

May 24, 2022

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VIA EMAIL

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Joel R. Bryant, Mayor
City of Brentwood
150 City Park Way
Brentwood, CA 94513

Re: Sunset Exploration, Inc.'s Comment Letter Concerning Proposed Urgency Ordinance Extending the Moratorium on New Oil and Gas Development Within the City of Brentwood

Dear Mayor Bryant:

Our firm represents Sunset Exploration, Inc. (Sunset), a long-established private oil and gas exploration company with oil and gas interests in the historic Brentwood Oil Field, East Brentwood Gas Field, and South Oakley Gas Field, which are located partially within the City of Brentwood (City). On behalf of Sunset and its owner Bob Nunn, we write to comment on the City's attempt to ban new oil and gas development in the City. The City's efforts appear to be a solution in need of problem.

On April 12, 2022, the City Council placed a moratorium on new oil and gas development in the City for 45 days, or longer if staff needs more time to prepare proposed permanent regulations. The City's moratorium acknowledges that it "would technically allow currently permitted and existing wells to remain in operation" (see City Council Agenda Item No. 1, dated April 12, 2022), and the recent staff report acknowledges Sunset's existing permit, which will not be subject to any new or extended ordinance. Sunset possesses an existing oil and natural gas permit to extract oil and gas from an 80.2 acre parcel located within the City, and *vested rights to continue oil and gas production* on its parcel irrespective of any moratorium or any new City ordinance.¹

Although the City has released very little information about its intentions to-date, the public notice indicates the City is also considering further regulatory measures to implement a "long-term solution, such as (but not limited to) increased buffer distances in sensitive areas, and

¹ One of these wells is currently plugged but viable and it may resume production under Sunset's existing permit.

potentially instituting a permanent ban on oil and gas production altogether in City limits.” (See City Action Item 2660, dated April 12, 2022.) Furthermore, the City Council’s Meeting Agenda for May 24, 2022, indicates it will consider adopting a further urgency ordinance extending the present moratorium for a period of 10 months and 15 days, prolonging what was supposed to be a 45-day moratorium to a year-long ban.

The City does not have any new oil and gas production permit applications pending before it, nor has the City processed any applications for new oil and gas development for many years. Thus, it is not clear what, if any, basis the City has for determining the necessity of adopting a year-long “temporary” moratorium. Oil production in the Brentwood Oil Field does not utilize secondary recovery (i.e., “fracking”), so this is also a non-issue and certainly does not justify extending the temporary moratorium. Sunset’s existing permits would be unaffected by an extended moratorium, or permanent ban, and should not be a factor in the City’s decision.

The City should strongly consider the potential consequences of its actions, both on the residents of Brentwood and more broadly. By all measures, energy demands in the City—and throughout the State of California—continue to rise. Thousands of residents within the City currently rely on natural gas, and new homes also will be served by natural gas.

California is the second largest consumer of petroleum in the United States, importing 92% of its natural gas needs and 63% of its crude oil needs from outside the State. Many sources, including the California Air Resources Board (“CARB”)—the clean air agency for this State—have documented that these foreign fuels are often much dirtier than the gas and oil produced in California and in the Brentwood area, resulting in increased emissions.² And importing foreign or Alaskan produced oil by way of tanker ship creates emissions just from transportation. A ban on oil and gas production without any corresponding curtailment of energy consumption in the City is bad public policy for the simple reason that it would have little, if any, impact on the system as a whole and would continue to shift the burdens of this City’s energy consumption to those outside its borders.³ Any permanent ban on oil and gas development is therefore shortsighted, unsound public policy, and likely unenforceable.

In addition to the policy implications of shifting the burden of the City’s oil and natural gas consumption to other communities, any moratorium or permanent ban on oil and gas

² Please refer to the enclosed PowerPoint Presentation, which compiles and summarizes publicly-available CARB data. Further information can be found at https://www.bakersfield.com/news/economists-rip-californias-plan-to-cut-in-state-oil-production/article_01c21516-0d86-11ea-81a3-5f2d7a838ed2.html, also enclosed.

