

August 9, 2007



Jackie Campbell
Community Development Director
City of Carpinteria
5775 Carpinteria Avenue
Carpinteria, California 93013

RE: Draft Environmental Impact Report for the Proposed Venoco Paredon Project (State Clearinghouse # 2006051126)

Dear Ms. Campbell:

The following comments on the Draft Environmental Impact Report (DEIR) for the proposed Venoco Paredon Project are submitted by the Environmental Defense Center (EDC) on behalf of our clients, the Carpinteria Valley Association (CVA), Get Oil Out (GOO!), and the Sierra Club Los Padres Chapter. CVA is a non-profit public interest group comprised of area residents who participate in issues that affect the community of Carpinteria, including land use issues and issues affecting water use, habitats, open spaces and the quality of life in Carpinteria. GOO! is a non-profit corporation whose mission is to protect the natural environment and beauty of the Santa Barbara Channel from the adverse effects of oil development. The Sierra Club Los Padres Chapter encompasses everything from National Forest Wilderness areas of the San Ynez Mountains to the Channel Islands National Park in the Santa Barbara Channel. The Chapter's activities range from traditional Sierra Club concerns with forest management and wilderness to the urban and growing problems with land use and energy development. EDC is a non-profit public interest law firm that represents community organizations in environmental matters affecting California's south central coast. Both CVA and the Sierra Club have submitted additional comment letters, which are incorporated herein by reference.

EDC would like to thank City staff for coordinating the preparation of this lengthy DEIR. Data provided in the DEIR will be invaluable to the public and to the decision-makers who are ultimately responsible for protecting our community.

The DEIR identifies more than ten significant and unavoidable impacts that would result from the proposed Paredon Project, including the risk of an oil spill and all of the visual and aesthetic impacts associated with a towering onshore drill rig. In addition to all of the significant, Class I impacts identified in the DEIR, however, the Project will result in even more – and more severe – impacts to our community and to the environment. The DEIR does not yet adequately address emissions of greenhouse gases, for example, nor are measures to protect surface and groundwater quality adequately described.

Furthermore, Section 21082.1(c)(2) of the California Environmental Quality Act (CEQA) requires that a lead agency “circulate draft documents that reflect its independent judgment.” Yet this DEIR too often states that “the Applicant indicates,” and it too often relies on the Applicant’s internal inspections and vague statements and assurances. Data in the EIR should be supported by verifiable and/or external reporting.

Similarly, CEQA Section 21081.5 requires that the feasibility of proposed mitigation measures should be supported by “substantial evidence in the record.” Many of the proposed mitigation measures in this DEIR rely on self-monitoring and self-enforcement by the Applicant. Venoco and the CPF facility have been subject to numerous citations and cleanup or abatement orders both recently and over the years. Some violations have been ongoing, and this pattern does not indicate an effective degree of self-regulation at the CPF. Therefore, the feasibility of any mitigation measure that relies on Venoco to self-report or self-correct is not supported by substantial evidence in the record.

Correction of these and other deficiencies that are discussed below will result in “significant new information” being added to the DEIR. Accordingly, as required by section 15088.5 of the CEQA Guidelines, this DEIR should be revised and re-circulated.

The following sections will be addressed in detail below:

2.0 Proposed Project Description.

3.0 Cumulative Projects.

4.1 Safety and Risk of Upset/Hazardous Materials.

4.2 Air Quality.

4.3 Marine Mammals.

4.4 Marine Resources.

4.5 Onshore Biological Resources.

- 4.6 Onshore Water Resources.
- 4.7 Geological Resources.
- 4.8 Transportation and Circulation
- 4.9 Land Use
- 4.10 Noise and Vibration
- 4.14 Cultural, Archaeological, and Historic Resources.
- 4.15 Visual Resources and Aesthetics.
- 5.0 Alternatives Analysis.

1.0 INTRODUCTION

“If the exploration well is unsuccessful, the project would end and the drill rig and associated equipment would be removed.” (DEIR 1-1.) The DEIR identifies a number of significant, negative impacts that would result from the proposed Project, as well as some beneficial impacts. These impacts are anticipated and analyzed as though full production will occur. The DEIR does not, however, discuss the impacts that would occur if the exploration well is unsuccessful. The DEIR should state whether or not negative and/or beneficial impacts would occur. Sections of the DEIR that discuss socioeconomic impacts, such as revenues from taxes and royalties, should similarly discuss the possibility of unsuccessful exploration wells.

A 2006 Venoco filing with the Securities and Exchange Commission (SEC) indicates that the leases for PRC 3150 and PRC 3133 will expire in 2013 and 2014.¹ Active drilling of the leases would trigger renewal of the leases, regardless of the level of production. It is possible that Venoco has proposed this Project simply to extend the life of its leases, and full production will not occur at this time. This potential should be addressed in a revised DEIR.

1.1 Proposed Project Objectives

Section 15124(b) of the CEQA Guidelines requires that the statement of objectives “should include the underlying purpose of the project,” and it provides that “[a] clearly written statement of objectives will help the lead agency develop a reasonable

¹ Venoco, *Securities and Exchange Commission Form 10-K: Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 For the fiscal year ended December 31, 2006* (2006).

range of alternatives to evaluate in the EIR....” Under CEQA, a project objective cannot be so narrow as to unduly restrict the range of alternatives.²

The DEIR sets forth the following objectives:

The main objective of the proposed Paredon Project is to efficiently and effectively develop oil and gas reserves from the Paredon and associated fields and to sell the oil and gas production to help meet the energy demand of the State of California. If implemented, this project would provide an additional supply of crude oil and natural gas to California. It is also the Applicant’s objective to develop the oil and gas resources from an onshore location, already in use as an oil and gas facility, using extended reach drilling, which would serve to consolidate operations and minimize environmental impacts. The Applicant has also stated that one of the objectives of the project is to provide increased royalty and tax revenue to the State and the City of Carpinteria and to provide a reasonable rate of return to investors. (DEIR 1-3.)

In other words, Venoco’s objective is to produce oil and gas from the Paredon Field, using an onshore location in Carpinteria. This objective is overly narrow and precludes the consideration of a “reasonable” range of alternatives. In fact, it is so narrow that only the proposed Project can meet the objective. Accordingly, this narrow objective should be removed from the EIR. The objective of supplying energy to the State of California, also mentioned in the DEIR, is a proper objective and would lead to consideration of a more reasonable range of alternatives as required by CEQA.

1.2 Agency Use of the Document

California State Lands Commission (CSLC)

The DEIR should state why Venoco has applied to the CSLC for a modification of the royalty agreement for its leases from a variable to a flat rate. If this modification is in the public interest, and/or it affects the collection of royalties by the State and the City of Carpinteria, these details should be spelled out. (DEIR 1-4.)

It has been stated, at the City’s June 26, 2007, public workshop and elsewhere, that estimates of royalty proceeds from the Project are based on and guaranteed by a letter from the CSLC confirming that the Project is eligible for revenue sharing under Public Resources Code 6917(b). That letter, however, only addresses the eligibility of

² *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).

“the project on PRC 3150,”³ and does not address State Lease PRC 3133. Given that royalty projections in the DEIR vary widely from approximately \$15 million to \$108 million, the DEIR should state sources and probabilities of revenue with specificity. The DEIR should state whether projections are based solely on revenue from PRC 3150. If projections are based on revenue from PRC 3133, the DEIR should confirm that PRC 3133 is eligible for revenue sharing under Public Resources Code 6917(b). If PRC 3133 is not eligible for revenue sharing, revenue figures should be recalculated.

Santa Barbara Air Pollution Control District (SBAPCD)

Will SBAPCD need to issue a new Permit to Operate (PTO)?

2.0 PROPOSED PROJECT DESCRIPTION

As was indicated at the July 30, 2007, public DEIR meeting, all owners of parcels at the proposed Project site should be included as Applicants in the DEIR – in this case, that list includes Venoco CEO Tim Marquez and/or his corporation Carpinteria Bluffs LLC.

The Project Description should include an estimated life-span for the Project. This section states merely that “drilling would continue for six years Thereafter, re-drilling and work over of three to four existing wells per year would be required.” (DEIR 2-5.)

Potential revenues from the Project are mentioned on page 2-1. The discussion of royalty figures throughout the DEIR, however, is misleading and has raised genuine concern and confusion within the Carpinteria community. For example, royalty income is consistently described as “approximately \$15 to \$108 million over the life of the project.” (DEIR 2-1) The maximum estimate of \$108 million is referred to repeatedly as a reasonable expectation, and this number was also highlighted at the City’s June 26, 2007, public workshop; however, achieving the *minimum* estimate of \$15 million is 90% probable, according to other sections of the DEIR. Achieving royalties of up to \$108 million is only 50% probable – this number should be treated as an outlier, and the “benefits” associated with the Project should be scaled back accordingly. The DEIR should also acknowledge the relative comparison of costs and benefits if the Project does not proceed with full production.

2.1 Proposed Project Location

For purposes of clarity, this section should include the following language:

This site is currently zoned M-CD, Coastal Industry District. *The zoning designation M-CD does not currently allow for the production of offshore oil and*

³ Letter Paul B. Mount II, CSLC, to Dave Durflinger, City of Carpinteria (June 8, 2005).

gas from an onshore location using extended reach drilling, and the applicant has requested a Zoning Text Amendment to allow for these activities.

2.3 Project Geology

This section, when read in conjunction with other sections relating to boundary lines and lease locations, is inconsistent. The Project Description notes that Venoco will tap State leases 3150 and 3133 from the onshore Carpinteria Processing Facility (CPF). This section on Project Geology, however, seems to suggest that the Project will also draw from State Lease PRC 1824. (DEIR 2-4.) This should be addressed in a revised DEIR.

The DEIR states: “Subject to State Lands Commission approval, PRC 3150 would be held 100 percent by Venoco.” (DEIR 2-4.) Who currently owns an interest in PRC 3150, besides Venoco? How does this currently fractured ownership affect the future of the Project and Venoco’s ability to produce from State Lease PRC 3150?

The DEIR also states: “The East Paredon structure lies onshore beneath the CPF with the south flank *possibly* extending into PRC 3133.” (DEIR 2-4, emphasis added.) The Project Description clearly states that the Project will produce from PRC 3133. Is this conflicting information, or is there some technical explanation for the seeming disconnect?

The DEIR mentions the “Sespe Formation” on page 2-4. There is no other indication in the document, however, as to the relationship between the Sespe Formation and the leases that Venoco is seeking to develop. Is this an additional deposit of oil and/or gas that might be developed from the CPF location? Why is the Sespe Formation, and any other underlying mineral deposit marked for extraction, not mentioned in the Project Description?

2.4 Current CPF Facilities and Operations

Table 2.1 Current CPF Operations and Proposed Project Summary

Table 2.1 states that crude oil production is currently transported “at a daily equivalent rate of 14,400 BPD. Current production based on Paredon would provide an additional 11,000 BPD. SBAPCD permit limit of 18,000 bbl/day.” Assuming that 1 bbl/day is equivalent to 1 BPD, adding an “additional 11,000” to the current rate of 14,400 BPD would equal 25,400 BPD and exceed the SBACPD permit limit by 7,400 BPD. This discrepancy should be addressed in a revised and re-circulated DEIR.

2.4.1 CPF Gas Processing Operations

Table 2.2 states that the White #1, White #2, and Cooper compressors are not currently in use. Later on page 2-10, it is stated that, typically, incoming gas is “routed to the two White-Superior compressors or the Cooper-Bessemer compressor to accomplish initial, first state compression.” These are conflicting statements, and this data is important in determining the existing environmental baseline at the Project site. The current baseline description is therefore inadequate and must be revised.

2.4.3.2 CPF Oil Shipping and Destination

The DEIR makes multiple references to internal pipeline inspections conducted by Venoco or its subsidiary. There has been a history of inadequate self-reporting at the CPF.⁴ Have there been any third-party/agency inspections to verify Venoco’s reported information?

What “minor administrative findings” needed correction by the Department of Transportation’s (DOT) Office of Pipeline Safety and the California State Fire Marshal Pipeline Safety Division? (DEIR 2-18.)

2.4.4 CPF Wastewater System

A revised DEIR should address impacts, including greenhouse gas emissions, that result from trucking wastewater offsite. (DEIR 2-18.)

2.4.6 CPF Storm Drain System

Why is survey information “in regard to capture volumes” unavailable? (DEIR 2-18.) This information should be obtained and included in a revised and re-circulated DEIR.

“The Applicant indicates that there is a regional NPDES permit for the outfall.” (DEIR 2-20.) The NPDES permit information and the Applicant’s record under that permit should be made available in the DEIR.

2.5 Proposed Paredon Project

2.5.1 Drilling

Will temporary equipment associated with drilling and producing exploratory and delineation wells be adequate to safeguard against risk of upset, oil spills, etc.?

This section contains conflicting information that is misleading to decision-makers and the public. The DEIR states on page 2-20: “The exploration and delineation

⁴ See, e.g., Letter from Michael Broughton, SBAPCD, to Pat Corcoran, Venoco (May 21, 2007) (“Notice of Violation (NOV) #8796 for Failure to Submit an Accurate Air Toxics Emission Inventory Report (ATEIR)”).

phases of the project are expected to last one year (four months of drilling and eight months of production evaluation).” Then, on page 2-21, it states: “The drilling of the exploratory well and the three delineation wells would be completed within six months. At this time, the 175-foot drill rig would be removed and the production would be evaluated for an additional six months.” Will the exploratory and delineation drilling take four or six months? Will evaluation take eight or six months? These numbers are relevant to the calculation and mitigation of Project impacts, and they should be stated clearly and consistently from page to page and section to section.

On page 2-22, the DEIR states that well workovers and re-drills would not exceed 30 days per year. Does this mean a span of thirty days, or an accumulation of hours that adds up to thirty days – in other words, is it possible that these actions could take place for limited periods of time on more than 30 actual calendar days?

Why is no new permanent H₂S gas detection proposed as part of the proposed Project? (DEIR 2-24.) Is it scientifically accurate to assume that one well would be exemplary of all wells?

