



June 8, 2015

Ventura County Planning Commission
800 S. Victoria Ave., Hall of Administration
Ventura, CA 93009-1740

RE: Appeal of CRC Oil & Gas Project (PL13-0150)
Item 6, Planning Commission Hearing, June 11, 2015

Dear Chair Wesner and Members of the Commission:

Thank you for considering our appeal of a proposal by California Resources Corporation ("CRC") to drill 19 new oil and gas wells and to continue operating 17 existing oil and gas wells and related facilities for another thirty years. The wells are located along a popular recreation trail leading into the Los Padres National Forest along Santa Paula Creek in Ventura County.

Los Padres ForestWatch is a nonprofit organization that works to protect the Los Padres National Forest and other public lands along California's Central Coast. Our members and supporters – which number more than 1,000 in Ventura County and more than 4,000 throughout the Central Coast – are concerned about the environmental impacts of oil drilling on wildlife habitat, water quality, scenic views, and outdoor recreation in and around the Los Padres National Forest. Our goal is to ensure that any existing and proposed oil drilling operations near the Los Padres National Forest are conducted responsibly and in a way that reduces or avoids environmental impacts to the fullest extent possible.

On February 17, 2015, the Planning Director approved the project without preparing a full Environmental Impact Report ("EIR"). Instead, the Planning Division ("Division") has prepared a nine-page addendum to an EIR that was prepared thirty years ago. This EIR Addendum does not satisfy the Division's obligations under the California Environmental Quality Act ("CEQA"), which requires preparation of a Subsequent or Supplemental EIR to incorporate new information that has developed over the last three decades since the original environmental document was prepared for this site.

A Subsequent EIR will provide the County and the public with an opportunity to fully evaluate the impacts of existing and proposed oil development in this remote mountainous area, and is particularly appropriate in light of the following characteristics of the area:

- Santa Paula Canyon is one of the most environmentally sensitive areas in Ventura County, providing habitat for several rare and imperiled wildlife including endangered southern steelhead and endangered California condors;

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Exhibit C – Los Padres ForestWatch letter

- A pair of condors has established a nest less than two miles from the project site. It is the first time this nest site has been used since the 1980s, and the pair's first egg just hatched last week.
- The area also serves as one of the most popular gateways to trails, backcountry camps, swimming holes, and waterfalls in the Los Padres National Forest;
- The site is part of the original Chumash village of *Sisa*, the largest of the inland village sites and considered by archaeologists to be of the "highest significance" in understanding the entire Chumash economic sphere and social network;
- Surrounding land uses – including an avocado ranch and a quaint college campus – are incompatible with intensive oil development;
- The operation has a long history of significant permit violations, which have placed these sensitive natural and cultural resources at great risk; and
- Various oil wells, pipelines, storage tanks, access roads, and other oil production facilities have been authorized in this area since 1971 in piecemeal fashion with no or little environmental review.

Most oil and gas operations in Ventura County operate under antiquated permits that were approved in the 1950s and 1960s without any environmental review, without any limits on the number of wells, and without any expiration date. This project is different, meaning that the Commission has the ability right now to make much-needed updates to the permit conditions at this site. We urge your Commission to take this unique opportunity to make meaningful improvements to this facility to protect the biological, cultural, and recreational resources of Santa Paula Canyon.

At your hearing on June 11, 2015, we respectfully urge your Commission to:

- Decline to certify the 9-page EIR Addendum, and direct the Division to prepare a Supplemental or Subsequent EIR;
- Direct the Division to nullify the permit application based on ongoing violations with the terms and conditions of the existing permit;
- Direct the Division to incorporate additional changes to the project to reduce potentially significant environmental impacts; and
- Uphold our appeal, and refund our \$1,000 appeal fee.

As background information for your Commission to consider, the existing permit for this facility states that "[d]rilling of all approved wells must be completed in a timely manner ending within (3) years of the issuance of CUP-3344 MOD #8 and #9. The Planning Director is authorized to administratively extend

the drilling phase two (2) additional years.” CUP-3344 MOD #8 and #9 were issued in 1985, so all wells needed to be drilled by 1990 at the absolute latest. Now, a quarter-century later, the applicant wishes to extend the allowable drilling period for new wells another 30 years, attempting to boot-strap these new wells onto a mishmash of several piecemeal environmental reviews conducted more than thirty years ago. This would extend the significant impacts of drilling long into the future and well beyond anything envisioned by previous Planning Commissions, Boards of Supervisors, environmental documents, neighboring land uses, and the interested public. Further time extensions are not warranted, and risk straining the resources of Division staff, your Commission, and the Board of Supervisors. Given the extensive history of permit violations at this location, some of which continue to this day, the County should focus on bringing the existing wells into compliance before even considering the approval of new wells.

