

**SANTA BARBARA COUNTY  
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors  
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Santa Barbara, CA 93101  
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**Agenda Number:**  
**Prepared on:** August 22, 2002  
**Department:** Planning and Development  
**Department No.:** 053  
**Agenda Date:** September 10, 2002  
**Placement:** Departmental  
**Estimate Time:** 2 hours  
**Continued Item:** NO  
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**TO:** Board of Supervisors

**FROM:** Steve Chase, Deputy Director  
Planning and Development, Energy Division

**STAFF CONTACT:** Alice McCurdy, Energy Specialist (568-2542)  
Joddi Leipner, Planner III (568-2514)

**SUBJECT:** Appeal of the Tranquillon Ridge Oil and Gas Development Project  
Planning and Development Case Number 94-DP-027 RV02

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**Recommendation(s):**

That the Board of Supervisors consider the appeal of Jennifer Foster, agent for the Applicant Nuevo Energy Company and deny the Tranquillon Ridge Oil and Gas Development Project. Your Board's motion should include the following:

1. Adopt the required findings for the project specified in Attachment A of this staff report;
2. Deny the appeal; and
3. Deny the Tranquillon Ridge Oil and Gas Development application (94-DP-027 RV02).

**Alignment with Board Strategic Plan:**

The recommendations are primarily aligned with actions required by law or by routine business necessity.

**Executive Summary and Discussion:**

## **I. Background on the Point Pedernales Project**

The original Union Oil Company Point Pedernales Oil and Gas Development Project (Case No. 85-DP-71) was approved by the Santa Barbara County Board of Supervisors in April of 1986 and has been in operation since 1987. In 1995 the Point Pedernales project was divided into three separate projects: Torch (now Nuevo) Point Pedernales (94-FDP-027), Unocap Point Pedernales (94-FDP-028) (now Tosco Point Pedernales); and Unocal Point Pedernales (94-DP-029) (Battles Gas Processing Plant). The Tranquillon Ridge Project involves both the Torch and Tosco Point Pedernales projects.

The Point Pedernales project consists of the following major components (Figure 1):

- An oil and gas drilling and production platform, Platform Irene, located on outer continental shelf (OCS) Lease P-0441;
- An oil dehydration and gas processing facility located 3 miles north of the City of Lompoc, known as the Lompoc Oil and Gas Plant (hereafter LOGP);
- Three pipelines, in one corridor, connecting Platform Irene with the LOGP: a 20-inch wet oil line, an 8-inch gas line, and an 8-inch produced water return line for discharge at the platform. The pipelines reach landfall just north of the Santa Ynez River and cross Vandenberg Air Force Base, State of California land and Nuevo fee property;
- A power supply system consisting of an electrical substation located on Southern Pacific Railroad property at Surf, a subsea power cable from the substation to Platform Irene, and an upgraded transmission line from the Pacific Gas and Electric power line north of Lompoc to the substation; and
- A 12-inch sales gas pipeline from LOGP to Righetti Valve Box and a 6-inch sales gas pipeline from Righetti Valve Box to Southern California Gas Company (SCGC) gas transmission line #1010.

Currently, the Point Pedernales Project is permitted to operate under the following FDP production/processing capacities: 36,000 barrels per day (bpd) of dry oil; 15 million standard cubic feet per day (mmscfd) of natural gas with a maximum hydrogen sulfide (H<sub>2</sub>S) concentration level of 8,000 parts per million (ppm)<sup>1</sup>; 9.205 mmscfd of onshore gas reinjection (only during upset conditions); and a monthly average of 2.3 liquefied petroleum gas/natural gas liquids (LPG/NGL) truck trips per day. The subject oil volume is permitted to be produced from the Point Pedernales Field, leases OCS-P 0441, -P 0437, -P 0438 and -P 0440. The subject gas volume is permitted to be produced from the Point Pedernales Field leases OCS-P 0441, -P 0437, -P 0438, -P 0440, and from the Lompoc onshore fields.

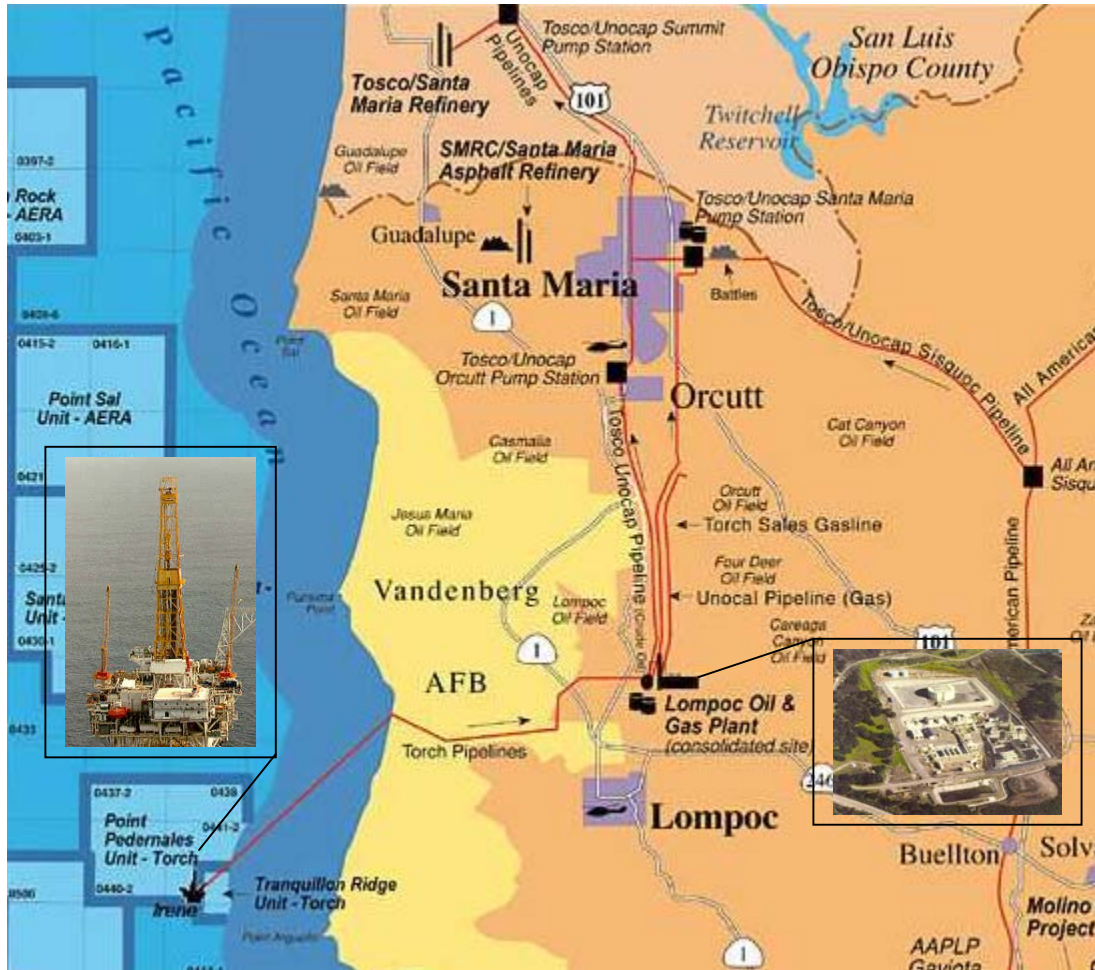
Historical production levels from the Point Pedernales Project peaked at close to 25,000 bpd of dry oil in 1987 and 1989 (Figure 2), and close to 9 million standard cubic feet per day (mmscfd) of gas production in 1995. As summarized below, production levels in 2000 averaged

