

Katherine Douglas

Public Comment

8



From: Tara Rengifo <trenigfo@environmentaldefensecenter.org>
Sent: Friday, May 9, 2025 10:52 AM
To: sbcob
Cc: Linda Krop
Subject: EDC Comments re Agenda Item No. 8: Support for Oil & Gas Ban and Phase Out Ordinance
Attachments: 2025_05_09_EDC Comments on Oil and Gas Ordinance.pdf

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Dear Clerk of the Board,

Attached please find the timely comment letter submitted by the Environmental Defense Center in advance of the May 13 Board of Supervisors hearing. The comment letter pertains to Agenda Item No. 8 regarding options to address emissions from oil & gas operations.

Please confirm receipt as soon as possible in advance of the 12pm deadline.

Thank you,
Tara



TARA C. RENGIFO (she/her/hers)
SENIOR ATTORNEY
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Santa Barbara, CA 93101
o: 805.963.1622 x113
www.EnvironmentalDefenseCenter.org



We recognize that EDC sits on occupied, unceded, stolen lands of the Chumash Peoples, on Shmuwich Territory, who have called this area home for time immemorial. We commit today to make space to elevate indigenous voices and support our local Chumash and indigenous communities in our work to protect our environment.

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May 9, 2025

Chair Laura Capps
Santa Barbara County Board of Supervisors
105 East Anapamu Street
Santa Barbara, CA 93101
Via email to: sbcob@countyofsb.org

Re: Agenda Item No. 8: Support for Staff's Recommendation to Prohibit New Oil and Gas Operations and Request to Expand the Ordinance to Phase Out Existing Operations

Dear Chair Capps and Supervisors:

On behalf of the Environmental Defense Center (EDC), we submit these comments to urge the Board of Supervisors ("Board") to direct staff to establish a regulatory framework that prohibits new oil and gas ("O&G") projects and phases out existing O&G operations in Santa Barbara County ("County"). Consistent with the 2030 Climate Action Plan (CAP), the time is now for the County to put an end to fossil fuel extraction to protect public health, safety, and environmental quality.¹ Phasing out O&G operations is critical to ensure that the County can achieve its greenhouse gas emission reduction targets; otherwise the County could suffer an additional ~132,355 metric tons of carbon dioxide equivalent ("MT CO₂e") per year from oil and gas extraction processes.² Notably, the County's authority to prohibit and phase out oil and gas operations is strengthened by the passage of statewide legislation, AB 3233, which went into effect on January 1, 2025.³

¹ County of Santa Barbara, *2030 Climate Action Plan* at 45 (August 2024), available at: <https://www.countyofsb.org/1217/2030-Climate-Action-Plan>.

² A GHG emissions analysis conducted by Rincon consultants estimated 132,355 MT CO₂e from oil and gas extraction processes in 2023, which was an increase from 2018. Quinn, O., *et al.*, *The Economic, Health, and Environmental Benefits of Phasing Out Onshore Oil Development in Santa Barbara County* at 5, Att. B (February 21, 2025).

³ Pub. Res. Code § 3106.1(a). The Board supported the passage of AB 3233 via letter dated August 15, 2024, recognizing the County's history of oil and gas development, risk of oil spills, and the associated environmental and public health impacts. Quinn, O., *et al.*, *The Economic, Health, and Environmental Benefits of Phasing Out Onshore Oil Development in Santa Barbara County* at Att. A (February 21, 2025).

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EDC is a non-profit law firm that defends nature and advances environmental justice on California's Central Coast through advocacy and legal action. EDC's program areas include climate and energy, ocean, land and water, and environmental justice. Since 1977, EDC has worked to protect our County and State from the adverse effects of fossil fuel development and climate change. Most recently, we supported the California Geologic Energy Management Division's regulation effective October 1, 2024, prohibiting new well stimulation treatments throughout California.⁴ Prior to that, EDC supported the County's efforts to phase out the Ellwood Onshore Facility through an amortization process.