³ According to Amazon Watch, a nonprofit organization founded to protect the rainforest and advance the rights of indigenous peoples in the Amazon Basin, California is the world’s largest consumer of oil from the Amazon rainforest, consuming 50% of the Amazon oil exported globally, resulting in deforestation, pollution, violations of Indigenous peoples rights, and contributing to climate change. Please refer to <https://amazonwatch.org/news/2021/1202-linked-fates>. This article is enclosed herewith.

production in the City is unlawful. Oil and natural gas operations are governed by state and federal regulations. Under California law, “if otherwise valid local legislation conflicts with state law, it is preempted by such law and is void.” (*Sherwin-Williams Co. v. City of Los Angeles* (1993) 4 Cal.4th 893, 897.) Local legislation conflicts with state law where “it duplicates, contradicts, or enters an area fully occupied by general law, either express or by legislative implication.” The California Code of Regulation, for example, vests the State Oil and Gas Supervisor with “extensive authority” concerning the maintenance and monitoring of production facilities, safety systems, and equipment. (See 14 California Code of Regulations section 1777.) Public Resources Code section 3106 also sets forth principles governing state oversight of oil and gas operations and interpretation of oil and gas leases. These authorities are only some of the examples of the extent to which the field of oil and gas operations are preempted, and therefore cannot be abridged by the City.

Indeed, relying on some of the above preemption authority, the Sixth District Court of Appeal recently set aside a similar ordinance in Monterey County seeking to ban new oil and gas wells. (*Chevron U.S.A., Inc., et al. v. County of Monterey*, Appellate Case No. H45791 [Monterey County Super. Ct. No. 16CV003978 (review granted by the California Supreme Court).) In rejecting the argument that local regulation of oil and gas drilling is within the police power of local entities, the court of appeal unanimously overturned the county ordinance because it was preempted by Public Resources Code section 3106. “If a local regulation conflicts with a state law,” wrote Justice Elia, “the local regulation exceeds the local entity’s power.” If challenged, the same fate would most likely await this City’s moratorium or any permanent ban on all oil and gas production for the same reasons.

Furthermore, even if found to be lawful, any permanent ban on oil and gas production cannot be used to prevent Sunset from continuing oil and gas development under its existing permit without just compensation. A governmental entitlement, such as a permit, constitutes a protected property right under the federal and California constitutions. Sunset’s vested oil and gas extraction rights under its permit are fundamental, deriving from constitutional guarantees that property may not be taken without due process of law. Eliminating private property rights by banning all oil and gas development may be an unconstitutional taking, and the City cannot take away those protected property rights without paying just compensation.

In view of the foregoing issues, the City should strongly reconsider its current path. We would also urge the City Council to exercise proper legislative restraint in formulating any “long-term solutions” so that existing property rights are accounted for and not trampled over.

The Nunn family has a long history of supporting the City and its residents, and takes the health and well-being of the City’s residents very seriously. Sunset has operated oil and gas wells in the Brentwood oil field for decades without any adverse effects to groundwater or other resources, and future operations will do the same. Secondary recovery (fracking) has never occurred in connection with Sunset’s oil wells within or near Brentwood. Indeed, one of the benefits of Sunset’s oil reserves is that it is not necessary to conduct secondary recovery.

Mayor Bryant
May 24, 2022
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As always, Mr. Nunn will consider any ordinance regarding oil and gas operations and will continue to adhere to all best practices. To that end, Mr. Nunn will continue to work with you and City staff to address reasonable City concerns.

We appreciate the City's thoughtful consideration of the issues raised in this letter.

Very truly yours,



Shawn J. Zovod

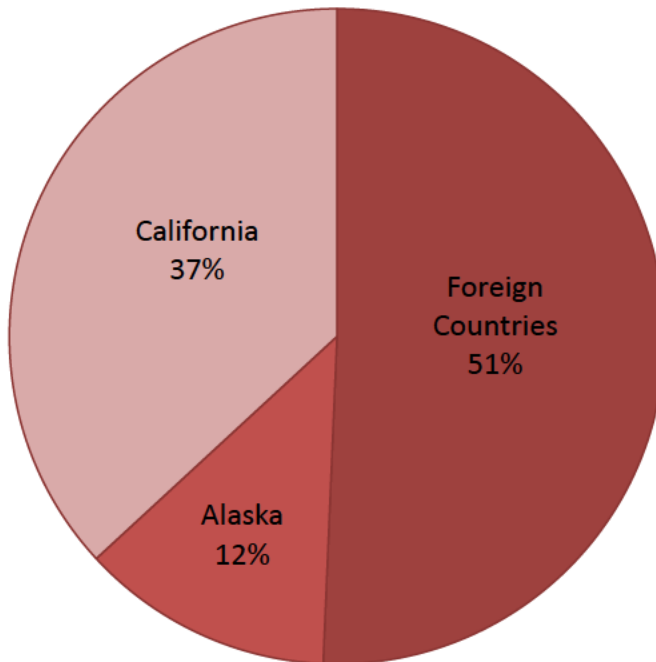
SJZ/PJS

Enclosures (3)