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<sup>1</sup> The land use permit for the H<sub>2</sub>S increase from 4,000 to 8,000 ppm was approved on June 12, 2002.

approximately 7,300 bpd of dry oil, 54,000 bpd of water and a total of 3.4 mmscfd of gas production (2.9 mmscfd gas to sales). The peak monthly production in 2000 was approximately

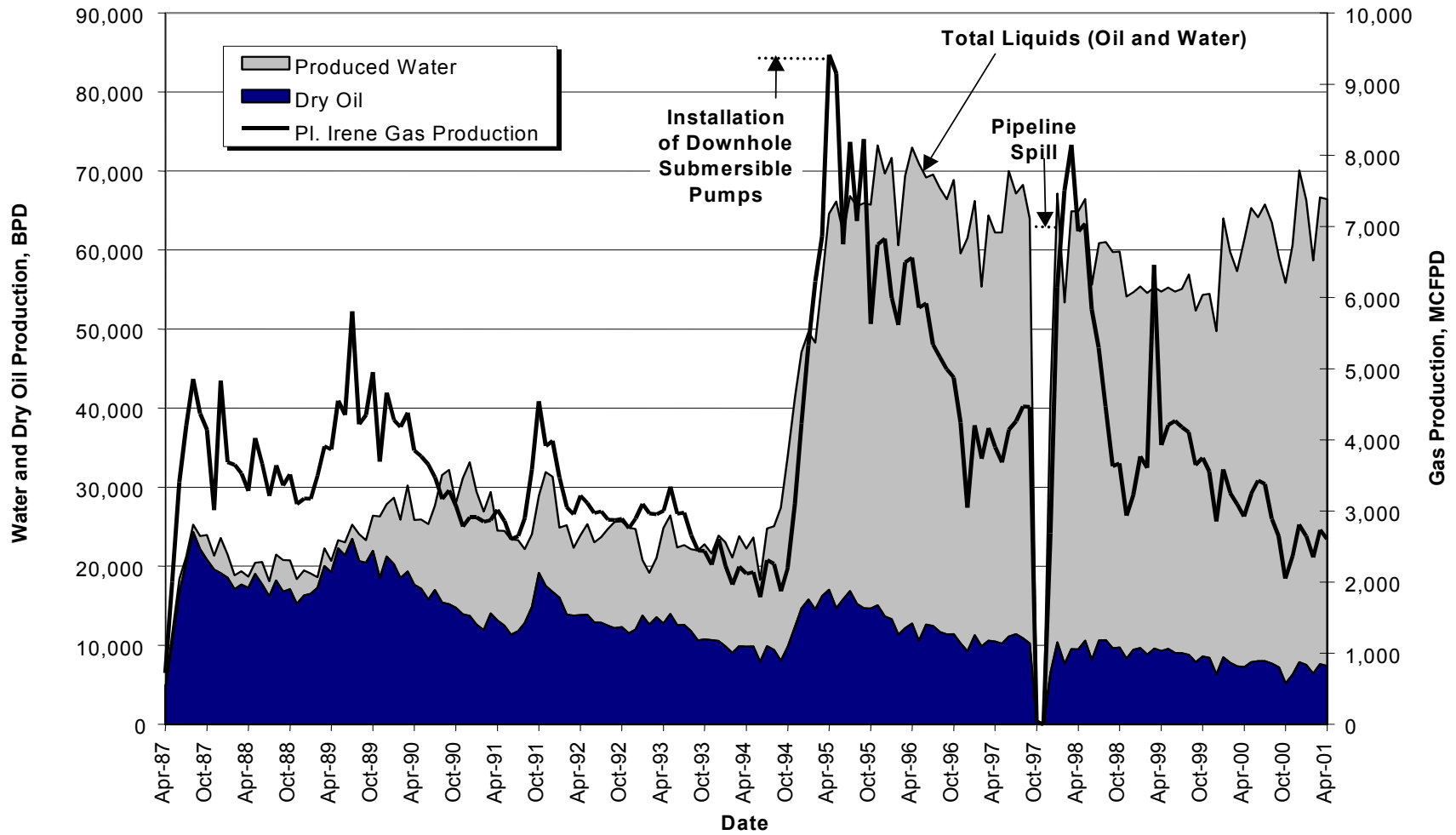
Figure 1 – Point Pedernales Facilities



8,500 bpd of dry oil and 3.6 mmscfd of gas. Production levels in 2001 averaged approximately 6,600 bpd of dry oil, 82,700 of water and a total of 2.6 mmscfd. The peak monthly production in 2001 was 7,574 bpd of oil and 2.95 mmscfd of gas production.

Year	Oil and Gas Production (bpd)	
	Average	Peak Monthly
2000	7,300 bpd	8,500 bpd
2001	6,600 bpd	7,600 bpd
2002 (up to July)	6,200 bpd	7,100 bpd

