Board of Supervisors Hearing
July 23, 2019

MINOR MODIFICATION TO RENAISSANCE PETROLEUM PROJECT
CONDITIONAL USE PERMIT NO. 4384
CASE NO. PL14-0103

Exhibit 28

Memorandum to the Board_dated July 23, 2019

Response to CFROG Statement_dated July 20, 2019

Memorandum to the Board of Supervisors

County of Ventura · Resource Management Agency · Planning Division
800 S. Victoria Avenue, Ventura, CA 93009-1740 · (805) 654-2478 · ventura.org/rma/planning

To: The Honorable Board of Supervisors

From: Dave Ward, Planning Director
Bonnie Luke, Senior Planner
Ventura County Planning Division

Date: July 23, 2019

Re: **Renaissance Petroleum Project, PL14-0103:**
Response to CFROG hearing statement dated July 22, 2019

INTRODUCTION

Included in the public comment submitted to your Board for the July 23, 2019 public hearing on the Renaissance Petroleum project is a hearing statement provided by the Climate First: Replace Oil and Gas (CFROG) organization. This memorandum provides a staff response to the issues raised in the CFROG statement.

DISCUSSION

General Response:

The statement provided by CFROG largely argues that there are unstudied effects of the proposed project that require the preparation of a subsequent environmental document, such as an Environmental Impact Report (EIR) or subsequent Mitigated Negative Declaration (MND). This statement either dismisses, ignores and/or otherwise fails to address, by presented or referencing substantial evidence, the analysis of the project included in the MND Addendum (Exhibits 22 and 22b of the Board letter) and other planning documents provided to your Board.

Specific Responses:

The following responses are numbered in correspondence to the attached CFROG statement.

I.1. Hydraulic Fracturing:

The proposed project does not involve hydraulic fracturing (fracking) well treatments as the requested modified conditional use permit (CUP) would not authorize fracking to occur at the Naumann drillsite. This prohibition includes the existing Naumann No. 1 well. The permitted and historic operations at the Rosenmund drillsite are not under

review. Thus, the submitted comments regarding the perceived adverse effects of fracking are not relevant to the proposed project and do not constitute substantial evidence of a potentially significant impact of the proposed project.

I.2. Gas Production:

The volume of gas production at the Renaissance wells at the Naumann and Rosenmund facilities is disclosed in the MND Addendum and attachments. Approximately 90 percent of the produced gas is delivered to the Southern California Gas Company for urban use. The remaining gas is flared. The health risk associated with the gas flaring has been evaluated by the VCAPCD and found to be less that significant. Note that gas production from wells is a matter of public record and published on the DOGGR wellfinder website.

I.3. Naumann Processing Facility:

The existing processing facilities at the Naumann drillsite are permitted to continue in operation until 2037. Only minor changes in the existing processing facilities at the Naumann site are proposed. These changes involve the replacement of storage tanks. No substantial evidence has been presented or identified establishing that these changes may result in a significant impact.

I.4. Cumulative impacts:

As stated in section15064(h)(1) of the CEQA Guidelines, *"when assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable."* Furthermore, section 15064(h)(4) of the Guidelines states that *"the mere existence of significant cumulative impacts caused by other projects alone shall not constitute substantial evidence that the proposed project's incremental effects are cumulatively considerable."* No substantial evidence has been presented that the proposed project would have a cumulatively considerable contribution to a significant impact resulting from other projects.

Potential cumulative impacts associated with the proposed project have been evaluated by the County as indicated in the MND Addendum and attachments. Cumulative impacts involve the combined effect of existing and related foreseeable future activities. The cumulative impacts of the proposed 4 new wells at the Naumann site have been evaluated in conjunction with the expected impacts from the 7 permitted but not yet drilled wells at the Rosenmund site. The cumulative impacts of these operations were found to be less than significant. CEQA requires the evaluation of physical effects on the environment that may result from the proposed project. It does not require an evaluation of all negative effects on a community from all conceivable existing and future land use activities.

I.5. Truck Traffic:

There are no limits on truck traffic included in the current permit for the Naumann facility. The requested permit would impose limits on truck traffic. The imposition of new limits would not result in an adverse environmental effect. The estimated long-term average truck traffic associated with the proposed project is 2.18 one-way truck trips per day.

I.6. Storage tanks:

No substantial evidence in support of a fair argument has been identified or provided that the replacement of storage tanks at the Naumann facility may cause a significant impact on the environment.

II. Health Risk:

The Health Risk Assessment was prepared in accordance with procedures and thresholds of significance adopted by the VCAPCD. No evidence or alternative analysis has been provided to dispute the accuracy or adequacy of the VCAPCD analysis. The CFROG statement does not present or identify substantial evidence in support of a fair argument that the proposed project may result in a significant impact on public health.

III. Fair Argument:

As stated in the Board letter, County staff agrees that the "fair argument" CEQA standard applies to the environmental review of the proposed project. However, no substantial evidence in support of a fair argument that the project may have a significant effect of the environment has been identified by, or submitted to, the County. "Substantial evidence" is defined in Section 15064(f)(5) of the CEQA Guidelines as follows:

> *Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence.* ***Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.*** [emphasis added]

The information included in the CFROG statement does not meet the above regarding any environmental impact area. The decision of whether to prepare a subsequent environmental document is based on Section 15162 of the CEQA Guidelines and relevant case law. Pursuant to these guidelines and applicable, an MND Addendum was prepared.

