

From the Desk of Julie Tacker

W28a

September 3, 2013

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Staff Report

California Coastal Commission  
Central Coast District Office  
725 Front Street, Suite 300  
Santa Cruz, CA 95060-4508

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Appeal #A-3-SLO-13-014 Substantial Issues Determination Conoco/Phillips Throughput Increase Project

Dear Chair Shallenberger and Commissioners,

It has come to my attention that a very large project has been segmented into two in an apparent effort to hide significant impacts to coastal resources and public health. The **Throughput Increase Project** (referenced above) and **Santa Maria Refinery Rail Project** both proposed by the applicant; Phillips 66. These projects are making their way through the permitting process, the first of which has been appealed to your commission on the very narrow basis of Coastal Access (referenced above) to be heard on September 11, 2013.

The refinery's current water use is 1,100 AFY (approx. 1 million gallons per day). The **Throughput Increase Project**, while no physical changes are proposed, does increase the refinery's water use by one percent or 11 AFY, according to the EIR, equivalent to that of 25-30 homes annually. The Santa Maria Valley Groundwater Basin, where this project lies and draws its water from, is in overdraft. The applicant argues that they have reduced use in the past and this increase is very small and within their allocation allowed by the basin adjudication. It would appear that this project has the ability to reduce water consumption overall, as opposed to increase use. Local approvals required no mitigation for this increase in water use.

The larger, more important issues surrounding the **Throughput Increase Project's** ten (10) percent increase capacity in refining crude oil. This project is likely unnecessary without the second project, the **Phillips 66/Santa Maria Refinery Rail Project**, pending review by San Luis Obispo County, which includes temporary and permanent impacts, as proposed affects a minimum of 48.9 acres of scenic coastal dune scrub and other flora and fauna.

- 21.9 acres (45% of total) occurs within the existing industrial refinery area
- 27 acres occur in undeveloped areas and include portions of the rail extension, the new pipeline, and the secondary emergency vehicle access road
- Should a coastal access be required the amount of disturbance would increase as designed and approved

The railroad tracks and unloading facilities have been designed to accommodate trains of approximately 80 tank cars, carrying over 30,000 gallons of crude oil each, and associated locomotives in unit train or manifest train configurations. These trains would deliver crude oil to

From the Desk of Julie Tacker

the facility, three times a week on average, for processing by the ten percent increase in the **Throughput Increase Project**.

If not for the **Throughput Increase Project** there would likely be no need for the **Rail Project**. This approach, segmenting one project into two, to date has succeeded in raising very little public awareness, as is evidenced by the comments submitted in the EIR. Only the Regional Water Quality Control Board, County of Santa Barbara Planning and Development, Cal Trans, Cal Fire and six neighbors' submitted comments. California Coastal Commission staff failed to comment on this potentially significant project.

The **Throughput Increase Project** EIR, Section 3.0 discusses "Cumulative Impacts" of some 55 south county projects surrounding the refinery, but fails to include the applicants own **Rail Project** that's Notice of Perpetration was released July 8, 2013. The comment period closed August 9, 2013 and the EIR preparation began immediately thereafter. The "Fast Track" process being paid for by the applicant will see local hearings by spring of 2014 and will likely be appealed to the Commission shortly thereafter, allowing for the possibility of both projects being heard together.

The **Rail Project** will also increase use on the groundwater basin; including an employee restroom and wash-down station. No water use quantitative number has been attributed to this project as of yet.

Over the course of the basin's litigation and concepts considered to balance the groundwater basin, the refinery has been considered a perfect candidate to use recycled water from the South San Luis Obispo County Sanitation District. The sanitation district (approx. 4.5 miles away) currently treats over 3 million gallons of sewage per day and dumps its treated wastewater by ocean outfall into the sea. Now may be a good time to incorporate the use of this wastewater in the refinery operation, reducing the facilities reliance on the imperiled basin.

These projects will allow for refining of over \$100 million a year at the Phillips 66 facility. This applicant and the two projects should be held to the highest of standards in coastal protection.

Please consider finding Substantial Issue with the **Throughput Increase Project** and wait a de novo hearing until both projects can be heard together next summer.

Thank you,



**J. H. EDWARDS COMPANY**

A REAL PROPERTY CONCERN

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**California Coastal Commission**

Central Coast District Office  
725 Front Street, Suite 300  
Santa Cruz, CA 95060-4508

Appeal #A-3-SLO-13-014 Substantial Issues Determination

Applicant: Conoco/Phillips Company (AKA) Phillips 66

August 30, 2013

Dear Chair Shallenberger and Commissioners,

Regretfully, I will be unable to attend the September 11 meeting in Eureka. Please consider this letter in connection with the item W 28a. The project includes an increase in the daily maximum crude oil throughput by ten percent (10%) which equates to in excess of 1.6 million barrels per year. The presumption is that Substantial Issue will be found unless staff is able to rebut this presumption.

The staff report for the above referenced project indicates the project site is located between the first public road (Hwy 1) and the ocean, and contains approximately 1.44 miles of coastal frontage, which lies adjacent to the Oceano Dunes State Vehicular Recreation Area (ODSVRA). In fact, California State Parks/Off-Highway Motor Vehicle Recreation (OHV) Division leases approximately 600 acres of the 1,600 Conoco/Phillips land holding for inclusion in the ODSVRA.

At issue is the adequacy of Condition No. 17 included in the approval of the project by San Luis Obispo County. Condition No. 17 addresses vertical public access at the subject location. To date, it is understood that a width of ten (10) to thirty (30) feet for the access way is being considered at this location. Please see Santa Maria Refinery Rail Project Development Plan/Coastal Development Permit ED12-201 (DRC2012-00095). Even thirty (30) feet would be inadequate to accommodate the full range of potential uses of the access way including buffer areas. The multi-purpose trail may include, pedestrian/bicycle, OHV, equestrian and buffers. The land subject to the vertical offer of dedication (OTD) is 2,500 feet long and follows an existing road alignment from Willow Road (Hwy 1) to the ODSVRA west of the Southern Pacific Railroad tracks.

On page 11 of the staff report, F. Conclusion, staff indicates, "even if the project is not entirely consistent with the applicable certified LCP...the Commission has the discretion to find the project does not raise a substantial issue."

Five factors intended to guide the Commission's decision are as follows:

1. ***The degree of factual and legal support for the local government's decision.*** In the instant case, there was no condition for public access (COA#17) until the last minute at the Planning Commission hearing. County staff did not raise the question until just before the hearing. Little further analysis of the adequacy was performed during the Board of Supervisors consideration.
2. ***The extent and scope of the development as approved by the local government.*** While no physical changes to the refinery are proposed with the subject application, it will result in the additional refinement of in excess of 1.6 million barrels of crude oil per year with a value in the tens of millions of dollars annually.
3. ***The significance of coastal resources affected by the decision.*** Each year, thousands of motor vehicles must cross Arroyo Grande Creek to access the ODSVRA. Arroyo Grande Creek is habitat to a number of endangered species which are coastal resources. An alternative access adequate to accommodate more direct OHV traffic to the ODSVRA would substantially reduce creek crossings and impacts to coastal resources. This strategy is consistent with the Commissions position on planned retreat due to sea-level-rise.
4. ***The precedential value of the local government's decision for future interpretations of its LCP.*** In finding Substantial Issue by the Commission, adequate provisions will be considered to accommodate public access where the local government (SLO County) failed to fully provide. In considering the companion Rail Spur project (projected March 2014) San Luis Obispo County may rely on their first decision (precedential) relative to the subject application and fail to adequately condition that project.
5. ***Whether the appeal raises only local issues as opposed to those of regional or statewide significance.*** The ODSVRA is clearly a regional, if not statewide resource. It attracts over 1.5 million visitors per year coming from all corners of California and beyond. The ODSVRA is one of only eight SVRA's in California.

When all five Substantial Issue factors are weighed together, the appeal contentions clearly demonstrate a Substantial Issue relative to project conformance with the San Luis Obispo County certified LCP, contrary to staff's conclusion.

Access at the Conoco/Phillips Santa Maria Refinery is the lynch pin of a "bigger picture" view to optimize vertical coastal access and protect coastal resources including thousands of coastal acres and miles of shoreline.



## J. H. EDWARDS COMPANY

A REAL PROPERTY CONCERN

W 28a

Staff has indicated that your Commission may receive a briefing on the ODSVRA in the relative near term. However, I respectfully submit an understanding of all the "moving parts" including multiple CDP's, multiple Habitat Conservation Plans and the Air Pollution Control District Dust Rule 1001 is necessary before you consider the current matter. Consequently, in finding Substantial Issue, you will likely receive an all-important briefing prior to a de novo hearing. Furthermore, by that time, the Santa Maria Refinery Rail Spur project may also be before your Commission.

There is a "bright line" of responsibility if Conoco/Phillips is conditioned to provide an adequate OTD to accommodate the optimal range of public access uses at this location. With an adequate OTD State Parks Off-Highway Motor Vehicle Recreation Division could then conduct a process to determine the future uses, design, permitting, construction and maintenance that would be necessary to optimize public access especially considering the ODSVRA. In the June 1999 Public Access Plan prepared by the California Coastal Commission vertical OTD's are considered the highest priority category of OTD. They provide access perpendicular to the ocean, generally from the first public road (i.e. Pacific Coast Highway/Hwy 1) to the shoreline.

Please find Substantial Issue and assume jurisdiction so that a de novo hearing may be held to ensure an adequate OTD is made by Conoco/Phillips now to insure flexibility in the future. Please see the handout packet provided Commissioners attending the August 15, 2013 meeting in Santa Cruz which is also included in the staff report as Exhibit 4.

Please feel free to contact me with any questions you may have.

*Jeff Edwards*

Jeff Edwards - Appellant

805.235.0873

Wd 8a

**Chapman, Diana@Coastal**

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**From:** Jeff Edwards <jhedwardscompany@gmail.com>  
**Sent:** Tuesday, September 03, 2013 4:03 PM  
**To:** Manna, Jeannine@Coastal  
**Subject:** Re: For the record Phillips 66 alternative access  
**Attachments:** Huckfest 2013.jpg

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## Huckfest 2013 grows by leaps and bounds

By Brian Bullock/[bbullock@theadobepress.com](mailto:bbullock@theadobepress.com) [Comments](#) [Email this story](#) [Print this story](#)



Off-road vehicles, drivers and passengers gather at the Oceano Dunes on Saturday, Aug. 24, for Huckfest.  
//Contributed

According to [urbandictionary.com](http://urbandictionary.com) the term “huck” is generally used in extreme sports referring to a large jump, often without knowledge or regard for the risk or consequences.

Huckfest, an off-road vehicle jumping competition and exhibition in the Oceano Dunes State Vehicular Recreation Area, took an incredible “huck” in 2013 with thousands of spectators from as far away as Norway converging to watch trucks fly.

The event, started five years ago by then-17-year-old twin brothers Manuel and Johnny Garner of Nipomo, grew incredibly this year, especially for one that got started by a group of friends who liked jumping their off-road trucks off dunes.

“It’s quadrupled in size this year. We did not think it was ever going to get this big,” said Manuel, still groggy and recovering from a long weekend of work. “This is the fifth year we’ve had it. The first three years were unorganized, unpermitted and just a bunch of people having fun.”

After that, though, the Garners saw the event growing and knew they had to pay more attention to it. They got together with state parks representatives of the Oceano Dunes District, got permitted and got organized.

The event is publicized in various off-road racing magazines, blogs and websites, and by word of mouth, all of which has pushed it to new heights each year.

Now 21, Manuel said they both had to quit their regular jobs to devote more time to their burgeoning event. This year, Huckfest attracted professional participants, national sponsors, national media and international

interest.

Five-time World Off-Road Racing champion "Ballistic" B.J. Baldwin and his Monster Energy-sponsored Chevy truck competed. And even though he didn't record the longest jump — that belonged to Mike Higgins of Michigan whose flight of 169 feet was the longest flight in Huckfest history — Baldwin posted the best three-jump average distance, Manuel said.

In addition to Monster's participation, national sponsors included: Dirt Cinema, which filmed the event; Hoonigan; Rigid Industries, an off-road lighting accessories company from Gilbert, Ariz.; Pure Performance, a lift-kit company from Green Island, N.Y.; SPY Optics; Synergy Manufacturing of San Luis Obispo; Dirt Designs of Atascadero; Sticky Whips of Pismo Beach; S and G Metal Fabrication of Nipomo; and Snap On Tools of San Luis Obispo County.

King Shocks of West Covina put up gift certificates for every winner sporting one of its stickers. Competition included four categories of jumping. Manuel said prizes also were given for crowd favorites and spectacular crashes.

And even though not every truck landed cleanly, Garner said nobody has been injured in all five years of competition.

On Saturday, Aug. 24, the event drew enough spectators to the dunes that authorities had to close the beach to vehicles.

"The beach was maximum capacity at 9:30 a.m. (State Parks officials) told me it was the first time it ever happened that early," he said, which is incredible considering the crowds that attend the Fourth of July fireworks shows. "People all the way from Michigan drove vehicles to come out and compete."

When many spectators found out they couldn't drive to the site — at Championship Hill in the off-road area — they parked on the streets and walked in, he said.

There were some reports that the large crowds pushed through some of the event's fences, which Garner said are required by permit to keep spectators 400 feet from the jump. But San Luis Obispo County Sheriff's Department reported no incidents from the event.

Huckfest, which Manuel said got its name from Tommy Trego of Orcutt when he "blurted it out" in the first year of the event, has grown beyond the Garners' wildest dreams. But he said it's still all about people having fun.

He said the event has become so popular, there are people interested in having them start other Huckfest events.

"We're dealing with some people in Dubai to have a Huckfest over there, too," he said. "It's getting way bigger than we thought it would be."

Posted Friday August 30, 2013

Julie Tacker  
Administrative Assistant  
J.H. Edwards Company  
P.O. Box 6070

Los Osos, CA 93412  
805.235.0873

On Tue, Sep 3, 2013 at 3:42 PM, Manna, Jeannine@Coastal <[Jeannine.Manna@coastal.ca.gov](mailto:Jeannine.Manna@coastal.ca.gov)> wrote:

Hi Jeff,

The first link does not go to an article. Can you retry or send me another site?

Thanks,

Jeannine

**From:** Jeff Edwards [<mailto:jhedwardscompany@gmail.com>]  
**Sent:** Tuesday, September 03, 2013 2:47 PM  
**To:** Manna, Jeannine@Coastal; Teufel, Cassidy@Coastal  
**Subject:** For the record Phillips 66 alternative access

Jeannine,

Please add this email and attachments and links to items that pertain to off road vehicle access to the Oceano Dunes. This article hits the nail on the head as to why an southern access should be opened via Phillips 66. Please share with the Commissioners.

<http://www.theadobepress.com/articles/2013/09/03/news/news55.eml>

These youtube videos depict off road vehicles crossing Arroyo Grande Creek, the home of several endangered species.

[http://www.youtube.com/watch?v=bUD\\_skQBUFI](http://www.youtube.com/watch?v=bUD_skQBUFI)

<http://www.youtube.com/watch?v=7MZUw7irlmc>

<http://www.youtube.com/watch?v=korVxbtOGz8>

<http://www.youtube.com/watch?v=-xDuWE0mUb8>

<http://www.youtube.com/watch?v=-wqZCqtdPxQ>

<http://www.youtube.com/watch?v=roNyBeAG7dA>

<http://www.youtube.com/watch?v=ipP4u0i9sVg>

<http://www.youtube.com/watch?v=CR4kTXalXb0>

Thank you,

Jeff Edwards

J.H. Edwards Company

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**CALIFORNIA COASTAL COMMISSION**

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**W28a**

Filed:	3/19/2013
Action Deadline:	None
Staff:	J.Manna - SF
Staff Report:	8/22/2013
Hearing Date:	9/11/2013

## **APPEAL STAFF REPORT SUBSTANTIAL ISSUE DETERMINATION**

<b>Appeal Number:</b>	<b>A-3-SLO-13-014</b>
<b>Applicant:</b>	<b>ConocoPhillips Company</b>
<b>Appellant:</b>	Jeff Edwards
<b>Local Government:</b>	San Luis Obispo County
<b>Local Decision:</b>	Approved with conditions
<b>Location:</b>	ConocoPhillips Santa Maria oil refinery located at 2555 Willow Road on the Arroyo Grande mesa, San Luis Obispo County
<b>Project Description:</b>	Increase the daily maximum crude oil throughput by 10 percent (from 44,500 to 48,950 barrels per day)
<b>Staff Recommendation:</b>	No Substantial Issue

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### **SUMMARY OF STAFF RECOMMENDATION**

San Luis Obispo County approved a coastal development permit (CDP) allowing a 10 percent increase (from 44,500 barrels per day (bpd) to 48,950 bpd) in the daily maximum crude oil throughput produced at the existing ConocoPhillips Santa Maria oil refinery. The County conditioned its approval to require mitigation of air quality impacts through emission reduction measures, a fire safety plan which meets the requirements of the California Fire Code, and an amendment to the spill management procedures to protect water resources. In addition, the

County conditioned its approval to require the Applicant, the ConocoPhillips Company, to provide an offer of dedication for and to construct a vertical public accessway extending from Highway 1 to the Oceano Dunes State Vehicle Recreation Area (ODSVRA) boundary, along the Applicant's existing maintenance road.

The Appellant contends that the County-approved project is inconsistent with the certified San Luis Obispo County Local Coastal Program (LCP) because it does not adequately implement the public access requirements of the LCP. Specifically, the Appellant contends that: 1) an offer of dedication for a 100-foot wide public accessway is more appropriate than a 10-foot wide public accessway, since an offer of dedication can be reduced in width but cannot easily be enlarged; 2) requiring the dedication of a 100-foot wide accessway now, as opposed to requiring dedication and construction of a 10-foot wide accessway at some point in the future, would provide more certainty in the obligations of the Applicant and is more in line with the threshold of rough proportionality; and 3) the size of the accessway should be 100-feet in width to accommodate future potential use of the accessway, including as a formal access and staging area for ODSVRA.

After reviewing the local record, staff has concluded that the appeal does not raise a substantial issue with respect to the project's conformance with the LCP. The County's approval carries out LCP requirements to dedicate and construct public access when new development is approved, and the resulting project provides public access, consistent with the LCP and the public access and recreation policies of the Coastal Act. First, the LCP requires a minimum 10-foot wide access in rural areas, and the Applicant must comply with this requirement. The actual size of the accessway constructed will be determined at the time it is provided by the Applicant, but the County's condition ensures that it will be no smaller than 10 feet, consistent with the LCP. Second, the County's condition does require dedication of the accessway prior to development, and therefore, there is certainty that it will be offered. Further, the County has required public access to be dedicated and constructed consistent with LCP requirements, so this issue does not raise a substantial issue of LCP conformity. Third, the approved project and its public access impacts are separate and independent from the access issues associated with ODSVRA, and there is no LCP or Coastal Act basis requiring the County to link them in this case.

As a result, staff recommends that the Commission determine that the appeal contentions do not raise a substantial LCP conformance issue, and that the Commission decline to take jurisdiction over the CDP for this project. The single motion necessary to implement this recommendation is found on page 4 below.

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**EXHIBITS**

- Exhibit 1 – Project Location
- Exhibit 2 – County’s Final Local Action Notice
- Exhibit 3 – Appeal Contentions
- Exhibit 4 – Supplementary Appeal Materials
- Exhibit 5 – LCP Coastal Zone Land Use Ordinance Section 23.04.420
- Exhibit 6 – General Location of Future Accessway



## I. MOTION AND RESOLUTION

Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of no substantial issue would mean that the Commission will not hear the application de novo and that the local action will become final and effective. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission determine that Appeal Number A-3-SLO-13-014 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603. I recommend a yes vote.*

***Resolution to Find No Substantial Issue.** The Commission finds that Appeal Number A-3-SLO-13-014 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.*

## II. FINDINGS AND DECLARATIONS

### A. PROJECT LOCATION AND DESCRIPTION

The ConocoPhillips Santa Maria Facility (Facility) is located at 2555 Willow Road, on the Arroyo Grande mesa, in San Luis Obispo County (see **Exhibit 1**). Recreational activities occur on the adjacent Oceano Dunes State Vehicle Recreation Area (ODSVRA) property to the west. Open space, industrial, agriculture, and residential uses are located to the north, south and east of the site.

The Facility was built in 1955 and has been operating as an oil refinery since then. It is currently operating 24 hours a day, 365 days a year under a number of existing County permits including CDP D890287D, approved in 1990, which requires the Applicant to obtain a new CDP for any throughput expansion. The Facility processes heavy, high-sulfur crude oil and sends semi-refined petroleum by pipeline to the San Francisco Refinery, solid petroleum coke by railroad or haul truck, and recovered sulfur by haul truck. The County-approved project would allow for a 10 percent increase in the permitted volume of processed crude oil allowed by the existing permit (an increase from 44,500 bpd to 48,950 bpd). The approved project does not include any physical expansion of the Facility. The County conditioned its approval to require the Applicant to provide vertical access to be located in the area of an existing maintenance road. When improved in the future, such access would connect from Highway 1 to the ODSVRA boundary.

## **B. SAN LUIS OBISPO COUNTY CDP APPROVAL**

The San Luis Obispo County Planning Commission approved the proposed project on December 13, 2012 subject to multiple conditions. The Planning Commission's approval was appealed to the County's Board of Supervisors by Jeff Edwards. The Board of Supervisors held a public hearing to consider the appeal on February 26, 2013. At that time, the Board denied the appeal and upheld the Planning Commission's original approval. Notice of the County Board's action on the CDP was received in the Coastal Commission's Central Coast District Office on March 7, 2013 (see **Exhibit 2**). The Coastal Commission's ten-working day appeal period for this action began on March 8, 2013 and concluded at 5pm on March 21, 2013. One valid appeal, submitted by Jeff Edwards, was received during the appeal period (see **Exhibit 3**). Mr. Edwards also subsequently submitted supplementary appeal materials on August 15, 2013 (see **Exhibit 4**).

## **C. APPEAL PROCEDURES**

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. This project is appealable because it is located between the sea and the first public road paralleling the sea and involves an energy facility.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the certified LCP or to the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo CDP hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations.<sup>1</sup> Under Section 30604(b), if the Commission conducts a de novo hearing and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located

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<sup>1</sup> The term "substantial issue" is not defined in the Coastal Act or in its implementing regulations. In previous decisions on appeals, the Commission has generally been guided by the following factors in making substantial issue determinations: the degree of factual and legal support for the local government's decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government's decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance. Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of a local government's CDP decision by filing a petition for a writ of mandate pursuant to the Code of Civil Procedure, Section 1094.5. In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the County does not raise a substantial issue with regard to the Appellants' contentions.

within the coastal zone, Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project includes components that are located between the nearest public road and the sea and thus this additional finding would need to be made if the Commission were to approve the project following a de novo hearing.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo CDP determination stage of an appeal.

#### **D. SUMMARY OF APPEAL CONTENTIONS**

The Appellant contends that the County-approved project is inconsistent with the certified LCP because it does not adequately implement the public access requirements of the LCP.

Specifically, the Appellant contends that: 1) an offer of dedication for a 100-foot wide public accessway is more appropriate than a 10-foot wide public accessway, since an offer of dedication can be reduced in width but cannot easily be enlarged; 2) requiring the dedication of a 100-foot wide accessway now, as opposed to requiring dedication and construction of a 10-foot wide accessway at some point in the future, would provide more certainty in the obligations of the Applicant and is more in line with the threshold of rough proportionality; and 3) the size of the accessway should be 100 feet in width to accommodate future potential use of the accessway, including as a formal access and staging area for ODSVRA.

#### **E. SUBSTANTIAL ISSUE DETERMINATION**

LCP Coastal Zone Land Use Ordinance (CZLUO) Section 23.04.420 requires development located between the first public road and the tidelands to protect and/or provide for public access, and states in part:<sup>2</sup>

***23.04.420 - Coastal Access Required.***

*Development within the Coastal Zone between the first public road and the tidelands shall protect and/or provide coastal access as required by this section. The intent of these standards is to assure public rights of access to the coast are protected as guaranteed by the California Constitution. Coastal access standards are also established by this section to satisfy the intent of the California Coastal Act...*

- b. Protection of existing coastal access.*** *Development shall not interfere with public rights of access to the sea where such rights were acquired through use or legislative authorization. Public access rights may include but are not limited to the use of dry sand and rocky beaches to the first line of terrestrial vegetation.*
- c. When new access is required.*** *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*

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<sup>2</sup> See Exhibit 5 for CZLUO Section 23.04.420 in its entirety.

- (1) Access would be inconsistent with public safety, military security needs or the protection of fragile coastal resources; or*
- (2) The site already satisfies the provisions of subsection d of this section; or*
- (3) Agriculture would be adversely affected; or...*

**d. Type of access required:**

**(1) Vertical Access:...**

*(ii) In rural areas: In rural areas where no dedicated or public access exists within one mile, or if the site has more than one mile of coastal frontage, an accessway shall be provided for each mile of frontage...*

**(2) Vertical access dedication.** Accessways shall be a minimum width of five feet in urban areas and 10 feet in rural areas...

**e. Timing of access requirements.** The type and extent of access to be dedicated, and/or constructed and maintained, as well as the method by which its continuing availability for public use is to be guaranteed, shall be established at the time of land use permit approval, as provided by this section.

**(1) Dedication:** Shall occur before issuance of construction permits or the start of any construction activity not requiring a permit.

**(2) Construction of improvements:** Shall occur at the same time as construction of the approved development, unless another time is established through conditions of land use permit approval.

**(3) Opening access for public use:** No new coastal access required by this section shall be opened or otherwise made available for public use until a public agency or private association approved by the county agrees to accept responsibility for maintenance of the accessway and any liability resulting from public use of the accessway.

**(4) Interference with public use prohibited:** Following an offer to dedicate public access pursuant to subsection e(1) of this section, the property owner shall not interfere with use by the public of the areas subject to the offer before acceptance by the responsible entity.

**f. Permit requirement.** Except as otherwise provided by this subsection, Minor Use Permit approval is required before issuance of any construction permit for an accessway, or the start of any access construction not requiring a permit, unless the details of the required access are approved as part of another Minor Use Permit or Development Plan for the principal use. The permit requirement of this subsection applies to the construction of a new accessway, or alteration, major restoration, transfer of maintenance responsibility or abandonment of an existing accessway. No land use permit is required for:

- (1) The offer of dedication, grant of easement or other conveyance of title for future accessway construction where no public use exists or is proposed at the time of conveyance; or*
- (2) Normal maintenance or minor improvements, where the total valuation of work does not exceed \$1500 as determined by the County Fee Ordinance...*

***k. Sighting criteria for coastal accessway.*** *In reviewing a proposed accessway, the applicable review body shall consider the effects that a public accessway may have on adjoining land uses in the location and design of the accessway. When new development is proposed, it shall be located so as not to restrict access or to create possible privacy problems. Where feasible, the following general criteria shall be used in reviewing new access locations, or the location of new development where coastal access considerations are involved:*

- (1) Accessway locations and routes should avoid agricultural areas, sensitive habitats and existing or proposed residential areas by locating near the edge of project sites;*
- (2) The size and location of vertical accessways should be based upon the level and intensity of existing and proposed access;*
- (3) Review of the accessway shall consider: safety hazards, adequate parking provisions, privacy needs of adjacent residences, adequate signing, and levels of improvements necessary to provide for access;*
- (4) Limiting access to pass and repass should be considered where there are nearby residences, where topographic constraints make the use of the beach dangerous, where there are habitat values that can be disturbed by active use.*

Similar protections that require the protection of public access in new development projects are provided more through Coastal Act Sections 30210, 30211, and 30212, which state:

***Section 30210.*** *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

***Section 30211.*** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

***Section 30212.*** *(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.....*

The project site is located between the first public road (Highway 1) and the ocean, and contains approximately 1.44 miles of coastal frontage, which lies adjacent to ODSVRA (see **Exhibit 1**). As stated above, CZLUO Section 23.04.420(d)(1) requires that vertical access be provided in new development projects in rural areas when the project site has more than one mile of coastal frontage, and also requires one accessway for each mile of frontage. Section 23.04.420(e) outlines the County's approach to the timing for access dedications, access construction, and the opening of access for public use. Specifically, this Section requires access to be dedicated before construction permits are issued, construction of the access to occur during construction of the approved development or by an alternative schedule determined through the conditions of approval for a project, and a public or private entity to accept responsibility for the access before it is opened to the public.

The County required the Applicant, through County Condition 17, to comply with the requirements specified in CZLUO Section 23.04.420. This condition also requires that the access improvements be constructed within 10 years of the effective date of the permit, or at the time of any subsequent use permit approved at the site, whichever comes first.<sup>3</sup> The condition language included in the approval is as follows:

*17. Prior to issuance of the Notice to Proceed authorizing an increase in refinery throughput, the applicant shall comply with Section 23.04.420 – Coastal Access Required. Construction of improvements associated with vertical public access (if required) shall occur within 10 years of the effective date of this permit (including any required Coastal Development Permit to authorize such construction) or at the time of any subsequent use permit approved at the project site, whichever occurs first. The approximate location of the vertical access required by this condition of approval shall be located within or immediately adjacent to the existing maintenance road as shown in Exhibit D- Project Graphic (Coastal Access Location Map 1 and 2). [See **Exhibit 6** for the location maps mentioned in the condition.]*

#### *Adequacy of Public Access*

The Appellant contends that the vertical access dedication included in the project approval is inadequate and that a 100-foot-wide offer of dedication would be more appropriate since an offer of dedication can be reduced in width but it cannot easily be enlarged. The County's action is, however, consistent with the LCP. CZLUO Section 23.04.420 requires that vertical access be provided in new development projects in rural areas when the project site has over one mile of coastal frontage. Since the project site has a coastal frontage of 1.44 miles, the Applicant is required by CZLUO Section 23.04.420 to provide one vertical accessway. In addition, CZLUO Section 23.04.420 requires that a vertical access dedication be a minimum of 10 feet wide in rural areas. As conditioned, the Applicant is required to comply with CZLUO Section 23.04.420, so it must offer to dedicate a vertical accessway that is a minimum of 10 feet wide, prior to issuance of a Notice to Proceed authorizing the increase in refinery throughput.

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<sup>3</sup> The Applicant has applied to the County for a proposed rail spur, which, if approved, would trigger Condition 17's requirement that the vertical accessway improvements be constructed now as opposed to the outside limit of ten years. As such, the County is currently evaluating feasible options for the siting and design of the accessway, including with respect to details related to the specific location of the accessway and the appropriate type and level of intensity of the accessway (personal communication between Coastal Commission Coastal Planner Jeannine Manna and County Environmental Resource Specialist Murry Wilson).