**Figure 2 Point Pedernales Total Produced Fluids (1987-2001)**

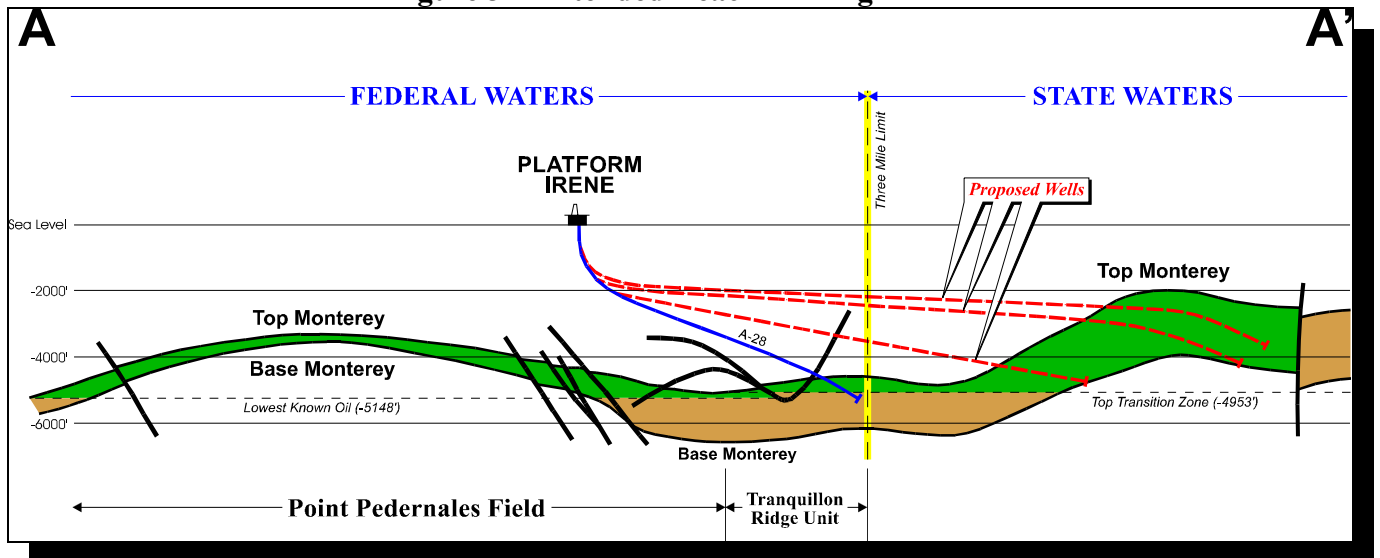


## II. Proposed Tranquillon Ridge Project

### A. Project Description

The proposed Tranquillon Ridge Project would involve the development of oil and gas wells in a proposed State Tidelands lease from Platform Irene using extended reach drilling (Figure 3). This platform is currently used to develop and produce the Point Pedernales Field, both of which are in Federal Waters. The produced oil and gas would be commingled with the Point Pedernales oil and gas and sent ashore via pipelines from Platform Irene to the LOGP. Based on the Applicant's data, the proposed project would have an expected total life of 30 years once the first well is drilled. The Applicant has estimated that the combined oil and gas production from the Tranquillon Ridge and the Point Pedernales Fields would peak at around 30,000 barrels per day of oil and 6 million cubic standard feet per day of gas. The project would not exceed the permitted production levels allowed under the current Torch Point Pedernales FDP. However, the proposed project would introduce oil and gas from a new source (State tidelands lease) which is not currently permitted under the FDP, nor was it evaluated in the 1985 Point Pedernales Field EIR/EIS. Therefore, a revision to the FDP is required for the development of the Tranquillon Ridge Field.

Figure 3 – Extended Reach Drilling



The development of the Tranquillon Ridge Field would result the following changes to the existing Point Pedernales Project:

- The drilling of 22 to 30 new wells for oil and gas production and utility use such as water injection and redrills.
- An increase in the total oil and gas throughput at the existing Point Pedernales facilities over what is occurring today (The project would increase dry oil production from an average of 7,300 bpd in 2000 to a peak level of 30,000 bpd with an estimated ultimate recovery of approximately 170 to 200 million barrels of dry oil and 40 to 50 billion standard cubic feet of gas).

- An increase in oil throughput in portions of the existing Tosco pipelines from the LOGP to the Tosco Santa Maria Refinery. The maximum throughput through the Tosco Pipeline with the Tranquillon Ridge Project is estimated to be approximately 30,000 bpd of dry oil. The average throughput of oil in 2000 from the LOGP was 7,300 bpd of dry oil. The Tosco Point Pedernales FDP allows 36,000 bpd of dry oil (with source restricted to the LOGP).
- A 10 to 25 year extension in the life of the Point Pedernales facilities from what was assumed in the 1985 Point Pedernales Field EIR/EIS.

Table 1 summarizes the changes that the Tranquillon Ridge Project would have on existing Point Pedernales facility operations as compared to the operating levels at the time of issuance of the NOP and various permitted levels.

**Table 1 Summary of Point Pedernales Facility Changes due to Tranquillon Ridge Project**

Project Component	Permitted Operating Level	Operating Level at Time of Issuance of NOP	Proposed Operating Level for Tranquillon Ridge	Net Increase (Current to Proposed)
Point Pedernales Field Life	20-25 years <sup>a</sup>	NA	30 years	20-25 years <sup>b</sup>
LOGP Project Life	30-35 years <sup>c</sup>	NA	30 years	10-25 years <sup>b</sup>
Dry Oil (bpd)	36,000 <sup>d</sup>	7,300 <sup>e</sup>	30,000	22,700
Gas (mmscfd)	15 <sup>f</sup>	3.4 <sup>e</sup>	6	2.6
H <sub>2</sub> S Concentration of Gas (ppm)	4,000 <sup>g</sup>	Varies	8,000 <sup>g</sup>	4,000
Gas Injected (mmscfd)	9.205	Varies	Would vary	None
LPG/NGL Truck Trips (per week)	16.1	2.9	5	2.1

a. This was the projected life assumed in the 1985 Point Pedernales EIR/EIS. Operation of the facilities began in 1987.

b. The proposed Tranquillon Ridge Project is projected to have a life expectancy of 30 years. Assuming the proposed Tranquillon Ridge Project begins operations in 2002, the Point Pedernales facilities life expectancy would increase to 45 years.

c. The 1985 Point Pedernales EIR/EIS projected a life expectancy of 30 to 35 years for the HS&P. In 1993 an SEIR was prepared which covered the addition of a gas plant at the HS&P. The gas plant was assumed to have a life expectancy of 10-25 years.

d. This is the limit specified in the County FDP. The SBCAPCD PTO has a limit of 25,000 bpd for Platform Irene and 36,000 bpd for the LOGP. The CCC consistency determination staff report states a level of 20,000 bpd for Platform Irene.

e. Average production for the year 2000.

f. This is the limit specified in the County FDP. The SBCAPCD PTO has a limit of 12 mmscfd.

g. The Applicant has received discretionary approval from Santa Barbara County to increase the H<sub>2</sub>S content of the gas to 8,000 ppm.

h. Gas injection only occurs during upset conditions when the gas plant is down.

## B. Estimated Project Revenues

During the first 20 years of the proposed project, Santa Barbara County would receive 20 percent of the royalties paid to the State of California for oil, dry gas, gasoline, and liquefied petroleum gas extracted from the portion of the Tranquillon Ridge field situated in state waters. This proportion of royalties stems from legislation adopted in 1996 (SB 1187, Maddy), which amended the California Public Resources Code (PRC), Section 6817. Using rough preliminary estimates, the project would yield approximately 50 million dollars in royalty revenues and 7 million dollars in property tax assessments over the life of the project.

### **C. Planning Commission Hearing**

The Planning Commission considered the Tranquillon Ridge Project at a special hearing on June 20, 2002. Staff's recommendation was to deny the project (see Attachment D). At the hearing all motions on the project (including motions for continuance, approval, and denial) failed due to 2/2 split decisions. The motions' failures to pass are deemed a denial of the project pursuant to the Planning Commission Procedures Manual (Section V., Procedural Standards, Item A.12, page 11). The Planning Commission Action Letter is included as Attachment E.

### **D. State Lands Commission Drainage Study**

The Tranquillon Ridge Field is located in state waters and production from the Field would require the issuance of a new state lease. Pursuant to Public Resources Code Section 6244, the state cannot issue a new lease unless it can find that drainage is occurring across the federal/state boundary. In late June 2002, shortly after the Planning Commission hearing on the Tranquillon Ridge project, the California State Lands Commission released the Tranquillon Ridge Drainage Study (Alan Spivak Engineering, November 2001). The results of the study indicate that some minor drainage is occurring between the State and Federal portion of the Tranquillon Ridge Unit. According to the testimony provided by State Lands Commission staff at the Planning Commission hearing on June 20, the Drainage Study provides sufficient evidence of drainage to allow the State Land Commission to consider Nuevo's request for a new state lease. With evidence of the drainage it is within the State Lands Commission's discretion to approve a new lease. As a responsible agency, the State Lands Commission has not yet acted on Nuevo's request.

