

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 5/15/2012	(3) CONTACT/PHONE John McKenzie, Senior Planner / (805)781-5452	
(4) SUBJECT Hearing to consider an appeal by Excelaron, LLC of the decision of the Planning Commission to deny its application for Conditional Use Permit DRC2009-00002			
(5) RECOMMENDED ACTION Staff recommends that your Board adopt and instruct the chairperson to sign the resolution affirming the decision of the Planning Commission and denying Conditional Use Permit DRC2009-00002 based on the findings set forth in Exhibit A attached to the resolution.			
(6) FUNDING SOURCE(S) Appeal Fee	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation (Time Est. _____) <input checked="" type="checkbox"/> Hearing (Time Est. 180 minutes) <input type="checkbox"/> Board Business			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A		(12) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(13) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(14) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	
(15) LOCATION MAP N/A	(16) BUSINESS IMPACT STATEMENT? No	(17) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date _____	
(18) ADMINISTRATIVE OFFICE REVIEW Reviewed by Leslie Brown			
(19) SUPERVISOR DISTRICT(S) District 4 -			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / John McKenzie, Senior Planner

VIA: Ellen Carroll, Environmental Coordinator, Current and Environmental Planning

DATE: 5/15/2012

SUBJECT: Hearing to consider an appeal by Excelaron, LLC of the decision of the Planning Commission to deny its application for Conditional Use Permit DRC2009-00002

RECOMMENDATION

Staff recommends that your Board adopt and instruct the chairperson to sign the resolution affirming the decision of the Planning Commission and denying Conditional Use Permit DRC2009-00002 based on the findings set forth in Exhibit A attached to the resolution.

DISCUSSION

Project Description

The applicant (Excelaron LLC) is seeking approval of an application for a Conditional Use Permit DRC2009-00002 for a phased development to establish oil production of up to 12 oil wells and associated production facilities on a 154-acre parcel. Phasing would be as follows:

Phases 1 & 2. During the exploratory phase, four wells would be drilled. The area proposed would use pre-existing roads and leveled areas (created from previous oil exploration efforts). Widening of roads and pads would result in approximately 6.4 acres of overall new disturbance, and this disturbance would occur in chaparral and oak woodland areas. Each well requires approximately 2 weeks to set up and drill on a continuous 24 hours per day basis. Small firewater tanks would be installed. During testing, trucks would bring in water for injection, as well as removal of product extracted. Primary access during construction and operations would include the use of and improvements to the Mankins Ranch Road and the Porter Ranch Road. Potable and fire water would be trucked in from an outside source. The applicant is currently pursuing this source as coming from the City of Santa Maria, but has not yet submitted evidence from the City of their willingness to serve the project.

The expected type of crude oil to be extracted is considered very heavy, with some possibility that a limited amount of lighter crude may also be found. To improve extraction, a hot water injection process will be used. No use of diluents or fracking is proposed. However, a medium weight oil (cutter stock) would be brought in and blended with the heavier crude, to make truck haul transfers easier. A processing plant to separate the oil from water would be installed. Propane would be brought in to provide all power requirements. At build out, there would be up to 4 permanent employees (on-site coverage 24 hours a day), who would use Huasna Road for daily access.

All large haul and project-controlled trucks would use Porter Ranch Road to access Highway 166 and then Highway 101. Improvements would be made at Highway 166 and Alamos Creek Road (widening 166 for left turn channel) prior to production (Phase 2) commencing. Other road improvements include: strengthening Huasna River Bridge, minor widening of ranch roads to meet CalFire requirements, and graveling large sections of Porter Ranch Road (these would be done prior to initial drilling). Crude oil would likely be hauled to the Santa Maria area or further south for processing.

Phase 3. While the Department of Conservation, Division of Oil, Gas and Geothermal Resources (DOGGR) has cleaned up most of the site, minor additional clean-up would be completed relating to previous oil well drilling efforts. This would be completed either at the end of Phase 1 if the project does not proceed to production, or prior to completion of the Production Phase 2.

Phase 4. If Phase 1 and 2 oil production is favorable, up to 8 additional wells would be drilled. The project is designed to handle production of about 1,000 barrels a day at project build out. Oil well maintenance (also referred to as 'workovers' or 'recompletions') will average approximately 12 per year, once all 12 wells are installed.

Location. The project is located approximately 3/4 mile west of the Mankins' ranch house, which is on the west side of Huasna Townsite Road, approximately 1.5 miles south of Huasna Road, approximately 12 miles east of the City of Arroyo Grande, in the South County (Inland) and Huasna-Lopez planning areas.