The statements regarding temporary drilling emissions do not identify a potentially significant impact. Temporary emissions of the four drilling events that would occur

over a 30-year period are properly averaged over the 30-year term of the requested permit consistent with the AQAGs.

IV. Mitigation measures:

No potentially significant impacts that would result from implementation of the proposed project have been identified as part of the environmental review process. The conditions of approval are recommended by staff to ensure consistency with County policy and allow the required findings of approval set forth in the Non-Coastal Zoning Ordinance (NCZO) to be made. None of the conditions of approval constitute mitigation measures required pursuant to CEQA to reduce a potentially significant impact to a level of less than significant.

V. Permit Findings of Approval:

Staff has identified and presented substantial evidence supporting each of the findings of approval which must be made by your Board to approve the requested modified CUP pursuant to section 8111-1.2.1.1a. of the NCZO.

The adequacy of the 1986 MND is not under review. The time to challenge the adequacy of that document expired decades ago.

SUMMARY

The CFROG statement letter does not present or reference substantial evidence in support of a fair argument that the proposed project may have a significant effect on the environment requiring the preparation of an EIR or subsequent MND. The CFROG statement also does not identify any inconsistency of the proposed project with a County land use policy or regulation. The staff recommendation that the project be approved remains unchanged.

Attached: Copy of the CFROG hearing statement provided separately to your Board as Exhibit

July 20, 2019

To: The Ventura County Board of Supervisors
Re: Statement by Co-Appellant Climate First: Replacing Oil & Gas (CFROG) regarding an appeal from the Planning Commission approval of a Modified CUP, and an MND Addendum for Renaissance Petroleum, Case No. PL14-0103

The approval of this Addendum is contingent on this Board answering the following question:

Does the project have unstudied environmental effects which will cause significant adverse impacts on human beings, either directly or indirectly?

There is substantial evidence that strongly supports the fair argument that there are significant adverse effects on human beings. Under CEQA, 'substantial evidence' is defined to include **'fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.'**

Note also, that the law requires a mandatory finding of *"less than significant"* effects if you are to approve this project.

I. There is Substantial evidence supporting a fair argument that the proposed project may produce a previously unstudied significant environmental impact.

1. Fracking Waste from the Rosenmund drill site is processed at Naumann, a fact supporting the reasonable assumption of significant health risk at the nearby community.

This permit allows the transport of production fluids from Rosenmund drill pad to the Naumann drill pad via pipelines through a strawberry field. The Rosenmund CUP was last modified in 2010 and permitted 10 new oil wells, for a total of 15 on that site. There is nothing in that permit that prohibits fracking, except that the operator must meet the requirements of SB 4. Therefore, this new permit allows fracking waste to go from the Rosenmund

drill site to the Naumann drill site for processing. Three of the 8 wells at the Rosenmund drill site have already been fracked.

Physicians for Social Responsibility published a Compendium of research[1] regarding the impacts of oil and gas production and fracking to the health of nearby residents. Some of the conclusions from the Compendium are:

"More than 200 airborne chemical contaminants have been detected near drilling and fracking sites. Of these, 61 are classified as hazardous air pollutants, including carcinogens; 26 are endocrine-disrupting compounds that have been linked to reproductive, developmental, and neurological damage. (See footnotes 134, 146.) Drilling and fracking operations emit fine particles and vapors that combine to create ground-level ozone (smog). Exposure to these pollutants is known to cause premature death, exacerbate asthma, and contribute to poor birth outcomes and increased rates of hospitalization and emergency room visits."

"Other documented adverse health indicators among residents living near drilling and fracking operations variously include exacerbation of asthma as well as increased rates of hospitalization, ambulance runs, emergency room visits, self-reported respiratory problems and rashes, motor vehicle fatalities, trauma, drug abuse, and gonorrhea."

"A 2017 Colorado study found higher rates of leukemia among children and young adults living in areas dense with oil and gas wells. A Yale University research team reported that carcinogens involved in fracking operations had the potential to contaminate both air and water in nearby communities in ways that may increase the risk of childhood leukemia. The Yale team identified 55 known or possible carcinogens that are known to be used in fracking operations, and that may be released into the air and water. Of these, 20 are linked to leukemia or lymphoma. (See footnotes 632, 1424.)"

"Naturally occurring radioactive materials that occur in shale layers containing oil and natural gas are brought to the surface in the solid waste removed during drilling (drill cuttings) and in fracking wastewater. Radionuclides can also build up in pipes and equipment, and fracking itself

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[1]Compendium of Scientific, Medical, and Media Findings Demonstrating Risks and Harms of Fracking (Unconventional Gas and Oil Extraction) Sixth Edition June 2019 https://www.psr.org/wp-content/uploads/2019/06/compendium-6.pdf

can open pathways for the migration of radioactive materials. Exposure to increased radiation levels from fracking materials is a risk for both workers and residents."

While the VCAPCD Health Risk Assessment concludes that the cancer risk to the nearby Disadvantaged Community is too low to be significant, this single document did not consider the other health effects of fracking detailed here. These health effects are seen throughout the nearby community.