## **III Litigation**

### **A. 1997 Oil Spill Litigation and Court Injunction**

During Torch's tenure as operator of the Point Pedernales facilities and under Nuevo's ownership, the 20-inch wet oil pipeline ruptured approximately 2.5 miles from shore spilling between 163 and > 1,242 barrels of oil. Although there was a low pressure alarm and automatic shutdown of the platform, Torch operators failed to rule out a leak or rupture as the source of the low pressure condition and overrode the pipeline system's leak detection system, significantly increasing the spill volume<sup>2</sup>. The Energy Division found that the operator's actions were in direct violation of the Final Development Plan conditions, specifically condition P-2 (Safety Inspection, Maintenance and Quality Assurance Program (SIMQAP), P-13 (Oil Spill Contingency Plan) and P-16, which requires the installation and use of a supervisory control and data acquisition (SCADA) system for components of the project.

Based on a joint investigation by the District Attorney's office and the Energy Division, a civil case was filed by the District Attorney and the County regarding the acts which violated key safety conditions of the Torch's County permit. In the litigation, Torch contended that federal law, specifically the Outer Continental Shelf Lands Act and the Pipeline Safety Act, preempted County's permit conditions. After cross motions for summary adjudication were filed on the issues of preemption, the County and the District Attorney prevailed. The superior court ruled that the

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<sup>2</sup> In terms of cleaning up the spill once it had occurred, several agencies gave Torch high marks for its response efforts.

issuance of County's permit had become final, and that Torch and Nuevo, as the successors in interest to Unocal, had waived their rights to challenge the permit because the project had been constructed and the benefits of the permit had been accepted. The civil penalty phase of the case was settled on May 24, 2001 for \$1,000,000; however, Nuevo negotiated the right to appeal the legal issues regarding preemption of County's permit conditions. Notwithstanding the settlement, Nuevo has maintained that its operator acted appropriately under federal regulations at the time of the spill<sup>3</sup>. In addition to the cash settlement, the companies stipulated to an injunction that enjoined them from failing to adequately train project operators to not restart delivery of crude oil the wet oil pipeline after an unintended shut down before verifying that the cause of the such shutdown is other than a leak or pipeline rupture. The injunction has a two-year duration. To satisfy the requirements of the injunction, Nuevo has issued a management directive, conducted trainings, and updated its pipeline operating manual to address appropriate steps to take in the event of a low pressure shutdown.

As discussed below, Nuevo is currently appealing the injunctive portion of the 1997 spill settlement agreement, as well as whether County's permit conditions that relate to the operation of the platform and the oil pipeline are preempted by federal law.

#### **B. Appeal of the Court Injunction**

On February 14, 2002 Nuevo filed an appeal seeking reversal of the injunctive portion of the final settlement of the 1997 oil spill litigation. Nuevo contends that under the Federal Pipeline Safety Act and the Outer Continental Shelf Lands Act, the County is preempted from enforcing permit conditions imposed via a "land use" permit (i.e., Development Plan) for the Point Pedernales pipelines, and for any activities at Platform Irene. Such requirements include the County's requirements for safety-related compliance plans such as the Safety, Inspection, Maintenance and Quality Assurance Program (SIMQAP) as it applies to the Platform and pipelines.

Nuevo's appeal is currently pending before the Court of Appeal. Oral argument was heard on August 14, 2002, and a decision is expected sometime later this year. Additional appellate review is possible to the California Supreme Court and the United State Supreme Court.

#### **C. CEQA Lead Agency and Baseline Litigation**

The State Lands Commission, Coastal Commission and County entered into a joint review panel ("JRP") agreement for managing the preparation of the environmental impact report for the Tranquillon Ridge application. Although not formal signatories to the agreement, the Minerals Management Service and Santa Barbara County Air Pollution Control District were participating agencies in the review process. Pursuant to the JRP agreement, the signatory agencies agreed that the County would be the lead agency for purposes of CEQA. Early in the CEQA process, the County as lead agency made a CEQA "baseline determination" for the project. Nuevo then brought a lawsuit<sup>4</sup> against the County and State Lands Commission challenging the County's CEQA baseline determination and lead agency status. Pursuant to County Counsel guidance (see Attachment C [01-EIR-04], Appendix J), the County identified the year 2000 oil and gas production level as the CEQA baseline. In addition, Condition A-12 explicitly limits production

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<sup>3</sup> Nuevo Press Release dated May 24, 2001.

<sup>4</sup> Lawsuit filed in Superior Court on December 1, 2000.



to the federal leases in the Point Pedernales field and thus the Point Pedernales permitted levels are not applicable to a new and as yet unapproved state lease. The permitted levels identified in the existing Point Pedernales Final Development Plan were not appropriate since they were never achieved with the Point Pedernales Project.

On December 19, 2000 the Santa Barbara County Superior Court denied Nuevo's petition, ruling that these issues were not "ripe" for judicial review. Nuevo appealed the decision, and on November 11, 2001 the Appeal Court upheld the Superior Court's decision that both the lead agency designation and CEQA baseline determination were not ripe. Further, the Court of Appeal rejected Nuevo's argument that the decision in Fairview Neighbors v. County of Ventura (1999) 70 Cal.App.4<sup>th</sup> 238, was dispositive with respect to the Tranquillon Ridge baseline question. In its unpublished opinion the Appeal Court stated the following:

*"Appellants argue that Fairview Neighbors v. County of Ventura[citation omitted] is dispositive in this case. We disagree. Fairview Neighbors concerned County approval of a conditional use permit to expand a certain mining operation after a final EIR had been completed and certified. The final EIR in Fairview Neighbors utilized production figures previously permitted and actually reached pursuant to an interim compliance agreement for continued operation of the mine. Here by contrast, a new project has been proposed for a new site for which there is not even a draft EIR. The projected production figures have never been pumped from Pt. Pedernales and there is no agreement to produce any oil and gas at the proposed new site. The new site involves a separate jurisdiction, the state, from which a new lease must be obtained. And this project involves a variety of new and larger equipment, both offshore and onshore."*

#### **IV. Appeal Issues and Responses**

##### **A. Appeal Summary**

The applicants are appealing the Planning Commission's default denial of the Tranquillon Ridge Project (94-DP-027 RV02) (see Attachment B). In summary, the appeal is based on the fact that due to the 2/2 split decision the Planning Commission failed to approve the project, and failed to adopt any CEQA, Comprehensive Plan, or Zoning Ordinance consistency findings. In addition, it is the applicant's assertion that the grounds for denial were not analyzed nor within the Environmental Impact Report. Nuevo contends that the denial was based upon exercise of its constitutional rights in an unrelated legal action. In its appeal, Nuevo has stated no other grounds for review.

In an appeal of a related project, the LOGP Produced Water Treatment Upgrade and Expansion Project, one of the reasons listed for the appeal is the use of an improper CEQA baseline in the 01-EIR-04. Nuevo contends that the proper baseline for Tranquillon Ridge is the permitted levels associated with the existing Point Pedernales Final Development Plan (94-DP-027), and not the production levels experienced at the time the EIR Notice of Preparation was released.