For decades, EDC and its clients advocated for phasing out operations at Venoco's Ellwood oil and gas plant and marine terminal. In 1991, EDC actively participated in the proceedings to rezone the Ellwood Onshore Facility site to Recreation and Planned Residential given its proximity to popular recreation areas such as Haskell's Beach, the Ellwood Mesa and monarch butterfly preserve, Sandpiper Golf Course, and the Bacara Hotel. EDC was also very involved in the County's amortization process for the Ellwood Onshore Facility, as discussed in more detail below and in Attachment A attached hereto.⁵

"Amortization is a process that generally allows for the eventual termination of a nonconforming use, without compensation, if it can be established that a reasonable time period has been allowed for the owner to recoup its investment."⁶ On September 16, 1990, the County rezoned the land on which the Ellwood Onshore Facility is situated to non-industrial zone districts.⁷ The rezone made the facility a legal nonconforming use under California law, opening the door for the County to terminate the use as long as certain steps are taken. A few years later in 1999, the County initiated an amortization study relative to Venoco's Ellwood Onshore Facility.⁸ As directed by the Board, an Ellwood amortization analysis was completed by Baker & O'Brien, Inc. and presented to the Board in November 2001.⁹ The next step would have been for the Board to consider whether to direct staff to draft an amortization ordinance, but the process was interrupted by the incorporation of Goleta in 2002.¹⁰ Given this development, the County lost jurisdiction over the amortization process, leaving the City of Goleta to decide the next steps.¹¹

In 2016, the City of Goleta retained a consultant to determine an appropriate amortization period for the Ellwood Onshore Facility.¹² The study concluded that Venoco's original capital investment in the Ellwood Facilities was fully amortized by 2009, including estimated costs for

⁴ 14 C.C.R. § 1780(d) (The California Geologic Energy Management Division "will not approve applications for permits to conduct well stimulation treatments.").

⁵ County of Santa Barbara, *Board Agenda Letter* (November 28, 2001). Attached hereto as Attachment A.

⁶ *Id.* at 2.

⁷ *Id.* at 1.

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ *Id.* at 1-2.

¹¹ *Ibid.*

¹² City of Goleta, *Oil and Gas Projects and Associated Information*, available at: <https://www.cityofgoleta.org/your-city/planning-and-environmental-review/advance-planning-division/oil-and-gas>.

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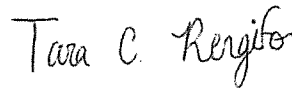
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abandonment.¹³ That same year, however, Venoco filed for bankruptcy, which prohibited the City of Goleta from proceeding with involuntary termination of the Ellwood Onshore Facility's use.¹⁴

The history of the amortization process for Venoco's Ellwood Onshore Facility demonstrates the feasibility of enacting a legally defensible Countywide ordinance to ban new drilling and phase out existing oil and gas operations to protect public health and safety. Enacting such an ordinance would also be consistent with the directives in the County's most recent CAP, which seeks to limit the increase of fossil fuel extraction and develop a sunset strategy.¹⁵ Now is the time—the County would certainly not be the first jurisdiction to enact such an ordinance,¹⁶ and with the passage of AB 3233, the County has the authority to prohibit oil and gas operations in its jurisdiction.

Sincerely,



Tara C. Rengifo

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ County of Santa Barbara, *2030 Climate Action Plan* at 45 (August 2024), available at: <https://www.countyofsb.org/1217/2030-Climate-Action-Plan>.