Previous History. Prior to the current application, the applicant had proposed a smaller project (four production wells) under a Conditional Use Permit. While a mitigated Negative Declaration had been prepared, shortly prior to the Planning Commission hearing technical information was provided on noise which conflicted with other technical information. At that point, staff determined that an EIR should be prepared. The application was withdrawn and then resubmitted with the proposed 12-well development and an Environmental Impact Report (EIR) prepared.

Environmental Impact Report (EIR). A full project description can be found in the Final Environmental Impact Report (FEIR) under 'Project Description'. The EIR addressed potential impacts to: Aesthetics, Agricultural Resources, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards/ Hazardous Materials, Noise, Population/ Housing, Public Services/ Utilities, Transportation/ Circulation, Wastewater, Water, and Land Use. Mitigation measures are included in the EIR to address impacts.

Appeal of Planning Commission Decision

On March 8, 2012, the Planning Commission denied the proposed project. On March 12, 2012, an appeal of the Planning Commission's decision was received from the applicant, Excelaron, LLC (Exhibit 1). The appellant's stated the following as the basis to reverse the Planning Commission's decision: 'There is no substantial evidence in the record to support the Findings for project denial.' No additional information was supplied with the appeal or as of the writing of this report.

Staff has carefully considered the statement made by the appellant. Substantial evidence exists, as it did at the Planning Commission, to support denial of the project.

Overview

The detailed basis for this recommendation can be found in the following section titled 'Project Analysis'. The following is a brief overview of the issues identified as the basis for denial:

A. Land Use Inconsistencies

1. Visual Resources
 - i. Conservation and Open Space Element (COSE) Goal VR-2 cannot be met, which states "The natural and historic character and identity of rural areas will be preserved";
2. Noise
 - i. Noise Element – Nighttime noise exceeding 45 db (Leq) for well drilling;
 - ii. Noise Ordinance – Construction hours outside of 7 am to 10 pm window;
3. Fire
 - i. Very High Fire Hazard - steep terrain, highly flammable vegetation;
 - ii. Flammable materials (crude oil, propane);
 - iii. Reduced fire access as 'secondary access' eliminated or compromised when Twitchell reservoir nears capacity (590-foot elevation and above);
 - iv. No on-site water source; lack of on-site water source and unspecified long-term water source diminish likelihood that enough water would be available in the event of fire.

B. Neighborhood Compatibility

1. Extremely quiet neighborhood;
2. Odors;
3. Visibility;
4. Proximity to existing residences.

C. Constraints

1. Flooding – When Twitchell Reservoir nears capacity, Porter Ranch is either impassable or becomes unstable;
2. Traffic
 - i. Highway 166 – Postponement of intersection improvements at Hwy. 166 and Alamo Creek Road;
 - ii. Huasna Road - if Porter Ranch Road becomes impassable, traffic will use Huasna, which includes narrow and windy sections that large trucks cannot navigate within their own lane;

D. Significant and Unavoidable (Class I) Impacts from EIR

1. Aesthetics – public visibility of Pad #2;
2. Air quality – creating odor events during releases or upset conditions;
3. Biological Resources – rupture or leak from oil wells, storage tanks, pipelines, or other oil field related infrastructure during operation, or spillage during transportation of oil and other materials could impact jurisdictional stream and aquatic species;
4. Land Use Compatibility - Noise generated from drilling, and facility maintenance and operations;
5. Noise – Drilling would significantly increase noise levels in the area

E. Other Factors

1. Off-site Water - no sustainable source for long-term project; no intent-to-serve letter.

Basis for Denial

The proposed project is inconsistent with various provisions of the General Plan, including the Land Use Ordinance (Noise Section) and the Land Use Element. Under State law, the County's decision makers must consider the project's consistency with the County's General Plan including: Noise Element, Conservation and Open Space Element (COSE) and Safety Element.

The Project would result in five significant and unavoidable (Class I) impacts from the Project, including:

1. Aesthetics
2. Air Quality (Odors)
3. Biological Resources
4. Noise
5. Land Use (incompatible with surrounding area)

The resolution includes findings for denial based on:

- Land Use Inconsistencies (Land Use Ordinance, Framework for Planning, Noise Element, Conservation and Open Space Element, Safety Element); and
- Neighborhood Incompatibility (increased fire hazard, reduced scenic qualities, reduced traffic safety, potential surface water degradation, unpleasant odors).

The following identifies these inconsistencies and circumstances that have led staff to recommend denial of the project.

