



August 25, 2008

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California State Lands Commission
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Re: Draft Environmental Impact Report for the Venoco Ellwood Oil Development and Pipeline (Full Field Development) Project

Dear Mr. Gillies:

This letter is submitted by the Environmental Defense Center (EDC) on behalf of the Los Padres Chapter of the Sierra Club, Get Oil Out!, Citizens Planning Association, and Citizens for Goleta Valley, regarding the Draft Environmental Impact Report (DEIR) for the Venoco Ellwood Oil Development and Pipeline (Full Field Development) Project (Project).

The DEIR provides a comprehensive overview of the Project, the potential impacts that would result if the Project is constructed, and measures to avoid or minimize such impacts. However, the DEIR should be revised to address some fundamental concerns that are set forth in this letter. These concerns focus on the inaccurate and misleading representation that decommissioning of the Ellwood Marine Terminal and cessation of barging is a beneficial impact of the Project; the narrow range of alternatives dictated by the description of the Project objectives and purpose; the failure to adequately define and analyze the life of the Project; the inadequate consideration given to the full scope of greenhouse gas emissions that would be generated by the Project, and the means to mitigate such impacts; and the failure to acknowledge that the proposed lease boundary expansion violates a settlement agreement executed by Venoco's predecessor, ARCO.

GENERAL COMMENTS

I. The DEIR incorrectly credits the Project with causing the decommissioning of the Ellwood Marine Terminal.

Throughout the document, the DEIR states that the Project will cause the decommissioning of the Ellwood Marine Terminal (EMT), thereby reducing various impacts (e.g. related to air quality, risk of oil spills, etc.) and generating a Project “benefit.” In fact, the EMT will be decommissioned whether the Project is approved or not, because its on- and offshore leases will expire.

First, the offshore lease will terminate by 2013, if not sooner. In 2003, Venoco applied to the California State Lands Commission (CSLC) for an offshore lease to continue barging oil from the EMT until 2013. According to the Final EIR for the EMT lease application, the prior lease expired in 1993,¹ and the CSLC therefore has the discretion to deny any further use of the EMT. The lease application should be denied because the Final EIR identifies pipeline transportation as the environmentally superior alternative, followed by trucking, with continued barging being the most environmentally damaging alternative.² Based upon this analysis, the CSLC should continue the current “holdover” status of the EMT until a pipeline is built, and the EMT could be shut down within a couple years.

Even if the SLC chooses to approve Venoco’s application for a lease until 2013, the Project will have little benefit. The earliest the Full Field Project could be approved and built (including decommissioning of the EMT) would be approximately 2011, a mere two years early. Given that the life of the Project is estimated to last until 2040, there is really no ascertainable benefit to Venoco’s proposal to decommission the EMT as part of its proposal.

Finally, the onshore lease for the EMT expires in 2016, and the onshore landowner (UCSB) and the Coastal Commission have imposed conditions that preclude any extension of this lease. Specifically, the University’s Long Range Development Plan provides that:

30240(b).19: The Ellwood Marine Terminal Facilities shall be removed when the current lease expires in 2016, and the natural habitat values of the site shall be restored to a condition approximating that which existed prior to the initial construction of the facilities. After facility closure and site restoration, **the leasehold will be designated as Open Space or Natural Reserve**. Any notice of impending developments issued for the closure or restoration of the Ellwood Marine Terminal Facility site shall include requirements that the University either **1) Record an offer to**

¹ *Finalizing Addendum for the Venoco Ellwood Marine Terminal Lease Renewal Project*, California State Lands Commission (CSLC EIR No. 743), May 2007, p. 4-1, 2, excerpt attached hereto.

² *Id.*, pp. 4-4, 5, excerpt attached hereto.

dedicate or grant of an open space conservation easement over the Ellwood Marine Terminal site or 2) Include the Ellwood Marine Terminal site in the Coal Oil Point Reserve.³

Accordingly, it is obvious that Venoco's proposal to decommission the EMT as part of the Full Field Project will not result in any new benefit, and the DEIR should be revised throughout to correct this misrepresentation.

II. The DEIR should include an analysis of whether the Ellwood Onshore Facility (EOF) could be phased out through an amortization ordinance as part of the No Project Alternative.

The DEIR finds that allowing Full Field development and processing the oil and gas at Las Flores Canyon is the Environmentally Superior Alternative, because the No Project Alternative would allow Venoco to continue producing oil and gas from Platform Holly and processing at the EOF. Thus, the DEIR assumes that the No Project Alternative would result in continued operations at the EOF.

There is another possibility, however, that should be analyzed. Under the No Project Alternative, the City of Goleta could take action to phase out the EOF as a nonconforming use. Prior to City incorporation, the County of Santa Barbara studied the viability of an amortization ordinance that would have terminated the use of the EOF. The County completed a legal and fiscal analysis, but before taking action the site of the EOF became part of the newly incorporated City of Goleta. The City could pick up where the County left off, update the fiscal analysis, and consider phasing out the use of this facility. Under this scenario, both the EMT and EOF could be decommissioned *without the need for any new development*.

III. The DEIR should be revised to analyze the Project's inconsistency with ARCO's agreement with the State, County and Sierra Club.

Venoco's predecessor, ARCO, sought to develop this same area in the 1980's. The County and State denied ARCO's application, and ARCO sued. The Sierra Club intervened on behalf of the public agencies. ARCO ultimately reached a settlement agreement with the other parties, on the basis that the oil company would quitclaim PRC Leases 308 and 309 (the area in which Venoco now seeks to drill) in exchange for additional drilling rights offshore Long Beach.⁴ In accordance with the agreement, ARCO quitclaimed the leases and was granted the additional drilling rights. Former leases 308 and 309 became part of the California Coastal Sanctuary in 1994.

³ *Adopted Findings for Major Amendment 1-06 to the UCSB Certified Long Range Development Plan*, California Coastal Commission, December 19, 2006, p. 34, excerpt attached hereto (emphasis added).

⁴ *Agreement for Implementation of an Optimized Waterflood Program for the Long Beach Unit*, November 5, 1991, attached hereto.

ARCO's successor, Venoco, now seeks to drill in the exact same area. Sierra Club, one of EDC's clients in this case, is adamantly opposed to such drilling. Venoco should not be allowed to drill into the very area where ARCO agreed to forego development. Otherwise, the Sierra Club and the public will be deprived of the benefit of the agreement.

IV. The DEIR is inconsistent in its discussion of whether the Project will extend the life of the existing facilities.

Under the Project Description, the report states that the Project will not extend the life of the existing operations. Yet within the Environmental Analysis, each section includes a statement that the increased access to reserves could result in an extended life for existing operations.

This issue is critical to the analysis of impacts in the DEIR. The report should be revised to clarify whether the Project will extend the life of existing operations, and if so, the DEIR should disclose the nature and extent of such impacts. Extending the life of existing operations could result in significant and unacceptable impacts.

V. The Project Objective is too narrow and overly restricts the range of alternatives that are analyzed in the DEIR.

The Project Objective is merely a description of the project itself. A broad project objective is necessary to ensure the consideration of a reasonable range of alternatives, including clean and safe energy alternatives such as conservation, efficiency and renewable sources. Although the DEIR includes an excellent analysis of these alternatives as part of the No Project Alternative, they should be considered as stand-alone options that could be selected in place of the proposed Project.

VI. The DEIR should analyze the full life cycle impacts of the proposed Project.

An oil and gas development project results in not only direct impacts on the environment, but also indirect impacts. The DEIR analyzes the impacts from the construction, drilling and production phases of the Project, but not the refining, transportation or end use of the oil and gas. Such impacts are reasonably foreseeable consequences of the action, and must be addressed in the DEIR.