¹⁶ See, e.g., City of Los Angeles, *Oil and Gas Drilling Ordinance*, available at: <https://planning.lacity.gov/plans-policies/oil-and-gas-drilling-ordinance/#:~:text=On%20December%202%2C%202022%2C%20the,wells%20a%20legally%20nonconforming%20use.>; County of Los Angeles, *Oil Well Ordinance*, available at: <https://planning.lacounty.gov/long-range-planning/oil-well-ordinance/>; see also County of Los Angeles, *Revised Oil Well Ordinance*, available at: <https://planning.lacounty.gov/long-range-planning/revised-oil-well-ordinance/#:~:text=On%20September%2015%2C%202021%2C%20the,fuels%20and%20towards%20economic%20decarbonization.>

Attachment A

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:
Prepared on: 11/28/01
Department Name: Planning and Development
Department No.: 053
Agenda Date: 12/3/01
Placement: Departmental
Estimate Time: 1 hr. staff; 3 hrs. total
Continued Item: NO
If Yes, date from:

TO: Board of Supervisors

FROM: John Patton, Director, Planning and Development
Shane Stark, County Counsel

STAFF CONTACT: Steve Chase, Deputy Director, Energy Division (568-2520)
Bill Dillon, Deputy County Counsel (568-2950)

SUBJECT: Amortization Analysis of Nonconforming Oil and Gas Facilities on South Coast

RECOMMENDATION(S):

That the Board of Supervisors:

- (1) Receive and file the Ellwood Amortization Analysis prepared by Baker & O'Brien, Inc., under contract to Santa Barbara County;
- (2) Receive and file this staff report, which outlines four options for consideration by the appropriate decision-making bodies for whether or not to proceed with the amortization of the nonconforming oil and gas facilities on the South Coast; and,
- (3) Transmit the Ellwood Amortization Analysis and staff report to the City Council of Goleta for further action on the Ellwood Onshore Facility as warranted.

ALIGNMENT WITH BOARD STRATEGIC PLAN:

The recommendation is primarily aligned with Goal No. 2.: A Safe and Healthy Community in which to Live, Work, and Visit.

EXECUTIVE SUMMARY AND DISCUSSION:

In July 1999, the Board directed staff to pursue the first step in determining if amortization was feasible relative to Venoco's oil and gas plant and marine terminal at Ellwood. That first step was to retain a qualified consultant to prepare an economic analysis necessary for such a study. If that economic analysis provides evidence that supports legally amortizing these facilities, then the Board would be in a position to consider the next two steps in the process, which are: drafting of an amortization ordinance and the preparation of an environmental impact report. Baker & O'Brien completed their economic analysis in October 2001, and that report is now available to the public.

The initiation of an amortization process followed a period of numerous gas releases attributable to the Venoco facilities. Hydrogen sulfide odors were detected by the public throughout the Ellwood area, UCSB

campus and Santa Barbara Mesa area. The Air Pollution Control District Hearing Board issued an Abatement Order in April 1999, which required Venoco to make substantial improvements to its facilities. The order also required Venoco to prepare a Safety Inspection Maintenance Quality Assurance Program and participate in a comprehensive safety audit. The audit, conducted jointly by the APCD, County and State Lands Commission, identified hundreds of corrective actions, the most significant of which have been addressed. The frequency of odor complaints received from the surrounding area has decreased considerably since implementation of design and operational improvements.

Amortization is a process that generally allows for the eventual termination of a nonconforming use, without compensation, if it can be established that a reasonable time period has been allowed for the owner to recoup its investment. Considerations must also include the economic impact of an amortization ordinance, the extent to which it does or does not interfere with reasonable investment backed expectations, and the character of the governmental action.

Venoco owns and operates the only nonconforming oil and gas facilities on the South Coast. These nonconforming uses are a result of the County's adoption of oil and gas consolidation policies in 1987. Those facilities that were not designated as consolidated sites were rezoned to non-industrial zone districts in 1991. Most of the nonconforming facilities have been abandoned; however, the two that remain in operation are the Ellwood Onshore Facility ("EOF") and Ellwood Marine Terminal ("EMT"). The EOF is located within the boundaries of the new City of Goleta. The EMT is located on land owned by the University of California at Santa Barbara and leased to Venoco. The EMT is outside of the Goleta City boundaries and will remain under the regulatory authority of the County until the use of this site changes to one which is part of the University mission.