Our appeal points are outlined below. Thank you for your thoughtful consideration in protecting the biological and recreational resources of Santa Paula Creek.

1. THE COMMISSION SHOULD NULLIFY THE APPLICATION DUE TO SIGNIFICANT ONGOING VIOLATIONS OF THE EXISTING PERMIT

The Ventura County Non-Coastal Zoning Ordinance (“Zoning Ordinance”) requires that an application for a permit or permit modification be nullified if violations exist on the subject parcel. Specifically, Section 8111-2.2(g) of the Ventura County Non-Coastal Zoning Ordinance (“Zoning Ordinance”) states:

Nullification of Applications When Violations Are Discovered - Where a violation is discovered on a lot where an application request has been accepted or is being processed after being deemed complete, said application shall become null and void and returned to the applicant.

In addition, Section 8111-2.7 of the Zoning Ordinance states that permits “shall be null and void” if “[t]he application request which was submitted was not in full, true, and correct form.” It is important to note that these nullification requirements are mandatory and without discretion; the County shall nullify the application or permit where violations occur or where incorrect or incomplete information has been presented in the application.

This facility has an extensive history of permit violations, many of which continue to this very day. The original permittee and its successors, including CRC, have failed to comply with numerous conditions that have been on the books for nearly three decades. In addition, CRC’s own application for this permit modification is incomplete, mischaracterizes several permit conditions, and contains misleading statements. The Division should not have deemed the application complete when it did, placing your Commission in the unsettling situation of considering a proposal with significant ongoing violations.

Your Commission must send the project back to the drawing board so that your staff – and the public – can appropriately consider a project with a full and complete application, and one that is unburdened by ongoing violations. Frankly, the focus of this hearing should be on how to remedy the ongoing violations of this site, rather than discussing whether to double the number of existing wells and extend the entire project for thirty years.

In a letter dated February 11, 2015 to Planning Director Kim Prillhart, we outlined in detail a series of ongoing violations at this facility. The letter also requested that the Division nullify the permit application, citing the Zoning Ordinance sections highlighted above. Our letter is attached to this appeal as **Exhibit 1**.

The Division responded to our request on February 27, 2015, ten days after approving the project and one day after we filed our appeal. The Division responded as follows:

Given that Los Padres Forest Watch has appealed the February 17, 2015 decision of the Planning Director on the PL 13-0150 application, your letter and a staff response to the issues raised therein will be included in the staff report provided to the Planning Commission at the de novo hearing on the proposed project.

A copy of the Division's response to our nullification request is attached as **Exhibit 2**. It is unclear why the Division did not immediately investigate the allegations set forth in our letter, as it typically does when receiving complaints for permit non-compliance.

Instead, the Division chose to defer the resolution of these complaints to your Commission. In a memo dated May 26, 2015 and attached to the staff report, the Division provides a four-page response to our complaints. The memo tacitly acknowledges that the applicant is in non-compliance with several permit conditions, yet postpones any resolution of the violations until after this hearing. This memo is attached to our appeal as **Exhibit 3**.

The Division's failure to appropriately investigate our complaint is in keeping with the Division's long-standing practice of turning a blind eye to this facility. In fact, the Division even admits in its May 26, 2015 memo that "there is no record of a formal compliance review being conducted by the County since 2003." This is in complete violation of Condition 4 of the existing CUP, which states:

That two (2) years and five (5) years after the approval of CUP-3344 MOD #8 and #9 and every fifth year thereafter, the permit shall be reviewed by the Planning Director at the permittee's expense. The permittee shall initiate the review by filing an application for said review and paying the deposit fee then applicable.... The purpose of the review is to ascertain whether the permit, as conditioned, has remained consistent with its findings for approval and if there are grounds for the filing of an application for modification or revocation of the permit.

The referenced permit modifications were approved in 1982. Based on this timeline, the Division should have performed compliance reviews on this facility in 1984, 1989, 1994, 1999, 2004, 2009, and 2014. It is simply unacceptable to overlook seven compliance reviews over the course of 33 years. The current applicant's acquisition of this facility in 2008 would have been an excellent opportunity for the County to conduct a compliance review, but it failed to do so then, too – even though the applicant had signed and submitted a Reimbursement Agreement for Permit Condition Compliance Review in 2008 in connection with the facility transfer.