SPECIFIC COMMENTS

1.0 INTRODUCTION

1.1 PROJECT OBJECTIVES, PURPOSE AND NEED

The DEIR provides a statement of objectives that were presented by the applicant. (DEIR 1-1.) The three objectives include the following: extending the current lease boundaries and drilling additional wells into the expanded areas, improving and

upgrading the existing EOF, and installing a new pipeline system. These items are not objectives, but rather a description of the proposed project. As such, the statement does not allow consideration of a range of alternatives as required by CEQA.⁵

The objectives should be revised to ensure an appropriate statement of the goals and purpose of the project, i.e., to provide a supply of energy. Such a statement will foster consideration of a broad range of alternatives that are capable of reducing impacts, and will better inform the State's decision on an important energy matter.

2.0 DESCRIPTION OF PROJECT

2.1 PROJECT BACKGROUND AND CURRENT OPERATIONS

2.1.3. Ellwood Marine Terminal

The DEIR incorrectly states that Venoco has applied for renewal of the lease for the EMT, that the lease was issued in 1983, and that Venoco seeks to "exercise its last ten-year lease renewal option for the EMT." (DEIR 2-3.) In actuality, as pointed out in the proposed Final EIR for the EMT, the 1983 lease expired in 1993, and Venoco's application is for a new lease.⁶ This distinction is important because an application for a new lease provides the CSLC with greater discretion to deny the project and select the environmentally superior alternative – which is identified in the Final EIR as pipeline transportation.⁷ Given this situation, current operations should not be assumed to include barging until 2013. The CSLC could decide to terminate barging operations sooner.⁸

2.1.4 Lease 421

The DEIR should include a full analysis of Venoco's proposal to recommission PRC Lease 421, because that project is directly related to the Full Field proposal. Both projects are proposed by Venoco, and implicate each other in terms of processing and transportation requirements. For example, if the Full Field Project is approved with the condition that the oil and gas must be processed at Las Flores Canyon, the Lease 421 Project must be modified accordingly. Clearly, these two projects are interrelated and should be evaluated in one EIR.

⁵ CEQA Guidelines §15124(b); *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 735-737 [270 Cal.Rptr. 650]. NEPA cases are also instructive on this point. See, for example, *Save the Niobara River Association, Inc. v. Andrus*, 483 F.Supp. 844 (D.Neb. 1977) (court rejected action by federal agency in defining project objective for a dam and reservoir too narrowly, and refusing to consider water conservation as an alternative); see also *City of Carmel-by-the-Sea v. Dept. of Transportation*, 123 F.3d 1142, 1155 (9th Cir. 1997).

⁶ *Finalizing Addendum for the Venoco Ellwood Marine Terminal Lease Renewal Project*, California State Lands Commission (CSLC EIR No. 743), May 2007, p. 4-1, 2, excerpt attached hereto.

⁷ *Id.*, pp. 4-4, 5, excerpt attached hereto.

⁸ See attached letters to CSLC, dated November 28, 2007, and to Christina Arndt, Deputy Attorney General, dated April 3, 2008.

2.2 PROPOSED PROJECT

The DEIR states that the expected life of existing operations will continue until 2040. (DEIR 2-24.) The report also states that “the new drilling associated with the proposed Project would occur within the estimated life of the existing facilities, which is provided by the Applicant as up to the year 2040.” (DEIR 2-29.) This fact – that the proposed Project will not extend the life of the existing facilities – affects the conclusions regarding the potential impacts of the Project. In other words, under this representation, the Project would not result in any impacts resulting from the extended operations of existing facilities.

However, throughout the Environmental Analysis, the DEIR also states that the Project may extend the life of existing operations, which would generate new or increased impacts.

The DEIR should clearly state whether the Project will extend the life of existing operations, and if so, the report should be revised to include a full analysis of the impacts associated with such extension.

2.2.1 Lease Boundary Extensions and Platform Holly New Well Drilling

California Coastal Sanctuary Act – Lease Boundary Extension

The DEIR correctly points out that the proposed area for development is located within the California Coastal Sanctuary, and that the Project cannot be approved unless the CSLC makes specific findings to support expanding Venoco’s current lease boundaries into the Sanctuary. One critical finding is that “[t]he adjustment is the environmentally least damaging feasible alternative for the extraction and production of the affected resources.” (DEIR 2-30, citing Public Resources Code §6872.) The DEIR states that the environmentally least damaging alternative would be to process the oil and gas at Las Flores Canyon (LFC); therefore the Project as proposed cannot be approved.

In addition, as mentioned above, the proposed lease boundary expansion violates the ARCO settlement agreement, in which ARCO quitclaimed the leases in this area in exchange for additional drilling rights elsewhere.

Platform Holly New Well Drilling

The DEIR states that new drilling would “most likely occur between the years 2008 and 2010.” (DEIR 2-33.) Given that the EIR is not finalized, and then the Project must be reviewed by several local and state agencies, the start date must be adjusted to be more realistic.

According to the DEIR, Platform Holly is being evaluated to determine whether the structure meets the criteria for a 1,000 year seismic event. (DEIR 2-33.) The DEIR

discloses that an assessment has been performed, but states that the CSLC has not accepted the findings, and that a plan to retrofit and upgrade the Platform has not been submitted. The DEIR should be revised to include a complete public analysis of the seismic assessment, and the plans to retrofit the structure. Deferred analysis violates CEQA's basic tenet that an EIR must analyze the impacts of a proposed project, and measures that are capable of mitigating such impacts.⁹ Without this information, the public and decision-makers cannot determine whether the project will result in any significant impacts, and whether – as required by CEQA's substantive mandate – such impacts can be avoided or substantially lessened.¹⁰

2.2.2 Proposed Project EOF Modifications

The DEIR correctly points out that the EOF is currently a nonconforming use, and that the zoning designation for the EOF is Recreation. (DEIR 2-34.) The DEIR then states that if the Project does not meet the requirements for a “limited exception determination” (LED), “an application for a zone change from Recreation to Coastal Dependent Industry (M-CD) or Coastal Related Industry (M-CR) would be required.” (*Id.*) The DEIR also points out that other legislative approvals, including a Rezone and General Plan Amendment, would be required, as well as a vote of the electorate. (*Id.*)

In section 4.7 of the Impact Analysis (Land Use, Planning and Recreation), the DEIR concludes that the Project does not qualify for a LED. (See DEIR 4.7-19 – 23.) Accordingly, for the Project to be approved, Venoco must apply for a Rezone and General Plan Amendment. The DEIR points out that such an application would require “a rigorous new permitting and zoning process.” (DEIR 4.7-22.)

To ensure an accurate and stable project description, the Project Description must be modified to include the required legislative changes, and the DEIR must be revised to analyze whether a Rezone and General Plan Amendment would be consistent with the City's General Plan, California Coastal Act, and any other relevant laws, regulations and policies.

3.0 ALTERNATIVES

The DEIR states that “[t]he EMT would be abandoned and decommissioned in all cases except the No Project Alternative in which the facilities would be abandoned at the time of the offshore and onshore lease expirations.” (DEIR 3-9.) In fact, the EMT will have to be abandoned with or without the proposed Project. As noted in the DEIR, the offshore lease with SLC expires in 2013 (in actuality, the lease expired in 1993 and the EMT has been operated in a hold-over status¹¹) and the onshore lease with UCSB expires

⁹ CEQA §21002.1; CEQA Guidelines §§15002, 15003.

¹⁰ CEQA §§21002, 21002.1; CEQA Guidelines §15021(a).

¹¹ *Finalizing Addendum for the Venoco Ellwood Marine Terminal Lease Renewal Project*, California State Lands Commission (CSLC EIR No. 743), May 2007, p. 4-1, 2, excerpt attached hereto.

in 2016. (*Id.*) Therefore, this statement must be revised to acknowledge that the EMT will be abandoned and decommissioned in *all* cases, including the No Project Alternative.