2.5.3 Oil and Gas Processing Operations

2.5.3.4 NGL Processing Operations

Why is it assumed that the Applicant would use currently out-of-service NGL tanks for immediate storage, when the Applicant has not stated this intention? (DEIR 2-32.) If this assumption is incorrect, the calculation of impacts and mitigation measures would be affected.

2.5.3.5 Oil and Gas Accounting

The Applicant believes that commingling oil and gas production from various leases would allow for sufficiently accurate calculation of royalty allocations. There is a question, however, as to what leases are subject to what royalty schemes. For example, in the past, the Maddy Bill required a certain diversion of state royalties to local government. Several years ago, when that law sunset, the CSLC sent a letter to the City of Carpinteria which stated:

[CSLC] received your letter of June 1, 2005, requesting the California State Lands Commission’s confirmation of the eligibility of the project on PRC 3150 for revenue sharing under Public Resources Code 6917(b). This project is eligible for revenue sharing with the City of Carpinteria.⁵

This letter was referenced at the City’s June 26, 2007, public EIR workshop. At that time, City staff indicated that royalties from the Project would be calculated according to the content of the letter. The CSLC letter, however, only references State Lease PRC

⁵ Letter from Paul Thayer, CSLC, to Dave Durflinger, City Manager, City of Carpinteria (June 8, 2005).

3150, whereas the Project also encompasses PRC 3133. References to royalty revenues, etc. in the DEIR make no distinction between revenues from PRC 3150 and PRC 3133, yet it seems that these leases are covered by different provisions in the law. This calls into question the accuracy of estimated royalty revenues in the DEIR. Since the primary trade-off of this Project is “significant and unavoidable environmental impacts” v. “tax and royalty revenues,” it is extremely important for the financial figures to be accurate and not misleading. The DEIR should be revised and re-circulated to accurately reflect socioeconomic impacts.

2.5.3.6 Oil Storage

“[I]t is assumed in this report that the tank 861 removal and installation process would take place before the exploratory/delineation drilling period.... The existing bermed area would not be graded or changed and would remain the same.” (DEIR 2-33.) This is a dangerous and likely erroneous assumption, and it conflicts with a later section of the DEIR:

Groundwater reportedly infiltrates into Basin 861, commingling with stormwater runoff contained there.... [S]tormwater runoff and groundwater infiltration into Basin 861 potentially contain contaminants from historic and possibly current pollution releases to site soils and groundwater.... Venoco has not fulfilled RWWCB requirements, including a demonstration of Basin 861 integrity and containment, surface runoff characterization, discharge monitoring protocol, and reporting requirements. (DEIR 4.6-7.)

Given the problems associated with tank and Basin 861, and the outstanding directions from Regional Water Quality Control Board (RWQCB), tank 861 should be removed as soon as possible, regardless of whether the Project moves forward, and Basin 861 should be changed to correct for inadequate containment of potentially contaminated water.

Furthermore, the DEIR should discuss containment and monitoring procedures for new storage tanks T-SH 24637 and SA 25380, given the history of tank and basin failure at the Project site.

2.5.4 Facility Support and Utility Systems

Fresh Water System

Is there enough fresh water available from the existing CPF connection to the Carpinteria Valley Water District to satisfy Project needs?

Buildings

Given the long timeframe for drilling operations, is it appropriate to say that no new permanent buildings are proposed? Would a “temporary” building in use for the life

of the Project – estimated at 16 years – be demolished following production? Are the impacts of constructing and then demolishing a temporary structure greater than the impacts of constructing a permanent structure?

Equipment Staging Areas

There is confusion as to where parking areas would be located. The DEIR states on page 2-37 that parking would be within the CPF fenced facility area, but other sections reference use of the parking lot south of the railroad tracks. Will there be adequate parking at the CPF? This information should be clarified and/or corrected.

2.5.5 Pollution Prevention

Leak Monitoring

“The I&M Program would result in a greater than 80 percent reduction in fugitive ROC emissions.” (DEIR 2-37.) Does this reference an 80 percent reduction of the current baseline, or an 80 percent reduction of emissions that would otherwise occur from the proposed Project? An 80 percent reduction in Project emissions may not be adequate to protect human health and combat climate change.

Storm Water Collection

Is the existing storm water collection system at the CPF adequate to handle existing or increased runoff? Venoco has violated stormwater runoff discharge monitoring and reporting requirements in the past.⁶ Any information about runoff at the site should be verified by a third-party.

Noise Reduction

A “comprehensive noise abatement study ... to address both the new equipment and the existing equipment” should be included in a revised DEIR. (DEIR 2-41.)

Does the analysis of noise impacts address cumulative decibels from all Project equipment, or is each piece of equipment treated separately?

The DEIR references an 85 decibel threshold for the protection of human hearing. (DEIR 2-41.) This is the threshold for hearing loss. Would it not be more appropriate to measure and prevent *deterioration* of hearing?

Site Lighting and Proposed Visual Mitigations

⁶ See, e.g., letter from Roger W. Briggs, RWQCB, to Stephen A. Grieg, Venoco (August 17, 2006).

“Limiting the height of proposed equipment” (DEIR 2-42) conflicts with statements made elsewhere in the DEIR that suggest a preferred Project with full-sized equipment.

Landscaping should utilize only native vegetation.

2.5.6 Safety and Emergency Response

Oil Spill Contingency Plan

What is the actual status of Venoco’s Oil Spill Contingency Plan under review by the Department of Transportation?

The Applicant has indicated that its various plans are adequate and consistent – has this been confirmed by a third-party?

2.5.7 Zoning Code Amendment

The DEIR identifies the Project as being coastal-dependent. A coastal dependent use is one that must be located on or adjacent to the sea. As the DEIR notes, the Project could be located further from the coast, indicating that it is not necessarily coastal-dependent. The DEIR should explain why the Project is considered coastal-dependent, and whether a designation as coastal-related or general industrial would also be appropriate.

What are the anticipated consequences of Venoco’s proposed zoning amendment? Although it is meant to apply to the proposed Project, are there other applicants who will seize an opportunity to construct onshore-to-offshore drilling and production operations?

3.0 CUMULATIVE PROJECTS

CEQA section 21083 states: “the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probably future projects.”

Section 15355 of the CEQA Guidelines states:

The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

Cumulative projects addressed in the DEIR appear to be “reasonably foreseeable probable future projects.” Past and present projects that could result in cumulative

impacts should also be considered, and the DEIR should be revised and re-circulated accordingly.

3.1 Offshore Energy Projects

This section appears to be incomplete. Are all current and proposed projects addressed? It is not sufficient to merely discuss these projects as part of the environmental baseline – cumulative impacts with the proposed Project should also be addressed specifically.

Clearwater Port LNG Project

Why is it assumed that oil and gas production from Platform Grace would have greater cumulative impacts with the proposed Project than impacts from the proposed Clearwater Port LNG Project at Platform Grace? This seems contrary to EDC's recent experience with a proposed offshore LNG project, especially with respect to full life cycle impacts such as greenhouse gas emissions.

Cavern Point Development

Are existing pipeline systems adequate to carry throughput from the proposed Project, as well as throughput from production at Platforms Grace and Gail?

Carpinteria Field Development Project

How do plans to produce oil and gas from Platform Hogan overlap or interfere with the alternative Project outlined in Section 5.2.1.1 of the DEIR? Are these mutually exclusive scenarios?

3.2 Onshore Remediation Projects

Would contemplated clean-up operations interfere with construction or operation of the proposed Project?

This section mentions Tank Basin 861 as a site requiring remediation, yet the text only discusses clean-up actions affecting the "former Nursery Area." (DEIR 3-5, 6.) Confusing and/or conflicting information about Tank Basin 861 and potential actions surrounding it is persistent in the DEIR.

3.3 Onshore Development Projects

The parameters selected for measuring cumulative impacts of onshore development do not include an adequate consideration of greenhouse gas emissions. Given that the State of California is currently seeking to lower its levels of greenhouse

gas emissions, per AB 32, every possible emissions source should be included in these calculations.

4.0 ENVIRONMENTAL ANALYSIS

4.1 Safety and Risk of Upset/Hazardous Materials

Comments on this section will also address information and analyses contained in DEIR Appendix E.

Appendix E states that chronic or carcinogenic risks are addressed in reports related to AB2588 “Air Toxic Hot Spots.” Where in the EIR is this information addressed?

Appendix E notes a decline in the number of reported release incidents at the CPF from 1999 – 2005. (DEIR E-5.) However, records from APCD and RWQCB indicate that more recently Venoco has been the subject of citations for inadequate or erroneous reporting. Is it possible that the frequency of release events, etc. has not actually decreased, but rather the Applicant has failed to report an increasing number of events?

On page E-9, why has consolidation of the odorant facilities been removed from consideration by the Applicant, if doing so “would reduce the potential exposure of sensitive receptors to a release of material?” Is this addressed at a different place in the DEIR?

If Venoco has thus far refused to “propose and execute realistic and specific tasks to protect and restore water quality,” how can the Applicant be expected to prevent and/or remediate potential future contamination scenarios at the Project site? (DEIR 4.1-13, E-10.) Similarly, Venoco’s actions described on page E-12 cast doubt on the Applicant’s willingness and ability to adequately protect human health and the environment.

On page E-13, why is a significant risk for cancer not further described as a Class I impact? If the latest studies were completed in 1999, and there is concern that those studies may underestimate risks from the Project site, the DEIR should rely on more current information.

On pages 4.1-7 and E-15, the DEIR should use more realistic meteorological comparisons for the Project site. Data taken from Ellwood more than a decade ago is not sufficient. If the inland Carpinteria Station is also not sufficient, testing should be performed on-site at the CPF.

On page E-19, the combination of H₂S removal failure at Platform Gail and at the CPF should be studied in greater detail and included in a revised DEIR.

Page 4.1-11 mentions a “previous EIR related to the consolidation of ... odorant stations.” Was this EIR certified? Is information from that EIR contained in or relied upon by this DEIR?

Page 4.1-22 indicates that a Risk Management and Prevention Program (RMPP) was prepared for the CPF in 1999 and updated in 2004. Is this included in the DEIR?

4.1.4.1 Proposed Project Public Safety Risk Impacts

Section 4.1.3 addresses “mobilization of contaminants currently existing in the soil and groundwater.” (DEIR 4.1-34). However, Section 4.1.4.1 does not include this risk in the impacts analysis.

All of the blowouts noted in the MMS data “occurred during drilling and all of them involved releases coming to the surface within a few hundred feet from the drilling location.” (DEIR 4.1-37.) A blowout at the CPF would therefore impact residences and the bluffs and beach.

Page 4.1-39 states that blowouts cannot occur without “sufficient pressure to free flow.” What is the frequency of blowouts at wells that only have “sufficient pressure to free flow” – in other words, does the frequency of blowouts indicated in Table 4.1.4 take this into account?

“The impact zones associated with catastrophic releases of the gas liquids reach as far as the Carpinteria State Beach campground and the Carpinteria Bluffs parking area for injuries.” (DEIR 4.1-43.) This potential impact should be addressed in a mitigation measure included in a revised DEIR.

“The contingency plan does not address issues related to protecting public health and safety, such as when to notify emergency response personnel or to evacuate local residences.” (DEIR 4.1-45.) The contingency plan should be updated to address these issues.

4.1.4.2 Proposed Project Spill Risk Analysis

By focusing on the frequency of blowouts, for example “once every 1,200 years,” the DEIR understates potential impacts that are highlighted from the real world examples that are also included – these accidents do happen, regardless of their predicted frequency. (DEIR 4.1-45, 46.)

Mitigation Measure R.1-4 includes three possible scenarios: relocation of the odorant facilities to within the CPF, relocation elsewhere, and/or limitation of odorant deliveries. This Mitigation Measure is crucial to preventing and/or containing a Class I impact and should be discussed with more specificity. (DEIR 4.1-48.)

How does Mitigation Measure R.2-1 propose to ensure certain hydrogen sulfide levels simply by monitoring? (DEIR 4.1-49.)

Where is the modified HSCP? (DEIR 4.1-49.)

Page 4.1-51 mentions the significance of cumulative impacts from the proposed Project and Venoco's Cavern Point Development. Have these impacts been analyzed in any detail, and have mitigation measures been prepared to deal with them?

Page 4.1-52 discusses the cumulative impacts of on-site remediation at the CPF – however, this section does not discuss how proposed Project operations would impact remediation. Would the likelihood of hazardous materials migrating off-site increase?

In Appendix E, on page E-58, the DEIR states that “drains are in a normally closed position.” Visual inspection by EDC and CVA indicates that at least one drain is in an “open position.” This discrepancy should be addressed and any significance analyzed.

4.1.5.1 Industrial Projects

Remediation of Pollutant-Impacted Soils at the CPF

Would remediation activities increase the risk of a pipeline rupture at the CPF? For example, earth moving equipment might accidentally strike an underground pipe, and this possibility should be addressed in a revised DEIR.

4.2 Air Quality

4.2.1.3 Current Facilities Baseline Emissions

Criteria Pollutants Emissions

“Current emissions are below the permitted levels.” (DEIR 4.2-9.) Are baseline emissions calculated using the correct, 15.7-foot stack height of IR#1, or were they calculated with the erroneously reported 29-foot figure?

Odor Emissions

Page 4.2-11 references “unconfirmed” odor complaints. Members of CVA report that some complaints from residents about odors from existing operations have been ignored. This is another example of inadequate reporting and/or monitoring at the CPF.

An EIR was prepared for proposed consolidation of the CPF odorant facilities several years ago. The data from this EIR is pertinent to and should be included in a revised DEIR for the proposed Project.

Hazardous Pollutant Emissions

Page 4.2-16 mentions risk reduction measure 5, “increase stack height of IR#1 from 15.7 feet to 29 feet,” but does not discuss this issue in sufficient detail. Venoco’s CPF was the subject of a Notice of Violation from APCD, based on inaccurate and/or falsified information.⁷ The stack height issue did not originate with the 2006 Risk Reduction and Audit Plan (RRAP) but has been ongoing, and this should be noted and taken into account in subsequent discussions of proposed mitigation measures.