Even while agreeing that the County and applicant are delinquent on condition compliance reviews for this facility, the Division postpones any future condition compliance review until *after* your Commission

approves the permit. Specifically, the Division's May 26, 2015 memo concludes: "Given the current discretionary action under consideration by the County, the next compliance review will occur *after* the final action by the County on the requested modified CUP," (emphasis added). It is wholly inappropriate to further postpone a compliance review, particularly in light of the seriousness of the allegations outlined in our complaint, the extensive history of permit violations at this facility, and the sensitive resources at stake.

The Division's approach is backwards and will waste the Division's and your Commission's valuable time and resources. When (and if) the Division conducts a compliance review in the future, it could find that these same violations still exist. Such violations could rise to the level of requiring a permit modification, re-starting this process all over again. These violations should be resolved now, during the current process of modifying the permit, rather than at some time in the future.

The Division in its memo acknowledges that several violations of the current permit exist, and have existed for several years if not decades. Instead of attempting to resolve these violations, the Division merely sweeps them under the rug, and assures us all that they will look into it at some undefined time in the future, after the permit modification has already been issued. This does not instill any confidence amongst the public that the Division will conduct timely investigations of complaints, and upends the enforcement and nullification procedures outlined in the Zoning Ordinance as approved by your Commission and the Board of Supervisors. We ask that the Commission reaffirm the County's commitment to permit compliance by directing Division staff to appropriately respond to the complaint and to take enforcement action as necessary to abate such violations, prior to taking any other action on the applicant's permit.

2. NEW INFORMATION REQUIRES PREPARATION OF A SUPPLEMENTAL OR SUBSEQUENT EIR TO COMPLY WITH CEQA

Under CEQA, the County can prepare an EIR Addendum only in a narrow set of circumstances. If any of the following conditions apply – and we argue below that they do – then your Commission cannot certify the EIR Addendum and must direct the Division to prepare a Subsequent EIR:

- (1) Substantial changes are proposed in the project which will require major revisions of the EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions of the EIR or Negative Declaration due to involvement of new significant environmental effects or a substantial increase in severity of previously identified significant effects; or
- (3) New information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified or the Negative Declaration was adopted, shows the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or Negative Declaration.

- (B) Significant effects previously examined will be substantially more severe than previously shown in the previous EIR.
- (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponent declines to adopt the mitigation measure or alternative; or
- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measure or alternative.

CEQA Guidelines §§ 15162, 15164(a). The County has the burden of demonstrating that none of these conditions apply, based on substantial evidence in light of the whole record. *Id.*

The Division's 9-page EIR Addendum falls far short of this burden. The previous environmental documents did not evaluate several potentially significant impacts, and several impacts mentioned in the previous environmental documents have substantially increased in severity – two criteria outlined in the CEQA Guidelines that warrant preparation of a Subsequent EIR. These new and heightened impacts are outlined below:

a. Impacts to Outdoor Recreation & Trails Were Not Adequately Evaluated in the Previous EIRs

A formally-designated national forest trail known as the East Fork Trail or the Santa Paula Canyon Trail (Forest Trail 21W11) cuts directly through the middle of this oil and gas operation. This trail has existed since the early 1900s, long before any oil wells were drilled at this site, and today serves as one of the most popular gateways into the Los Padres National Forest.

The public trail begins on the Thomas Aquinas College campus, and transitions from pavement to dirt road to trail as it passes directly adjacent to several oil wells, pipelines, tanks, and other facilities. It is “by far the most heavily traveled in the Ojai Ranger District” (Carey, C.R. 2012. *Hiking & Backpacking Santa Barbara & Ventura*) and the U.S. Forest Service estimates that up to 100,000 people use the trail annually. The trail leads to several popular waterfalls, swimming holes, and backcountry campsites before entering the Sespe Wilderness Area. The trail is described as follows:

The Santa Paula Canyon Trail in the Topatopa Mountains is among the most beautiful and popular hikes in the Ojai area. The trail begins by walking through picturesque Saint Thomas Aquinas College into Santa Paula Canyon. The hike follows Santa Paula Creek up a shady, forested canyon past a number of deep bedrock pools and cascades surrounded by rugged mountain views. The trail leads to The Punchbowl, a scenic, narrow gorge with waterfalls and pools between Big Cone Camp and Cross Camp.

Stone, R. 2011. *Day Hikes Around Ventura County*.

