

Ventura County Board of Supervisors: Agnew Oil Lease Appeal, June 21, 2016

Honorable Supervisors:

Thank you for reading the text of my appeal and listening to my statements during this process.

My name is John Davis. I live on Koenigstein Road on one of the three properties closest to the Agnew site and I'm appealing the Planning Commission's upholding of the Planning Director's decision to approve the CUP modification PL13-0158 to CUP 3543. I make this appeal not only on my own behalf and the several Koenigstein Road residents who have directly supported me, but also on behalf of all of those who make up the residential community along our road - many of whom signed a petition opposing this CUP modification presented to the Planning Commission.

I want to raise three areas of concern.

Firstly, as a tax paying and voting County resident it is important to me to have faith in the County's government. As the County's Planning Department gears up to produce a new General Plan we have already heard Ms. Prillhart proclaim her determination to demonstrate the transparency and legitimacy of the Planning process. Both as a resident and as a professional who has regular business with the County it is vital to me that I can believe in the probity of its administration. I further believe that it is the highest calling of the Board of Supervisors to ensure that honesty, decency and consideration of all the residents of Ventura are qualities inherent to the administration it oversees.

Now the County's Non-Coastal Zoning Ordinance (NCZO) is an exemplary document in terms of its clarity and it reflects reasoned and well-seasoned land-use policies. As you well know, it lays out the primary uses of land in the County and then proposes subsidiary uses for which the owner must demonstrate, to the satisfaction of either the Planning Director or the Planning Commission, that this subsidiary use can be rendered compatible with the primary land use by the imposition of certain Conditions related to that secondary use. This accommodation of secondary uses is achieved through the

Conditional Use Permitting process. A critical part of the legitimacy of this process is that the applicant complies with the Conditions under the terms laid out in the NCZO and suffers the consequences, mandated by the code, for a failure to do so.

This case represents the collapse of the CUP process precisely because the applicant's flagrant disregard of a foundational Condition of the underlying CUP 3543 has been ignored over a period of more than twenty years. That this egregious violation can be mitigated by the simple action of changing the Condition and then applying it retroactively is a corruption of the CUP process and an affront to simple common sense.

I want to restrict my comments to the Agnew property, but as an aside, there has been a very long history of the County accommodating the oil industry at the expense of other primary-use interests and of effectively burying their actions in ever expanding files of back tracking, reversals, cut and paste EIR's, rolling CUP modifications and general obfuscation within an impenetrable thicket of paper that does not bode well for a new era of transparency.

I believe it is incumbent on the Board to recognize that this sort of behavior by the Planning Department damages its credibility. A reversal of the Planning Commission's rote approval of this CUP modification and its 25 year extension would signal your serious intent in attempting to re-establish the public's trust in the CUP process.

The second issue I want to raise is air-quality. I freely admit that I am entirely unqualified in this science. However, having listened to Air Pollution Control Officer Mike Villegas on at least three occasions, I have some slight familiarity with his arguments as to why the doubling of the number of wells at the Agnew site as well as the increased diesel truck activity will have no significant impact on Koenigstein Road air quality. First of all, I want to make the obvious point that "significance" is very much, so to speak, in the lungs of the residents. Now there are at least twelve children currently residing on the lower stretch of Koenigstein, just down-wind from the Mirada site one of which is a new born, just a week or two old, and another two are under three years of age; I would

hesitate to tell those children, or their mothers that this proposed increase in industrial activity along a residential street will have no significant impact on their air-quality.

At the reviews of this project at the MAC and the Ojai City Council that were hastily arranged once the Planning Department's misreading of the Ojai area map had been demonstrated by CFROG, the convenience of the Agnew project's brief residence outside of the Ojai Area Plan was made plain: as others will indicate, under the City's guidelines the increase in NOx and Rocs that will result from this modification to the Agnew CUP clearly exceeds their allowable limits.

Mike Villegas and Brian Baca have also helpfully explained, in triplicate now, that the background levels of Nox and Rocs in Upper Ojai are already off the charts because of the prevalence of natural oil seeps in the area. Do they take this as justification for adding yet further Nox and Rocs to the air in the belief, perhaps, that the already swooning residents won't notice a teaspoon or two more of poison? Their attitude is extremely hard to fathom.

I also want to point out, as a practical matter, that the off-site mitigation that the Air Quality Control District mandates to offset the running of oil well equipment on Koenigstein has zero impact on us residents. We breathe the toxic air but I suppose we are meant to feel reassured that the fine folks in Port Hueneme, Oxnard or wherever have reduced their emissions to compensate for our watery eyes and blackened lungs.

Now, to the most shameful aspect of this matter – to the very center of the chicanery intrinsic to this attempted CUP modification, where we find my third, and the residential community's most pressing concern: Oil Trucks on Koenigstein. This issue, of course, is at the very core of the Planning Department's trashing of the County's CUP protocol, because oil tanker traffic on Koenigstein was specifically outlawed in 1983 because the turn into and out of the road necessitates crossing the double centerlines at the 150 and is therefore both illegal and highly dangerous. It has been this condition which Mirada and its predecessors have consistently flouted ever since the work around road over Sisar creek on Ojai Oil Co. property washed out in '93.

