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## SANTA LUCIA CHAPTER

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July 22, 2011

John McKenzie, Project Manager  
County Planning & Building Dept.  
976 Osos St., Rm. 300  
San Luis Obispo, CA 93408-2040

**RE: Excelaron (Mankins) Conditional Use Permit Huasna Valley Oil Exploration and Production Project and Draft Environmental Impact Report (DRC2009-00002/SCH #2009021025)**

Dear Mr. McKenzie,

In weighing the granting of the Conditional Use Permit, the County should be mindful of the specific history of this applicant. Having illegally abandoned its Huasna Valley wells – walking away from polluting tanks, equipment and pipelines and contaminated soils in 1985 - - United Hydrocarbon, aka Deuel Petroleum, is now seeking a permit with its partner to resume production from the same oil field and making promises of mitigation and restoration after violating its previous Conditional Use Permit and state laws regulating the extraction of petroleum resources.

In 2009, when attempting to secure a permit on the basis of a negative declaration, the applicant described the proposed project as consisting of no more than 4 producing wells and publicly denied that it was actually planning to develop a much larger project. When compelled to prepare a full EIR, it disclosed that the project would consist of 12 wells. It has acquired the mineral rights for 9,051 adjacent acres of mineral rights and told investors it plans to drill three more wells there.

### **Air Quality and Greenhouse Gasses**

The applicant's analysis of the project's greenhouse gas emissions appears inadequate, as it is restricted to emissions only from project construction and operations. In this regard, the DEIR appears not to notice the implication of its citation of the EPA's Mandatory Reporting of Greenhouse Gases Rule:

“40 CFR section 98 specifies mandatory reporting requirements for a number of industries. The final 40 CFR part 98 applies to certain downstream facilities that emit GHGs, and to certain upstream suppliers of fossil fuels and industrial GHGs. For suppliers, the GHG emissions reported are **the emissions that would result from combustion or use of the products supplied**” [emphasis added].

The DEIR appears to attempt to obscure this crucial point and thereby exempt the proposed project from mitigations for its full GHG impacts by asserting that “The mandatory reporting requirements generally apply to facilities that produce more than 25,000 metric tonnes of

CO2 equivalent per year.” In fact, all producers/suppliers of fossil fuels and petroleum products must report their GHG emissions, and those reports must encompass the full cycle of production and consumption: “Suppliers of certain products that would result in GHG emissions if released, combusted or oxidized...are covered in Part 98” (<http://www.epa.gov/climatechange/emissions/ghgrulemaking.html>). The rule requiring facilities to report only if they emit 25,000 metric tons or more per year of GHGs applies only to certain categories of direct emitters; fuel suppliers are required to report regardless of their volume of GHG emissions.

In restricting its analysis of GHG emissions to the proposed project’s construction and on site operations, and excluding emissions from refining of the crude oil produced by the project, combustion, or new traffic generated as a result of road construction utilizing the asphalt refined from the project’s tar-grade oil, the DEIR fails to comply with CEQA guidelines, which state that an Environmental Impact Report must describe, calculate, or estimate the amount of GHG emissions resulting from a project, consider whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project and consider the extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan.

The County should evaluate the project’s GHG emissions in light of the greenhouse gas reduction and renewable energy goals of the Conservation and Open Space Element in the General Plan and the Climate Action Plan. The GHG Inventory estimates that San Luis Obispo County emitted approximately 1,506,163 metric tons of CO2-equivalent emissions in the baseline year 2006. Emissions from the residential, commercial, and industrial sectors accounted for a combined 23.4 percent of the total. Lead agencies retain discretion to establish thresholds of significance based on individual circumstances and can rely on qualitative or other performance based standards for estimating the significance of GHG emissions. We encourage the County to consider the action of the City of Richmond in requiring mitigation of greenhouse gas emissions from the Chevron Energy and Hydrogen Renewal Project to net zero.

The DEIR lacks mitigations for the cumulative impacts of GHG emissions. This is based on the finding that the project’s emissions would be less than significant, as they would be “below 10,000 MTCO2e per year, including transportation with amortized construction emissions.”

In addition to the notable failure of this figure to account for emissions from refining and combustion, we note that amortizing construction GHG emissions far beyond the construction period has the effect of artificially minimizing their impact at actual time of emission, as shown in the DEIR’s GHG Emission Summary table (metric tonnes/yr):

<i>Construction Total</i>	<i>571</i>
<i>Construction Total Amortized over 25 years</i>	<i>23</i>

- Appendix C, pg. 3

As a finding of significance triggers the lead agency’s obligation to require feasible mitigation, the DEIR should determine whether the project’s incremental contribution to global warming is cumulatively considerable under CEQA’s cumulative impacts analysis. The DEIR must calculate the effects of the proposed project’s emissions in addition to past projects other current projects, and probable future projects in the region. This should

include the project on the same site abandoned by the applicant in 1985, leaving hydrocarbon contaminated soils exposed to the air.

### **Biological Resources**

We are particularly concerned with what is potentially the most serious of the project's significant effects, the impact of an oil spill on aquatic species. The County should consider the proposed mitigations – conceded to be insufficient to avoid significant impacts even if they function as advertised – in light of the oil industry's performance when an ExxonMobil pipeline ruptured in Montana on July 2 and spilled oil into the Yellowstone River. The EIR assesses oil spill risks for Huasna Valley thusly:

“Transported oil would cross Huasna Creek, Huasna River, and numerous tributary channels. Several miles of the Porter Ranch road follow the banks of the Huasna River, and large portions of the road are within the historic inundation elevation of Twitchell Reservoir.... Crude oil or oily water spills during the rainy season could enter flowing streams and rapidly affect large areas of surface waters and riparian habitats. Spills during the dry season could enter and travel down dry stream channels” (4.4-44).

Exxon/Mobil had an oil spill prevention and response plan for the Yellowstone, which proved disastrously inadequate. Here, we have only the applicant's promise to develop such a plan, at an unspecified future date, and the admission that such a plan “would not eliminate the risk of a spill that could impact biological resources.”

The Elimination of Pad 2 Alternative, identified as the next most environmentally preferred alternative after the No Project Alternative, eliminates virtually none of the project's Class 1 impacts, with a “slight reduction in severity” for the significant impacts resulting from drilling operations or an oil spill.

We urge the County to adopt the environmentally superior alternative, the No Project Alternative, and deny the permit for the project.

Thank you for the opportunity to comment on these issues.



Andrew Christie  
Chapter Director

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