

Environmental Defense Center  
906 Garden Street, Suite 2  
Santa Barbara, CA 93101

September 5, 1997

State of California  
Public Utilities Commission  
ATTN: Douglas Long, Manager  
Decision Making Support Branch  
Energy Division  
505 Van Ness Avenue  
San Francisco, CA 94102-3298

RE: MITIGATED NEGATIVE DECLARATION; SOUTHERN CALIFORNIA EDISON  
COMPANY'S APPLICATION NO. 96-11-046; PROPOSAL FOR DIVESTITURE

Dear Mr. Long:

The Environmental Defense Center is a non-profit environmental law firm working to ensure that natural resources, such as the land, air and water, in Ventura, Santa Barbara, and San Luis Obispo Counties are protected from degradation. We have reviewed the Draft Mitigated ND for the proposed project and we submit the attached September 5, 1997 Environmental Defense Center letter to the County of Santa Barbara for your review as comments to this Draft ND.

[\[Begin EDC-1\]](#)

The Environmental Defense Center recommends that the project be modified to address the potentially serious environmental consequences of the project that are outlined in the attached letter to Santa Barbara County. The Ellwood facility should be deleted from the proposed project description.

[\[End EDC-1\]](#)

In addition, the analysis of air quality issues is inadequate.

[\[Begin EDC-2\]](#)

CEQA requires a good faith effort at full disclosure of potentially adverse impacts. Much of the State of California fails to attain either or both of the state and federal ambient air quality standards for a number of pollutants. This problem is particularly acute in southern California, where project impacts will be greatest. The South Coast Air Quality Management District and Ventura Air Pollution Control District are currently subject to citizen's suits for SIP implementation delays, and Santa Barbara County and the Bay area's Air Quality Management Plan are inadequate and the subject of pending EPA reclassification action and a SIP call (62 FR 46234 for Santa Barbara, Bay area unknown Federal Register cite).[\[End EDC-2\]](#) [\[Begin EDC-3\]](#)  
Any potential for any increase in emissions in these regions must be considered a significant impact. Citizens To Preserve The Ojai v. County of Ventura (1985) 176 Cal.App.3d 421, 222 Cal.Rptr. 247; Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692, 270 Cal.Rptr. 650, mod. 222 Cal.App.3d 516a.

[\[End EDC-3\]](#)

[\[Begin EDC-4\]](#)

PUC cannot rely on inadequate Air Quality Attainment Plans in concluding that existing regulatory mechanisms are adequate to control air pollution emissions, particularly in a cumulative sense, since this action is of statewide significance. An EIR must be prepared.

[\[End EDC-4\]](#)

[\[Begin EDC-5\]](#)

The EIR's air quality analysis must identify the regulatory and permit compliance status of each generating unit (some, including the Ellwood facility, are known to be or recently have been operating under state law variances or other enforcement vehicles which are not recognized under federal law), address all potential emissions increases that can occur under existing permits, but are not currently actual emissions (since new operators are likely to operate the facilities differently, and may shift production schedules drastically, increasing emissions from higher polluting plants). Banked emissions credits must be quantified and their status as part of divestiture defined. The air quality attainment status of each are must be identified, and the likely impact of any increases in permitted emissions evaluated.

[\[End EDC-5\]](#)

Thank you for your attention and timely response to these comments.

Sincerely,

/s/

Brian Trautwein, Environmental Analyst  
Environmental Defense Center

Environmental Defense Center  
906 Garden Street, Suite 2  
Santa Barbara, CA 93101

September 5, 1997

Brian Bosse  
Santa Barbara County  
Planning and Development Department  
1234 E. Anapamu Street  
Santa Barbara, CA 93101

RE: DRAFT MITIGATED NEGATIVE DECLARATION FOR SOUTHERN CALIFORNIA  
EDISON'S 66-kV SUBSTATION PROJECT AT ELLWOOD; 96-ND-24

Dear Mr. Bosse:

The Environmental Defense Center has reviewed the draft mitigated ND for the proposed SCE Substation Project at Ellwood, and is familiar with SCE's other proposed project to sell its Ellwood substation. Having reviewed the ND's for both of these projects, the Environmental Defense Center submits the following comments for the County's consideration.

#### **PERPETUATION AND EXPANSION OF NONCONFORMING USE**

[\[Begin EDC-6\]](#)

When viewed cumulatively, it is clear that SCE's two projects have a strong potential to perpetuate and facilitate the expansion of Venoco's existing legal non-conforming use at Ellwood, in violation of Section 35-160 of Article II of the Coastal Zoning Ordinance. Inconsistency with this important section of the CZO is a potentially significant impact because it would possibly extend the life and/or production of Venoco's Ellwood facility, see Appendix G (a), CEQA Guidelines. This potentially significant impact is not addressed in the Draft ND, and therefore the ND is legally inadequate.