Finally, CZLUO Section 23.04.420 (f) and (k) require minor use permit approval before issuance of a construction permit for an accessway, and outline siting criteria that should be considered in reviewing a proposed accessway, including avoiding sensitive habitats, determining size based on level and intensity of existing and proposed access, and considering safety hazards. Therefore, through review of the minor use permit, the size of the accessway may be required to be larger than the minimum specified in the LCP, depending on its effects on the adjoining land uses and the level and intensity of the proposed access.

In sum, the approved project will provide for vertical public access to the shoreline, as required by the LCP, and the Appellant's contentions regarding adequacy of public access do not raise a substantial issue with the policies or implementing ordinances of the LCP, or the public access and recreation policies of the Coastal Act.

*Offer of Dedication, Proportionality, and Timing of Access Requirements*

The Appellant contends that requiring the Applicant to dedicate a 100-foot wide accessway now would better meet LCP policies than does requiring the Applicant to construct and maintain a 10-foot wide accessway at some point in the future. The Appellant also contends that dedication of an accessway now would create a greater amount of certainty in the obligations of the Applicant in the future and is more in line with the threshold of "rough proportionality".<sup>4</sup> As discussed above, and as required by CZLUO Section 23.04.420(e), the County's approval requires the Applicant to provide an offer of dedication for a vertical accessway that is a minimum of 10 feet wide prior to increasing refinery throughput, and requires the Applicant to construct the accessway either within 10 years of the effective permit date or when any other use permit<sup>5</sup> is approved at the site. The resulting project therefore protects and provides public access consistent with the LCP and Coastal Act.

Further, it is the intent of CZLUO Section 23.04.420 to provide for public access between the first public road and the tideline, but CZLUO Section 23.04.420 (d)(3) requires that no new coastal access be opened to the public until a public agency or private entity accepts responsibility or liability for use of the accessway. If the Applicant were only required to provide an offer of dedication, there is no guarantee that a public or private agency would construct or accept responsibly for maintenance of the accessway in the future, and therefore, the condition proposed by the Appellant could result in less public access than the approved project is expected to provide. In addition, Condition 17 does specify a timeframe for when the accessway should be dedicated (prior to increasing refinery throughput) and constructed (either within 10 years of the effective permit date or when any other use permit is approved at the site). Thus, the accessway is required to be dedicated and constructed within the next 10 years and the phased timing established in Condition 17 is consistent with Section 23.04.420(e).

Therefore, the approved project is consistent with the LCP, and the Appellant's contentions regarding the offer of dedication, proportionality, and the timing of access improvements do not

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<sup>4</sup>In this case, "rough proportionality" means that any access dedication needs to be roughly proportional, both in nature and in extent, to the proposed development.

<sup>5</sup> Such as for the proposed rail spur project, discussed above.

raise a substantial issue of conformity with the policies or implementing ordinances of the LCP, or the public access and recreation policies of the Coastal Act.

#### *Future Access to ODSVRA*

The Appellant contends that the accessway should be 100 feet in width to accommodate future potential use of the accessway as a formal access and staging area for ODSVRA. Currently, ODSVRA off-highway vehicle (OHV) users access the park to the north through temporary access points at Grand Avenue in Grover Beach and Pier Avenue in Oceano. Conditions included in State Parks' CDP (CDP 4-82-300, as amended) for ODSVRA operations require State Parks to determine a permanent access and staging location for OHV activities that is the least environmentally damaging alternative and that incorporates all feasible mitigation measures. As a result, a number of studies have been conducted to examine potential alternative access routes into the ODSVRA.<sup>6</sup> In addition, the LCP includes a detailed summary on the advantages and disadvantages of seven alternative access locations developed from discussions with State Parks.

The question of the best manner and location to access ODSVRA, including in relation to underlying CDP requirements, has not been completely resolved. It is a complicated question, and one that is informed by a long and involved permitting history and its related requirements. The Commission is hopeful that that question, and related ODSVRA issues and other questions more generally, can be resolved in the relatively near future (including in relation to an upcoming State Parks' Habitat Conservation Plan for ODSVRA, ongoing condition compliance and review efforts pursuant to CDP 4-82-300, and State Parks' current CDP application associated with dust control). More importantly for this appeal, the County-approved throughput increase project and its associated impacts are independent of ODSVRA and its associated CDP requirements. Therefore, the Appellant's contention that the accessway should be 100-feet in width to accommodate future potential use of the accessway as a formal access and staging area for ODSVRA does not raise a substantial issue of conformance with the policies or implementing ordinances of the LCP, or the public access and recreation policies of the Coastal Act.

## **F. CONCLUSION**

When considering a project that has been appealed to it, the Commission must first determine whether the project raises a substantial issue of LCP conformity, such that the Commission should assert jurisdiction over a de novo CDP application for such development. At this stage, the Commission has the discretion to find that the project does not raise a substantial issue of LCP conformance, even if the project is not entirely consistent with the applicable certified LCP. As explained above, the Commission is guided in its decision of whether the issues raised in a given case are "substantial" by the following five factors: the degree of factual and legal support for the local government's decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government's decision for future interpretations of

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<sup>6</sup> Including a 1991 *Environmental Impact Report for the Pismo Dunes State Vehicular Recreation Area Access Corridor Project* (DPR), and a 2006 *Alternative Access Study Oceano Dunes State Vehicle Recreation Area* (Condor Environmental Planning Service, Inc.).



its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance.

As described above, the appeal contentions relate to the project's consistency with the public access policies of the certified LCP and the Coastal Act. The County's access condition by its specific terms requires compliance with CZLUO Section 23.04.420, so there is adequate factual and legal support for its decision that the project is consistent with this policy. In addition, the proposed project would result in a modest increase in crude oil production of an existing facility that has been in operation since 1950 and would not require any physical expansion of the facility. The extent and scope of the approved development is therefore fairly minor. There are no significant adverse effects on coastal resources anticipated to occur with the project, as conditioned by the County, so the third factor is met here. Because the County strictly followed the requirements of CZLUO Section 23.04.420 in its access condition, this project is not expected to set an adverse precedent for future interpretation of the LCP. Finally, although the ODSVRA issues that have been raised are of regional significance, the County-approved project is independent of the ODSVRA issues that have been raised.

Based on the foregoing, when all five substantial issue factors are weighed together, the appeal contentions do not raise a substantial LCP conformance issue and thus the Commission declines to take jurisdiction over the CDP application for this project.

Figure 2-1 Facility Location





SAN LUIS OBISPO COUNTY  
DEPARTMENT OF PLANNING AND BUILDING

March 5, 2013

FINAL LOCAL ACTION NOTICE	
REFERENCE #	3-SLO-13-053
APPEAL PERIOD	3/8 - 3/24/13

**RECEIVED**

MAR 07 2013

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Conoco Phillips Co.  
Attn: Kristen Knopp  
2555 Willow Road  
Arroyo Grande, CA 93420

**NOTICE OF FINAL COUNTY ACTION**

HEARING DATE: February 26, 2013

SUBJECT: County File No. – DRC2008-00146  
Minor Use Permit/Coastal Development Permit

LOCATED WITHIN COASTAL ZONE: YES

The above-referenced application was approved by the Board of Supervisors, based on the approved Findings and Conditions, which are attached for your records. This Notice of Final Action is being mailed to you pursuant to Section 23.02.033(d) of the Land Use Ordinance.

This action is appealable to the California Coastal Commission pursuant to regulations contained in Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The regulations provide the California Coastal Commission ten (10) working days following the expiration of the County appeal period to appeal the decision. This means that no construction permits can be issued until both the County appeal period and the additional Coastal Commission appeal period have expired without an appeal being filed.

Exhaustion of appeals at the county level is required prior to appealing the matter to the California Coastal Commission. This second appeal must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (831) 427-4863 for further information on their appeal procedures.

If the use authorized by this Permit approval has not been established, or if substantial work on the property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through conditions of approval of this Permit, this approval shall expire and become void unless an extension of time has been granted pursuant to the provisions of Section 23.02.050 of the Land Use Ordinance.

Exhibit 2

976 OSOS STREET, ROOM 300 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600A-3-SLO-13-014

EMAIL: [planning@co.slo.ca.us](mailto:planning@co.slo.ca.us) • FAX: (805) 781-1242 • WEBSITE: <http://www.sloplanning.org> Page 1 of 121

If the use authorized by this Permit approval, once established, is or has been unused, abandoned, discontinued, or has ceased for a period of six (6) months, or conditions have not been complied with, such Permit approval shall become void.

If you have questions regarding your project, please contact me at (805) 781-5612.

Sincerely,



RAMONA HEDGES  
Custodian of Records

cc: California Coastal Commission,  
725 Front Street, Suite 300, Santa Cruz, California 95060

Jeff Edwards  
P.O. Box 6070, Los Osos, California 93412

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(Planning Department Use Only – for California Coastal Commission)

Date NOFA copy mailed to Coastal Commission: 3/5/13

Enclosed:              X   Staff Report(s) dated February 26, 2013  
                           X   Resolution with Findings and Conditions

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

<b>(1) DEPARTMENT</b> Planning and Building	<b>(2) MEETING DATE</b> 2/26/2013	<b>(3) CONTACT/PHONE</b> Murry Wilson, Environmental Resource Specialist/(805) 788-2352	
<b>(4) SUBJECT</b> Hearing to consider an appeal by Jeff Edwards of the Planning Commission's approval of a Development Plan / Coastal Development Permit to allow for the increase in the daily maximum limit of crude oil throughput (by 10 percent) at the existing Phillips 66 oil refinery. District 4.			
<b>(5) RECOMMENDED ACTION</b> That the Board of Supervisors adopt and instruct the Chairperson to sign the resolution affirming the decision of the Planning Commission, certifying the Final Environmental Impact Report, and conditionally approving the Development Plan / Coastal Development Permit (DRC 2008-00146) application of Phillips 66 based on the findings listed in Exhibit A, the conditions listed in Exhibit B, and California Environmental Quality Act (CEQA) findings in Exhibit C.			
<b>(6) FUNDING SOURCE(S)</b> General Fund (No fee for Coastal Appeals)	<b>(7) CURRENT YEAR FINANCIAL IMPACT</b> \$0.00	<b>(8) ANNUAL FINANCIAL IMPACT</b> \$0.00	<b>(9) BUDGETED?</b> Yes
<b>(10) AGENDA PLACEMENT</b> <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>60 minutes</u> ) <input type="checkbox"/> Board Business (Time Est. <u>      </u> )			
<b>(11) EXECUTED DOCUMENTS</b> <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
<b>(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)</b>  N/A		<b>(13) BUDGET ADJUSTMENT REQUIRED?</b> BAR ID Number: <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
<b>(14) LOCATION MAP</b>  Attached	<b>(15) BUSINESS IMPACT STATEMENT?</b>  Yes	<b>(16) AGENDA ITEM HISTORY</b>  <input checked="" type="checkbox"/> N/A Date <u>                    </u>	
<b>(17) ADMINISTRATIVE OFFICE REVIEW</b>  Reviewed by Leslie Brown			
<b>(18) SUPERVISOR DISTRICT(S)</b> District 4 -			

## County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Murry Wilson, Environmental Resource Specialist

VIA: Ellen Carroll, Environmental Coordinator

DATE: 2/26/2013

SUBJECT: Hearing to consider an appeal by Jeff Edwards of the Planning Commission's approval of a Development Plan / Coastal Development Permit to allow for the increase in the daily maximum limit of crude oil throughput (by 10 percent) at the existing Phillips 66 oil refinery. District 4.

### **RECOMMENDATION**

That the Board of Supervisors adopt and instruct the Chairperson to sign the resolution affirming the decision of the Planning Commission, certifying the Final Environmental Impact Report, and conditionally approving the Development Plan / Coastal Development Permit (DRC 2008-00146) application of Phillips 66 based on the findings listed in Exhibit A, the conditions listed in Exhibit B, and California Environmental Quality Act (CEQA) findings in Exhibit C.

### **DISCUSSION**

#### **Background**

The proposed project entails an increase to the permitted volume of processed crude oil over the existing permit level by 10 percent. The project will not result in new ground disturbance or physical expansion of the facility.

The Phillips 66 Santa Maria Facility (SMF) was built on the Arroyo Grande mesa in southern San Luis Obispo County in 1955. The facility is surrounded by industrial, recreational, agricultural, residential and open space land uses (see Attachment 5, Exhibit D – Land Use Category Map). The SMF operates 24 hours per day and 365 days per year, except when shut down for maintenance.

The SMF mainly processes heavy, high-sulfur crude oil. The bulk of crude oil processed at the SMF is delivered via pipeline from offshore platforms in the Outer Continental Shelf of Santa Barbara County and from oils fields in the Santa Maria area. In addition, crude oil from other onshore sources such as the Arroyo Grande (Price Canyon) field and San Ardo field is delivered by truck to the Santa Maria Pump Station (located in the City of Santa Maria) and then pumped into the dedicated pipeline to the SMF. Crude oil is received via pipeline only, processed at the SMF, and semi-refined liquid products from the SMF are sent by pipeline to the Rodeo Refinery (near San Francisco) for upgrading into finished petroleum products. Products leaving the SMF are: (1) semi-refined petroleum by pipeline; (2) solid petroleum coke by rail or haul truck; and (3) recovered sulfur by haul truck. In order for the semi-refined liquid product to arrive at the Rodeo Refinery, an additional pump station located near Santa Margarita is used to achieve the necessary flow to reach the end destination.



The San Luis Obispo Air Pollution Control District and the Department of Planning and Building agreed to be co-lead agencies for the purpose of environmental review (as a result of the dual permit requirements associated with the proposed project). The project included the preparation of an Environmental Impact Report which focused on impacts associated with an increase to the permitted volume of processed crude oil (10 percent increase over the existing permit level). Mitigation measures were adopted by the Planning Commission as conditions of approval after completion of a public hearing and deliberations on the proposed project. These measures address impacts associated with Air Quality, Public Safety and Hazardous Materials, Noise and Vibration, Transportation and Circulation, Public Services, Land Use Policies, and Water Resources. These measures reduced all potential impacts to a less than significant level.

The Planning Commission held a hearing on December 13, 2012 to discuss the proposed increase in throughput at the existing Phillips 66 refinery. The Planning Commission carefully reviewed the proposed project, project alternatives, and comments provided by the public. The Planning Commission approved the application by Phillips 66 which would increase the maximum allowable crude oil throughput (by 10 percent) from 44,500 barrels per day (bpd) to 48,950 bpd at the refinery (associated with the Development Plan / Coastal Development Permit).

An appeal of the Planning Commission's decision was filed on December 19, 2012 by Jeff Edwards. The basis of this appeal is related to Condition of Approval #17 which requires the applicant to prepare an offer of dedication for a vertical access easement consistent with the provisions of Coastal Zone Land Use Ordinance (CZLUO) Section 23.04.420 prior to increasing crude oil throughput associated with the proposed project.

#### **Coastal Access Discussion**

The SMF is located adjacent to the California State Parks – Oceano Dunes State Vehicular Recreation Area (see Attachment 5, Exhibit D – Land Use Category Map and Aerial Photo). The State Parks' existing Coastal Development Permit 4-82-300 (and subsequent five amendments) includes conditions of approval that are applicable to the land and activities under their oversight. One of these conditions of approval (Special Condition 1.B.) requires an environmental impact analysis adequate to enable the selection of the least environmentally damaging location for a new permanent staging area and access to the park. Access to the park is currently taken from Grand Avenue (Grover Beach) and Pier Avenue (Oceano) and these are considered temporary access points.

An Alternative Access Study (Condor Environmental, 2006), prepared by State Parks, identified the Phillips 66 site as a potential alternative access location for the park. The area identified in the above referenced study is located in the approximate alignment that is the subject of this appeal (see Attachment 5, Exhibit D – Coastal Access Location Map 1 and 2).

Due to the coastal access requirements placed on the previous State Parks' permit as well as the recommended condition of approval associated with the proposed project (further discussion is provided below), there may be potential for the offer of dedication required by this action to align with potential permanent staging and access requirements associated with State Parks' Coastal Development Permit 4-82-300. However, since this permit application and the appeal before your Board are related to Phillips 66 and the requested crude oil throughput increase, the applicability of CZLUO Section 23.04.420 should be focused on the Phillips 66 request before your Board and not the State Parks' permit.

### **Appeal Discussion**

The appeal is discussed in detail below and the text of Condition of Approval #17 (as approved adopted by the Planning Commission) has been provided for your Board's reference, as follows:

17. **Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput,** the applicant shall comply with Section 23.04.420 – (Coastal Access Required). Construction of improvements associated with vertical public access (if required) shall occur within 10 years of the effective date of this permit (including any required Coastal Development Permit to authorize such construction) or at the time of any subsequent use permit approved at the project site, whichever occurs first. The approximate location of the vertical access required by this condition of approval shall be located within or immediately adjacent to the existing maintenance road as shown in Exhibit D – Project Graphic (Coastal Access Location Map 1 and 2).

**General Appeal Issue – Condition of Approval #17 was overly broad and lacks the specificity to adequately implement Coastal Zone Land Use Ordinance (CZLUO) Section 23.04.420 – (Coastal Access Required).**

**Staff Response:** *With regard to the general assertion presented by the appellant, Condition of Approval #17 was specifically crafted to address the timing of future improvements associated with the construction of vertical access (if required) and the level of development proposed by the applicant. The existing refinery has the ability to process the requested 10 percent increase in crude oil throughput and no physical upgrades are required to accommodate the request (air quality improvements will be required as mitigation associated with the proposed project). Since the project would not require any additional physical improvements to accomplish the throughput increase, Staff recommended that the Planning Commission establish a phased approach to the construction of improvements [as allowed by Section 23.04.420e.(2)].*

*The phased approach to meet the coastal access provisions of the CZLUO will allow for the applicant to review the potential alignment against the applicable siting criteria contained within the CZLUO; and allow for an analysis of the appropriate intensity of use, safety, the protection of sensitive resources, the appropriate level of improvements, and other criteria identified in Section 23.04.420k.*

*As provided by Section 23.04.420f. – (Permit Requirement) and as required by Condition of Approval #17, the coastal access requirements will be satisfied through either a Minor Use Permit or at the time of any subsequent use permit approved at the project site (within 10 years of the effective date of this permit), whichever occurs first. For these reasons, Staff believes that the provisions of Section 23.04.420 – (Coastal Access Required) have been adequately administered and the project is in compliance with the provisions of the CZLUO and the coastal access requirements. The condition of approval provides adequate specificity appropriate to the approved project.*

The appellant brings forward three additional specific points of contention to be considered in conjunction with the above reference appeal issue. Staff has paraphrased the appellant's specific appeal issues contained in Attachment 1, as follows:

**Appeal Issue 1:** **CZLUO Section 23.04.420d.(2) – (Vertical access dedication).** The minimum width of 10-feet for the vertical access is inadequate. An offer of dedication can be reduced in width; however it cannot easily be enlarged in the future. Consequently, the appellant recommends a 100-foot wide offer of dedication as a condition of approval.



**Staff Response:** Staff does not agree with the appellant's assertion that the minimum width of 10-feet for the vertical access in rural areas is inadequate. If through the siting analysis (required by Section 23.04.420k.), it is determined that an offer of dedication larger than the minimum width is required to accommodate the design of appropriate improvements, then the applicant would be required to offer a larger area than previously offered in order to comply with the CZLUO as part of the subsequent Minor Use Permit or any subsequent use permit approval within 10 years.

An offer of dedication can be reduced in width or enlarged. Any changes to the proposed width of the offer of dedication would follow the same process whether it was to be enlarged or decreased in size. Additionally, if an alternative location on the project site was determined to be the superior location for vertical access (subject to the siting criteria requirements); the offer of dedication would need to be revised to reflect the revised location for access improvements.

Staff does not agree with the appellant's contention that it would be more difficult to enlarge the offer of dedication than to reduce its width therefore does not recommend a 100-foot wide offer of dedication as a condition of approval. Staff recommends that Condition of Approval #17 remain as approved by the Planning Commission. As approved, implementation of the condition of approval will result in the proposed project being in compliance with the CZLUO and the coastal access requirements of the Local Coastal Program (LCP).

**Appeal Issue 2:** CZLUO Section 23.04.420e. – (Timing of access requirements). The appellant contends that an offer of dedication, as suggested above, would fulfill the requirements for coastal access without any continued obligation to construct and/or maintain the public accessway. In this event, the appellant contends it makes the ten (10) year provision currently contained in Condition of Approval #17, moot. Moreover, by requiring only an offer of dedication, it creates greater certainty relative to the obligation of the applicant in the future. Requiring more than a dedication of land may exceed the thresholds contemplated for "rough proportionality" with regard to exaction and dedications under State law.

**Staff Response:** Staff does not agree with the appellant's assertion that simply providing an offer of dedication would result in the project being in compliance with the coastal access requirements contained in Section 23.04.420. When determining compliance with any provision of the CZLUO, the obligation to comply is placed on the applicant of the proposed project and not an adjacent property owner. Based on the physical location of the western property boundary (nearest to the shoreline) and its relationship to State Parks and their facilities (see Attachment 5, Exhibit D – Land Use Category Map); opportunities exist to coordinate efforts with regard to providing the appropriate level and intensity of access to the shoreline in this location. The coastal access obligation that has previously been placed on State Parks, as part of their coastal development permit and subsequent amendments, could theoretically be sited in the location identified as part of this application.

Since the obligation to comply with the CZLUO and the coastal access requirements of the LCP are the obligation of the applicant, and the applicant has agreed to the conditions of approval adopted by the Planning Commission; the issue raised by the appellant related to future uncertainty associated with construction of the accessway is not in question. The applicant has not appealed the decision of the Planning Commission and the applicant has agreed to Condition of Approval #17.

With regard to rough proportionality requirements, public agencies are prohibited from assessing a developer for more than the impacts caused by the proposed development. In this case, the County would be granting an entitlement to increase production and consequently the life of the facility (associated with the increased throughput and ongoing maintenance activities). The existing site conditions at the SMF limit vertical public access to the shoreline. Providing an offer of dedication per Condition of Approval #17 would allow the project to be in compliance with CZLUO Section 23.04.420 and will address the vertical public access issue in a phased approach.

*A determination as to the level of improvements that would be required, the appropriate location of improvements, the intensity of use, etc. must still be made. This determination will be made pursuant to the specific language contained within Condition of Approval #17. For these reasons, Staff believes the obligation required by Condition of Approval #17 is appropriate. Compliance with this condition of approval will result in the proposed project being in compliance with the CZLUO and the coastal access requirements of the LCP.*

**Appeal Issue 3:** **CZLUO Section 23.04.420k. – (Siting criteria for coastal accessway).** Presently, Condition of Approval #17 requires the offer of dedication to follow an existing maintenance road of approximately 7,500 linear feet. The appellant agrees that the public accessway should be conterminous with the existing maintenance road to minimize potential environmental effects; therefore the site has been predetermined. With regard to the intensity of use, the 100-foot wide accessway likely would be sufficient to accommodate any number of uses including, but limited to, pedestrian, equestrian, bicycle, emergency and off-highway vehicle access to the adjacent State Vehicular Recreation Area. The extension to Willow Road and the associated improvements are complete. With the interchange at Highway 101, an important new circulation component serving the Nipomo Mesa is in place. The approximate distance between the refinery and the highway is 5 miles.

**Staff Response:** *As noted above in the appellant's appeal issues, the appellant believes that the public accessway should be conterminous with the existing maintenance road to minimize potential environmental effects. While this may be a valid conclusion related to providing access on the subject property, a full determination (considering all factors discussed in the siting criteria) has not been made at this time. Staff does not agree that the location of improvements has been predetermined by simply identifying a potential alignment that can be used for the purpose of recording the required offer of dedication. As noted in the December 13, 2012 Planning Commission staff report (see Attachment 5, Staff Report: page 2-4), a vertical access alignment located along the existing service road is "a likely location for vertical access" on the subject property. The analysis to determine the appropriate location, intensity of use, etc. remains to be determined, subject to the siting criteria found in Section 23.04.420k.*

*While Staff agrees with the appellant's assertion that 100-foot wide offer of dedication would likely be sufficient to accommodate various potential users (pedestrian, equestrian, vehicles, etc.), Staff does not agree that it is appropriate to require a larger offer of dedication to accommodate undetermined users of the accessway before an analysis using the siting criteria found within Section 23.04.420k. is completed. Since the requirement for coastal access was applied as a condition of approval associated with the proposed project, the timing criteria proposed as a part of Condition of Approval #17 acknowledges the additional time that would be needed to comply with the provisions of Section 23.04.420. As discussed above, the CZLUO allows for the timing of the required improvements to be established by the review authority, which occurred with the Planning Commission's approval of the project.*

*With regard to the Willow Road circulation improvements, the Willow Road interchange is complete and serving the circulation needs of the Nipomo Mesa area. The distance from the Highway 101 / Willow Road interchange to the refinery entrance is approximately 5.5 miles. As written, adherence to the condition of approval will result in the proposed project being in compliance with the CZLUO and the coastal access requirements of the LCP.*

#### **Conclusion**

Staff acknowledges the potential connectivity associated with access requirements contained in the Phillips 66 project before your Board (subject of this appeal) as well as the existing Special Condition 1.B. affecting the State Parks' land to the west of the project site. For the reasons discussed above in Staff's responses to the appeal issues, the project is in compliance with the requirements of CZLUO Section

23.04.420 and the coastal access requirements of the LCP. Condition of Approval #17 has been crafted in compliance with the provisions of Section 23.04.420, including subsection 23.04.420e.(2)-(Construction of improvements). For these reasons, Staff recommends that your Board uphold the decision of the Planning Commission conditionally approving Development Plan / Coastal Development Permit DRC2008-00146.

#### **OTHER AGENCY INVOLVEMENT/IMPACT**

The project was referred to and the EIR was circulated to: Public Works, Environmental Health, Air Pollution Control District, CAL FIRE, Caltrans, Department of Fish and Wildlife, Cal Trans, Santa Barbara County, City of Guadalupe, and the California Coastal Commission. County Counsel reviewed and approved the Resolution as to form and content.

#### **BUSINESS IMPACT STATEMENT**

Denying the appeal would allow the requested crude oil throughput increase at the Phillips 66 refinery as conditioned by the Planning Commission in its December 13, 2012 approval. As a result, Phillips 66 would be authorized to increase crude oil throughput by 10 percent above the existing permitted volume which would benefit the Specialized Manufacturing Business Cluster.

#### **FINANCIAL CONSIDERATIONS**

The required appeal fee was waived because the appeal listed "inadequate application of coastal access requirements" as the issue of appeal per the requirements of the Coastal Zone Land Use Ordinance. The cost of this appeal comes from the Department's General Fund support.

#### **RESULTS**

Affirming the decision of the Planning Commission and denial of the appeal as recommended by Staff would mean the application for Development Plan / Coastal Development Permit DRC2008-00146 would be conditionally approved as recommended by the Planning Commission on December 13, 2012. The proposed increase in crude oil throughput would be allowed to proceed. This action would be related to the County community-wide goals of safe and prosperous communities.

Upholding or partially upholding the appeal would mean either:

1. The application for Development Plan / Coastal Development Permit DRC2008-00146 would be denied based on findings proposed by the Board. The proposed increase in crude oil throughput would not be allowed to proceed and the Phillips 66 refinery would continue to operate at the existing permitted volume of throughput; or
2. The application for Development Plan / Coastal Development Permit DRC2008-00146 would be conditionally approved and subject to the findings and conditions as modified by your Board. The proposed increase in crude oil throughput would be allowed to proceed subject to the modifications directed by your Board.

## **ATTACHMENTS**

Attachment 1 - Appeal form and appellant letter from Jeff Edwards

Attachment 2 - Board Resolution with Findings, Conditions of Approval, and CEQA Findings

Attachment 3 - Planning Commission Resolution with Findings, Conditions of Approval, and CEQA Findings

Attachment 4 - Planning Commission Minutes from December 13, 2012

Attachment 5 - Planning Commission Staff Report and Correspondence from the December 13, 2012 meeting

Attachment 6 - Final Environmental Impact Report (Clerk's File)



## COASTAL APPEAL FORM

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

Promoting the Wise Use of Land • Helping to Build Great Communities

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

## PROJECT INFORMATION

Name: Phillips 66File Number: DRC2008-00146

## Type of permit being appealed:

- ☐ Plot Plan    ☐ Site Plan    ☐ Minor Use Permit    ☒ Development Plan/Conditional Use Permit  
☐ Variance    ☐ Land Division    ☐ Lot Line Adjustment    ☒ Other: COP

## The decision was made by:

- ☐ Planning Director (Staff)    ☐ Building Official    ☒ Planning Department Hearing Officer  
☐ Subdivision Review Board    ☒ Planning Commission    ☐ Other: \_\_\_\_\_

Date the application was acted on: 12/13/12

## The decision is appealed to:

- ☐ Board of Construction Appeals    ☐ Board of Handicapped Access  
☐ Planning Commission    ☒ Board of Supervisors

## BASIS FOR APPEAL

State the basis of the appeal. Clearly state the reasons for the appeal. In the case of a Construction Code Appeal, note specific code name and sections disputed). (Attach additional sheets if necessary)

see attached - CZLUO Section 23.04.420 et seq.

List any conditions that are being appealed and give reasons why you think it should be modified or removed.

Condition Number 17 Reason for appeal (attach additional sheets if necessary)

see attached 23.04.420 d.(2), e., k.

## APPELLANT INFORMATION

Print name: Jeff EdwardsAddress: P.O. Box 6070, Los Osos, CA 93412Phone Number (daytime): 805-235-0873

We have completed this form accurately and declare all statements made here are true.

Signature: \_\_\_\_\_

Date: 12/19/12

## OFFICE USE ONLY

Date Received: 12/19/12Amount Paid: 0By: NADReceipt No. (if applicable): 0

COASTAL APPEAL FORM  
SAN LUIS OBISPO COUNTY PLANNING & BUILDING  
SLOPLANNING.ORG

PAGE 3 OF 3  
JUNE 29, 2010  
PLANNING@CO.SLO.CA.US

ATTACHMENT 1

J. H. EDWARDS COMPANY  
A REAL PROPERTY CONCERN

December 19, 2012

San Luis Obispo County Board of Supervisors c/o Planning Department

Re: Request by PHILLIPS 66 for a Development Plan / Coastal Development Permit

Attention: Murray Wilson

Dear Mr. Wilson,

As you know, the Planning Commission approved the above referenced project on December 13, 2012. As you are also aware, I submitted a letter in connection with the subject application dated December 12, 2012 for consideration by the Planning Commission.

