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ENVIRONMENTAL CENTER
OF SAN LUIS OBISPO COUNTY

Protecting and enhancing the Central Coast since 1971

February 19, 2009

Ellen Carroll, Environmental Division
Department of Planning and Building
County Government Center
San Luis Obispo, CA 93408

Hand-delivered

Re: Request for Review of a Proposed Mitigated Negative Declaration
Environmental Determination No. ED07-311
Excelaron/Mankins Conditional Use Permit DRC2006-00222
Dated February 5, 2009

Dear Ms. Carroll,

The Environmental Center of San Luis Obispo County (ECOSLO) strives to support and create resilient, healthy, natural systems and lifestyles in San Luis Obispo County. We are committed to a sustainable future while working to improve our quality of life and economic vitality in our communities. Through education, advocacy, and community building, ECOSLO acts to protect the natural environment and environmental health on the Central Coast. We are committed to the support of sustainable and diverse agriculture in our county.

ECOSLO is filing a Request for Review of the Proposed Mitigated Negative Declaration for the subject project because the initial evaluation of this project made by the County of San Luis Obispo is inadequate. A Mitigated Negative Declaration (MND) is not appropriate for this project. California Public Resources Code, Section 21080(d) states, "if there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment, an environmental impact report shall be prepared". The proposed project may have a significant effect on the environment; therefore, an environmental impact report should be prepared for this project. Further, the “fair argument” standard says that an Environmental Impact Report must always be prepared when the Lead Agency determines that it can be fairly argued that a project has the potential to have a significant effect on the environment. The County has identified many potentially significant impacts and mitigations in the MND

that need to be properly analyzed, along with project alternatives in an Environmental Impact Report.

Williamson Act Review

Several of the parcels of agricultural lands traversed by the oil haul route are under Williamson Act contracts and should be reviewed by the Agricultural Preserve Review Committee (APRC) for compatibility of use. The APRC found oil drilling to be a compatible use, but this project involves much more than simply oil drilling. Table 2 of the Agricultural Preserve Rules of Procedure lists compatible uses for lands subject to conservation contracts. While petroleum extraction can be a compatible use, subject to prior review and recommendations of the Review Committee, an industrial petroleum shipping and produced water treatment facility fails to meet the intention of the compatible use list. The parcel in question must be taken out of the Williamson Act contract. An important part of compliance with a Williamson Act contract is the agreement to not to do anything that would interfere with neighboring agricultural operations. As described below in the agricultural resources section, there are many conflicts with this project and the neighboring agricultural production. The APRC needs to be given another chance to review the entire project as currently proposed.

Reliance on 1980 Lorena Project EIR

The MND appears to rely to some extent on assumptions, studies, and conclusions of a 29-year-old document. It is the first document on the list of referenced materials. There have been significant changes in technology, air quality regulations, biological and water quality protection requirements, amongst many others. Any reliance upon a 29-year-old Environmental Impact Report is completely inappropriate.

Agricultural Resources

Impacts on agriculture have been understated since they do not consider impacts to agricultural lands along the haul routes. Oil haul trucks will pass by hundreds of acres of hay production, cattle grazing lands, row crops, and wine grapes. Dust and emissions from this traffic will have a deleterious effect if they are not fully mitigated. The proposed mitigations are vague and inadequate. They also have potential environmental impacts that must be analyzed on their own. The dust control method has the potential to affect particulate matter emissions for the life of the project. It is not appropriate to defer the analysis of the impacts to agriculture, oak trees, or water. The oil seepage must be leakage from piping or tankage or an orphaned well, or remaining soil contamination from past spills. The source must be investigated, and the contamination must be removed.

Air Quality

According to a letter from the SLO Air Pollution Control District (APCD) dated January 5, 2009, "Again it is important to note that the CEQA process should evaluate reasonably foreseeable air quality impacts that may be caused by this project. If the project proponent makes additional changes to the project including, but not limited to, the number of wells, steam injection vs. hot water, oil production, product delivery location, type of equipment, size of equipment, or throughput then the calculations presented in the December 8, 2008 report will no longer be valid and additional evaluation will be

necessary." The project applicants have some ability to change the project description before the second notice to proceed if they choose an alternative route to the Conoco-Phillips refinery. The potential impacts of this route have not been adequately analyzed. In addition, the applicant has stated in response to an APCD letter that they do not have control over the age of tanker truck that will be used and so cannot depend on newer equipment for the purposes of mitigation. (Letter to APCD dated January 21, 2009).

The applicant must be required to specify where the NOx offsets will be obtained prior to issuance of the CUP.

Biological Resources

Please respond to all of the concerns raised by the consultant to Huasna Valley Association in his comment letter by Gordon Hensley, San Luis Obispo Coastkeeper.

Bonding

The Santa Barbara County Board of Supervisors staff report of Jan 15, 2008 reported that during the five year period (2003-2007) over 500,000 gallons of oil were spilled in Santa Barbara County, at a cleanup cost to the county of almost $2,000,000. Greka Energy Co. was responsible for 77% of the spills. The cleanup costs ranged from $1.67 to $3.34 per gallon of oil spilled. We continue to hear of oil spills at Greka on a regular basis.

