



**TO:** Mayor and Councilmembers

**FROM:** Tim W. Giles, City Attorney

**SUBJECT:** Update on Status of Venoco's Ellwood Onshore Facility Legal Non-conforming Use

**RECOMMENDATION:**

Receive presentation on the status of Venoco's Ellwood Onshore Facility legal non-conforming use.

**BACKGROUND:**

Venoco owns and operates the Ellwood Onshore Facility (EOF) within Goleta, which processes oil and gas that is produced from Platform Holly. The EOF is a legal non-conforming use in that it met all of the applicable local regulations when it was approved. However, due to a change in local land use laws, it no longer meets the current regulations. The City Council has requested an opportunity to consider the termination of the legal non-conforming EOF use.

On August 16, 2016, the City Council requested a presentation on the status of the EOF.

**DISCUSSION:**

**Facilities**

Venoco owns and operates the Ellwood Onshore Facility (EOF) within Goleta, which processes oil and gas that is produced from Platform Holly. The processed oil is delivered to markets by pipeline including Venoco's Line 96, which begins within Goleta and ties into the Plains All-America Pipeline. The EOF use does not conform to the current General Plan land use designation and zoning requirements for the property.

**Termination Ordinance**

Despite threats of litigation from Venoco, on December 16, 2014, the City Council took a number of actions which may impact the future of the EOF. First, it adopted an ordinance modifying the procedure for terminating a legal non-conforming use in Goleta. Second, it authorized staff to proceed with preparing for a noticed hearing to terminate the EOF use. Third, it approved an agreement to retain Baker and O'Brien to provide non-conforming use consulting services. Staff tasked Baker and O'Brien with preparing an

amortization study, which helps to determine how long the use may need to continue to compensate the property owner for termination of the use. This information would be necessary to support Council consideration of the potential termination of the EOF use.

### **Lease 421 Litigation**

On December 17, 2014, Venoco received approval from the California State Lands Commission (CSLC) to resume production from Lease 421 immediately outside of the City's jurisdiction near the EOF. The City opposed CSLC approval and has challenged this approval in court. This litigation is on-going. Venoco proposes to process Lease 421 production at the EOF.

### **Plains Pipeline Spill**

On May 19, 2015, the Plains All-American Pipeline ruptured and was shut down. Because this disrupted the path to market for EOF production, it resulted in Venoco ceasing operations at both EOF and Platform Holly. The vessels and lines from Platform Holly and the EOF were evacuated so no product is being stored during the shutdown. Repairs to the pipeline have not been completed and the Venoco facilities remain non-operational.

### **Amortization Reports**

On March 4, 2016, Baker and O'Brien produced an amortization report on the EOF. It evaluated Venoco's recovery on its investment. The report relied upon confidential information provided by Venoco and that material was not included in the March 4, 2016 version. Venoco subsequently agreed to release the confidential information and on September 6, 2016, the Baker and O'Brien report was updated to include the confidential information. On August 15, 2016, Venoco provided the City with its own amortization analysis dated April 8, 2016, which evaluated the remaining useful life of the EOF. Copies of these reports are publicly available on the City's website at <http://www.cityofgoleta.org/city-hall/planning-and-environmental-review/advance-planning-division/oil-and-gas/oil-and-gas-projects>.

### **Bankruptcy**

On March 18, 2016, Venoco filed for protection from its creditors in Federal Bankruptcy Court. While Venoco's reorganization plan has been approved by the Bankruptcy Court, the case remains pending. The protection afforded by federal law includes automatically preventing certain types of actions against the debtor, like termination of the EOF against Venoco, without the Court's permission. Although this prevented the City from taking any action, the City has continued to take the actions outlined in this presentation and otherwise prepare for consideration of the future of the EOF.

The reorganization plan allows senior creditors to take an equity or ownership position of the company. They replace the private individual owner who was making the policy decisions for Venoco. We anticipate that these professional investors will be making policy decisions for Venoco based on sound business principles.

## Hearing Protocol

The City Council has directed staff to prepare an opportunity for the Council to consider and take action on the future of the EOF. The Council has directed that there be an expanded opportunity for the public to become informed of the issues and to provide input and comment for the Council's consideration. The Council asked that the item be presented to the Planning Commission to afford the public an opportunity to provide input. The Council asked that the hearing be scheduled and extended public notice of the hearing to be provided in a manner to provide the greatest opportunity for public input. This hearing protocol will be implemented after the Venoco bankruptcy case is resolved.

## Lease Line Adjustment

Venoco has applied to CSLC for permission to adjust their lease boundaries around Platform Holly. This Lease Line Adjustment Project (LLA) has also been referred to as Full Field Development Project or the Extended Reach Drilling Project. Venoco claims that the adjustment is necessary to have the lease conform to the oil formation of their existing lease. Generally the lease would extend to the east of the current lease area. It would allow Venoco to drill from Platform Holly into the new lease area to extract more oil in a shorter period of time.

Staff anticipates the CSLC will release the Environmental Impact Report (EIR) on LLA at any time. Because this project, which is in the State jurisdictional waters, will have a direct impact on Goleta residents as the production is to be processed in Goleta, staff has been following this project closely and is prepared to review and provide technical comments on the EIR when it is released. The CSLC plans to hold a hearing on the EIR in Goleta.

## SUMMARY:

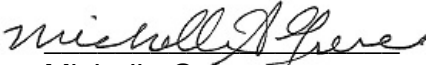
The City Council will be provided with an opportunity to consider and act on the future of the EOF following the lifting of the Venoco bankruptcy stay. Prior to the Council hearing, the public will be provided with extended written notice of the item and an opportunity to present their input to the Planning Commission.

In the meantime, City staff will continue the City's efforts to monitor and protect the residents from the risks posed by Venoco's operation both directly with regard to operations within the City's jurisdiction as well as providing input on operations outside the City's jurisdiction.

**Legal Review By:**

  
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**Approved By:**

  
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