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Enclosure 1

Crude Oil Supply Sources to California Refineries



- California appetite for oil is substantial and driven almost entirely by transportation fuels
- Annual oil demand is approximately 620 million barrels
- Only 37% of California's annual oil appetite is produced in California
- There are no pipelines that supply oil into California so the remaining 63% of oil is delivered by tanker each year (550-700 oil tankers annually)
- Railcar delivery to California is expanding, but is only currently around 1.2 million barrels/year or 0.002%

Carbon Intensity of Imported Sources of Oil

- When considering foreign sources of oil there are a number of key factors that affect the carbon intensity
- Several foreign sources of oil can be produced with much less energy use however their CI is mostly affected by VVF (venting, flaring & fugitives) and transportation
- For example, Iraq has higher CIs mostly because the production methods have a lot of VVF related emissions
- On the other hand, Saudi Arabia has a much lower CI and their oil is easier to produce and their production methods better capture VVF emissions

Import Source	Barrels	% of Imports	CI (gCO ₂ /MJ)
SAUDI ARABIA	78,153,000	20.92%	6.79
ECUADOR	54,222,000	14.51%	8.77
IRAQ	52,526,000	14.06%	12.08
COLOMBIA	34,279,000	9.17%	6.49
ANGOLA	14,931,000	4.00%	8.47
CANADA	14,245,000	3.81%	18.99
BRAZIL	10,137,000	2.71%	7.00
RUSSIA	9,528,000	2.55%	12.09
KUWAIT	4,659,000	1.25%	5.65
PERU	2,566,000	0.69%	6.05
VENEZUELA	2,370,000	0.63%	21.98
OMAN	1,645,000	0.44%	12.30
ALGERIA	1,310,000	0.35%	11.40
OTHERS	6,719,000	1.80%	11.40
ALASKA	86,362,000	23.11%	12.81
	373,652,000	100.00%	10.058

Typical marine oil tanker delivering 63% of California's oil



Carbon Intensity of California Oil Production

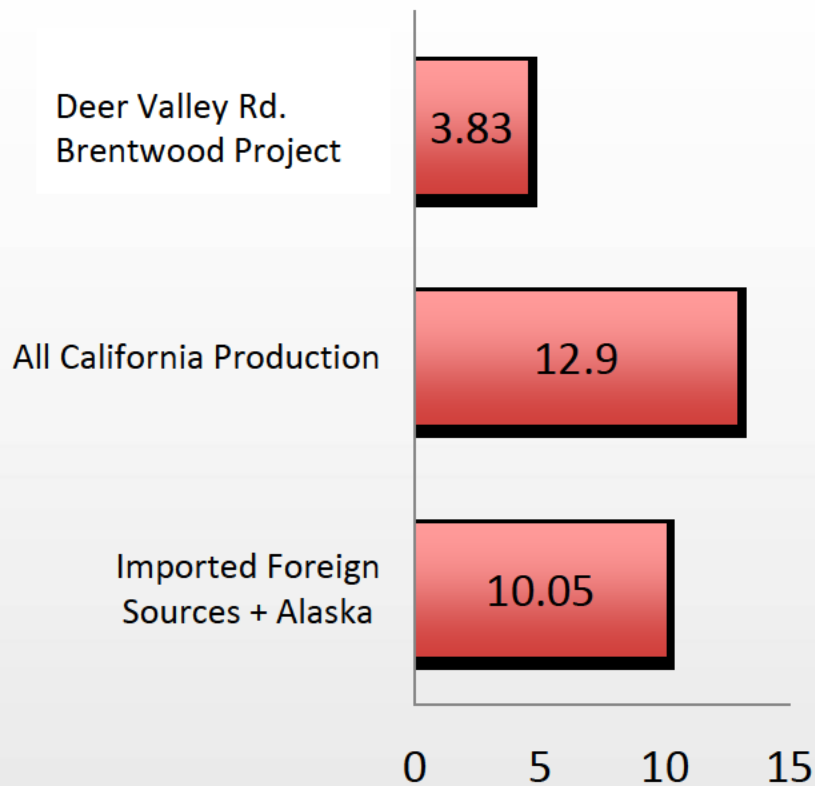


- Ironically, production of crude oil in California does not always result in a lower CI compared to the average CI for imported sources
- The weighted average CI for all of California oil production is 12.9 gCO₂/MJ which is slightly higher than the weighted average of imports
- California production has a very broad range in carbon intensity
- The top ten producing fields range from 4.27 to 28.82 in CI
- Key factors affecting this CI range can be predominantly characterized by production methods (e.g. steam flood methods are very energy intensive and will have a higher CI)