[\[End EDC-6\]](#)

According to the CZO, Division 10, Nonconforming Structures and Uses, "It is the intent of this Article to permit these non-conformities to continue until they are removed, but not to encourage their survival." (emphasis added.) The proposed project, especially when viewed cumulatively in conjunction with SCE's other project (see attachment) has a strong potential to encourage the survival and expansion of Venoco's nonconforming use. Venoco itself has stated to the County that it intends to investigate options to increase production from Platform Holly, and has reportedly requested increased electrical power from SCE for its Ellwood site. Since, according to this ND, the project would allow SCE to pull Venoco off the existing power grid, and since there will soon be a sale of the SCE Ellwood substation, potentially to Venoco, it appears that the company is readying to extend and expand the utilization of its non-conforming use. This inconsistency with the CZO is a significant impact and, along with the possible sale of SCE's Ellwood facility to Venoco, must be analyzed in an EIR.

On page 3 of the DND, PDD states, "SCE has stated that it need both projects (a substation at Mobil's EOF and at UCSB) in order to meet existing and projected electrical demands in the area." There is no apparent evidence in the record to support this crucial assertion. The County needs to recirculate an appropriate environmental document that includes reference to this

evidence. The project demand referenced by SCE may include the electrical demand that an expanded, extended nonconforming use at Venoco's site would generate. The County cannot approve a project based on projected demand that would occur as a result of an applicant's customer's contemplated expansion of a nonconforming use when such an expansion is in violation of the CZO.

The Environmental Defense Center believes that, if this project were approved by the County and the Coastal Commission, the substation will effectively become part of Venoco's nonconforming use at the site because it is located there, and because its primary purpose will be to provide power for Venoco's nonconforming use and Platform Holly. Furthermore, it will physically allow Venoco to fulfill its stated objective of expanding its operations. Therefore, by approving this project, the County is encouraging the survival and expansion of a nonconforming use in violation of the CZO.

The ND's statement that the proposed substation is an allowed use in a recreation zone District is only true to the extent that the substation would not encourage the survival or expansion of a nonconforming use. In this case it would. While this may be consistent with Venoco's plans for its new site, it is inconsistent with the CZO. For this reason, an EIR must be prepared, and it must analyze the issues raised in by the Environmental Defense Center, including potentially significant cumulative impacts and policy inconsistencies.

The ND also states that the proposed wall extension is considered accessory to the substation, thus are allowed. However, Division 10 of the CZO only allows the building and extension of structures accessory to nonconforming uses if they are also accessory to a conforming use. In this case, as stated above, the substation will become part of the nonconforming use of the site, and therefore the extension of the wall is also prohibited.

## **POTENTIALLY SIGNIFICANT EFFECTS CHECKLIST**

### Air Quality

The environmental setting under air quality states that Santa Barbara County is currently considered a moderate non-attainment area for federal and state ozone standards. This designation is no longer accurate. 62.F.R. 46234 9-2-97. Santa Barbara County's Clean Air Plan is inadequate and cannot be relied upon to evaluate the significance of project impacts. Any increased emission of air pollutants is a significant impact.

There is no analysis in this document of the cumulative effects of the adjacent grading at the Santa Barbara Spa and Resort site. An assessment of the impacts to air quality from that project, combined with the effects of SCE's proposed project and other nearby grading projects, such as the SB Shores Soil Remediation Project must be included in an EIR.

The mitigation and residual impact section under air quality includes a measure designed to reduce wind-blown dust by watering or spreading soil binders "until the area is replanted so that dust generation will not occur." The ND does not specify what specific area will be replanted and what species would be used. The Environmental Defense Center suggests that the EIR that must be prepared for this project should clarify the replanting effort and specify that only native plants from locally collected stocks be utilized in the replanting effort.

## Land Use

Impact 'a' in this section is significant and unavoidable because of the issues discussed in this letter. The proposed electrical substation would facilitate an increase in the Mobil facility's oil and gas processing capacity, and encourage extending the life of the nonconforming use. The project is therefore inconsistent with Article II - the CZO.

## **GROWTH INDUCING IMPACTS**

No EIR, including that for the Goleta Community Plan Update, has addressed the purported need for additional electrical energy in the western Goleta area. In fact, all such documents appear to have found an abundance of electrical supply capacity in the project area. No documentation exists that identifies and quantifies this alleged need. The project will make available the electrical energy required for extensive growth in western Goleta with substantial adverse environmental impacts. The EIR that must be prepared for this project must assess the growth inducing impacts of SCE's proposal.

## **TERMINATION PROCEDURES**

The CZO, in Section 35-166, sets forth the procedure and guidelines for the Termination of Nonconforming Uses. The Environmental Defense Center hereby requests that the Planning Commission recommend to the Board of Supervisors that a date be set for a public hearing to initiate the termination of this nonconforming use at Ellwood.

## **MEASURE A**

In as much as this proposed substation would enable Venoco to expand and perpetuate its nonconforming use, this project is subject to the provisions of Measure A. The project site is outside of the Las Flores and Gaviota consolidated south coast onshore oil and gas sites. Furthermore, the project would allow SCE to pull Venoco off the existing grid, and in doing so would facilitate the expansion of an offshore facility in violation of Measure A. Consistent with the measure, this project must be subjected to vote of the residents of Santa Barbara County.