The trail passes immediately adjacent to Drill Site 1 and Drill Site 7. While a chain link fence surrounds both drill sites, neither fence is properly screened and the facilities on each drill site are readily visible from the trail. Odors emanate from the Drill Sites and are frequently encountered by trail users along

this segment of trail. It is no wonder that the late Fred Volz, author of Ojai's seminal hiking guide *Ojai Hikes*, noted this about the trail:

The trail begins on a fire road leading past an old farmhouse (off limits) and runs down to the river through a noisy, stinking oil field, which we hope will not spill your spirits.

Volz, F. 1988. *Ojai Hikes* at 39. Most other accounts of this trail – both online and in print – similarly note the distinctive presence of the oil facilities. These accounts are attached as **Exhibit 4**.

The applicant is proposing to drill an additional two wells at Drill Site 1 (the current site of 5 active oil wells plus several storage tanks and other facilities), and an additional 5 wells at the most sensitive and remote site, Drill Site 7 (which currently contains only two active wells and one idle well). Additional drilling at Drill Site 7 in particular would further degrade the visual landscape along this popular trail and would negatively detract from the outdoor experience with an increase in noise and odors.

In addition to posing a significant impact, the new and existing wells would not comply with Resources Policy 1.7.2-1 of the General Plan, which states that “discretionary development which would significantly degrade visual resources or significantly alter or obscure public views of visual resources shall be prohibited unless no feasible mitigation measures are available and the decision-making body determines there are overriding considerations.” It is also not consistent with Ventura County Non-Coastal Zoning Ordinance §8111-1.2.1.1, which requires the Planning Director to make a finding that the proposed land use is compatible with surrounding development and land uses; would not be obnoxious or harmful or impair the utility of neighboring uses; would not be detrimental to the public interest, health, safety, convenience, or welfare; and is compatible with existing and potential land uses in the general area. These inconsistencies with County policies and ordinances would also represent a new impact that was not previously evaluated, necessitating preparation of a Subsequent EIR.

Given the overwhelming dominance of the oil operation along this trail, it is difficult to comprehend how the Division could have concluded in its staff report for the Planning Director hearing that “[t]he drilling pads are surrounded by hills and are not visible from any public viewing location,” and “The oil and gas production facilities will be located in a region that is surrounded by hills and screened from view from any public location.... The existing character of the area will not be substantially altered with implementation of the proposed project.” Planning Director Staff Report at 7, 13. Two of the drill sites are immediately adjacent to the trail and are completely visible therefrom, significantly detracting from the recreational experience of outdoor enthusiasts along one of the most popular trails in Ventura County.

It only gets worse. The current oil drilling operation is not in conformance with previously-approved mitigation measures relating to screening and cleanliness. As outlined in our complaint to the Division dated February 11, 2015 (previously referenced as **Exhibit 1**), the facility fails to comply with the following permit conditions:

- Condition 31 (“all permanent facilities, structures, and aboveground pipelines shall be colored so as to mask the facilities from the surrounding environment and uses in the area.”)

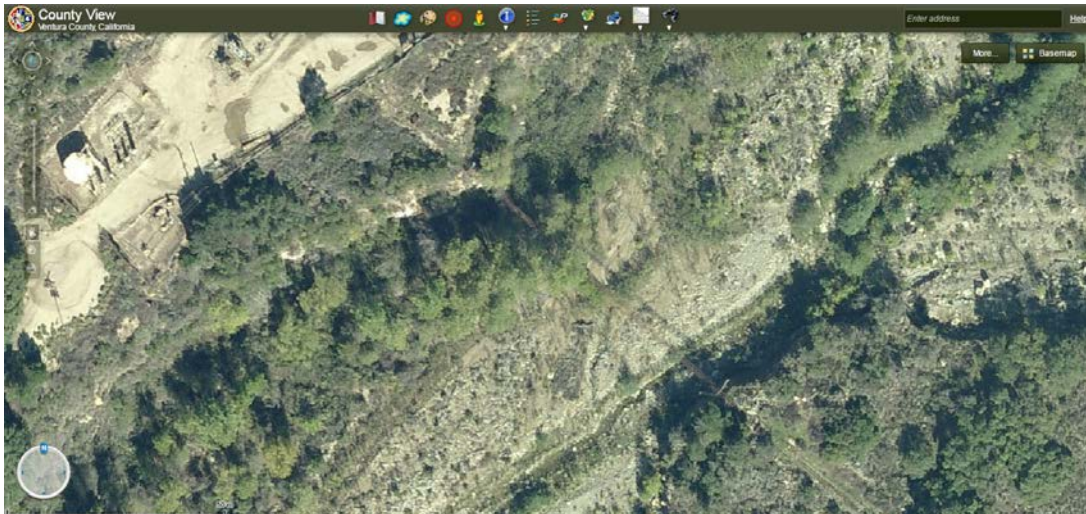
- Condition 32 (the permit area “shall be maintained in a neat and orderly manner so as not to create any hazardous or unsightly conditions.”)
- Condition 49 (requiring that Drill Sites 1 and 7 “shall be completely enclosed by two (2) inch mesh chain link fence of a non-rusting material, constructed to a height of not less than six (6) feet and containing no openings except those required for ingress and egress.”)
- Condition 49 (requiring the gates to be kept locked “except when oil field personnel are present on the drill site.” On our visit to these drill sites on January 5, 2015, the gate to Drill Site 7 was wide opened and unlocked, with absolutely no oil field personnel present.
- Condition 51 (requiring each drill site to “be landscaped so as to fully screen production equipment (including permanent storage tanks) and cut and fill slopes from view of...the Santa Paula Canyon hiking trail.”)