Furthermore, the DEIR states that RRAP measures must be implemented by August 2007. These comments are submitted in the second week of August 2007 – have measures 4 and 5, noted on page 4.2-16, been implemented?

4.2.2 Regulatory Setting

4.2.2.2 State

California Global Warming Solutions Act of 2006 (AB 32)

Page 4.2-18 describes AB 32 as “capping” greenhouse gas emissions in California. This is misleading, as the goal of AB 32 – to achieve 1990 levels by 2020 – is actually the reduction of emissions in the State. In fact, as stated below, California must reduce greenhouse gas emissions by 25% from current levels to satisfy the mandates of AB 32.

4.2.4 Proposed Project Impacts and Mitigation Measures

If Santa Barbara County is currently in non-attainment for PM10, how could emissions from the proposed Project be less than significant? (DEIR 4.2-22.) Is this a cumulative impacts issue?

On page 4.2-23, the DEIR states that impacts from construction emissions would be Class III. Impact # AQ.2, however, states that these impacts will be Class II. This discrepancy should be corrected, and construction emissions should be considered at the least a Class II impact.

On page 4.2-27, the DEIR states that “increases of emissions from the existing permitted sources” would not be subject to new or modified source APCD rules. APCD has indicated that Regulation 8 covers existing sources, and the Project would need to be in compliance.⁸

⁷ Letter from Michael Broughton, SBAPCD, to Pat Corcoran, Venoco (May 21, 2007).

⁸ Letter from Bobbie Bratz, SBCAPCD, to Jackie Campbell, City of Carpinteria (July 25, 2007).

On page 4.2-27, the DEIR references APCD Rule 802, which addresses Best Available Control Technology (BACT) requirements. Estimated Project emissions of NOx and ROC exceed Rule 802 thresholds, and therefore the Project is subject to BACT.⁹ This should be included as a proposed mitigation measure.

Increases in emissions from existing equipment would require offsets. The discussion of offsets on page 4.2-28 should be modified to reflect this.

On page 4.2-28, the DEIR states that only ROC emissions exceed significance thresholds. APCD has indicated that the Project may exceed NOx significance thresholds as well.¹⁰

In order to ensure NOx emissions remain below the significance level, the EIR approval must be conditioned to limit drilling engine loads to no greater than 20%, and include enforceable fuel use monitoring and reporting requirements to enforce the engine load. In addition, if it is appropriate to include the emergency generator in the lb/day CEQA significance assessment, then the EIR condition would need to limit drilling engine loads to 15% to stay below the 240 lb/day threshold. Alternatively, if the EIR mandates the Cooper engine to be electrified (see our comment below), then the total emissions in item a) above would decrease to 113 lb/day, and consequently drilling engine loads could be allowed to increase to 40% with project emissions still remaining below 240 lb/day.¹¹

The following questions submitted by APCD are echoed by this comment:

- a) Will increased pigging of pipelines and additional ROC emissions occur above baseline due to the increased throughputs?
- c) Will a flare be necessary to combust gas at any phase of the project? Will the CO2 rich waste gas from the CO2 removal process be directed to any combustion units?
- d) Were ROC emissions from the new produced water treatment facility included in Table 4.2.11?
- e) Are there existing firewater pumps, and are new firewater pumps required?¹²

As stated in APCD's comment letter, answers to the above questions "could affect estimated project emissions, and conclusions on significance of NOx emission impacts should be reassessed."¹³

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id.

Mitigation Measures designed to prevent and/or correct for occurrences of sour gas are inadequate under CEQA Guidelines section 15126.4, which requires that mitigation measures be discussed in specificity and not deferred. (DEIR 4.2-36.) SBAPCD has requested “a full description and technical evaluation” of Applicant-proposed measures.¹⁴ The DEIR should be revised to incorporate this information.

Greenhouse Gases

Recent scientific reports confirm that global warming trends are fast approaching a tipping point, and that human activities are a major cause of climate change.¹⁵ In response, AB 32 was passed last year to require the State to reduce greenhouse gas emissions to 1990 levels by 2020.¹⁶ This emissions cap is equivalent to a 25% reduction from current levels.¹⁷ Therefore, any new project that would increase greenhouse gas emissions must be carefully scrutinized, and the impacts of the project must be analyzed to fully inform decision-makers.

Unfortunately, the Paredon Draft EIR gives short shrift to this issue. The analysis of greenhouse gas emissions is flawed in six major respects.

First, the inventory is incomplete because it fails to include emissions from several components of the Project, including construction, electricity usage, processing, refining, transportation and end use. Although the DEIR estimates some emissions for Project operations, it does not address emissions from the construction phase. Nor does the DEIR include emissions generated by electricity usage for the Project. For example, at 100% load, the Project would use 43,800 MWh/yr for electricity, which would result in the emission of 13,140 metric tons per year of carbon dioxide emissions. The DEIR must be revised to include this figure. In addition, the emissions resulting from natural gas fuel combustion appear to be lower than the levels that would occur according to the California Climate Action Registry Protocol. Finally, emissions from downstream processing, refining, transportation and end use must be included. Under CEQA, an EIR must consider the “whole of an action” and must disclose both direct as well as *reasonably foreseeable indirect effects* on the environment.¹⁸ The DEIR must be revised to include the complete inventory of greenhouse gas emissions from the Project.

Second, the EIR fails to classify the severity of this impact due to the lack of established significance thresholds. (DEIR 4.2-37.) Under CEQA, the lack of established thresholds does not relieve the City of its obligation to determine whether a project will

¹⁴ Id.

¹⁵ See, for example, “Climate Change 2007: The Physical Science Basis, Summary for Policymakers” (Fourth Assessment Report of the IPCC, February 2007).

¹⁶ The California Global Warming Solutions Act of 2006, Health and Safety Code §38500 et seq.

¹⁷ 9/27/06 Press Release from the Office of the Governor, available at <http://gov.ca.gov/index.php?print-version/press-release/4111>.

¹⁸ Cal. Pub. Res. Code §21083(b)(3); CEQA Guidelines §§15378(a), 15126.2(a).

result in significant impacts. Instead, the City must determine the significance of the Project's impact on the environment based on scientific and factual data.¹⁹ In this case, *any* increase in emissions should be considered significant from a project-specific and cumulative standpoint.²⁰

Third, the EIR fails to analyze potential mitigation measures. Instead, the report identifies speculative measures that are not subject to any level of analysis. (DEIR 4.2-38.) This omission violates the tenet of CEQA that "[t]he core of an EIR is the mitigation and alternatives sections."²¹ Under CEQA, mitigation measures must be known, effective, feasible and enforceable.²² In this case, the DEIR lists measures without *any* analysis, so there is no means for the public or decision-makers to determine whether they are feasible or will effectively lessen the Project's impacts. The EIR should discuss and analyze measures that are capable of reducing the Project's greenhouse gas emissions.

Fourth, the EIR relies on the unsubstantiated claim that this Project would actually *reduce* greenhouse gas emissions by displacing foreign imports. (DEIR 4.2-38.) This statement should be deleted from the DEIR. There is no evidence that developing this oil will result in a reduction in oil imports. In fact, there is reason to believe that the opposite will occur. Because imported oil tends to be lighter, it is likely that refineries will still purchase such oil because it is of higher quality and more valuable. Refineries also often export heavier crude, which means that this oil will not likely compete with lighter crude from overseas. In addition, many refiners will continue to purchase imported oil because they own the oil and the tankers used for transportation. In sum, there is no credible evidence or discussion to support the claim that the Project will displace foreign imports and thereby result in fewer greenhouse gas emissions. "To facilitate CEQA's informational role, the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions."²³ Because this statement in this DEIR is not based on facts or analysis, it should be deleted.

Fifth, the EIR fails to consider or evaluate the cumulative impacts relating to the Project's greenhouse gas emissions and the resulting contribution to climate change. CEQA

¹⁹ CEQA Guidelines §15064(b). See also §15126.2(a), which describes the factors to be considered by a lead agency in assessing the impact of a proposed project on the environment. This section does not require, or even mention, the need to consider established thresholds of significance. Section 15064.7 encourages adoption of thresholds of significance, but does not require them.

²⁰ See letter from Edmund G. Brown, California Attorney General, to Maureen Parks, Contra Costa County Planning Commission, regarding the ConocoPhillips Rodeo Refinery Expansion project and Final Environmental Impact Report, May 8, 2007: "the requirements of AB 32 create a point of reference for determining significance. Because the state is committed to a 25% decrease in GHG emissions, anything that produces a large increase clearly could be an obstacle to complying with AB 32 and should be considered a potentially significant cumulative impact."

²¹ *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564-565 [276 Cal.Rptr. 410].

²² 15126.4(a)(2); *Federation of Hillside & Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App. 4th 1252, 1259 [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].

²³ *Concerned Citizens of Costa Mesa v. 32nd District Agricultural Assoc.* (1986) 42 Cal.3d 932, 935 [231 Cal.Rptr. 751].

mandates that EIRs include an assessment of the cumulative impacts of a project.²⁴ In a case such as this, where the existing environmental problems are severe, the threshold for determining that a project's contribution to a cumulative impact is significant is that much lower.²⁵ Therefore, the EIR must fully analyze the Project's cumulative impact on global climate change.

Finally, the EIR fails to analyze the effects of the Project (whether project-specific or cumulative) on the environment. CEQA requires that EIRs must contain a "detailed statement" of [a]ll the significant effects on the environment of the proposed project."²⁶ In addition, an EIR must analyze and disclose the irreversible effects.²⁷ The emission of greenhouse gases and resulting climate change will cause irreversible harm in California and around the world.²⁸ The IPCC, Union of Concerned Scientists, and the California Climate Change Center have published several studies that identify how climate change will affect the environment.²⁹ These impacts include an increase in water temperatures, rise in sea level, reduction of the Sierra snowpack, increase in intensity of storms, changes in ecosystems, and increases in heat waves, ozone formation, and the potential for wildfires. These impacts must be disclosed in a revised DEIR.³⁰

Similarly, the EIR must analyze the impacts of global climate change on the project (for example, increased sea level rise).

For all of these reasons, the DEIR must be revised and re-circulated to address this important issue.

4.3 Marine Mammals

²⁴ CEQA Guidelines §15130; *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61, 74 [198 Cal.Rptr. 634].

²⁵ *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 721 [270 Cal.Rptr. 650]; *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 120 [126 Cal.Rptr.2d 441].

²⁶ Cal. Pub. Res. Code §21100(b)(1).

²⁷ Cal. Pub. Res. Code §21100(b)(2)(B).

²⁸ Baer, Paul and Michael Mastrandrea. 2006. "High Stakes: Designing Emissions Pathways to Reduce the Risk of Dangerous Climate Change." Report by the Institute for Public Policy Research, available at www.ippr.org; Cayan et al. 2006. "Our Changing Climate – Assessing the Risks to California," available at http://www.climatechange.ca.gov/biennial_reports/2006report/index.html.

²⁹ "Climate Change 2007: The Physical Science Basis, Summary for Policymakers," supra. Union of Concerned Scientists (2006), "California Global Warming Impacts and Solutions," available at http://www.ucsusa.org/clean_california/ca-global-warming-impacts.html. California Climate Change Center reports include: Baldocchi and Wong, 2006; Battles et al., 2006; Cavagnaro et al., 2006; Cayan et al., 2006a; Cayan et al., 2006b; Cayan et al., 2006c; Drechsler et al., 2006; Franco and Sanstad, 2006; Fried et al., 2006; Gutierrez et al., 2006; Joyce et al., 2006; Lenihan et al., 2006; Luers et al., 2006; Luers and Moser, 2006; Medellin et al., 2006; Miller and Schlegel, 2006; Moritz and Stephens, 2006; Vicuña, 2006; Vicuña et al., 2006; Westerling and Bryant, 2006.

³⁰ See, for example, the attached staff report prepared by the California Coastal Commission regarding BHP Billiton's Cabrillo Port LNG Project. The report includes an extensive discussion of the project's greenhouse gas emissions and the resulting impacts on the California coast. *Proposed Findings on Consistency Certification re BHP Billiton LNG International, Inc.* (CC-079-06), adopted July 11, 2007.

Comments submitted by Susan Allen, of both CVA and Sealwatch, on this proposed Project DEIR are incorporated herein by reference. For example, Sealwatch calculations result in greater population estimates than the DEIR indicates for the harbor seals at the Carpinteria sanctuary, as well as a greater number of human visitors to the site. Similarly, Sealwatch volunteers have noticed higher frequencies of disturbance at the site than is indicated in the DEIR.³¹

On page 4.3-24, the population history on harbor seals is misleading, and the citations are not ones usually used to describe harbor seal population status.³² Please refer to Sealwatch comments and <http://www.nmfs.noaa.gov/pr/pdfs/sars/po2006.pdf> for the latest available information, although the 2007 Stock Assessment Report (SAR) is currently in revision and could be useful.

Page 4.3-29 gives a description meant to fix a baseline of high disturbance at the seal rookery. This merely illustrates, however, how susceptible the seals are to disturbance.

On page 4.3-30, it is intimated that activity on the bluffs (for example, Sealwatch volunteers) has been known to disturb the seals. Yet it is also stated that activity at the pier does not disturb the seals, as they have become inured to it. This is a contradiction that defies explanation.

On Page 4.3-37, the DEIR indicates that existing levels of illumination exceed City standards. If more illumination is added at the proposed Project site, it would not be possible to remain below City standards. Lighting should therefore be a Class I impact. The DEIR also addresses direct lighting in Mitigation Measure MM.1-1, but diffuse lighting (ambient lighting that occurs regardless of directional shielding) is not specifically addressed. The DEIR should be revised to include both of these points.

The statement on page 4.3-38 – “the crane ... was not significantly higher when compared to local features” – is false and misleading, and should be removed. Figure 4.3-2 clearly shows that the crane was significantly higher than local features. Impact # MM.2 should be revised to indicate Class I residual impacts.