##### **B. Discussion**

### ***B.1 Denial Recommendation***

Nuevo contends the grounds for the denial were not analyzed in the EIR. In fact, section 15270 of the CEQA guidelines states that CEQA review is not required for projects that are denied. However, the grounds for staff's recommendation for denial are clearly stated in the June 20, 2002 staff report and are based on the significant environmental effects of the project, the inconsistencies with the County's Local Coastal Plan and Comprehensive Plan, and the inability to make the findings required for approval of a revision to the Development Plan. The evidence supporting the County's findings was included in the FEIR and in the Planning Commission staff report and is summarized below.

The Tranquillon Ridge Project would extend the life of the existing Point Pedernales facilities by 10 to 25 or more years. It would therefore also extend the duration over which the original environmental impacts, including a number of significant unmitigable impacts, would occur. The most significant (Class I) environmental impacts posed by the Tranquillon Ridge Project are associated with the potential for an oil spill, the physical presence of the LOGP and Platform Irene, and the continued transportation of natural gas liquids (NGLs) and liquid petroleum gases (LPGs). These impacts include: terrestrial and marine biological, water quality, commercial fishing and recreational impacts from potential leaks or ruptures of the crude oil pipeline; potential public safety impacts due to the transportation of NGLs and LPGs, and the significant visual impacts of the platform and the LOGP. All these impacts exist for the current Point Pedernales project. However, the severity and duration of the impacts would increase as oil and gas production levels, which have been on the decline, would significantly increase over current levels and would occur over a longer timeframe.

The EIR for the project was prepared assuming all existing permit conditions would be fully implemented and enforceable by the County. It was also assumed that all applicable mitigation measures would continue to be implemented. Even with these assumptions, the EIR identified 13 significant and unavoidable impacts related to the increase in production over current levels and the extension of the Point Pedernales project life by up to 25 years. The EIR identified the no project alternative as the environmentally preferred alternative. Because the no project alternative was considered environmentally preferred, a second environmentally preferred alternative was identified as required by CEQA. The second environmentally superior alternative was identified as the proposed project **with mitigation**.

The "unrelated" legal action referenced in Nuevo's Tranquillon Ridge appeal is Nuevo's appeal of the court injunction related to the 1997 spill settlement agreement. Through the appeal of the injunction Nuevo is challenging the County's authority to enforce basic platform and pipeline safety-related conditions included in section "P" of the existing Point Pedernales permit. Staff's analysis indicates that this legal action is directly related to the County's consideration of potential environmental impacts due to the Tranquillon Ridge project. These conditions require pipeline inspections and repairs (as specified by the Safety Implementation, Maintenance and Quality Assurance Program [SIMQAP]), the County's System, Safety, Reliability, and Review Committee (SSRRC) review of pipeline operations (including review of the pipeline operating manual and modifications), and implementation and updates to the Oil Spill Contingency Plan

which mitigate safety and risk of upset related impacts of the project. Nuevo explicitly accepted the permit and associated conditions when it acquired a partial interest in the Point Pedernales project in 1994 and a controlling interest in 1996.

To emphasize the importance of the County's permit conditions and oversight, Table 7 of the June 20, 2002 Planning Commission staff report (Attachment D) provides a comparison between the County's permit requirements and the requirements of other agencies that have jurisdiction over the Point Pedernales project. The table also describes the effects that the County's requirements have had on reducing environmental impacts and potential safety issues. As discussed in June 20, 2002 Planning Commission staff report, the mitigation measures required by the County have frequently been considered and not required by the other agencies that regulate the Point Pedernales project. Without implementation of the County imposed mitigation measures, and in absence of the County's enforcement, the impacts of the existing Point Pedernales Project and the Tranquillon Ridge would be greater than those projected in the original 1985 Point Pedernales EIR and the Tranquillon Ridge EIR (01-EIR-04).

The project's proposed use of the existing infrastructure also raises concern over the structural integrity of the Point Pedernales pipelines over an extended operational life of the facilities. The crude oil pipeline has had a history of internal corrosion problems, both onshore and offshore. The pipeline has also experienced problems associated with manufacturing defects in the flanges and unsupported pipeline spans offshore. Recent inspections have also raised concerns regarding internal corrosion of the produced water pipeline. Ongoing corrosion of the crude oil pipeline has been reduced through an aggressive corrosion control program, inspections to detect and respond to corrosion problems, and derating of the pipeline maximum allowable operating pressure to address reduced pipeline wall thickness. With these items in place, for the past five years the corrosion rates have been slowed. The pipeline, which has been derated on 3 prior occasions, has not been derated since 1997. The structural integrity issues associated with the offshore portion of the pipeline (defective flanges and corrosion) are being addressed through inspection and repair programs. These inspections have resulted in the replacement of all but one of the original pipeline flanges<sup>5</sup>. These annual inspections have been required under the County's permit conditions. The county's ability to continue to enforce these conditions is challenged in Nuevo's pending appeal.

Also of concern is the Point Pedernales Project's compliance history. Torch/Nuevo's historic compliance record on the Point Pedernales project has not been exemplary. As previously described, Torch's actions following the rupture of the 20-inch wet oil pipeline approximately 2.5 miles from shore exacerbated the effects of the rupture itself. The spill was worsened when the Platform Irene operator failed to rule out a leak or rupture as the source of the low pressure condition, overrode the pipeline system's leak detection system, restarted the shipping pumps,

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<sup>5</sup> In fall 2001, after County required inspections detected additional cracks in the pipeline flanges, Nuevo undertook a program to remove and replace all of the flanges that were a part of the pipeline construction except for one flange. Several flanges had been previously removed in 1997 and 1999. Although this flange did not show any evidence of defects, it shared many of the same manufacturing problems as the defective flanges. The County recommended removal and replacement of this remaining flange but Nuevo declined. In absence of the flange removal, the County now requires semiannual testing of the remaining flange.

and pumped oil into the ruptured pipeline. The County determined that these acts violated key safety provisions of Torch/Nuevo's County permit. This act of non-compliance was the subject of a settlement agreement between Torch/Nuevo and County in May 2001. This act was also subject to a joint federal and state enforcement action by the U.S. Justice, California Department, Department of Fish and Game, and State Lands Commission, which led to a consent decree in May 2002 that required a cash settlement of \$2,397,000 for the Natural Resource Damage Assessment and Restoration fund, \$299,000 for state penalties, and \$304,000 for federal penalties and an injunction that requires safety training and procedures for project operators.

In order to settle outstanding compliance issues, Nuevo entered into an agreement with the Director of Planning and Development to establish a schedule to achieve full compliance for all outstanding compliance issues related to the permit. Key compliance issues addressed in the enforceable schedule include overdue revegetation efforts on Vandenberg Air Force Base, and County approval of an oil spill contingency plan, and abandonment requirements for the Battles gas pipeline. Separately, the Energy Division is working County Counsel, the District Attorney, and Nuevo regarding historic violations of Nuevo's Transportation Risk Reduction and Management Plan (Condition P-23 of the Final Development Plan).

