



COUNTY OF SAN LUIS OBISPO

Department of Agriculture/Weights and Measures

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September 22, 2009

TO: John McKenzie, EIR Manager

FROM: Michael Isensee, Agricultural Resource Specialist *MI*

**RE: Excelaron LLC (Mankins) Conditional Use Permit/ ED09-039 (DRC2009-00002)
Ag#1461**

The County Agriculture Department is pleased to provide you with initial information to assist in the review and preparation of an environmental impact report (EIR) for the proposed petroleum extraction use and facilities in Huasna Valley on APNs 085-271-001 and -004. The review will include both the physical project location as well as the proposed transport route through an adjoining ranch to move petroleum materials to a processing facility. The Initial Study correctly identified several of the following issue areas for review and analysis during the environmental impact report:

- Conversion of agricultural lands to nonagricultural use.
- Preclusion of agricultural uses, including grazing, on portions of the project site.
- Potential incompatibilities associated with construction or operations generated dust.
- Stormwater or process wastewater runoff with associated potential for impacts to agricultural lands or to groundwater.
- Water utilization
- Compatibility with locating non-agricultural uses on lands enforceably restricted to agricultural use (Williamson Act contracted land) on both the project site and on the associated private ranch roads proposed to serve as the petroleum haul route.

There does not appear to be any information provided within the project description which would assist in analyzing the potential impacts associated with Phase 4, when the number of production wells would expand up to 200% beyond the four wells initially proposed. If this phase is to be included in the EIR, adequate information about expanded operations and the potential physical impacts of expansion need to be incorporated into the EIR. At a minimum, this should identify the proposed area where wells will be located and any associated land disturbance associated with these wells.

The following pages provide responses to the requested agency Notice of Preparation dated September 4, 2009.

The recommendations in this memo are based on policies in the San Luis Obispo County Agriculture and Open Space Element, the Land Use Ordinance, the California Environmental Quality Act (CEQA), and on current departmental policy to conserve agricultural resources and to provide for public health, safety and welfare while mitigating negative impacts of development to agriculture.

1. NAME OF CONTACT PERSON. (Address, e-mail and telephone number)

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2. PERMIT(S) or APPROVAL(S) AUTHORITY. Please provide a summary description of these and send a copy of the relevant sections of legislation, regulatory guidance, etc.

The Department does not have land use regulatory authority. As a proposed nonagricultural use, state and local laws relating to "right to farm" could be applicable to the project. These laws can be located at County Code §5.16 and §§3482.5 *et seq.* of the California Civil Code.

Since at least portions of the project is located on Williamson Act contracted land, the state Land Conservation Act (Government Code 51200 *et seq.*) is relevant, as are the local Rules of Procedure.

3. ENVIRONMENTAL INFORMATION. What environmental information must be addressed in the Environmental Impact Report to enable your agency to use this documentation as a basis for your permit issuance or approval?

The initial study appears to identify the information necessary to adequately review potential impacts on agricultural resources. Figure should be developed which accurately show the following on both the project site (wells, shipping, and all associated infrastructure such as pipelines, tanks, vehicle parking, etc) as well as the extended project site (parcels containing the private ranch roads which are proposed as a transport route) for all proposed project phases :

- Underlying soil resources.
- Parcel boundaries and identification of which parcels are under Williamson Act contract and what project components are located on contracted land.
- All potentially impacted agricultural lands including (1) any areas where agricultural uses including grazing will be precluded due to piping or other project infrastructure and (2) roadway improvements to meet transportation or CalFire requirements.

Measures that will be taken to avoid erosion and sedimentation and other impacts to water quality or adjoining agricultural lands should be identified. Quantification of any potential impacts to either ground or surface water quantity and quality needs to occur and measures that will avoid potential impacts should be identified.

Consistency with agricultural policies including AGP 11 relating to groundwater and AGP18 relating to the location of development/improvements should be evaluated.

4. PERMIT STIPULATIONS/CONDITIONS. Please provide a list and description of standard stipulations (conditions) that your agency will apply to features of this project. Are there

others that have a high likelihood of application to a permit or approval for this project? If so, please list and describe.

Conditions that could apply relative to any potentially significant loss or conversion of farmland to non-farmland uses include:

- Minimization of the project footprint.
- Consolidation of project facilities off of the most capable agricultural soils.
- Utilization of an easement program which directly protects farmland of equivalent value and size within the County.
- Payment of mitigation fees adequate to protect an equivalent or greater amount of farmland of equivalent agricultural value and size in the County.
- Requiring the purchase of Transfer of Development Credits (TDCs) to retire development and subdivision potential on farmland elsewhere in the County.

Conditions that could apply relative to potentially significant impacts to soil, water, agricultural land protection programs [Williamson Act] or neighboring agricultural operations include:

- Protection of the soil from chemical or material contamination during construction, operation/maintenance, and eventual closure.
- Control of dust during both construction and operation including haul routes.
- Minimization or avoidance of the use of groundwater resources throughout the operational life of the project.
- Minimization or avoidance of stormwater runoff and associated potential erosion impacts.
- Fire control measures to avoid the potential for loss of crops, forage, animals, agricultural infrastructure (fences, structures and irrigation), farm residences and area residents.
- Measures that ensure construction and operations do not impact lands and are compatible uses on lands under Williamson Act contract.

- 5. ALTERNATIVES. What alternatives does your agency recommend be analyzed in equivalent level of detail with those listed above?**
- 6. REASONABLY FORESEEABLE PROJECTS, PROGRAMS or PLANS. Please name any future project, programs or plans that you think may have an overlapping influence with the project as proposed.**

Agriculture Element Goals and Policies 11, 18, pending Conservation and Open Space Element updates, and pending grading and stormwater ordinance revisions.

- 7. RELEVANT INFORMATION. NA**
- 8. FURTHER COMMENTS.** Any alternatives or project conditions that could have growth inducing impacts (road improvements or the development of public facilities which may encourage land use changes, subdivision, or other development) should be evaluated and avoided if possible.