MM.2-1 addresses drill rig silhouette – movement of the drill rig should also be addressed as a potential cause of disturbance.

MM.2-1 also states that “the drill rig shall be painted in such a way as to be minimally conspicuous.” Painting the drill rig is not an adequate mitigation measure to

³¹ Letter from Susan Allen, Sealwatch, to Jackie Campbell, City of Carpinteria (2007).

³² Hanan, D. A., 1996. Dynamics of abundance and distribution in the Pacific harbor seal, *Phoca vitulina richardsi*, on the coast of California. Doctor of Philosophy dissertation. University of California, Los Angeles.

protect marine mammals, and especially seals – seals are color-blind and would not register a painted drill rig as being any different than a non-painted drill rig.

What is the current status of the NOAA EIS for noise impacts, referred to on page 4.3-43? This study should be used in this DEIR. Scientists are still understanding the effects of noise and disturbance on seal populations. In particular, ground vibrations are currently being researched, and the DEIR should include a more detailed discussion of these impacts so that they might be adequately mitigated.

On page 4.3-51, the DEIR states that sea lion, elephant seal and fur seal pups at the Channel Islands “are similarly vulnerable to oil spills, although the chances of a spill associated with this project reaching the islands are nil.” On page 4.1-12, however, the DEIR states:

Trajectory modeling runs conducted by Cleans Seas and discussed in the Venoco Oil Spill Contingency Plan (Venoco, 2005) show that a release into the ocean could affect the environment as far north as Point Arguello and Point Purisma and as far south/east as Port Hueneme *and as far south as the Channel Islands.* (Emphasis added.)

These two statements are contradictory and must be reconciled in a revised DEIR. Oil spill prevention and clean up mitigation measures should take into account impacts at the Channel Islands.

4.4 Marine Resources

4.4.4 Proposed Project Impacts and Mitigation Measures

The risk of an oil spill is one of most significant and alarming threats posed by the Paredon application. As noted in *Safety at Bay: A Review of Oil Spill Prevention and Cleanup in U.S. Waters* (NRDC, December 1992), oil spills “can cause widespread and long-lasting environmental injury. Oil contains highly toxic and carcinogenic substances that are lethal to fish, wildlife, and plant life.” Studies following the Exxon Valdez oil spill confirmed not only the difficulties cleaning up an oil spill, but also the unexpected long-term environmental and human health impacts that result from oil spills.³³

An oil spill from the proposed project would be especially devastating given the ecological significance of the Carpinteria seal sanctuary.

Risk Assessment

With respect to the potential consequences of an oil spill, the DEIR should utilize the Ecological Risk Assessment (“ERA”) approach that has been used by the United

³³ Riki Ott, *Sound Truth and Corporate Myth\$* (2005).

States Coast Guard and various partners in industry and government since 1998.³⁴ ERAs focus on ecological risk and recovery. They evaluate a spill scenario, the natural resources that may be affected, and various oil spill response options.³⁵ The first step of the analysis is to develop a scenario and trajectory model. Scenario parameters include spill location, oil type, spill size, weather, seasonality and established assessment objectives. Trajectory models predict the distribution and quantity of the spilled oil throughout the environment. The next step is to identify habitats and natural resources of concern. The third step requires an identification of stressors, or response options. Stressors can include natural recovery, on-water mechanical recovery, shoreline cleanup, dispersant application, and on-water in situ burning. For each stressor, parameters must be identified that address use (the stressor's role in mitigating the impacts of a spill), logistics (the actions necessary to effectively employ the stressor in response), limitations (the conditions which inhibit effective employment in response) and effectiveness (estimation of the percentage of oil volume spilled that the stressor is likely to remove from the environment). Each stressor is then evaluated for links to resources, such as through air pollution, aquatic toxicity, physical trauma (mechanical impact from people, boats, etc.), oiling or smothering, thermal (heat exposure from in situ burning), waste, and indirect (a secondary effect such as ingestion of contaminated food). After all of this information is collected, the next step involves the analysis. The analysis provides an examination of the degree of exposure of each response option, followed by a comparative analysis of the different response option impacts. Finally, the risk characterization involves an interpretation of the data and analysis results.

D. Aurand, et al. describe an application of this approach to several areas, including the Santa Barbara Channel.³⁶ Of all scenarios and locations considered, Santa Barbara Channel had the highest number of habitats and subhabitats that would be affected by a spill. The analysis shows that even a small spill (5 – 20% coverage) would create a “high concern” due to the sensitivity of the affected resources.

This type of analysis is certainly possible. Oil spills happen. The 1997 Torch oil spill, which occurred from a pipeline transporting oil from Platform Irene to shore, is reported to have spilled 163 barrels, affecting over 40 miles of shoreline (including the Santa Ynez River, San Antonio Creek and Honda Creek), and killing or injuring between 635 and 815 seabirds and shorebirds (including endangered California Brown Pelicans and threatened Western Snowy Plovers).³⁷ Dead oiled wildlife was recovered as far south as Honda Cove, just north of Pt. Pedernales, and as far north as Morro Bay. Live oiled wildlife were observed as far south east as Santa Barbara Harbor and as far north as

³⁴ *United States Environmental Protection Agency's Ecological Risk Assessment (ERA) Guidelines*, USEPA 1998.

³⁵ J. Kraly, et al., *Ecological Risk Assessment principles Applied to Oil Spill Response Planning* (2005).

³⁶ D. Aurand, et al., *The Use of Consensus Ecological Risk Assessments to Evaluate Oil Spill Response Options: Lessons Learned from Workshops in Nine Different Locations* (2005).

³⁷ *Santa Barbara County Board Agenda Letter re: 1997 Torch Oil Spill NRDA – Request to Governor Davis for Trustee*, prepared on May 7, 2003; and “*Torch/Platform Irene Oil Spill: Scoping Document for Restoration Planning*,” prepared by Platform Irene Trustee Council, October 20, 2004.

Morro Bay.³⁸ This spill impacted ecologically intact sandy and rocky intertidal shoreline communities, killing spiny sand crabs, Pismo clams, black abalone, mussels.³⁹ Torch was required to pay \$4 million for natural resource damages and penalties to county, state and federal agencies.⁴⁰

More recently, on June 15, 2005, a 15-barrel platform spill near New Orleans killed at least 400 brown pelicans and oiled 1,000 more.⁴¹

The Torch oil spill demonstrated that the effectiveness of oil spill response and cleanup may be impaired by operator error, in addition to decisions and actions taken by response teams. In fact, in the case of the Torch oil spill, practically the entire spill could have been avoided had the operator not bypassed the automatic shutdown system on the pipeline.⁴² This system (referred to as the supervisory control and data acquisition (SCADA) system) was required pursuant to Torch's permit and caused the automatic shutdown of the pipeline *three seconds after the rupture*.⁴³ Very little, if any, oil would have spilled during this period of time. However, the operator bypassed this system and brought the platform back on-line. To do so, the operator had to (1) set systems on bypass, (2) open valves, (3) restart the shipping pump, and (4) restart the wells. The platform resumed production for approximately 45 minutes, during which time oil spilled into the ocean undetected. Finally, two hours later, oil was discovered on the surface of the Pacific Ocean. Accordingly, it took almost three hours before the spill was noticed. During that time, the spill had spread.⁴⁴

In addition, late reporting allowed the spill to spread and decreased the ability of the operator and response agencies to effectively clean up the spill. The initial spill occurred at 10:17 p.m. The automatic shutdown occurred approximately three seconds later. At 10:18 p.m., the operator began the bypass process and resumed pumping at approximately 10:46 p.m. The platform was manually shut down again at 11:10 p.m. The oil spill was not noticed until approximately 1:30 a.m., more than three hours after

³⁸ *Final Report: Bird Injury Assessment for the Torch/Platform Irene Pipeline Oil Spill, September 1997*, prepared for Office of Spill Prevention and Response, California Department of Fish and Game, by R.G. Ford Consulting Company, July 1998.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ "Coast Guard Sees 1,400 Dead, Soiled Birds After Oil Spill," 6/15/05, "Cleanup launched after deadly oil spill 400 pelicans killed in Breton Sound; 1,000+ oiled," Times Picayune, 6/15/05; "Dirty Birds: Oil spill soaks pelican refuge," Sun Herald, 6/16/05; "Collision of Louisiana icons, pelicans and oil, sets rescuers in motion," Times-Picayune, 6/16/05.

⁴² *County of Santa Barbara Planning and Development Memorandum from Alice McCurdy to Jerry Lulejian, dated December 8, 1998, re: "Torch Override of Emergency Shutdown on September 28, 1997."* The County of Santa Barbara did not find out until December 17, 1997, *almost two months later*, that the operator had overridden the emergency shutdown system.

⁴³ *The People of the State of California v. Torch Operating Company, Complaint for Civil Penalties and Injunction*, Superior Court of the State of California for the County of Santa Barbara, Case No. 232684, filed September 14, 1999.

⁴⁴ *Id.*

production was resumed and oil began spilling.⁴⁵ Platform operators reported the spill to MMS at 2:32 a.m., almost four hours after the spill occurred.⁴⁶ ***The Emergency Operations Center (“EOC”) at County Fire Headquarters was not activated until 6:00 a.m., over seven hours after the spill.***⁴⁷ ***The oil spill lasted for 36 hours.***⁴⁸ What this experience demonstrates is that oil will spread (and weather) for many hours before the initial response and cleanup efforts begin. This lapse of time will hinder the effectiveness of oil spill response efforts.

Consequences: The above information shows that if an oil spill of as little as 163 barrels is to occur, it will still reach the shoreline and create significant environmental damage due to the inability of response teams to recover local oil quickly and efficiently.

The DEIR should also consider impacts of an oil spill on fishing, recreation and tourism. For example, as a result of the 1997 Torch oil spill, several fishermen filed claims for damages related to the spill and cleanup operations. Steve Dunn, representing the Santa Barbara Trappers, complained that response, cleanup and repair vessels violated Vessel Traffic Corridor restrictions, resulting in lost or destroyed gear. Other fishermen similarly sought damages from loss of nets resulting from the spill and cleanup activities.⁴⁹ The 1969 oil spill in Santa Barbara resulted in tremendous economic impacts to the community.

Worst case scenario: A worst case analysis is crucial for evaluation of possible environmental impacts and estimation of the response equipment required for minimization of environmental damage.

The DEIR should consider the scenario of a *subsurface spill*, which might have a greater impact than a surface spill. Depending upon the depth of the spill and the water column, the process by which the oil may surface, and the water temperature and weather conditions, the spill may create a plume effect and distribute oil over a much greater area than a surface spill. In general, subsurface spills result in greater damage to marine life because they spread further and affect more of the water column. In addition, subsurface spills are harder to recover because they spread over a greater area, creating a thinner slick, and because much of the oil is dispersed underwater. Subsurface spills also take longer to appear, such as in the case of the Torch pipeline oil spill, wherein it took over three hours for the oil to be detected. By that time, the oil spill had spread widely.⁵⁰

⁴⁵ Id.; *County of Santa Barbara Planning and Development Memorandum* from Alice McCurdy to Jerry Lulejian, dated December 8, 1998. The Minerals Management Service Incident Report notes that the incident was discovered at 2:00 a.m., almost four hours after the spill began. See *Minerals Management Service Pacific OCS Region Spill Notification*, dated September 29, 1997.

⁴⁶ *Adopted Findings*, California Coastal Commission, File No. E-97-23, filed November 18, 1997.

⁴⁷ *Santa Barbara County Board Agenda Letter*, prepared on October 6, 1997.

⁴⁸ Id.

⁴⁹ *County of Santa Barbara Planning and Development Memorandum re: Update on Torch Oil Spill for January 20, 1998 Hearing*, from John Patton, Director, to Board of Supervisors, dated January 13, 1998.

⁵⁰ *Complaint for Civil Penalties and Injunction, The People of the State of California, et al. v. Torch Operating Company*, Santa Barbara County Superior Court Case No. 232684.

Oil Spill Response

The effectiveness of any recovery effort depends on the characteristics of the oil, the location of the spill (e.g., how far from cleanup vessels, equipment and trained personnel), and weather and sea conditions. In addition, human error can intensify a spill, such as the situation that occurred during the 1997 Torch oil spill, when an operator bypassed the pressure safety high/low sensor and restarted flow through a broken pipeline.⁵¹ The DEIR fails to analyze how effective a cleanup effort will be in response to a spill from these leases.

In general, only 10 to 15% of spilled oil is typically recovered. (*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).)⁵² As noted in *No Safe Harbor: Tanker Safety in America's Ports*, "severe weather conditions off northern and central California reduce the effectiveness of cleanup equipment."

The California Coastal Commission has found that clean-up equipment has limited effectiveness and hence that oil and gas projects are inconsistent with section

⁵¹ Id.

⁵² 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.)

30232 of the Coastal Act.⁵³ Several response technologies might not be effective in recovering or cleaning an oil spill from these leases. For example, information presented in “*A Catalogue of Crude Oil and Oil Product Properties*” demonstrates that dispersant efficiency on local crude oil is less than 5% (**0% for most of them**). The reason for this low response effectiveness is the high viscosity of the oil, which only increases during the weathering process.⁵⁴

In addition, oil spill response groups cannot apply dispersants without governmental approval. If government approval is required, it will take more than 24 hours to obtain such approval, which will render dispersants ineffective because weathering will cause high oil viscosity. It also must be noted that dispersants can be efficiently used only in the presence of breaking waves (wind speeds more than 5 m/s). Dispersant application in the Channel might have reduced effectiveness in times of calm conditions.

Burning oil also may not be effective. First, there is no evidence that there would be an adequate quantity of fireproof booms to collect the oil. Second, as cited in the Nuevo Energy Company *Oil Spill Response Plan* (Revised March 2002, Appendix E), California does not permit the burning of oil within state waters. Burning may be applied only in waters beyond three miles off the shore, which are under federal jurisdiction. Even there, EPA approval is required which might take some time to obtain. By then, burning might become ineffective as it is recommended to burn oil within the first 24 hours following a spill. Also, it might not be feasible to delay the oil spill cleanup as an oil slick might get out of control.