With the incorporation of Goleta, the County will lose jurisdiction over the key facility at the heart of the amortization study – the EOF. Given this development, staff recommends that the Board receive and file the economic analysis prepared by Baker & O'Brien together with this staff report and, in deference to the new City, take no further steps on this project until Goleta has considered this matter and decided its own course of action. At that point, the County can revisit the issue, as necessary, to see if additional steps are appropriate regarding the EMT. The Baker & O'Brien report together with the appropriate project files will be forwarded to the new City.

Study Conclusions

Baker & O'Brien evaluated the Ellwood oil and gas operation, including Platform Holly, the EOF, the EMT, and State Lease 421 facilities, for the purpose of determining an appropriate amortization period. The study analyzes a base case and a sensitivity case. The base case examines the period from 1964 to 2016, regardless of ownership interest. The sensitivity case is a separate amortization analysis that examines the Venoco tenure of the Ellwood facilities.

In both cases, the amortization model calculates net cash flow after taxes for each year of operation. Income is calculated as net of all royalties. Operating costs – direct and indirect – are deducted, as are interest and financing costs. Costs for sustaining capital expenditures (well workovers, etc.) required for Venoco to maintain its Proved Developed Producing (PDP) reserves and develop its Proven Undeveloped reserves (PUD) are also included in the analysis. Cash flow is analyzed on a year by year basis, and amortization occurs when the rate of return on cumulative capital investments and operating costs meets or exceeds the cost of capital.

In both cases, 2016 is selected as the end date, since this coincides with the available estimates for the remaining life of reservoir. Such estimates are based on the sound professional judgment of experts and the best available information; however, they are also based on a set of assumptions (such as price projections for oil and available production technology) that are subject to change over time.

Venoco's leases with the State Lands Commission to produce oil and gas from the South Ellwood Field remains valid so long as Venoco continues to produce oil and gas in paying quantities from these leases. Venoco's lease from the University of California for the EMT property expires in 2016.

Any amortization ordinance must consider the economic impact of the regulation on the landowner. Further, the amortization study has proceeded on the assumption that Venoco has a vested right to produce the oil and gas reserves from the South Ellwood Fields until the economically recoverable reserves in those fields have been produced. Therefore, the study also proceeded on the assumption that a viable relocation scenario is fundamental to any amortization analysis that requires early termination of the EOF and EMT.

The County identified 9 oil and 4 gas relocation options for review by Baker & O'Brien. (*See Report, Appendix F.*) These options were identified on both policy and technical constraints, including consolidation and transportation policies, environmental factors, and economics. In particular, the County requested that Baker & O'Brien evaluate the option of taking current oil production to the local coastal plan designated consolidated facility at Las Flores Canyon. Further, the County focused on options that minimized environmental and safety risks by looking at scenarios that kept oil transportation onshore and gas transportation offshore as much as feasible.

Notwithstanding the availability of a consolidated oil and gas processing facility and site at Las Flores Canyon, Baker & O'Brien have determined the cost of any relocation to be sizable. Indeed, after studying various options, Baker & O'Brien have determined only one option is economically viable and technically feasible. This scenario includes moving gas processing and primary water separation from the oil emulsion to Platform Holly, moving final oil processing to the Las Flores Canyon consolidated oil and gas processing site, and shipping treated oil to market via the All American Pipeline. Marine tankering of crude oil would cease by 2005; the EMT would be decommissioned, as would most of the EOF in 2005; and a new 9-mile pipeline would be constructed between the EOF and Las Flores Canyon over a two-year period in 2003 and 2004. At the EOF, the water injection well and the SCE electrical substation would be retained, and these could be decommissioned once production from Platform Holly ended.

Baker & O'Brien determined that the cost of relocation for this scenario would be \$34 million. This is in addition to the \$35.1 million Baker & O'Brien estimates is necessary to cover the eventual cost of abandonment of the entire project – the EOF, EMT, and Platform Holly and associated pipelines.