Neighborhood Compatibility

Issue: The project would introduce new and permanent noise in a very quiet rural neighborhood. Certain activities, such as well drilling, would exceed the County's stationary noise thresholds. While surrounding residences are sparsely scattered, the closest residence is approximately 1,170 feet away.

Any equipment failures at the proposed facilities would likely generate odors and, in the event this was to occur, there is not sufficient odor buffering distance between the proposed project and existing residences because of the fact that noticeable odor can travel substantial distances and may be detected as low as parts per billion.

Development of Pad #2 would introduce visual elements that contrast with the surrounding area. This would include initial drilling and ongoing maintenance rigs, and existing hillside vegetation removal due to road and pad widening, and CalFire fuel modification requirements.

Lighting from the Shipping Site would not be directly visible, but could result in a noticeable sky glow in an otherwise very dark neighborhood at night.

Staff Analysis: In addition to the issues stated above, the project would be inconsistent with a number of the General Plan goals designed to safeguard neighborhood compatibility. Goal 7 of the COSE Energy Chapter states 'Design, Siting, and Operation of Non-Renewable Energy Facilities will be environmentally appropriate'. Furthermore it states 'Energy, fossil fuel, and related facilities will be sited, constructed, and operated in a manner to protect the public from potential hazards and significant environmental impacts.' As Significant Class I impacts have been identified in the EIR for visual resources, odors and noise, the project is not consistent with this goal. Also, please refer to the above discussion under 'Fire' on this goal. Under the County's Framework for Planning (Principle 1, Policy 1) it is the "County's policy to protect a living environment that is safe, healthful, and pleasant'. As Significant Class I impacts have been identified in the EIR for visual resources, odors and noise, the project is not consistent with this goal. Also, please refer to the above discussions under 'Fire' (Conservation and Open Space Element - Energy Chapter 5, Goal E-7), "Noise", and "Visual".

Under the County's Framework for Planning (Principle 3, Policy 1) it is the 'County's policy to 'protect and restore the valuable history, cultures, images and identity of communities and rural areas'. The introduction of an oil well field in this area change the identity of this area as it would reduce the scenic qualities, introduce new noise impacts and introduce new and unpleasant odors to the area. Therefore, the project is inconsistent with this Policy.

Fire Issues

Issue: The project would be located within a 'Very High Fire Hazard' designation which includes very steep terrain with vegetation containing a heavy fuel load and considered highly flammable. Most of this area would be inaccessible to ground crews. Three CalFire stations could serve the project, with response times to the Mankin's Ranch entrance between 30 and 40 minutes. Fire trucks would then need to proceed onto the ranch road an additional 1.5 miles to the Shipping Site, and then an additional mile to Well Pad #2. The project includes storage of propane, oil for blending, and heavy crude oil. Pipe welding would be part of project construction and maintenance.

In the event the Porter Ranch Road is closed from periodic Twitchell Reservoir and Huasna River flooding and/or road saturation, Huasna Road will be the only way in and out of the area, eliminating secondary access for CalFire to respond to fire and/or life safety calls.

The project is immediately adjacent to the Suey Creek Road area, a very large, heavily wooded area with scattered residences that use poorly maintained dirt access roads which all converge onto Suey Creek Road (in other words, a long, dead-end road area). Response times in this area exceed 40 minutes. If a wildland fire started at the project and headed south, this area would be adversely affected.

Staff Analysis: The EIR considered numerous regulations relating to fire protection and the development of such facilities. It identified a number of project design inadequacies, such as lack of an on-site water source, for fire suppression. One mitigation measure would be the installation of tanks that would provide 360,000 gallon fire water (providing 1,500 gallons per minute (gpm) for four hours). The water tanks would not be installed until Phase II. As no on-site water well is proposed, (water will be imported from out of the area), no additional water above what would be stored would be available during a fire event. At this time, no intent-to-serve letter has been submitted to verify a sustainable water source for the project.

While the Porter Ranch Road will normally be available as a secondary access, this will not be the case when the Twitchell Reservoir nears capacity, which averages once every five to six years. Response times exceeding 15 minutes for structure fires provide little possibility of saving the structure. The previous fire code identified that response times of 60 minutes or more could mean fires may approach disaster levels in steep, chaparral covered, remote areas such as the Huasna area. While minimum requirements can be met, there are a number of potential constraining elements that, if in play, could increase the potential for a resulting catastrophic fire, should a fire start within the project boundaries.