Top Producing Fields in California

Field	Production (BOPD)	CI (gCO ₂ e/MJ)
Midway-Sunset	88,788	21.18
Kern River	75,004	9.55
Belridge, South	72,522	14.49
Cymric	42,399	19.91
Wilmington	36,577	6.36
Elk Hills	35,548	5.36
Lost Hills	31,321	11.40
San Ardo	16,571	28.82
Coalinga	15,448	25.36
Brentwood	200	3.83

Comparison of Carbon Intensity by Source



- The estimated carbon intensity of the existing Brentwood Project is **62% less** than imported foreign sources + Alaska and **70% less** than all California production
- Major differences in these CIs can be mostly characterized by the following factors:
 - Imported foreign sources + Alaska are mostly affected by VFF (venting, flaring & fugitives) and transportation
 - California's onshore production has higher CI and is mostly affected by water cut and energy intensive production methods such as steam flood

Brentwood Greenhouse Gas Savings in Context

With the difference in carbon intensity and direct displacement of imports total GHG saving associated with Sunset's current Deer Valley Rd. Project is 60,000 tons of CO₂ over the life of the project and 1,000 – 6,000 tons of CO₂ annually.

	Deer Valley Rd. Project CO ₂ Savings	Savings in the Context of Vehicle Carbon Footprint Annually*	Savings in the Context of Carbon Footprint per Capita for a California Annually**
Life of Project (15 Years)	60,000 tons CO ₂	5,000 cars	2,777 people
Annually	1,000 – 6,000 tons CO ₂	333 cars	185 people

* Annual vehicle CO₂ emissions for a average passenger vehicle is approximately 5 tons