The list of ongoing permit violations at this site is extensive, and is outlined in detail in our complaint in **Exhibit 1**. We urge the Commission to push the pause button on this application to give your Division time to rectify these serious violations. These mitigation measures were imposed by your Commission and the Board of Supervisors as part of a thoughtful process aimed at reducing or eliminating significant environmental impacts. The County’s failure – and the applicants refusal to – to implement these measures has allowed significant impacts to accrue over the course of more than three decades, and these impacts continue to this day. Your Commission may wish to pursue two options to address this matter: (1) allow the violations to continue, evaluating the new visual and recreation impacts caused by such non-compliance in a Subsequent EIR, or (2) direct the Division to conduct a compliance review and abate any violations before proceeding. We urge you to pursue the latter option.

b. The Risks from Oil Spills Have Increased Since the Previous Analysis

Neither of the previous environmental documents – nor the EIR Addendum – adequately evaluates and mitigates the potentially significant impacts of oil spills on Santa Paula Creek. One of the pipelines servicing this facility crosses Santa Paula Creek, and the 1978 EIR requires the applicant to “install automatic safety vales on the shipping line so that the maximum amount of oil that could be spilled into Santa Paula Creek, in the event of pipeline breakage, would be 45 barrels (1,890 gallons). In addition, a properly designed suspension bridge would reduce the likelihood of pipeline breakage from flooding.”

The 1978 EIR, however, did not evaluate the impacts associated with a spill of this magnitude, nor did it evaluate the “worst case scenario” of a spill much larger than that. Any subsequent environmental document must discuss the environmental impacts of an oil spill of this magnitude, and consider whether current technology can feasibly reduce the scope of a spill or eliminate that risk entirely. In addition, the suspension bridge envisioned by the 1978 EIR mitigation measure was never constructed. The new permit conditions drop this requirement entirely, leaving this pipeline more vulnerable to damage in the event of a flood. And instead of only one pipeline, there appears to be three pipelines suspended across the creek, magnifying the probability of a spill. These additional impacts must be evaluated and appropriately mitigated in a subsequent EIR.



County imagery from 2011 shows the pipeline suspended 200 feet across the creekbed without the requisite “properly designed suspension bridge” required by the 1978 EIR authorizing its construction.

This new information – the pipeline constructed without the requisite suspension bridge, three pipelines instead of one, the impacts of a predicted spill of 45 barrels (1,890 gallons), and an evaluation of a “worst-case scenario” spill – must all be included in a Subsequent EIR.

c. Activity of California Condors Near the Project Site Has Increased Dramatically Since the Previous Analysis

The only prior evaluation of the project’s impacts to condors occurred in 1977, in conjunction with a permit modification. At the time, the permittee was only authorized to drill wells at Drill Site 1, and had asked for permission to modify the permit to add Drill Sites 2-6. Drill Site 7 had not yet been proposed. The Final EIR prepared by the County in 1978 states only this, with respect to condors:

The location of the drill sites in the canyon bottom and on the ridge to the northeast are factors which tend to reduce the impact of the project on nesting and roosting Condors in the area. It should be noted, however, that any activity beyond the proposed sites could have severe adverse impacts on this endangered species.

The County’s Staff Conservationist expresses the situation in 1977 as even more dire, stating in a memo from the Public Works Department that “any activity beyond the proposed sites would have severe adverse impacts on this extremely endangered bird, *and this project comes very close to being adverse.*” The excerpts from this EIR and memo are attached to our appeal as **Exhibit 5**.