Base Case

The base case looked at available historical financial data between 1964 and 2000, and supplemented the gaps with estimates based on actual costs from past years. Forecasts of income and indexed estimates of investments were used between 2001 and 2016. The base case does not include Mobil's purchase price from ARCO in 1993, or Venoco's purchase price from Mobil in 1997. The study concludes that the total investment in acquiring and developing the South Ellwood Field was amortized, including a rate of return on investment of 9%, in 1987. When the costs of abandonment are factored in, amortization is delayed to 1990. With relocation costs factored in, amortization would occur a few years thereafter, but prior to Venoco's acquisition of the project.

Relocation costs could be amortized at any point in time, but yield slightly different rates of return. When the capital costs of relocation are added to the base case in the years 2003 and 2004, with resulting changes to revenues and operating costs beginning in the year 2005, the overall rate of return from 1964 to 2016 is only reduced from 10.84% to 10.72%.

Sensitivity Case

In the sensitivity case, Baker & O'Brien evaluated if Venoco's cost of relocation (discussed above) could be amortized on a prospective, stand-alone basis, analyzing the period from 2003 to 2016. When Venoco purchased the project in 1997, the onshore facilities were (and still are) legal nonconforming uses that may continue in their current configuration as long as they are not expanded or intensified. The study allowed for the recovery of relocation costs prospectively under this case because relocation was not an established requirement or cost when Venoco acquired the project. In all other respects, the assumptions for the sensitivity case were the same as those for the base case. Once again, acquisition costs were not considered because such costs are not a capital investment. Baker & O'Brien concluded that the cost of relocation would be amortized in 2008 with a rate of return at the end of that year of 15.2%.

As in the base case, Baker & O'Brien did not include recovery of abandonment costs a second time because such costs were fully amortized when ARCO owned the project. Abandonment costs are distinguished from relocation costs because abandonment has always been a known obligation for any owner of the project.

Notwithstanding, Baker & O'Brien ran an additional sensitivity case scenario that included \$35.1 million in abandonment costs, as well as relocation costs of \$34 million. In this scenario, Baker & O'Brien concluded that abandonment would not be amortized a second time by projected revenues from the Ellwood operation, assuming continued production at current levels through 2016.

Scenarios for Future Consideration

The Board of Supervisors and City of Goleta have four scenarios to consider:

- (1) Amortization of the EOF and EMT in 2008;
- (2) Amortization of the EOF and EMT in 2016;
- (3) No Amortization with continued production at current levels; or
- (4) Amortization of the EOF and EMT based on increased production.

The first three scenarios assume continued Platform Holly production at current levels and from existing leases.

Scenario (1) - Amortization in 2008

The economic analysis found that the costs of relocation could be recouped by 2008. This option would involve relocation in 2003 and 2004. Tankering would cease by 2005, as would use of the EMT and most of the EOF. Gas processing would occur on Platform Holly. A new onshore pipeline on a route yet to be determined would be constructed from the EOF to Las Flores Canyon, to enable final oil processing at the Las Flores Canyon consolidated oil and gas processing facility and sales-quality crude transportation via the All American Pipeline. The nonconforming use of the EMT and EOF would cease in 2008.

This scenario is consistent with local coastal policies pertaining to consolidated processing and pipeline transportation of oil and gas on the South Coast. The environmental effects of this scenario have yet to be studied, but Class I unavoidable significant impacts are likely. Issues would include associated environmental and safety risks with processing oil and gas on Platform Holly and the impacts due to construction of new pipelines to Las Flores Canyon. In our estimation, an environmental impact report would need to be prepared.

Under Scenario 1, Venoco would be required to spend \$34 million to relocate a current production rate of 4,000 barrels per day from a field that is estimated to be depleted by 2016. The economic impact of the regulation and the extent to which it interferes with the reasonable investment backed expectations of the landowner are legal considerations under amortization and takings case law. There are disadvantages to requiring such high costs to the landowner in such a compressed time frame. Therefore, it is not a given that the County or new City may require Venoco to relocate.

This scenario would also likely turn the project into a net loss for Venoco. Baker & O'Brien concluded that the project does not amortize if Venoco is required to fund both relocation and abandonment. This is also exclusive of Venoco's acquisition costs for the project.