3.3.1 No Project Alternative

Energy Conservation and Alternative Energy Sources

The DEIR includes an excellent comprehensive, quantitative analysis of clean energy alternatives that could provide even more energy than the proposed Project. (DEIR 3-10 et seq.) These alternatives should be considered as separate, stand-alone alternatives.

Amortization of EOF

The DEIR assumes that under the No Project Alternative, Venoco would be allowed to continue the EOF despite its nonconforming status. (See also DEIR 5-5, 6: the DEIR states that allowing Full Field production from Holly and processing at LFC is preferable to the No Project Alternative, because the EOF would continue in operation under the No Project Alternative.)

This assumption ignores the fact that the County of Santa Barbara completed an amortization analysis for the EOF in 2001 and submitted the analysis to the City of Goleta following City incorporation. The City could decide to adopt an amortization ordinance and terminate the EOF as a nonconforming use, without relying on Full Field production.

Amortization is a process by which a city or county may terminate a nonconforming use without being required to compensate the owner of that use. Zoning legislation may validly provide for the eventual termination of nonconforming uses without compensation if it provides a reasonable amortization period commensurate with the investment involved.¹² This process consists of balancing the public gain from removal of the nonconforming use against the private loss which removal of the use would entail.¹³ Factors that may be included for consideration are the amount of original cost or investment; the present, actual or depreciated values of the remaining useful life; the salvage value; the date and type of construction; the lease term (original and remaining); and the countervailing harm to the public if the use is maintained beyond the amortization period.¹⁴ Furthermore, in order to avoid an impermissible taking several factors should be taken into consideration including the economic impact on the owner, the extent to which investment-backed expectations are interfered with, and the character of the government action.¹⁵

¹² *Metromedia, Inc. v. City of San Diego*, 26 Cal. 3d 848, 882 [164 Cal.Rptr. 510] (1980).

¹³ *Nat'l Advertising Co. v. County of Monterey*, 1 Cal.3d 875 [83 Cal.Rptr. 577] (1970).

¹⁴ *Tahoe Reg'l Planning Agency v. King*, 233 Cal.App.3d 1365, 1394 [285 Cal.Rptr. 335] (1991).

¹⁵ *Id.* at 1402.

Santa Barbara County began conducting an amortization analysis in 1999, following several releases of hydrogen sulfide gas and odorous sulfides from Venoco's facilities, and the State's shutdown of Platform Holly for health and safety reasons. As noted in the attached Santa Barbara County Board of Supervisors staff report,¹⁶ amortization was considered as early as 1991, during the County's re-zone of the EOF site to Recreation. However, at that time, the County expected the facility to be phased out in a timely manner, without the need for an amortization action by the government.

Recognizing that the EOF was not likely to be phased out by Venoco, and in light of serious public health and safety concerns, the County later decided to conduct an amortization analysis and contracted with a private consulting firm, Baker & O'Brien. The Baker & O'Brien study analyzed a "Base Case," which measured the entire life of the oil field going back to 1964, and a "Sensitivity Case," which examined Venoco's ownership of the Ellwood Facilities from 1997 onward. The study found that under the "Base Case" scenario, the total investment in acquiring and developing the South Ellwood Field was amortized in 1987. Under the "Sensitivity Case" scenario, evaluating the cost of relocation, Venoco's investment would be amortized in 2008. Finally, under an additional sensitivity case scenario, which included relocating processing operations to LFC, amortization would occur in 2016.¹⁷

The Baker & O'Brien analysis concluded that relocating process operations to LFC was the most economically and technically feasible. This scenario involved:

moving gas processing and primary water separation from the oil emulsion to Platform Holly, moving final oil processing to the Las Flores Canyon consolidated oil and gas processing site, and shipping treated oil to market via the All American Pipeline. Marine tankering of crude oil would cease by 2005; the EMT would be decommissioned, as would most of the EOF in 2005; and a new 9-mile pipeline would be constructed between the EOF and Las Flores Canyon over a two-year period in 2003 and 2004.¹⁸

Except for the pipeline route, this scenario is virtually identical to the Environmentally Superior Alternative in the DEIR.

The results of the County's amortization study were based on the best available information at the time it was conducted. Nevertheless, subject to an updated fiscal analysis to reflect current available data, the Baker & O'Brien serves as a reasonable basis upon which to develop an amortization ordinance. Accordingly, it would be possible to deny Venoco's application for Full Field development and yet still phase out the EOF under the No Project Alternative.

¹⁶ Santa Barbara County Board Agenda Letter re *Amortization Analysis for Nonconforming Oil and Gas Facilities*, 12/3/01.

¹⁷ *Id.*, page 4.

¹⁸ *Id.*, page 3.

In sum, the DEIR should be amended to recognize the feasibility of an amortization option as part of this Alternative. The DEIR should provide an updated analysis to determine the current appropriate “end date” for the EOF under an amortization and relocation scenario.

4.0 ENVIRONMENTAL ANALYSIS

We support the determination in the DEIR that the following impacts would be significant and unavoidable (Class I):

- Hazards and Hazardous Materials: The increased transportation of LPG along area highways would increase the risks to public health over current operations
- Hazards and Hazardous Materials: The increase in drilling at Platform Holly and the increased spill sizes of emulsion/crude given a release would constitute a significant impact
- Air Quality: The proposed Project would produce higher greenhouse gas emissions
- Water Quality: Accidental discharge of petroleum hydrocarbons into marine waters would adversely affect marine water quality
- Water Quality: A rupture or leak from the EOF, the existing onshore portion of the oil pipeline from Platform Holly to the EOF, or the proposed oil pipeline could substantially degrade surface and groundwater quality
- Biological Resources: Accidental discharge of petroleum hydrocarbons into marine waters would adversely affect marine biological resources
- Biological Resources: Accidental discharge of petroleum hydrocarbons into marine waters would adversely affect commercial and recreational fishing
- Biological Resources: Oil spill impacts on onshore biological resources
- Land Use: The Proposed Project would be inconsistent with the energy-related on- and off-shore use policies associated with the Applicant’s facilities in the City of Goleta’s General Plan
- Land Use: The Proposed Project would be inconsistent with the Open Space and habitat conservation policies Joint Proposal for the Ellwood-Devereux Coast Open Space and Habitat Management Plan, and the City of Goleta Safety Element policies
- Land Use: Accidental oil releases could affect recreational activities
- Public Services: Proposed Project could potentially result in increased demands for fire protection and emergency response due to the proposed drilling, higher oil and gas throughput, and more equipment at the EOF
- Visual Resources: An oil spill from Platform Holly, pipelines or the EOF could cause potential long-term adverse visual impacts from the oil spill and cleanup efforts

4.1 GEOLOGICAL RESOURCES

Natural Oil Seeps¹⁹

The DEIR credits oil production from Platform Holly for reducing seepage in the area around Holly. (DEIR 4.1-16, 17.) In fact, spatial distribution maps show that although seepage may have decreased in the immediate vicinity of Holly, there was no overall decrease in seepage for the Ellwood Field.²⁰ Moreover, seeps vary both temporally and spatially in this area, so developing oil out of a specific zone may or may not result in significant or even noticeable reductions in overall seep emissions.

Perhaps most importantly, drilling may actually *increase* seepage due to the injection of produced water. (DEIR 4.1-27, 28.) While we agree with this statement in the DEIR, we object to the conclusion that this impact can be mitigated to less than significance. The mitigation measure in the DEIR is vague and unenforceable. It simply requires Venoco to “implement reservoir management practices that minimize the injection of gas and fluids into seep forming formations. In particular, a net outflow of fluids shall be ensured from the Monterey formation to ensure seepage is not increased with additional production and injection practices.” (DEIR 4.1-28.) However, there is no plan in place as part of this application that allows the CSLC or any other agency to determine whether it will be effective in mitigating potential impacts. The DEIR should either find this impact to be a Class I impact, or should prohibit injection of produced water into affected formations.