Since this time, much has happened with the California Condor recovery program. Condors were removed from the wild in the 1980s, and a program to reintroduce them from captivity was launched a few years later. Condors are now using this area much differently than they did in 1977, and the impacts from oil development facilities are now much better understood.

Data provided by the U.S. Fish & Wildlife Service (“FWS”) indicates three active condor roosting sites within 0.5 miles of Drill Sites 2 and 7. In addition, an active condor nest is located within 1.75 miles of

these same drill sites. This FWS data shows that condors are actively recolonizing the Santa Paula Creek area, and are becoming increasingly active within the Ojai Oil Field.

The nearest nest site is less than two miles from the nearest oil well. The nest is active in 2015 for the first time since condors were reintroduced to the wild more than thirty years ago. Condor 262 and 449 are known as the Punch Bowl pair, due to the nest's proximity to the Punch Bowl, a waterfall and swimming hole on Santa Paula Creek. Their chick hatched this past Friday. This is the first nest in the history of the California Condor Reintroduction Program where two parents hatched from eggs laid in the wild reared a chick that was also hatched in the wild, heralding a second generation of completely wild condors.

This condor pair regularly roosts in the vicinity of the oil wells. In February 2014, Condor #262 landed in a grove of oak trees 0.13 mile away from the nearest oil well on Pad #2. He remained roosting at this site for more than 63 hours before leaving.

A second roosting site is located in a grove of conifers less than one-half mile from the nearest oil well. Condors have roosted at this site on several occasions:

- April 2012 – Condor 449 roosted at the site for fourteen hours (02:00 to 16:00)
- December 2013 – Condor 262 roosted at the site for four hours (07:33 to 12:04)
- December 2013 – Condor 449 roosted at the site for five hours (14:00 to 19:00)
- June 2014 – Condor 262 perched at the site for less than an hour

A third roost site is located 0.52 miles from the nearest oil well. Condors 262 and 449 have frequently roosted at this site, including one overnight roost in 2012, a fourteen-hour roost in 2013, two overnight roosts in 2014, and a two-minute stop in 2014.

Two other roost sites are located within one mile of the oil pads.

In 2013, the FWS provided the Division with a summary of the potential impacts posed to endangered California condors from oil development, along with a series of 23 recommended minimization and avoidance measures to protect the California condor. This FWS letter is attached as **Exhibit 6**. These potential impacts and mitigation measures were not evaluated as part of any previous environmental document for this project, and must be analyzed in a Subsequent EIR.

The first of these FWS recommendations is that no oil and gas facilities shall be developed within 1.5 miles of nest sites or within 0.5 miles of active roost sites. This mitigation measure was not evaluated as part of any previous environmental documents for this operation, and this new information must be evaluated and considered as part of a Subsequent EIR. The Subsequent EIR must evaluate the presence of condors within the 0.5-mile roosting buffer. Consistent with the FWS mitigation measures, the Division must prohibit any drilling activity or facilities within these buffers.

We appreciate the Division's efforts to implement many of the condor protection measures recommended by FWS. However, the Division continues to propose alternate language that does not satisfy the letter or intent of the FWS recommendations, including the requirement to underground power lines (proposed Condition 34(a)), the requirement to post microtrash signage (proposed Condition 34(g)), and notification and access (proposed Condition 34(s)). The Division also omits several recommended measures, including number 19 (fire prevention) and number 21 (prohibiting direct contact with condors). And we continue to have concerns about the language allowing the Planning Director to modify any condor protection measure after simply "consulting with" FWS. The measures should only be modified with the *written approval* of FWS, and only after the County undertakes the usual permit modification process, including public notice and hearing.

The Division's EIR Addendum lists some (but not all) of the FWS condor protection measures, and does not contain any further analysis of the efficacy of the County's version of these protection measures, nor of the County's omission of certain measures. These impacts and mitigation measures must be evaluated in a Subsequent EIR, as they have never been part of any CEQA analysis for this project.

d. The Previous Analysis Fails to Evaluate Impacts to Endangered Southern Steelhead

Santa Paula Creek historically supported healthy steelhead runs. While their numbers are now greatly diminished throughout the region, Santa Paula Creek continues to provide "the most productive habitat" for steelhead in the Santa Clara River watershed, and has greater potential to contribute to the recovery of steelhead than other Santa Clara River tributaries. The protection of habitat in upper Santa Paula Creek is seen as a top priority for revitalizing the Santa Clara River steelhead population. Stoecker, M. and E. Kelley. 2005. Santa Clara River Steelhead Trout: Assessment and Recovery Opportunities, relevant excerpts of which are attached as **Exhibit 7**.