Under the Conservation and Open Space Element - Energy Chapter 5, Goal E-7 states 'Design, Siting, and Operation of Non-Renewable Energy Facilities will be environmentally appropriate'. Furthermore, Policy E.7.1 states that fossil fuel & related facility development be sited in a manner to protect the public from potential hazards and significant environmental impacts. There would be minimal human resources available on-site to operate any manual measures (e.g., fire hoses and fire monitors), as well as the employees may need to travel over a mile to get to a fire (e.g., employee at Shipping Site and fire is at Pad #2). Also, should a fire start or spread to areas outside of the facility boundary, there would be limited actions that could be taken by employees on-site to stop the fire. Immediately beyond the project boundaries is a 'very high' fire hazard area with heavy fuel loads on very steep slopes and inaccessible to ground fire crews. All areas around the project, except Huasna Valley, have heavy fuel loads that are on steep, almost inaccessible areas, such as the Suey Creek area. Based on these factors, the project is considered inconsistent with this County goal.

Under the County's Safety Element (Goal S-1) it is 'The County's goal to attain a high level of emergency preparedness', and (Goal S-4) 'The County's goal to reduce the threat to life, structures and the environment caused by fire'. Even with required mitigation measures for fire prevention, control and preparedness, including additional training of CalFire staff on oil facilities, the proposed project would still increase the overall fire risk in what is classified as a very high fire hazard area that is surrounded by rugged terrain and contains scattered residences throughout the area. Based on these factors, the project is considered inconsistent with these County goals.

Under the County's Framework for Planning (Principle 1, Policy 1) it is the 'County's policy to protect a living environment that is safe, healthful, and pleasant. Please refer to the above discussion on Conservation and Open Space Element - Energy Chapter 5, Goal E-7. Based on these factors, the project is considered inconsistent with these County policies.

Noise

Issue: Drilling would occur 24 hours a day seven days per week during the drilling process. The actual drilling operations for each well would last several days. When setup and breakdown components are added, the drilling-related activities at each well would take between one to two weeks. The Phase 1 drilling would take up to eight weeks. These eight weeks includes assembly and testing of the rig, well drilling, well completion, and moving/removal of the drill rig. The actual drilling operations for Phase 1 would be expected to last up to 24 days.

If production begins and field development is pursued (Phase IV), this process would be repeated yearly with up to two wells per year over a four year period. The duration of this subsequent drilling each year would be about one month for two wells, with the actual drilling process being about 12 days for two wells.

The Noise Element specifies different measurements for noise levels. One measurement is called L_{max} or “maximum” noise level and is defined as the maximum instantaneous noise level during a given period of time. Another measurement that is used is referred to as L_{eq} , or “hourly” which averages noise over a continuous one hour period. According to the Noise Element, acceptable nighttime stationary noise levels are up to an average of 45 decibels as measured on an hourly basis at the property line and up to 65 decibels maximum as measured at the property line. Also according to the Noise Element, acceptable daytime noise levels are up to an average of 50 decibels on an hourly basis and up to 70 decibels maximum, both at the property line.

The proposed project would exceed the above acceptable property line thresholds for both hourly and maximum nighttime and daytime noise levels during drilling activities.

The property line between the closest residence and the closest noise source is about 100 feet. The closest residence is approximately 1,170 feet from the noise source. The hourly noise level during drilling at the nearest property line would be approximately 79.8 decibels unmitigated and 65.2 decibels mitigated, which would exceed the nighttime hourly noise level of 45 decibels, and the daytime hourly noise level of 50 decibels specified in the Noise Element and Land Use Ordinance. Also, during drilling the maximum noise level (L_{max}) at the nearest property line would be approximately 89.5 decibels unmitigated and 80.1 decibels with the proposed mitigation, which would exceed the nighttime maximum noise level of 65 decibels, and the daytime maximum noise level of 70 decibels specified in the Noise Element and Noise and Land Use Ordinances. The drilling, while intermittent, would potentially occur over a five year period. While the Applicant has stated that well re-drills for this project are not expected to be required, the EIR also assumed that three re-drills would occur between year six and 10 of the project. Re-drills would have the same noise impacts as drilling.

Staff Analysis: Section 22.10.120 (A) of the County Land Use Ordinance provides a list of exemptions to the noise standards. Temporary noise is not one of the listed exceptions. Construction noise is exempt provided the activities do not take place before 7 AM or after 9 PM on any day except Saturday or Sunday, or before 8 AM or after 5 PM on Saturday or Sunday. Given that drilling would occur 24-hours per day when wells are being drilled, the noise standards specified in Section 22.10.120 (B) of the County Land Use Ordinance would apply to the drilling operations.