Extension of Life Impact

See comment above, regarding the stated potential for the Project to extend the life of existing operations.

4.2 HAZARDS AND HAZARDOUS MATERIALS

Impact HM-1: Fixed Facility Impacts to Public Health

The DEIR cites the elimination of the EMT and barge operations as a beneficial impact. (DEIR 4.2-100.) As noted above, the EMT will be eliminated anyway, and this fact should be cited as a benefit of the proposed Project.

Impact HM-4: Transportation of Crude Oil to Markets/Refineries: Spill Impacts to the Environment

¹⁹ Please see comment letter submitted by Get Oil Out!, which provides a detailed analysis of the myths surrounding the relationship between natural seeps and oil drilling.

²⁰ *Myth vs. Fact: The relationship between offshore oil production from platform Holly and local air and water quality*, Ali Ger (2003), attached hereto.

The DEIR cites the elimination of barge loading operations as a beneficial impact. (DEIR 4.2-110.) As explained in this letter, this assertion is incorrect and should be deleted from the report.

Extension of Life Impact

See comment above, regarding the stated potential for the Project to extend the life of existing operations.

4.3 AIR QUALITY

Emission Reduction Credits

The DEIR presents confusing, and potentially conflicting, information concerning the air quality impacts and obligations that apply to the proposed Project. On the one hand, the DEIR states that emissions will not exceed thresholds and therefore not require offsets, or emission reduction credits. (DEIR 4.3-41, 42.) On the other hand, the DEIR states that Venoco will be able to use credits from the decommissioning of the EMT. (DEIR 4.7-41, 61.)

Please identify whether the Project will generate the need for emission reduction credits. If such credits are required, please explain how Venoco could be allowed to use credits from the decommissioning of the EMT when the Terminal will already be decommissioned no later than 2013 (due to expiration of the offshore lease). Finally, if credits are required, and the decommissioning of the EMT cannot be used for attainment of such credits, please analyze whether it would be possible for Venoco to secure offsets from any other sources.

Impact AQ-3: Odor Emissions from Operation

The DEIR states that odor complaints from the EMT have decreased. (DEIR 4.3-25.) The DEIR then concludes that odors from the EMT have likewise decreased. Unfortunately, however, this is not the case. Instead, as noted at the DEIR hearing on August 6, nearby residents and recreationalists have simply stopped calling the APCD because their complaints did not lead to acceptable responses. In fact, odors continue to be a significant issue with Venoco's operations, particularly during times that the barge is present.²¹

The DEIR also incorrectly states that the removal of the EMT will result in a beneficial impact. (DEIR 4.3-42.) As stated above, the EMT will be removed without the proposed Project and this assertion should be deleted.

²¹ See, in particular, testimony and data presented by Dr. Cristina Sandoval, Director of the Coal Oil Point Reserve.

Finally, the proposed mitigation for odors at the EOF is vague and speculative. This measure provides that Venoco shall route the LOCAT gas stream to the H-205 consistent with APCD Permit to Operate 7904 “*unless* it can be clearly demonstrated to the satisfaction of the APCD that the [proposed] Jenbacher engines can produce the required level of LOCAT gas destruction and avoid odor impacts” (DEIR 4.3-43, emphasis added). However, the DEIR itself points out that “no specific calculations have been provided to demonstrate that there would be a sufficient temperature and residence time to ensure a 98.5 percent destruction rate,” and “no detailed engineering analysis has been provided” (*Id.*). The DEIR should include an analysis of Venoco’s proposal to use Jenbacher generators to combust the LOCAT oxidizer exhaust air and allegedly control odors. Mitigation measures should not be included unless they are known to be feasible and effective.

Greenhouse Gas (GHG) Emissions

Although we appreciate the calculation of GHG emissions, and adoption of a “zero emission” threshold for such emissions, there remain several critical shortcomings with the analysis of these impacts in the DEIR.

First, the DEIR relies on an incorrect baseline for assessing Project impacts. The DEIR uses a baseline that compares Project emissions to emissions that would result if oil and gas resources were instead imported from foreign countries. (DEIR 4.3-17.) The DEIR confuses a possible “No Project Alternative” scenario (with which we do not necessarily agree) with the baseline required under CEQA. Under CEQA, a project’s impacts must be compared to the “physical environmental conditions” at the time the notice of preparation is published.²² Therefore, the DEIR must be revised to compare the GHG emissions from the Project to GHG emissions from Venoco’s current operations.

Moreover, as the DEIR itself points out, if the Project is not built, a greater amount of energy can be achieved through conservation, efficiency and renewable sources. (DEIR 3-10 – 3-15.) Therefore, even under the No Project Alternative, the assumption that foreign imports would increase is speculative and should be eliminated from the DEIR.

Second, the DEIR fails to include full life cycle emissions (including emissions from refining, transportation and end use) as Project-related indirect emissions. Instead, the DEIR includes these emissions in a separate analysis, but does not credit them to the proposed Project. (DEIR 4.3-46.) CEQA requires that an EIR must address both direct and indirect impacts of a project, including reasonably foreseeable consequences of the proposal.²³

²² CEQA Guidelines §15125.

²³ CEQA §21083(b)(3); CEQA Guidelines §§15378(a), 15126.2(a).

The impact analysis is also inadequate because the DEIR incorrectly identifies these impacts as being insignificant by comparing them to energy imports rather than the existing baseline. (DEIR 4.3-47, 48.)

Third, the DEIR fails to provide specific, effective, and enforceable mitigation measures. Under CEQA, mitigation measures must be known, feasible, and implemented as part of the project.²⁴ In this case, the DEIR includes a list of vague proposals that could reduce GHG emissions. (DEIR 4.3-48 – 4.3-52.) Although the DEIR does attempt to quantify the emission reductions that could occur via these measures, the DEIR does not require that specific, enforceable measures be incorporated into the project and therefore cannot make findings that emissions will in fact be reduced. (DEIR 4.3-52.) The DEIR therefore concludes that impacts from GHG emissions will be Class I.

The DEIR should be revised to require specific, enforceable measures to reduce GHG emissions. The first priority should be to reduce direct project-related emissions, as referenced in the DEIR. The second strategy should be to require Venoco to purchase GHG offsets through a credible program (e.g., the California Climate Action Registry). Through such measures, 100% of the emissions from the Project could be mitigated. See, for example, the GHG emission mitigation and offset program that PXP recently agreed to implement as part of the Tranquillon Ridge Project. These mitigation measures were approved by the Santa Barbara County Planning Commission and incorporated as a condition on the project.²⁵

Fourth and finally, the DEIR fails to analyze the effects of global climate change on the Project. The existence and extent of climate change effects to the planet are no longer debatable. A plethora of peer-reviewed and widely accepted scientific treatises address the subject, including works by the Intergovernmental Panel on Climate Change (IPCC), National Academy of Sciences, the American Meteorological Society, the American Geophysical Union, and the American Association for the Advancement of Science.

As noted by the IPCC, there is overwhelming scientific consensus that not only is climate change occurring, but also that human activities are a significant contributing factor.²⁶ In fact, some scientists attribute the largest changes in climate to human-made greenhouse gases,²⁷ and several note that “most of the observed warming over the last 50

²⁴ *Federation of Hillside and Canyon Assns v. City of Los Angeles* (2000) 83 Cal.App.4th 1252 [100 Cal.Rptr.2d 301]; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645 [57 Cal.Rptr.3d 663].

