

August 19, 2009

VIA EMAIL AND U.S. MAIL

Ron Skinner, Coordinator
Huasna Valley Association
P.O. Box 1164
Arroyo Grande, CA 93421

Re: Excelaron, LLC

Dear Mr. Skinner:

My firm represents Excelaron, LLC. I am writing to express our concerns with the nature of the statements that have been made by your organization in relation to the proposed Huasna Valley Oil Exploration and Production Project, most recently, the August 3, 2009 "Press Release" posted on the Huasna Valley Association (HVA) website. This press release contains numerous mischaracterizations which unfortunately has been the case with many of the statements and letters issued through your organization or its members. For instance, the recent press release claims that the "negligent actions" of Excelaron "have put the health of [the] community at risk." Whether made knowingly or not, legally and factually baseless representations such as that are damaging to my client. Excelaron is not Deuel Petroleum and no actions of Excelaron have had any adverse impact at the site. Your negligent or intentional misrepresentation of the facts is legally inappropriate.

From the outset, Excelaron has attempted to engage in positive discourse with HVA concerning this project, and has essentially been rebuffed. You may remember that from May through November 2008, Excelaron held no fewer than 4 public outreach meetings in order to obtain public input on the project. In addition to these, Excelaron has approached your group directly seeking input and suggestions regarding the project and many times received no reply.

Excelaron has been responsive to community concerns and has incorporated as much of the public feedback as possible into the project. For instance, when it became apparent that traffic impacts were a paramount concern, Excelaron negotiated private easements for the project-generated truck trips and subsequently revised the project description and traffic route to minimize the amount of project-generated traffic on the local roads. In addition, and in large part to alleviate the concerns of local residents and to provide as much transparency around the project as possible, Excelaron voluntarily agreed to the preparation of an Environmental Impact Report (EIR) for the project. This decision was made despite the fact that County planning staff had initially deemed that a mitigated negative declaration would be sufficient.

It appears that HVA and its members intend to oppose this project in any form, no matter what mitigation measures or environmental safeguards attend the process. Indeed, it is becoming increasingly clear that HVA is not interested in the actual environmental impacts of the project, but only in tainting the public's perception of the project and Excelaron so as to prevent any project at all. Time and again, your organization has chosen to go to the media with alarmist and disingenuous statements, rather than approach Excelaron directly.

Given that Excelaron has consistently expressed its commitment to seeing the site fully remediated whether or not the project proves commercially viable, we remain confused as to the reasoning behind HVA's relentless insistence that the County pursue an enforcement action for the existing conditions at the site, which HVA has recently begun to characterize-- in alarmist fashion-- as a threat to groundwater and the public health.

First, it bears observing that the orphaned wells and above ground tanks on the project site have existed in their present state for over 20 years now. In fact, oil wells have existed throughout the Huasna area in various states of operation for nearly a century. The Huasna Oil Field is a Division of Oil, Gas and Geothermal Resources (DOGGR) designated oil field, a fact that was disclosed to each individual property owner in the valley when they purchased their land. It is possible that, if not for Excelaron's proposed project, the orphaned wells on the site would remain in their current state indefinitely. Certainly neither the County nor the community has made any move to close or remediate the site over the past 20 years, as the records indicate that there is no outstanding violation with the County's Code Enforcement office.

Second, it defies logic to insist that the County pursue enforcement against a now-defunct prior operator based on an expired conditional use permit, as HVA does in their email of July 20, 2009 (entitled "Request to file complaint"), when the County currently holds a cash bond that could be applied towards remediation, and when Excelaron stands ready, willing, and able to complete any necessary cleanup that is not covered by the bond or the DOGGR activities. A combination of the Orphan Well Fund monies (which have already been allocated),¹ the cash bond, and conditions and mitigation measures that would be attached to Excelaron's new use permit is the best, and likely the only, way to ensure a complete cleanup of the site. Given HVA's continued resistance to this collaborative approach,² we can only conclude that HVA's goal is not actually to see the project site remediated, but to ensure that Excelaron is stopped from pursuing its project.

¹ It should be noted that all oil and gas operators in the State are required to pay into the Orphan Well Fund and, consequently, this is not taxpayer money.

² HVA has stated several times its objection to the use of Orphan Well Funds, and further requested that the County refuse to accept for processing any application regarding the property until full remediation of the existing conditions has occurred. Without the Orphan Well Funds and Excelaron's participation, it is unclear who or what resources would be part of such a cleanup, other than the bond held by the County which is likely inadequate.

I must also point out that the assertions in your recent press release regarding the hydrology report and certain impacts to groundwater are factually incorrect. The recently-submitted hydrology report does not “impl[y] that any new, properly constructed and sealed wells may impact groundwater on neighboring parcels.” Moreover, your characterization of the report ignores the fact that it is a preliminary document intended to respond to HVA’s earlier comments presented by Dr. Curry, and utilized to inform the scoping of a certain section of the EIR. Any potentially significant hydrological impacts of the project will, of course, be the subject of the hydrology portion of the EIR. To cite one final example of distortion, the HVA website was recently updated with the inaccurate proclamation that “Excelaron Now Wants Twelve or more Oil Wells and a Processing Facility...” Excelaron’s application clearly specifies a maximum of twelve production wells, not twelve or more, and the processing facility has been a part of the project description since inception. Again, misrepresentations such as these are both legally inappropriate and damaging to my client.

HVA is, of course, entitled to disapprove of the Excelaron’s project, and the environmental review and entitlement process will provide an appropriate forum for HVA to voice its opinions and concerns. We must insist, however, that HVA refrain from making the sort of inaccurate claims described above.

We encourage HVA to contact Excelaron with its comments and concerns at any time. Excelaron would like nothing more than to have a collaborative, mutually respectful working relationship with HVA and its members, if HVA is interested in the same. Please contact me if you have any questions regarding the foregoing.

Very truly yours,

DOWNEY BRAND LLP



Patrick G. Mitchell

PGM:SJR

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