Southern steelhead were classified as an endangered species in 1998, several years after the previous EIRs were prepared. In 2005, the National Marine Fisheries Service ("NOAA Fisheries") issued its final rule designating critical habitat for several steelhead populations in California. 70 Fed. Reg. 52488 (September 2, 2005). Pertinent to this project, the final rule designates Santa Paula Creek as critical habitat for southern steelhead, an endangered species. A recovery plan for southern steelhead was finalized in 2012, and NOAA Fisheries and its partners – including Los Padres ForestWatch – are in the process of implementing that recovery plan to eventually restore wild steelhead populations throughout the region.

The classification as an endangered species, the designation of critical habitat, and the approval and implementation of a recovery plan is all new information that was not evaluated in any of the previously-prepared environmental documents for this project. Steelhead are vulnerable to spills of oil and other hazardous materials associated with drilling operations. In addition, excessive sedimentation may eliminate spawning areas and increase stream turbidity to harmful levels. Any potential impacts to steelhead, critical habitat, and recovery plan objectives must be evaluated in a Subsequent EIR.

e. The Prior Analysis Fails to Evaluate New Air Pollution Standards & Greenhouse Gas Emissions

Ventura County is in state non-attainment for the 1-hour ozone standard, in state and federal non-attainment for the 8-hour ozone standard, and is in state non-attainment for the PM10 and PM2.5 particulate matter standards. These ambient air quality standards have been revised significantly since the previous environmental documents were prepared for this facility. Such non-attainment levels – and the facility’s contribution to them – constitute a significant impact that should be analyzed in any subsequent EIR.

In addition, California has enacted new greenhouse gas (GHG) emissions requirements, and any subsequent EIR must evaluate the GHG emissions of this facility. As of 2007, lead agencies must evaluate GHG emissions as part of the CEQA process, as follows:

- Lead agencies must analyze the greenhouse gas emissions of proposed projects, and must reach a conclusion regarding the significance of those emissions. (See CEQA Guidelines § 15064.4.)
- When a project’s greenhouse gas emissions may be significant, lead agencies must consider a range of potential mitigation measures to reduce those emissions. (See CEQA Guidelines § 15126.4(c).)

The previous environmental documents prepared for this project do not contain any analysis of GHG emissions, nor do they propose any mitigation measures. In 2013 (the most recent year for which data is available), the EPA concluded that oil and gas production was the second-highest source of GHG emissions. The Division must evaluate emissions for carbon dioxide (CO₂), methane (CH₄), and nitrous oxide (N₂O) in a Subsequent EIR.

3. THE COUNTY PREDETERMINED THE LEVEL OF ENVIRONMENTAL REVIEW

CRC submitted its application on October 10, 2013. Just one week later, in a memo to other County agencies dated October 18, 2013, the Division describes the project, requests the various agencies to review the project for application completeness and potential environmental impacts, and states, “This project does not qualify for a Categorical Exemption from the California Environmental Quality Act (CEQA). However, an EIR was approved with the original permit. Therefore an addendum to the original EIR will be prepared.” This memo is attached to our appeal as **Exhibit 8**.

The Division prematurely determined that the appropriate level of environmental review for this project would be an EIR Addendum, before conducting the requisite Initial Study and prior to receiving input from other County departments.

4. THE COUNTY CANNOT PREPARE AN ADDENDUM FOR MULTIPLE EIRS AND MNDS

The County previously prepared two EIRs for this oil and gas operation. Initially, in 1978, the Planning Commission certified an EIR that evaluated the environmental impacts of 30 additional oil wells at Drill Sites 2-6. Then, in 1985, the Board of Supervisors certified a Focused EIR that evaluated several alternative access routes to the facility. This 1985 EIR was limited to the issue of access routes, and did not evaluate any impacts from oil drilling or production.

In addition to these two EIRs, the County prepared a MND in 1983 to evaluate the installation of Drill Site 7 and the drilling of several wells at that site. The impacts of well pad construction and oil drilling at this site were not evaluated in the 1978 EIR, or in the 1985 Focused EIR.