²⁵ See *Revised Point Pedernales Final Development Plan, 94-DP-027, Condition A-6*, approved by the Santa Barbara County Planning Commission (April 21, 2008), attached hereto.

²⁶ Karl, T.R. and Trenberth, K.E., *Modern Global Climate Change*, Science, vol. 32, December 5, 2003; Hasselmann, K., et al., *The Challenge of Long-Term Climate Change*, Science, vol. 302, December 12, 2003.

²⁷ Hansen, J., *Defusing the Global Warming Time Bomb*, Scientific American, March 2004; Levin, K. and Pershing, J., *Climate Science 2005: Major New Discoveries* (World Resources Institute, March 2006), citing Barnett, T., et al., *Penetration of Human-Induced Warming into the World's Oceans*, Science, vol. 309, July 8, 2005.

years is likely to have been due to the increase in greenhouse gas concentrations.”²⁸ According to Dr. James Hansen, “[t]he two most important greenhouse gases...are carbon dioxide and methane.”²⁹ The increases in carbon dioxide and methane are attributable to the increased rate of fossil fuel (i.e., coal, oil, gas) use.³⁰

The concern about climate change has increased recently due to the realization that there is a “lag time” between the changes in the environment and the warming effect. Scientists now agree that “the climate system will continue to change for many decades (centuries for sea level) even in the absence of future changes in atmospheric composition.”³¹ Some warn that we may be approaching the “point of no return.”³² Others note that global temperatures can “change substantially in only a decade or two” and that we could be on the path to another rapid change in climate temperatures and resulting effects.³³ Accordingly, the pressure on modern society to cease contributing to climate change through greenhouse gas emissions is even greater than previously thought.

Climate change effects include: flooding; drought; heavier precipitation and storm events; more frequent heat waves; fires; heat stress; vegetation changes; sea level rise; rapid snow and ice melt; increased intensity of hurricanes; and retreating glaciers.³⁴ In The Winds of Change, environmental journalist Eugene Linden notes the significant economic repercussions that global warming is already having on our society, both in terms of actual damages from intense storms and hurricanes, but also through rising insurance rates in coastal areas.³⁵

²⁸ McCarthy, J.J., et al, Eds., *Climate Change 2001: Impacts, Adaptation, and Vulnerability*, Cambridge Univ. Press, Cambridge, 2001 [not attached, but incorporated by reference]; see also Oreskes, N. *The Scientific Consensus on Climate Change*, Science, Vol. 36, December 3, 2004, and Karl, T.R., *supra*.

²⁹ Hansen, J. *supra*.

³⁰ *Id.*

³¹ Wigley, T.M.L., *The Climate Change Commitment*, Science, vol. 37, March 18, 2005; Meehl, G.A., et al, *How Much More Global Warming and Sea Level Rise?* Science, vol. 307, March 18, 2005; Karl, T.R. *supra*; Hasselmann, K., *supra*, Levin, K., *supra*.

³² Alley, R.B., *Abrupt Climate Change*, Scientific American, November 2004.

³³ Broecker, W.S., *Chaotic Climate: Global temperatures have been known to change substantially in only a decade or two. Could another jump be in the offing?* Scientific American, November 1995.

³⁴ Karl, T.R., *supra*; Levin, K., *supra*, citing Emanuel, K., *Increasing Destructiveness of Tropical Cyclones Over the Past 30 Years* (Nature, vol 436, August 4, 2005), P.J. Webster, et al., *Changes in Tropical Cyclone Number, Duration, and Intensity in a Warming Environment* (Science, vol. 309, September 16, 2005), NASA Earth Observatory, *Record Low for June Arctic Sea Ice* (June 2005 at earthobservatory.nasa.gov/Newsroom/NewImages/images.php3?img_id=16978), A.J. Cook et al., *Retreating Glacier Fronts on the Antarctic Peninsula Over the Past Half-Century* (Science, vol. 308, April 22, 2005), R.B. Alley et al., *Ice-Sheet and Sea-Level Changes* (Science, vol. 310, October 21, 2005), E.D. Domack, et al., *Stability of the Larsen B Ice Shelf on the Antarctic Peninsula During the Holocene Epoch* (Nature, vol. 436, August 4, 2005), F.S. Chapin III, et al., *Role of Land Surface Changes in Arctic Summer Warming* (Science, vol. 310, October 28, 2005), M. Hopkin, *Amazon Hit by Worst Drought for 40 Years: Warming Atlantic Linked to Both US Hurricanes and Rainforest Drought* (Nature, October 11, 2005), I.T. Stewart, et al., *Changes Toward Earlier Streamflow Timing Across Western North America* (Journal of Climate, vol. 18, April 2005).

³⁵ Newsweek, *Tides Turning: A new book predicts that climate change is likely to be abrupt and cataclysmic – and that these sudden shifts could cripple national economies*, March 25, 2006.

In California alone, an increase in greenhouse gas emissions will result in the following global warming effects:³⁶

- Loss in Sierra snow pack
- Increase in sea level rise
- More heat wave days in major urban centers
- Increase in heat-related deaths
- Increases in ozone formation (smog)
- More critically dry years
- Decrease in forest yields
- Increases in large wildfires
- Increased electricity demand

Even effective lowering of current emissions will result in a 3.0 – 5.4% increase in temperature and all of the afore-mentioned impacts. Less effective lowering of current emissions will result in a 5.5 – 10.4% increase in temperature and enormous impacts to the State.³⁷

This information points to the need to address the impacts of climate change on the Project. Due to its location on the coast, the Project facilities may be threatened by increasing sea level rise, flooding, and other potential ramifications of increasing climate change.

In sum, the DEIR should be revised to: (1) use a correct baseline, not assuming an increase in foreign imports if the Project is denied; (2) include the full life cycle emissions within the analysis of indirect project emissions; (3) provide an adequate range of mitigation measures, including purchase of offsets if necessary, to fully offset Project emissions; and (4) analyze the effects of climate change on the Project.

Hydrogen Sulfide Gas

The DEIR notes that the region where the Project is located is known to have inversions, but fails to analyze how these inversions may prevent pollutants such as hydrogen sulfide gas from dispersing upward, thereby exposing humans and animals to harmful – if not deadly – levels of the gas. As noted in comments submitted by Dr. Ingeborg Cox, hydrogen sulfide rich gas was accidentally released in Poza Rica, Mexico for 30 minutes in 1950, sending 320 people to the hospital and killing 22. In that situation a low level temperature inversion prevented normal atmospheric mixing and dispersal.³⁸ As the DEIR notes, the region where the proposed Project is located has inversions. (DEIR 4.3-2.) During the months of May to October, inversions commonly

³⁶ Union of Concerned Scientists, *Climate Change Campaign: California Global Warming Impacts and Solutions*. February 2006.

³⁷ *Id.*

³⁸ Ann. Occup. Hygiene, Vol 34, No 3, pp. 323-327 (1990).

form in the Project area. Accordingly, the DEIR must be revised to analyze the effects of these inversions on hydrogen sulfide gas dispersal and the resulting risks to nearby residents and visitors.

PM 2.5

The DEIR fails to include data on PM 2.5 on the ambient air quality summary for the Project area for the years 2004-2006 for Goleta –Fairview. (DEIR 4.3-5.) It is well known in the medical literature that PM 2.5 penetrates deep into the lung and causes health effects. The DEIR should be revised to include this data and analyze related health impacts.

Extension of Life Impact

See comment above, regarding the stated potential for the Project to extend the life of existing operations.