We have data from CalEnviroScreen 3.0 that is reliable, up to date, and very regionally specific. So we know that asthma rates and low birth weight are significant health impacts in the families living near the drill pad.

These health issues are not coincidental. There is a reason they are not found at the same levels in the city of Ventura, or Camarillo or Simi Valley, or Thousand Oaks.

The proximity of this project, part of the steady, piece-meal development of the Cabrillo oil field, is a significant threat to nearby residents. The project must be considered in light of all the other toxic exposures to which these people are already exposed on a daily basis, which makes them particularly susceptible to the cumulative effect of this project, and nearby projects, *both past, present, future and probable.*

In addition, new science and data must be part of a thorough study to determine the true, total impacts.[2]

2. **The Cabrillo oil field produces an exceptionally high quantity of natural gas, a fact supporting the reasonable assumption of significant health risk at the nearby community.**

A memo written by the operator to DOGGR was found by CFROG in the well file for Vivian Rosenmund API #11122022, drilled in 2010. The memo contains this warning:

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[2] https://www.ehn.org/fracking-harms-health-new-report--2638917368.html

"As you are aware, Cabrillo's light oil production includes significant volumes of associated gas. As a result, RenPet found that is has had to slow delineation and development because of constraints on gas delivery and sales that have been established externally by the Southern California Gas Compnay (SGC). ***The only alternative around this situation would have been to flare significant volumes of gas which would have created unnecessary attention and adverse publicity for RenPet, the oil and gas industry, and potentially the DOGGR.*** *(emphasis added)*
In March, 2011, RenPet was approved by SGC to increase its maximum daily volume delivery from 800Mcf/Day to 1200 Mcf/Day. Following that increase, RenPet immediately applied for another increase to 3000 Mcf/Day. That increase was approved late 2011 pending the replacement of a small pressure vessel that is part of SGC's gas meter set that is located at adjacent to RenPet's Naumann drill site. RenPet has been waiting for several months for the vessel to be installed by SGC. It is estimated the vessel will be replaced before the summer 2013."

The exceptionally high volume of gas produced in the Cabrillo oil field is newly discovered information that has not been analyzed in the current Addendum to the 1986 MND, in the Health Risk Assessment, nor in the MND itself.

The high volume of gas referred to in this memo is an unknown volume, unquantified, and not addressed in any environmental documents. More oil wells will produce more natural gas, and disposal through Southern California Gas lines is in question. Nearby gas-fired power plants are being shut down. Where will the operator send the increased volume of gas if SCG refuses to take it? The answer is flaring.

The single reference to a flare in the Addendum refers to its occasional use as an emergency flare. Yet, the operator's memo shows genuine concern over the potential size of the flare, and its potential for "adverse publicity" for the oil and gas industry, and potentially DOGGR. The potential for *even more flaring* from the requested well expansion is an unstudied significant impact for the sensitive residents living downwind of the flare.

The Compendium, referenced above, contains significant scientific information about the health concerns associated with flare emissions.

Here are two of the concerns established in the Compendium that are pertinent to this project:
-Emissions from flare stacks contribute to ozone creation and include several carcinogens, notably benzene and formaldehyde.
-Flaring also releases carbon monoxide, soot, and toxic heavy metals. In 2016, the EPA acknowledged that it had dramatically underestimated health-damaging air pollutants from flaring operations.

Strong evidence of harmful impacts are found in the record, including data compiled by the Office of Environmental Health Hazard Assessment (OEHHA) for the CalEnviroScreen 3.0, individual testimony of personal health issues, studies of the impacts of oil and gas emissions to sensitive receptors, and recent changes in the law recognizing the cumulative impacts of pollution burdens on people of color living in California Disadvantaged Communities.

The Disadvantaged Community, sitting just a quarter mile from the Cabrillo oil field flare, is at risk of exposure to a long list of toxic chemicals at anytime. According to the VCAPCD Health Risk Assessment (HRA) of 2019, So Cal Gas does not accept the produced gas about 13% of the time, however there is no documentation included in the HRA to support this estimate, which may be much higher when considering the nearby power plant closures.

Please note that liquid natural gas (LNG) is particularly troublesome. The Compendium has this to say about LNG:

"LNG is purified methane in the form of a bubbling, super-cold liquid. It is created through the capital-intensive, energy-intensive process of cryogenics and relies on evaporative cooling to keep the methane chilled during transport. Explosive, and with the ability to flash-freeze human flesh, LNG creates acute security and public safety risks. Its greenhouse gas emissions are 30 percent higher than conventional natural gas due to refrigeration, venting, leaks, and flaring, which is used to control pressure during regasification. The need to strip volatile impurities such as benzene from the gas prior to chilling it also makes LNG liquefaction plants a source of toxic air pollutants."