Planning Department staff proudly point to an absence of accidents at the Koenigstein junction with State Highway 150 during this era of illegal oil-truck use, but of course its continued use is an accident waiting to happen with, no doubt, an attendant liability claim against the County. It is laughable that the County's own video of a supposedly safe turn by an articulated oil truck includes footage of a white pick-up truck having to swerve onto the soft shoulder to avoid a collision.

We know, as residents of Koenigstein Road, that the turn-out of and onto the narrow bridge at the bottom of the hill is fraught at the best of times. Visibility is severely restricted in both directions and the downhill curves heading towards Santa Paula bring out the boy and girl racer in even the most demure of weekday commuters. Articulated oil-truck traffic maneuvering in the middle of the road represents a clear and present danger. That this was recognized three decades ago and is now ignored in an era of more and faster traffic suggests a flagrant disregard for the health and safety of all who travel that stretch of the Ojai - Santa Paula Road.

The potential also exists, in the case of a collision involving an oil tanker truck, for both an oil spill and a subsequent fire. The Koenigstein junction is bounded on all sides by heavy brush and mature chaparral. The last significant wildfire that began on Koenigstein, less than a hundred yards from the entry to the Agnew pad, in December 1999, raged for five days, involved over 1500 fire fighters, scorched nearly 5,000 acres and threatened both Ojai Valley and Thacher Schools. It was caused by fire crackers stuffed in a mail box. I suspect that the explosive potential of a tanker truck full of crude oil is considerably greater.

Given the unconditional ban on Oil Trucks turning onto Koenigstein due to its extremely hazardous intersection with the 150, when the work around road washed out in 93 it was incumbent on the operator, as mandated by their CUP, to install a pipeline to transport oil and waste water. But rather than enforce this provision along with its mild financial hardship, the ever accommodating Planning Department turned a blind eye to the illegal alternative of oil tanker-truck traffic driving up and down Koenigstein Road. Mr Goldenring claims that, as a practical matter, the building of a pipeline, of less than half

a mile in length, down to the 150 is impossible because of the numerous private parcels it must traverse. Strange then, that it was possible to build a road over Sisar creek using a route similar to one that a pipeline might take. The answer of course is that Mirada merely needs to reach an accommodation with the Ojai Oil Company to route its pipeline. But as I have indicated, Mirada and its lawyers always find it much easier and cheaper to reach an accommodation with the County.

I believe that the Board has remedies in its power to address each of the three areas of concern that I have identified:

1. In order to restore my, and the public's trust in the CUP process the Board can determine that in this case, the violation of a Condition of the underlying CUP 3543 is sufficiently flagrant (the oil-truck ban on Koenigstein) and long lasting that all entitlements arising from the CUP and any consideration of a modification or extension are immediately rescinded and the three existing wells be abandoned.
2. In order to address the air quality concerns arising from this potential Modification, the Board can require that air emissions be calculated and held to limits that respect the Ojai Area Plan thresholds of significance and CEQA. If this calculation indicates that the proposed CUP modification exceeds these thresholds then the request for the modification should be denied.
3. With respect to the abating the on-going hazard of oil tanker traffic using the Koenigstein/150 junction the Board can mandate that a feasibility study be conducted for the building of a pipeline from the Agnew site to the existing pipelines along the 150. Should that pipeline prove un-feasible, then the three existing wells should be abandoned.

Finally, I want to address the mystery of why Scott Price is so anxious to drill three new wells on a pad that currently has very low oil production. Indeed, this current low level of production is held up by Messrs. Baca, Goldenring and Price as an indication of the low level of tanker truck trips that are now or will in the future be made along Koenigstein. Further, at the Planning Director hearing on this case earlier in the year, Scott Price actually suggested that the Agnew site might be better

used to grow avocados so low was its oil production. And yet, month after month, hearing after hearing, they go through this pantomime review of their case, steely in their resolve to see it through to its final conclusion.

Now anyone with a slight awareness of current oil industry drilling technologies will recognize that a flat pad with entitlements to six wells, all easily accessible by heavy equipment, is a very likely candidate for the introduction of fracking. This scenario is made even more plausible by the fact that Mirada have been busy acquiring mineral rights directly outside the confines of the 140 acre Agnew ranch which of course they currently own. Mr Goldenring will doubtless deny this possibility. But I raise it not because I am a frackingphobe, nor because the Agnew site sits on top of both the San Cayetano earthquake fault and the Koenigstein aquifer, but because the potential for a vast increase in production, by this or any other mechanical or chemical means introduced sometime over the next twenty five years, reinforces the necessity for halting of all oil truck traffic on Koenigstein and the installation of a pipeline now.

I thank you for your attention.