I do hereby appeal the decision rendered by the Planning Commission on that date. I respectfully submit the decision was overly broad and lacked the specificity to adequately implement Coastal Zone Land Use Ordinance (CZLUO) Section 23.04.420-Coastal Access.

Presently Condition #17 of the approval regarding public access provides as follows:

*Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput, the applicant shall comply with Section 23.04.420 – Coastal Access Required. Construction of improvements associated with vertical public access (if required) shall occur within 10 years of the effective date of this permit (including any required Coastal Development Permit to authorize such construction) or at the time of any subsequent use permit approved at the project site, whichever occurs first. The approximate location of the vertical access required by this condition of approval shall be located within or immediately adjacent to the existing maintenance road as shown in Exhibit D – Project Graphic (Coastal Access Location Map 1 and 2).*

I have three (3) points of contention to be considered in connection with the subject appeal:

1. CZLUO Section 23.04.420 d.(2)-Vertical access dedication. The minimum width of 10-feet for the vertical access is inadequate. An offer of dedication can be reduced in width; however it cannot easily be enlarged in the future. Consequently I recommend a 100-foot wide offer of dedication as a condition of approval.

P.O. Box 6070, Los Osos, CA 93412 (805)235-0873 julietacker@charter.net  
ACQUISITION MARKETING LAND USE REDEVELOPMENT

ATTACHMENT 1

**J. H. EDWARDS COMPANY**  
A REAL PROPERTY CONCERN

2. CZLUO Section 23.04.420 e.-Timing of access requirements. Condition #17 requires the applicant to dedicate and construct improvements to be determined. I submit an offer of dedication as suggested in contention #1 above would fulfill the requirements for coastal access without any continued obligation to construct and/or maintain the public accessway. In this event, it makes the ten (10) year provision currently in condition #17, moot. Moreover, by requiring only an offer of dedication, it creates a greater certainty relative to the obligations of the applicant in the future. Requiring more than a dedication of land may exceed the thresholds contemplated for "rough proportionality" with regard to exactions and dedications under State law.
3. CZLUO Section 23.04.420 k.-Sighting [sic] criteria for coastal accessway. Presently, Condition #17 requires the access follow the existing maintenance road of approximately 7,500 linear feet. I agree that the public access should be conterminous with the existing maintenance road to minimize potential environmental effects; therefore the siting has been predetermined. With regard to the intensity of use, the 100-foot wide accessway likely would be sufficient to accommodate any number of uses including, but limited to, pedestrian, equestrian, bicycle, emergency and off-highway vehicle access to the adjacent State Vehicular Recreation Area. As you know, the extension to Willow Road and the associated improvements are complete. With the interchange at Highway 101, an important new circulation component serving the Nipomo Mesa is in place. The approximate distance between the refinery and the highway is 5 miles.

Finally, as staff and the Board of Supervisors considers the subject appeal and the suggested modification to condition #17, please include additional Findings to support the changes.

My understanding is the hearing before the Board of Supervisors will be de novo. Notwithstanding this fact, my intention is not to oppose the project but to ensure that the approval provides the optimal situation to effectuate public access to the coastline at this location. Given the Coastal Act issues raised herein there is no fee applicable to the subject appeal.

Please feel free to contact me with any questions you may have.

Sincerely,

*Jeff Edwards*

Jeff Edwards

P.O. Box 6070, Los Osos, CA 93412 (805)235-0873 [julietacker@charter.net](mailto:julietacker@charter.net)  
ACQUISITION MARKETING LAND USE REDEVELOPMENT

**RECEIVED**

ATTACHMENT 2

MAR 07 2013

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

**IN THE BOARD OF SUPERVISORS**

COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tues day February 26, 2013

**PRESENT: Supervisors**

**Frank Mecham, Bruce S. Gibson, Adam Hill,  
Debbie Arnold and Chairperson Paul A. Teixeira**

**ABSENT: None**

**RESOLUTION NO. 2013-35**

**RESOLUTION AFFIRMING THE DECISION OF  
THE PLANNING COMMISSION AND CONDITIONALLY APPROVING THE  
APPLICATION OF PHILLIPS 66 FOR DEVELOPMENT PLAN / COASTAL  
DEVELOPMENT PERMIT DRC2008-00146**

The following resolution is hereby offered and read:

WHEREAS, on December 13, 2012, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the Planning Commission) duly considered and conditionally approved the application of Phillips 66 for a Development Plan / Coastal Development Permit DRC2008-00146; and

WHEREAS, Jeff Edwards has appealed the Planning Commission's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the Board of Supervisors) pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on February 26, 2013, and determination and decision was made on February 26, 2013; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed,



ATTACHMENT 2

and all persons present were given the opportunity to hear and be heard with respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and determined that the appeal should be denied and the decision of the Planning Commission should be affirmed subject to the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth herein above are true, correct and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit C attached hereto and incorporated by reference herein as though set forth in full pursuant to the California Environmental Quality Act (CEQA) and the State CEQA Guidelines.
3. That the Final Environmental Impact Report prepared for this project is hereby certified and approved as having been prepared and completed in accordance with the provisions of CEQA and the State CEQA Guidelines.
4. That the Final Environmental Impact Report was presented to the Board of Supervisors and that the Board of Supervisors has reviewed and considered the information contained in the Final Environmental Impact Report together with all comments received during the public review process prior to approving the project.
5. That the Final Environmental Impact Report reflects the Board of Supervisors independent judgment and analysis.
6. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.

ATTACHMENT 2

7. That the appeal filed by Jeff Edwards is hereby denied, that the decision of the Planning Commission is affirmed, and that the application of Phillips 66 for a Development Plan / Coastal Development Permit DRC 2008-00146 is hereby approved subject to the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

Upon motion of Supervisor **Teixeira**, seconded by Supervisor **Hill**, and on the following roll call vote, to wit:

AYES: Chairperson Paul A. Teixeira, Supervisors Adam Hill, Frank Mecham, Bruce S. Gibson, Debbie Arnold

NOES: None

ABSENT: None

ABSTAINING: None

the foregoing resolution is hereby adopted.

**PAUL A. TEIXEIRA**

Chairperson of the Board of Supervisors

ATTEST:

**JULIE L. RODEWALD**

Clerk of the Board of Supervisors

By: C.M. Christensen, Deputy Clerk

(SEAL)

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL  
County Counsel

By:   
Deputy County Counsel

ATTACHMENT 2

Dated: February 27, 2013  
STATE OF CALIFORNIA,

County of San Luis Obispo,

) ss.  
)

I, **JULIE L. RODEWALD**, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this 27<sup>th</sup> day of February, 2013.

**JULIE L. RODEWALD**

County Clerk and Ex-Officio Clerk of the Board  
of Supervisors

(SEAL)

By: \_\_\_\_\_

*Christensen*

Deputy Clerk.

**EXHIBIT A – FINDINGS**

**Environmental Determination**

- A. The Environmental Coordinator, after completion of the initial study, found that there is evidence that the project may have a significant effect on the environment, and therefore a Final Environmental Impact Report (FEIR) was prepared (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) for this project. The FEIR addresses potential impacts on: Air Quality, Public Safety and Hazardous Materials, Noise and Vibration, Transportation and Circulation, Public Services, Land Use Policies, and Water Resources. Mitigation measures are proposed to address these impacts and are included as conditions of approval. Overriding considerations were not determined necessary based on no significant and unavoidable impacts identified. See Exhibit C for CEQA Findings.

**Development Plan**

- B. The proposed increase in throughput is consistent with the San Luis Obispo County General Plan and Local Coastal Program because the use is an allowable use in the Industrial land use category and as conditioned is consistent with all the General Plan Policies and Local Coastal Program Policies.
- C. As conditioned, the proposed throughput increase satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the throughput increase will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because as identified in the EIR, adverse and unavoidable significant impacts will not result and potentially significant impacts related to Air Quality, Public Safety and Hazardous Materials, Noise and Vibration, Transportation and Circulation, Public Services, Land Use Policies, and Water Resources will be mitigated to a level of insignificance as detailed in the EIR and safety issues raised by the County Fire Department have been adequately addressed by the Conditions of Approval.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development. The project site is located in the Industrial land use category and is occupied by an existing oil refinery. With inclusion of the recommended mitigation measures, impacts associated with the throughput increase will be mitigated to a level of insignificance.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project. The throughput increase would result in an increase in project related traffic of approximately 3.9 trips per day over the CEQA baseline, or 11.4 trips per day over the current operations which would not result in a change to Level of Service (LOS) or contribute to a substantial change in traffic loads on any of the project related intersections or roadways. Additionally, the environmentally superior alternative (the proposed project with the southbound route alternative) would reduce impacts along Highway 166 (in the City of Santa Maria) and the recommended measure to use the Willow Road interchange for north and eastbound traffic would reduce impacts associated with north and eastbound traffic (in and around the City of Arroyo Grande).

## ATTACHMENT 2

- G. The proposed throughput increase is consistent with the requirements of the San Luis Obispo County Coastal Zone Land Use Ordinance Section 23.02.034 c(4)(vi) which requires conformity with the public access and recreational policies of Chapter 3 of the California Coastal Act because as conditioned, the project will be required to comply with Section 23.04.420 – Coastal Access Required. Lateral access will not be required for this project because the lands within 25 feet of the shoreline are not under ownership of the applicant. Vertical access will be required by Condition of Approval #17 in the approximate location of the existing maintenance road. The project site contains approximately 7,600 feet (1.44 miles) of property frontage adjacent to the State recreation area requiring one vertical access pursuant to Section 23.04.420 d.(1)(ii).

### Sensitive Resource Area

- H. The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design, because the proposed project would not result in any additional ground disturbance beyond the current developed footprint of the refinery as a result of the throughput increase.

### Environmentally Sensitive Habitats

- I. There will be no significant impact on the sensitive Terrestrial Habitat located on the project site (west of the UPRR tracks) and the proposed use will not disrupt or be inconsistent with the biological continuance of the habitat because the project will not result in any new ground disturbance to facilitate the throughput increase. The vertical access required as a condition of approval of this project would be located within or adjacent to the existing maintenance road as shown in Exhibit D – Project Graphics.

**EXHIBIT B - CONDITIONS OF APPROVAL**

**Approved Development**

1. This approval authorizes:

- a. Development Plan / Coastal Development Permit (DRC2008-00146) to allow for the increase in the daily maximum limit of crude oil throughput (by 10 percent) from 44,500 barrels per day (bpd) to 48,950 bpd at the Santa Maria Facility (SMF). Additionally, for the SLOCAPCD permit, the 12-month rolling average of crude oil throughput would increase from 16,220,600 barrels per year (bpy) to 17,866,750 bpy.
- b. The project as conditioned herein including the use of the environmental preferred alternative "Southbound Route Alternative" as follows: State Route 1 (Willow Road which turns into Guadalupe Road then Cabrillo Highway and lastly Casmalia Road) east and then south to West Clark Avenue; and east on West Clark Avenue (which becomes East Clark Avenue) to U.S. Highway 101 southbound ramp.
- c. All previous conditions of approval authorized by previous use permits shall remain in effect except for conditions of approval specifically modified by this approval as described herein.
- d. Any future expansion beyond 48,950 bpd or 17,866,750 bpy shall require Development Plan / Coastal Development Permit approval including preparation of a Specific Plan as required by Section 23.08.094.

**Site Development**

2. **For any facility upgrade requiring issuance of a construction permit required by this approval**, plans submitted shall show all development consistent with the approved site plan.
3. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp or the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

**Fire Safety**

4. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code.
5. **Prior to occupancy or final inspection of any improvements requiring a Fire Safety Plan**, the applicant shall obtain final inspection and approval from CDF of all required fire/life safety measures.

**Fees**

6. **Prior to issuance of a construction permit or issuance of the Notice to Proceed authorizing an increase in refinery throughput, whichever occurs last**, the applicant shall pay all applicable school and public facilities fees pursuant to Title 18 of the County Code and the Fee Schedule in effect.

**Air Quality**

7. **(AQ-1.1) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput**, the Applicant shall apply BACT on the crude heaters, coker heaters and boilers, vacuum heaters and superheaters, and/or utilize an equivalent method onsite with other equipment, to reduce the NO<sub>x</sub> emissions to less than the SLOCAPCD thresholds.
8. **(AQ-1.2) To the extent feasible**, and if AQ-1.1 does not reduce emissions to below the thresholds, all trucks under contract to the Santa Maria Facility (SMF) shall meet EPA 2010 or 2007 model year NO<sub>x</sub> and PM emission requirements and a preference for the use of rail over trucks for the transportation of coke shall be implemented to the extent feasible in order to reduce off-site emissions. Annual truck trips associated with refinery operations and their associated model year and emissions shall be submitted to the SLOCAPCD annually.
9. **(AQ-1.3) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput**, if emissions cannot be mitigated below significance thresholds through implementation of mitigation measures AQ-1.1 and AQ-1.2, then off-site mitigation will be required as per SLOCAPCD guidance in the CEQA Handbook.
10. **(AQ-2) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput**, the Applicant shall prepare and submit an Odor Control Plan, which shall be approved by the SLOCAPCD. The Odor Control Plan shall identify all potential sources of odors at the Refinery. The plan shall detail how odors will be controlled at each odor source and the mechanism in place in the event of an upset or breakdown, as well as design methods to reduce odors, including redundancy of equipment (e.g., pumps and VRU compressors) or reductions in fuel gas sulfur content. Area monitoring shall be discussed. The Plan shall also include a complaint monitoring and reporting section and include a hotline number for individuals to call in case of a complaint.
11. **(AQ-3) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput**, the Applicant shall implement a program to increase efficiency of the Refinery stationary combustion devices to maintain GHG emissions to less than the SLOCAPCD thresholds (10,000 metric tonnes per year) over the emissions associated with the current permitted throughput. If the emission reductions threshold cannot be met by increasing stationary equipment efficiency, additional measures may include the use of more efficient model year trucks or alternative fueled vehicles for hauling vehicles. If after all applicable measures have been implemented, emissions are still over the thresholds, then off-site mitigation will be required. The off-site mitigation measures shall be approved by the SLOCAPCD **prior to of the Notice to Proceed authorizing an increase in Refinery throughput**.

**Public Safety and Hazardous Materials**

12. **(PSHM-3) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput,** the Applicant shall ensure that any additional coke produced shall be deposited within designated areas as specified by the Coke and Sulfur Storage and Handling Plan and that these areas shall be clearly delineated to all operators. Storage of coke outside these existing delineated areas shall be only within lined areas or other equivalent measures to prevent groundwater contamination, as per consultation with the RWQCB.

**Noise and Vibration**

13. **(N-1)** The Applicant shall provide for a noise monitoring study, under the supervision of the County staff, to determine the noise levels in the vicinity of the Santa Margarita Pump Station and the compliance with applicable codes and standards. If noise levels are a concern, the Applicant shall install, at the Santa Margarita Pump Station, a sound wall constructed of barrier pads between the noise sources and residences, as close to the pumping operations as feasible, to reduce noise levels at the closest receptor property line to the County significance threshold level 50 dBA. Additional barrier walls shall be installed as deemed necessary by in-field measurements. Installation of the sound wall shall be verified by County Planning and Building **prior to of the Notice to Proceed authorizing an increase in Refinery throughput. Upon implementation of the throughput increase, the applicant shall provide verification that the noise level at the closest receptor property line does not exceed 50 dBA.**

**Water Resources**

14. **(WR-3.1)** The Applicant shall ensure that any additional increased process water is treated by the wastewater treatment system in conformance with the NPDES Permit.
15. **(WR-3.2) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput,** existing spill management precautions shall be amended as needed to mitigate an increased spill size due to the increased amount of crude oil processing as reviewed and approved by San Luis Obispo County Planning and Building in consultation with Environmental Health Services.

**Transportation and Circulation**

16. **(TR-1) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput,** the Applicant shall pay South County Area 2 Road Impact Fees to the Department of Public Works for the proposed 0.78 peak hour trip increase in accordance with the latest adopted fee schedule. It is recommended that the Applicant shall end the use of both their northbound and eastbound truck routes, as identified in this document, and shall use the Willow Road Interchange instead. The Applicant shall notify all applicable truck drivers of this route change by mail and shall post the notification at the Project Site.

**Coastal Access**

17. **Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput,** the applicant shall comply with Section 23.04.420 – Coastal Access Required. Construction of improvements associated with vertical public access (if required) shall occur within 10 years of the effective date of this permit (including any required Coastal Development Permit to authorize such construction) or at the time of



## ATTACHMENT 2

any subsequent use permit approved at the project site, whichever occurs first. The approximate location of the vertical access required by this condition of approval shall be located within or immediately adjacent to the existing maintenance road as shown in Exhibit D – Project Graphic (Coastal Access Location Map 1 and 2).

### **Habitat Restoration**

18. **Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput**, the applicant shall quantify the area where coke storage bi-products have been historically deposited outside the reduced and delineated coke storage area required by PSHM-3 (COA #12). This area which would no longer be used for active coke storage shall either be restored or similar degraded habitat and in the same biome on another portion of the project site equal in area to the area no longer used for coke storage shall be restored pursuant to Section 23.07.170. Restoration of damage habitats shall occur within 10 years of the effective date of this permit (including any required Coastal Development Permit to authorize such) or at the time of any subsequent use permit approved at the project site, whichever occurs first.

### **On-going conditions of approval (valid for the life of the project)**

19. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once the Notice to Proceed has been issued by the Department of Planning and Building.
20. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.
21. The applicant shall, as a condition of the approval and use of this conditional use permit, enter into, and maintain for the life of the project, an agreement with the County providing for the defense and indemnification of the County, at its sole expense, any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve and issue this Development Plan / Coastal Development Permit or the manner in which the County is interpreting or enforcing the conditions of this conditional use permit, or any other action by a third party relating to approval or implementation of this Development Plan / Coastal Development Permit. The agreement shall provide that the applicant will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of its obligation under this condition.
22. **Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput**, the applicant shall comply with the California Fire Code and the National Fire Protection Association (NFPA) Standards including NFPA Chapter 11, 15, 22, 24, 25, 30, 34, and 58. Further, the applicant will maintain an Industrial Fire Brigade in compliance with NFPA 600 and NFPA 1081. Verification of this condition of approval shall be in consultation with the County Fire Department.

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23. **Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput, and thereafter annually for the life of the project,** the applicant shall fund specialized training and/or equipment not to exceed \$10,000 per year which shall be adjusted annually for inflation, using the Consumer Price Index for County Fire Department personnel that could be called upon to assist in firefighting or other emergency response at the facility.

**EXHIBIT C – CEQA FINDINGS****PHILLIPS 66 – SANTA MARIA REFINERY THROUGHPUT INCREASE****I. PROJECT DESCRIPTION**

The Phillips 66 – Santa Maria Facility (SMF), built in 1955, operates 24 hours per day and 365 days per year, except when shut down for maintenance. The SMF mainly processes heavy, high-sulfur crude oil. Semi-refined liquid products from the SMF are sent by pipeline to the Rodeo Refinery near San Francisco for upgrading into finished petroleum products. Products leaving the SMF are: (1) semi-refined petroleum by pipeline; (2) solid petroleum coke by rail or haul truck; and (3) recovered sulfur by haul truck.

The Proposed Project would potentially cause the following changes at the SMF:

- An increase in volumes of crude oil delivered to and shipped via pipeline from the Santa Maria Pump Station to the SMF;
- An increased volume of products leaving the SMF for the Rodeo Refinery via pipeline;
- An increased volume of green coke and sulfur production; and
- An increase in shipments leaving the facility by either truck or railcar.

The Proposed Project entails an increase to the permitted volume of processed crude oil over the existing permit level by 10 percent. Under the Proposed Project, the County Planning and Building permit would increase the daily maximum limit of crude oil throughput by 10 percent, from 44,500 bpd to 48,950 bpd. Additionally, for the SLOCAPCD permit, the 12-month rolling average of crude throughput would increase from 16,220,600 bpy to 17,866,750 bpy. While the County's permit is based on a daily maximum and the SLOCAPCD's permit is based on twelve-month rolling average, these volume limits are the same.

The Proposed Project would not involve any construction or additions to the SMF plot plan. No changes to the overall processing methods are proposed. Phillips estimates water use may increase by one percent under the Proposed Project.

**II. THE RECORD**

The California Code of Regulations, Title 14, Section 15091(b), requires that the Board of Supervisor's findings be supported by substantial evidence in the record. Accordingly, the Lead Agency's record consists of the following, which are located at the County Planning and Building Department Offices, San Luis Obispo, California:

- A. Documentary and oral evidence received and reviewed by the Planning Commission and Board of Supervisors during the public hearings on the project.
- B. The Phillips Santa Maria Refinery Throughput Increase Project Final EIR (October 2012).
- C. The Phillips Santa Maria Refinery Throughput Increase Project Development Plan / Coastal Development Permit application and supporting materials.
- D. The Phillips Santa Maria Refinery Throughput Increase Project Staff Report prepared for the Planning Commission and the Board of Supervisors.
- E. Matters of common knowledge to the Board of Supervisors that it considers, such as:
  - i. The County General Plan, including the land use maps and elements thereof;
  - ii. The text of the Land Use Element;
  - iii. The California Environmental Quality Act (CEQA) and the CEQA Guidelines;

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- iv. The County of San Luis Obispo Environmental Quality Act Guidelines;
- v. The Clean Air Plan;
- vi. Other formally adopted County, State and Federal regulations, statutes, policies, and ordinances; and
- vii. Additional documents referenced in the Final EIR for the Phillips Santa Maria Refinery Throughput Increase Project.

### III. CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT

The Board of Supervisors certifies the following with respect to the Phillips Santa Maria Refinery Throughput Increase Project Final EIR:

- A. The Planning Commission and the Board of Supervisors have reviewed and considered the Phillips Santa Maria Refinery Throughput Increase Project Final EIR.
- B. The Final Environmental Impact Report for the Phillips Santa Maria Refinery Throughput Increase Project has been completed in compliance with the California Environmental Quality Act.
- C. The Final Environmental Impact Report and all related public comments and responses have been presented to the Planning Commission and Board of Supervisors, and they have reviewed and considered the information contained in the Final Environmental Impact Report and testimony presented at the public hearing prior to approving the Phillips Santa Maria Refinery Throughput Increase Project.
- D. The Phillips Santa Maria Refinery Throughput Increase Project Final EIR reflects the independent judgment of the Board of Supervisors, acting as one of the lead agencies for the project.

### IV. FINDINGS FOR IMPACTS IDENTIFIED AS BENEFICIAL OR NOT SIGNIFICANT (CLASS III)

Air Quality	
<b>Impact AQ.4</b>	Potential increased operations at the Refinery would emit air-borne toxic materials.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> The increase in throughput associated with the Proposed Project would increase emissions at the Refinery and along transportation routes between the Refinery and area highways. Some of these emissions would be toxic materials that could increase health risks for populations near to the Refinery.</p> <p>A toxic emission inventory was developed for the Refinery in 2004, which included only stationary sources at the SMF and also included operations such as the calciner, which have since been shut down. The 2004 inventory was used in a 2007 health risk assessment prepared by ConocoPhillips (now Phillips 66) which utilized the California Air Resources Board's Hotspots Analysis and Reporting Program model to assess the cancer, chronic, and acute health risk impacts. The primary cause of health risk impacts at the Refinery in 2004 was determined to be the diesel-cooling water pump. In 2005, a diesel oxidation catalyst (DOC) was reportedly installed on the diesel cooling water pump to reduce diesel particulate emissions by 30 percent. The installation of the DOC and shutdown of calcining operations resulted in a reduction in health risk levels to 15 cancer cases per one million at the Refinery boundary.</p>	

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### Air Quality

Since 2004, several additional changes at the Refinery have reduced toxic emissions, including shutting down the calciner, installation of various DOC and diesel particulate filters (DPF) on several diesel engines, and reductions in fugitive emissions with a more rigorous fugitive emissions control program. Additionally, the SLOCAPCD reported that the diesel cooling water pump has been replaced by a natural gas engine with catalyst, which has reduced risk levels by at least 80 percent. This would reduce health risk levels to approximately five cases per one million.

As part of the Applicant's comments on the DEIR, the Applicant prepared and submitted a revised HRA utilizing 2010 emission data and assumptions about the operating characteristics of the Refinery if it were to operate at the Proposed Project levels. This HRA is included in the comments on the DEIR. The HRA indicated that the highest cancer risks at the facility fence line would be 2.1 in a million, and that chronic and acute risks would be 0.02 and 0.38, respectively, associated with the Proposed Project operations. These levels are less than the health risk thresholds of 10 in one million (for cancer) and 1.0 HI for acute and chronic impacts and would be less than significant.

Diesel-powered trucks traveling along area roadways could also increase health risks associated with emissions. Modeling was conducted using Aeromod to assess the impacts of truck traffic along area roadways between the Refinery and U.S. Highway 101. The cancer risks associated with truck traffic would increase over the baseline to a level of 5.9 cancer cases per million immediately south of the Refinery along area roadways. This would be less than the thresholds and would be a less than significant impact.

### Public Safety and Hazardous Materials

<b>Impact PSHM.1</b>	The Proposed Project could introduce risk to the public associated with accidental releases of hazardous materials from the SMF processing operations.
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<b>Mitigation</b>	None.
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<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
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**Supportive Evidence:** Releases of hazardous materials from the Proposed Project site would not acutely impact nearby residences, agriculture, or industrial facilities since the SMF is far away from these receptors. Some releases at facilities are caused by vandalism, such as opening valves or sabotaging equipment integrity. This could increase the frequency of releases. These impacts can be reduced by securing the facilities to reduce the probability of vandalism. The refinery currently has gated access and 24-hour security measures to reduce vandalism. That said, impacts from releases at the refinery would not impact sensitive receptors. Therefore, impacts would be less than significant (Class III).

<b>Impact PSHM.2</b>	The Proposed Project could introduce risk to the public associated with the transportation of SMF product along local and area roadways.
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<b>Mitigation</b>	None.
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<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
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**Supportive Evidence:** Products leave the SMF as solid petroleum coke by rail or haul truck and as recovered sulfur by haul truck as well as some hazardous wastes. Shipments of coke and sulfur would be expected to increase with the proposed Project. However, transportation of hazardous waste under the Proposed Project would be expected to be the same as the current operations.

Petroleum coke is shipped via truck or railcar to customers as fuel or onto ships for export. Major petroleum coke destinations include Mojave, Victorville, Cupertino, Fontana, Lebec, and Gorman, and Long Beach for export.

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### Public Safety and Hazardous Materials

Sulfur is shipped via truck to customers in the agricultural industry or loaded on ships for export. All products are shipped outside of SLOC. Sulfur truck destinations are in the San Joaquin Valley from Bakersfield to Fresno, as well as Long Beach for export.

Pipeline transportation of crude oil presents a low risk to public health since crude oil spills generally do not catch fire and the public has sufficient time to move away from spills in the unlikely event of ignition. Generally, spills of crude oil produce environmental impacts as opposed to public safety impacts.

Risk levels associated with transportation would be minimal due to the properties of crude oil, sulfur, and coke and impacts would primarily affect environmental resources. The nominal increase in flow rates associated with the Proposed Project would produce environmental impacts similar to current operations. Therefore, impacts would be less than significant (Class III).

### Noise and Vibration

<b>Impact N.2</b>	Traffic increases on area roadways near the Refinery could increase noise levels in the area.
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<b>Mitigation</b>	None.
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<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
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**Supportive Evidence:** Refinery operations generate traffic associated with coke and sulfur transportation out of the Refinery. Other traffic, such as traffic related to employees or deliveries, would not change with the Proposed Project. This increase in traffic levels could generate an increase in noise levels at nearby residences.

Noise was modeled using the FHWA Highway Noise Prediction Model, using 2008 traffic levels from the San Luis Obispo County Public Works Department and additional truck traffic added according to the EIR's Project Description. The Proposed Project would add less than four trucks per day to area traffic. Noise levels generated by this traffic scenario are estimated to increase by less than 0.1 dBA CNEL for a receptor 100 feet from the center of State Route 1. This would be a less than significant impact (Class III).

### Public Services

<b>Impact PS.1</b>	Increased throughput and operations at the Santa Maria Facility would produce increased sanitary wastewater.
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<b>Mitigation</b>	None required beyond existing National Pollutant Discharge Elimination System (NPDES) permit requirements identified in mitigation measure WR-3.1.
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<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
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**Supportive Evidence:** The Proposed Project would not generate large flows of increased sanitary wastewater.

All water drainage, including storm run-off, is contained onsite. The SMF discharges water to the Pacific Ocean pursuant to waste discharge requirements in Regional Water Quality Control Board Order Number R3-2007-0002, adopted September 7, 2007. The Order serves as the permit under the National Pollutant Discharge Elimination System.

All process wastewater and contaminated stormwater from the facility flow to a treatment system consisting of oil/water separators, dissolved air flotation, trickling filter, extended aeration, and secondary clarification. The treated wastewater is discharged to the Pacific Ocean through an outfall terminating 1,700 feet offshore and 27 feet deep.

Under the National Pollutant Discharge Elimination System (NPDES) permit, the SMF can discharge up to 0.57 MGD of treated wastewater from the facility to the Pacific Ocean in dry

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Public Services	
<p>weather conditions. The treatment system receives 279 gpm (0.40 MGD) of actual dry-weather process water. Flows of typical dry weather discharge from the treatment system to the outfall sump are 266 gpm (0.38 MGD) and flows of typical wet weather discharge from the treatment system to the outfall are approximately 406 gpm (0.58 MGD). Oil is recovered from the wastewater and contact stormwater during treatment.</p> <p>These levels would not be expected to change with the Proposed Project. Therefore, the Proposed Project's impact due to increased quantities of wastewater would be less than significant (Class III).</p>	
<b>Impact PS.2</b>	The Proposed Project throughput increase operations would not generate increases in solid wastes.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> Quantities of wastes associated with the throughput increase would be the same or similar as the current operations. The Project would not need new or physically altered waste handling facilities, and would comply with applicable regulations.</p> <p>During operations, trash and rubbish would continue to be collected in waste bins and disposed of by a local waste hauler. The Cold Canyon Landfill would be the primary landfill serving the Proposed Project. If not, both the Chicago Grade and City of Paso Robles landfills have sufficient capacity.</p> <p>Therefore, based on the remaining capacity of the available landfills, potential impacts would be less than significant (Class III). No measures beyond compliance with existing ordinance standards are necessary.</p>	
<b>Impact PS.3</b>	Impacts from electricity consumption at the Santa Maria Facility due to throughput increase operations.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> In 2009, the SMF generated 20,732 MWhr of electricity onsite and purchased 23,273 MWhr of electricity from Pacific Gas and Electric Company. This amount of energy was generated with a crude oil throughput of 35,838 bpd. In 2007 and 2008, with 43,321 and 41,655 bpd, electricity purchased decreased due to the increased fuel gas produced by the additional crude oil (to 19,293 and 22,736 MWhr, respectively). The Applicant indicates that the amount of electricity purchased would continue to decrease with increased crude oil throughputs. However, although this trend would most likely continue, it would also be a function of the crude types and the amount of decreased electricity purchased by the SMF cannot be definitively estimated. Therefore, under the Proposed Project, electricity purchased from Pacific Gas and Electric Company would most likely remain the same or decrease from historical levels since the Refinery would generate more produced gas if crude throughput rates were higher.</p> <p>The use of electricity would not require upgrades to the current electrical facilities.</p> <p>Since increased crude oil throughput would not increase the Refinery's use of electricity from the power grid, the Proposed Project would not substantially increase demand and the impacts on electrical energy resources would be less than significant (Class III).</p>	
<b>Impact PS.4</b>	Increased fossil fuel consumption and production (diesel, gasoline, and natural gas) at the Santa Maria Facility could thereby decrease availability.