A conclusion found in the Compendium contains this warning about living near natural gas flares:

"Exposure to emissions from natural gas flares and diesel exhaust from the [estimated lifetime] 4,000-6,000 truck trips per well pad also pose respiratory health risks for those living near drilling operations. The United States leads the world in the number of flare stacks. Air pollutants from flaring operations include VOCs, polycyclic aromatic hydrocarbons, carbon monoxide, toxic heavy metals, formaldehyde, and soot." *(emphasis added)*

We ask this Board to avoid the potential for an accidental release of gas, an explosion, pipeline leak, or high quantities of toxic chemicals released over time by denying this Addendum. At the least, these dangers must be studied and evaluated in an EIR so that adequate mitigations can be included in the project conditions to protect the residents' health.[3]

3. Processing at the Naumann Site Has a Significant Environmental Impact that is Unstudied, a fact supporting the reasonable assumption of significant health risk at the nearby community.

This permit also allows the processing of oil, gas, and natural gas liquids, at the Naumann facility. Yet the environmental impact of the processing plant, given a CEQA exemption by the planning staff in 2007, is unknown. This processing operation will be receiving larger, unknown quantities of toxic liquids, coming from the new wells, as well as that piped from the Rosenmund site.

4. **The Addition of Four Wells Adds to the Cumulative Significant Environmental Impact that is Unstudied, a fact supporting the reasonable assumption of significant health risk at the nearby community.**

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[3] Whitworth et al. (2018) Study documenting the potential health hazard of living within 2,640' of gas development facilities.
This study used an unconventional gas development activity exposure metric, accounting for proximity and density of wells in the drilling phase within 0.5 mi (2,640 feet) of maternal residence and the sum of natural gas produced within 0.5 mile (2,640 feet) of maternal residence. Preterm birth was associated with the highest categories of drilling activity and natural gas production, with the strongest association observed for women in the first trimester. Severity of preterm birth was also associated with increased drilling activity and gas production near maternal residence.

The County has not conducted a study of the cumulative impacts of this project. This is particularly troubling since there has been a steady, piece-meal development of the Cabrillo oil field, which has allowed the avoidance of findings of significant impact that would have triggered environmental review.

Staff did not include any data or dataset that would constitute substantial evidence of the existing pollution burden on this community. Rather, at the Planning Commission 9/7/17 hearing, county counsel argued that the pesticide and oil pollution types for CEQA consideration were "like apples and oranges" and could not be cumulatively considered. This misstates, at best, the meaning of 'cumulative impact.'

CEQA requires consideration of past, present, future, and reasonably foreseeable probable projects, in conjunction with 'setting,' in this case, close proximity to a community severely affected by other air quality.

CEQA also requires "a lead agency to consider whether a project's effects, while they might appear limited on their own, are "cumulatively considerable" and therefore significant."

CEQA tasks lead agencies with the responsibility of ensuring that new projects "(b) do not result in the unmitigated concentration of polluting activities near communities that fall into the categories defined in Government Code section 11135. The Office of Attorney General, Environmental Justice advisory letter of 07/10/12 explained, "To support such a finding that such concentration will not occur, the local government likely will need to identify candidate communities and assess their current burdens." This has not been done for this permit.

It is settled law that, "Substantial evidence is enough relevant information *and reasonable inferences from this information* that a fair argument can be made to support a conclusion, even though other conclusions might also be reached."[4] We ask this Board to conclude that this project should be rejected, or examined through an EIR, rather than allowed to proceed without addressing the potentially dire impacts it may cause.

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[4] (14 Cal.Code Regs.1$ 15384, subd. (a).) *Committee for Re-Evaluation of T-Line Loop v. San Francisco Municipal Transportation Agency* (2016) 6 Cal.App.5th 1237, 1245. Cited in Citizens for Responsible Oil & Gas vs. County of Ventura

5. **The Increase of Trucking Limits by 16 One-way Trips per Day is a Significant Environmental Impact that is Unstudied, a fact supporting the reasonable assumption of significant health risk at the nearby community.**

The estimate of truck trips, besides being unstudied, is also improperly prepared. The County must have evidentiary support to rely on an averaged baseline for truck trips, which it fails to do.

To assess the number of trips per well, the addendum divides the monthly amount produced at the 9 wells using the same roadways and then divides it by the average capacity of haul trucks, and then divides it by either 26 or 30 days. This is problematic for several reasons.

First, there is no evidence supporting the average capacity of the tanker trucks. It is also unclear how many days per month the wells operate. More importantly, this baseline average is then divided by 9 to assess the number of trips per well per day. It is inaccurate to divide the truck trips by 9 wells because only 4 to 7 wells are in operation per month. This underestimates the number of trips per well.

6. The Increased Size of Storage Tanks for Oil and Produced Water Storage Onsite is a Significant Environmental Impact that is Unstudied, a fact supporting the reasonable assumption of significant health risk at the nearby community.

The storage tanks for this permit are doubling in size, from 500 to 1000 barrels. This is, at least, a significant visual change, and also an indication of the increase in processing that will occur.

II. The VCAPCD Health Risk Assessment is not Sufficient to Make a Determination of Significant Environmental Impact

The Health Risk Assessment (HRA) submitted for this Addendum measures only whether the emissions from the new wells, and attendant operations, might cause cancer and certain other chronic and acute non-cancer risks. This information appears reasonable based on the built-in model assumptions and information available to the APCD almost a year ago last September. **However, the analysis is of limited usefulness, because it**

fails to assess the totality of the impact. The reason for this is that the VCAPCD has limited tools to do air quality assessments and must base their estimates on unverifiable assumptions.