4.4 HYDROLOGY, WATER RESOURCES, AND WATER QUALITY

Seeps

The DEIR states that the non-methane hydrocarbon emissions from the Coal Oil Point seeps are equivalent to “twice the emission rate from all the on-road vehicle traffic in the county.” (DEIR 4.4-22, citing Hornafius et al 1999.) This statement is not true. In fact, total non-methane emissions from all nearshore natural seeps in the County amount to 6,000 tons per year ROC.³⁹ The Coal Oil Point seeps represent a portion of these seeps. Total emissions from on-road vehicle traffic in the County are 11,000 tons per year ROC + NOx. (*Id.*) Therefore, the emissions from the Coal Oil Point seeps are less than half of that from the on-road vehicle traffic in the County.

The DEIR also states that seeps are “potentially a significant source of atmospheric methane.” (DEIR 4.4-23.) The DEIR should include a discussion of the recent study from UCSB that found that in fact most of the methane (up to 99%) from seeps dissolves in the water column and is not released into the atmosphere.⁴⁰

Impact WQ-1: Impacts to Marine Water Quality Due to an Oil Spill From Offshore Facilities

We agree with the conclusion in the DEIR that impacts to marine water quality from an oil spill would be significant and unavoidable (Class I). (DEIR 4.4-43.) This

³⁹ SBC APCD.

⁴⁰ Mau, Susan, et al. (2007), *Dissolved methane distributions and air-sea flux in the plume of a massive seep field, Coal Oil Point, California*. *Geophys. Res. Lett.*, 34, L22603, doi:10.1029/2007GLO31344.

conclusion is consistent with the findings of the California Coastal Commission that it is impossible to prevent or clean up an offshore oil spill.⁴¹

In general, only 10 to 15% of oil spilled offshore is typically recovered.⁴² According to *No Safe Harbor: Tanker Safety in America's Ports*,

“The record of oil spill containment and cleanup is nothing less than dismal. Only 10 to 15 percent of spilled oil is typically recovered....On the technology side, current spill-containment and cleanup equipment quickly become inoperative in anything other than calm weather and seas. For example, most booms – floating barriers intended to prevent oil from spreading – lose effectiveness when wave heights reach three to four feet and currents exceed one knot....Skimmers – devices that skim oil off the water’s surface – also lose effectiveness with increasing wave height, with one to five feet the operational limit for most. Dispersants have demonstrated low effectiveness in actual spill situations, and some of them are toxic to marine life. When they work, they merely shift the location of spill impacts from the surface to the water column – the water between the surface and the bottom – and the ocean bottom.” [Page 3.] Natural sorbents are also problematic because they “soak up water along with oil and sink to the bottom, complicating the cleanup and transporting oil to bottom-dwellers. Synthetic sorbents are not biodegradable and create a disposal problem. Mineral-based sorbents tend to be very lightweight and are difficult to distribute in windy weather.” [Page 31.] Burning has many disadvantages as well. “First and foremost, combustion of oil releases toxic compounds into the atmosphere....Second, combustion of oil is never complete. Third, burning is usually most effective if it takes place within a stable and fireproof boom. Because stability of the boom is dependent on weather conditions, use of burning as a cleanup method is limited to predictable periods of calm waters. Fourth, burning after a tanker spill is limited by the potential for fire damage to the tanker, explosions and further spillage. Finally, burning is problematic because it is often difficult to raise the temperature of a thin sheet of oil floating on a generally cold body of water high enough to cause ignition. [Pages 31-32.] Sinking agents are problematic because they “simply contaminate[] bottom-dwelling marine organisms.” [Page 32.]

⁴¹ See, for example, see California Coastal Commission reports regarding consistency determinations for the OCS lease suspensions, August 2005.

⁴² *Safety at Bay: A Review of Oil Spill Prevention and Cleanup in U.S. Waters*, NRDC (December 1992), citing a report by the Office of Technology Assessment in 1990; *No Safe Harbor: Tanker Safety in America's Ports*, NRDC (1990).

Impact WQ-2: Reduction in Oil Spill Impacts to Marine Water Quality from the Elimination of Barge Transportation

As explained above, the EMT and related barging will be eliminated without the Project, so this alleged beneficial impact should be deleted from the DEIR. (DEIR 4.4-47.)

Impact WQ-7: Potential Facilities Leaks and Impacts to Nearby Onshore Waterways

We agree that oil spill impacts from the EOF or oil pipelines would result in a Class I impact. (DEIR 4.4-60.)

Extension of Life Impact

See comment above, regarding the stated potential for the Project to extend the life of existing operations. (DEIR 4.4-64.)

4.5 BIOLOGICAL RESOURCES

4.5.4 Regulatory Setting

Please add Coastal Act Section 30240, which provides:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Please also include any relevant policies from the UCSB Long Range Development Plan, including the requirement that the site of the EMT be protected by a conservation easement or by inclusion in the Coal Oil Point Reserve.

4.5.6 Impact Analysis and Mitigation

Impact BIO-1: Oil Spill Impacts to Marine Biological Resources

We agree with the determination that oil spill impacts to marine biological resources would be Class I. As noted above, this determination is consistent with the findings of the California Coastal Commission. (DEIR 4.5-121.)

Impact BIO-2: Reduction in Oil Spill Impacts to Marine Biological Resources from the Elimination of Barge Transportation

As explained above, the EMT and related barging will be eliminated without the Project, so this alleged beneficial impact should be deleted from the DEIR. (DEIR 4.5-136, 137.)

Impact BIO-3: Oil Spill Impacts to Commercial and Recreational Fishing

We agree with the determination that oil spill impacts to fishing would be Class I. (DEIR 4.5-137.)

Impact BIO-13: Oil Spill Impacts on Onshore Biological Resources

We agree with the determination that oil spill impacts to onshore biological resources would be Class I. (DEIR 4.5-168.)

Extension of Life Impact

See comment above, regarding the stated potential for the Project to extend the life of existing operations. (DEIR 4.5-176.)

4.6 CULTURAL, HISTORICAL, AND PALEONTOLOGICAL RESOURCES

Extension of Life Impact

See comment above, regarding the stated potential for the Project to extend the life of existing operations. (DEIR 4.6-36.)

4.7 LAND USE, PLANNING, AND RECREATION

4.7.1 Environmental Setting

Offshore Land Uses

The DEIR should discuss the fact that the area into which Venoco seeks to expand its leases and drill for new oil and gas is included within the California Coastal Sanctuary, and that such new development is prohibited unless certain findings can be made. The DEIR should analyze whether the proposed Project meets such findings. (DEIR 4.7-1.)

Onshore Land Uses and Zoning Designations

Ellwood Marine Terminal

The DEIR should point out that the existing lease for the offshore portion of the EMT expired in 1993, and that the facility is being operated in a holdover status. (See comments above.) Even if Venoco's current application for a new lease is granted, the offshore lease will expire in 2013. In addition, the DEIR should also point out that the lease for the onshore portion of the EMT will expire in 2016, and that the University's Long Range Development Plan (LRDP) requires that after that date the site will be restored and protected with a conservation easement or by incorporation into the Coal Oil Point Reserve.

4.7.2 Regulatory Setting

State

The DEIR should be revised to include PRC §6872, which governs leasing in state waters, and which prohibits new or expanded leasing unless certain findings can be made.

The DEIR should also include PRC §30262, which was amended in 2003 to require that oil produced offshore California shall be transported onshore by pipeline only⁴³ (e.g., as opposed to barging). This section applies to "new or expanded oil extraction operations." "Expanded oil extraction" is defined as "*an increase in the geographic extent of existing leases or units, including lease boundary adjustment, or an increase in the number of well heads, on or after January 1, 2003.*"⁴⁴

Local

Santa Barbara County Local Coastal Program

The DEIR states that *if* Venoco "were to pursue...transportation of oil production from new reservoirs or from the expansion of an existing lease," such activity "would fall outside the existing permits" for the EMT and EOF. (DEIR 4.7-7.) Since Venoco *is* applying for an expansion of an existing lease, the DEIR should be revised to make this point and to explain clearly that the EMT cannot be used for the proposed new production.