** Per capita CO₂ emission for an average Californian is approximately 9 tons

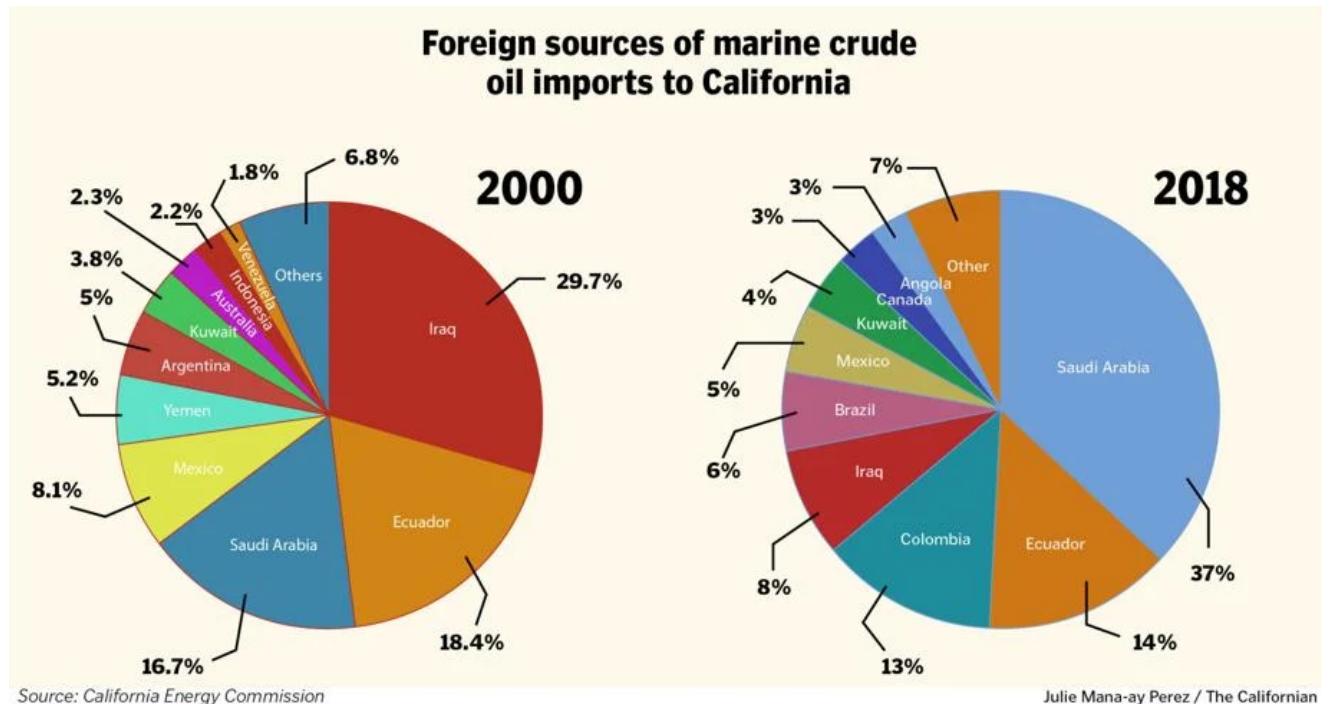
Enclosure 2

Economists rip California's plan to cut in-state oil production

bakersfield.com/news/economists-rip-californias-plan-to-cut-in-state-oil-production/article_01c21516-0d86-11ea-81a3-5f2d7a838ed2.html

BY JOHN COX jcox@bakersfield.com

November 25, 2019



California's plan to curtail in-state oil production as a way of reducing greenhouse-gas emissions relies on questionable economics and might not be the wisest path to achieving climate-change benefits, according to several economists familiar with the proposal.

They contend that cutting the state's oil supply will simply force California refiners to import more foreign petroleum using tankers, which burn some of the world's most polluting fuel.

The state's policy would yield some modest benefits, economists say: Reducing the world's oil supply would cause fuel prices to rise incrementally and prompt some consumers to use less gasoline. Also, California's oil has a relatively high carbon content and so turning to other sources would probably mean cleaner emissions overall.

But economists and others point out there's an additional price to be paid for buying more oil from overseas. California's petroleum industry must abide by some of the strictest health, safety and environmental regulations in the world, so in that respect increasing imports may be a step backward.

SUPPLY OR DEMAND

A smarter approach, some economists assert, would be to leave supply alone and focus on cutting demand for petroleum, such as continuing to promote the use of electric vehicles.

"If California consumers continue to demand the same amount of gasoline, it will just come from elsewhere," said Stanford University economist Charles D. Kolstad, whose work has focused on environmental economics, regulation, climate change and energy markets.

Last week, California's official policy of trying to achieve carbon neutrality by 2045 hit home in Kern County with the unveiling of a three-pronged plan to expand Gov. Gavin Newsom's oil crackdown.

The state Division of Oil, Gas and Geothermal Resources on Tuesday announced a moratorium on new permits for high pressure steam injections in California oil fields, as well as additional layers of scrutiny for the permitting of "frack" jobs in the state and the likelihood of new regulations to safeguard people living near oil and gas activities.

DOGGR's announcement of the three initiatives made prominent reference to California's goal of managing the decline of oil production and consumption in the state.

Other states would not easily be able to make up the difference if California's oil supply declines faster than demand. There are no oil pipelines traversing the Rockies, and petroleum shipments into the state by train comprised less than 1 percent of California's supply in 2018 despite a price differential favoring out of state crude.

FOREIGN OIL

Instead, observers say the most likely outcome would be still-greater reliance on foreign oil.

California's oil supply to refineries in 1998 consisted of about 49 percent in state production, 34 percent Alaskan crude and 16 percent foreign oil.

Those proportions changed dramatically during the subsequent 20 years. In 2018, in state production made up 31 percent of California's refinery feedstock, Alaskan oil accounted for 11 percent and foreign producers provided 58 percent.

Local politicians see the state's efforts to cut its oil supply as not only exporting jobs and money but also financially supporting countries less vigilant about health and safety.

"Today's announcement," state Sen. Shannon Grove, R-Bakersfield, said in a news release issued shortly after DOGGR released its regulatory plan, "simply means the Golden State will rely on more of our oil supply shipped in from foreign countries whose environmental policies and humanitarian treatment are far below California's standards."

Some California economists take a similarly dim view of the state's plan to end native oil production.

MORAL SUPERIORITY

One such critic is Mark Evans, professor emeritus of economics at Cal State Bakersfield. A longtime observer of Kern's economy, he acknowledged something should be done to lower global carbon emissions but that eliminating oil drilling in California "only affects where it's produced."