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Public Services	
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> In 2009, the SMF generated 2,185 mmscf of natural gas onsite and purchased 397 mmscf of natural gas from the Southern California Gas Company. In 2007 and 2008, with higher crude oil throughputs, gas purchased was less, at 214 and 226 mmscf. This was due to the increase amounts of refinery gas produced from the additional crude oil processed. The Proposed Project would increase onsite refinery fuel gas production to potentially 3,171 mmscf per year and the amount of natural gas purchased from Southern California Gas Company would most likely remain the same or decrease. The use of diesel fuel and flaring are not expected to increase with the throughput increase.</p> <p>Therefore, the proposed throughput increase would not substantially increase consumption and production (thereby decreasing availability) and the impacts on energy resources would be less than significant (Class III).</p>	
<b>Impact PS.5</b>	Throughput increase at the site would not impact fire protection and emergency response.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> The Applicant proposes to utilize the existing fire protection system at the SMF to provide a level of protection for the Proposed Project. The increased throughput would not produce additional impacts on area fire-fighting capabilities since the resources required to address emergencies at the SMF under the Proposed Project would be the same as under the current operations. Impacts would therefore be less than significant (Class III).</p>	

Transportation and Circulation	
<b>Impact TR.1</b>	Traffic associated with the Proposed Project would increase traffic on local roads and the freeway.
<b>Mitigation</b>	<p>TR-1 Within 30 days of permit approval, the Applicant shall pay South County Area 2 Road Impact Fees to the Department of Public Works for the proposed 0.78 peak hour trip increase in accordance with the latest adopted fee schedule. In addition, after the Willow Road/U.S. Highway 101 interchange is completed, the Applicant shall end the use of both their northbound and eastbound truck routes, as identified in this document, and shall use the Willow Road Interchange instead. The Applicant shall notify all applicable truck drivers of this route change by mail and shall post the notification at the Project Site.</p>
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> Additional traffic would be generated as a result of the throughput increase operations; however, the number of additional trucks needed to transport produced coke and sulfur would be a nominal four trucks per day. The Proposed Project would not change traffic associated with workers or miscellaneous deliveries.</p> <p>The Proposed Project operations estimate an increase from 17,732 truck roundtrips per year (associated with the SMF operating at the permitted capacity, as analyzed in previous CEQA documents) to 19,162 truck roundtrips per year, which is the increase in traffic levels from the permit level to the new Proposed Project permit level, an increase of 1,430 roundtrips per year, or approximately 3.9 trips per day. Increased traffic on area roadways would equal the increase from the current operations (2009) to the proposed project level, which would total the 3.9 trucks</p>	



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### Transportation and Circulation

trips per day plus 7.5 trucks trips per day (the difference between the current operations and the CEQA permitted level of 44,500 bpd). This would total an increase on area roadways of 11.4 truck trips per day.

This traffic level increase would not contribute to a change in LOS or contribute to a substantial change in traffic load.

The State Route 1 and Halcyon Road intersections (offset) currently operate at AM and PM peak hour LOS E or worse; however, these offset intersections currently meet the MUTCD 2003 based peak hour signal warrant #3 (rural areas) criteria. Traffic travelling south on State Route 1 and turning left onto Willow Road heading east currently operates at a LOS A in the AM peak hour and LOS B in the PM peak hour. Traffic traveling west on Willow Road and turning right onto northbound State Route 1 currently operates at a LOS B in the AM peak hour and LOS B in the PM peak hour. The intersection at Tefft and Highway 101 currently operates at a LOS E in the PM peak hour.

Regarding the above intersection conditions in relation to the Proposed Project, the total number of truck trips that could occur as a result of the throughput increase is an additional 3.9 truck trips per day over the CEQA baseline, or 11.4 truck trips per day over the current operations. In addition, not all of those truck trips would utilize the Northbound or Eastbound Routes associated with these intersections, with some going south, depending on market for the Refinery products. Only 1-2 trucks leaving the Refinery would be reaching these intersections during peak hours since most trucks are loaded and depart the facility throughout the day. Due to the small number of added truck trips during peak hours and the number of potential routes that could be taken, no impacts are anticipated therefore the portion of this measure that requires the use of Willow Road for north and eastbound trips should be considered a recommended condition.

Project-related traffic using the Southbound Route through Guadalupe would not significantly impact the intersection at State Route 1 and State Route 166. According to a 2004 study of this intersection, the AM and PM levels of service are both B.

Along roadways, traffic would increase from 0.4 and 1.0 percent in Guadalupe at the Highway 166 interchange (currently an LOS of A). Impacts along the most congested roadways at Pomeroy, for example would increase less than 0.21 percent. Therefore, project-related impacts to local roads and the freeway would be less than significant (Class III). The requirement to pay the South County Area 2 Road Impact Fee is required by ordinance and the portion of the measure requiring use of Willow Road should be considered a recommended measure by the Department of Public Works.

### Water Resources

<b>Impact WR.1</b>	The Proposed Project one percent increase in water usage would not adversely impact the current and future availability of groundwater for other users, including agricultural and residential users.
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<b>Mitigation</b>	None.
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<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
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**Supportive Evidence:** The rights to extract water from the Santa Maria Groundwater Basin (SMGB) have been disputed since the 1990s, resulting in several legal proceedings and culminating with a multi-pronged lawsuit known as the Santa Maria Groundwater Litigation. The litigation was resolved in 2008 (Lead Case No. 1-97-CV-770214) with The Judgment After Trial (January 25, 2008), which approved the Stipulation (June 30, 2005). The Stipulation includes provisions for the rights to use the groundwater, development of the groundwater monitoring programs, and development of plans and programs to respond to Potentially Severe and Severe

### Water Resources

Water Shortage Conditions for the Nipomo Mesa Management Area (NMMA). The Nipomo Mesa Management Area Technical Group (NMMATG), which represents various groups and organizations, was formed as a result of a legal judgment to monitor water usage and produce annual reports for the NMMA. These reports provide a breakdown of the available data for the NMMA, production records, and data presented herein.

Based on the 2011 report, the estimated production of groundwater in the NMMA was 10,538 acre-feet (AF) in 2011. Of the 10,538 AF of groundwater produced, the Applicant reported production of 1,100 AF, approximately ten percent of the total production.

Currently, no projected increase is predicted for Rural Water Company, and no estimates are available for future agricultural uses.

The Proposed Project would result in an increase in groundwater use of one percent, or 11 AFY. According to the Stipulation, Phillips has no limit to the beneficial and reasonable use of groundwater unless there is a Severe Water Shortage Condition. In the next 20 years, if a Severe Water Shortage Condition occurs, per the Stipulation, Phillips would have rights to 110 percent of the highest amount of prior groundwater use (1,550 AFY). The Proposed Project demand (1,111 AFY) is less than Phillips groundwater rights, per the Stipulation. Therefore, the WSA concludes there is sufficient water supply for the Proposed Project for the next 20 years.

The water supply assessment is based on the groundwater rights of Phillips, as defined in the Stipulation. San Luis Obispo County and all major water purveyors in the NMMA are signed parties to the Stipulation and are bound by the water management agreement to comply with each and every term, which includes upholding Phillips groundwater rights. The monitoring and water management requirements of the Stipulation are designed to protect the current and future availability of groundwater in the NMMA. Since the Proposed Project water demand is within the groundwater rights of Phillips and less than 110 percent of the highest amount of prior groundwater use, impacts associated with current and future water availability of groundwater for other users, including agricultural and residential users, is considered *less than significant* (Class III).

<b>Impact WR.2</b>	The Proposed Project increase in groundwater pumping of onsite wells would not exceed sustained pumping capacities of existing wells, nor result in drawdown of onsite wells and wells on neighboring properties.
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<b>Mitigation</b>	None.
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<b>Findings</b>	Impacts are considered <i>less than significant</i> (Class III).
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**Supportive Evidence:** Water wells within the Santa Maria Groundwater Basin (SMGB) are screened over alluvial and bedrock approximately 1,500 feet below mean sea level under the Santa Maria River and approximately 200 feet above mean sea level under the northeastern edge of the Nipomo Mesa. Wells in the Nipomo Mesa and Santa Maria area are screened for hundreds of feet within alluvial and Paso Robles Formation bedrock. Hydraulic conductivity is estimated to be approximately 15 to 110 gpd/ft<sup>2</sup> in the western portion of the Santa Maria River Valley increasing to 100 to 400 gpd/ft<sup>2</sup> in the central Santa Maria River Valley (Luhdorff and Scalmanini 2002).

The existing wells have considerably greater capacity and production capabilities than the current and projected uses. In addition, the Nipomo Mesa Management Area Technical Group (NMMATG) has adopted a Well Management Plan and protocol for establishing and measuring groundwater level measurements. To date, no drawdown or adverse effects have been noted and none are anticipated based on the available data and well conditions. However, the well monitoring program will continue to document and verify these findings. Therefore, the existing

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<b>Water Resources</b>	
water wells have sufficient capacity to provide the additional water demand supply for the Proposed Project.	
Impacts due to increased groundwater pumping on the adjacent properties would be less than significant (Class III).	

### V. FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT BUT MITIGABLE (CLASS II)

<b>Air Quality</b>	
<b>Impact AQ.1</b>	Operational activities at the Refinery and offsite would generate emissions that exceed SLOC APCD thresholds.
<b>Mitigation</b>	<p>AQ-1.1 Prior to issuance of the updated permit and increase in Refinery throughput, the Applicant shall apply BACT on the crude heaters, coker heaters and boilers, vacuum heaters and superheaters, and/or utilize an equivalent method onsite with other equipment, to reduce the NOx emissions to less than the SLOCAPCD thresholds.</p> <p>AQ-1.2 To the extent feasible, and if AQ-1.1 does not reduce emissions to below the thresholds, all trucks under contract to the SMF shall meet EPA 2010 or 2007 model year NOx and PM emission requirements and a preference for the use of rail over trucks for the transportation of coke shall be implemented to the extent feasible in order to reduce offsite emissions. Annual truck trips associated with refinery operations and their associated model year and emissions shall be submitted to the SLOCAPCD annually.</p> <p>AQ-1.3 Prior to issuance of the updated permit, if emissions cannot be mitigated below significance thresholds through implementation of mitigation measures AQ-1.1 and AQ-1.2, then offsite mitigation will be required as per SLOCAPCD guidance in the CEQA Handbook.</p>
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
<p><b>Supportive Evidence:</b> Emissions associated with an increase in crude oil processed would be a linear increase in emissions in relation to the level of crude oil processed for most equipment. The amount of gas used to heat the crude oil would increase by the same level as the increased throughput of crude oil. This is true for most of the combustion processes at the facility. Therefore, an estimate of facility emissions associated with the Proposed Project crude oil throughput increase was produced by increasing the 2009 emissions by the ratio of the Proposed Project crude oil throughput level to the crude oil throughput level in 2009.</p> <p>An increase in emissions of criteria pollutants (CO, ROG, NOx, SO<sub>2</sub>, and PM) during operations would occur due to the increased intensity of operations of the Refinery equipment needed to process the additional crude oil. The ROG+NOx emissions associated with the daily emissions would increase by more than the SLOCAPCD thresholds. Daily emissions of diesel particulate matter, fugitive dust or CO would be below the thresholds. The annual emissions of ROG+NOx and fugitive dust would also be less than the thresholds. Increases in emissions would be subject to New Source Review requirements.</p> <p>Air emissions of criteria pollutants (CO, ROG, NOx, SO<sub>2</sub>, and PM) during operations would also increase as a result of increased transportation of materials associated with the Refinery</p>	

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<b>Air Quality</b>	
<p>operations. The level of increase in emissions associated with the transportation of crude oil would be a function of the crude oil origin and the transportation methods. At this time, it is not known where the additional crude oil would come from that would allow the Refinery to operate at a higher throughput level. Increased throughput could be produced from onshore fields or from offshore fields. It could be transported by pipeline or it could be transported by truck to the Santa Maria Pump Station. Since the mode and source of the transportation are not known, a reasonable worst-case scenario is defined where the additional crude oil would come from onshore sources and would be transported by truck to the Santa Maria Pump Station. This scenario would produce the highest emissions associated with an increase in crude deliveries to the Refinery.</p> <p>The Proposed Project would not increase the emissions associated with employees or miscellaneous Refinery deliveries since an increase in the crude oil throughput would not increase employee travel or miscellaneous deliveries.</p> <p>Daily offsite mobile emissions of ROG+NO<sub>x</sub> and diesel particulate matter would increase more than the SLOCAPCD thresholds. Annual thresholds would not be exceeded.</p> <p>Emissions associated with Refinery operations would increase with the Proposed Project due to the increased use of equipment associated with crude oil processing. Emissions associated with the transportation of sulfur and coke and the delivery of crude oil to the Santa Maria Pump Station would also increase. The increase would be more than the SLOCAPCD thresholds and would therefore be a significant impact.</p> <p>However, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).</p>	
<b>Impact AQ.2</b>	Operational activities could increase the frequency or duration of odor events.
<b>Mitigation</b>	<p>AQ-2 The Applicant shall prepare and submit an Odor Control Plan, which shall be approved by the SLOCAPCD prior to the issuance of a revised permit. The Odor Control Plan shall identify all potential sources of odors at the Refinery. The plan shall detail how odors will be controlled at each odor source and the mechanism in place in the event of an upset or breakdown, as well as design methods to reduce odors, including redundancy of equipment (e.g., pumps and VRU compressors) or reductions in fuel gas sulfur content. Area monitoring shall be discussed. The Plan shall also include a complaint monitoring and reporting section and include a hotline number for individuals to call in case of a complaint.</p>
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
<p><b>Supportive Evidence:</b> Odor events could occur from many different situations associated with Refinery equipment operations. The equipment components could leak and cause odors. Tanks are equipped with hatches to protect them from overpressure. These hatches could lift, leading to odor events. The amount of throughput through the crude oil tanks would increase under the Proposed Project. The storage of sulfur at the Refinery could also be a source of odors to nearby residences and the amount of sulfur moved through the Refinery would increase with the Proposed Project. The combustion of Refinery gases that contain sulfur produces SO<sub>2</sub> which could travel downwind after combustion and produces odors. Sulfur levels of Refinery fuel gases vary, but generally are limited by the SLOCAPCD permit to less than 797 ppm and generally range from 250 to 300 ppm. Although these levels would not change with the</p>	

## ATTACHMENT 2

<b>Air Quality</b>	
<p>Proposed Project, the amount of gas that is treated and combusted would increase with the Proposed Project.</p> <p>Released materials that cause odors can travel a substantial distance since the odor thresholds for materials can be as low as parts per billion. Odor impacts associated with accidental releases or from normal operations at the Refinery could impact surrounding areas. Increased processing of crude oil would lead to increased movements of sulfur and increased emissions, increased cycling of coker units and increased cycling of crude tank levels in the crude oil tanks, all of which would lead to an increase in emissions and a potential for an increased frequency and/or duration of odor events. This would be considered a significant impact; however, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).</p>	
<b>Impact AQ.3</b>	Operational activities could increase GHG emissions.
<b>Mitigation</b>	<p>AQ-3 The Applicant shall implement a program to increase efficiency of the Refinery stationary combustion devices to maintain GHG emissions to less than the SLOCAPCD thresholds (10,000 metric tonnes per year) over the emissions associated with the current permitted throughput. In addition to increasing stationary equipment efficiency, additional measures may include the use of more efficient model year trucks or alternative fueled vehicles for hauling vehicles. If after all applicable measures have been implemented, emissions are still over the thresholds, then off-site mitigation will be required. The off-site mitigation measures shall be approved by the SLOCAPCD prior to permit issuance.</p>
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation</i> (Class II).
<p><b>Supportive Evidence:</b> GHG associated with operations include emissions from combustion sources (e.g., flare, heaters, boilers, and electrical generators), offsite vehicles, and fugitive emissions that contain CO<sub>2</sub> and methane. The largest source of GHG emissions are the heaters and the electrical generators.</p> <p>Refinery operations account for more than 90 percent of the GHG emissions, with onsite stationary sources creating the vast majority of emissions and offsite mobile emissions accounting for the remaining percentage.</p> <p>The GHG emissions estimate utilizes the same approach as the criteria emissions estimate, whereby emissions from equipment are assumed to increase proportional to the increase in crude throughput. Since the majority of emissions are associated with Refinery combustion from the crude oil heaters, the coke heaters, and boilers, which would have an increase in heating requirements as a function of the increase in crude oil throughput, this estimate is considered to be an accurate assessment of the Proposed Project GHG emissions.</p> <p>Emissions of GHG would be greater than the significance threshold of 10,000 metric tonnes CO<sub>2</sub>e. However, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).</p>	

<b>Public Safety and Hazardous Materials</b>	
<b>Impact PSHM.3</b>	The Proposed Project could introduce contamination to groundwater through exacerbation of existing contamination issues.
<b>Mitigation</b>	PSHM-3 Prior to issuance of the updated permit and increase in Refinery

# ATTACHMENT 2

Public Safety and Hazardous Materials	
	throughput, the Applicant shall ensure that any additional coke produced shall be deposited within designated areas as specified by the Coke and Sulfur Storage and Handling Plan and that these areas shall be clearly delineated to all operators. Storage of coke outside these existing delineated areas shall be only within lined areas or other equivalent measures to prevent any additional groundwater contamination, as per consultation with the RWQCB.
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
<b>Supportive Evidence:</b> The proposed Project could increase the amount of coke produced and stored at the coke piles. The coke piles have been identified by the RWQCB as a source of localized, low-level groundwater contamination. Based on a review of the most recent (May 2011) Coke and Sulfur Storage and Handling Plan, the coke pile is limited in its extents to the area in the layout figure in the plan. As long as coke is deposited within this designated area, then the extent of coke affected area would not increase with the proposed increase in coke throughput associated with the Proposed Project. However, any increased coke storage outside of this area could exacerbate this groundwater contamination and thereby produce a potentially significant impact. Therefore, with implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).	

Noise and Vibration	
<b>Impact N.1</b>	Operation increases at the Refinery could increase noise levels in the area.
<b>Mitigation</b>	N-1 The Applicant shall provide for a noise monitoring study, under the supervision of the County staff, to determine the noise levels in the vicinity of the Santa Margarita Pump Station and the compliance with applicable codes and standards. If noise levels are a concern, the Applicant shall install, at the Santa Margarita Pump Station, a sound wall constructed of barrier pads between the noise sources and residences, as close to the pumping operations as feasible, to reduce noise levels at the closest receptor property line to the County significance threshold level 50 dBA. Additional barrier walls shall be installed as deemed necessary by in-field measurements. Installation of the sound wall shall be verified by County Planning and Building prior to the issuance of the updated permit/authorization to proceed.
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
<b>Supportive Evidence:</b> Various operations and alarms at the Refinery generate noise in the community. The level of noise impacts on the community would not increase due to an increase in crude oil throughput at the Refinery. Alarm frequency would remain the same. Although equipment use, such as the crude heaters, would increase, noise levels would not increase at receptors near the Refinery.	
The pump stations along the pipeline routes from the Santa Maria Pump Station to the Refinery and from the Refinery north to the Bay Area could increase their pumping frequency or pump-drive load or operate in a manner that would increase noise levels as more crude oil would need to be pumped (e.g., operating multiple pumps).	
The Summit Pump Station, located midway between the Santa Maria Pump Station and the Refinery, is in close proximity to residences. However, as there are no pumps at this location, an increase in throughput would not generate additional noise levels at nearby residences.	



## ATTACHMENT 2

<b>Noise and Vibration</b>	
<p>The Santa Margarita Pump Station, located along the pipeline from the Refinery to the Bay Area, is also located in a rural area in close proximity to residences. Natural gas engines operate the pumps and make substantially more noise than electricity driven pumps. Noise monitoring at the Santa Margarita Pump Station indicated that noise levels during the nighttime would be audible to nearby residences, but would not produce a significant impact. However, noise levels at the Santa Margarita Pump Station property line currently exceed the County Noise Element limit of 50 dBA. Increasing operations of these pumps, which might or might not occur under the Proposed Project, would be considered a significant impact. However, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).</p>	

<b>Land Use and Policy Consistency Analysis</b>	
<b>Impact LU.1</b>	Noise from throughput increase operations would be incompatible with the adjacent land uses.
<b>Mitigation</b>	Implementation of mitigation measure N-1.
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation</i> (Class II).
<p><b>Supportive Evidence:</b> Potential future operations would be in close proximity to land uses zoned as recreational, agricultural, residential land, and open space. Various operations and alarms at the Refinery generate noise in the community. The level of noise impacts on the community would not increase due to an increase in crude oil throughput at the Refinery. Alarm frequency would remain the same. Although use of equipment, such as the crude heaters, would increase, noise levels would not increase at receptors near the Refinery.</p> <p>The pump stations along the pipeline routes from the Santa Maria Pump Station to the Refinery and from the Refinery north to the Bay Area could increase their pumping frequency or operate in a manner that would increase noise levels (e.g., operating multiple pumps).</p> <p>The Summit Pump Station, located midway between the Santa Maria Pump Station and the Refinery, is in close proximity to residences. However, the pumps at this location have been shut down and the facility produces minimal noise. An increase in throughput at this location would not generate additional noise levels at nearby residences.</p> <p>The Santa Margarita Pump Station, located along the pipeline from the Refinery to the Bay Area, is also located in a rural area in close proximity to residences. Natural gas engines operate the pumps and create noise in the vicinity. Noise monitoring at the Santa Margarita Pump Station indicated that noise levels during the nighttime would be audible to nearby residences, but would not produce a significant impact. However, noise levels at the Santa Margarita Pump Station property line currently exceed the County Noise Element limit of 50 dBA. Increasing operations of these pumps, which might or might not occur under the Proposed Project, would be considered a significant impact. However, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).</p>	
<b>Impact LU.2</b>	Emissions and odors from operations could be incompatible with adjacent land uses.
<b>Mitigation</b>	Implementation of mitigation measure AQ-2.
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation</i> (Class II).
<p><b>Supportive Evidence:</b> Throughput increase operations at the SMF could cause emissions and odor events as various components in the operations equipment could leak and cyclical operations (coking, crude tanks, etc) at the Refinery would increase with the increased throughput, thereby causing odors. The storage of sulfur at the Refinery could also be a source of odors to nearby residences and more sulfur would be processed with the Proposed Project.</p>	

## ATTACHMENT 2

### Land Use and Policy Consistency Analysis

The combustion of Refinery gases that contain sulfur produces SO<sub>2</sub> which could travel downwind after combustion and produces odors and more gases would be combusted under the Proposed Project. Sulfur levels of Refinery fuel gases vary, but generally are limited by the SLOCAPCD permit to less than 250 to 300 ppm.

Released materials that cause odors can travel a substantial distance since the odor thresholds for materials can be as low as parts per billion. Odor impacts associated with accidental releases or from normal operations at the Refinery could impact surrounding areas. Increased processing of crude oil, leading to increased movements of sulfur and increased emissions, could lead to increased frequency and/or duration of odor events. The impacts to adjacent land uses due to emissions and odors would be considered significant. However, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).

### Water Resources

<b>Impact WR.3</b>	The Proposed Project may have significant impacts on water quality.
<b>Mitigation</b>	<p>WR-3.1 Ensure that any additional increased process water is treated by the wastewater treatment system in conformance with the NPDES Permit.</p> <p>WR-3.2 Existing spill management precautions shall be amended as needed to mitigate an increased spill size due to the increased amount of crude oil processing as reviewed and approved by San Luis Obispo County Planning and Building and San Luis Obispo County Water Resources Division.</p>
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .

**Supportive Evidence:** Impacts to water quality would be significant if spill volume increased along the pipeline route due to the Proposed Project. The Refinery operates under the Environmental Protection Agency National Pollutant Discharge Elimination System (NPDES) Permit No. CA0000051 to minimize potential pollutants to the groundwater and outfall areas.

In addition, the facility maintains two separate collection systems: one system processes wastewater and contact stormwater and the second system collects non-contact stormwater. The process water sewer system collects process wastewater and precipitation runoff from the oil storage tank dikes and the operating units. This wastewater flows by gravity to a waste treatment plant that also remediates the groundwater. The wastewater plant includes three oil-water separators, two surge tanks, dissolved air flotation, a trickling filter, an Orbal aeration system, and a secondary clarifier. The treated wastewater is discharged to the Pacific Ocean.

The increased crude oil refined at the site would be managed under the same spill prevention guidelines currently in place at the Refinery. In addition, any increased process water shall be treated in the existing treatment system. Impacts could be significant; however, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).

## VI. FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT AND UNAVOIDABLE (CLASS I)

No significant and unavoidable impacts (Class I) were identified for the Proposed Project.



## **VII. CEQA GENERAL FINDINGS**

- A. The Board of Supervisors finds that changes or alterations have been incorporated into the project to eliminate or substantially lessen all significant impacts where feasible. These changes or alterations include mitigation measures and project modifications outlined herein and set forth in more detail in the Phillips Santa Maria Refinery Throughput Increase Project Final EIR.
- B. The Board of Supervisors finds that the project, as approved, includes an appropriate Mitigation Monitoring Program. This mitigation monitoring program ensures that measures that avoid or lessen the significant project impacts, as required by CEQA and the State CEQA Guidelines, will be implemented as described.
- C. Per CEQA Guidelines 15126.4(a)(1)(B), the proposed project includes performance-based conditions relating to environmental impacts and includes requirements to prepare more detailed plans that will further define the mitigation based on the more detailed plans to be submitted as a part of the project's implementation and operations. For instance, each of the following mitigation measures contains performance-based standards and, therefore, avoids the potential for these measures to be considered deferred mitigation under CEQA:
  - i. AQ-1.1-1.3: Implement Best Available Control Technologies (BACT) or other measures to reduce emissions below thresholds
  - ii. AQ-2: Prepare an Odor Control Plan
  - iii. AQ-3: Develop and implement GHG Emissions Program
  - iv. PSHM-3: Conform with Coke and Sulfur Storage and Handling Plan
  - v. N-1: Provide for a Noise Monitoring Study
  - vi. WR-3.1: Conform with NPDES Permit
  - vii. WR-3.2: Amend Spill Management Precautions
  - viii. TR-1: Pay South County Area 2 Road Impact Fees

## **VIII. MITIGATION MONITORING AND REPORTING PROGRAM**

As the Co-Lead Agencies under the California Environmental Quality Act (CEQA), the San Luis Obispo County Air Pollution Control district (SLOCAPCD), and the County of San Luis Obispo (County) are required to adopt a program for reporting or monitoring regarding the implementation of mitigation measures for the Proposed Project, if it is approved, to ensure that the adopted mitigation measures are implemented as defined in the Final Environmental Impact Report (FEIR). This Lead Agency responsibility originates in Public Resources Code Section 21081.6(a) (Findings) and the CEQA Guidelines Sections 15091(d) (Findings) and 15097 (Mitigation Monitoring or Reporting).

The Board of Supervisors hereby finds and accepts that the Mitigation Monitoring Program for the Phillips Santa Maria Refinery Throughput Increase Project Final EIR meets the requirements of Section 21081.6 of the Public Resources Code by providing for the implementation and monitoring of mitigation measures intended to mitigate potential environmental effects.

PLANNING COMMISSION  
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Thursday, December 13, 2012

PRESENT: Commissioners Tim Murphy, Jim Irving, Ken Topping, Carlyn Christianson, and  
Chairman Dan O'Grady

ABSENT: None

PLANNING COMMISSION RESOLUTION NO. 2012 - 028  
RESOLUTION RELATIVE TO THE GRANTING  
OF A  
DEVELOPMENT PLAN/COASTAL DEVELOPMENT PERMIT

WHEREAS, the County Planning Commission of the County of San Luis Obispo, State of California, did, on the 13<sup>th</sup> day of December, 2012, grant a Development Plan/Coastal Development permit, County File Number DRC2008-00146 to PHILLIPS 66 and certifies the Final Environmental Impact Report in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq. The site is in the Industrial land use category and is located at 2555 Willow Rd, southwest of the Village of Callender Garrett, in the South County (Coastal) planning area. Assessor Parcel Number(s) APN(s): 091-141-062, 092-391-020, -021, -034, 092-401-005, -011, -013, and 092-411-002, and -005.

WHEREAS, the Planning Commission, after considering the facts relating to such application, approves this Permit based on the Findings listed in Exhibit A.

WHEREAS, the Planning Commission, after considering the facts relating to such application, approves this Permit subject to the Conditions listed in Exhibit B.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the County of San Luis Obispo, State of California, in a regular meeting assembled on the 13<sup>th</sup> day of December, 2012, does hereby grant the aforesaid Permit No. DRC2008-00146.

This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance/Coastal Zone Ordinance Section 22.64.070/23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance/Coastal Zone Ordinance Section 22.64.080/23.02.042.

If the use authorized by this Permit approval, once established, remains vacant and unused for its authorized purpose, or is abandoned or discontinued for a period greater than 12 consecutive months, such Permit approval shall become void.

ATTACHMENT 3

On motion of Commissioner Murphy, seconded by Commissioner Irving, and on the following roll call vote, to-wit:

AYES: Commissioners Murphy, Irving, Topping, Christianson and Chairman O'Grady

NOES: None

ABSENT: None

the foregoing resolution is hereby adopted.