Oddly enough, the staff report prepared for this hearing only references the 1978 and 1985 EIRs, while ignoring the 1983 MND. Specifically, in the section titled “California Environmental Quality Act (CEQA) Compliance” on page 6 of the staff report, the Division doesn’t mention the 1983 MND even once, even in the chart of previous CEQA documents prepared for this facility.

This continues the folly that the Division first presented in its staff report for the Planning Director hearing. That staff report did not even refer to the 1978 EIR, and completely mischaracterized the nature and scope of the 1985 Focused EIR, claiming that the focused EIR “evaluated the impacts of additional grading to expand two drill pads and create a new drill pad, relocate the previously permitted oil wells, drilling additional oil and gas wells, and access to the oil facilities.” But the 1985 Focused EIR does no such thing. It clearly states on page 1 that “the objective of this focused EIR is a comparative analysis of all reasonably feasible alternative access roads that may be available to serve oil related traffic associated with Argo Petroleum’s revised drilling program for its Ferndale Ranch lease” and emphasizes that it does “not address the actual drilling and production of oil and gas,” (emphasis included in original).

If the County wants to prepare an EIR Addendum to satisfy the requirements of CEQA, then for starters, the Division must correctly identify the original environmental document, which in this case presents a challenge since this oil drilling operation was evaluated in stages, starting with the 1978 EIR, continuing with the 1983 MND, and finishing with the 1985 Focused EIR. The EIR Addendum prepared by County staff only expressly updates the two EIRs, while ignoring the 1983 MND for Drill Site 7.

This comedy of errors has arisen only because the Division is attempting to inappropriately prepare an EIR Addendum to a project, the impacts of which have never been evaluated in a single environmental document. To which environmental document will the EIR Addendum be attached? (See CEQA Guidelines §15164(c) (“An addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration.”)) There is no easy answer to this question because CEQA did not envision a lead agency relying on an EIR Addendum in such circumstances.

Your Commission cannot certify the EIR Addendum because it fails to update one of the three environmental documents previously prepared for this project. The County simply lacks authority to prepare an EIR Addendum for a project with three disjunct environmental documents, all of which were prepared more than thirty years ago and all of which analyze different components of this project. Instead, CEQA requires the Division to prepare a Subsequent EIR.

5. APPELLANT IS ENTITLED TO A REFUND OF APPEAL FEES

We submitted a \$1,000 appeal fee along with our appeal form on February 26, 2015. We respectfully request that your Commission grant us a full refund of these appeal fees.

The Planning Division Fee Schedule states:

If any appeal is fully upheld, all fees paid by the appellant shall be refunded. If the appeal is upheld in part, the decision-making body hearing the appeal shall determine at the time the decision is rendered what portion of the appeal charges should be refunded to the appellant.

Therefore, if your Commission decides to nullify the applications, to refer certain matters back to the Division, to deny the project outright, or to take any other action that modifies the Division's action or upholds our appeal in part or in full, we are entitled to a refund. Likewise, if Division staff makes any changes to the project in response to our appeal, we are entitled to a refund.

6. CONCLUSION

Based on the issues outlined above, we strongly urge you to find that the EIR Addendum does not comply with CEQA, and to direct the Division to prepare a Subsequent EIR for this permit modification. Substantial changes to the project, along with new and more severe environmental impacts that have not been previously evaluated, clearly warrant preparation of a Subsequent EIR pursuant to the CEQA Guidelines.

In addition, we request that you nullify the permit application and direct the Division to work with the applicant to process a full, complete, and accurate application. We also urge you to direct the Division to respond to our complaints regarding ongoing permit violations, and to work with the applicant to resolve such violations prior to processing any permit application.

Thank you for considering our comments. We appreciate the County's efforts to protect the recreational and environmental values of Santa Paula Canyon.

Sincerely,



Jeff Kuyper
Executive Director

Exhibit 1 – Letter from LPFW to Planning Director Prillhart Regarding Nullification Request

Exhibit 2 – Initial Response from Planning Division Regarding Nullification Request

Exhibit 3 – Memo from Planning Division Regarding Nullification Request

Exhibit 4 – Excerpts Regarding Recreational Values of Santa Paula Creek Trail

Exhibit 5 – Excerpts from 1977 and 1978 Analysis Regarding Impacts to Condors

Exhibit 6 – Letter from U.S. Fish & Wildlife Service to Planning Director Prillhart dated July 18, 2013 Regarding California Condor Protection Measures

Exhibit 7 – Excerpts from Santa Clara River Steelhead Trout: Assessment and Recovery Opportunities

Exhibit 8 – Distribution Memo from Planning Division Dated October 18, 2013