Scenario (2) - Amortization in 2016

This scenario would allow for continued operation of the Ellwood facilities as they occur today, but would establish an end date of 2016, at which time abandonment of the EOF and EMT would occur. The primary public benefit of this scenario would be the establishment of a sunset date so that these nonconforming facilities do not continue indefinitely. A sunset date of 2016 would allow Venoco to recoup more of its costs, and it coincides with both the estimated depletion of the economic life of the reservoir and the expiration of the EMT lease with UCSB.

Additionally, under this scenario, any adverse environmental impacts associated with relocation of the project would be avoided. In particular, there would be no need to build pipelines from Ellwood to Las Flores Canyon nor to install and operate processing equipment on Platform Holly.

The scenario also results in a much lower economic impact on the landowner. In particular, it avoids the requirement that Venoco fund relocation at the cost of \$34 million and leaves the company in a better position to fund abandonment, which Baker & O'Brien projects to cost \$35.1 million.

Another consideration is that the estimated life of the recoverable oil and gas reserves may actually be longer than currently projected. The economic life of the field could be extended by higher than expected oil and gas prices or by new technology that allows for enhanced recovery that makes certain reserves currently viewed as uneconomical into economically recoverable reserves. If additional oil and gas reserves are available due to such factors, then requiring the project to shut down in 2016 will cause the owner to forego the income derived from such reserves.

Venoco claims a vested right to produce all recoverable reserves. Requiring shutdown in 2016 may interfere with that claimed right.

Scenario (3) - No Amortization

Under this scenario, operation of the Ellwood facilities would continue in the same configuration as they do today. Operation of the EOF for oil and gas processing would continue until 2016, or perhaps longer, depending on the economics of continuing to produce the field. Tankering from the EMT would also continue to 2016, or longer if the University of California chose to extend or renew Venoco's lease for the EMT property. This scenario avoids potential impacts that may be caused by relocation and allows for full production of economically recoverable oil and gas reserves. This scenario, however, allows the nonconforming uses to remain indefinitely.

Scenario (4) - Amortization Based on Increased Production

The Baker & O'Brien study is based on production from existing leases and did not consider Venoco's proposal for the full field development of the South Ellwood Field or any other scenario involving increased oil and gas production from Platform Holly.

An expansion of development and production from the South Ellwood Field could generate additional opportunities for decommissioning of the EOF and EMT. A critical component of such a scenario would be a lease boundary extension to allow Venoco to produce the eastern portion of the South Ellwood Field. ARCO relinquished leases over the eastern part of the reservoir (State Leases 308 and 309) back to the state in 1991 in exchange for leases in the Long Beach area which are still in production today. Leases 308 and 309 were subsequently made part of the State Marine Sanctuary. Expansion of the leases is fully a discretionary decision by the State Lands Commission – they have no obligation to do so. Expansion would also require approval by the California Coastal Commission.

In February 2001, Venoco submitted an application for Full Field Development of the South Ellwood Field. This application proposes to tap the eastern portions of the South Ellwood field and to decommission the EOF and EMT. The drilling deck of Platform Holly would be extended to accommodate new well slots for up to 24 new directionally drilled wells to produce the expanded field. In this application, gas processing would be done on Platform Holly. Sales quality gas would be shipped to shore at Ellwood via existing pipelines and delivered to The Gas Company's existing transmission pipelines. Limited oil processing (primary free-water knockout) would also occur on Platform Holly, but final oil processing is proposed to occur at the Torch Rincon Oil Separation Facility in Ventura County. As proposed, a new 24.5-mile oil emulsion pipeline would be constructed from Platform Holly through a federal ecological preserve offshore Santa Barbara to the La Conchita area, where it would tie in with an existing pipeline network for transport to the Rincon facility. The EOF would be mostly decommissioned and abandoned in 2005; remaining facilities would include the sales gas tie-in with The Gas Company's line and the SCE electrical substation. Under Venoco's proposal, tankering would cease at the EMT in 2005, and that facility would be abandoned.