/s/ Dan O'Grady  
Chairperson of the Planning Commission

ATTEST:

/s/ Ramona Hedges  
Secretary, Planning Commission

**EXHIBIT A – FINDINGS**

Environmental Determination

- A. The Environmental Coordinator finds that there is evidence that the project may have a significant effect on the environment, and therefore an Environmental Impact Report was prepared (pursuant to Public Resources Code Section 21000, et seq., and California Administrative Code Section 15000, et seq.) for the proposed project. Impacts were identified and mitigation measures have been proposed for: Air Quality, Public Safety and Hazardous Materials, Noise and Vibration, Transportation and Circulation, Public Services, Land Use Policies, and Water Resources. See Exhibit C for CEQA Findings.

Development Plan

- B. The proposed increase in throughput is consistent with the San Luis Obispo County General Plan and Local Coastal Program because the use is an allowable use in the Industrial land use category and as conditioned is consistent with all the General Plan Policies and Local Coastal Program Policies.
- C. As conditioned, the proposed throughput increase satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the throughput increase will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because as identified in the EIR, adverse and unavoidable significant impacts will not result and potentially significant impacts related to Air Quality, Public Safety and Hazardous Materials, Noise and Vibration, Transportation and Circulation, Public Services, Land Use Policies, and Water Resources will be mitigated to a level of insignificance as detailed in the EIR and safety issues raised by the County Fire Department have been adequately addressed by the Conditions of Approval.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development. The project site is located in the Industrial land use category and is occupied by an existing oil refinery. With inclusion of the recommended mitigation measures, impacts associated with the throughput increase will be mitigated to a level of insignificance.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project. The throughput increase would result in an increase in project related traffic of approximately 3.9 trips per day over the CEQA baseline, or 11.4 trips per day over the current operations which would not result in a change to Level of Service (LOS) or contribute to a substantial change in traffic loads on any of the project related intersections or roadways. Additionally, the environmentally superior alternative (the proposed project with the southbound route alternative) would reduce impacts along Highway 166 (in the City of Santa Maria) and the recommended measure to use the

Willow Road interchange for north and eastbound traffic would reduce impacts associated with north and eastbound traffic (in and around the City of Arroyo Grande).

- G. The proposed throughput increase is consistent with the requirements of the San Luis Obispo County Coastal Zone Land Use Ordinance Section 23.02.034 c(4)(vi) which requires conformity with the public access and recreational policies of Chapter 3 of the California Coastal Act because as conditioned, the project will be required to comply with Section 23.04.420 – Coastal Access Required. Lateral access will not be required for this project because the lands within 25 feet of the shoreline are not under ownership of the applicant. Vertical access will be required by Condition of Approval #17 in the approximate location of the existing maintenance road. The project site contains approximately 7,600 feet (1.44 miles) of property frontage adjacent to the State recreation area requiring one vertical access pursuant to Section 23.04.420 d.(1)(ii).

Sensitive Resource Area

- H. The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design, because the proposed project would not result in any additional ground disturbance beyond the current developed footprint of the refinery as a result of the throughput increase.

Environmentally Sensitive Habitats

- I. There will be no significant impact on the sensitive Terrestrial Habitat located on the project site (west of the UPRR tracks) and the proposed use will not disrupt or be inconsistent with the biological continuance of the habitat because the project will not result in any new ground disturbance to facilitate the throughput increase. The vertical access required as a condition of approval of this project would be located within or adjacent to the existing maintenance road as shown in Exhibit D – Project Graphics.

**EXHIBIT B - CONDITIONS OF APPROVAL**

**Approved Development**

1. This approval authorizes:

- a. Development Plan / Coastal Development Permit (DRC2008-00146) to allow for the increase in the daily maximum limit of crude oil throughput (by 10 percent) from 44,500 barrels per day (bpd) to 48,950 bpd at the Santa Maria Facility (SMF). Additionally, for the SLOCAPCD permit, the 12-month rolling average of crude oil throughput would increase from 16,220,600 barrels per year (bpy) to 17,866,750 bpy.
- b. The project as conditioned herein including the use of the environmental preferred alternative "Southbound Route Alternative" as follows: State Route 1 (Willow Road which turns into Guadalupe Road then Cabrillo Highway and lastly Casmalia Road) east and then south to West Clark Avenue; and east on West Clark Avenue (which becomes East Clark Avenue) to U.S. Highway 101 southbound ramp.
- c. All previous conditions of approval authorized by previous use permits shall remain in effect except for conditions of approval specifically modified by this approval as described herein.
- d. Any future expansion beyond 48,950 bpd or 17,866,750 bpy shall require Development Plan / Coastal Development Permit approval including preparation of a Specific Plan as required by Section 23.08.094.

**Site Development**

2. **For any facility upgrade requiring issuance of a construction permit required by this approval**, plans submitted shall show all development consistent with the approved site plan.
3. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp or the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

**Fire Safety**

4. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code.
5. **Prior to occupancy or final inspection of any improvements requiring a Fire Safety Plan**, the applicant shall obtain final inspection and approval from CDF of all required fire/life safety measures.

**Fees**

6. **Prior to issuance of a construction permit or issuance of the Notice to Proceed authorizing an increase in refinery throughput, whichever occurs last**, the applicant shall pay all applicable school and public facilities fees pursuant to Title 18 of the County Code and the Fee Schedule in effect.

**Air Quality**

7. **(AQ-1.1) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput**, the Applicant shall apply BACT on the crude heaters, coker heaters and boilers, vacuum heaters and superheaters, and/or utilize an equivalent method onsite with other equipment, to reduce the NO<sub>x</sub> emissions to less than the SLOCAPCD thresholds.
8. **(AQ-1.2) To the extent feasible**, and if AQ-1.1 does not reduce emissions to below the thresholds, all trucks under contract to the Santa Maria Facility (SMF) shall meet EPA 2010 or 2007 model year NO<sub>x</sub> and PM emission requirements and a preference for the use of rail over trucks for the transportation of coke shall be implemented to the extent feasible in order to reduce off-site emissions. Annual truck trips associated with refinery operations and their associated model year and emissions shall be submitted to the SLOCAPCD annually.
9. **(AQ-1.3) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput**, if emissions cannot be mitigated below significance thresholds through implementation of mitigation measures AQ-1.1 and AQ-1.2, then off-site mitigation will be required as per SLOCAPCD guidance in the CEQA Handbook.
10. **(AQ-2) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput**, the Applicant shall prepare and submit an Odor Control Plan, which shall be approved by the SLOCAPCD. The Odor Control Plan shall identify all potential sources of odors at the Refinery. The plan shall detail how odors will be controlled at each odor source and the mechanism in place in the event of an upset or breakdown, as well as design methods to reduce odors, including redundancy of equipment (e.g., pumps and VRU compressors) or reductions in fuel gas sulfur content. Area monitoring shall be discussed. The Plan shall also include a complaint monitoring and reporting section and include a hotline number for individuals to call in case of a complaint.
11. **(AQ-3) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput**, the Applicant shall implement a program to increase efficiency of the Refinery stationary combustion devices to maintain GHG emissions to less than the SLOCAPCD thresholds (10,000 metric tonnes per year) over the emissions associated with the current permitted throughput. If the emission reductions threshold cannot be met by increasing stationary equipment efficiency, additional measures may include the use of more efficient model year trucks or alternative fueled vehicles for hauling vehicles. If after all applicable measures have been implemented, emissions are still over the thresholds, then off-site mitigation will be required. The off-site mitigation measures shall

be approved by the SLOCAPCD prior to of the Notice to Proceed authorizing an increase in Refinery throughput.

***Public Safety and Hazardous Materials***

12. **(PSHM-3)** Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput, the Applicant shall ensure that any additional coke produced shall be deposited within designated areas as specified by the Coke and Sulfur Storage and Handling Plan and that these areas shall be clearly delineated to all operators. Storage of coke outside these existing delineated areas shall be only within lined areas or other equivalent measures to prevent groundwater contamination, as per consultation with the RWQCB.

***Noise and Vibration***

13. **(N-1)** The Applicant shall provide for a noise monitoring study, under the supervision of the County staff, to determine the noise levels in the vicinity of the Santa Margarita Pump Station and the compliance with applicable codes and standards. If noise levels are a concern, the Applicant shall install, at the Santa Margarita Pump Station, a sound wall constructed of barrier pads between the noise sources and residences, as close to the pumping operations as feasible, to reduce noise levels at the closest receptor property line to the County significance threshold level 50 dBA. Additional barrier walls shall be installed as deemed necessary by in-field measurements. Installation of the sound wall shall be verified by County Planning and Building prior to of the Notice to Proceed authorizing an increase in Refinery throughput. Upon implementation of the throughput increase, the applicant shall provide verification that the noise level at the closest receptor property line does not exceed 50 dBA.

***Water Resources***

14. **(WR-3.1)** The Applicant shall ensure that any additional increased process water is treated by the wastewater treatment system in conformance with the NPDES Permit.
15. **(WR-3.2)** Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput, existing spill management precautions shall be amended as needed to mitigate an increased spill size due to the increased amount of crude oil processing as reviewed and approved by San Luis Obispo County Planning and Building in consultation with Environmental Health Services.

***Transportation and Circulation***

16. **(TR-1)** Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput, the Applicant shall pay South County Area 2 Road Impact Fees to the Department of Public Works for the proposed 0.78 peak hour trip increase in accordance with the latest adopted fee schedule. It is recommended that the Applicant shall end the use of both their northbound and eastbound truck routes, as identified in this document, and shall use the Willow Road Interchange instead. The Applicant shall notify all applicable truck drivers of this route change by mail and shall post the notification at the Project Site.



**Coastal Access**

17. **Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput**, the applicant shall comply with Section 23.04.420 – Coastal Access Required. Construction of improvements associated with vertical public access (if required) shall occur within 10 years of the effective date of this permit (including any required Coastal Development Permit to authorize such construction) or at the time of any subsequent use permit approved at the project site, whichever occurs first. The approximate location of the vertical access required by this condition of approval shall be located within or immediately adjacent to the existing maintenance road as shown in Exhibit D – Project Graphic (Coastal Access Location Map 1 and 2).

**Habitat Restoration**

18. **Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput**, the applicant shall quantify the area where coke storage bi-products have been historically deposited outside the reduced and delineated coke storage area required by PSHM-3 (COA #12). This area which would no longer be used for active coke storage shall either be restored or similar degraded habitat and in the same biome on another portion of the project site equal in area to the area no longer used for coke storage shall be restored pursuant to Section 23.07.170. Restoration of damage habitats shall occur within 10 years of the effective date of this permit (including any required Coastal Development Permit to authorize such) or at the time of any subsequent use permit approved at the project site, whichever occurs first.

**On-going conditions of approval (valid for the life of the project)**

19. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once the Notice to Proceed has been issued by the Department of Planning and Building.
20. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.
21. The applicant shall, as a condition of the approval and use of this conditional use permit, enter into, and maintain for the life of the project, an agreement with the County providing for the defense and indemnification of the County, at its sole expense, any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve and issue this Development Plan / Coastal Development Permit or the manner in which the County is interpreting or enforcing the conditions of this conditional use permit, or any other action by a third party relating to approval or implementation of this Development Plan / Coastal Development Permit. The agreement shall provide that the applicant will

reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of its obligation under this condition.

22. **Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput,** the applicant shall comply with the California Fire Code and the National Fire Protection Association (NFPA) Standards including NFPA Chapter 11, 15, 22, 24, 25, 30, 34, and 58. Further, the applicant will maintain an Industrial Fire Brigade in compliance with NFPA 600 and NFPA 1081. Verification of this condition of approval shall be in consultation with the County Fire Department.
23. **Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput, and thereafter annually for the life of the project,** the applicant shall fund specialized training and/or equipment not to exceed \$10,000 per year which shall be adjusted annually for inflation, using the Consumer Price Index for County Fire Department personnel that could be called upon to assist in firefighting or other emergency response at the facility.

**EXHIBIT C – CEQA FINDINGS****PHILLIPS 66 – SANTA MARIA REFINERY THROUGHPUT INCREASE****I. PROJECT DESCRIPTION**

The Phillips 66 – Santa Maria Facility (SMF), built in 1955, operates 24 hours per day and 365 days per year, except when shut down for maintenance. The SMF mainly processes heavy, high-sulfur crude oil. Semi-refined liquid products from the SMF are sent by pipeline to the Rodeo Refinery near San Francisco for upgrading into finished petroleum products. Products leaving the SMF are: (1) semi-refined petroleum by pipeline; (2) solid petroleum coke by rail or haul truck; and (3) recovered sulfur by haul truck.

The Proposed Project would potentially cause the following changes at the SMF:

- An increase in volumes of crude oil delivered to and shipped via pipeline from the Santa Maria Pump Station to the SMF;
- An increased volume of products leaving the SMF for the Rodeo Refinery via pipeline;
- An increased volume of green coke and sulfur production; and
- An increase in shipments leaving the facility by either truck or railcar.

The Proposed Project entails an increase to the permitted volume of processed crude oil over the existing permit level by 10 percent. Under the Proposed Project, the County Planning and Building permit would increase the daily maximum limit of crude oil throughput by 10 percent, from 44,500 bpd to 48,950 bpd. Additionally, for the SLOCAPCD permit, the 12-month rolling average of crude throughput would increase from 16,220,600 bpy to 17,866,750 bpy. While the County's permit is based on a daily maximum and the SLOCAPCD's permit is based on twelve-month rolling average, these volume limits are the same.

The Proposed Project would not involve any construction or additions to the SMF plot plan. No changes to the overall processing methods are proposed. Phillips estimates water use may increase by one percent under the Proposed Project.

**II. THE RECORD**

The California Code of Regulations, Title 14, Section 15091(b), requires that the Planning Commission's findings be supported by substantial evidence in the record. Accordingly, the Lead Agency's record consists of the following, which are located at the County Planning and Building Department Offices, San Luis Obispo, California:

- A. Documentary and oral evidence received and reviewed by the Planning Commission during the public hearings on the project.
- B. The Phillips Santa Maria Refinery Throughput Increase Project Final EIR (October 2012).
- C. The Phillips Santa Maria Refinery Throughput Increase Project Development Plan / Coastal Development Permit application and supporting materials.
- D. The Phillips Santa Maria Refinery Throughput Increase Project Staff Report prepared for the Planning Commission.
- E. Matters of common knowledge to the Commission that it considers, such as:
  - i. The County General Plan, including the land use maps and elements thereof;
  - ii. The text of the Land Use Element;

- iii. The California Environmental Quality Act (CEQA) and the CEQA Guidelines;
- iv. The County of San Luis Obispo Environmental Quality Act Guidelines;
- v. The Clean Air Plan;
- vi. Other formally adopted County, State and Federal regulations, statutes, policies, and ordinances; and
- vii. Additional documents referenced in the Final EIR for the Phillips Santa Maria Refinery Throughput Increase Project.

### III. CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT

The Planning Commission certifies the following with respect to the Phillips Santa Maria Refinery Throughput Increase Project Final EIR:

- A. The Planning Commission has reviewed and considered the Phillips Santa Maria Refinery Throughput Increase Project Final EIR.
- B. The Final Environmental Impact Report for the Phillips Santa Maria Refinery Throughput Increase Project has been completed in compliance with the California Environmental Quality Act.
- C. The Final Environmental Impact Report and all related public comments and responses have been presented to the Planning Commission, and they have reviewed and considered the information contained in the Final Environmental Impact Report and testimony presented at the public hearing prior to approving the Phillips Santa Maria Refinery Throughput Increase Project.
- D. The Phillips Santa Maria Refinery Throughput Increase Project Final EIR reflects the independent judgment of the Planning Commission, acting as one of the lead agencies for the project.

### IV. FINDINGS FOR IMPACTS IDENTIFIED AS BENEFICIAL OR NOT SIGNIFICANT (CLASS III)

Air Quality	
<b>Impact AQ.4</b>	Potential increased operations at the Refinery would emit air-borne toxic materials.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> The increase in throughput associated with the Proposed Project would increase emissions at the Refinery and along transportation routes between the Refinery and area highways. Some of these emissions would be toxic materials that could increase health risks for populations near to the Refinery.</p> <p>A toxic emission inventory was developed for the Refinery in 2004, which included only stationary sources at the SMF and also included operations such as the calciner, which have since been shut down. The 2004 inventory was used in a 2007 health risk assessment prepared by ConocoPhillips (now Phillips 66) which utilized the California Air Resources Board's Hotspots Analysis and Reporting Program model to assess the cancer, chronic, and acute health risk impacts. The primary cause of health risk impacts at the Refinery in 2004 was determined to be the diesel-cooling water pump. In 2005, a diesel oxidation catalyst (DOC) was reportedly installed on the diesel cooling water pump to reduce diesel particulate emissions by</p>	

**Air Quality**

30 percent. The installation of the DOC and shutdown of calcining operations resulted in a reduction in health risk levels to 15 cancer cases per one million at the Refinery boundary.

Since 2004, several additional changes at the Refinery have reduced toxic emissions, including shutting down the calciner, installation of various DOC and diesel particulate filters (DPF) on several diesel engines, and reductions in fugitive emissions with a more rigorous fugitive emissions control program. Additionally, the SLOCAPCD reported that the diesel cooling water pump has been replaced by a natural gas engine with catalyst, which has reduced risk levels by at least 80 percent. This would reduce health risk levels to approximately five cases per one million.

As part of the Applicant's comments on the DEIR, the Applicant prepared and submitted a revised HRA utilizing 2010 emission data and assumptions about the operating characteristics of the Refinery if it were to operate at the Proposed Project levels. This HRA is included in the comments on the DEIR. The HRA indicated that the highest cancer risks at the facility fence line would be 2.1 in a million, and that chronic and acute risks would be 0.02 and 0.38, respectively, associated with the Proposed Project operations. These levels are less than the health risk thresholds of 10 in one million (for cancer) and 1.0 HI for acute and chronic impacts and would be less than significant.

Diesel-powered trucks traveling along area roadways could also increase health risks associated with emissions. Modeling was conducted using Aeromod to assess the impacts of truck traffic along area roadways between the Refinery and U.S. Highway 101. The cancer risks associated with truck traffic would increase over the baseline to a level of 5.9 cancer cases per million immediately south of the Refinery along area roadways. This would be less than the thresholds and would be a less than significant impact.

**Public Safety and Hazardous Materials**

<b>Impact PSHM.1</b>	The Proposed Project could introduce risk to the public associated with accidental releases of hazardous materials from the SMF processing operations.
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<b>Mitigation</b>	None.
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<b>Findings</b>	Impacts are considered <i>less than significant</i> (Class III).
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**Supportive Evidence:** Releases of hazardous materials from the Proposed Project site would not acutely impact nearby residences, agriculture, or industrial facilities since the SMF is far away from these receptors. Some releases at facilities are caused by vandalism, such as opening valves or sabotaging equipment integrity. This could increase the frequency of releases. These impacts can be reduced by securing the facilities to reduce the probability of vandalism. The refinery currently has gated access and 24-hour security measures to reduce vandalism. That said, impacts from releases at the refinery would not impact sensitive receptors. Therefore, impacts would be less than significant (Class III).

<b>Impact PSHM.2</b>	The Proposed Project could introduce risk to the public associated with the transportation of SMF product along local and area roadways.
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<b>Mitigation</b>	None.
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<b>Findings</b>	Impacts are considered <i>less than significant</i> (Class III).
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**Supportive Evidence:** Products leave the SMF as solid petroleum coke by rail or haul truck and as recovered sulfur by haul truck as well as some hazardous wastes. Shipments of coke and sulfur would be expected to increase with the proposed Project. However, transportation of

### Public Safety and Hazardous Materials

hazardous waste under the Proposed Project would be expected to be the same as the current operations.

Petroleum coke is shipped via truck or railcar to customers as fuel or onto ships for export. Major petroleum coke destinations include Mojave, Victorville, Cupertino, Fontana, Lebec, and Gorman, and Long Beach for export.

Sulfur is shipped via truck to customers in the agricultural industry or loaded on ships for export. All products are shipped outside of SLOC. Sulfur truck destinations are in the San Joaquin Valley from Bakersfield to Fresno, as well as Long Beach for export.

Pipeline transportation of crude oil presents a low risk to public health since crude oil spills generally do not catch fire and the public has sufficient time to move away from spills in the unlikely event of ignition. Generally, spills of crude oil produce environmental impacts as opposed to public safety impacts.

Risk levels associated with transportation would be minimal due to the properties of crude oil, sulfur, and coke and impacts would primarily affect environmental resources. The nominal increase in flow rates associated with the Proposed Project would produce environmental impacts similar to current operations. Therefore, impacts would be less than significant (Class III).

### Noise and Vibration

<b>Impact N.2</b>	Traffic increases on area roadways near the Refinery could increase noise levels in the area.
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<b>Mitigation</b>	None.
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<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
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**Supportive Evidence:** Refinery operations generate traffic associated with coke and sulfur transportation out of the Refinery. Other traffic, such as traffic related to employees or deliveries, would not change with the Proposed Project. This increase in traffic levels could generate an increase in noise levels at nearby residences.

Noise was modeled using the FHWA Highway Noise Prediction Model, using 2008 traffic levels from the San Luis Obispo County Public Works Department and additional truck traffic added according to the EIR's Project Description. The Proposed Project would add less than four trucks per day to area traffic. Noise levels generated by this traffic scenario are estimated to increase by less than 0.1 dBA CNEL for a receptor 100 feet from the center of State Route 1. This would be a less than significant impact (Class III).

### Public Services

<b>Impact PS.1</b>	Increased throughput and operations at the Santa Maria Facility would produce increased sanitary wastewater.
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<b>Mitigation</b>	None required beyond existing National Pollutant Discharge Elimination System (NPDES) permit requirements identified in mitigation measure WR-3.1.
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<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
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**Supportive Evidence:** The Proposed Project would not generate large flows of increased sanitary wastewater.

All water drainage, including storm run-off, is contained onsite. The SMF discharges water to the Pacific Ocean pursuant to waste discharge requirements in Regional Water Quality Control

<b>Public Services</b>	
<p>Board Order Number R3-2007-0002, adopted September 7, 2007. The Order serves as the permit under the National Pollutant Discharge Elimination System.</p> <p>All process wastewater and contaminated stormwater from the facility flow to a treatment system consisting of oil/water separators, dissolved air flotation, trickling filter, extended aeration, and secondary clarification. The treated wastewater is discharged to the Pacific Ocean through an outfall terminating 1,700 feet offshore and 27 feet deep.</p> <p>Under the National Pollutant Discharge Elimination System (NPDES) permit, the SMF can discharge up to 0.57 MGD of treated wastewater from the facility to the Pacific Ocean in dry weather conditions. The treatment system receives 279 gpm (0.40 MGD) of actual dry-weather process water. Flows of typical dry weather discharge from the treatment system to the outfall sump are 266 gpm (0.38 MGD) and flows of typical wet weather discharge from the treatment system to the outfall are approximately 406 gpm (0.58 MGD). Oil is recovered from the wastewater and contact stormwater during treatment.</p> <p>These levels would not be expected to change with the Proposed Project. Therefore, the Proposed Project's impact due to increased quantities of wastewater would be less than significant (Class III).</p>	
<b>Impact PS.2</b>	The Proposed Project throughput increase operations would not generate increases in solid wastes.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> Quantities of wastes associated with the throughput increase would be the same or similar as the current operations. The Project would not need new or physically altered waste handling facilities, and would comply with applicable regulations.</p> <p>During operations, trash and rubbish would continue to be collected in waste bins and disposed of by a local waste hauler. The Cold Canyon Landfill would be the primary landfill serving the Proposed Project. If not, both the Chicago Grade and City of Paso Robles landfills have sufficient capacity.</p> <p>Therefore, based on the remaining capacity of the available landfills, potential impacts would be less than significant (Class III). No measures beyond compliance with existing ordinance standards are necessary.</p>	
<b>Impact PS.3</b>	Impacts from electricity consumption at the Santa Maria Facility due to throughput increase operations.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> In 2009, the SMF generated 20,732 MWhr of electricity onsite and purchased 23,273 MWhr of electricity from Pacific Gas and Electric Company. This amount of energy was generated with a crude oil throughput of 35,838 bpd. In 2007 and 2008, with 43,321 and 41,655 bpd, electricity purchased decreased due to the increased fuel gas produced by the additional crude oil (to 19,293 and 22,736 MWhr, respectively). The Applicant indicates that the amount of electricity purchased would continue to decrease with increased crude oil throughputs. However, although this trend would most likely continue, it would also be a function of the crude types and the amount of decreased electricity purchased by the SMF.</p>	

Public Services	
<p>cannot be definitively estimated. Therefore, under the Proposed Project, electricity purchased from Pacific Gas and Electric Company would most likely remain the same or decrease from historical levels since the Refinery would generate more produced gas if crude throughput rates were higher.</p> <p>The use of electricity would not require upgrades to the current electrical facilities.</p> <p>Since increased crude oil throughput would not increase the Refinery's use of electricity from the power grid, the Proposed Project would not substantially increase demand and the impacts on electrical energy resources would be less than significant (Class III).</p>	
<b>Impact PS.4</b>	Increased fossil fuel consumption and production (diesel, gasoline, and natural gas) at the Santa Maria Facility could thereby decrease availability.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> In 2009, the SMF generated 2,185 mmscf of natural gas onsite and purchased 397 mmscf of natural gas from the Southern California Gas Company. In 2007 and 2008, with higher crude oil throughputs, gas purchased was less, at 214 and 226 mmscf. This was due to the increase amounts of refinery gas produced from the additional crude oil processed. The Proposed Project would increase onsite refinery fuel gas production to potentially 3,171 mmscf per year and the amount of natural gas purchased from Southern California Gas Company would most likely remain the same or decrease. The use of diesel fuel and flaring are not expected to increase with the throughput increase.</p> <p>Therefore, the proposed throughput increase would not substantially increase consumption and production (thereby decreasing availability) and the impacts on energy resources would be less than significant (Class III).</p>	
<b>Impact PS.5</b>	Throughput increase at the site would not impact fire protection and emergency response.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> The Applicant proposes to utilize the existing fire protection system at the SMF to provide a level of protection for the Proposed Project. The increased throughput would not produce additional impacts on area fire-fighting capabilities since the resources required to address emergencies at the SMF under the Proposed Project would be the same as under the current operations. Impacts would therefore be less than significant (Class III).</p>	

Transportation and Circulation	
<b>Impact TR.1</b>	Traffic associated with the Proposed Project would increase traffic on local roads and the freeway.
<b>Mitigation</b>	<p>TR-1 Within 30 days of permit approval, the Applicant shall pay South County Area 2 Road Impact Fees to the Department of Public Works for the proposed 0.78 peak hour trip increase in accordance with the latest adopted fee schedule. In addition, after the Willow Road/U.S. Highway 101 interchange is completed, the Applicant shall end the use of both their northbound and eastbound truck routes, as identified in this document, and shall use the Willow Road</p>



Transportation and Circulation	
	Interchange instead. The Applicant shall notify all applicable truck drivers of this route change by mail and shall post the notification at the Project Site.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> Additional traffic would be generated as a result of the throughput increase operations; however, the number of additional trucks needed to transport produced coke and sulfur would be a nominal four trucks per day. The Proposed Project would not change traffic associated with workers or miscellaneous deliveries.</p> <p>The Proposed Project operations estimate an increase from 17,732 truck roundtrips per year (associated with the SMF operating at the permitted capacity, as analyzed in previous CEQA documents) to 19,162 truck roundtrips per year, which is the increase in traffic levels from the permit level to the new Proposed Project permit level, an increase of 1,430 roundtrips per year, or approximately 3.9 trips per day. Increased traffic on area roadways would equal the increase from the current operations (2009) to the proposed project level, which would total the 3.9 trucks trips per day plus 7.5 trucks trips per day (the difference between the current operations and the CEQA permitted level of 44,500 bpd). This would total an increase on area roadways of 11.4 truck trips per day.</p> <p>This traffic level increase would not contribute to a change in LOS or contribute to a substantial change in traffic load.</p> <p>The State Route 1 and Halcyon Road intersections (offset) currently operate at AM and PM peak hour LOS E or worse; however, these offset intersections currently meet the MUTCD 2003 based peak hour signal warrant #3 (rural areas) criteria. Traffic travelling south on State Route 1 and turning left onto Willow Road heading east currently operates at a LOS A in the AM peak hour and LOS B in the PM peak hour. Traffic traveling west on Willow Road and turning right onto northbound State Route 1 currently operates at a LOS B in the AM peak hour and LOS B in the PM peak hour. The intersection at Tefft and Highway 101 currently operates at a LOS E in the PM peak hour.</p> <p>Regarding the above intersection conditions in relation to the Proposed Project, the total number of truck trips that could occur as a result of the throughput increase is an additional 3.9 truck trips per day over the CEQA baseline, or 11.4 truck trips per day over the current operations. In addition, not all of those truck trips would utilize the Northbound or Eastbound Routes associated with these intersections, with some going south, depending on market for the Refinery products. Only 1-2 trucks leaving the Refinery would be reaching these intersections during peak hours since most trucks are loaded and depart the facility throughout the day. Due to the small number of added truck trips during peak hours and the number of potential routes that could be taken, no impacts are anticipated therefore the portion of this measure that requires the use of Willow Road for north and eastbound trips should be considered a recommended condition.</p> <p>Project-related traffic using the Southbound Route through Guadalupe would not significantly impact the intersection at State Route 1 and State Route 166. According to a 2004 study of this intersection, the AM and PM levels of service are both B.</p> <p>Along roadways, traffic would increase from 0.4 and 1.0 percent in Guadalupe at the Highway 166 interchange (currently an LOS of A). Impacts along the most congested roadways at Pomeroy, for example would increase less than 0.21 percent. Therefore, project-related impacts</p>	

### Transportation and Circulation

to local roads and the freeway would be less than significant (Class III). The requirement to pay the South County Area 2 Road Impact Fee is required by ordinance and the portion of the measure requiring use of Willow Road should be considered a recommended measure by the Department of Public Works.

### Water Resources

<b>Impact WR.1</b>	The Proposed Project one percent increase in water usage would not adversely impact the current and future availability of groundwater for other users, including agricultural and residential users.
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<b>Mitigation</b>	None.
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<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
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**Supportive Evidence:** The rights to extract water from the Santa Maria Groundwater Basin (SMGB) have been disputed since the 1990s, resulting in several legal proceedings and culminating with a multi-pronged lawsuit known as the Santa Maria Groundwater Litigation. The litigation was resolved in 2008 (Lead Case No. 1-97-CV-770214) with The Judgment After Trial (January 25, 2008), which approved the Stipulation (June 30, 2005). The Stipulation includes provisions for the rights to use the groundwater, development of the groundwater monitoring programs, and development of plans and programs to respond to Potentially Severe and Severe Water Shortage Conditions for the Nipomo Mesa Management Area (NMMA). The Nipomo Mesa Management Area Technical Group (NMMATG), which represents various groups and organizations, was formed as a result of a legal judgment to monitor water usage and produce annual reports for the NMMA. These reports provide a breakdown of the available data for the NMMA, production records, and data presented herein.

