project. All Navy and Maritime Administration ship scrapping is done on the East or Gulf coasts with Brownsville, Texas being the closest certified yard. Where would all of this scrap metal need to be taken and what additional carbon footprint and hard costs would that generate?

The third alternative included in the Study but not considered is moving the platforms to shallow water. This solution would have the affect of building additional habitat that would be beneficial for the environmental condition of our coastal waters, but would have the secondary benefit of providing ongoing income for a significant period of time through the recreational diving and fishing communities. This same argument holds true for topping the rigs in the 45-60 foot range. What occurs when you provide this additional recreational opportunity is a tremendous value from ongoing expenditures made in the pursuit of these recreational opportunities. CSTR saw or heard no evidence that the SCUBA industry was included in any consideration in this study. This needs to be addressed! As an example, with the current Gulf situation, the SCUBA diving industry in one state alone is declaring an \$800 million/year annual loss of revenue in its claim against BP. The State of Florida publishes a combined income from recreational ocean activities of fishing & diving as a result of its artificial reefing program of \$1.7 billion for the 4 southeast counties alone. This kind of revenue opportunity should not be ignored, as it is greater than the revenue opportunity promised in the legislation, AB 2503 itself, for the California Endowment for Marine Preservation. This would enhance the viability of the bill to both sides of the legislative aisle, providing additional habitat the environmentalists can support and additional income for those concerned with the budget.

5. At least two speakers spoke to a lack of biological assessment of the rigs. A mandate for biological assessment for each rig is contained in AB 2503 prior to a decision being made on the appropriateness of reefing each rig. This will be done rig-by-rig, not as a group or class.

The Ocean Protection Council is keeping the public comment period open until July 25, 2010 for additional public comment. You are encouraged to review the study (http://calost.org/reports/Decommissioning_Report.pdf) and send any concerns/comments you have to the California Ocean Protection Council at 1330 Broadway, 13th Floor, Oakland, CA 94612.