The County reviewed Venoco's application and deemed it incomplete in March 2001. Venoco has been working on a re-submittal, which they expect to provide by the end of December 2001. Venoco is reportedly considering an onshore pipeline alternative to Rincon, though it is not their preferred project. Assuming that Venoco submits a complete application in the next few months, the project would be subject to discretionary actions by many agencies (County of Santa Barbara, County of Ventura, City of Goleta, State Lands Commission, California Coastal Commission, California Department of Fish & Game, Army Corps of Engineers, and National Marine Fisheries Service).

Venoco's Full Field Development application raises numerous policy consistency and environmental issues. There is no guarantee that the proposed project would be approved.

Another option under the increased production scenario is similar to Venoco's Full Field Development proposal, but consistent with existing County policies and the intent of the South Coast Consolidation Policies. Major aspects of this option would involve expansion of the state lease boundary to develop the eastern portion of the South Ellwood Field (which is, again, a State Lands Commission discretionary decision), gas processing offshore on Platform Holly, enhanced oil-water separation on Platform Holly, shipment of oil via a new pipeline to Las Flores Canyon for treatment, continued water injection into the well at the EOF via a new water return line, and abandonment of the EOF and EMT. Processed oil would be transported out of the County to market via the existing All American Pipeline. This option would move the most hazardous part of the operation (gas processing) away from a populated area, direct oil processing to the designated consolidated processing site, and eliminate the need for continued existence of the nonconforming facilities.

Venoco maintains that relocation to Las Flores Canyon is economically infeasible on a per barrel basis which cannot be made up with increased volume. However, their evaluation assumed the need to substantially expand the water treatment plant in Las Flores Canyon. It did not evaluate enhanced oil-water separation at Platform Holly and a water return line to the EOF for disposal.

While some aspects of Venoco's Full Field Development Project share similarities to the relocation option examined in the Baker & O'Brien study (i.e., gas processing and oil-water separation at Platform Holly), differences include Venoco's assertion that they will continue to produce the reservoir until 2040. The no

project alternative in the Full Field Development application maintains that production would continue until 2040 even without an expanded field.

Considerations

Venoco has objected to the initiation of an amortization ordinance to its facilities because such facilities are “resource dependent.” Venoco’s objection is based on a line of California cases that primarily address rock quarrying and which hold that such uses are location dependent and must be allowed to continue until the natural resource is fully extracted. (See e.g., *Hansen Brothers Enterprise, Inc. v. Board of Supervisors of Nevada County* (1996) 12 Cal.4th 533.) Venoco maintains that shutting down its onshore processing and transportation facilities will also require the abandonment of Platform Holly and the leases it produces. Venoco still holds fully valid State Tideland leases for five tracts.

Initially, County staff believed that the key to addressing Venoco’s objection was whether an economically feasible alternative for processing and transportation could be identified. In particular, Las Flores Canyon was tentatively identified as an alternative for processing oil and gas from Platform Holly. On its face, this alternative avoids the objection raised in *Hansen Brothers* and other cases because the natural resource may still be extracted even with the closure of the EOF and EMT. Such resources simply must be processed elsewhere. This notwithstanding, Venoco objected to such an alternative because Venoco believed it to be economically infeasible to produce the currently leased fields, process at Las Flores Canyon, and ship via the All American Pipeline.

Indeed, Baker & O’Brien have concluded that only one relocation alternative is feasible and it involves processing oil on Platform Holly rather than at Las Flores Canyon. (The genesis of this proposal is contained in Venoco’s application for Full Field Development.) Baker & O’Brien have determined that this alternative would cost \$34 million. (Venoco disputes this figure and contends that relocation actually costs much more, however, the County’s consultant has rejected Venoco’s numbers as unsupported by the available evidence.)