## **CONCLUSION**

The Environmental Defense Center has determined that this project would perpetuate, encourage the survival of, and allow for the expansion of Venoco's existing nonconforming use. As such, it is in violation of the regulations of Division 10 of Article II - the CZO. Additionally, this project is subject to Measure A and requires a vote of the County residents. It would result in growth-inducing impacts in addition to the CZO inconsistency, and requires the preparation of an EIR. Finally, the County should set a public hearing to discuss the timetable for the ultimate termination of the nonconforming use pursuant to Section 35-166 of the CZO.

Sincerely,

/s/

Brian Trautwein, Environmental Analyst  
Environmental Defense Center

## **EDC - ENVIRONMENTAL DEFENSE CENTER**

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### **EDC-1.**

The Initial Study addresses the potential impacts of the proposed project. The proposed project is the sale of 12 generating stations by Southern California Edison, and the Ellwood Energy Support Facility is one of those 12, so it is included in the project. EDC may have equated sale of the Ellwood Energy Support Facility with Edison's proposal to construct a new substation in the Ellwood area. Figure 2.8 in the Initial Study shows the portion of Edison's Ellwood property that is for sale. The existing substation, and the planned future substation, are not located on the property proposed for sale; therefore, the proposed substation is not part of the divestiture project. These two proposals (the sale of the Ellwood Energy Support Facility and the proposal to build a new substation) are independent and unrelated to each other. Either proposal could proceed regardless of whether the other proceeds.

### **EDC-2.**

The attainment status of the air basins in which Edison plants are for sale are summarized in Table 4.5.2 of the Initial Study (page 4.5.6 of the Initial Study). A review of the table agrees with the commentor's statement that "Much of the State of California fails to attain either or both of the state or federal ambient air quality standards for a number of pollutants." The second sentence of the first paragraph of page 4.5.29 of the Initial Study indicates that all of the air basins affected by Edison plant emissions are nonattainment for the national and state ozone standards. The reasons the lead agency did not consider air quality impacts of the project as significant are discussed on pages 4.5.29 to 4.5.31 of the Initial Study.

The reason that the commentor has no citation for the Bay Area reclassification is that there is no such citation. According to information received from the Bay Area Air Quality Management District, the U.S.E.P.A. has proposed to redesignate the San Francisco Bay Area Air Basin from an attainment area to a nonattainment area, but to date the proposal has not been formally published in the Federal Register (Lim, 1997).

### **EDC-3.**

CEQA does not mandate that any potential increase in emissions within nonattainment areas be considered a significant impact. Indeed, if that were the case, any project that would involve more vehicle trips, such as a single-family home, would be deemed to generate a significant impact. The Initial Study, at pages 4.5.29 to 4.5.31, explains why the project's air quality impacts are not considered significant.

**EDC-4.**

The reasons the lead agency did not consider air quality impacts significant are discussed on pages 4.5.29 to 4.5.31 of the Initial Study. The lead agency did not rely on inadequate Air Quality Attainment Plans. As noted in the third complete paragraph on page 4.5.31 of the Initial Study, areas that do not meet state air quality standards must update their air quality plans every three years.

**EDC-5.**

At the end of Comment EDC-4, the commentor states that an EIR must be prepared, and in this comment the commentor notes what information and analyses should be in such EIR. Since the CPUC determined that a Mitigated Negative Declaration is the appropriate environmental document and an EIR is not required, the contents of an EIR are not relevant in this situation. Nevertheless, the Initial Study included some of this information in Section 4.5 (see especially pages 4.5.23, 4.5.24, and 4.5.29 through 4.5.40).

**EDC-6.**

The comment addresses Edison's proposal to build a new substation in the Ellwood area, and not the divestiture project. Edison has not proposed to sell the substation site. The commentor's concern that the proposed substation will “possibly extend the life and/or production of Venoco's Ellwood facility” is not related to and would not be affected by the sale of Edison's Ellwood plant. The commentor also expresses concern that Venoco would purchase the Ellwood plant, & thus have access to more electric power. At this point, the identity of prospective buyers is unknown and it would be highly speculative for the CPUC to ponder on interests and motives. In any event, the CPUC will ultimately act on the sale of each plant, including the Ellwood facility. It is expected that parties will have the opportunity to submit comments on the results of Edison's auction.

However, the proposed substation project should be added to Table 4.16-1, “Local Community Projects Within 1 Mile of the Power Plants,” on page 4.16.7 of the Initial Study.

<b>TABLE 4.16-1: LOCAL COMMUNITY PROJECTS WITHIN 1 MILE OF THE POWER PLANTS</b>	
<b>Ellwood Generating Station</b>	
<u>Edison Proposed 66kV Substation Project at Ellwood</u>	<u>A new substation, needed to meet growing industrial and commercial demand in the Ellwood area. Neg. Dec. 96-ND-24 issued by the Energy Division of Santa Barbara County.</u>



The analyses and conclusions of cumulative impacts with local community projects described on pages 4.16.12 through 4.16.15 remain unchanged.

**REFERENCES:**

Lim, Kenneth, Bay Area Air Quality Management District, letter to Bruce Kaneshiro at the CPUC, September 25, 1997.