City of Goleta Coastal Zoning Ordinance

The DEIR points out that if a LED determination cannot be made, Venoco must apply for a Rezone and General Plan Amendment. (DEIR 4.7-14.) Section 4.7, Impact

⁴³ California Public Resources Code §30262(a)(7), amended by AB 16 (Jackson) in 2003.

⁴⁴ PRC §30260(a)(7)(C)(iii), emphasis added.

LU-2 confirms that the LED determination cannot be made; therefore, Venoco should be required to apply for a Rezone and General Plan Amendment so that the DEIR can analyze the impacts and viability of such an application.

UCSB Long Range Development Plan Amendment

The DEIR should be revised to point out that not only is the EMT site designated as open space, but it must be permanently protected through a conservation easement or by inclusion in the Coal Oil Point Reserve.⁴⁵

4.7.4 Impact Analysis and Mitigation

Impact LU-1: Decommissioning of the EMT. While the DEIR is correct in pointing out that the proposed Project would result in the removal of an existing nonconforming use and would thus comply with County policies favoring pipeline transportation (DEIR 4.7-17), it should be pointed out that the decommissioning of the EMT will occur with or without the Project. The existing state lease for the offshore portion of the EMT expired in 1993, and the CSLC may decide to deny Venoco's application for a new lease. Even if the CSLC approves the application, the new lease would expire in 2013 and the EMT would be decommissioned after that date. Under the proposed Project, a pipeline would not be constructed much before 2013, if at all, by the time the Project secures all approvals and construction is completed.

Impact LU-2: Energy-Related Policies of the City. We agree that the proposed Project is inconsistent with the City's policies regarding oil and gas development, and that this inconsistency results in a Class I impact.

Limited Exception Determination

Demonstrable Public Health and Safety, or Environmental Benefit: The DEIR states that the Project has "a demonstrable public health and safety, or environmental benefit" because "the Project would serve to abandon the EMT facilities and remediate the potential existing contamination in the area earlier than the currently established date of 2016." (DEIR 4.7-19.) This statement is misleading, however, because it ignores the fact that the EMT offshore lease expired in 1993 and Venoco's holdover status may be terminated when the CSLC considers the application for a new lease; in any event, even if a new lease is approved, it would only be in effect until 2013, not 2016. As noted above, the City cannot find that the Project would result in decommissioning of the EMT much earlier than would already occur.

No New Unmitigated Significant Environmental Impact: As pointed out in the DEIR, the proposed Project would result in many Class (unmitigated significant) impacts; therefore, the LED determination cannot be made. (DEIR 4.7-20, 21.)

⁴⁵ *Adopted Findings for Major Amendment I-06 to the UCSB Certified Long Range Development Plan*, California Coastal Commission, December 19, 2006, p. 34, excerpt attached hereto.

No Increase in the Overall Intensity of Use Beyond the Existing Permitted Use: The DEIR defers analysis of this issue, in contravention of the requirement under CEQA that the impact analysis, including land use impacts, must be included in the DEIR to allow the public a timely opportunity to comment on the issue. (DEIR 4.7-21.) The DEIR should be revised to include this analysis.

No Expansion or Extension of Life of the Non-conforming Use due to the Increased Capacity of the Structure, or from Increased Access to a Resource, or from an Opportunity to Increase Recovery of an Existing Resource: Again, the DEIR defers analysis of this potentially significant impact. (DEIR 4.7-21, 22.) The Project would definitely increase access to a resource and increase recovery of offshore oil and gas resources. The DEIR must be revised to include an analysis of whether this increased access and recovery will result in the expansion or extension of the life of the nonconforming use.

Does Not Allow for Processing of New Production: The discussion in the DEIR is unclear; on the one hand, the DEIR states that the Project would allow production into expanded lease areas and thus is inconsistent with this criterion, but on the other hand, the DEIR leaves open the possibility that the City may determine otherwise. (DEIR 4.7-22.) Because there is no basis in the discussion for a finding of consistency, the DEIR should be revised to delete the phrase “Until the city determines otherwise...”

Despite these omissions and incongruities, we agree with the ultimate conclusion in the DEIR that the LED findings cannot be made and thus the Project is inconsistent with the land use and zoning designations for the property. (DEIR 4.7-23.) We agree that this inconsistency results in a Class I impact.

We disagree, however, with the statement that the City could consider a Development Agreement that would allow the Project to proceed despite this inconsistency. (DEIR 4.7-23 - 25.) As explained herein, a Development Agreement, by itself, cannot be used to approve the Project because the proposal is inconsistent with the zoning designation and various policies of the City’s General Plan.

We agree with the DEIR that any Development Agreement entered into between the City of Goleta and Venoco regarding the proposed Project must conform to Article 2.5 of the Government Code. However, no such agreement is likely to conform to Article 2.5. Development Agreement law was intended mainly to *freeze existing zoning regulations* in order to give assurance to developers taking on new development projects.⁴⁶ In this case, the existing zoning regulations designate the site of the EOF for Recreation. As such, in order for a Development Agreement to be a viable option for the proposed Project it would need to be preceded by a rezone of the property. The DEIR must be amended to acknowledge the infeasibility of a Development Agreement without action taken by the City to first amend or change the zoning ordinance.

⁴⁶ Cal. Govt. Code § 65864.

Furthermore, a Development Agreement cannot be approved because the Project is inconsistent with the City's General Plan.⁴⁷ We agree with Section 4.7.4 Impact Analysis and Mitigation (Impact LU-2), which confirms that the proposed Project would be inconsistent with Policy LU-10.1-(b) of Goleta's General plan. (DEIR 4.7-18.) Accordingly, a Development Agreement cannot be approved in accordance with Article 2.5. The DEIR must be revised to acknowledge the infeasibility of a Development Agreement without further action taken by the City to amend its General Plan.

Impact LU-3: Open Space, Habitat Conservation and Safety

We agree that the Project would conflict with plans and policies to restore the open space and habitat resources of the Ellwood area, and that it would violate City policies protecting its residents from unacceptable risks. (DEIR 4.7-26.) We agree that these inconsistencies result in a Class I impact.

Impact LU-4: Accidental Oil Releases

We agree that the potential for accidental oil releases would adversely impact surrounding recreational resources, and would result in a Class I impact. (DEIR 4.7-27.)

Extension of Life Impact

The DEIR states that the increased oil and gas production from new wells "could produce economically viable resource for a longer-than-expected and increase the life of the existing facilities." Therefore, the DEIR concludes, the Project could cause impacts to last longer than predicted, "exacerbating potentially adverse impacts." We agree that this increase in project duration and likelihood of an oil spill or gas release would result in a Class I impact. (DEIR 4.7-28.)

4.7.5 Impacts of Alternatives

Despite the acknowledgement that the EMT will be decommissioned soon, regardless of whether the Project is approved, the DEIR concludes that this benefit will not occur without the proposed Project or production alternatives. (DEIR 4.7-28 - 32.) However, because the decommissioning of the EMT would occur at almost the same time with or without the new production, the DEIR should find that there is no benefit from the decommissioning of this facility.

4.7.6 Policy Consistency Analysis

Throughout this analysis, the DEIR incorrectly identifies the decommissioning of the EMT as a result and benefit of the Project. (See, for example, see DEIR 4.7-41, 42, 45, 47, 50, 52, 53, 54, 58, 59, 60.) Because the EMT will be decommissioned anyway,

⁴⁷ Cal. Govt. Code §65867.5 (b).

very early in the life of the Project, this assertion must be removed from the document and the analysis must be revised accordingly.

