



September 14, 2007

Lt. Governor John Garamendi
State Capitol, Room 1114
Sacramento, CA 95814

Re: **Venoco Ellwood Marine Terminal Lease Renewal Project**

Dear Hon. Lt. Governor:

This memorandum is submitted by the Environmental Defense Center (EDC) on behalf of our clients, the Sierra Club, Get Oil Out!, Citizens for Goleta Valley, and Citizens Planning Association, regarding Venoco's application to renew its lease for the Ellwood Marine Terminal (EMT). Venoco seeks to continue barging oil from the EMT to refineries in the Los Angeles and San Francisco Bay Areas until 2013. Venoco is the only oil producer in the State that transports its oil by marine shipment rather than the preferred mode of oil transportation, which is by pipeline.

The lease renewal proposal will be heard by the California State Lands Commission (CSLC) on October 30, 2007. We urge the CSLC to deny Venoco's application because the Final Environmental Impact Report (FEIR) for the project correctly identifies pipeline transportation as the environmentally preferred alternative. Instead, we urge the CSLC to approve a temporary lease that requires Venoco to build a pipeline and cease barging in 2-3 years.

Background

The EMT is located in Santa Barbara County, immediate offshore UCSB and adjacent to the Coal Oil Point Reserve, Ellwood Mesa, Goleta Beach Park, Sandpiper Golf Course, and the Bacara Resort. (See Exhibit A, map of the EMT and surrounding area.) This area provides extensive public beach access and is home to many rare, threatened and endangered species. In fact, the western snowy plover relies on an important nesting site that is located directly between the EMT and the onshore oil storage tanks that serve the Terminal.

The EMT is used to transport oil that is produced from the Ellwood Field. Oil is extracted at Platform Holly, then piped to shore and processed at the Ellwood Onshore Facility (EOF). The EOF site was rezoned from industrial to recreational use in 1990 and is currently operated as a non-conforming use. Oil is then piped from the EOF, through residential neighborhoods, to the EMT storage tanks on UCSB property.¹ Oil is then transferred from the storage tanks onto a barge 2-3 times a month. The CSLC has jurisdiction over the offshore portions of the EMT.

The most recent EMT lease was issued on March 1, 1983, and ended on February 28, 1993. (See Exhibit B, attached hereto.) Section 2, Provision 6 of the lease provides that

the Lessee or the heirs and assigns of, or any successor in interest thereto, shall have the right to renew this agreement for two additional periods of ten (10) years each upon such reasonable terms and conditions as the State, or, any successor in interest, might impose.

The EMT was not renewed in 1993. According to the FEIR, the expired lease has been operating in a “holdover status on a year-to-year basis.” (FEIR at 4-1.) After much pressure by CSLC staff to apply for formal renewal of the lease, Venoco finally submitted an application in 2003, requesting renewal of the lease until 2013.

FEIR

The FEIR was released on August 16, 2007. The FEIR identifies several Class I (significant and unavoidable) impacts from oil spills, leaks and accidental discharges on marine water quality, biological resources and land use, as well as a Class I impact from the visual presence of the barge Jovalan. (FEIR Table ES-1.)

The FEIR includes two scenarios under the “No Project Alternative” (under the assumption that if the lease renewal is denied, Venoco would pursue another mode of transportation): (1) Truck Transportation from the EOF to Venoco’s Carpinteria processing facility, with subsequent pipeline transportation to Los Angeles refineries; and (2) Pipeline Transportation from the EOF to Las Flores Canyon and the All American Pipeline. The FEIR finds that both of these alternatives would be environmentally superior to barging, and identifies Pipeline Transportation to Las Flores Canyon as the “environmentally preferable” alternative.²

¹ The UCSB lease for the storage tanks will expire in 2016, and UCSB recently agreed to protect this site by establishing a conservation easement or adding it to the Coal Oil Point Reserve when the EMT is removed.

² Oddly, the FEIR fails to identify the “environmentally superior alternative” under section 15126.6(e) of the CEQA Guidelines, because the FEIR instead analyzes both transportation alternatives under the No Project Alternative. The FEIR does not analyze any other alternatives. (FEIR at 4-5.) Regardless of the odd choice of organizing the document, the FEIR notes that “[t]he consideration of both truck and pipeline transportation of crude oil, discussed under the No Project Alternative, are each evaluated as stand alone options for consideration.” (Finalizing Addendum at 3-38, Response to Comment SBC-3.)