Based on the 2011 report, the estimated production of groundwater in the NMMA was 10,538 acre-feet (AF) in 2011. Of the 10,538 AF of groundwater produced, the Applicant reported production of 1,100 AF, approximately ten percent of the total production.

Currently, no projected increase is predicted for Rural Water Company, and no estimates are available for future agricultural uses.

The Proposed Project would result in an increase in groundwater use of one percent, or 11 AFY. According to the Stipulation, Phillips has no limit to the beneficial and reasonable use of groundwater unless there is a Severe Water Shortage Condition. In the next 20 years, if a Severe Water Shortage Condition occurs, per the Stipulation, Phillips would have rights to 110 percent of the highest amount of prior groundwater use (1,550 AFY). The Proposed Project demand (1,111 AFY) is less than Phillips groundwater rights, per the Stipulation. Therefore, the WSA concludes there is sufficient water supply for the Proposed Project for the next 20 years.

The water supply assessment is based on the groundwater rights of Phillips, as defined in the Stipulation. San Luis Obispo County and all major water purveyors in the NMMA are signed parties to the Stipulation and are bound by the water management agreement to comply with each and every term, which includes upholding Phillips groundwater rights. The monitoring and water management requirements of the Stipulation are designed to protect the current and future availability of groundwater in the NMMA. Since the Proposed Project water demand is within the groundwater rights of Phillips and less than 110 percent of the highest amount of prior groundwater use, impacts associated with current and future water availability of groundwater for other users, including agricultural and residential users, is considered *less than significant (Class III)*.

Water Resources	
<b>Impact WR.2</b>	The Proposed Project increase in groundwater pumping of onsite wells would not exceed sustained pumping capacities of existing wells, nor result in drawdown of onsite wells and wells on neighboring properties.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> Water wells within the Santa Maria Groundwater Basin (SMGB) are screened over alluvial and bedrock approximately 1,500 feet below mean sea level under the Santa Maria River and approximately 200 feet above mean sea level under the northeastern edge of the Nipomo Mesa. Wells in the Nipomo Mesa and Santa Maria area are screened for hundreds of feet within alluvial and Paso Robles Formation bedrock. Hydraulic conductivity is estimated to be approximately 15 to 110 gpd/ft<sup>2</sup> in the western portion of the Santa Maria River Valley increasing to 100 to 400 gpd/ft<sup>2</sup> in the central Santa Maria River Valley (Luhdorff and Scalmanini 2002).</p> <p>The existing wells have considerably greater capacity and production capabilities than the current and projected uses. In addition, the Nipomo Mesa Management Area Technical Group (NMMATG) has adopted a Well Management Plan and protocol for establishing and measuring groundwater level measurements. To date, no drawdown or adverse effects have been noted and none are anticipated based on the available data and well conditions. However, the well monitoring program will continue to document and verify these findings. Therefore, the existing water wells have sufficient capacity to provide the additional water demand supply for the Proposed Project.</p> <p>Impacts due to increased groundwater pumping on the adjacent properties would be less than significant (Class III).</p>	

#### V. FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT BUT MITIGABLE (CLASS II)

Air Quality	
<b>Impact AQ.1</b>	Operational activities at the Refinery and offsite would generate emissions that exceed SLOC APCD thresholds.
<b>Mitigation</b>	<p>AQ-1.1 Prior to issuance of the updated permit and increase in Refinery throughput, the Applicant shall apply BACT on the crude heaters, coker heaters and boilers, vacuum heaters and superheaters, and/or utilize an equivalent method onsite with other equipment, to reduce the NOx emissions to less than the SLOCAPCD thresholds.</p> <p>AQ-1.2 To the extent feasible, and if AQ-1.1 does not reduce emissions to below the thresholds, all trucks under contract to the SMF shall meet EPA 2010 or 2007 model year NOx and PM emission requirements and a preference for the use of rail over trucks for the transportation of coke shall be implemented to the extent feasible in order to reduce offsite emissions. Annual truck trips associated with refinery operations and their associated model year and emissions shall be</p>

Air Quality	
	submitted to the SLOCAPCD annually.
AQ-1.3	Prior to issuance of the updated permit, if emissions cannot be mitigated below significance thresholds through implementation of mitigation measures AQ-1.1 and AQ-1.2, then offsite mitigation will be required as per SLOCAPCD guidance in the CEQA Handbook.
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
<p><b>Supportive Evidence:</b> Emissions associated with an increase in crude oil processed would be a linear increase in emissions in relation to the level of crude oil processed for most equipment. The amount of gas used to heat the crude oil would increase by the same level as the increased throughput of crude oil. This is true for most of the combustion processes at the facility. Therefore, an estimate of facility emissions associated with the Proposed Project crude oil throughput increase was produced by increasing the 2009 emissions by the ratio of the Proposed Project crude oil throughput level to the crude oil throughput level in 2009.</p> <p>An increase in emissions of criteria pollutants (CO, ROG, NO<sub>x</sub>, SO<sub>2</sub>, and PM) during operations would occur due to the increased intensity of operations of the Refinery equipment needed to process the additional crude oil. The ROG+NO<sub>x</sub> emissions associated with the daily emissions would increase by more than the SLOCAPCD thresholds. Daily emissions of diesel particulate matter, fugitive dust or CO would be below the thresholds. The annual emissions of ROG+NO<sub>x</sub> and fugitive dust would also be less than the thresholds. Increases in emissions would be subject to New Source Review requirements.</p> <p>Air emissions of criteria pollutants (CO, ROG, NO<sub>x</sub>, SO<sub>2</sub>, and PM) during operations would also increase as a result of increased transportation of materials associated with the Refinery operations. The level of increase in emissions associated with the transportation of crude oil would be a function of the crude oil origin and the transportation methods. At this time, it is not known where the additional crude oil would come from that would allow the Refinery to operate at a higher throughput level. Increased throughput could be produced from onshore fields or from offshore fields. It could be transported by pipeline or it could be transported by truck to the Santa Maria Pump Station. Since the mode and source of the transportation are not known, a reasonable worst-case scenario is defined where the additional crude oil would come from onshore sources and would be transported by truck to the Santa Maria Pump Station. This scenario would produce the highest emissions associated with an increase in crude deliveries to the Refinery.</p> <p>The Proposed Project would not increase the emissions associated with employees or miscellaneous Refinery deliveries since an increase in the crude oil throughput would not increase employee travel or miscellaneous deliveries.</p> <p>Daily offsite mobile emissions of ROG+NO<sub>x</sub> and diesel particulate matter would increase more than the SLOCAPCD thresholds. Annual thresholds would not be exceeded.</p> <p>Emissions associated with Refinery operations would increase with the Proposed Project due to the increased use of equipment associated with crude oil processing. Emissions associated with the transportation of sulfur and coke and the delivery of crude oil to the Santa Maria Pump Station would also increase. The increase would be more than the SLOCAPCD thresholds and would therefore be a significant impact.</p>	

Air Quality	
However, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).	
<b>Impact AQ.2</b>	Operational activities could increase the frequency or duration of odor events.
<b>Mitigation</b>	AQ-2 The Applicant shall prepare and submit an Odor Control Plan, which shall be approved by the SLOCAPCD prior to the issuance of a revised permit. The Odor Control Plan shall identify all potential sources of odors at the Refinery. The plan shall detail how odors will be controlled at each odor source and the mechanism in place in the event of an upset or breakdown, as well as design methods to reduce odors, including redundancy of equipment (e.g., pumps and VRU compressors) or reductions in fuel gas sulfur content. Area monitoring shall be discussed. The Plan shall also include a complaint monitoring and reporting section and include a hotline number for individuals to call in case of a complaint.
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation</i> (Class II).
<p><b>Supportive Evidence:</b> Odor events could occur from many different situations associated with Refinery equipment operations. The equipment components could leak and cause odors. Tanks are equipped with hatches to protect them from overpressure. These hatches could lift, leading to odor events. The amount of throughput through the crude oil tanks would increase under the Proposed Project. The storage of sulfur at the Refinery could also be a source of odors to nearby residences and the amount of sulfur moved through the Refinery would increase with the Proposed Project. The combustion of Refinery gases that contain sulfur produces SO<sub>2</sub> which could travel downwind after combustion and produces odors. Sulfur levels of Refinery fuel gases vary, but generally are limited by the SLOCAPCD permit to less than 797 ppm and generally range from 250 to 300 ppm. Although these levels would not change with the Proposed Project, the amount of gas that is treated and combusted would increase with the Proposed Project.</p> <p>Released materials that cause odors can travel a substantial distance since the odor thresholds for materials can be as low as parts per billion. Odor impacts associated with accidental releases or from normal operations at the Refinery could impact surrounding areas. Increased processing of crude oil would lead to increased movements of sulfur and increased emissions, increased cycling of coker units and increased cycling of crude tank levels in the crude oil tanks, all of which would lead to an increase in emissions and a potential for an increased frequency and/or duration of odor events. This would be considered a significant impact; however, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).</p>	
<b>Impact AQ.3</b>	Operational activities could increase GHG emissions.
<b>Mitigation</b>	AQ-3 The Applicant shall implement a program to increase efficiency of the Refinery stationary combustion devices to maintain GHG emissions to less than the SLOCAPCD thresholds (10,000 metric tonnes per year) over the emissions associated with the current permitted throughput. In addition to increasing stationary

<b>Air Quality</b>	
	equipment efficiency, additional measures may include the use of more efficient model year trucks or alternative fueled vehicles for hauling vehicles. If after all applicable measures have been implemented, emissions are still over the thresholds, then off-site mitigation will be required. The off-site mitigation measures shall be approved by the SLOCAPCD prior to permit issuance.
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
<p><b>Supportive Evidence:</b> GHG associated with operations include emissions from combustion sources (e.g., flare, heaters, boilers, and electrical generators), offsite vehicles, and fugitive emissions that contain CO<sub>2</sub> and methane. The largest source of GHG emissions are the heaters and the electrical generators.</p> <p>Refinery operations account for more than 90 percent of the GHG emissions, with onsite stationary sources creating the vast majority of emissions and offsite mobile emissions accounting for the remaining percentage.</p> <p>The GHG emissions estimate utilizes the same approach as the criteria emissions estimate, whereby emissions from equipment are assumed to increase proportional to the increase in crude throughput. Since the majority of emissions are associated with Refinery combustion from the crude oil heaters, the coke heaters, and boilers, which would have an increase in heating requirements as a function of the increase in crude oil throughput, this estimate is considered to be an accurate assessment of the Proposed Project GHG emissions.</p> <p>Emissions of GHG would be greater than the significance threshold of 10,000 metric tonnes CO<sub>2</sub>e. However, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).</p>	

<b>Public Safety and Hazardous Materials</b>	
<b>Impact PSHM.3</b>	The Proposed Project could introduce contamination to groundwater through exacerbation of existing contamination issues.
<b>Mitigation</b>	PSHM-3 Prior to issuance of the updated permit and increase in Refinery throughput, the Applicant shall ensure that any additional coke produced shall be deposited within designated areas as specified by the Coke and Sulfur Storage and Handling Plan and that these areas shall be clearly delineated to all operators. Storage of coke outside these existing delineated areas shall be only within lined areas or other equivalent measures to prevent any additional groundwater contamination, as per consultation with the RWQCB.
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
<p><b>Supportive Evidence:</b> The proposed Project could increase the amount of coke produced and stored at the coke piles. The coke piles have been identified by the RWQCB as a source of localized, low-level groundwater contamination. Based on a review of the most recent (May 2011) Coke and Sulfur Storage and Handling Plan, the coke pile is limited in its extents to the area in the layout figure in the plan. As long as coke is deposited within this designated area, then the extent of coke affected area would not increase with the proposed increase in coke</p>	

<b>Public Safety and Hazardous Materials</b>
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throughput associated with the Proposed Project. However, any increased coke storage outside of this area could exacerbate this groundwater contamination and thereby produce a potentially significant impact. Therefore, with implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).
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<b>Noise and Vibration</b>
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<b>Impact N.1</b>	Operation increases at the Refinery could increase noise levels in the area.
<b>Mitigation</b>	<div style="display: flex;"> <div style="width: 10%; text-align: center;">N-1</div> <div> <p>The Applicant shall provide for a noise monitoring study, under the supervision of the County staff, to determine the noise levels in the vicinity of the Santa Margarita Pump Station and the compliance with applicable codes and standards. If noise levels are a concern, the Applicant shall install, at the Santa Margarita Pump Station, a sound wall constructed of barrier pads between the noise sources and residences, as close to the pumping operations as feasible, to reduce noise levels at the closest receptor property line to the County significance threshold level 50 dBA. Additional barrier walls shall be installed as deemed necessary by in-field measurements. Installation of the sound wall shall be verified by County Planning and Building prior to the issuance of the updated permit/authorization to proceed.</p> </div> </div>

<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
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**Supportive Evidence:** Various operations and alarms at the Refinery generate noise in the community. The level of noise impacts on the community would not increase due to an increase in crude oil throughput at the Refinery. Alarm frequency would remain the same. Although equipment use, such as the crude heaters, would increase, noise levels would not increase at receptors near the Refinery.

The pump stations along the pipeline routes from the Santa Maria Pump Station to the Refinery and from the Refinery north to the Bay Area could increase their pumping frequency or pump-drive load or operate in a manner that would increase noise levels as more crude oil would need to be pumped (e.g., operating multiple pumps).

The Summit Pump Station, located midway between the Santa Maria Pump Station and the Refinery, is in close proximity to residences. However, as there are no pumps at this location, an increase in throughput would not generate additional noise levels at nearby residences.

The Santa Margarita Pump Station, located along the pipeline from the Refinery to the Bay Area, is also located in a rural area in close proximity to residences. Natural gas engines operate the pumps and make substantially more noise than electricity driven pumps. Noise monitoring at the Santa Margarita Pump Station indicated that noise levels during the nighttime would be audible to nearby residences, but would not produce a significant impact. However, noise levels at the Santa Margarita Pump Station property line currently exceed the County Noise Element limit of 50 dBA. Increasing operations of these pumps, which might or might not occur under the Proposed Project, would be considered a significant impact. However, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).

<b>Land Use and Policy Consistency Analysis</b>
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Land Use and Policy Consistency Analysis	
<b>Impact LU.1</b>	Noise from throughput increase operations would be incompatible with the adjacent land uses.
<b>Mitigation</b>	Implementation of mitigation measure N-1.
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
<p><b>Supportive Evidence:</b> Potential future operations would be in close proximity to land uses zoned as recreational, agricultural, residential land, and open space. Various operations and alarms at the Refinery generate noise in the community. The level of noise impacts on the community would not increase due to an increase in crude oil throughput at the Refinery. Alarm frequency would remain the same. Although use of equipment, such as the crude heaters, would increase, noise levels would not increase at receptors near the Refinery.</p> <p>The pump stations along the pipeline routes from the Santa Maria Pump Station to the Refinery and from the Refinery north to the Bay Area could increase their pumping frequency or operate in a manner that would increase noise levels (e.g., operating multiple pumps).</p> <p>The Summit Pump Station, located midway between the Santa Maria Pump Station and the Refinery, is in close proximity to residences. However, the pumps at this location have been shut down and the facility produces minimal noise. An increase in throughput at this location would not generate additional noise levels at nearby residences.</p> <p>The Santa Margarita Pump Station, located along the pipeline from the Refinery to the Bay Area, is also located in a rural area in close proximity to residences. Natural gas engines operate the pumps and create noise in the vicinity. Noise monitoring at the Santa Margarita Pump Station indicated that noise levels during the nighttime would be audible to nearby residences, but would not produce a significant impact. However, noise levels at the Santa Margarita Pump Station property line currently exceed the County Noise Element limit of 50 dBA. Increasing operations of these pumps, which might or might not occur under the Proposed Project, would be considered a significant impact. However, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).</p>	
<b>Impact LU.2</b>	Emissions and odors from operations could be incompatible with adjacent land uses.
<b>Mitigation</b>	Implementation of mitigation measure AQ-2.
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
<p><b>Supportive Evidence:</b> Throughput increase operations at the SMF could cause emissions and odor events as various components in the operations equipment could leak and cyclical operations (coking, crude tanks, etc) at the Refinery would increase with the increased throughput, thereby causing odors. The storage of sulfur at the Refinery could also be a source of odors to nearby residences and more sulfur would be processed with the Proposed Project. The combustion of Refinery gases that contain sulfur produces SO<sub>2</sub> which could travel downwind after combustion and produces odors and more gases would be combusted under the Proposed Project. Sulfur levels of Refinery fuel gases vary, but generally are limited by the SLOCAPCD permit to less than 250 to 300 ppm.</p> <p>Released materials that cause odors can travel a substantial distance since the odor thresholds for materials can be as low as parts per billion. Odor impacts associated with accidental releases or from normal operations at the Refinery could impact surrounding areas. Increased processing of crude oil, leading to increased movements of sulfur and increased emissions,</p>	



Land Use and Policy Consistency Analysis	
could lead to increased frequency and/or duration of odor events. The impacts to adjacent land uses due to emissions and odors would be considered significant. However, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).	
Water Resources	
<b>Impact WR.3</b>	The Proposed Project may have significant impacts on water quality.
<b>Mitigation</b>	<p>WR-3.1 Ensure that any additional increased process water is treated by the wastewater treatment system in conformance with the NPDES Permit.</p> <p>WR-3.2 Existing spill management precautions shall be amended as needed to mitigate an increased spill size due to the increased amount of crude oil processing as reviewed and approved by San Luis Obispo County Planning and Building and San Luis Obispo County Water Resources Division.</p>
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
<p><b>Supportive Evidence:</b> Impacts to water quality would be significant if spill volume increased along the pipeline route due to the Proposed Project. The Refinery operates under the Environmental Protection Agency National Pollutant Discharge Elimination System (NPDES) Permit No. CA0000051 to minimize potential pollutants to the groundwater and outfall areas.</p> <p>In addition, the facility maintains two separate collection systems: one system processes wastewater and contact stormwater and the second system collects non-contact stormwater. The process water sewer system collects process wastewater and precipitation runoff from the oil storage tank dikes and the operating units. This wastewater flows by gravity to a waste treatment plant that also remediates the groundwater. The wastewater plant includes three oil-water separators, two surge tanks, dissolved air flotation, a trickling filter, an Orbal aeration system, and a secondary clarifier. The treated wastewater is discharged to the Pacific Ocean.</p> <p>The increased crude oil refined at the site would be managed under the same spill prevention guidelines currently in place at the Refinery. In addition, any increased process water shall be treated in the existing treatment system. Impacts could be significant; however, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).</p>	

## VI. FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT AND UNAVOIDABLE (CLASS I)

No significant and unavoidable impacts (Class I) were identified for the Proposed Project.

## VII. CEQA GENERAL FINDINGS

- A. The Planning Commission finds that changes or alterations have been incorporated into the project to eliminate or substantially lessen all significant impacts where feasible. These changes or alterations include mitigation measures and project modifications outlined herein and set forth in more detail in the Phillips Santa Maria Refinery Throughput Increase Project Final EIR.
- B. The Planning Commission finds that the project, as approved, includes an appropriate Mitigation Monitoring Program. This mitigation monitoring program ensures that measures that avoid or lessen the significant project impacts, as required by CEQA and the State CEQA Guidelines, will be implemented as described.
- C. Per CEQA Guidelines 15126.4(a)(1)(B), the proposed project includes performance-based conditions relating to environmental impacts and includes requirements to prepare more detailed plans that will further define the mitigation based on the more detailed plans to be submitted as a part of the project's implementation and operations. For instance, each of the following mitigation measures contains performance-based standards and, therefore, avoids the potential for these measures to be considered deferred mitigation under CEQA:
  - i. AQ-1.1-1.3: Implement Best Available Control Technologies (BACT) or other measures to reduce emissions below thresholds
  - ii. AQ-2: Prepare an Odor Control Plan
  - iii. AQ-3: Develop and implement GHG Emissions Program
  - iv. PSHM-3: Conform with Coke and Sulfur Storage and Handling Plan
  - v. N-1: Provide for a Noise Monitoring Study
  - vi. WR-3.1: Conform with NPDES Permit
  - vii. WR-3.2: Amend Spill Management Precautions
  - viii. TR-1: Pay South County Area 2 Road Impact Fees

### **VIII. MITIGATION MONITORING AND REPORTING PROGRAM**

As the Co-Lead Agencies under the California Environmental Quality Act (CEQA), the San Luis Obispo County Air Pollution Control district (SLOCAPCD), and the County of San Luis Obispo (County) are required to adopt a program for reporting or monitoring regarding the implementation of mitigation measures for the Proposed Project, if it is approved, to ensure that the adopted mitigation measures are implemented as defined in the Final Environmental Impact Report (FEIR). This Lead Agency responsibility originates in Public Resources Code Section 21081.6(a) (Findings) and the CEQA Guidelines Sections 15091(d) (Findings) and 15097 (Mitigation Monitoring or Reporting).

The Planning Commission hereby finds and accepts that the Mitigation Monitoring Program for the Phillips Santa Maria Refinery Throughput Increase Project Final EIR meets the requirements of Section 21081.6 of the Public Resources Code by providing for the implementation and monitoring of mitigation measures intended to mitigate potential environmental effects.

## ATTACHMENT 4

### PLANNING COMMISSION MINUTES DECEMBER 13, 2012

2. Hearing to consider a request by PHILLIPS 66 for a Development Plan / Coastal Development Permit to allow for the increase in the daily maximum limit of crude oil throughput (by 10 percent) from 44,500 barrels per day (bpd) to 48,950 bpd at the existing oil refinery. Additionally, for the SLOCAPCD permit, the 12-month rolling average of crude oil throughput would increase from 16,220,600 barrels per year (bpy) to 17,866,750 bpy. The project will not result in new ground disturbance on the approximately 1,644 acre parcel. The proposed project is within the Industrial land use category and is located at 2555 Willow Road, southwest of the Village of Callender-Garrett. The site is in the South County (Coastal) planning area. Also to be considered at the hearing will be approval of the Environmental Document prepared for the item. The Environmental Coordinator, after completion of the initial study, finds that there is evidence that the project may have a significant effect on the environment, and therefore a Final Environmental Impact Report (FEIR) was prepared (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) for this project. The FEIR addresses potential impacts on: Air Quality, Public Safety and Hazardous Materials, Noise and Vibration, Transportation and Circulation, Public Services, Land Use Policies, and Water Resources. Mitigation measures are proposed to address these impacts and are included as conditions of approval. Overriding considerations were determined to not be necessary. County File No: DRC2008-00146 APN(s): 091-141-062, 092-391-021, 034, 092-401-005, 011, 013, 092-411-002, & 005  
Supervisory District: 4 Date Accepted: 11/4/2009  
Murry Wilson, Project Manager Recommend approval  
**POST HEARING DETERMINATION: APPROVED (10:03 AM)**

Murry Wilson, Project Manager: presents staff report via a Powerpoint presentation.

**Commissioners: begin deliberations.**

Kristen Kopp, Phillips 66: provides project proposal information and makes introductions.

Jean St. Martin, Phillips 66 attorney: explains ordinance compliance in terms of access routes.

Kristin Kopp, agent: discusses objection to Condition 26 regarding \$25,000 fee annually for the life of the project.

Jean St. Martin: clarifies coastal access comments made previously.

**Dan O'Grady: opens Public Comment.**

Mike Brown (COLAB), and Ron Espinoza (United Steel Workers): speak.

Jerry Stumbo, Phillips 66: responds to Public Comment.

ATTACHMENT 4

PLANNING COMMISSION MINUTES  
DECEMBER 13, 2012

Murry Wilson, Project Manager: addresses Public Comment.

**Commissioners: being their deliberations.**

Ken Topping: would like to know which vehicles are appropriate for the access way with Mr. Wilson responding explaining applicant compliance with siting criteria.

Robert Lewin, County Fire Chief: addresses safety issues in terms of fire mitigations for this proposal.

Whitney McDonald, County Counsel: explains how the portion of \$25,000.00 is calculated for the fee as described in Condition 23, with Chief Lewin also responding.

Jerry Stumbo, Phillips 66: explains reasoning for objection to fee proposed by Cal Fire in Condition 23 - especially in terms of it being proposed in perpetuity.

Commissioners: deliberate fee in Condition 23.

Tim Murphy: proposes an annual fee of \$10,000.00.

Jim Irving: supports Mr. Murphy's suggestion.

Carlyn Christianson: supports staff recommendations.

Commissioners: hold a straw poll vote on changing the fee in Condition 23 to \$10,000.00.

TM- Y,

KT-N,

JI-N,

CC-Unknown.

Jason Giffen, Director Planning & Building: presents other options for language in Condition 23 in terms of the length of time the fee is to be paid, or the amount of the fee being proposed.

Murry Wilson, Project Manager: displays revised condition language to address concerns in Condition 23.

Jim Irving: feels Condition 23 should be deleted as this was not covered in the EIR and provides reasoning.

Murry Wilson, Project Manager: displays Option 3 Condition 23 language.

Tim Murphy: proposes \$10,000.00 in perpetuity and provides reasoning.

ATTACHMENT 4

PLANNING COMMISSION MINUTES  
DECEMBER 13, 2012

Jerry Stumbo, Phillips 66: prefers Option 23, however agrees to \$10,000.00 annually for 19 years.

Dan O'Grady: calls for a straw vote on the suggestion for Condition 23 fee of \$10000.00 for 19 years.

Robert Lewin SLO County Fire Chief: before any vote from Commissioners is taken, withdraws Condition 23.

Tim Murphy: would like to know when this project will be coming back to the Planning Commission.

Ken Topping: comments that he would have voted on the \$10,000.00 as long as it could have been in perpetuity in terms of the loss avoidance being sought and provides reasoning.

Murry Wilson, Project Manager: would like the Commissions decision on whether to delete, or keep Condition 23.

Commissioners: straw vote on keeping Conditions 23.

TM-Y with fee changed to \$10,000.00 annually in perpetuity.

KT-Y

CC-Y

DO-N -feels Condition 23 should be deleted as recommended by Chief Lewin.

Aerin Arlin-Genet, Air Pollution Control district (APCD): describes the elevated particulate levels as it relates to the air quality in this case and EIR and states this proposal is below the APCD thresholds.

Commissioners and staff: discuss the Willow Rd. interchange as it applies in this proposal.

Carlyn Christianson: would like the background explained for the Coastal Plan - Policy 1 a. regarding the intent and why it does not apply in this case.

Whitney McDonald, County Counsel: addresses Ms. Christianson's concern.

Commissioners, staff and applicant: discuss interpretations of Coastal policies in regards to the restoration of the ESHA area.

**Thereafter, on motion of Tim Murphy, seconded by Jim Irving, and on the following vote:**

**AYES:** Commissioner(s) Tim Murphy, Jim Irving, Carlyn Christianson, Ken Topping, Dan O'Grady.

**NOES:** None.

**ABSENT:** None.

ATTACHMENT 4

PLANNING COMMISSION MINUTES  
DECEMBER 13, 2012

The Commission certifies the final Environmental Impact Report (FEIR) in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq. and approves Development Plan/Coastal Development Permit DRC2008-00146 based on the findings listed in Exhibit A, changing Finding D. to add "....and safety issues raised by the County Fire Department have been adequately addressed by the Conditions of Approval." to the last sentence; and subject to the conditions listed in Exhibit B, changing Condition 6 to read "6. Prior to issuance of a construction permit or issuance of the Notice to Proceed authorizing an increase in refinery throughput, whichever occurs last, the applicant shall pay all applicable school and public facilities fees pursuant to Title 18 of the County Code and Fee Schedule in effect."; changing Condition 13 to add the sentence "Upon implementation of the throughput increase, the applicant shall provide verification that the noise level at the closest receptor property line does not exceed 50 dBA." at the end of the paragraph; changing Condition 16. to delete the reference to "In addition after the Willow Road/U.S. Highway 101 interchange is completed..." and replace with "It is recommended that...."; adding Condition 22. to read "22. Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput, the applicant shall comply with the California Fire Code and the National Fire Protection Association (NFPA) Standards including NFPA Chapters 11, 15, 22, 24, 25, 30, 34, and 58. Further, the applicant will maintain an Industrial Fire Brigade in compliance with NFPA 600 and NFPA 1081. Verification of this condition of approval shall be in consultation with the county fire Department."; adding Condition 23 to read "23. Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput, and thereafter annually for the life of the project, the applicant shall fund specialized training and/or equipment not to exceed \$10,000 per year which shall be adjusted annually for inflation, using the Consumer Price Index for County Fire Department personnel that could be called upon to assist in firefighting or other emergency response at the facility."; and subject to the CEQA findings in Exhibit C; adopted.