Sensitive receptors (nearby residences) would experience noise exceeding the nighttime 45 decibel threshold for drilling activities at the property line. In addition to being inconsistent with the LUO on noise, no feasible or practical mitigations are possible to reduce this impact to below the 45 decibel limit for the property line of at least one residence. Therefore, it is inconsistent with the Noise Element and incompatible with the quiet, rural neighborhood

Under the Conservation and Open Space Element - Energy Chapter 5, Goal 7 states ‘Design, Siting, and Operation of Non-Renewable Energy Facilities will be environmentally appropriate’. Furthermore, one objective states “Proposed new fossil fuel facilities will provide a sufficient buffer zone from existing or proposed human populations ...”. As stated above, the project is located close enough to sensitive receptor property lines to exceed the County’s Noise Element, thereby conflicting with this goal.

Lastly, the Framework for Planning (Principle 1, Policy 1) states it is County policy to protect a living environment that is safe, healthful, and pleasant. Impacts to the above-stated noise resources will conflict with this policy.

Flooding/Twitchell Reservoir

Issue: The primary access road for trucks servicing the project site would be through the existing ranch road on the Porter Ranch, which is about six miles long. Approximately four miles of this ranch road is within the 100-year flood zone. Portions of this section of road (about 1.4 miles) will also periodically flood when the Twitchell reservoir starts filling up (Porter Ranch Road inundation occurs at the 599-foot level; the reservoir spillway height is 640 feet, mean sea level (msl)). As with many reservoir dams,

Twitchell continues to fill with sediment, which reduces its capacity thereby increasing the frequency and duration of the reservoir filling to the 599-foot msl and above. Historic records show Twitchell reservoir hitting the 599-foot level, on average, about every five to six years. During these times, sections of the Porter Ranch Road have been submerged between 8 and 343 continuous days per occurrence (the 343 day submersion occurred in 1983). These periodic closures would result in:

1. the potentially costly temporary closure/cessation of oil extraction at the site;
2. an increased use of Huasna Road by potentially larger vehicles that may be needed for maintenance at the proposed facility; and
3. elimination of the secondary fire access to the proposed facility.

The heavier than normal rain years may also increase the need for project access road and bridge repair work, or other emergency work.

In addition, large single-event storms could result in road washouts along the Porter Ranch route. Repair times could range between days and months depending on the circumstances.

Staff Analysis: Flooding of Porter Ranch Road is expected to occur every five to six years, on average based upon the historical data. Given the range of historic inundation duration, staff considers it likely that the Project would sometimes require large trucks to use Huasna Road to either 1) haul in propane, or 2) conduct maintenance or repair activities at the facility and/or access road(s).

Visual Resources

Issue: As identified in the Final EIR, the project will result in short-term significant and unavoidable impacts from the initial drilling and maintenance rigs. The initial drilling rigs will be up to 115 feet tall. Subsequent maintenance rigs will be about 80 feet tall.

The drilling rigs will be in place one to two weeks for each of the initial four wells, or for about five weeks during Phase 1 and then about one month (drilling for two wells) for each of the following four years should the project move to full development phase. All of the four initial oil wells could be placed on Pad #2, which is visible from a public road.

Maintenance rigs (referred to as 'workovers' or 'recompletions') will be brought in on an annual basis for each well and be in place between 1 and 5 days. When all 12 wells are considered, these rigs will be present up to 60 days per year for the life of the project. Given that up to 8 of the total 12 wells (67%) could be installed on Pad #2, the above described activities could be visible up to 40 days a year.

Substantial vegetation clearance or modification will be required as a result of road and pad widening to meet fire safety requirements. While measures are in place to retain key screening vegetation, a considerable amount of this vegetation would be impacted due the fuel modification requirements. It is also unknown if this vegetation will survive the grading and/or operation activities. Where replanting is needed, its effectiveness as screening vegetation is unknown due to a number of factors, including: thin soils, steep slopes, limited water availability, planting in excavated parent material, slower growth rates of native plants, ongoing fuel modification requirements, , proximity to plant toxins, root-zone compaction, dust on foliage, etc.