We agree with the finding in the DEIR that the Project is inconsistent with many local and state policies, including:

- Lack of adequate public services (fire);
- Effect on water-oriented activities in the event of an oil spill or gas release;
- Impacts to marine resources from potential oil spills
- Inability to protect against the spillage of crude oil, gas, petroleum products, or hazardous substances;
- Impacts to environmentally sensitive habitat areas from potential oil spills;
- Impacts to water quality from oil spills;
- Additional processing of oil and gas at the EOF, which is a non-conforming facility; and
- City policies supporting processing at the consolidated site in Las Flores Canyon.

Coastal Act Policy 30230 – Marine Resources and Special Protection

Again, the DEIR relies on the decommissioning of the EMT to find a benefit in terms of reducing the risk of an oil spill from barging operations. (DEIR 4.7-34.) However, as stated above, the EMT will be decommissioned soon anyway, with or without the Project. The DEIR must be revised to delete the statement that the Project will reduce impacts to marine resources.

Coastal Act Policy 30240 – Environmentally Sensitive Habitat Areas (ESHAs)

Again, the DEIR should delete the statement that the Project will reduce potential impacts related to oil spills because barging will cease. (DEIR 4.7-39.) Barging will cease soon anyway, even without the Project.

Coastal Act Policy 30260 – Location or Expansion

The DEIR states the requirements of this Policy, but does not include an analysis. (DEIR 4.7-41.) This Policy is important to the Project, because it addresses situations such as this one where the proposed Project is inconsistent with various Coastal Act policies. Therefore, a positive finding under this Policy is *required* or the Project must be denied. The DEIR must be revised to provide such an analysis.

LU 10.1 – Oil and Gas Processing Facilities

The DEIR should note in this section that the City would not be able to make the required findings under the Limited Exception Determination, as demonstrated in section 4.7.4.

LU 10.3 – Oil and Gas Transport and Storage Facilities

The DEIR does not analyze consistency with LU 10.3(b), which supports processing at Las Flores Canyon in the event extended field development from Holly is approved. (DEIR 4.7-53.) Clearly, the Project is inconsistent with this policy.

LU 10.6 Oil and Gas Production Areas

The DEIR states that the proposed Project could actually reduce the life of existing operations by contributing to the more rapid production of the reservoir (DEIR 4.7-55) without any analysis.⁴⁸ This statement is inconsistent with other claims in the DEIR that the Project will either have a neutral effect on the existing life of Venoco's production activities, or may even extend the life. The DEIR should be revised to provide an accurate and complete analysis of this issue, as it could significantly change the impact analysis throughout the document.

The DEIR leaves open the issue of whether LU 10.6 applies to this Project, because the policy refers to "new offshore leases." (DEIR 4.7-55.) Given the fact that the area proposed for development is currently *unleased* (having been quitclaimed to the CSLC), this policy should apply.

1998 Clean Air Plan

The DEIR states that "increased emissions associated with the Project would be fully mitigated by the existing available emission credits originated from the cessation of the marine barging operation." (DEIR 4.7-61.) We have two concerns with this statement. First, marine barging will cease anyway, so these emission reductions should not be used to offset increased emissions from the Project. Second, there is no analysis of the availability of emission reduction credits in the DEIR.

4.8 PUBLIC SERVICES

Impact PS-1: Fire Protection and Emergency Response Impacts

We agree that the need for expanded fire protection services is a Class I impact. (DEIR 4.8-17.)

Extension of Life Impact

See comment above, regarding the stated potential for the Project to extend the life of existing operations. (DEIR 4.8-22.)

⁴⁸ A similar conclusory statement is made at DEIR 4.7-60.

4.9 TRANSPORTATION AND CIRCULATION

Extension of Life Impact

See comment above, regarding the stated potential for the Project to extend the life of existing operations. (DEIR 4.9-20.)

4.10 NOISE

Extension of Life Impact

See comment above, regarding the stated potential for the Project to extend the life of existing operations. (DEIR 4.10-18.)

4.11 AESTHETICS/VISUAL RESOURCES

Impact VR-1: Beneficial Visual Effects from the Removal of the EMT and Barge Mooring

As explained above, the EMT and related barging will be eliminated without the Project, and this alleged beneficial impact should be deleted from the DEIR. (DEIR 4.11-16.)

Extension of Life Impact

See comment above, regarding the stated potential for the Project to extend the life of existing operations. (DEIR 4.11-23.)

4.12 ENERGY AND MINERAL RESOURCES

Impact ER-2: Change in Fossil Fuel Availability due to the Project

The DEIR finds a beneficial impact related to the fact that oil and gas produced from this Project would “replace natural gas and crude oil supplies from other places.” (DEIR 4.12-11.) However, there is no evidence to support this assumption. In fact, fossil fuel supplies would be available from this Project *and* other places. This Project does not place any restrictions on supplies from other places, and therefore this alleged benefit is totally speculative and without evidentiary support. Hence, this discussion should be deleted from the DEIR.

Extension of Life Impact

See comment above, regarding the stated potential for the Project to extend the life of existing operations. (DEIR 4.12-13.)

4.13 AGRICULTURAL RESOURCES

Testimony was presented at the August 6 DEIR hearing from the owners of an organic farm located along the proposed pipeline corridor. They expressed concern that the use of their property for the pipeline and staging area would conflict with their organic farming practices. The DEIR should analyze the impact of constructing and operating oil and gas pipelines within an organic farm.

Extension of Life Impact

See comment above, regarding the stated potential for the Project to extend the life of existing operations. (DEIR 4.13-10.)

4.14 ENVIRONMENTAL JUSTICE

Extension of Life Impact

See comment above, regarding the stated potential for the Project to extend the life of existing operations. (DEIR 4.14-9.)

5.0 ENVIRONMENTALLY SUPERIOR ALTERNATIVE

5.1 The Proposed Project versus the No Project Alternative

The DEIR identifies “one key issue” that “stands out” in this comparison – the allegation that the proposed Project will result in the abandonment and removal of the EMT and the cessation of barging. (DEIR 5-2.) However, as noted above, the EMT will be removed without the Proposed Project. This assertion should be deleted from the DEIR.

The DEIR should add a comparison that includes an amortization option as part of the No Project Alternative. With the removal of the EMT already guaranteed, and the possibility of removing the EOF through an amortization ordinance, the No Project Alternative would be preferable to the proposed Project.

5.6 Environmentally Superior Alternative

The DEIR identifies the Las Flores Canyon Processing: Offshore Gas and Offshore Oil Pipeline Alternative as the environmentally superior alternative. As requested above, please add an analysis of the No Project Alternative with amortization of the EOF, and reconsider this issue in a revised DEIR.

CONCLUSION

Thank you for this opportunity to comment on the DEIR for the Venoco Ellwood Full Field Project.

Sincerely,



Linda Krop,
Chief Counsel

Atts: Finalizing Addendum for the EMT, 2007 (excerpts)
Adopted Findings for Major Amendment 1-06 to the UCSB Certified Long Range Development Plan, California Coastal Commission, December 19, 2006, p. 34
Agreement for Implementation of an Optimized Waterflood Program for the Long Beach Unit, November 5, 1991
Letter from EDC to CSLC re EMT, dated November 28, 2007
Letter from EDC to Arndt re EMT, dated April 3, 2008
Santa Barbara County Board Agenda Letter, *Amortization Analysis of Nonconforming Oil and Gas Facilities on South Coast*, 12/3/01
Myth vs. Fact: The relationship between offshore oil production from platform Holly and local air and water quality, Ali Ger (2003)
Revised Point Pedernales Final Development Plan, 94-DP-027, Condition A-6, approved by the Santa Barbara County Planning Commission (April 21, 2008)

cc: Sierra Club, Los Padres Chapter
Get Oil Out!
Citizens Planning Association of Santa Barbara County
Citizens of Goleta Valley
California Coastal Commission
County of Santa Barbara
City of Goleta