Promoting the wise use of land  
Helping build great communities

**COUNTY OF SAN LUIS OBISPO  
DEPARTMENT OF PLANNING AND BUILDING  
STAFF REPORT**

**PLANNING COMMISSION**

<b>MEETING DATE</b> December 13, 2012	<b>CONTACT/PHONE</b> Murry Wilson / Environmental Resource Specialist (805) 788-2352	<b>APPLICANT</b> Phillips 66	<b>FILE NO.</b> DRC2008-00146
<b>SUBJECT</b> Hearing to consider a request by Phillips 66 for a Development Plan / Coastal Development Permit to allow for the increase in the daily maximum limit of crude oil throughput (by 10 percent) from 44,500 barrels per day (bpd) to 48,950 bpd at the existing oil refinery. Additionally, for the SLOCAPCD permit, the 12-month rolling average of crude oil throughput would increase from 16,220,600 barrels per year (bpy) to 17,866,750 bpy. The project will not result in new ground disturbance on the approximately 1,644 acre parcel. The proposed project is within the Industrial land use category and is located at 2555 Willow Road, southwest of the Village of Callender Garrett. The site is in the South County (Coastal) planning area.			
<b>RECOMMENDED ACTION</b> 1. Certify the Final Environmental Impact Report (FEIR) in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq. 2. Approve Conditional Use Permit DRC2008-00146 based on the findings listed in Exhibit A and the conditions listed in Exhibit B including the adoption the CEQA findings in Exhibit C.			
<b>ENVIRONMENTAL DETERMINATION</b> An Environmental Impact Report was prepared (pursuant to Public Resources Code Section 21000, et seq., and California Administrative Code Section 15000, et seq.) for this project. Mitigation measures are proposed to address Air Quality, Public Safety and Hazardous Materials, Noise and Vibration, Transportation and Circulation, Public Services, Land Use Policies, and Water Resources.			
<b>LAND USE CATEGORY</b> Industrial	<b>COMBINING DESIGNATION</b> Flood Hazard, Sensitive Resource Area, Terrestrial Habitat, Local Coastal Program, and Coastal Appealable Zone	<b>ASSESSOR PARCEL NUMBER</b> 091-141-062, 092-391-020, 021, 034, 092-401-005, 011, 013, 092-411-002, 005	<b>SUPERVISOR DISTRICT(S)</b> 4
<b>PLANNING AREA STANDARDS:</b> Areawide (Circulation): 1. Areawide Systems – Development Plan Projects, Open Space – Limitation on Use			
<b>LAND USE ORDINANCE STANDARDS:</b> 23.04.420 – Coastal Access Required, Section 23.06.040 – Noise Standards, Section 23.06.082 – Air Pollution Control District Review, Section 23.06.084 – Odors, Section 23.06.102 – Regional Water Quality Control Board (RWQCB) Review, Section 23.06.126 – Flammable and Combustible Liquids Storage, Section 23.07.104 – Terrestrial Habitat Protection (TH), 23.07.120 – Local Coastal Program Area, 23.08.094 – Petroleum Refining and Related Industries, and Marine Terminals and Piers, Coastal Appealable Zone			
<b>EXISTING USES:</b> Refinery			
<b>SURROUNDING LAND USE CATEGORIES AND USES:</b> North: Industrial and Residential Suburban / Various uses East: Agriculture and Recreation / Various uses South: Agriculture / Agricultural uses West: Open Space and Recreation / SRA and Recreation			
<p>ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING &amp; BUILDING AT:  COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ FAX: (805) 781-1242</p>			

**2-2**

Planning Commission – Development Plan / Coastal Development Permit  
 DRC2008-00146 / Phillips 66  
 Page 2

OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: South County Community Advisory Group, Public Works, Environmental Health, Ag Commissioner, County Parks, CDF, APCD, Department of Fish and Game, Cal Trans, and the California Coastal Commission.	
TOPOGRAPHY: Variable - Coastal dunes	VEGETATION: Coastal dune vegetation
PROPOSED SERVICES: Water supply: On-site system Sewage Disposal: Individual sewage disposal system Fire Protection: Cal Fire	ACCEPTANCE DATE: November 4, 2009

**PROJECT HISTORY / DISCUSSION**

The Phillips 66 Santa Maria Facility (SMF) was built on the Arroyo Grande mesa in southern San Luis Obispo County (SLOC) in 1955. The facility is surrounded by industrial, recreational, agricultural, residential and open space land uses. The SMF operates 24 hours per day and 365 days per year, except when shut down for maintenance.

The SMF was previously owned by several companies, including Union Oil Company of California, Tosco, Phillips Petroleum, and ConocoPhillips (recently changing the name to Phillips 66 Company). Since 1955, the primary land use has been petroleum oil refining.

The SMF mainly processes heavy, high-sulfur crude oil. The bulk of crude oil processed at the SMF is delivered via pipeline from offshore platforms in the Outer Continental Shelf of Santa Barbara County and from oils fields in the Santa Maria area. In addition, crude oil from other onshore sources such as the Arroyo Grande (Price Canyon) field and San Ardo field is delivered by truck to the Santa Maria Pump Station (located in the City of Santa Maria) and then pumped into the dedicated pipeline to the SMF. Crude is received via pipeline only, processed at the SMF, and semi-refined liquid products from the SMF are sent by pipeline to the Rodeo Refinery (near San Francisco) for upgrading into finished petroleum products. Products leaving the SMF are: (1) semi-refined petroleum by pipeline; (2) solid petroleum coke by rail or haul truck; and (3) recovered sulfur by haul truck. In order for the semi-refined liquid product to arrive at the Rodeo Refinery, an additional pump station located near Santa Margarita is used to achieve the necessary flow to reach the end destination.

During recent years, the SMF has been upgraded to modernize the processes and comply with changing environmental regulations. Significant upgrades included installing emission control devices like the tail gas unit, low nitrogen oxide (NO<sub>x</sub>) burners, tank vapor recovery, and flare vapor recovery. The water treatment plant was upgraded by installing a reverse osmosis system that replaced a water softener unit, which reduces water demand from the refinery well water system. Also, changing the water effluent to a tankage system eliminated storing water in onsite surface impoundments. The most recent change at the site involved the permanent shut down of the petroleum coke calciner in March 2007, resulting in decreased criteria pollutants and hazardous air pollutants, and reduced water usage.



## 2-3

Planning Commission – Development Plan / Coastal Development Permit  
 DRC2008-00146 / Phillips 66  
 Page 3

The proposed project entails an increase to the permitted volume of processed crude oil over the existing permit level by 10 percent. The project will not result in new ground disturbance or physical expansion of the facility. A detailed project description and discussion of current site operations are contained in Section 2 (Project Description) of the EIR.

The project was initiated by Phillips 66 as a request to increase throughput at the facility associated with their Air Pollution Control District permit. The Department of Planning and Building subsequently identified the need to obtain a new Development Plan and Coastal Development Permit prior to undertaking any modification, expansion, or change in maximum refining capacity (as required by a previous approval D890287D). As a result of the dual permit requirements associated with the proposed project, the San Luis Obispo Air Pollution Control District (SLOCAPCD) and the Department of Planning and Building (County) agreed to be co-lead agencies for the purpose of environmental review.

The project included the preparation of an Environmental Impact Report (EIR). The project would result in impacts to air quality, public safety and hazardous materials, noise, land use, public services, and water resources. No significant and unavoidable impacts would result from the proposed project. All impacts would be mitigated to a less than significant level.

A wide range of alternatives were considered for evaluation in the EIR. The Proposed Project with use of the "Southbound Route Alternative" is the environmentally preferred alternative and is recommended for your Commission's consideration. This involves re-routing truck traffic associated with the proposed project away from Highway 166 (through the City of Santa Maria) and requires truck traffic to follow State Route 1 (Willow Road which turns into Guadalupe Road then Cabrillo Highway and lastly Casmalia Road) east and then south to West Clark Avenue; and east on West Clark Avenue (which becomes East Clark Avenue) to U.S. Highway 101 southbound ramp. The "Southbound Route Alternative" would result in lower risk of upset during transportation of products because there is less traffic and population along the alternative route. Conditions of approval which require the applicant to use the "Southbound Route Alternative" are provided for your consideration in Exhibit B – Conditions of Approval.

## **PROJECT ANALYSIS**

### **ORDINANCE COMPLIANCE:**

**23.04.420 – Coastal Access Required:** Development within the coastal zone between the first public road and the tidelands shall protect and / or provide coastal access. The intent of these standards is to assure public rights of access to the coast are protected as guaranteed by the California Constitution. Coastal access standards are also established by this section to satisfy the intent of the California Coastal Act.

*The project site is located adjacent to a State of California recreational area (Oceano Dunes) to the west. The project site contains approximately 7,600 feet (1.44 miles) of property frontage adjacent to the State recreation area. Along this portion of coastline, the nearest vertical access points are located at Pier Avenue in Oceano [approximately 18,900 feet (3.58 miles) to the north – as measured from the northern property boundary] and at Osos Flaco Lake [approximately 3,900 feet (0.74 miles) to the south – as measured from the southern property boundary]. The overall distance between existing vertical access points along this portion of the coastline (as*

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*the bird fly's) is approximately 5 miles. Lateral access exists along a majority of the coastline in the vicinity of the project site due to the ocean front properties being held by the State of California.*

*Section 23.04.420 c. defines when new access is required. New access is required for all new development unless the development project falls within one of the exemptions identified in this section. The proposed project does not meet the criteria found in the exceptions and the provisions of subsection d. have not been satisfied with regard to location of vertical access points.*

*Subsection d. identifies the type of access required and where access should be provided in new development projects. Section 23.04.420 d.(1)(ii) states: In rural areas where no dedicated or public access exists within one mile, or if the site has more than one mile of coastal frontage, an accessway shall be provided for each mile of frontage. Section 23.04.420 d.(2) identifies the minimum width of accessways within rural areas as 10 feet.*

*Staff has evaluated the existing vertical access points in the vicinity of the project site (as discussed above). Coastal access and recreation opportunities exist to the west of the project site within the State of California recreation area. Horizontal access along the coastline currently exists between the two vertical access points described above for pedestrians (except for partial beach closure during the nesting season). Vehicular access is provided within a portion of the State of California recreation area between the two existing access points. It should be noted that vehicular access from Pier Avenue to the State of California recreation area requires payment of a day use fee (five dollars).*

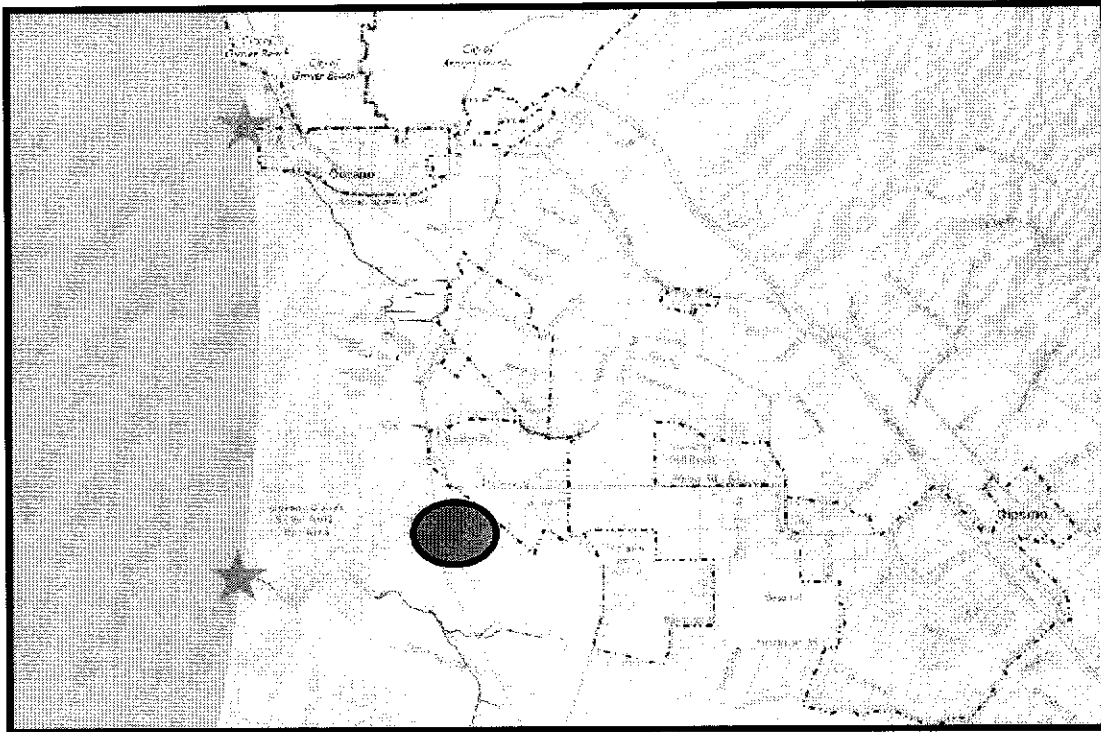
*The southern access point (Oso Flaco Lake) provides pedestrian only access to the beach. The northern access point (Pier Avenue, Oceano) provides for both pedestrian and vehicular access. By providing an additional vertical access point along the current service road (a likely location for vertical access), additional shoreline will be made available to pedestrian users which are currently limited by the distant locations between the existing vertical access points.*

*Staff has determined through a review of existing vertical access that adequate public access does not exist in the vicinity of the project site. By providing vertical access consistent with the provisions of Section 23.04.420, any construction that may be required for the physical development of the accessway would be processed through a Minor use Permit or as part of a Development Plan for the principle use (refinery operation).*

*Based on the above referenced sections of the CZLUO regarding coastal access, a condition of approval has been included to provide coastal access as required by Section 23.04.420.*

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★ Nearest vertical access points

● Project site

*Additional discussion related to shoreline access is provided below in the Coastal Plan Policies section.*

**Section 23.06.040 – Noise Standards:** This operational standard specifies how noise is to be measured, specifies allowable interior and exterior noise level standards, and is designed to protect people from excessive noise levels.

*The SMF currently operates 365 days a year. The project would result in continued operations at the facility as well as continued pumping of partially processed oil through the pipeline on its route to the San Francisco Bay Area (Rodeo Facility). The project would allow a greater volume of oil to be processed than currently permitted. This would result in increased noise associated with the pump station in Santa Margarita as well as increased noise levels on area roadways.*

*Through the preparation of the EIR, it was determined that noise related impacts would be less than significant and would not exceed the thresholds established in the Noise Standards established in Title 23. Mitigation would be required at the Santa Margarita pump station to reduce project related noise impacts. The project is consistent with this standard.*

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**Section 23.06.082 – Air Pollution Control District Review:** This operational standard establishes that the APCD be notified when new development is proposed to include equipment or activities that involve combustion and / or storage or use of hydrocarbons or other air contaminants.

*The San Luis Obispo Air Pollution Control District (SLOCAPCD) and the Department of Planning and Building (County) are co-lead agencies for the purpose of environmental review. The APCD and the County have participated in the preparation of the EIR therefore the notification of APCD regarding this application has been met. The project is consistent with this standard.*

**Section 23.06.084 – Odors:** This operational standard requires that any non-agricultural land use conducted with one-half mile of any urban or village reserve line is to be so operated as not to emit matter causing noxious odors which are perceptible at or beyond the lot line of the project site.

*The release of materials that contains even small amounts of sulfur compounds (H<sub>2</sub>S) or hydrocarbons produce an odor. Several products associated with the oil and gas industry can produce nuisance odors. Odor events can be caused from many different situations associated with refinery equipment operations.*

*The applicant will be required to submit an Odor Control Plan (to be approved by the APCD). The plan is required to identify all potential odor sources at the refinery and detail how the odors will be controlled at each odor source. The plan would contain a complaint monitoring and reporting section and include a hotline number for complaints to be received. The project is consistent with this standard.*

**Section 23.06.102 – Regional Water Quality Control Board (RWQCB) Review:** This operational standard establishes procedures for notification of the RWQCB when a new land use or development has the potential to affect groundwater quality.

*A referral was sent to the Regional Water Quality Control Board (RWQCB) regarding the proposed project. The project would result in an increase in water usage by approximately 1 percent over the existing water usage including an increased amount of effluent discharged through their outfall structure to the Pacific Ocean. The project also includes the storage of "coke" product that has the potential to come in contact with surface water.*

*Consultation with the RWQCB occurred during the EIR process to ensure their concerns were addressed. The consultation resulted in mitigation measures being applied to the project to address water quality concerns identified in the EIR. These impacts / concerns would be mitigated to a level of insignificance after implementation of the mitigation measures. The project is consistent with this standard.*

**Section 23.06.126 – Flammable and Combustible Liquids Storage:** This operation standard specifies that storage of flammable or combustible liquids is subject to permitting, limitations on quantity, location of storage, and setbacks.

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*The project would include the storage of flammable or combustible material on the project site. The storage facilities currently exist on the project site and no new facilities are proposed for the purpose of materials storage. The project is consistent with this standard.*

### COMBINING DESIGNATIONS:

**Section 23.07.060 – Flood Hazard Area (FH):** This combining designation standard is used to identify areas where flood hazards could affect life and property and where development could affect drainage and waterways.

*The Flood Hazard designation is located on the southern portion of the project site. No activities currently occur in the location of the Flood Hazard designation and the project does not include new ground disturbance. The project is consistent with this standard.*

**Section 23.07.104 – Terrestrial Habitat Protection (TH):** This combining designation standard is used to protect and preserve sensitive plant and wildlife species by preserving their habitats. This standard also specifies use of native plants where vegetation is removed and installation of barriers to protect surrounding habitat during construction.

*The project will not result in new ground disturbance activities. No vegetation removal is proposed as a part of this project. No impacts to sensitive plants and / or wildlife are anticipated from this project. The project is consistent with this standard.*

**23.07.120 – Local Coastal Program Area:** The Local Coastal Program combining designation identifies areas of San Luis Obispo County that are within the California Coastal Zone as determined by the California Coastal Act of 1976. The provisions of this title apply to all unincorporated portions of the county located within the Coastal Zone, and do not apply to any areas outside of the LCP combining designation.

*The project site is located in the Coastal Appealable Zone of San Luis Obispo County. The project is appealable to the Coastal Commission because the project site is located between the first public road and the sea.*

### SPECIAL USE STANDARDS:

**23.08.094 – Petroleum Refining and Related Industries, and Marine Terminals and Piers:** This section applies to establishments primarily engaged in petroleum refining and compounding lubricating oils and greases from purchased materials, oil or gas processing facilities, manufacture of petroleum coke and fuel briquettes and tank farms.

**a. Specific Plan Required:** An application for a land use permit for a project within the use group of Petroleum Refining and Related Industries (including extended reach facilities) and Marine Terminals and Piers may be applied for and obtained only after a Specific Plan, as described in Government Code Section 65450 et seq., for overall development of the parcel has been approved, except for:

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- (1) An existing facility used solely for in-field processing of petroleum produced from a field surrounding or adjacent to the facility and not exceeding 10,000 barrels processing capacity of petroleum and related fluids, excluding produced water, per day;
- (2) An existing facility used solely for in-field compression or sweetening of natural gas and similar fluids produced from a field surrounding or adjacent to the facility;
- (3) Existing storage facilities having a capacity not exceeding 210,000 barrels of crude petroleum or refined petroleum products;
- (4) Emergency oil spill response facilities;
- (5) Additions within existing facilities or modifications to existing facilities mandated by local, state, or federal requirements or by a demonstrated need for replacement due to technological improvement or facility age that do not expand the capacity of a facility by more than 10 percent or expand the existing exterior boundary of the site; and,
- (6) Any new marine terminal or pier which will be used solely for commercial, recreational, or fishing purposes excluding onshore support facilities for petroleum production, equipment, and related passenger transportation facilities; and,
- (7) Any facility described by size, capacity, physical characteristics, and site as part of a previously approved specific plan.

*The applicant (Phillips 66) is requesting an increase in the maximum allowable amount of crude oil throughput by 10 percent (from 44,500 barrels bpd to 48,950 bpd). This request is consistent with the Specific Plan exemption [23.08.094a(5)] discussed above because this project includes replacement of facility components with technological improvements (i.e. Best Available Control Technology on the crude heaters, coke heaters and boilers, etc.). Additionally, the project will not expand the capacity of the facility by more than the 10 percent limitation discussed above and will not expand the footprint of the facility.*

*If the applicant proposes expansions to the facility in the future which would increase the maximum permitted throughput beyond 48,950 bpd, the applicant would be required to obtain a new Development Plan approval including the preparation of a Specific Plan as required by Section 23.08.094. A condition of approval has been included to address this issue.*

**b. Specific Plan preparation costs to be borne by applicant:** The text of this section has not been included.

*The project did not require the preparation of a Specific Plan therefore this subsection is not applicable to the project.*

**c. Contents of Specific Plan:** The text of this section has not been included.

*The project did not require the preparation of a Specific Plan therefore this subsection is not applicable to the project.*

**d. Factors to be Considered:** The text of this section has not been included.

*The project did not require the preparation of a Specific Plan therefore this subsection is not applicable to the project.*

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**e. Pre-application conference required:** The text of this section has not been included.

*The project did not require the preparation of a Specific Plan therefore this subsection is not applicable to the project.*

**f. Permit requirements:** Development Plan approval by the Board of Supervisors is required for all new uses and any expansion of the external boundaries of existing uses. The action of the Planning Commission described in Section 23.02.034 c shall be a recommendation to the Board of Supervisors. Minor Use Permit approval is required for modification of facilities within an existing approved development, unless a condition of a previous Development Plan approval sets a different land use permit requirement.

*Development Plan D890287D (approved on August 23, 1990) contained conditions of approval that required the applicant to obtain a new development plan approval prior to any change in the maximum refining capacity or changes in the maximum throughput beyond 44,500 bpd wet oil. The conditions of approval that required this subsequent permit reads as follows:*

*GEN 1 Refinery modification approval. Approval of this development plan application (at times hereinafter referred to as "development plan" or "approval"), is made as of August 23, 1990, by the San Luis Obispo County Planning Commission subject to all the following conditions. This approval authorizes Unocal, Inc. to construct and operated a modified process water stripper & storage tank and a flare stack at Unocal's Santa Maria refinery, refinery operation under this approval to be conducted at a maximum 44,500 barrels per day wet.*

*GEN 3 Additional County approvals required for changes to project. The applicant shall obtain a new development plan approval from San Luis Obispo County prior to undertaking any of the following activities: Any refinery modifications or expansion, any changes in maximum throughput from 44,500 BPD wet oil, or any other change which in the County's sole judgment have the potential to cause significant impacts.*

*The applicant Phillips 66 is requesting a Development Plan / Coastal Development permit in accordance with the above referenced conditions of approval required by D890287D. The land use permit requirement was set by D890287D to ensure that any significant future actions at the facility would be reviewed by the Planning Commission prior to being approved.*

**g. Application requirements:** The text of this section has not been included.

*The project did not require the preparation of a Specific Plan therefore this subsection is not applicable to the project.*

**h. Standards and specifications:** The text of this section has not been included.

*The project does not include any new construction or ground disturbance therefore this section is not applicable.*

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### PLANNING AREA STANDARDS:

#### Areawide (Circulation):

1. **Areawide Systems – Development Plan Projects.** Development Plan proposals are to be integrated into areawide circulation and utility easements, providing for future extensions into adjacent undeveloped properties wherever feasible or where known areawide rights-of-way are planned.

*The Department of Public Works and Cal Trans have reviewed the proposed project and provided comments as part of the referral and EIR process. All circulation concerns have been addressed as part of the proposed project. The project is consistent with this standard.*

#### Open Space:

1. **Limitation on Use.** This area shall be maintained in its natural state to provide a buffer from the off-road vehicular area to the west and to afford protection to the refinery area to the east. Only authorized vehicles uses for maintenance purposes are permitted, except for special off-road events which may be permitted if the lease between Union Oil and State Parks is renegotiated.

*The portion of the project site that is zoned Open Space (located west of the railroad corridor) is not subject to any physical development associated with the proposed project. The project is consistent with this standard.*

### ENVIRONMENTAL DETERMINATION:

*The project included the preparation of an EIR. The Final EIR was released for public review in October 2012. All significant impacts associated with the proposed project have been mitigated to a level of insignificance.*

The project site is located within the California Coastal Zone as determined by the California Coastal Act of 1976 and is subject to the provisions of the Local Coastal Plan.

**COASTAL PLAN POLICIES:** This project is in compliance with the Coastal Plan Policies. The most relevant policies are discussed below.

Shoreline Access: ☒ Policy No(s): 2, 5, 8, and 10  
Recreation and Visitor Serving: N/A  
Energy and Industrial Development: ☒ Policy No(s): 1A, 24, and 25  
Commercial Fishing, Recreational Boating and Port Facilities: N/A  
Environmentally Sensitive Habitats: ☒ Policy No(s): 3, 29, and 31  
Agriculture: N/A  
Public Works: ☒ Policy No(s): 1  
Coastal Watersheds: ☒ Policy No(s): 1  
Visual and Scenic Resources: ☒ Policy No(s): 1



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Hazards: N/A  
Archeology: ☒ Policy No(s): 1, 4, and 6  
Air Quality: ☒ Policy No(s): 1

**COASTAL PLAN POLICY DISCUSSION:** The proposed project's conformity with applicable Coastal Plan Policies is as follows:

### **POLICIES FOR SHORELINE ACCESS**

#### Policy 2: New Development

This policy requires a new development to provide for maximum public access from the nearest public roadway to the shoreline. This standard is to be implemented as a standard pursuant to Section 23.04.420 a. and c. of the Coastal Zone Land Use Ordinance (CZLUO).

*The applicant will be required, as a condition of approval, to comply with the requirements of Section 23.04.420.*

#### Policy 5: Acceptance of Offers to Dedicate

This policy acknowledges the need to accept offers to dedicate for vertical accessways prior to the area being opened to public use.

*Prior to the public using an offered accessway, a public agency or private association must agree to accept the responsibility for maintenance and liability of the access way. No use of the offered accessway will be authorized until such time the offer is accepted by an appropriate agency.*

#### Policy 8: Minimizing Conflicts with Adjacent Uses

This policy requires provisions for providing maximum access in a manner which minimizes conflicts with adjacent uses.

*The project site is located adjacent to State of California lands to the west, industrial land uses to the north, agricultural lands to the south and east, with the project site being bisected by the Union Pacific Railroad (UPRR). Potential conflicts with the railroad corridor could exist due to increasing pedestrian activity in and around the railroad corridor. The development of vertical access that would be required by this project must be coordinated with UPRR to ensure safety concerns associated with the railroad corridor and the vertical access requirement are met.*

#### Policy 10: Protection of Property Rights and Privacy

The acquisition of rights for access and view purposes and other uses by the public should be consistent with the protection of the property and use rights of property owners. Access routes should be selected and designed so as to minimize the public impact on private property.

*The project site is bisected by the UPRR corridor. Planning Area Standards require that all physical development associated with the refinery operations be located on the east side of the UPRR corridor so direct conflicts with refinery operations are not anticipated at this time or in the future. To minimize the potential for impacts to Dune Sands habitat, the accessway may be located in the approximate location of the existing service road that provides access to maintain*

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*the ocean outfall line. Co-locating the vertical access where an existing maintenance road is located would minimize impact to sensitive resources and private property.*

### **POLICIES FOR ENERGY AND INDUSTRIAL DEVELOPMENT**

#### Policy 1A: New Facilities and Expansion of Existing Sites

This policy states, "No permit, entitlement, lease, or other authorization of any kind within the County of San Luis Obispo which would authorize or allow the development, construction, installation, or expansion of any onshore support facility for offshore oil and gas activity shall be final unless such authorization is approved by a majority of the votes cast by a vote of the people of the County of San Luis Obispo in general or special election. For the purpose of this ordinance, the term "onshore support facility" means any land use, installation, or activity required to support the exploration, development, production, storage, processing, transportation, or related activities of offshore energy resources."

*The Santa Maria Facility has historically processed offshore crude from the Outer Continental Shelf (OCS) and Point Pedernales, as well as crude from onshore sources. Phillips purchases its OCS and Point Pedernales crude on the open market and it does not own or operate any offshore production facility off of California. Theoretically, if Phillips were to stop purchasing OCS and Point Pedernales crude, then that same crude would instead be purchased by and processed at another refinery. Refineries in the Los Angeles area receive OCS and Point Pedernales crude through the Plains-All American Pipeline. Because there are multiple refineries that purchase and process OCS and Point Pedernales crude, it is possible to conclude that the Santa Maria Refinery is not required in order to support offshore energy resources and, therefore, is not subject to this policy.*

#### Policy 24: Requirement for Petroleum Transportation

This policy requires offshore oil to be transported to refining centers by pipeline, where feasible, rather than by petroleum tankers to minimize increased air pollutant emissions and the increased probability of oil spills.

*The Santa Maria Facility receives all crude oil for processing by pipeline from various sources, including the Outer Continental Shelf (69%), Point Pedernales (18%), Orcutt (6%), and truck deliveries to the Santa Maria Pump Station (7%). Therefore, the project is consistent with this policy.*

#### Policy 25: Air Pollution Standards

This policy requires that any expansion or modification to existing petroleum processing facilities shall meet SLOCAPCD standards.

*Through the environmental review process and the analysis of the refinery throughput increase, the project would result in some additional emissions from the refinery that could be offset through mitigation included in the EIR. Emissions from offsite mobile sources would increase, resulting in significant but mitigable impacts. Since the SLOCAPCD was the co-lead agency for the EIR and participated in the review of the EIR contents, Staff has determined that project is consistent with this standard.*

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### **POLICIES FOR ENVIRONMENTALLY SENSITIVE HABITATS**

#### Policy 3: Habitat Restoration

The County or Coastal Commission should require the restoration of damaged habitats as a condition of approval when feasible.

*The proposed project would not be expected to cause any new impacts to native species and / or habitat on the project site. Historic coke storage activities at the project site have resulted in damage to dune habitat. The applicant has agreed to limit the size of the coke stockpile resulting in less ground surface area required for the storage of coke products. Prior to increasing throughput and as a condition of approval, the applicant will be required to delineate the reduced storage area and keep all coke storage within that area. Additionally, the applicant shall quantify the area where coke storage bi-products have been historically deposited outside the reduced storage area. The area that would no longer be used for active coke storage shall either be restored or similar habitat on another portion of the project site equal to the area no long used for coke storage shall be restored pursuant to Section 23.07.170.*

#### Policy 29: Protection of Terrestrial Habitats

Designated plant and wildlife habitats are environmentally sensitive habitat areas and emphasis for protection should be placed on the entire ecological community.

*The proposed project does not include new ground disturbance. No new areas that contain terrestrial habitats will be impacted by the proposed project.*

#### Policy 31: Design of Trails in and Adjoining Sensitive Habitats

San Luis Obispo County, or the appropriate public agency, shall ensure that the design of trails in and adjoining sensitive habitat areas shall minimize adverse impact on these areas.

*Pursuant to Section 23.04.420, any construction that may be required for the physical development of the accessway would be processed through a Minor use Permit or as part of a Development Plan for the principle use (refinery operation) which would provide a mechanism to ensure protection of the surrounding habitat.*

### **POLICIES FOR PUBLIC WORKS**

#### Policy 1: Availability of Service Capacity

New development shall demonstrate that adequate public service capacities are available to serve the proposed development.

*The project would allow an increased throughput of 10 percent over the currently permitted amount. This project site is served by on-site wells and an on-site wastewater system with an ocean outfall to the Pacific Ocean. Through the evaluation in the EIR, it was determined that adequate water and wastewater services were available to serve the proposed project.*

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### **POLICIES FOR COASTAL WATERSHEDS**

#### Policy 1: Preservation of Groundwater Basins

The long term integrity of the groundwater basin with the coastal zone shall be protected.

*The project will result in an increase of 1 percent in water usage over the existing water demand at the project site. Increased water usage was reviewed as part of the EIR process and it was determined that the increased use of water associated with this project would be a less than significant impact therefore the project is consistent with this policy.*

### **POLICIES FOR VISUAL AND SCENIC RESOURCES**

#### Policy 1: Protection of Visual and Scenic Resources

Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved, protected, and in visually degraded areas, restored where feasible.