"To say how moral you are by simply buying the (oil) from Saudi Arabia instead of here may feel good, but it's not doing anything in terms of the real global problem," Evans said. He said transporting greater quantities of oil around the globe, and therefore increasing the use of the dirty bunker fuel that powers tankers, would bring a net increase in emissions.

Meanwhile, he asserted Kern would suffer a "shock to the economy" under the state's anti-oil policy, losing what one recent study says are 23,900 direct and indirect petroleum-related jobs in the county. The local housing market would also be hurt, as would state and local oil tax revenues estimated at \$925 million annually.

Another view holds that California oil production is already in decline — as is the state's demand for gasoline — and so the state's policy is little more than a continuation of existing trends.

NATURAL DECLINE?

Gordon Schremp, senior fuels specialist at the California Energy Commission, pointed out that production from California's aging oil fields has fallen 23 percent since 2011, even as other states' production is rising. He said the state's rate of gasoline consumption is down more than 1 percent from 2018.

Both trajectories are expected to continue, along with shifting consumer attitudes about living near their places of employment, Schremp added.

"We'll see what happens going forward, but I think ... consumers are making choices on new vehicle choices and making choices on where to live and all those things are having an impact on demand" for gasoline, he said.

Stanford economics professor Frank A. Wolak, noting conventional and unconventional oil resources in the state remain to be exploited, disputed the assertion that California oil production is bound to decline as steadily as it has.

He pointed out that in-state oil supply is declining much faster than demand, and that while California refiners buy more oil from outside the state, consumers are buying more gasoline refined in other states.

"Both of these factors are likely to lead to more greenhouse gas emissions moving this oil and gasoline to California," he said by email.

PRICE INCENTIVE

Kolstad, who also teaches economics at Stanford, said banning or reducing California oil production without changing demand will leave global production unchanged.

That would mean the price of oil — a global commodity whose value is generally independent of local conditions — would not increase appreciably, thereby undercutting the goal of environmental activists hoping higher prices will spur a widespread migration to electric vehicles.

Kolstad's argument is basically that it would be wiser to concentrate on cutting demand, not supply.

"It would be far more effective to take steps to reduce California oil consumption, which is one of the consequences of the state's pushing electric vehicles," he wrote.

In August of last year, UC Berkeley economics professor Severin Borenstein posted a blog titled "Should California Keep Its Oil in the Ground?" In it, he made the point that California produces less than half of 1 percent of the world's oil supply. Taking that out of the picture, he argued, would only "slightly increase" global prices.

MINIMAL CHANGE

Borenstein's blog referred to a 2018 study by the Stockholm Environment Institute titled "How limiting oil production could help California meet its climate goals." That report found that, for every barrel of California oil taken out of production, somewhere between two-tenths and six-tenths of a barrel would not be made up elsewhere.

SEI said this deficit would elicit a small but measurable increase in global prices, which was viewed as a positive outcome for persuading people to use less oil.

The resulting lost income for California oil producers, stated in terms of greenhouse-gas emissions eliminated, would be between \$110 and \$330 per ton. As Borenstein noted, that's many times more expensive than some other methods for achieving emission reductions.

Moreover, Borenstein calculated that this strategy of cutting California oil production would basically shift petroleum sales revenue — \$510 for every ton of emissions abated — to oil producers outside the state and the country.

As for the argument by SEI and others that California would be acting as a role model for other governments considering scaling back their oil production, Borenstein was skeptical that foreign oil-producing regimes, at least, will follow suit.

He, like other economists, advised focusing more on reducing demand than cutting supply.

"Instead of taxing the world's oil consumers to hand that money to a small group of rich and largely anti democratic leaders, California should be focused on developing alternatives that make it easier for consumers to break their addiction," he wrote.

"A good place to start," he continued, "would be with California's own growing addiction."

Enclosure 3

Linked Fates

 amazonwatch.org/news/2021/1202-linked-fates

December 2, 2021



[Download as PDF \(22 MB\)](#) | [Summary for policymakers](#) | [Resumen ejecutivo en español](#)

State and corporate leaders can chart a new path

New research from Stand.earth and Amazon Watch shows that California is the world's largest consumer of oil from the Amazon rainforest. Linked Fates shows in detail how California converts 50% of the Amazon oil exported globally into fuel for airports, corporations such as Amazon.com, trucking fleets such as PepsiCo., and retail gas giants such as COSTCO come from oil extracted in the Amazon – where the oil industry causes deforestation and pollution, violates Indigenous peoples rights, spreads corruption, and contributes to climate change.