Staff Analysis: The COSE Visual Resources Chapter 9, includes 9 goals with the intent to accomplish the following to protect the visual character and identity of the County while protecting private property rights, in order to: 1) maintain a sense of place recognized by residents, 2) preserve intact scenic landscapes that are highly valued by residents and visitors, and 3) maintain a high-quality visual environment that enhances tourism, real estate values and economic growth. Goal VR-2 states "*The natural and historic character and identity of rural areas will be preserved*". The introduction of drill rigs, well head pumps, and associated equipment/ structures visually contrasts with the existing rural and agricultural character of the area. Also, it is unknown how well the key viewing vegetation will be protected given the amount of

grading work necessary around the key viewing vegetation for Pad #2, the amount of vegetation removal that would be needed to meet the CalFire fuel modification requirements, and the likely slow growth rates should revegetation be necessary. There is a high potential that permanent and temporary equipment on Pad #2 will be visible for an extended period. While exterior lighting from the Shipping Site will not be directly visible from public roads, a skyline glow may emanate from this otherwise dark rural area. Therefore, the project is inconsistent with COSE Goal VR-2.

Also, under the Conservation and Open Space Element – Energy Chapter 5, Goal 7 states ‘Design, Siting, and Operation of Non-Renewable Energy Facilities will be environmentally appropriate’. One objective under this goal states ‘Locate new or expanded facilities outside sensitive view corridors, scenic, or recreational areas.’ Due to the minimal development in the area and its natural landscapes, it is considered scenic. Therefore, the project is inconsistent with COSE Goal E-7.

Lastly, the Framework for Planning (Principle 1, Policy 1) states it is County policy to protect a living environment that is safe, healthful, and pleasant. Impacts to the above-stated visual resources will conflict with this policy.

Traffic Safety

Issue: Based on the history, configuration and conditions at the Alamo Creek Rd./Highway 166 intersection, and the amount of slow moving vehicles associated with the project, Caltrans has required the installation of a left-turn channel prior to Phase 2 (Production) beginning. The main reasons for the channelization relate to the project’s slow moving vehicles making left turns across the road, the high rate of speed typical on this highway, and the limited sight distance at the intersection. In addition, Highway 166 is used to detour traffic from I-5 when the Grapevine closes. Also, Highway 166 has been identified as a Highway Safety Corridor due to the number of ‘high collisions’ occurring over time, which has made it eligible for special funding of projects that improve traffic safety on this highway.

The EIR shows that Phase 1 would generate slightly more traffic than when in production (Phase 2). The daily number of one-way trips for Phase 1 using Highway 166 will range from 14 to 39 over this first year. Once production is established, 12 to 28 daily one-way trips would be expected at this intersection.

Staff Analysis: Phase I construction traffic would be making left turns on and off of Highway 166 without a left-turn channel. Therefore, there would be about one year of slow-moving trucks making left turns using the existing intersection before the left turn channel is installed.

As Porter Ranch Road becomes periodically impassable (as described above in the Flooding discussion), the applicant would likely need to use Huasna Road on a short-term or emergency basis for maintenance activities or the delivery of propane. Huasna Road is a narrow rural road that includes sections with tight curves where large trucks cannot navigate within their own lane. Potential traffic safety on Huasna Road is further exacerbated with extensive use of this road by bicyclists. Traffic safety measures could be required at the time (e.g., the use of pilot cars, avoid school bus time, etc.) to minimize these impacts.

Water Resources

Issue: As previously stated, the project does not propose using an on-site water source. Water needs would be primarily for potable purposes, drilling, firewater, as well as for revegetation and dust control. While the Applicant has indicated that the water would likely be purchased from the City of Santa Maria, staff has requested of the applicant, but not received, confirmation from the City that they are willing to serve this project. Furthermore, staff does not have any assurances that the offsite source would be able to provide for the duration of the project.

Surface spills of crude oils could eventually migrate downstream into waterways. Truck accidents/spills along the access roads are possible and could have a detrimental effect to the nearby waterway and associated sensitive aquatic species. Produced water spills over time could result in less permeable soils where such spills occur, as well as could make contact with other down-gradient natural water bodies.

Staff Analysis: At this time, there are no assurances that water would be available at project start-up, or that there would be a sustainable source over the course of the project's operational life. As identified in the following Biological Resources section, spills into waterways can degrade water quality to the point of having significant and unavoidable impacts on sensitive biological resources.

Also, under the Conservation and Open Space Element - Energy Chapter 5, Goal 7 states 'Design, Siting, and Operation of Non-Renewable Energy Facilities will be environmentally appropriate'. One objective under this goal states 'Facilities shall not degrade surface or groundwater resources.' The EIR recognizes the potential that one or more oil spills will result if the project is approved. Should such a spill occur near a waterway, such as Huasna River or Twitchell Reservoir, such an event would be considered a significant and unavoidable Class I impact on the water resource.

Under the County's Safety Element (Goal S-6) it is 'The County's goal to reduce the potential for harm to individuals and damage to the environment from hazardous materials'. For the same reason cited in the previous paragraph, the project would not further this goal because of the potential for a transportation accident occur near an environmentally sensitive area or human population.