VCAPCD only has a limited ability to assess risks. They do not have the tools to fully assess asthma, low birth-weight in babies, and other impacts that show up in studies, detailed in this letter, for areas burdened by pollution. The APCD risk assessment ONLY looks at 3 drilling related chemicals (benzene, toluene and xylene). For combustion (flare and glycol reboiler) they only evaluate assumed emissions for 11 compounds. They are, therefore, missing as many as 200 potential exposure agents.

Even with regard to cancer, the VCAPCD cannot fully assess the risk, because they do not have the information or tools to assess emissions related to fracking.

We know that the Rosenmund site has been fracked, and material from those operations have been sent by pipe to Naumann. There is no monitor measuring those fracking emissions, because the chemicals which are used are proprietary to the companies that make them, and that information is therefore unknown to the APCD.[5] The only way to assess the environmental impact from fracking is to look at the ill effects on people, which we can see in the nearby community.

In addition, **the HRA does not look at the *cumulative impact* on the nearby sensitive population.** Yet CEQA law requires a cumulative determination: "CEQA requires a lead agency to consider whether a project's effects, while they might appear limited on their own, are "cumulatively considerable" and therefore significant." This is especially true when there are higher susceptibility factors as found here in the nearby community.

***The HRA is too limited a tool* to be used to approve a drilling site with multiple previously unstudied significant environmental impacts including: -fracking, -large volumes of gas disposal, -expanded**

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[5] Toxic Secrets Companies Exploit Weak US Chemical Rules to Hide Fracking Risks Dusty Horwitt Partnership for Policy Integrity April 7, 2016, http://www.pfpi.net/wp-content/uploads/2016/04/PFPI_ToxicSecrets_4-7-2016.pdf

processing operations, -additional truck trips, -four new wells, -expanded storage tanks, detailed above.

If this project is not rejected, an EIR is needed to allow residents to fully know the hazards they may be facing if a permit is issued.

The HRA must consider not just the 4 wells, but all projects present, future and probable. This was not done.

The Rosenmund site has 15 wells, and shares pipelines with Naumann. The operator has also obtained leases, and done all the groundwork for the proposed Doud multi-pupose site, which would accommodate 15 wells, and is 2500' from the Naumann drill site. Although undeveloped, it is a probable drilling operation, and CEQA requires it to be considered.

Note also that the 1986 MND for the Naumann drill site did not consider the potential health impacts from this project. The MND included a line item titled Human Health. That line item contained a notation referring the reader to number 14 in the MND, "risk of upset." Number 14 states that because the County has zoning ordinances and provisions for hazardous materials, there is "no risk of upset."

Human Health was ignored in the 1986 MND, and has been inappropriately considered in this addendum

If this project is not rejected, an EIR is needed to allow residents to fully know the hazards they may be facing if a permit is issued.

III. The Fair Argument Standard Must be Applied

At the 9/7/17 Planning Commission Hearing, Commissioner Aidukas asked twice, "what do these folks have to do to meet the fair argument standard? Do they have to go out and get their own health study to show there may be a significant effect from the air emissions to this community?"

Commissioner Aidukas' questions went unanswered. However, the fair argument standard is clearly explained in CEQA.

"The fair argument standard means enough relevant information and **reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.**

Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence."[6]

The whole record for this project includes letters and testimony from local residents who have attested to health problems including asthma, heart disease, and babies born with low birth weights. A local nurse wrote a letter regarding her observations while working at the local hospital of clusters of health issues centering on particular communities, especially the mobile home park nearest this project.

The record contains scientifically compiled, accurate data on the census tract within which the project lies that demonstrates such a high level of existing pollution that it should trigger a very careful, thorough analysis of the impacts of any future localized emissions.

There are currently 16 oil wells permitted on two drill pads on either side of this mobile home park, to the north and south. This permit would add 4 more. And the Doud permit application, while expired, can be resurrected anytime as a probable future expansion of drilling.

All of the wells were permitted a few at a time. For that reason, the total emissions from the whole project of producing oil from the Cabrillo oil field may never be cumulatively evaluated without an EIR.

According to the VCAPCD, 15 oil wells produce 30 lbs. of ROC/NOx per day, well above the 25 lb. level of significance set by your Board. However, staff asserts that the addition of 4 oil wells, expanded processing and

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[6] (Cal. Code Regs., tit. 14, § 15384(a), emphasis added; see also § 21082.2.

storage, and additional truck trips do not amount to a significant level of emissions, one that would trigger a subsequent EIR.

If the applicant always applies for a number of wells that does not exceed the level of significance, and does not conduct a cumulative analysis, there can never be a CEQA review of the emissions. It is unreasonable to insist that 30 lbs./day of emissions goes up into the air, regardless of prevailing winds and weather conditions, and therefore, are insignificant, especially in light of the cumulative impact on sensitve receptors nearby.

Thus, if this project is not rejected, there is a pressing need for an EIR focusing on the environmental impacts of this project to these particular census tract residents.