“Oil drilling in our Amazon has brought contamination, disease, deforestation, destruction of our cultures, and the colonization of our territories. It is an existential threat for us and violates our fundamental rights as Indigenous peoples. We are calling for an end to all new extraction on our lands, and as our ancestors and science now affirm, we must keep fossil fuels in the ground, in accordance with the commitments of the Paris Agreement and at COP26 in Glasgow.”

Nemo Andy Guiquita, Waorani Indigenous leader of Women and Health of CONFENIAE

The oil flow

Our research reveals that an average of 89% of the annual crude oil exported from the Amazon comes from Ecuador, 66% of that goes to the U.S. 1 in 9 gallons of fuel pumped in 2020 in California come from the Amazon, and in Southern California, the average is 1 in 7 gallons.

Marathon, Chevron, and Valero are the top three refiners of oil from the Amazon, all in California. Of the Amazon crude that goes to the U.S., 27% goes to Marathon, 22% goes to Valero, and 17% goes to Chevron. Chevron’s role is particularly notable, since the company is connected to some of the oil industry’s worst impacts in the Amazon, as well as in California. **The company has spent nearly \$2 billion fighting its court-ordered mandate to pay \$9.5 billion in clean up and community reparations costs that it is responsible for in Ecuador.**

Los Angeles International Airport consumes more oil from the Amazon than any other airport in the world – an average of 1 in 6 gallons of jet fuel pumped at LAX comes from the Amazon.

Where does the Amazon crude go?

- 123 MILLION GALLONS of jet fuel from the Amazon rainforest was consumed by major airlines at LAX and SFO in 2020. The Top airlines are American Airlines, Delta, United, Southwest, Alaska Airlines.
- 13 MILLION GALLONS of diesel from the Amazon rainforest was consumed by food and beverage delivery services in 2020. The top companies are Pepsi, Sysco, U.S. Foods, Reyes Holdings, and UNFI.
- 39 MILLION GALLONS of diesel from the Amazon rainforest was consumed by parcel delivery services in 2020. The top companies are Amazon.com, UPS, and FedEx.
- 43 MILLION GALLONS of diesel and gasoline from the Amazon rainforest was consumed by major supermarkets for their fleets and retail fuel stations in 2020. The top supermarkets are Walmart, Costco, Kroger, and Albertsons/Safeway.

- 1.9 BILLION GALLONS of gas and diesel from the Amazon rainforest was sold by major oil companies in California in 2019. The top retailers include Arco, Chevron, Shell, 76 (Phillips 66), and Valero. Unbranded gas is the largest share of gas sold in the state, illustrating that real change will require state action to reduce gasoline consumption, not just actions by brands.

The solutions

Companies using Amazon oil are responsible for eliminating fossil fuels, including those destroying the Amazon rainforest. Corporate leaders need to:

- Call for no new oil expansion in the Amazon
- Develop fuel sourcing policies that are transparent and traceable
- Set aggressive goals for electric vehicle use and other strategies designed to reduce fossil fuel consumption

Government leaders need to be a force for change, with new policies, regulations, and commitments:

- Commit California to a policy/regulatory agenda that ensures that California is not contributing to the expansion of oil drilling in the Amazon.
- Create a multi agency commission to map out how the state can achieve this goal (without any increase of domestic Californian production)
- Present a plan for California to reduce and/or eliminate its consumption of crude from the Amazon.
- Commit California to new fuel efficiency standards, push for electrification of fleets that consume the most Amazon oil, expansion of EVs broadly, and public transportation goals to reduce domestic consumption equivalent to Amazon oil import totals.
- Ban new domestic production or within 3200 feet of buffer areas

Short URL

New research shows that California is the world's largest consumer of oil from the Amazon rainforest. California converts 50% of the Amazon oil exported globally into fuel for airports, corporations such as Amazon.com, trucking fleets such as PepsiCo, and retail gas giants such as COSTCO. This new investigation expands upon our previous research...

Corporate polluters have used offsets as an excuse to keep emitting, but there's little evidence that offsets are actually slowing climate change. What's more, offset programs have enabled land-grabbing and violations of Indigenous rights in the Amazon.