So, the only response option left is mechanical recovery. The DEIR must analyze whether existing mechanical recovery equipment is capable of handling a worst-case discharge of local highly viscous oil. Changes of oil properties due to weathering can be calculated manually or predicted using various numerical models (ADIOS for example). This model will determine oil properties over time, so one can predict the efficiency of recovery equipment. If oil becomes too viscous, mechanical recovery will also become inefficient.

The DEIR should identify which Clean Seas vessels and equipment would be utilized and what the response times would be to reach an oil spill from the proposed project. The DEIR should analyze how weather and sea conditions in the area may affect the response time. As mentioned above, delays in responding to a spill result in a less effective cleanup, both due to spreading or sinking of oil, as well as weathering effects on the oil.

The 1997 Torch oil spill provides relevant and recent information regarding the problems with oil spill response and cleanup. First, as a result of this spill, the California

⁵³ Platforms Heritage/Harmony, CC-7-83, filed 1/5/83.

⁵⁴ See also B.K. Trudel and R.C. Belore, et al., *Determining the Viscosity Limits for Effective Chemical Dispersion: Relating Ohmsett Results to Those from Tests At-Sea* (2005).

Coastal Commission found that “the state-of-the-art is such that no equipment currently available has the capability to recover all oil from large spills and often even small spills in the open ocean.”⁵⁵ The Commission noted that effective containment and cleanup of oil spills does not currently exist, as required by Coastal Act Section 30232. Second, some of the impacted sandy beaches and rocky areas were determined to be inaccessible and could not be cleaned for worker safety reasons.⁵⁶ As of November 13, 1997, oil remained on the beaches.⁵⁷

The Torch spill also confirmed the fact that only a fraction of the oil spilled is typically recovered. In the Torch spill, an estimated 163 bbl were spilled,⁵⁸ but only 56 barrels were collected both offshore and onshore.⁵⁹ Thus, the majority of the oil reached shore. Once oil reaches the shore, it damages the environment, mixes with sediments and makes it very hard to recover and even harder to estimate the recovery efficiency. Onshore cleanup is a restoration, rather than preventive, measure. The inability of the response groups to prevent the oil slick from reaching shore and avoid consequent environmental damage proved true the data presented in literature showing that efficiency of mechanical recovery is very low in an open ocean environment.

Finally, response and cleanup operations themselves can cause significant additional impacts to the environment. The physical introduction of vessels, equipment and people in sensitive areas such as beach and rocky intertidal habitats can damage resources and wildlife. Chemical dispersants, hot water beach washes, and burning also cause environmental damage. According to Al Mearns of NOAA’s Hazardous Materials Response and Assessment Division, the cleanup of the Exxon Valdez oil spill killed as many plants and animals as the original spill.⁶⁰

The DEIR must consider the impacts of oil spill response on the environment. The DEIR must analyze the toxicity of the dispersants (see *Sound Truth & Corporate Myth*), and the impacts to marine life that will occur when the oil is dispersed through the water column. For example, the Coastal Commission has previously recognized that Corexit, which has been consistently used to clean-up the oil spills, is more toxic than the

⁵⁵ *Adopted Finding*, Application File No. E-97-23, filed November 18, 1997, p. 12.

⁵⁶ Letter from Sean Morton, Planner, County of Santa Barbara Planning and Development, to Mr. David Rose, Torch Operating Company, dated October 22, 1997.

⁵⁷ Letter from Sean Morton, Planner, and Roy Alexander, Hazardous Materials Specialist, County of Santa Barbara Planning and Development, to Mr. David Rose, Torch Operating Company, dated November 13, 1997.

⁵⁸ In fact, as many as 1,250 barrels of crude oil may have spilled, meaning that less than 5% of the oil would have been recovered. (See *Complaint for Civil Penalties and Injunctive Relief; Santa Barbara County Board Agenda Letter re: 1997 Torch Oil Spill NRDA – Request to Governor Davis for Trustee*, prepared on May 7, 2003.)

⁵⁹ *Complaint for Civil Penalties and Injunction*, supra; see also “More than a year later, negotiators are left to clean up Torch oil spill,” *Lompoc Record*, Dec. 27, 1998.

⁶⁰ A.J. Mearns, *Exxon Valdez Shoreline Treatment and Operations: Implications for Response, Assessment, Monitoring, and Research*, AFSS 18:309-328, 1996, cited in *Sound Truth and Corporate Myth*, supra.

oil alone.⁶¹ So, not only would the animals be injured by an oil spill, but the dispersant used to scour the spilt residue could be even more detrimental.

The DEIR should also consider the impacts of hot water washes. Current oil spill response plans continue to include these methods despite their demonstrated fatal impacts to shoreline wildlife.⁶² Follow-up studies from the Exxon Valdez spill revealed the devastating environmental damage caused by hot water washes.⁶³

Finally, *Sound Truth & Corporate Myth*⁶⁴ points out the immediate and long-term public health impacts caused by oil spill response efforts. Exxon Valdez oil spill response workers were injured by exposure to chemical dispersants, oil mists from pressurized hot water washes, fertilizers (for bioremediation), excessive diesel fumes, and toxic cleaning solvents (including Simple Green). During and immediately following the cleanup, workers suffered from headaches, nausea, dizziness, skin blisters and rashes. To this day, cleanup workers suffer from asthma, chemical sensitivities, recurrent headaches, respiratory problems, adrenal system damage, exhaustion, chronic sinus problems, pain, blood and kidney damage, and even cancer.

4.5 Onshore Biological Resources

4.5.1 Environmental setting

The DEIR's reference to windrows of "planted native and non-native trees" is unclear. In order to adequately describe the baseline environmental setting, the EIR should specify what native trees are present. (DEIR 4.5-1.) Figure 4.5-1 fails to depict or label any native trees and refers to the windrows as "NNT Non-Native Trees (windrows)." This is an inconsistency in the environmental setting.

Figure 4.5-1 is an aerial photo from 2002 – 2004. The DEIR should specify the time of year to help establish whether wetlands might be visible in the photo due to darker soil, surface water or vegetation.

4.5.1.2 Wetlands

Wetlands are said to exist "in the project site" and "mostly outside the CPF fence," but these wetlands are not mapped in Figure 4.5-1 or elsewhere in the DEIR. (DEIR 4.5-3.)

⁶¹ Platform Harvest, CC-27-83, received 9/28/83, p. 26, citing *Acute Lethal Toxic of Prudhoe Bay Crude Oil and Corexit 9527 to Arctic Marine Fish and Invertebrates*, 1982; see also, e.g., *Nuevo Energy Company Oil Spill Response Plan for Platforms in the Santa Barbara Channel*, revised January 2002, Appendix D: Dispersant Use Plan.

⁶² See, e.g., *Nuevo Energy Company Oil Spill Response Plan for Platforms in the Santa Barbara Channel*, revised January 2002, Section 2.7.7.

⁶³ *Sound Truth and Corporate Myth*, *supra*, and studies cited therein.

⁶⁴ *Id.*, see *Part I: Sick Workers*.

On page 4.5-3, the DEIR states: “A wetland delineation or detailed vegetation survey of this wetland area was not conducted during the time SAIC visited the site.” The boundaries of the wetland cannot be determined without delineation. Presence of other wetlands cannot be ruled out without delineation. There may be other wetlands in the containment area or outside of it, onsite or offsite, for example near the culvert and drainage for the containment area. To be accepted by resource agencies including the Coastal Commission, wetland delineations must include soil and hydrology testing/analysis, which were also not conducted for the DEIR. A detailed delineation with testing and analysis should be performed and considered in a revised and re-circulated DEIR.

The DEIR states: “A few larger willows were present within the containment area on the south side of tank 861.” (DEIR 4.5-3.) If this is correct, these areas would be designated wetlands – even if the willows were removed. Figure 4.5-1 mislabels large eucalyptus, as observed by EDC on the proposed Project site, as willows; willows are not apparent in the photo and were not apparent upon site inspection. Were the aforementioned willows removed from the proposed Project site, for example when the wetland was graded?

The DEIR states: “Although the site was recently graded, the berm was left in place and it is likely water could collect within the berm. Therefore, it is possible that wetland vegetation could reestablish itself in the absence of periodic maintenance.” (DEIR 4.5-4.) This statement suggests that wetlands have been illegally bulldozed in an attempt to change the EIR baseline, which would violate the City Local Coastal Plan (LCP), the Clean Water Act, and Army Corps of Engineers regulations. Wetland grading should become part of the Project Description and listed as a Class I impact. Restoration and buffers should be required per the LCP.

4.5.1.3 Wildlife

The DEIR fails to indicate whether surveys were conducted for raptor foraging in the CPF and in the windrows. This is an environmental setting issue with possible implications for impact assessment and policy consistency. (DEIR 4.5-4.)

The California Coastal Commission requires certain raptor survey protocols,⁶⁵ such as conducting site visits during different times of the day and night. Were these protocols followed for the DEIR? (DEIR 4.5-5.)

4.5.1.4 Special Status Species and Other Sensitive Biological Resources

A discussion of steelhead and red-legged frogs inhabiting Carpinteria Creek, Rincon Creek, and other creeks potentially impacted by pipelines, spills, etc. should be included in a revised DEIR.

⁶⁵ Text from these survey protocols is attached to this letter.

The DEIR states that “[t]he project site is not designated an Environmentally Sensitive Habitat” (ESHA) in the Carpinteria General Plan (GP) or Local Coastal Plan (LCP). The GP/LCP recognizes that not all ESHAs are mapped at the general plan level and that subsequent mapping is needed during project review.⁶⁶ Failure of the general plan to map sensitive habitats as ESHA does not mean an area is not ESHA. A site-specific analysis must be conducted at the time of project review. Evidence showing that an area is ESHA could result in mapping at that time. In this case, the wetland that is not mapped as ESHA is likely an ESHA by the GP/LCP definition. The windrows could be ESHA (e.g. Monarchs and or raptor roosting, nesting or foraging habitats). (DEIR 4.5-5.) The DEIR should be revised to ensure accurate mapping of all ESHA.

The DEIR states that “[t]he pipeline route crosses the Ventura River which also supports special status plants” (DEIR 4.5-5.) The pipeline also likely crosses numerous other riparian habitats between Carpinteria and Ventura, but the DEIR does not mention these resources potentially impacted by a marine or pipeline spill. The DEIR should be revised to discuss these other riparian habitats.

The DEIR discusses special status species or near the project site and states that white-tailed kites “would potentially be present in the project site,” but it does not refer to the white-tailed kite roost mentioned on page 4.5-12. (DEIR 4.5-6.) This is an inconsistency that must be addressed.

4.5.2 Regulatory Setting

The DEIR fails to include relevant regulations, including Coastal Act Sections 30233, 30231, 30230 and 30240 and Fish and Game Codes for Fully Protected Species such as white-tailed kites. The DEIR should be revised to analyze the impacts of the Project under these regulations.

4.5.3 Significance Criteria

A Significance Criterion “F” should be added to include “conflict with any local policies or ordinances protecting biological resources,” as suggested in Appendix G of the CEQA Guidelines. (DEIR 4.5-11.)

The word “rare” should be added to Threshold D to be consistent with CEQA Guidelines section 15380. (DEIR 4.5-11.)

In addition to those resources listed in Threshold E, a “sensitive biological habitat” should also explicitly include the Monarch permanent roost, any wetlands, and raptor foraging habitats which are noted to be at or near the Project site. (DEIR 4.5-11.)

4.5.4 Proposed Project Impacts and Mitigation Measures

⁶⁶ Carpinteria GP/LCP, page 94.

Impact # OB.1

Given Thresholds A, C, D and E, the definition of “substantially” on page 4.5-11, and the potential impacts to wetlands, possible removal of willows, direct or indirect impacts from vibrations, light and noise on the Monarch site, possibly the kite roost and possibly raptors (surveys appear inadequate), Impact OB.1 should be a Class I impact, and the DEIR should be revised accordingly.

The last full paragraph on page 4.5-11 references an “OB.4.” There is no OB.4 in the DEIR, however.

The DEIR fails to quantitatively assess noise impacts on sensitive wildlife including white-tailed kite and Monarch roosts, raptors and any other sensitive birds at or near the project site. (DEIR 4.5-12.) Impacts to these resources should be analyzed in greater depth.

Residual impacts to rare, threatened or endangered species or their habitat, in addition to existing, ongoing impacts, may cumulatively be quite significant. Impact # OB.1 should be identified as a Class I impact.

No mitigation is required for Impact OB.1 because the DEIR found Impact OB.1 to be a Class III impact. However, as stated herein, this impact should be considered significant and possible mitigation measures should be analyzed, including encasing and soundproofing equipment and low-intensity shielded lights.

Impact # OB.2

“Proposed drilling operations could result in oil spills as a result of equipment failure or operator error.” (DEIR 4.5-12.) The DEIR should also disclose the potential for a spill caused by intentional actions such as vandalism.

The DEIR states that there is an increased chance of an oil spill due to the “incremental increase in the oil facility activities (including drilling, increased production, and increased transport volume through existing pipeline).” (DEIR 4.5-13.) The DEIR should also make clear that the increased potential for oil spills is due to the extended production period. In other words, not only would the chances of spill increase due to average daily production increases, they would also increase by being extended in time beyond the currently planned closure date.

The DEIR notes that a small spill would likely be contained within the berms. (DEIR 4.5-13.) However, as noted in the DEIR, there is a wetland (graded) in the CPF within the berms. As a low point in the facility, this wetland might be impacted by oil flows. The DEIR should propose mitigation for the impacts of an oil spill on the wetland within the CPF.

The DEIR briefly discusses some impacts of an onshore pipeline spill on Carpinteria Creek and the Ventura River, which are crossed by the pipeline. (DEIR 4.5-13.) The DEIR fails to disclose similar impacts to other waterways crossed by the pipeline between these creeks, for example Rincon Creek and numerous small coastal drainages.