The California Supreme Court recently clarified the standard of review applicable to subsequent approvals for activities that have been analyzed in a previous MND, instead of an EIR, in *Friends of the College of San Mateo Gardens v. San Mateo County Community College District* (2016).[7] The fair argument standard of review was found to apply when determining whether an addendum was adequate, or whether subsequent environmental review, either a subsequent MND or subsequent EIR, was required.[8] The Court found:

"when a project is initially approved by negative declaration, a "major revision" to the initial negative declaration will necessarily be required if the proposed modification *may produce a significant environmental effect that had not previously been studied.* Indeed, if the project modification introduces previously unstudied and potentially significant environmental effects that cannot be avoided or mitigated through further revisions to the project plans, then the appropriate environmental document would no longer be a negative declaration at all, but an EIR. (*Id.* at 958.)"

On remand, the Court of Appeals elaborated, and found **the fair argument standard must be applied to determine whether a subsequent EIR was**

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[7] 1 Cal.5th 937 ("*San Mateo Gardens I*")

[8] (*San Mateo Gardens I, supra,* 1 Cal.5th at 959.)

required after preparation of an MND. The Court of Appeals stated this was the only "reasonable interpretation" of *San Mateo Gardens I*:

[J]udicial review must reflect the exacting standard that an agency must apply when changes are made to a project that has been approved via a negative declaration, as opposed to the deferential standard that applies when the project was originally approved by an EIR.

[The fair argument standard of review] is less deferential because a negative declaration requires a major revision—i.e., a subsequent EIR or mitigated negative declaration—whenever there is substantial evidence to support a fair argument that proposed changes 'might have a significant environmental impact not previously considered in connection with the project as originally approved.'[9]

Thus, when a project's impacts were previously reviewed in an MND, if substantial evidence shows that changes to the project, changes in circumstances, or new information might result in a significant impact, adoption of an addendum is not permitted under CEQA. (*Id.* at 606-607.)

The circumstances in which an addendum is appropriate are limited to "minor technical changes or corrections." The following are the changes to the project, as detailed above, go well beyond 'minor,' or 'corrections':

-the addition of 4 new previously unapproved, and not considered under CEQA, oil and gas wells,
-an increase of trucking limits by at least 16 one-way trips per day,
-the potential for increased flaring
-doubling the size of storage tanks for oil and produced water storage onsite,
-and expanded processing for the Cabrillo Oil Field.

There is a fair argument that these changes, far from being 'minor technical changes or corrections,' may result in a significant impact to the environment for the reasons included here.

There is substantial evidence of a direct or indirect adverse health effect

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[9] *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2017) 11 Cal.App.5th 596, 606-608

CalEnviroScreen 3.0 was developed by the OEHHA at the Direction of Cal EPA, and identifies California communities by census tract that are disproportionately burdened by, and vulnerable to, multiple sources of pollution. The census tracts are ranked, and the highest (worst) scoring 25% of tracts are considered "disadvantaged"."

Within that worst scoring disadvantaged 25%, each community received a comparative percentile score to demonstrate the severity of the specific burden as compared to other identified Disadvantaged Communities.

The project will have a direct or indirect adverse effect on the residents of census tract 6111004704 (mostly Pacific Mobile Estates) because their pesticide exposure level is 100%, the highest exposure of any community in the State of California according to CalEnviroScreen 3.0. Their pollution burden percentile is 91.

While planning staff may have the latitude to use other data compiled for the purposes of understanding the pollution burden on a community, it cannot dismiss CalEnviroScreen data without substituting some other substantial evidence of the existing pollution burden.

County has not made any assertions about the communities' existing burdens except to say, "If the main driver of this environmentally disadvantaged community is the fact that its located in this census tract which is 97% agriculture and has a lot of pesticides, they have no cumulative effect because there is no effect from this project." Brian Baca 09/07/17 Planning Commission Hearing.

Mr. Baca's cavalier dismissal of the effects of pesticides is contrary to CEQA law, and the concept of cumulative impact. As detailed below, *both the 'cumulatively considerable' effects of a project, and its setting must be taken into account.*

Nor does Mr. Baca's attempt to 'water-down' the exposure, by dividing it over 30 years, pass muster. As discussed below by a highly qualified air quality expert, this idea is **"absurd and would not be supported by any qualified health expert."[1]**

[1] Dr. Steve Colomé earned a doctoral degree from Harvard University in Air Pollution Control and an SB from Stanford University; has served on the faculties of UCLA and UC Irvine. Colomé has started several successful research and consulting firms and has research experience in the areas of air pollution exposure, pollution control, epidemiology, risk assessment, and has advised the US EPA and governments of Mexico and Croatia on air quality.

The Significance of the pollution burden depends on the setting

CEQA law makes it clear that setting and location are the heart of CEQA.

> It is well established that: "[t]he significance of an activity depends upon the setting." (*Kings County Farm Bureau v. City of Hanford* (1990) [10]
>
> For example, a proposed project's particulate emissions might not be significant if the project will be located far from populated areas, but may be significant if the project will be located in the air shed of a community whose residents may be particularly sensitive to this type of pollution, **or already are experiencing higher-than-average asthma rates. A lead agency therefore should take special care to determine whether the project will expose "sensitive receptors" to pollution (see, e.g., CEQA Guidelines, App. G); if it will, the impacts of that pollution are more likely to be significant."** (emphasis added)[11]

Here, the project is located in the air shed of a community whose residents are heavily burdened by pollution, and have high rates of asthma as documented by CalEnviroScreen.