Amortization by the date of 2016 presents issues not considered at the start of the amortization study because the study was premised on the existence of a feasible relocation strategy. The advantages, as discussed above, are the avoidance of additional environmental impacts caused by relocation and a much less significant economic impact on the landowner. The biggest downside to setting a final shutdown date of 2016 for this project is that it would be based in large part on estimates that the economically recoverable oil and gas reserves will be fully recovered by that time. Such estimates are prepared by highly qualified experts based on the best available information and projections for such factors as the future price of oil and gas. Such assumption, however, can be proven wrong due to higher than expected oil and gas prices or a lowering of production costs due to the availability of new technologies.

One difficulty in carrying out an amortization study for the Venoco project is that the law on amortization has largely been applied to far simpler cases, primarily involving the termination of billboards. The Venoco case presents unique complexities due to the nature of a resource extraction operation, which is shaped by factors such as technical advancements and market pricing.

Further developments in the law of takings and amortization may clarify how they apply to resource extraction. Further legal and administrative review of the application of an ordinance to this project prior to the final termination date of 2016 may be prudent.

Next Steps

Remaining work tasks that must be performed if the amortization process is to continue are:

- (1) Amortization ordinance development;
- (2) Environmental analysis;
- (3) Discretionary hearings at the local level that are necessary to consider and adopt ordinance;
and
- (4) Coastal Commission certification of the amortization ordinance if approved by the appropriate local jurisdiction.

County Counsel has compiled a collection of several amortization ordinances. The actual drafting of an amortization ordinance is not complicated; however, determining an appropriate amortization period is key to effecting an ordinance.

Adopting an amortization ordinance(s) would be subject to the California Environmental Quality Act. An environmental impact report would likely be required for Scenarios 1 and 2. Upon completion of the environmental review, a proposed ordinance would be considered as an amendment to the Zoning Ordinance. Consideration and adoption of the ordinance amendment would be up to the City of Goleta (in the case of the EOF) and Santa Barbara County (in the case of the EMT).

In the case of the EMT, pursuant to Section 35-180 of Article II, such amendments require a hearing before the Planning Commission. Recommendations of the Commission are then forwarded to the Board of Supervisors for consideration and adoption. After Board adoption, amendments to Article II would be forwarded to, reviewed and certified by the Coastal Commission.

A similar process would need to occur for adoption of such ordinance amendments pertaining to the EOF; however, the decision-making bodies would be the Goleta Planning Commission, followed by the Goleta City Council, and finally certification by the California Coastal Commission.

MANDATES AND SERVICE LEVELS:

The Board, as a matter of policy, directed the development of an economic analysis for amortization of nonconforming oil and gas facilities in the South County. Amortization is a non-mandated option for removing nonconforming uses under appropriate circumstances.

FISCAL AND FACILITIES IMPACTS:

Thus far, the Board has allocated \$230,000 toward amortization, approximately \$220,000 of which has been expended. The following details monies allocated to-date:

<u>Budget Allocation</u>	<u>Work Authorized by the Board of Supervisors</u>
\$30,000	Original authorization in July 1999 for staff to conduct legal research, develop a scope of work, compile source documentation for economic analysis, and select consultant through competitive bid process.
\$200,000	Authorization in June 2000 for economic analysis, consisting of \$170,000 for consultant expenses and \$30,000 for staff costs.

Staff initially estimated that the cost of the amortization effort would be \$330,000, including preparation of an environmental impact report. If the Board directs further work on this project, staff will return with a scope of work and a revised budget proposal. In staff's estimation, should an environmental impact report be necessary, it may cost on the order of \$200,000 to \$400,000.

Venoco has stated that it would litigate to prevent the adoption of an amortization ordinance that limits the time the Holly/Ellwood project could economically recover reserves. The costs for litigation could vary according to the amortization scenario pursued and cannot be estimated at this time.

SPECIAL INSTRUCTIONS:

Transmit a copy of the staff report and economic analysis to the Goleta City Council for their consideration.

ATTACHMENT:

Ellwood Amortization Analysis prepared by Baker & O'Brien, Inc.

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also saved on PAD directory as
F:\GROUP\ENERGY\WP\ELLWOOD\VENOCO\amortize\BoardAgendaLetterFinal120301.doc