Specifically, the FEIR states that both transportation options would “*totally avoid or substantially lessen potential impacts*” related to oil spills in the marine environment, impacts to marine water quality, marine biological resources, land use, and visual resources.” (Section 3.4 “Environmentally Superior Alternative,” Finalizing Addendum at 4-5; see Exhibit C, emphasis added.) The FEIR points out that Pipeline Transportation is preferred over Truck Transportation due to the reduced impacts to safety, air quality and energy. The FEIR concludes that “Given the relative advantages of pipeline over truck transportation of crude oil, the Pipeline Transportation to Las Flores Canyon transportation option is environmentally preferable.” (*Id.*) At Las Flores Canyon, oil can then be shipped through the existing All American pipeline network to refineries.

Pipeline transportation is also the only alternative that is consistent with the California Coastal Act, which includes a preference for pipelines over marine shipment,³ the City of Goleta’s recently adopted General Plan, and Santa Barbara County’s Local Coastal Plan. The Coastal Act clearly states that “[t]ransportation studies have concluded that pipeline transport of oil is generally both economically feasible and environmentally preferable to other forms of crude oil transport.”⁴ The Land Use Element of the City of Goleta’s General Plan acknowledges that the EMT is located just outside the City boundary and sets forth the City’s support for termination of the EMT lease and the cessation of barging.⁵ The County of Santa Barbara’s Local Coastal Plan also contains policies discouraging marine transportation of crude oil, and supporting pipeline transportation.⁶

Recommended Action

Based on the fact that the FEIR identifies the Pipeline Transportation option as the environmentally preferred option (and the only option that is consistent with state and local policies and regulations), we urge the CSLC to direct Venoco to pursue development of a pipeline.⁷ The CSLC may allow Venoco to continue barging in the interim, pending completion of the pipeline.

We realize that it will take some time for Venoco to construct a pipeline to Las Flores Canyon. Fortunately, Venoco has already applied for permission to construct such a pipeline as part of its proposed Ellwood Oil Development and Pipeline Project. The Draft EIR for this project will be released this fall. According to the Notice of

³ Public Resources Code §30265; see also §§30262, 30265.5.

⁴ Public Resources Code §30265(b).

⁵ City of Goleta General Plan Land Use Element Policy LU-10.5; see FEIR at 4-41.

⁶ Santa Barbara County Coastal Plan Policy 6-8.

⁷ Under CEQA, a lead agency must adopt feasible alternatives and mitigation measures that are capable of avoiding or substantially lessening project impacts. See Pub. Res. Code §§21002, 21002.1(b), 21081; CEQA Guidelines §§15021(a)(2), 15092; *City of Marina v. Board of Trustees of California State University* (2006) 39 Cal.4th 341, 368-369; *Uphold our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587; *County of San Diego v. Grossmont-Cuyamaca Community College Dist.* (2006) 141 Cal.App.4th 86, 98.

Preparation, the EIR will analyze a pipeline route from the EOF to Las Flores Canyon as part of the proposed project, and another route from Platform Holly to Las Flores Canyon as an alternative.

We recommend that the CSLC approve a temporary lease that would allow Venoco to continue barging oil pending development of a pipeline, similar to the Pt. Arguello tanker permit issued by the California Coastal Commission in 1993. As shown in the attached permit, the Coastal Commission required the Partners to meet certain milestones demonstrating diligent progress towards the construction and operation of the pipeline, and to cease tankering within three years of the date of the permit. (See Exhibit D.) As a first step, the Partners were required to sign a Throughput and Deficiency Agreement with a pipeline developer. In this case, Venoco already proposes to build the pipeline itself, and a Draft EIR is due to be released soon, so the time required to develop a pipeline would actually be shorter than in the Point Arguello case. Two years should be sufficient time to complete a pipeline from the EOF to Las Flores Canyon. If, however, the pipeline will be built from Platform Holly to Las Flores Canyon, additional time may be required for Venoco to complete additional environmental review and make arrangements to process its oil and gas at Las Flores Canyon, as required by the County's consolidation policies.

Accordingly, we urge the CSLC to:

- (1) deny the application for renewal of the EMT lease until 2013;**
- (2) approve a temporary renewal of the lease that would allow Venoco to continue barging until a pipeline is constructed to Las Flores Canyon;**
- (3) require cessation of operations at the EMT no later than November 1, 2009, if the pipeline is built from the EOF to Las Flores Canyon, or November 1, 2010, if the pipeline is built from Platform Holly to Las Flores Canyon; and**
- (4) ensure timely decommissioning and abandonment of the offshore portions of the EMT.**

Thank you for your consideration of these comments.

Sincerely,

Linda Krop
Chief Counsel

Exhibits:

- A: Project Location map
- B: Lease No. PRC 3904.1 (1983 EMT Lease)
- C: FEIR excerpt: Environmentally Superior Alternative
- D: Point Arguello Partners Shippers' Permit, January 13, 1993