The DEIR notes that the pipeline crosses Carpinteria Creek. (DEIR 4.5-13.) Carpinteria Creek is west of the site and the pipeline goes east, to Ventura. It is unclear why the pipeline apparently has to cross Carpinteria Creek to the west before heading east to Ventura. If the pipeline could be rerouted to avoid Carpinteria Creek, this could be an environmentally superior alternative to using the existing pipeline segment over Carpinteria Creek.

Page 4.5-13 refers to aquatic reptiles, but the DEIR does not refer to any specific aquatic reptiles. If 2-striped garter snakes or western pond turtles (both state species of concern) are present and potentially affected, this should be disclosed and classified as Class I.

On page 4.5-14, the phrase “though unlikely” should be removed. Please see earlier discussion on impacts from and capacity for an oil spill clean up.

Mitigation Measures

Mitigation Measure OB.2-1 is inadequate under CEQA Guidelines section 15126.4(a)(1)(B), which provides that “formulation of mitigation measures should not be deferred.” That section also provides that “performance standards” may be used to place-mark more specific mitigation measures. OB.2-1 defers the formulation of specific measures and does not contain adequate nor specific performance standards. OB.2-1 should be revised to include specific revisions to the Oil Spill Contingency Plan (OSCP).

Measure OB.2-2 states that the applicant shall address the issue of the exposed 22” pipeline across the Ventura River to ensure it is protected from impacts of debris in the river. (DEIR 4.5-15.) The measure fails to specify what “address” means. Will the pipeline be buried deeper, and if so will it be by boring, horizontal drilling, or trenching? Will the 22” pipeline be surrounded in concrete, possibly causing a barrier to endangered steelhead migration? Has the applicant consulted with CDFG or NOAA regarding ways to address the exposed pipeline?

Measure OB.2-2 also fails to state the year by which the 22” pipeline exposed in the Ventura River will be “addressed.” As a result, this measure is neither enforceable nor effective and it does not meet the requirements of CEQA Guidelines section 15126.4.

Residual Impacts

On page 4.5-16, the DEIR suggests that oil spill impacts could be mitigated to Class II. This is not consistent with the rest of the DEIR, nor is it supported by evidence. This statement is misleading and should be removed.

Impact # OB.3

The analysis of Impact # OB.3 does not describe impacts to certain sensitive species that may be affected by a spill or clean up. (DEIR 4.5-16.) Could a spill or subsequent clean up efforts impact steelhead, red-legged frogs, tidewater gobies, 2-striped garter snakes or western pond turtles? The DEIR should explain the potential for impacts, if any, to these species.

4.5.5 Cumulative Impacts and Mitigation Measures

If soil remediation is planned or reasonably foreseeable near the project site, the DEIR should discuss the cumulative impacts caused by remediation and the proposed project.

The DEIR should analyze the ongoing operations at the CPF as a cumulative project and analyze and mitigate the cumulative impacts of the ongoing operations which will be exacerbated by the proposed Project.

Other impact analyses and mitigation measures the DEIR should include:

The DEIR should identify the proper buffer for construction and operation activities to protect roosting Monarch butterflies and white-tailed kites. Quantitative analysis of noise and vibration impacts to the roosts and to foraging raptors should be undertaken to establish an adequate buffer to protect these resources and comply with Coastal Act section 30240(b). Setbacks from the east-west and north-south eucalyptus windrows for activities including storage of drilling and other equipment should also be determined by a qualified biologist and should provide ample space for Monarch foraging. In addition to a permanent buffer, seasonal restrictions on construction and operation activities may be warranted to protect biological resources including ESHA and to mitigate significant impacts.

The environmental impacts of activities related to the Project including storage of equipment on the Marketing Terminal lot (storage area) must be evaluated in the DEIR regardless of the ownership of the lot. Setbacks from the central drainage must be determined based on input from a qualified biologist and city and state policies. Generally, a 100-foot minimum setback for this drainage (if it is a wetland) must be required for all developments and uses. In addition, this drainage should be restored by removing the cement lining. If needed to reduce surface water infiltration into contaminated soils, an impermeable clay layer can be placed under the restored drainage.

Storage of equipment results in potential impacts to habitats, visual resources and water quality and downstream biological resources. The DEIR should analyze all impacts related to equipment and materials storage. All stored equipment, etc., must be properly contained to avoid impacts to water quality, for example from stormwater runoff. All stored equipment and materials should be properly screened with local native plants that provide habitat values appropriate to the area.

4.6 Onshore Water Resources

In addition to the questions and concerns detailed below, EDC incorporates by reference comments submitted on behalf of Santa Barbara Channelkeeper, which address water quality issues in the DEIR.

4.6.1.3 General Water Quality

The DEIR should be revised to clarify several confusing and/or misleading statements. For example, the Executive Summary states: “With the No Project alternative, Tank 861 would not be removed, [and] none of the safety upgrades to the existing facility would occur” On pages 4.6-6 and 4.6-7, however, the DEIR states:

On August 17, 2006, the [Regional Water Quality Control Board (RWQCB)] issued a Notice of Violation with respect to [Venoco’s] stormwater/groundwater infiltration discharge [and] several discharge violations are ongoing Basin 861 ... provides secondary containment for petroleum storage Tank 861 Groundwater reportedly infiltrates into Basin 861, commingling with stormwater runoff contained there.... Venoco has not fulfilled RWQCB requirements, including a demonstration of Basin 861 integrity and containment

This passage illustrates data discrepancy in the DEIR – problems associated with Tank 861 will be addressed even if the proposed Project does not proceed – and it casts doubt on Venoco’s ability to adequately prepare and execute the various safety and mitigation measures discussed in the DEIR. Section 15126.4(a)(2) of the CEQA Guidelines requires that mitigation measures be fully enforceable – to date required remediation, abatement and/or clean up at the CPF has been avoided.

Accordingly, Impact # OWR.2 should be a Class I impact, because Venoco cannot demonstrate an ability to adhere to prevention and mitigation plans. Similarly, Mitigation Measure OWR.2-1 is infeasible and should be revised to reflect Venoco’s historic non-compliance. In the alternative, the DEIR should at least acknowledge that Tank 861 will be addressed with or without the proposed Project.

4.6.5 Cumulative Impacts and Mitigation Measures

As discussed above, Mitigation Measure OWR.2-1 is infeasible and should be revised. Without Mitigation Measure OWR.2-1, cumulative impacts would be significant.

The following paragraph does not make sense in relation to the definitions of “cumulative” and “significant,” or in general:

Although the severity of impacts associated with an existing CPF facility oil spills would be significant, the proposed project’s additional contribution to the cumulative degradation of nearby surface drainages and the Pacific Ocean would be adverse but not significant. (DEIR 4.6-17.)

The above statement should be revised to explain if cumulative impacts are significant or not.

4.7 Geological Resources

Impact # GR.1 should be listed as Class I, because the proposed mitigation measures cannot be adequate to prevent a significant impact.

Impact # GR.7 is misleading. There is no substantial evidence to prove that the Project would decrease the potential for natural oil seeps.

4.8 Transportation and Circulation

Page 4.1-40 indicates that the proposed Project “would increase the number of odorant truck trips by almost a factor of 10.” This fact is not addressed specifically in Section 4.8.

Proposed mitigation measure T.1-1 would require an increased police presence in affected areas to be effective. This should be noted as a public services impact in section 4.13 of the DEIR.

4.9 Land Use

The DEIR identifies the Project as being coastal-dependent. A coastal dependent use is one that must be located on or adjacent to the sea. As the DEIR notes, the Project could be located further from the coast, indicating that it is not necessarily coastal-dependent. The DEIR should explain why the Project is considered coastal-dependent, and whether a designation as coastal-related or general industrial would also be appropriate.

Also, the DEIR fails to include a complete assessment of the Project’s inconsistencies with the City’s GP/LCP.

4.9.7.1 City of Carpinteria General Plan/Local Coastal Land Use Plan

The proposed Project would be inconsistent with Policy LU-1d. Despite proposed mitigation measures, the proposed Project land use would not be compatible with open space/recreation resources and it would be detrimental to those resources.

The proposed Project would be inconsistent with Policy CDS6-b. View corridors of the ocean and bluff top edge, in addition to views of the mountains, would be obstructed.

The proposed Project would be inconsistent with Policy CDS6-d. The proposed Project would not be “respectful of the natural character of the Bluffs” nor would it “enhance existing native plant communities” or “environmentally sensitive habitat areas.” All impacts associated with these features and resources are detrimental.

The existing CPF and the proposed Project are/would be inconsistent with Policy CDS6-e. Project lighting will not be low intensity.

The proposed Project would be inconsistent with Policy OSC-1a. ESHA would potentially be affected by the proposed Project, even if it is not located within the Project boundaries. The discussion on page 4.9-10 of Policy OSC-1b provides support for this statement, and it is internally consistent with the DEIR’s treatment of OSC-1a.

The proposed Project would similarly be inconsistent with Policy OSC-1b.

The proposed Project would be inconsistent with Policy OSC-2e. Project-related pipelines that cross riparian habitat – for example, Carpinteria Creek – would potentially impact that riparian habitat. The converse statement on page 4.9-11 of the DEIR is therefore false.

The proposed Project would be inconsistent with Policy OSC-2f. The Chumash people have identified the Bluffs as a cultural site which would be affected by the proposed Project. Consultation with local Chumash representatives should be undertaken to understand the significance of this impact.

The proposed Project would be inconsistent with Policy OSC-2h. There is no conceivable way that a 140 to 175-foot drilling rig would not significantly degrade viewsheds on the Bluff.

The proposed Project would be inconsistent with Policy OSC-5a. Harbor seal hauling grounds would likely be disturbed by the proposed Project.

The proposed Project would be inconsistent with Policy OSC-10a. As discussed above, Mitigation Measure OWR.2-1 is not feasible given historic and ongoing water quality violations and reporting deficiencies at the proposed Project site.

For similar reasons, the proposed Project would be inconsistent with Policy OSC-10c.

At present, the proposed Project would be inconsistent with Policy OSC-16a. The Chumash people should be consulted, and the DEIR should be revised to reflect the results of that consultation.

For reasons discussed above, the proposed Project would be inconsistent with Policy S-6b. Hazardous discharge and runoff already occurs or has occurred at the proposed Project site, and there is no reasonable guarantee that the pattern will not be repeated.

The proposed Project would be inconsistent with Policy S-6e. Offshore or remote project alternatives are discussed in the DEIR and would achieve more consistency with Policy S-6e.

4.9.7.3 Coastal Act

The proposed Project would be inconsistent with CA Pub. Res. Code Section 30240. ESHAs would potentially be affected by the proposed Project, which is not compatible with “the continuation of such habitat areas.”

The proposed Project would be inconsistent with CA Pub. Res. Code Section 30251. There is no way for a 140 to 175-foot drilling rig to be “visually compatible with the character” of Carpinteria or the Bluffs.

The proposed Project would be inconsistent with CA Pub. Res. Code Section 30253. The proposed Project would actually encourage energy consumption, as opposed to “minimizing energy consumption.”

4.10 Noise and Vibration

4.10.4 Proposed Project Impacts and Mitigation Measures

The City of Carpinteria guidelines indicate that “a proposed development that would generate noise levels in excess of 65 dB CNEL and could affect sensitive receptors would be considered to have a significant impact.” (DEIR 4.10-22.) Prior to mitigation, noise levels from drilling operations will exceed this threshold. The proposed mitigation measures may not be adequate to decrease noise impacts, and site-specific testing and simulations should be performed.

Similarly, impacts to the seal rookery from vibrations have not been studied in enough detail, and the DEIR should be revised to include more adequate studies.

4.14 Cultural, Archaeological, and Historic Resources

Section 15064.5(d) of the CEQA Guidelines provides that when there is a likelihood of finding Native American remains at a project site, the lead agency must consult with the appropriate Native American representatives. The discussion in the DEIR on pages 4.14-1 to 4.14-3 suggest a likelihood that Native American remains may be found at the proposed Project site. At the July 30, 2007, public hearing on the DEIR, representatives of the local Chumash people indicated that they had not been consulted in regards to the proposed Project and its likely impacts. This omission should be corrected, and the DEIR should be revised and re-circulated to present the results.

4.15 Visual Resources and Aesthetics

The DEIR correctly concludes that the impacts on visual resources constitute a Class I impact that cannot be adequately mitigated. However, the impacts on visual resources are even greater than the DEIR indicates, and the DEIR should be revised to reflect this fact. In addition, story poles should be installed while the public is reviewing the DEIR and subsequent documents. A crane or tower with relative height, bulk and other intrusive qualities such as motion should be re-installed at the proposed Project site.

4.15.1 Environmental Setting

The DEIR correctly recognizes that Carpinteria, in addition to surrounding areas that would be impacted by the proposed project, possesses unique and beautiful scenic views. The beaches and parks affected by the project feature scenic landforms of bluffs, rocks, and sand, and a rich variety of native vegetation, from coastal sage scrub to native species of oak. The clear blue ocean and open sky are focal points. These areas receive high amounts of recreational use from visitors who come specifically to appreciate the beautiful views. In particular, the Carpinteria Bluffs offer outstanding views of the ocean, mountains, and coastline, and are among the areas most threatened by the project.

As the City of Carpinteria GP/LCP states, “[t]he Carpinteria Bluffs are a prime example of undisturbed California coastline, and are among the last remaining coastal open space areas within Santa Barbara County.”⁶⁷ The proposed project would also be visible from heavily used travel routes. Both Carpinteria residents and visitors treasure these views, and the environmental setting of this project is critical to protect.

The DEIR also correctly notes that the existing Carpinteria Oil and Gas Processing Facility is shielded by trees from the majority of viewpoints in the

⁶⁷ City of Carpinteria General Plan/Local Coastal Land Use Plan & Environmental Impact Report, State Clearinghouse Number 199712111 at 99 (April 2003).

community, and so the quality of views in the area remain very high despite its presence. (DEIR 4.15-2.)