In summary, as supported by evidence in the record, staff is unable to make the findings for approval of the Tranquillon Ridge project due to the following issues:

- The significant unavoidable impacts associated with the proposed project;
- The potential 25 year extension of life of the Point Pedernales facilities and associated extension of the duration of numerous significant unmitigable impacts of the existing project;
- The potential for impacts to be greater than originally disclosed in the 1985 Point Pedernales EIR and Tranquillon Ridge EIR due to Nuevo's pending appeal of the injunctive portion of the 1997 spill settlement, which seeks to invalidate existing permit requirements ;
- The inability to find that the project impacts would be mitigated to the maximum extent feasible due to Nuevo's pending appeal; and
- The historic integrity and compliance issues associated with the existing Point Pedernales project facilities.

Based on the information contained in the June 20, 2002 Planning Commission staff report (as amended by the June 20 Errata sheet) and the information contained in this appeal staff report, staff recommends that the Board of Supervisors deny Nuevo's appeal and deny the Tranquillon Ridge Project.

### ***B.2 Baseline Determination***

According to CEQA Guidelines Section 15125, the baseline should normally be the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published. Where a proposed project will modify an existing project, it is important that the baseline also consider historic operations of the existing project based upon "normal fluctuations" as determined by need, capacity and other relevant factors. In its written and oral testimony, and in its litigation, Nuevo argued that the baseline for the Tranquillon Ridge

project should be the permitted levels (35,000 bpd of dry oil and 15 mmscfd of gas) included in Final Development Plan for the Point Pedernales Project.

The basis for the County's baseline decision is that Nuevo's application for the Tranquillon Ridge project represents a new "project" separate and distinct from the Point Pedernales Project. This is true even though the existing project and proposed project would share existing facilities for production and processing of oil and gas. In particular, Nuevo seeks authorizations necessary to develop a new State oil and gas lease and would produce and process oil and gas reserves from an entirely new site that was not studied in the original EIR/EIS for the Point Pedernales project. The County's baseline determination is further described and discussed in the memorandum dated November 16, 2000 issued by County Counsel (see Appendix J of 01-EIR-04 [Attachment C of this Board Letter]). The Final Development Plan for the Point Pedernales project specifies maximum permitted operating levels. In addition, pursuant to condition A-12 of the Final Development Plan, production was specifically limited to the federal portions of the Point Pedernales field. A number of the Point Pedernales facilities are not or could not be expected to feasibly operate at the maximum levels allowed by the permits. Since permitted operating levels differ from actual operating levels, pursuant to County Counsel opinion, the County used the year 2000 average production and operational levels of the Point Pedernales project as the baseline for comparing and estimating impacts of the proposed Tranquillon Ridge Project. These levels represent average production and operational levels experienced at the time that the notice of preparation on the EIR was issued. Using a yearly average allowed for an accommodation of daily and monthly fluctuations that occur in production levels.

In its written and oral testimony provided for the Planning Commission's consideration on this project, Nuevo pointed to a production level of 12,000 bpd on a single day in January 2002 as evidence supporting its contention that the EIR baseline is faulty. This peak in production occurred after Platform Irene had been shut down for nearly 4 months due to pipeline repairs, and was likely due to a build up in reservoir pressure. This production level was not sustained in the following days or months. In fact, since 2000, production levels have continued to decrease. Average annual dry oil production levels in 2001 were 6,600 bpd, and average production levels for 2002 (as of August 2002) were 6,200 bpd. Production of the Point Pedernales unit, like other oil and gas development projects, has followed a predictable curve where it peaked in the first 10 years of production and then declined over time. The Point Pedernales project reached peak production levels in 1987 and 1989 and has been declining since that time.

In summary, the EIR baseline was used for the following reasons.

- Oil and gas reserves in this field and associated production are diminishing as fully expected when the project was first permitted in the 1980's (Figure 2) ;
- The 1985 Point Pedernales EIR/EIS did not analyze the environmental impacts of processing future projects at the LOGP to a permit level of detail;

- Permitted production levels were never achieved with the Point Pedernales project and are not applicable to a new, and as yet unapproved state lease; and
- The Point Pedernales Final Development Plan conditions (condition A-12) explicitly limit throughput at the LOGP to oil and gas from the federal Point Pedernales Unit only.

In its written comments on the Draft EIR<sup>6</sup>, Nuevo compared the Tranquillon Ridge project to Exxon's Sacate project and questioned why the Sacate project was approved without any additional environmental review<sup>7</sup>. Nuevo contended that the two projects were roughly equivalent, and that the imposition of rigorous environmental review for the Tranquillon Ridge Project was therefore arbitrary and unfair.

In fact, the Sacate project is not comparable to the Tranquillon Ridge Project. Production from the Sacate field was evaluated to a project level of detail as a part of the original EIR (83-EIR-22) and the supplemental EIR for Exxon's Santa Ynez Unit Expansion project (87-DP-032). Platform Heather and associated pipelines were identified and analyzed as the facilities that would produce the Sacate Field, and production from the field was assumed in the development plan permit for Las Flores Canyon. Exxon's permits with the MMS and County, as well as the original EIR, evaluated and allowed development of the Sacate Field via Platform Heather.

In 1998, Exxon requested approval from the County and MMS to develop the Sacate Field from Platform Heritage via extended reach wells, eliminating the need to construct Platform Heather. Because production of the Sacate Field from Platform Heather was already analyzed as part of the prior EIRs and was included in the existing permits, the County determined that the development from Platform Heritage and the elimination of Platform Heather was in substantial conformance with the existing permit (87-DP-32).

In contrast, development of the Tranquillon Ridge Field would require a new state lease. In addition, the Point Pedernales EIS/EIR specifically states that it did not analyze the impacts from production from other fields on a project level, and that future facilities and production would require additional environmental review. Finally, condition A-12 of the Final Development Plan permit for the Point Pedernales project specifically limited oil production by specifying that "the subject oil volume will be produced from the Point Pedernales Field, leases OCS-P 0441, -P 0437, 0438, and -P 0440" from the Point Pedernales field. Therefore, the County finds that based on evidence in the record, the baseline determination used in the Tranquillon Ridge Project EIR (01-EIR-04) is accurate and appropriate.

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<sup>6</sup> Nuevo in its DEIR comment letter dated March 22, 2002 also refers to Nuevo's pleadings filed in both the trial and appellate courts, *Nuevo Energy Co. v. State Lands Commission, Santa Barbara Superior Court Case No. 01037546*. However, any such comments must be made on the record before the Planning Commission and Board of Supervisors and cannot be made by reference to trial and appeal court documents that have not been submitted as part of the administrative record.

<sup>7</sup> In a letter dated October 20, 1998 from the Planning and Development Department, the Exxon Sacate project was determined to be in substantial conformity with Exxon's Final Development Permit (87-DP-32).

**Mandates and Service Levels:**

The appeal was filed pursuant to Section 35-182.3 of Article II and Section 25-327.3 of Article III of Chapter 35 of the County Code, which states that the decisions of the Planning Commission may be appealed to the Board Supervisors within 10 days after the Planning Commission's action.

**Fiscal and Facilities Impacts:**

A \$2000.00 filing fee is required and was submitted in support of the applicant's appeal of Planning Commission decision.