San Luis Obispo County taxpayers should not be held responsible for any clean up costs that may result from oil spilled from this project. The county must require bonding adequate to cover the following worst-case scenario spills. We know that Greka is a potential operator of the facilities and we know of their track record in Santa Barbara County so ensuring financial protection of the County is a vital part of the CUP.

Environmental Monitor

Where are the details of the bid process, responsibilities, and payment of the environmental monitor? Please refer to the Ventura County CUP requirements for appropriate monitoring requirements.

Hazardous Materials and Wastes

Please address the following questions and issues in your response to this Request for Review:

Add a requirement for the produced water to be analyzed for NORM and heavy metals.

Require that the tank bottom sludge be analyzed for NORM and heavy metals as well as the CAM tests including aquatic toxicity – per California Administrative Code, Title 22 – to determine whether it is a hazardous waste. Tank bottoms should not be used onsite for coating berms, paving roads or anything else. We need to know how tank bottoms will be handled.

Will the truck loading rack be equipped with an impervious collection system? Will the loading rack have automatic shutoffs? How will the product remaining in the loading hoses be handled?

Will the production piping be underground or above ground? If above ground, will it be properly supported? If underground, will cathodic protection be used?

Th emergency response plan should be provided for public review.

Will anti-scaling agents will be used in the water heater? Acid and caustic may be used in treating the water. Emulsion breakers will be used to separate the oil and water. Acid and corrosion inhibitors will be used to acidize the well at times to increase production.

Will caustic be used for sulfur treating if gas has elevated H2S content?

How will waste lubricating oils be handled?

Monitoring and Enforcement

Once the CUP is issued, DOGGR has authority to permit additional facilities. The County must limit number of wells allowed in CUP conditions.

Please reference the attached Ventura County Standard CUP Conditions for detailed information on monitoring and enforcement.

Notice to Proceed

The applicant must be required to complete all roadwork, bridgework and dust control measures before proceeding with the exploration and testing phase of the project. In addition, the applicant must be required to abandon and plug all orphaned, idle or unused wells on the applicant's parcels.

Wastewater

The wastewater section should address produced water handling and disposal.

Water

Please address these questions and concerns regarding water and treatmentin your response:

Water must be treated before it is used in the heaters. A brine waste may result from the water treatment operation. How will the blowdown from the heaters be handled? How will this brine be disposed of? Where will it be stored? Will it be hauled offsite or injected?

During drilling, will they use drilling mud pits or "Baker" (above ground) tanks? Drilling mud pits should not be allowed. Backfilling of drilling sumps is not appropriate.

The public should have a chance to review the Spill Prevention, Control and Countermeasure (SPCC) Plan prior to their approval. Will berms be constructed? Will the area within the berms be impervious to oil/diluent spills? What is the direction of flow of a spill offsite, and towards what waterway? What spill control and recovery

equipment will be available onsite? What is the response time for the spill cleanup personnel? Will tanks have level control and automatic shutoffs tied to the pumping units, in the event of a leak or overfill?

MND states that tanks will have liners. They should have double liners and leachate collection/removal systems.

The applicants must prove that they can handle all of the produced water. If the produced fluids are 93% water, how will they dispose of that water?

How will the determination be made that the roads are impassable, without a truck becoming stuck in the road? It does not seem wise for trucks to cross a tributary to Twitchell Reservoir. How many days per year will this be impassable? Will the facility operator be able to access the site at those times?

What water will be used for safety eyewashes?

How will the monitoring of the Huasna groundwater aquifer be done?

Well cellars shall be kept covered and dry at all times. After rain events, water must be pumped into produced water system. If water contains oil, it must be pumped into wash tank.

Tank cleaning must be done into containers, not into sumps. All drips, spills onsite must be immediately removed.

The CUP must be written to state that sumps and pits shall not be used at the facility at any time.

Mandatory Findings of Significance

1) Degradation of the quality of the environment

Impact on the environment has not been fully examined in independent, comprehensive studies as would be conducted in an EIR. The 1980 Lorena Project EIR, which is 29 years old, is not an adequate substitute for a complete modern analysis. The approval of a project of this scope and complexity without the full analysis of an EIR is not appropriate.

2) Cumulative effects

This project is only one of several potential oil drilling projects in Huasna Valley and Upper Lopez Canyon. The cumulative impacts of the development of all of these projects must be analyzed within the framework of an EIR. We should not set the precedent of allowing a project of this size and scope to proceed with only a MND.

This county has only suffered adverse economic and environmental impacts related to oil and gas production and storage. We only have to look to the tank farms, Guadalupe Dunes, and the failures of previous attempts to develop Huasna Valley oil fields to see examples of these adverse impacts.

Conclusion

What is the cost to County of making multiple attempts at MND instead of requiring the applicant to prepare an EIR? Is all work by County cost-reimbursable at this point? Who

is paying the San Luis Obispo Air Pollution Control District's costs for processing the permit? The fair argument test has clearly been met and this project should not be allowed to proceed without the full environmental review and analysis of alternatives that will be provided by the preparation of an EIR. Please refer to the letter submitted by the attorney for the Huasna Valley Association, Mr. Babak Naficy, for additional information.

Respectfully Submitted,

Morgan Rafferty
Executive Director