4.15.2 Regulatory Setting

In adopting CEQA, the Legislature declared it to be the policy of the State of California to “[t]ake all action necessary to provide the people of this state with . . . enjoyment of aesthetic . . . environmental qualities.”⁶⁸ To clarify the language in the DEIR, a project normally has a significant visual effect on the environment not only if has a substantial adverse effect on a scenic vista, but also if any of the other factors are present: substantial damage to scenic resources, substantial degradation to the existing visual quality of a site, or a new source of substantial light or glare.⁶⁹ “Significant effect on the environment” is defined by CEQA simply as a “substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including ... objects of ... aesthetic significance.”⁷⁰

Cases involving aesthetic impacts under CEQA place importance on the setting of the proposed project; impacts in “sensitive areas” such as historic districts or scenic environments are more likely to be found significant than those in very urban areas.⁷¹

In terms of scenic vistas, CEQA cases have stated that both “public and private views are properly studied in an EIR to assess the impacts of a project.”⁷² CEQA does not limit its protection to a “public” environment. In fact, the legislative intent was to protect the environment for citizens in all aspects.

It is the intent of the Legislature that all agencies . . . shall regulate such activities so that major consideration is given to preventing environmental damage, *while providing a decent home and satisfying living environment for every Californian.*

Pub. Res. Code § 21000, Emphasis added. The CEQA Guidelines, similarly, do not limit consideration to public views, stating that aesthetics encompasses “scenic vistas” and “visual quality . . . of a site” generally.⁷³ The Legislature intended CEQA to be interpreted “in such a manner as to afford the fullest possible protection to the environment.”⁷⁴ However, an agency may determine that impacts on private views are not significant if, for example, few views are impacted. This determination should be based on established criteria. The GP/LCP notes a policy to protect both public and

⁶⁸ Pub. Resources Code, § 21001.

⁶⁹ CEQA Guidelines § 15387.

⁷⁰ CEQA Guidelines § 15382.

⁷¹ See, for example, *Eller Media Co. v. Community Redevelopment Agency* (2003) 108 Cal.App.4th 25 [133 Cal.Rptr.2d 324]; *Arviv Enterprises, Inc. v. South Valley Area Planning Com.* (2002) 101 Cal.App.4th 1333 [125 Cal.Rptr.2d 140].

⁷² *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477 [14 Cal.Rptr.3d 308].

⁷³ CEQA Guidelines § 15387.

⁷⁴ *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247 [104 Cal.Rptr. 761].

private views on the Bluffs: “views of the ocean and mountains for users of the Carpinteria Bluffs Nature Park and coastal trail(s), for bluffs area property owners and visitors, and for passing motorists, shall be maintained.”⁷⁵

4.15.2.2 State

In addition to the Coastal Act policies listed in the DEIR, the Coastal Act also states that permitted development, where feasible, shall “restore and enhance visual quality in visually degraded areas.”⁷⁶ The Act also provides that “development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan . . . and by local government shall be subordinate to the character of its setting.”⁷⁷ Under the Coastal Act, local governments are required to prepare Local Coastal Programs (LCP) containing a Land Use Plan (LUP) and a set of implementing ordinances designed to promote the act’s objectives. After the Coastal Commission certifies an LCP, development review authority is “delegated to the local government that is implementing the local coastal program.”⁷⁸ The City of Carpinteria prepared a General Plan/Local Coastal Land Use Plan (GP/LCP) that the Coastal Commission certified. A LCP may go farther than the Coastal Act requires, but it must meet all Coastal Act policies at a minimum.

4.15.2.3 Local

As the DEIR notes, the GP/LCP states that it is the City’s objective to “ensure that lighting for new development is sensitive to the character and natural resources of the City and minimizes photo pollution to the maximum extent possible.”⁷⁹ In addition, lighting shall be low intensity and designed to avoid direct view of light sources and to minimize halo effects.⁸⁰ Lighting five feet inside preserved nature areas shall not exceed 0.01 foot-candles.⁸¹ The DEIR should acknowledge the GP/LCP policy that lighting on the east-west coastal bluff trail shall be minimized to be less than 0.01 foot-candles at a distance of five feet from the trail.⁸²

Several additional applicable policies in the GP/LCP are not included in the DEIR. The following policies listed under Objective OSC-13⁸³ are also relevant:

OSC-13a. New development shall be subject to all of the following measures: a. Height and siting restrictions to avoid obstruction of existing views of visual resources from the nearest public areas.

⁷⁵ GP/LCP at 73.

⁷⁶ Cal. Pub. Res. Code § 30251.

⁷⁷ Id.

⁷⁸ Pub. Res. Code § 30519, subd. (a).

⁷⁹ GP/LCP at 41.

⁸⁰ Id.

⁸¹ Id.

⁸² Id. at 67.

⁸³ Id. at 129-130.

OSC-13g. Require new development to protect scenic resources by utilizing natural landforms and native vegetation for screening structures.

The GP/LCP also recognizes special protection measures for the Bluffs area. First, the GP/LCP states that “[t]he most outstanding panoramic views of the Pacific Ocean and the Channel Islands are from the Carpinteria Bluffs.”⁸⁴ The GP/LCP recognizes that “[t]he visual resources of the Carpinteria Bluffs are some of the most significant in the city consisting of both long (e.g. mountain, foothills, ocean, horizon) and short (natural open space, beach, windrows, native grass lands, coastal scrub, coastal bluffs) range views.”⁸⁵ It also specifically notes the bluff-top footpath that is directly adjacent to the Venoco property, and states that “there are spectacular vista points” along the trail.⁸⁶ The GP/LCP also states that “the foothills and mountains form an impressive backdrop to the north.”⁸⁷ In addition, “[p]reservation of views to and from the beach [is an] important objective of the General Plan.”⁸⁸ Last, the GP/LCP provides that “it is the intent of the General Plan/Local Coastal Plan to preserve the tranquil character of the Carpinteria Bluffs.”⁸⁹ The GP/LCP provides several policies specific to the Bluffs that are not listed in the DEIR:

CDS6-2: Ensure that development is controlled to avoid impacts to significant viewsheds, vistas, and view corridors.

CDS6-b. . . . The overall scale and massing of structures shall respect the natural setting of the Carpinteria Bluffs and its unique visual resources by incorporating designs that minimize bulk and mass, follow natural topographic variations, and minimize visual intrusion into the bluff edge park and bluff top trail, riparian area within Area II, and adjacent beach areas. . .

- Consistent with livability and view preservation for residents, selected internal roadways, parking areas, and building sites shall be depressed.
- New buildings, signs, roads, and other man-made features should also be at such a scale that they contribute to the desired low intensity character for the Carpinteria Bluffs.

⁸⁴ Id. at 60.

⁸⁵ Id. at 61.

⁸⁶ Id.

⁸⁷ Id.

⁸⁸ Id. at 58.

⁸⁹ Id. at 61.

70. The size, height, bulk, and location of buildings within the Carpinteria Bluffs are to be managed . . . [to] preserve a visual appearance of openness, and to maintain an overall low-intensity character of the Carpinteria Bluffs.

74. The design plan shall include an overall design theme for the project and provide for the “blending” of the urban components of the site with the natural surroundings and current existing buildings around the site . . . The design plan shall include the following. . . . No one structure should stand out . . . Exposed structural and mechanical elements, unless well integrated into the design concept, are unsightly and are to be avoided.

CDS6-e. Exterior and interior lighting of development projects shall be low intensity and located and designed so as to minimize direct view of light sources and diffusers, and to minimize halo and spillover effects.

85. Lighting on the east-west coastal bluff trail shall be minimized to be less than 0.01 foot-candles at a distance of five feet from the trail; otherwise, trail lighting shall not be permitted.⁹⁰

4.15.3 Significance Criteria

This section should also note the following areas listed as significant visual resources in the City's environmental review guidelines: views of coastal bluffs, creeks, estuaries and mountains; parks and recreation areas; the El Estero Marshlands to the southwest; the Carpinteria Bluffs area to the east; and all of the shoreline areas.⁹¹ In addition, the significance criteria do not discuss the impact that movement has on the perceived impact of a structure. If a drilling rig moves up and down, accompanied by loud noise, it appears even more noticeable and visible than something that is stationary and quiet.

4.15.4 Proposed Project Impacts and Mitigation Measures

4.15.4.1 Illumination Impacts

The GP/LCP states that lighting on the bluff trail and in the seal sanctuary must not exceed 0.01 foot candles.⁹² The DEIR concludes that proper shielding would prevent lighting levels from exceeding that limit at the Bluffs to the west of the CPF or at Tar Pits

⁹⁰ Id. at 61-67.

⁹¹ *City of Carpinteria Guidelines for the Implementation of the California Environmental Quality Act* (amended 1997) at 65.

⁹² GP/LCP at 67.

Park. However, the DEIR does not discuss the technical specifications of the proposed shielding, so it is not possible for the public to evaluate the conclusion that lighting will actually be properly shielded. If the proposed shielding is less effective than the DEIR states, the impacts from lighting may be greater than Class III.

The DEIR also does not discuss the bluff trail, and should specifically state whether light levels on the trail would be adequately mitigated. The seal sanctuary already exceeds the limits allowed by the City of Carpinteria. Comments on those impacts are discussed in the marine mammals discussion above.

4.15.4.3 Project Impacts

The DEIR fails to include all significant aesthetic impacts of the proposed Project because it does not address the aesthetic impacts of a potential oil spill. Although oil spills are discussed in other parts of the DEIR, the aesthetic effects of an oil spill must also be included here. An EIR must include an analysis of the environmental effects of future expansion or other action if: 1) it is a reasonably foreseeable consequence of the initial project; and 2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.⁹³ An oil spill is a reasonably foreseeable consequence of the initial project. An oil spill would also change the scope of the Project's aesthetic effects. This section only considers the view blockage the drilling rig would cause. In addition to other horrific effects of an oil spill, a spill would also substantially increase aesthetic harm by covering the water, beach, and animals in oil and impairing the experience of anyone viewing the beach.

Under the significance criteria adopted in the DEIR, a project has a potentially significant effect if it causes substantial view impairment of public resources such as the ocean. An oil spill would substantially impair views of the ocean as well as other significant visual resources like the shoreline. Because of the severity of such an impact, it must be included in the DEIR.

The presence of the drilling rig itself would have a significant, immediate impact on public viewsheds, as the DEIR correctly concludes. The DEIR notes that the drilling rig would introduce an industrial component to numerous views that do not currently have industrial aspects, and that the size and height of the rig would cause it to strongly contrast even with existing industrial structures. However, it should be emphasized that the industrial nature of the drilling rig is not the only impact the project presents. The size and bulk of the rig, alone, present a significant impact on views. The DEIR is ambiguous on this point, and it should clearly state that the size of the rig by itself significantly impacts views. As stated previously, a project has a potentially significant effect if it causes "substantial" view impairment of public resources, such as the ocean, that is considered significant by the applicable community plan. The City of Carpinteria Environmental Review Guidelines notes that significant visual resources which have

⁹³ *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal. 3d at 376, 396 [253 Cal.Rptr. 426].

aesthetic value include, in addition to the ocean, views of coastal bluffs, creeks, estuaries and mountains; parks and recreation areas; the Carpinteria Bluffs area; and all of the shoreline areas.⁹⁴ Views of coastal bluffs, mountains, parks and recreation areas, and the Carpinteria Bluffs area, would all be impaired by the proposed project.

Because of the Project's placement, the drilling rig would block views of coastal bluffs, mountains, or the ocean from multiple locations, including Arozena Lane, the Public Trail in front of CPF, Carpinteria Bluffs, Carpinteria State Beach, Casitas Pass, Seal Sanctuary Bluffs, Tar Pits Park, Carpinteria Slough, and Rincon Point. The rig would impair park and recreation area views at those locations, as well as at the Tee Time driving range and Viola Fields. The size of the rig would necessarily cause substantial view impairment of these public resources, and therefore would result in a significant impact.

The proposed Project also violates Coastal Act policies. The development cannot be "sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms" or "be visually compatible with the character of surrounding areas."⁹⁵ The Coastal Act provides that "development in highly scenic areas such as those designated . . . by local government shall be subordinate to the character of its setting."⁹⁶ The GP/LCP states that "[t]he visual resources of the Carpinteria Bluffs are some of the most significant in the city," and describes the views as "outstanding."⁹⁷ The GP/LCP recognizes the Bluffs as "a key community gateway to both Carpinteria and the County, as well as a critical factor in the overall character of the city."⁹⁸ Although the Bluffs are not explicitly designated as "highly scenic," the area is recognized by the city as very significant, and because the drilling rig cannot be "subordinate to the character of its setting," due to its size, the project would violate the Coastal Act.⁹⁹

The proposed Project would violate multiple policies listed in the GP/LCP. The GP/LCP states that development on the Bluffs shall not obstruct existing view corridors of the ocean and bluff top edge.¹⁰⁰ The proposed Project would obstruct such views, as well as views for users of the Carpinteria Bluffs Nature Park, coastal trails, bluffs area property owners and visitors, and passing motorists, which the GP/LCP states "shall be maintained."¹⁰¹ Because the Project would obstruct views in the Bluffs area, which the general plan recognizes as significant, the Project cannot "avoid impacts to significant viewsheds."¹⁰² Because of the size of the drilling rig, it cannot "minimize bulk and mass

⁹⁴ *City of Carpinteria Guidelines for the Implementation of the California Environmental Quality Act* (amended 1997) at 65.

⁹⁵ Pub. Res. Code, § 30251.

⁹⁶ Id.

⁹⁷ GP/LCP 61, 129.

⁹⁸ Id. at 58.

⁹⁹ Pub. Res. Code, § 30251.

¹⁰⁰ GP/LCP at 61.

¹⁰¹ Id.

¹⁰² Id.

. . . and minimize visual intrusion into the bluff edge park and bluff top trail . . . and adjacent beach areas.”¹⁰³ The size of the rig also prevents it from being at a scale to “contribute to the desired low-intensity character for the Carpinteria Bluffs.”¹⁰⁴ The size, bulk, and location of the rig cannot “preserve a visual appearance of openness.”¹⁰⁵ The rig violates the GP/LCP policy that “no one structure should stand out.”¹⁰⁶ The industrial components of the drilling rig are an example of “exposed mechanical elements . . . [that are] unsightly and to be avoided.”¹⁰⁷

Although the DEIR separately discusses impacts on the “low-rise, small-town feel” of the area, it is worth noting that this is an aesthetic impact, as well as a land use impact, and the presence of the drilling rig would be inconsistent with the GP/LCP’s requirement that new development reflect the city’s “small beach town” image.¹⁰⁸ The height of the rig violates the policy for low-rise development, and the industrial appearance of the rig doesn’t reflect the “small beach town” image Carpinteria seeks to preserve.