The lead agency has not taken special care to determine whether the project will expose "sensitive receptors" to pollution. For example, the Addendum fails to evaluate the dust from the dirt road leading to the project location, and its potential impacts.

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[10] 221 Cal.App.3d 692, 718 [citing CEQA Guidelines, § 15064, subd. (b)]; see also *id.* at 721; CEQA Guidelines, § 15300.2, subd. (a) [noting that availability of listed CEQA exceptions "are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant."])

[11] (Office of California Attorney General, Environmental Justice, Updated 07/10/12)

Nor does the Addendum consider the health effects to "sensitive receptors suffering from asthma" from, for instance, the spike in emissions over 120 days of drilling activity, which produces 90 lbs of ROC/NOx per day (staff report).

The permit also allows an unlimited number of re-drills or re-works (most of the existing wells have been reworked twice, and one three times). The Addendum makes no attempt to evaluate the spikes in emissions during these subsequent operations.

Additionally, Ventura County is in nonattainment for the 1 and 8 hour state ozone standards. A project would have a significant adverse impact if it could result in a cumulatively considerable increase in criteria pollutant for which the region is in non-attainment.

The 90 pounds per day of NOx and ROC that would be produced during drilling activities are cumulatively considerable criteria pollutants that could lead to ozone formation. The addendum improperly divides the daily emissions over 30 years, which fails to address the short-term health impacts that would actually be produced during the 120 days of drilling.

As Dr. Steve Colome writes in his remarks on this permit, "(T)here is no supportable health-based argument for averaging a short-term exposure that occurs during drilling with a longer-term exposure. **To average a 120-day exposure over a thirty-year time period is, frankly, absurd and would not be supported by any qualified health expert.** The appropriate exposure is 90 lbs/day of NOx and ROC as estimated by the APCD to occur during the 120 days of drilling activity. This emission level clearly exceeds any reasonable threshold for potentially significant impacts on air quality.

A project's effects may be "cumulatively considerable," and this must be considered under CEQA

With regard to the nearby community, the chemicals in pesticides, and those released in oil and gas operations, may have a **negative synergistic effect on human health.** This effect is specifically recognized in CEQA.

"CEQA requires a lead agency to consider whether a project's effects, while they might appear limited on their own, are "cumulatively considerable" and

therefore significant. [12] **[C]umulatively considerable' means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."** (*Id.*)

This requires a local lead agency to determine whether pollution from a proposed project will have significant effects on any nearby communities, when considered together with any pollution burdens those communities already are bearing, or may bear from probable future projects.

Accordingly, the fact that an area already is polluted makes it ***more likely*** that any additional, unmitigated pollution will be significant. Where there already is a high pollution burden on a community, the "relevant question" is "whether any additional amount" of pollution "should be considered significant in light of the serious nature" of the existing problem.[13]

1. "[A] number of studies have reported increased sensitivity to pollution, for communities with low income levels, low education levels, and other biological and social factors. This combination of multiple pollutants and increased sensitivity in these communities can result in a higher cumulative pollution impact." [14]

At the Planning Commission Hearing of September 7, 2017, County Counsel Jeffrey Barnes explained, "I think Mr. Villegas from APCD discussed this before. Right now we're looking at an oil and gas project, and so maybe to paraphrase his testimony, the environmental impacts from this are insignificant. They're in fact, once you get 1600' from the project, there's basically no air pollution. **And so the type of air pollution that's created by this sort of facility for better or for worse goes up in the air, and so that's why APCD's permitting program looks at the county as a whole.** You're not talking about toxic chemicals here such as might be involved with pesticides and so CEQA requires us to really hone in on the

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[12] (Pub. Res. Code, § 21083, subd. (b)(3).)

[13] (*Hanford, supra*, 221 Cal.App.3d at 661; see also *Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1025 [holding that "the relevant issue ... is not the relative amount of traffic noise resulting from the project when compared to existing traffic noise, but whether any additional amount of traffic noise should be considered significant in light of the serious nature of the traffic noise problem already existing around the schools.")

[14] Office of Environmental Health Hazard Assessment, *Cumulative Impacts: Building a Scientific Foundation* (Dec. 2010), Exec. Summary, p. ix, available at http://oehha.ca.gov/ej/cipa123110.html.

project before us. And so, I totally understand and sympathize with the community's concerns, but you can't lose track of what emissions are being released by this project, and the effect of those emissions on human health. **And so that's what you really need to hone in on as opposed to how the community might be harmed by pesticides from completely unrelated activities other than they're in the same vicinity."**

Mr. Barnes' argument is incorrect for three reasons. First, he seems to ignore the court's findings in Hanford.[15] Specifically, "This requires a local lead agency to determine whether pollution from a proposed project will have significant effects on any nearby communities, when considered together with any pollution burdens those communities already are bearing, or may bear from probable future projects. Accordingly, the fact that an area already is polluted makes it *more likely* that any additional, unmitigated pollution will be significant. **Where there already is a high pollution burden on a community, the "relevant question" is "whether any additional amount" of pollution "should be considered significant in light of the serious nature" of the existing problem.** (emphasis added).