**Special Instructions:**

The Clerk of the Board shall complete legal noticing for the project in the following newspapers of general circulation in the County of Santa Barbara: Santa Barbara News Press, Lompoc Record, and Santa Maria Times. Noticing shall occur at least ten (10) days prior to the hearing. The Clerk of the Board shall prepare a typed final hearing notice for Planning and Development's distribution. Planning and Development shall provide publishing of a display notice of at least one-eighth page for the project in the following newspapers of general circulation in the County of Santa Barbara: Santa Barbara News Press, Lompoc Record, and Santa Maria Times. Noticing shall occur ten (10) days prior to the hearing.

The Clerk of the Board shall forward a copy of the Minute Order to Planning and Development Hearing Support, Attention: Cintia Mendoza.

Planning and Development will prepare all final action letters and otherwise notify all concerned parties of the Board of Supervisor's final action.

**Concurrence:**

N/A

Attachments

A. Findings

*The following Attachments are only included in the Board of Supervisor's Distribution*

- B. Applicant's July 1, 2002 Appeal Letter
- C. 01-EIR-04 and June 20, 2002 EIR Errata Sheet
- D. Planning Commission staff report dated June 20, 2002, Staff Report Errata Sheet, and Revised Findings
- E. Planning Commission action letter dated July 5, 2002
- F. Public Comment Letters received during the June 20, 2002 PC Hearing

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## **Attachment A Findings**

### **1.0 CEQA FINDINGS**

Pursuant to Section 15270 of the Guidelines for Implementation of the California Environmental Quality Act, CEQA does not apply to projects which a public agency disapproves.

### **2.0 DEVELOPMENT PLAN FINDINGS**

#### **2.1 Article II – Coastal Zoning Ordinance**

Pursuant to Article II Section 35-174.7, a Preliminary or Final Development Plan shall be approved only if all of the required findings can be made. The following findings cannot be made for the proposed project:

##### ***2.1.1 That adverse impacts are mitigated to the maximum extent feasible.***

While the Board has not certified the EIR because the project is not being approved and CEQA does not apply, the Board has reviewed and considered the evidence of the EIR and relies on such evidence as the basis for the decision to deny to project. The Final Environmental Impact Report on the Tranquillon Ridge Oil and Gas Development Project 01-EIR-04 identifies 13 environmental impacts which cannot be fully mitigated and are therefore considered significant and unavoidable. The impact areas include: visual impacts of Platform Irene, Surf Substation and the Lompoc Oil and Gas Plant; health and safety and risk of upset related impacts due to the transportation of natural gas liquids (NGL) and liquid petroleum gas (LPG); impacts to terrestrial and freshwater biological resources (including sensitive species) due to the potential for oil pipeline leak or rupture and associated clean up efforts; degradation of marine and onshore water quality due to a oil pipeline leak or rupture; impacts to marine biological resources due to a oil pipeline leak or rupture; impacts to commercial fishing due to a rupture or leak of the oil pipeline; disruption of marine traffic due to a rupture or leak of the oil pipeline; potential impacts to cultural resources due to a pipeline leak or rupture and associated clean up effort; and disruption of recreational uses due to a rupture or leak of the oil pipeline. The EIR identifies a number of mitigation measures that would further reduce but not eliminate the significant risk of upset/safety related environmental impacts of the project.

The finding that certain impacts are mitigated to the maximum extent feasible cannot be made for the Tranquillon Ridge Project. In particular, the risks associated with the increase of production and extension of life of the processing plant and oil and gas pipelines are unacceptable for the proposed location and surrounding environment. Mitigation measures are identified in the EIR and required in the Point Pedernales permit to reduce the aforementioned impacts. However, a finding that the project's impacts have been mitigated to the maximum extent feasible cannot be made because the applicant currently contests the enforceability of basic mitigation conditions in section "P" of the existing Point Pedernales Final Development Plan. Due to the uncertainty regarding the County's ability to enforce key safety-related

mitigation measures of the existing permit, and to enforce and implement additional measures identified in 01-EIR-04, the impacts of the Point Pedernales project and the Tranquillon Ridge project would be greater than estimated in the original Point Pedernales EIR and 01-EIR-04.

The proposed Tranquillon Ridge Project would primarily use the infrastructure developed as a part of the Point Pedernales project. The existing Point Pedernales Project contains 181 conditions of approval. As a part of the applicant's explicit written acceptance of the permit for the Point Pedernales project and the benefits afforded therefrom, the applicant accepted numerous mitigation measures relating to safety aspects of Platform Irene and the associated pipelines measures (adopted as County permit "P" conditions). The County has enforced these conditions since approval of the project in 1986. The "P" (System Safety and Reliability) conditions of the applicant's existing Point Pedernales permit would continue to be needed to address the increased production levels and extension of the life to the Point Pedernales facilities associated with the Tranquillon Ridge Project. These measures include use of a Supervisory Control and Data Acquisition System (SCADA), implementation of a Safety, Inspection, Maintenance and Quality Assurance Program (SIMQAP), review of project operations and modifications by the County's System Safety Review and Reliability Committee (SSRRC) including approval of the pipeline operating manual, Emergency Response Plan and implementation, and preparation of an Oil Spill Contingency Plan for the on- and offshore crude oil pipelines.

While these measures have all been required as conditions of the existing Point Pedernales projects and would be applicable to the Tranquillon Ridge Project, their enforceability and therefore their feasibility are in question due to the current litigation regarding the County's jurisdiction over pipeline and platform operations. The County's conditions and inspections required pursuant to these conditions have been critical to ensuring safe operation of the pipeline. In making its original statement of overriding consideration for the significant environmental effects of the Point Pedernales project, the County specifically assumed "that the approved and recommended project conditions will be incorporated into project design and fully implemented"<sup>8</sup>. Furthermore, the mitigation measures required by the County have frequently been considered and not required by the other agencies that regulate the Point Pedernales project.

Nuevo contends that the County is preempted by federal law from enforcing County conditions of approval addressing pipeline operations. Without the continued implementation of the existing Point Pedernales safety-related ("P") conditions and the additional mitigation measures identified in the Tranquillon Ridge EIR (01-EIR-04), the impacts of the Point Pedernales project and the Tranquillon Ridge project would be greater than projected in the original Point Pedernales EIR (84-EIR-07) and 01-EIR-04. Therefore, the finding that adverse impacts are mitigated to the maximum extent feasible cannot be made. In declining to make this finding, the Board of Supervisors takes official notice of Nuevo's position in the litigation (*People and County v. Torch*) that several County's permit conditions and mitigation measures are preempted and unenforceable.

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<sup>8</sup> Union Oil Point Pedernales Project Final Development Plan Staff Report (April 17, 1986), page 73.

***2.1.2 That the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding area.***

The project poses a significant risk to public safety due to the continued and increased transportation of NGL/LPG from the LOGP. The risk to public health and safety is reduced but not eliminated by the implementation of a Transportation Risk Reduction and Management Plan. Based on the analysis in the EIR, the continued health and safety risk due to the presence of H<sub>2</sub>S in the Platform Irene to LOGP 8-inch gas line and the potential fire or explosion hazard associated with the oil emulsion pipeline would represent an adverse but less than significant public safety impact.