Biological Resources

Issue: The COSE Goal BR 2 states 'Threatened, Rare, Endangered, and Sensitive Species Will Be Protected'. While unlikely, in the event of an oil spill getting into wetland/riparian areas the spilled oil could impact California red-legged frogs and other sensitive aquatic species that are known to exist in the nearby waterways. California red-legged frogs are known to traverse over land up to ¼ mile from their water source. Porter Ranch Road parallels Huasna River for over four miles, of which approximately two miles are within 100 feet of the river's edge. The project also crosses 7 blue line creeks, which would likely need culvert or crossing improvements. Additionally, several existing culverts may need replacing that cross other blue line creeks. Spills could result during oil transportation to and from the Shipping Site along off-site roads. Large portions of the road are within the historic inundation elevation of Twitchell Reservoir and 100-year flood zone. The project site and Mankins access roads are also immediately adjacent to several small tributary channels. However, even with the proposed improvements, spills along the project's transportation route have the potential to occur, and given the number of water crossings and the length of the road that is in close proximity to waterways, the project is not protective of sensitive species, particularly with regards to the California Red-Legged Frog. Also, the Huasna River bridge would need upgrades to handle the heavier haul trucks, which is over an existing riparian area.

In addition, the project's access road and pad improvements and CalFire vegetation clearance requirements would encroach upon the adjacent oak woodlands and chaparral communities. Up to two oaks are proposed for removal, as well as impacts to 276 additional oaks. Road improvements could have some potential impacts to at least one riparian area (Huasna Bridge over Huasna River) and new culverts would also be needed at several other blue line creek crossings that could impact sensitive riparian areas.

Staff Analysis: The EIR identifies the potential for accidental oil spillage during the life of the project. The potential for a spill at or near a sensitive riparian area/waterway it is considered a significant and unavoidable Class I impact. Potential impacts could be reduced with adequate design and operating procedures and effective emergency response plans. However, the potential remains for significant impacts as a result of an accident associated with the operation of the proposed project.

Under the Conservation and Open Space Element - Energy Chapter 5, Goal 7 states 'Design, Siting, and Operation of Non-Renewable Energy Facilities will be environmentally appropriate'. The project is proposed within a heavily wooded area and will impact hundreds of oak trees. The project will cross 7 blue line creeks, including Huasna River. Four miles of the crude oil truck haul route runs along Huasna River with most of it being within the Flood Hazard designation. This waterway contains at least one sensitive species, the California red-legged frog. The EIR identifies that the potential for oil spills is a significant impact should it occur in or near biologically sensitive areas such as the Huasna River. Therefore, the project is not consistent with this goal.

Under the Conservation and Open Space Element Biological Resources Chapter, Goal BR 2 - states 'Threatened, Rare, Endangered, and Sensitive Species Will Be Protected'. Due to the same circumstances cited in the previous paragraph, the project is not consistent with this goal.

Under the County's Framework for Planning (Principle 1, Policy 3) it is the 'County's policy to 'preserve and sustain important water resources, watersheds and riparian habitats'. Should a projected-related spill occur within a biologically sensitive resource, which are present along the proposed truck route, a significant and unavoidable environmental impact could result.

Public Meetings & Hearings

The project has had extensive public involvement. Staff has made additional efforts to ensure that the public has access to information relating to the project. The following is a summary of this effort:

- ❖ Two public scoping meetings
- ❖ Draft EIR public workshop
- ❖ Two Planning Commission Hearings
- ❖ Meeting with residents in Huasna Valley as part of the scoping process
- ❖ Extensive information provided on the County's website, including the Draft and Final EIRs
- ❖ Expanded notification around the project, due to the large lots surrounding the project site, and an extensive 'Interested Parties' list
- ❖ Applicant has held its own project outreach meetings

Availability of Final EIR, Staff Reports and Other Project Information

Specific project information, including the Final EIR and Appendices, can be found on the County's website: <http://www.sloplanning.org/eirs/Excelaron/excelaron.htm>

The Planning Commission held two hearings on the proposed project, where the Planning Commission considered oral and written documentation (public testimony, staff reports, letters, etc.). All written documents submitted for consideration at each of these hearings can be found at the following website: <http://www.slocounty.ca.gov/planning/meetings.htm> (click on the 'agenda' link for the following hearing dates: 2/23/12, 3/8/12).

