



February 18, 2009

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

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

Dear Environmental Division:

We understand that your agency is proposing to issue a Mitigated Negative Declaration (“MND”) for the proposal by Excelaron/Mankins to establish four oil production wells, two water reinjection wells, associated infrastructure (including storage tanks and up to two thousand feet of pipelines) and transportation of produced oil through the remote Huasna Valley to Highway 166. After carefully reviewing the MND, Los Padres ForestWatch strongly believes that a MND is not appropriate for this project, and hereby files this Request for Review. Preparation of a full Environmental Impact Report (“EIR”) is required under the California Environmental Quality Act (“CEQA”) due to the significance of project impacts and the precedent-setting nature of the project in this rural area that serves as a gateway to the Los Padres National Forest.

Los Padres ForestWatch is a nonprofit organization working to protect and restore the Los Padres National Forest and surrounding lands along the Central Coast, from the Big Sur coastline to the backcountry of San Luis Obispo, Santa Barbara, and Ventura counties. As much of the proposed oil development will occur in close proximity to the Los Padres National Forest, and along a primary public access route into the forest, our organization has several concerns regarding its environmental impacts. We respectfully request that the County prepare a full Environmental Impact Report to ensure a full analysis of impacts and alternatives, a full evaluation of mitigation measures, and compliance with the California Environmental Quality Act (“CEQA”).

The CEQA provides a clear standard as to when the County must prepare a full EIR. Specifically, California Public Resources Code Sec. 21080(d) states that “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*”. Cal. Pub. Res. Code §§ 21080(d) and 21082.2(d) (emphasis added). The CEQA requires a lead agency to prepare an EIR whenever substantial evidence in the light of the entire record supports a “fair argument” that a proposed project “may” have a significant adverse impact on the environment. *Id.*; *see also* CEQA Guidelines § 15064(d)(1). This standard creates a “low

threshold” for requiring preparation of an EIR. Citizens Action to Serve All Students v. Thornley (1st Dist. 1990), 222 Cal.App.3d 748, 754; Sundstrom v. County of Mendocino (1st Dist. 1988, 202 Cal.App.3d 296, 310, *quoting* No Oil, Inc. v. City of Los Angeles (1974), 13 Cal.3d 68, 75. “These legal standards reflect a preference for requiring an EIR to be prepared.” Mejia v. City of Los Angeles (2d Dist. 2005), 130 Cal.App4th 322, 332.

We believe that information in the record clearly shows that the project may result in substantial environmental impacts, and fully supports preparation of an EIR. The proposed transportation route across Huasna and Alamo creeks may disturb habitat for the California red-legged frog, a threatened species. Surveys for this species should be conducted now, not post-approval, so that any potential impacts can be adequately identified and mitigated. The MND does not discuss the potential for toxic releases into these waterways due to trucking accidents and spills. Also of concern is the number of oaks (87) that will be impacted along this access route. Because of these issues related to transport of produced oil, we believe that the County should seriously consider transport via pipeline in its analysis of a reasonable range of alternatives. This approach was recommended by the Air Pollution Control District, City of Arroyo Grande, and County of Santa Barbara, among many other commenters in the record. Such an alternative can only be rigorously analyzed and evaluated through the full EIR process to satisfy the mandates of CEQA.

In addition to substantial evidence regarding these transportation impacts, we also share our concerns with other evidence in the record. For example, there are inadequate protections in place to mitigate the potential increased fire risks associated with high-intensity industrial development in this rural area. This is one of the most fire-prone areas in the County, and the MND fails to analyze the risk of wildfire caused by project activities entering the Los Padres National Forest. In addition, the Huasna area is used as a main public access route into the Los Padres National Forest, yet the MND fails to discuss the impacts of an intensive oil drilling operation on recreation and visitor experience while passing through this area. Finally, we are concerned about cumulative impacts from reasonably foreseeable development associated with this oil field.

In conclusion, the record clearly contains sufficient evidence to show that the proposed oil development and transport may have a significant impact on the environment. We believe that these complex issues would be best addressed through the preparation of a full EIR that respects the law and facilitates open and informed decision making through a more transparent process. Thank you for your consideration of our request.

Sincerely,

A handwritten signature in black ink, appearing to be 'JK' with a large flourish extending to the right.

Jeff Kuyper
Executive Director