The GP/LCP further states that “new structures shall be designed to blend into the site and the rest of the city.”¹⁰⁹ A 140-175-foot tall drilling rig simply cannot “blend into” the site or the rest of the city. It is not possible to place the rig elsewhere at the CPF to minimize its obtrusiveness and “maintain existing view corridors.”¹¹⁰ The GP/LCP also requires that existing views from U.S. 101 be preserved, but the drilling rig would impair existing views.¹¹¹ The proposed development would be located adjacent to the beach and bluffs, and thus the requirement that it be “designed and sited to prevent adverse impacts on the visual quality of these resources” applies.¹¹² Because of the size of the rig, it cannot “remain visually subordinate to surrounding natural and introduced landscaping.”¹¹³

The proposed Project would be inconsistent with the GP/LCP objective to designate Highways 101, 150 and 192 within the Carpinteria Valley as scenic highways. The proposed Project would significantly impact the scenic corridor along Highway 101, and greatly decrease the chances of the State designating the highway as scenic. A scenic highway designation has several benefits, including enhancing land values, promoting local tourism, and enhancing community identity and pride.¹¹⁴

¹⁰³ Id.

¹⁰⁴ Id. at 62.

¹⁰⁵ Id. at 64.

¹⁰⁶ Id. at 65.

¹⁰⁷ Id.

¹⁰⁸ Id. at 56.

¹⁰⁹ Id. at 61.

¹¹⁰ Id.

¹¹¹ Id.

¹¹² Pub. Res. Code, § 30251.

¹¹³ GP/LCP at 62.

¹¹⁴ State of California Business, Transportation and Housing Agency and Department of Transportation, “What Scenic Highways Can Do”, available at <http://www.dot.ca.gov/hq/LandArch/scenic/scando.htm>.

Although the GP/LCP discusses the protection of public viewsheds, it also states that views of property owners on the bluffs should be protected.¹¹⁵ The DEIR states that the City has adopted the Guidelines for Implementation of CEQA to help aid in the determination of a project's aesthetic effects. The DEIR chooses to list "public views" as protected. However, views of bluffs homeowners fit under the second criteria, "substantial view impairment of public resources (such as the ocean) that is considered significant by the applicable community plan." The DEIR should discuss effects on the views of bluffs homeowners.

The DEIR should also discuss the effect that the movement of the drilling rig will have on its perceived intrusiveness. A moving object is much more noticeable than one that is static. At a height of 140-175 feet, the rig will unquestionably obstruct views whether it is moving or still. However, the impact will be even greater if the rig is moving.

Finally, while the primary impact of the proposed Project is on multiple scenic areas, it would also affect the view from the path directly behind the existing facility, which currently contains unattractive processing equipment. Adding a structure the size and height of the drilling rig cannot "restore and enhance visual quality in visually degraded areas."¹¹⁶

Mitigation Measures

The report does not present any mitigation measures that could substantially minimize the impact of the proposed project. As the DEIR notes, the size and height of the drilling rig cause it to strongly contrast with the surrounding environment. Mitigation Measure V.1-1, which suggests enclosing the drilling rig with a material or structure such as a simulated lighthouse, would not substantially lessen the impact of the project because it would not alter the size of the structure. The DEIR correctly concludes that even with such an attempt at concealment, "the placement of any structure of 140-175 feet tall at this location would constitute a significant impact." (DEIR 4.15-44, emphasis in original.) Similarly, if the equipment at the site is merely painted another color, as proposed in Mitigation Measure V.1-2, it will still be visible and an obstruction to views because of its size and bulk.

Last, Mitigation Measure V.1-3 proposes the establishment of continuous landscaping to a height of 70 feet maximum along the border of the CPF. If the drilling rig is 140-175 feet tall, it will still extend 70-105 feet—the height of a 7-10 story building—beyond the landscaping. Additionally, landscaping reaching a height of 70 feet would be inconsistent with the City of Carpinteria GP/LCP. The GP/LCP notes that landscape planning "shall be respectful of the natural character of the Bluffs"¹¹⁷ and that "[u]se of native, locally adapted species shall be required."¹¹⁸ Native species in the area

¹¹⁵ Id. at 61.

¹¹⁶ Coastal Act § 30251.

¹¹⁷ GP/LCP Policy CDS6-d.

¹¹⁸ GP/LCP Implementation Policy 75.

reach heights that are significantly lower. In addition, the Carpinteria Municipal Code limits the height of landscaping used for continuous screening to no more than 40 feet when mature. The GP/LCP specifies that heights “should be comparable to existing vegetation.”¹¹⁹

5.0 PAREDON PROJECT ALTERNATIVES ANALYSIS

As stated above, the DEIR includes an impermissibly narrow objective that restricts the range of alternatives in the report. If the objective is to help meet California’s energy demand, there are many alternatives that can feasibly meet that objective and avoid the adverse impacts of the proposed project. However, if the objective is to produce oil and gas from the Paredon and associated fields, there are a limited number of alternatives available. Limiting the discussion to these few, largely similar (with similar potential impacts) alternatives fails to meet the requirements and intentions of CEQA, which is to provide decision-makers with a “range of reasonable alternatives” to the project.¹²⁰

The alternatives analysis is essential to ensure compliance with the substantive requirement of CEQA, which is to avoid or lessen the environmental impacts of a proposed project. “The core of an EIR is the mitigation and alternatives sections”; alternatives should “offer substantial environmental advantages over the project proposal.”¹²¹ With this DEIR, decision-makers are left with an inadequate range of alternatives, and may not have any alternatives that offer “substantial environmental advantages over the project proposal.”

The DEIR should be modified to include other alternatives that will provide similar energy to the State of California, but without the same level of environmental impact. The DEIR does pay some lip-service to these possible alternatives on page 5-2, but they are quickly dismissed. Fortunately, California *can* meet its energy needs with clean sources of energy. These options are consistent with the priorities set forth in California’s Energy Action Plan, and would comply with AB 32 (requiring reductions in greenhouse gas emissions) and SB 1368 (requiring cleaner supplies of electricity in the state). Some other examples are set forth below.

Other Energy Alternatives Not Considered

Alternatives to Oil

In order to adequately propose alternatives, we need to know how much of the oil would be used as a fuel source. Even if all of the 23 million standard barrels were to be used as a fuel supply, there are other, cleaner alternatives that can match that supply without *any* of the impacts from the proposed project. For example, this oil supply could

¹¹⁹ GP/LCP Implementation Policy 80.

¹²⁰ CEQA Guidelines §15126.6, emphasis added.

¹²¹ *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564, 566 [276 Cal.Rptr. 410].

be replaced with an increase in vehicle mileage performance. Policy experts anticipate a *1.0 mile per gallon increase* for light-duty vehicles over the next few years under “business-as-usual” conditions (i.e. without any particularly proactive efforts to switch to more fuel efficient and renewable-based energy plan), which would reduce the need for far more than 23 million barrels of oil.¹²²

More aggressive strengthening of CAFÉ standards, as recommended by the National Commission on Energy Policy’s (NCEP) 2005 report, would go even further in replacing this oil supply. According to the NCEP report, ***increasing fuel economy standards by 10 mpg*** across all vehicle classes between 2010 and 2015 would decrease projected total US energy demand by 6% of “business-as-usual” levels. This option would dramatically increase the marketability and demand for hybrid technology. Hybrid vehicles are typically \$2,500-\$3,000 more expensive than their non-hybrid counterpart models, because of the added cost to the producer of the hybrid technology. However, this increased vehicle purchase price is fully offset within four years of a vehicle’s 12-year life, so the consumer enjoys net savings via the significantly higher fuel economy of his/her vehicle.¹²³ (With state or federal rebates, the increased cost of a hybrid may be paid off even quicker. For example, there is a current tax credit of up to \$3,400 available for hybrid purchases.)

Strengthening tire and lubricating oil standards are other means to increase vehicle fuel economy (by reducing friction). Already, in some states, legislation is being passed to institute new standards requiring drivers to retrofit their vehicles with better tires and oil. These changes would increase vehicle mileage results by more than the .01% required to offset the oil from these leases.

Other alternatives can also provide an additional fuel supply without the same environmental costs. ***Ethanol and bio-diesel*** are feasible alternatives to using oil as a vehicle fuel. The DEIR should analyze the potential availability of these alternative fuels to satisfy the alleged need for the proposed project. For example, American Ethanol, Inc. has submitted a proposal to build an ethanol plant in Santa Maria.

A gradually integrated pump tax or a tax on vehicle emissions would also create incentives for conserving fuel and promoting more fuel-efficient vehicles.

The fall 2004 edition of “Yes” Magazine (titled *Can We Live Without Oil*) provides a myriad of options for replacing our dependence on oil with other, clean alternatives. In one of the articles, authored by Guy Dauncey, co-author of *Stormy Weather: 101 Solutions to Global Climate Change* (New Society Publishers, 2001), a combination of telecommuting, walking, cycling, ride-sharing, mass transit, electric vehicles, hybrid cars, smart cars, and biofuels could eliminate our need for oil transport

¹²² NCEP, “Ending the Energy Stalemate; A Bipartisan Strategy to Meet America’s Energy Challenges. Economic Analysis of Commission Proposals.” December, 2004. (See www.energycommission.org.) All references cited in this letter are hereby incorporated by reference.

¹²³ Id.

fuel.¹²⁴ As pointed in this and other articles in the magazine, our state and nation have many options for fueling our demand without resorting to additional oil development.

Alternatives to Gas

Regarding gas supply, the project is expected to provide 40-50 billion standard cubic feet of gas. This estimate translates to approximately 1.67 billion cubic feet of gas per year, or 5 million standard cubic feet per day. This amount of energy can easily be matched through minor advancements in energy conservation and efficiency. Here are a few examples of efficiency opportunities that would more than offset the amount of gas to be produced from the proposed Paredon Project:

Industrial Sector

A recent study conducted by the American Council for an Energy Efficient Economy (“ACEEE”) shows that California can save a substantial amount of energy in its industrial sector. By increasing efficiency in such energy expenditures as space heating, water heating, refrigeration, lighting, ventilation, cooking and office equipment, industries can use 5.19% less natural gas and 5.41% less electricity within the next five years.¹²⁵ These estimates are based on already available technologies that have been proven to be cost effective.

Residential Sector

Additional measures need to be taken to increase energy efficiency in California homes. Over the next 5 years, by making energy-conscious decisions and using energy efficient technologies to heat water, heat space, ventilate and cook, Californians can use 5.1% less natural gas and 5.7% less electricity in their homes.¹²⁶

Commercial Sector

Similar to the residential sector, lighting holds the largest margin for improvement in the commercial sector. Refrigeration and space cooling also represent significantly large shares of the potential for energy efficiency savings from existing commercial buildings. The total potential annual savings is 6.8% of electricity and 4.8% of natural gas in California’s Commercial Sector.

In addition, renewable energy sources can provide as much or more energy without the significant environmental impacts that would result from the proposed project. For example, the proposed Tehachapi wind project will produce the equivalent of 116 billion cubic feet of gas/year, almost 70 times the energy that would be provided from the

¹²⁴ Guy Dauncey, *Getting There on Less*, Yes Magazine: Can We Live Without Oil, Fall 2004.

¹²⁵ Elliot, R. Neal et al., *Natural Gas Price Effects of Energy Efficiency and Renewable Energy Practices and Policies*, American Council for an Energy Efficient Economy, Report number E032, December 2003.

¹²⁶ Id.

proposed Paredon Project. As another example, the Salton Sea geothermal project will produce the equivalent of 133 billion cubic feet of gas/year, approximately 80 times as much energy as would be provided by the proposed Project.

CONCLUSION

The DEIR concludes that the Project will result in *eleven significant and unmitigated impacts to air and water quality, public safety, marine mammals, recreation, views, noise and agriculture*. These impacts will degrade our environment, negatively impact our coastal economy, and harm our State's public trust resources. In addition, the Project will result in unmitigated levels of greenhouse gas emissions that will contribute to global warming and interfere with goals for increasing renewable energy supplies to the State. Some of these Class I impacts should be analyzed in greater detail, and more adequate mitigation measures should be proposed. In addition, several impacts that were identified as Class II or III, such as impacts from construction noise and greenhouse gas emissions, should be considered Class I impacts. The DEIR should be revised to include new and significant information about impacts, mitigation measures and alternatives, as described above, and the revised DEIR should be re-circulated for public review and comment.

Thank you for this opportunity to comment on the DEIR. Please do not hesitate to contact me at (805) 963-1622 with any questions or for clarifications.

Respectfully submitted,

/s/

Nathan G. Alley
Staff Attorney
Environmental Defense Center

Atts: Letter from Roger W. Briggs, RWQCB, to Stephen A. Grieg, Venoco (August 17, 2006).

Letter from Michael Broughton, SBAPCD, to Pat Corcoran, Venoco (May 21, 2007).

Letter from Edmund G. Brown, California Attorney General, to Maureen Parks, Contra Costa County Planning Commission (May 8, 2007).

Letter Paul B. Mount II, CSLC, to Dave Durlinger, City of Carpinteria (June 8, 2005).

California Coastal Commission, *Adopted Findings*, File No. E-97-23, filed November 18, 1997.

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California Coastal Commission, *Proposed Findings on Consistency Certification re BHP Billiton LNG International, Inc.* (CC-079-06), adopted July 11, 2007 (attachment provided on CD).

California Coastal Commission, *Excerpts from Raptor Survey Protocols.*

Cc: Carpinteria Valley Association
Get Oil Out!
Sierra Club
California Coastal Commission
California State Lands Commission