Environmental Impact Report

A Final EIR was provided to your Board under separate cover. The EIR evaluated the following areas: Aesthetics, Agricultural Resources, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards/ Hazardous Materials, Noise, Population/ Housing, Public Services/ Utilities, Transportation/ Circulation, Wastewater, Water, Land Use and other sections as required by CEQA. The Five Class I impacts (significant and unavoidable) are as follows:

Aesthetics – AE.1 - The graded areas and equipment on Pad 2 would adversely affect the hillside scenic vista from Huasna Townsite Road.

Air Quality – AQ.3- Potential operations and drilling activities would create odor events during unplanned releases or upset conditions.

Biological Resources – BIO-7 - A rupture or leak from oil wells, storage tanks, pipelines, or other oil field related infrastructure during operation of Pads 1 and 2 and the Shipping Site, or spillage during transportation of oil and other materials to and from the site, has the potential to impact jurisdictional stream and drainage features and associated aquatic species.

Land Use – LU.1 - Noise generated from drilling, maintenance and facility operations are incompatible with the nearby residences.

Noise – N.2 - Drilling would increase noise levels in the area.

The EIR initially considered six alternatives (subsets of these are in parentheses) as follows:

1. No Project Alternative;
2. Alternative Development Sites (two Pad #2 alternative sites; elimination of Pad #2);
3. Alternative Truck Transportation Routes (Huasna Road, different route through Porter Ranch);
4. Pipeline Transportation of Oil;
5. Alternative Sources of Energy (Full electrification of power source, partial electrification, partial with some solar panels); and
6. Use of Steam for Enhanced Oil Recovery.

Of these, as they were further screened for feasibility and potential impact reductions, the following were carried forward for full alternative analysis:

- A. The No Project Alternative (required);
- B. Alternative Development Sites - Elimination of Pad 2; and
- C. Alternative Sources of Energy - Partial Electrification.

Of these, **the 'No Project' alternative was determined the environmentally superior alternative** with the 'Elimination of Pad 2' alternative considered the next best alternative.

The EIR also discussed the possibility of breaking up the permitting process where two discretionary permits would be obtained – one for the testing and exploration and one for production. This approach is consistent with the approach expected for similar projects within the Framework for Planning Energy or Extractive Area (EX) combining designation overlay, where General Objective #7 states 'Exploratory gas and oil wells should be subject to review procedures separate from those for development/production operations'. However, it should be noted that the project is not within the EX designation.

OTHER AGENCY INVOLVEMENT/IMPACT

Agencies that were consulted regarding technical issues include:

California Department of Conservation, DOGGR;
California Department of Fish and Game;
California Department of Transportation, District 5;
California Highway Patrol;
County of San Luis Obispo, Air Pollution Control District;
County Agricultural Commissioner's Office;
County of San Luis Obispo Department of Planning and Building, Building Division;
County of San Luis Obispo Department of Public Health (Environmental Health);
County of San Luis Obispo Sheriff's Department;
Regional Water Quality Control Board;
CAL FIRE - San Luis Obispo County Fire Department;
United States Fish and Wildlife Service.

Agencies that commented on the Draft EIR include:

CalFire – San Luis Obispo County Fire Department;
Caltrans District 5;
San Luis Obispo County Department of Public Works;
County of San Luis Obispo, Air Pollution Control District;
California Department of Fish and Game;
California Department of Conservation, DOGGR;
State Clearinghouse;
Office of Environmental Health Hazard Assessment;
SLO Co. Health Commission;
South Co. Advisory Council;
U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office;
Regional Water Quality Control Board;
City of Arroyo Grande.

A majority of agency comments served simply to clarify technical issues relating to their areas of jurisdiction over the project. Other agencies focused on critiques of or disagreements with some of the analysis presented in the EIR, and still others made constructive suggestions for improving the efficacy of mitigation measures.

County Counsel has reviewed the Resolution (Exhibit 3) as to form and legal effect.

FINANCIAL CONSIDERATIONS

The appellant has paid the appeal fee of \$850 to partially offset staff time required to prepare this staff report. The balance of funding comes from the Department's general fund support.

RESULTS

Denial of the Appeal and upholding the Planning Commission's decision to deny the project would result in no testing for or establishment of oil wells in the Huasna area.

ATTACHMENTS

- Exhibit 1 - Appeal letter
- Exhibit 2 - Planning Commission Staff Report (Clerk Filed)
- Exhibit 3 – Resolution
 - Exhibit 3a – Findings (Exhibit A)
- Exhibit 4 - Planning Commission Minutes
- Exhibit 5 - Planning Commission Correspondence (Clerk Filed)
- Exhibit 6 - Final Environmental Impact Report (Clerk Filed)