The proposed Tranquillon Ridge Project would extend the life of the Point Pedernales facilities including the pipelines that connect Platform Irene to the LOGP by up to 25 years and would increase impact levels over current levels. The crude oil pipeline has had historic integrity problems that have included defective flanges on the subsea portion of the pipeline and corrosion problems in both the offshore and onshore portions of the pipeline. Potential leaks or ruptures of this pipeline (as has occurred in the past) could be detrimental to the comfort, convenience and general welfare of Lompoc area residents and the public in general. Pipeline spills could significantly damage biological, agricultural, cultural, and recreational resources in the project area and adversely effect the public use and enjoyment of these resources.

Impacts associated with the transportation of NGL/LPG are also unacceptable. Approving the proposed project would extend the life of the processing facilities and continue the need to transport NGL/LPG from the LOGP via trucks over Santa Barbara County roadways. The transportation of NGLs/LPGs poses a significant and unavoidable risk of injuries and fatalities for the existing Point Pedernales project and the proposed Tranquillon Ridge project. As discussed in Section 5.1.4.2 of 01-EIR-04 the proposed project would increase the injury and fatality frequencies above current levels and would extend duration of time during which the public would be exposed to these significant hazards.

The extension of the life of the LOGP is also found to be unacceptable to the Board due to land use conflicts presented by this facility and the surrounding area, which has continued to experience urban development since the LOGP was originally permitted in the 1980's. As discussed in 01-EIR-04 these conflicts include significant unavoidable public safety impacts due to the transportation of NGL/LPG (discussed above), significant visual impacts and nighttime glare, and the ongoing adverse but less than significant nuisance odors and noise.

Potential impacts could be reduced through existing permit conditions and additional mitigation measures identified in the EIR. These measures include continued pipeline inspections and repairs (as required by the SIMQAP); use of, and updates to, the pipeline SCADA system; SSRRC review of pipeline operations including approval of the Pipeline Operating Manual; and implementation and updates to the Oil Spill Contingency Plans. While these mitigation measures exist, their enforceability and hence their feasibility has been challenged by the Applicant's pending litigation regarding the County's jurisdiction over the pipeline. Therefore, this finding cannot be made.

Further, the proposed project presents environmental and safety risks and impacts beyond those considered for the original Point Pedernales Project. The original EIS/EIR for the Point Pedernales project was specifically based on a project description in the original application that included mitigation measures for state of the art leak detection systems. The measures proposed for the leak detection system went beyond the requirements of the MMS and DOT but were still assumed in the original EIS/EIR based on the application submitted. These measures ultimately were incorporated into the “P” conditions of the permit and incorporated into the SIMQAP and Oil Spill Contingency Plan.

If Nuevo’s objections to the permit ultimately prevail in court, the County is unable to identify any other feasible mitigation measures within its jurisdiction that can mitigate the impacts of the proposed project to acceptable levels. The mitigation measures considered by the County for the existing project have frequently been considered and not required by other agencies (See June 20, 2002 Planning Commission Staff Report Table 7). The Board of Supervisor finds, based on the evidence in the record, that the impacts from the proposed project will be significantly greater without such mitigation measures. In particular, the evidence presented in and documented by Table 7 demonstrates this point.

Further, the County is concerned that Nuevo may well contend that other mitigation measures contained in the current permit and proposed in the new project are beyond the subject matter jurisdiction of the County to impose on this project. Under Nuevo’s legal position as expressed in its lawsuit against the County, Nuevo can attack the enforcement of permit conditions where federal preemption denies the County subject matter jurisdiction even where the applicant specifically agrees to the conditions, waives any objections thereto, never objects during the permitting process, and then accepts the permit and all of its benefits. Most troubling is that Nuevo, under its legal argument, need not even object to mitigation measures during the public hearing process if such measures are later found to be beyond the subject matter jurisdiction of the County. The approach denies the County, other permitting agencies, and the public the opportunity to consider the proposed project and its impacts, as finally mitigated though conditions on the project, before a decision is made to approve or deny the project. It also potentially denies the County the opportunity to consider if findings of overriding consideration are appropriate because the final impacts of the project cannot be known.

Nuevo’s position, if successful, represents an approach that is the antithesis of the informed public process that is envisioned under CEQA, where decision makers are required to fully consider the benefits and environmental impacts of a project, before approving the project.

The Board of Supervisors also finds that while Nuevo questions County’s authority to enforce permit conditions concerning the pipelines, there is no question that County has discretionary authority to determine, through its general plan and zoning ordinance, the appropriate location for industrial facilities within the County, including oil and gas processing plants. In 1985, the Board of Supervisors approved Unocal’s request for the comprehensive plan amendment and rezone to allow for the building of the oil processing plant near Lompoc. This legislative action

also made it possible for Torch and Nuevo to expand the plant and add gas processing in 1996. These approvals were all predicated and specifically conditioned on compliance with County requirements, including the SIMQAP (found in Condition P-2) and Oil Spill Contingency Plan (found in Conditions P-13 and P-16). Therefore, this finding cannot be made.

***2.1.3 That the project is in conformance with the applicable provisions of Article II and the Coastal Land Use Plan.***

The project as proposed would be inconsistent with a number of Coastal Land Use Plan (LCP) policies as discussed in section 6.4.1 and Attachment D of the June 20 Planning Commission staff report. Based on the analysis contained in these sections the project is inconsistent with LCP policies 2-11, 3-9, 3-19, 6-18, 6-19, 9-4, 9-14, 10-2, 10-3, and 10-5.

**2.2 Article III – Inland Zoning Ordinance**

Pursuant to Article III Section 35-317.7, a Preliminary or Final Development Plan shall be approved only if all of the required findings can be made. The following findings cannot be made for the proposed project:

***2.2.1 That adverse impacts are mitigated to the maximum extent feasible.***

Refer to the discussion provided under Section 2.1.1 above.

***2.2.2 That the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding area.***

Refer to the discussion provided under Section 2.1.2 above.

***2.2.3 That the project is in conformance with the applicable provisions of Article III and the Comprehensive Plan.***

The project as proposed would be inconsistent with a number of Comprehensive Plan policies as discussed in section 6.4.1 and Attachment D of the June 20, 2002 Planning Commission staff report. Based on the analysis contained in these sections the project is inconsistent with the following Comprehensive Plan policies: Hillside and Watershed Protection Policy 7; Historical and Archaeological Sites Policies 2, 3, and 5; Lompoc Area land use goals; Lompoc Area environment goals; Agricultural Element goals I and II and policies IA and II.D; Safety Element Supplement Policy Hazardous Facility safety 2-B; and Conservation Element mineral resource and ecological systems recommendations.

**Attachment B**  
**Applicant's July 1, 2002 Appeal Letter**  
(Board of Supervisor's Distribution only)

**Attachment C**  
**01-EIR-04 and Errata**  
(Separately Bound, Board of Supervisor's Distribution only)

**Attachment D**  
**June 20, 2002 Planning Commission Staff Report, Errata, and Revised**  
**Findings**  
(Board of Supervisor's Distribution only)



**Attachment E**  
**Planning Commission Action Letter**  
(Board of Supervisor's Distribution only)

**Attachment F**  
**Public Comment Letters**  
(Board of Supervisor's Distribution only)