Second, there are toxic chemicals emitted from oil and gas facilities. For example, the Ventura County Air Pollution District has estimated that the following air pollutants may be released from natural gas flares: benzene, formaldehyde, polycyclic aromatic hydrocarbons (PAHs, including naphthalene), acetaldehyde, acrolein, propylene, toluene, xylenes, ethyl benzene and hexane. The list includes toxic chemicals known to cause cancer in humans.

Third, Mr. Barnes summarily declared that the pollution from this project "goes up in the air." However, that contention is contradicted by Mr. Villegas's (VCAPCD) warning at the same Planning Commission hearing, "the most dangerous emissions to human health are diesel particulates. The lesson there is, don't live by a freeway."

If one dismisses the emissions from 5 oil wells, flaring, processing, drilling, re-drilling and completion activities as simply going up in the air, we are still left with the project's additional diesel truck traffic amounting to 7,300

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[15] *Hanford, supra*, 221 Cal.App.3d at 661; see also *Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1025.

permitted truck trips per year, not counting additional truck trips and emissions during drilling or work-over activities.

This community is surrounded by, and directly abuts Highway 1, Pleasant Valley Road, and South Rice Road, all of which are used as the primary truck routes to and from Port Hueneme. The pollution burden is already excessively high (CalEnviroScreen pollution score 91, diesel 36 and impaired water 97) and thus the pertinent question is "whether any additional amount of pollution should be considered significant in light of the serious nature of the existing problem." [16]

Appellants believe that the additional pollution from this permit modification should be considered significant. The high pollution burden of this community, and the high asthma and low birth weight rates[17] combine for the reasonable inference, based on substantial evidence, that Appellants have made a fair argument that the addition of the emissions from this project may be significant.

IV. Other MND Deficiencies

When a project's impacts were previously only reviewed in an MND, if substantial evidence shows changes to the project, changes in circumstances, or new information might result in a significant impact, adoption of an addendum is not permitted under CEQA. There are significant changes detailed here, and including visual impacts from the project, no longer screened by trees.

The Court of Appeal in *Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2017) 11 Cal.App.5th 596 also found that the need for mitigation measures for the subsequent project demonstrated the potential for adverse impacts. Subsequent environmental review, at least a subsequent MND, is required instead of an addendum where, mitigation measures are imposed upon the subsequent project.

Here, the conditions of approval include mitigation for potential significant environmental impacts, such as impacts from truck trips and noise impacts.

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[16] Id.

[17] (CalEnviroScore: 31 and 45 respectively)

Thus, subsequent environmental review is required under CEQA instead of reliance on an addendum.

V. Violations of the NCZO

1.) Staff relies on NCZO 8105-4 and 8111-1.2.1.1, under which findings must be made by the staff for the granting of the CUP.

Staff must provide "specific factual findings," to support each requirement, which they have not done.

Staff findings contain no empirical data, scientific authorities, or explanatory information. Instead, the Planning Director Staff Report of 2/23/17 provides only conclusory, unsupported statements with regard to two critical findings:

c. The proposed development would not be obnoxious or harmful, or impair the utility of neighboring property or uses;

d. The proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare.

These deficient staff findings can be traced back to the 1986 MND environmental assessment. Despite Ventura County Initial Study Guidelines requiring a study of health impacts, no such study was included in the 1986 MND. As detailed above, the Health Risk Assessment does not adequately evaluate either the full range of significant adverse impacts, or their cumulative impact on the nearby community.

In addition, the NCZO states that "The applicant shall have the burden of proving to the satisfaction of the appropriate decision-making authority that the following standards can be met."

We can find no documentation that Renaissance Petroleum has addressed the standards in *any* way, further undermining staff's findings.

A major modification, or an EIR, would cure the failure to comply with the mandates of the NCZO by both staff and the applicant.

2.) The staff report of September 7, 2017, in section A7, relies on NCZO, Sec.8111-6.1.2 as the Planning Director's authority to approve the oil field expansion with Minor Modification. However, Section 8111-6.1.2 also states that the proposed change cannot "change any findings contained in the environmental document prepared for the permit." If such a change is found, then a minor modification cannot be issued.

The MND in question was issued on 12/15/1986, with an Initial Study containing an Environmental Checklist, attached. These documents, (taken together as the "MND,") constitute the 'environmental document prepared for the permit."

Renaissance Petroleum's request would make significant changes in the findings of the 1986 MND, Initial Study, and therefore NCZO Sec. 8111-6.1.2 prohibits the issuance of a Minor Modification.

These changes of findings include:

Adverse visual effects (22); increased noise and vibration (24); a four-fold increase in the number of oil wells (5); additional light pollution (23).

In addition, as detailed in these comments, there are new scientific studies on health impacts of oil fields, as well as new requirements for adverse impacts on environmental justice communities that have not been fully considered.

For these reasons, this permit Addendum should be rejected as violative of the County NCZO, or an EIR should be required.

This appeal also relies on the Superior Court Decision:

Citizens for Responsible Oil & Gas vs. County of Ventura, 2017

https://drive.google.com/viewerng/viewer?url=https://assets.documentcloud.org/documents/4311754/Court-Order-Granting-Writ-Min-2.pdf