*The proposed project is not anticipated to create any impacts to scenic vistas therefore the project is consistent with this policy.*

### **POLICIES FOR ARCHAEOLOGICAL RESOURCES**

#### Policy 1: Protection of Archaeological Resources

The County shall provide for protection of both known and potential archaeological resources. All available measures shall be explored to avoid development of important archaeological sites. Where these measures are not feasible, adequate mitigation shall be required.

#### Policy 4: Preliminary Site Survey for Development within Archaeologically Sensitive Areas

Development shall require a preliminary site survey by a qualified archaeologist knowledgeable in Chumash culture prior to determination of potential impacts of the project.

#### Policy 6: Archaeological Resources Discovered During Construction or Through Other Activities

Where substantial archaeological resources are discovered during construction, all activities shall cease until a qualified archaeologist knowledgeable in the Chumash culture can determine the significance of the resource and submit alternative mitigation measures.

*The proposed project does not include any ground disturbance activities that would affect archaeological resources.*

### **POLICIES FOR AIR QUALITY**

#### Policy 1: Air Quality

The County will provide adequate administration and enforcement of air quality programs and regulations to be consistent with the San Luis Obispo County Air Pollution Control District (APCD) and the State Air Resources Board.

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*The SLOCAPCD was co-lead agency with regard to preparation of the EIR. The SLOCAPCD through the EIR process has provided guidance to ensure compliance with local air pollution regulations and to recommend mitigation measures where impacts were identified to ensure the project will be consistent with applicable programs and regulations.*

**Does the project meet applicable Coastal Plan Policies:** Yes, as conditioned.

COMMUNITY ADVISORY GROUP COMMENTS: None

**AGENCY REVIEW:**

Public Works – See attached referral response  
Environmental Health – Updated Hazardous Materials Business Plan required  
Ag Commissioner – No comment  
County Parks – No comment  
CDF – No comment  
APCD –Co-lead Agency  
Department of Fish and Game – No comment  
Cal Trans – No comment  
California Coastal Commission – No comment

**LEGAL LOT STATUS:**

The existing parcels are a portion of: the Standard Eucalyptus Tract, which was filed for record on November 1, 1909 in Book 1 of Maps, Page 12; the map entitled "Map of the Subdivisions of Lot "E" of the Standard Eucalyptus Tract, which was filed for record on March 10, 1910 in Book 1 of Maps, Page 17; Lot Line Adjustment COAL 81-023, Parcel A; and Public Lot PL80-088, Parcel 11, and were legally created by deed, public lot, and issuance of multiple building and land use permits at a time when that was a legal method of creating parcels per Section 66499.34 of the Subdivision Map Act.

**STAFF RECOMMENDATION**

Staff recommends that the Planning Commission take the following action:

1. Certify the Final Environmental Impact Report (FEIR) in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq.
2. Approve Conditional Use Permit DRC2008-00146 based on the findings listed in Exhibit A and the conditions listed in Exhibit B including the adoption the CEQA findings in Exhibit C.

Staff report prepared by Murry Wilson and reviewed by Steve McMasters.

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**ATTACHMENTS**

Exhibit A – Findings

Exhibit B – Conditions of Approval

Exhibit C – CEQA Findings

Exhibit D – Project Graphics

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### **EXHIBIT A – FINDINGS**

#### **Environmental Determination**

- A. The Environmental Coordinator finds that there is evidence that the project may have a significant effect on the environment, and therefore an Environmental Impact Report was prepared (pursuant to Public Resources Code Section 21000, et seq., and California Administrative Code Section 15000, et seq.) for the proposed project. Impacts were identified and mitigation measures have been proposed for: Air Quality, Public Safety and Hazardous Materials, Noise and Vibration, Transportation and Circulation, Public Services, Land Use Policies, and Water Resources. See Exhibit C for CEQA Findings.

#### **Development Plan**

- B. The proposed increase in throughput is consistent with the San Luis Obispo County General Plan and Local Coastal Program because the use is an allowable use in the Industrial land use category and as conditioned is consistent with all the General Plan Policies and Local Coastal Program Policies.
- C. As conditioned, the proposed throughput increase satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the throughput increase will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because as identified in the EIR, adverse and unavoidable significant impacts will not result and potentially significant impacts related to Air Quality, Public Safety and Hazardous Materials, Noise and Vibration, Transportation and Circulation, Public Services, Land Use Policies, and Water Resources will be mitigated to a level of insignificance as detailed in the EIR.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development. The project site is located in the Industrial land use category and is occupied by an existing oil refinery. With inclusion of the recommended mitigation measures, impacts associated with the throughput increase will be mitigated to a level of insignificance.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project. The throughput increase would result in an increase in project related traffic of approximately 3.9 trips per day over the CEQA baseline, or 11.4 trips per day over the current operations which would not result in a change to Level of Service (LOS) or contribute to a substantial change in traffic loads on any of the project related intersections or roadways. Additionally, the environmentally superior alternative (the proposed project with the southbound route alternative) would reduce impacts along Highway 166 (in the City of Santa Maria) and the recommended measure to use the Willow Road interchange for north and eastbound traffic would reduce impacts associated with north and eastbound traffic (in and around the City of Arroyo Grande).

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- G. The proposed throughput increase is consistent with the requirements of the San Luis Obispo County Coastal Zone Land Use Ordinance Section 23.02.034 c(4)(vi) which requires conformity with the public access and recreational policies of Chapter 3 of the California Coastal Act because as conditioned, the project will be required to comply with Section 23.04.420 – Coastal Access Required. Lateral access will not be required for this project because the lands within 25 feet of the shoreline are not under ownership of the applicant. Vertical access will be required by Condition of Approval #17 in the approximate location of the existing maintenance road. The project site contains approximately 7,600 feet (1.44 miles) of property frontage adjacent to the State recreation area requiring one vertical access pursuant to Section 23.04.420 d.(1)(ii).

### Sensitive Resource Area

- H. The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design, because the proposed project would not result in any additional ground disturbance beyond the current developed footprint of the refinery as a result of the throughput increase.

### Environmentally Sensitive Habitats

- I. There will be no significant impact on the sensitive Terrestrial Habitat located on the project site (west of the UPRR tracks) and the proposed use will not disrupt or be inconsistent with the biological continuance of the habitat because the project will not result in any new ground disturbance to facilitate the throughput increase. The vertical access required as a condition of approval of this project would be located within or adjacent to the existing maintenance road as shown in Exhibit D – Project Graphics.



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### **EXHIBIT B - CONDITIONS OF APPROVAL**

#### **Approved Development**

1. This approval authorizes:
  - a. Development Plan / Coastal Development Permit (DRC2008-00146) to allow for the increase in the daily maximum limit of crude oil throughput (by 10 percent) from 44,500 barrels per day (bpd) to 48,950 bpd at the Santa Maria Facility (SMF). Additionally, for the SLOCAPCD permit, the 12-month rolling average of crude oil throughput would increase from 16,220,600 barrels per year (bpy) to 17,866,750 bpy.
  - b. The project as conditioned herein including the use of the environmental preferred alternative "Southbound Route Alternative" as follows: State Route 1 (Willow Road which turns into Guadalupe Road then Cabrillo Highway and lastly Casmalia Road) east and then south to West Clark Avenue; and east on West Clark Avenue (which becomes East Clark Avenue) to U.S. Highway 101 southbound ramp.
  - c. All previous conditions of approval authorized by previous use permits shall remain in effect except for conditions of approval specifically modified by this approval as described herein.
  - d. Any future expansion beyond 48,950 bpd or 17,866,750 bpy shall require Development Plan / Coastal Development Permit approval including preparation of a Specific Plan as required by Section 23.08.094.

#### **Site Development**

2. **For any facility upgrade requiring issuance of a construction permit required by this approval**, plans submitted shall show all development consistent with the approved site plan.
3. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp or the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

#### **Fire Safety**

4. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code.

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5. **Prior to occupancy or final inspection of any improvements requiring a Fire Safety Plan**, the applicant shall obtain final inspection and approval from CDF of all required fire/life safety measures.

**Fees**

6. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.

**Air Quality**

7. **(AQ-1.1) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput**, the Applicant shall apply BACT on the crude heaters, coker heaters and boilers, vacuum heaters and superheaters, and/or utilize an equivalent method onsite with other equipment, to reduce the NO<sub>x</sub> emissions to less than the SLOCAPCD thresholds.
8. **(AQ-1.2) To the extent feasible**, and if AQ-1.1 does not reduce emissions to below the thresholds, all trucks under contract to the Santa Maria Facility (SMF) shall meet EPA 2010 or 2007 model year NO<sub>x</sub> and PM emission requirements and a preference for the use of rail over trucks for the transportation of coke shall be implemented to the extent feasible in order to reduce off-site emissions. Annual truck trips associated with refinery operations and their associated model year and emissions shall be submitted to the SLOCAPCD annually.
9. **(AQ-1.3) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput**, if emissions cannot be mitigated below significance thresholds through implementation of mitigation measures AQ-1.1 and AQ-1.2, then off-site mitigation will be required as per SLOCAPCD guidance in the CEQA Handbook.
10. **(AQ-2) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput**, the Applicant shall prepare and submit an Odor Control Plan, which shall be approved by the SLOCAPCD. The Odor Control Plan shall identify all potential sources of odors at the Refinery. The plan shall detail how odors will be controlled at each odor source and the mechanism in place in the event of an upset or breakdown, as well as design methods to reduce odors, including redundancy of equipment (e.g., pumps and VRU compressors) or reductions in fuel gas sulfur content. Area monitoring shall be discussed. The Plan shall also include a complaint monitoring and reporting section and include a hotline number for individuals to call in case of a complaint.
11. **(AQ-3) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput**, the Applicant shall implement a program to increase efficiency of the Refinery stationary combustion devices to maintain GHG emissions to less than the SLOCAPCD thresholds (10,000 metric tonnes per year) over the emissions associated with the current permitted throughput. If the emission reductions threshold cannot be met by increasing stationary equipment efficiency, additional measures may include the use of more efficient model year trucks or alternative fueled vehicles for hauling vehicles. If after all applicable measures have been implemented, emissions are still over the

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thresholds, then off-site mitigation will be required. The off-site mitigation measures shall be approved by the SLOCAPCD **prior to of the Notice to Proceed authorizing an increase in Refinery throughput.**

### ***Public Safety and Hazardous Materials***

12. **(PSHM-3) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput,** the Applicant shall ensure that any additional coke produced shall be deposited within designated areas as specified by the Coke and Sulfur Storage and Handling Plan and that these areas shall be clearly delineated to all operators. Storage of coke outside these existing delineated areas shall be only within lined areas or other equivalent measures to prevent groundwater contamination, as per consultation with the RWQCB.

### ***Noise and Vibration***

13. **(N-1)** The Applicant shall provide for a noise monitoring study, under the supervision of the County staff, to determine the noise levels in the vicinity of the Santa Margarita Pump Station and the compliance with applicable codes and standards. If noise levels are a concern, the Applicant shall install, at the Santa Margarita Pump Station, a sound wall constructed of barrier pads between the noise sources and residences, as close to the pumping operations as feasible, to reduce noise levels at the closest receptor property line to the County significance threshold level 50 dBA. Additional barrier walls shall be installed as deemed necessary by in-field measurements. Installation of the sound wall shall be verified by County Planning and Building **prior to of the Notice to Proceed authorizing an increase in Refinery throughput.**

### ***Water Resources***

14. **(WR-3.1)** The Applicant shall ensure that any additional increased process water is treated by the wastewater treatment system in conformance with the NPDES Permit.
15. **(WR-3.2) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput,** existing spill management precautions shall be amended as needed to mitigate an increased spill size due to the increased amount of crude oil processing as reviewed and approved by San Luis Obispo County Planning and Building in consultation with Environmental Health Services.

### ***Transportation and Circulation***

16. **(TR-1) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput,** the Applicant shall pay South County Area 2 Road Impact Fees to the Department of Public Works for the proposed 0.78 peak hour trip increase in accordance with the latest adopted fee schedule. In addition, after the Willow Road/U.S.Highway 101 interchange is completed, the Applicant shall end the use of both their northbound and eastbound truck routes, as identified in this document, and shall use the Willow Road Interchange instead. The Applicant shall notify all applicable truck drivers of this route change by mail and shall post the notification at the Project Site.

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### ***Coastal Access***

17. **Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput**, the applicant shall comply with Section 23.04.420 – Coastal Access Required. Construction of improvements associated with vertical public access (if required) shall occur within 10 years of the effective date of this permit (including any required Coastal Development Permit to authorize such construction) or at the time of any subsequent use permit approved at the project site, whichever occurs first. The approximate location of the vertical access required by this condition of approval shall be located within or immediately adjacent to the existing maintenance road as shown in Exhibit D – Project Graphic (Coastal Access Location Map 1 and 2).

### ***Habitat Restoration***

18. **Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput**, the applicant shall quantify the area where coke storage bi-products have been historically deposited outside the reduced and delineated coke storage area required by PSHM-3 (COA #12). This area which would no longer be used for active coke storage shall either be restored or similar degraded habitat and in the same biome on another portion of the project site equal in area to the area no long used for coke storage shall be restored pursuant to Section 23.07.170. Restoration of damage habitats shall occur within 10 years of the effective date of this permit (including any required Coastal Development Permit to authorize such) or at the time of any subsequent use permit approved at the project site, whichever occurs first.

### ***On-going conditions of approval (valid for the life of the project)***

19. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once the Notice to Proceed has been issued by the Department of Planning and Building.
20. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.
21. The applicant shall, as a condition of the approval and use of this conditional use permit, enter into, and maintain for the life of the project, an agreement with the County providing for the defense and indemnification of the County, at its sole expense, any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve and issue this Development Plan / Coastal Development Permit or the manner in which the County is interpreting or enforcing the conditions of this conditional use permit, or any other action by a third party relating to approval or implementation of this Development Plan / Coastal Development Permit. The agreement shall provide that the applicant will

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reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of its obligation under this condition.

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### EXHIBIT C – CEQA FINDINGS PHILLIPS 66 – SANTA MARIA REFINERY THROUGHPUT INCREASE

#### I. PROJECT DESCRIPTION

The Phillips 66 – Santa Maria Facility (SMF), built in 1955, operates 24 hours per day and 365 days per year, except when shut down for maintenance. The SMF mainly processes heavy, high-sulfur crude oil. Semi-refined liquid products from the SMF are sent by pipeline to the Rodeo Refinery near San Francisco for upgrading into finished petroleum products. Products leaving the SMF are: (1) semi-refined petroleum by pipeline; (2) solid petroleum coke by rail or haul truck; and (3) recovered sulfur by haul truck.

The Proposed Project would potentially cause the following changes at the SMF:

- An increase in volumes of crude oil delivered to and shipped via pipeline from the Santa Maria Pump Station to the SMF;
- An increased volume of products leaving the SMF for the Rodeo Refinery via pipeline;
- An increased volume of green coke and sulfur production; and
- An increase in shipments leaving the facility by either truck or railcar.

The Proposed Project entails an increase to the permitted volume of processed crude oil over the existing permit level by 10 percent. Under the Proposed Project, the County Planning and Building permit would increase the daily maximum limit of crude oil throughput by 10 percent, from 44,500 bpd to 48,950 bpd. Additionally, for the SLOCAPCD permit, the 12-month rolling average of crude throughput would increase from 16,220,600 bpy to 17,866,750 bpy. While the County's permit is based on a daily maximum and the SLOCAPCD's permit is based on twelve-month rolling average, these volume limits are the same.

The Proposed Project would not involve any construction or additions to the SMF plot plan. No changes to the overall processing methods are proposed. Phillips estimates water use may increase by one percent under the Proposed Project.

#### II. THE RECORD

The California Code of Regulations, Title 14, Section 15091(b), requires that the Planning Commission's findings be supported by substantial evidence in the record. Accordingly, the Lead Agency's record consists of the following, which are located at the County Planning and Building Department Offices, San Luis Obispo, California:

- A. Documentary and oral evidence received and reviewed by the Planning Commission during the public hearings on the project.
- B. The Phillips Santa Maria Refinery Throughput Increase Project Final EIR (October 2012).
- C. The Phillips Santa Maria Refinery Throughput Increase Project Development Plan / Coastal Development Permit application and supporting materials.
- D. The Phillips Santa Maria Refinery Throughput Increase Project Staff Report prepared for the Planning Commission.
- E. Matters of common knowledge to the Commission that it considers, such as:
  - i. The County General Plan, including the land use maps and elements thereof;

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- ii. The text of the Land Use Element;
- iii. The California Environmental Quality Act (CEQA) and the CEQA Guidelines;
- iv. The County of San Luis Obispo Environmental Quality Act Guidelines;
- v. The Clean Air Plan;
- vi. Other formally adopted County, State and Federal regulations, statutes, policies, and ordinances; and
- vii. Additional documents referenced in the Final EIR for the Phillips Santa Maria Refinery Throughput Increase Project.

### III. CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT

The Planning Commission certifies the following with respect to the Phillips Santa Maria Refinery Throughput Increase Project Final EIR:

- A. The Planning Commission has reviewed and considered the Phillips Santa Maria Refinery Throughput Increase Project Final EIR.
- B. The Final Environmental Impact Report for the Phillips Santa Maria Refinery Throughput Increase Project has been completed in compliance with the California Environmental Quality Act.
- C. The Final Environmental Impact Report and all related public comments and responses have been presented to the Planning Commission, and they have reviewed and considered the information contained in the Final Environmental Impact Report and testimony presented at the public hearing prior to approving the Phillips Santa Maria Refinery Throughput Increase Project.
- D. The Phillips Santa Maria Refinery Throughput Increase Project Final EIR reflects the independent judgment of the Planning Commission, acting as one of the lead agencies for the project.

### IV. FINDINGS FOR IMPACTS IDENTIFIED AS BENEFICIAL OR NOT SIGNIFICANT (CLASS III)

Air Quality	
<b>Impact AQ.4</b>	Potential increased operations at the Refinery would emit air-borne toxic materials.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> The increase in throughput associated with the Proposed Project would increase emissions at the Refinery and along transportation routes between the Refinery and area highways. Some of these emissions would be toxic materials that could increase health risks for populations near to the Refinery.</p> <p>A toxic emission inventory was developed for the Refinery in 2004, which included only stationary sources at the SMF and also included operations such as the calciner, which have since been shut down. The 2004 inventory was used in a 2007 health risk assessment prepared by ConocoPhillips (now Phillips 66) which utilized the California Air Resources Board's Hotspots Analysis and Reporting Program model to assess the cancer, chronic, and acute health risk impacts. The primary cause of health risk impacts at the Refinery in 2004 was determined to be the diesel-cooling water pump. In 2005, a diesel oxidation catalyst (DOC) was reportedly installed on the diesel cooling water pump to reduce diesel particulate emissions by</p>	

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Air Quality	
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<p>30 percent. The installation of the DOC and shutdown of calcining operations resulted in a reduction in health risk levels to 15 cancer cases per one million at the Refinery boundary.</p>	
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<p>Since 2004, several additional changes at the Refinery have reduced toxic emissions, including shutting down the calciner, installation of various DOC and diesel particulate filters (DPF) on several diesel engines, and reductions in fugitive emissions with a more rigorous fugitive emissions control program. Additionally, the SLOCAPCD reported that the diesel cooling water pump has been replaced by a natural gas engine with catalyst, which has reduced risk levels by at least 80 percent. This would reduce health risk levels to approximately five cases per one million.</p>	
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<p>As part of the Applicant's comments on the DEIR, the Applicant prepared and submitted a revised HRA utilizing 2010 emission data and assumptions about the operating characteristics of the Refinery if it were to operate at the Proposed Project levels. This HRA is included in the comments on the DEIR. The HRA indicated that the highest cancer risks at the facility fence line would be 2.1 in a million, and that chronic and acute risks would be 0.02 and 0.38, respectively, associated with the Proposed Project operations. These levels are less than the health risk thresholds of 10 in one million (for cancer) and 1.0 HI for acute and chronic impacts and would be less than significant.</p>	
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<p>Diesel-powered trucks traveling along area roadways could also increase health risks associated with emissions. Modeling was conducted using Aeromod to assess the impacts of truck traffic along area roadways between the Refinery and U.S. Highway 101. The cancer risks associated with truck traffic would increase over the baseline to a level of 5.9 cancer cases per million immediately south of the Refinery along area roadways. This would be less than the thresholds and would be a less than significant impact.</p>	
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Public Safety and Hazardous Materials	
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<b>Impact PSHM.1</b>	The Proposed Project could introduce risk to the public associated with accidental releases of hazardous materials from the SMF processing operations.
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<b>Mitigation</b>	None.
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<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
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<p><b>Supportive Evidence:</b> Releases of hazardous materials from the Proposed Project site would not acutely impact nearby residences, agriculture, or industrial facilities since the SMF is far away from these receptors. Some releases at facilities are caused by vandalism, such as opening valves or sabotaging equipment integrity. This could increase the frequency of releases. These impacts can be reduced by securing the facilities to reduce the probability of vandalism. The refinery currently has gated access and 24-hour security measures to reduce vandalism. That said, impacts from releases at the refinery would not impact sensitive receptors. Therefore, impacts would be less than significant (Class III).</p>	
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<b>Impact PSHM.2</b>	The Proposed Project could introduce risk to the public associated with the transportation of SMF product along local and area roadways.
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<b>Mitigation</b>	None.
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<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
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<p><b>Supportive Evidence:</b> Products leave the SMF as solid petroleum coke by rail or haul truck and as recovered sulfur by haul truck as well as some hazardous wastes. Shipments of coke and sulfur would be expected to increase with the proposed Project. However, transportation of</p>	
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Public Safety and Hazardous Materials	
hazardous waste under the Proposed Project would be expected to be the same as the current operations.	
Petroleum coke is shipped via truck or railcar to customers as fuel or onto ships for export. Major petroleum coke destinations include Mojave, Victorville, Cupertino, Fontana, Lebec, and Gorman, and Long Beach for export.	
Sulfur is shipped via truck to customers in the agricultural industry or loaded on ships for export. All products are shipped outside of SLOC. Sulfur truck destinations are in the San Joaquin Valley from Bakersfield to Fresno, as well as Long Beach for export.	
Pipeline transportation of crude oil presents a low risk to public health since crude oil spills generally do not catch fire and the public has sufficient time to move away from spills in the unlikely event of ignition. Generally, spills of crude oil produce environmental impacts as opposed to public safety impacts.	
Risk levels associated with transportation would be minimal due to the properties of crude oil, sulfur, and coke and impacts would primarily affect environmental resources. The nominal increase in flow rates associated with the Proposed Project would produce environmental impacts similar to current operations. Therefore, impacts would be less than significant (Class III).	

Noise and Vibration	
<b>Impact N.2</b>	Traffic increases on area roadways near the Refinery could increase noise levels in the area.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<b>Supportive Evidence:</b> Refinery operations generate traffic associated with coke and sulfur transportation out of the Refinery. Other traffic, such as traffic related to employees or deliveries, would not change with the Proposed Project. This increase in traffic levels could generate an increase in noise levels at nearby residences.	
Noise was modeled using the FHWA Highway Noise Prediction Model, using 2008 traffic levels from the San Luis Obispo County Public Works Department and additional truck traffic added according to the EIR's Project Description. The Proposed Project would add less than four trucks per day to area traffic. Noise levels generated by this traffic scenario are estimated to increase by less than 0.1 dBA CNEL for a receptor 100 feet from the center of State Route 1. This would be a less than significant impact (Class III).	

Public Services	
<b>Impact PS.1</b>	Increased throughput and operations at the Santa Maria Facility would produce increased sanitary wastewater.
<b>Mitigation</b>	None required beyond existing National Pollutant Discharge Elimination System (NPDES) permit requirements identified in mitigation measure WR-3.1.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<b>Supportive Evidence:</b> The Proposed Project would not generate large flows of increased sanitary wastewater.	
All water drainage, including storm run-off, is contained onsite. The SMF discharges water to the Pacific Ocean pursuant to waste discharge requirements in Regional Water Quality Control	

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Public Services	
<p>Board Order Number R3-2007-0002, adopted September 7, 2007. The Order serves as the permit under the National Pollutant Discharge Elimination System.</p> <p>All process wastewater and contaminated stormwater from the facility flow to a treatment system consisting of oil/water separators, dissolved air flotation, trickling filter, extended aeration, and secondary clarification. The treated wastewater is discharged to the Pacific Ocean through an outfall terminating 1,700 feet offshore and 27 feet deep.</p> <p>Under the National Pollutant Discharge Elimination System (NPDES) permit, the SMF can discharge up to 0.57 MGD of treated wastewater from the facility to the Pacific Ocean in dry weather conditions. The treatment system receives 279 gpm (0.40 MGD) of actual dry-weather process water. Flows of typical dry weather discharge from the treatment system to the outfall sump are 266 gpm (0.38 MGD) and flows of typical wet weather discharge from the treatment system to the outfall are approximately 406 gpm (0.58 MGD). Oil is recovered from the wastewater and contact stormwater during treatment.</p> <p>These levels would not be expected to change with the Proposed Project. Therefore, the Proposed Project's impact due to increased quantities of wastewater would be less than significant (Class III).</p>	
<b>Impact PS.2</b>	The Proposed Project throughput increase operations would not generate increases in solid wastes.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> Quantities of wastes associated with the throughput increase would be the same or similar as the current operations. The Project would not need new or physically altered waste handling facilities, and would comply with applicable regulations.</p> <p>During operations, trash and rubbish would continue to be collected in waste bins and disposed of by a local waste hauler. The Cold Canyon Landfill would be the primary landfill serving the Proposed Project. If not, both the Chicago Grade and City of Paso Robles landfills have sufficient capacity.</p> <p>Therefore, based on the remaining capacity of the available landfills, potential impacts would be less than significant (Class III). No measures beyond compliance with existing ordinance standards are necessary.</p>	
<b>Impact PS.3</b>	Impacts from electricity consumption at the Santa Maria Facility due to throughput increase operations.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> In 2009, the SMF generated 20,732 MWhr of electricity onsite and purchased 23,273 MWhr of electricity from Pacific Gas and Electric Company. This amount of energy was generated with a crude oil throughput of 35,838 bpd. In 2007 and 2008, with 43,321 and 41,655 bpd, electricity purchased decreased due to the increased fuel gas produced by the additional crude oil (to 19,293 and 22,736 MWhr, respectively). The Applicant indicates that the amount of electricity purchased would continue to decrease with increased crude oil throughputs. However, although this trend would most likely continue, it would also be a function of the crude types and the amount of decreased electricity purchased by the SMF.</p>	

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Public Services	
cannot be definitively estimated. Therefore, under the Proposed Project, electricity purchased from Pacific Gas and Electric Company would most likely remain the same or decrease from historical levels since the Refinery would generate more produced gas if crude throughput rates were higher.	
The use of electricity would not require upgrades to the current electrical facilities.	
Since increased crude oil throughput would not increase the Refinery's use of electricity from the power grid, the Proposed Project would not substantially increase demand and the impacts on electrical energy resources would be less than significant (Class III).	
<b>Impact PS.4</b>	Increased fossil fuel consumption and production (diesel, gasoline, and natural gas) at the Santa Maria Facility could thereby decrease availability.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<b>Supportive Evidence:</b> In 2009, the SMF generated 2,185 mmscf of natural gas onsite and purchased 397 mmscf of natural gas from the Southern California Gas Company. In 2007 and 2008, with higher crude oil throughputs, gas purchased was less, at 214 and 226 mmscf. This was due to the increase amounts of refinery gas produced from the additional crude oil processed. The Proposed Project would increase onsite refinery fuel gas production to potentially 3,171 mmscf per year and the amount of natural gas purchased from Southern California Gas Company would most likely remain the same or decrease. The use of diesel fuel and flaring are not expected to increase with the throughput increase.	
Therefore, the proposed throughput increase would not substantially increase consumption and production (thereby decreasing availability) and the impacts on energy resources would be less than significant (Class III).	
<b>Impact PS.5</b>	Throughput increase at the site would not impact fire protection and emergency response.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<b>Supportive Evidence:</b> The Applicant proposes to utilize the existing fire protection system at the SMF to provide a level of protection for the Proposed Project. The increased throughput would not produce additional impacts on area fire-fighting capabilities since the resources required to address emergencies at the SMF under the Proposed Project would be the same as under the current operations. Impacts would therefore be less than significant (Class III).	

Transportation and Circulation	
<b>Impact TR.1</b>	Traffic associated with the Proposed Project would increase traffic on local roads and the freeway.
<b>Mitigation</b>	TR-1 Within 30 days of permit approval, the Applicant shall pay South County Area 2 Road Impact Fees to the Department of Public Works for the proposed 0.78 peak hour trip increase in accordance with the latest adopted fee schedule. In addition, after the Willow Road/U.S. Highway 101 interchange is completed, the Applicant shall end the use of both their northbound and eastbound truck routes, as identified in this document, and shall use the Willow Road

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Transportation and Circulation	
	Interchange instead. The Applicant shall notify all applicable truck drivers of this route change by mail and shall post the notification at the Project Site.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> Additional traffic would be generated as a result of the throughput increase operations; however, the number of additional trucks needed to transport produced coke and sulfur would be a nominal four trucks per day. The Proposed Project would not change traffic associated with workers or miscellaneous deliveries.</p> <p>The Proposed Project operations estimate an increase from 17,732 truck roundtrips per year (associated with the SMF operating at the permitted capacity, as analyzed in previous CEQA documents) to 19,162 truck roundtrips per year, which is the increase in traffic levels from the permit level to the new Proposed Project permit level, an increase of 1,430 roundtrips per year, or approximately 3.9 trips per day. Increased traffic on area roadways would equal the increase from the current operations (2009) to the proposed project level, which would total the 3.9 trucks trips per day plus 7.5 trucks trips per day (the difference between the current operations and the CEQA permitted level of 44,500 bpd). This would total an increase on area roadways of 11.4 truck trips per day.</p> <p>This traffic level increase would not contribute to a change in LOS or contribute to a substantial change in traffic load.</p> <p>The State Route 1 and Halcyon Road intersections (offset) currently operate at AM and PM peak hour LOS E or worse; however, these offset intersections currently meet the MUTCD 2003 based peak hour signal warrant #3 (rural areas) criteria. Traffic travelling south on State Route 1 and turning left onto Willow Road heading east currently operates at a LOS A in the AM peak hour and LOS B in the PM peak hour. Traffic traveling west on Willow Road and turning right onto northbound State Route 1 currently operates at a LOS B in the AM peak hour and LOS B in the PM peak hour. The intersection at Tefft and Highway 101 currently operates at a LOS E in the PM peak hour.</p> <p>Regarding the above intersection conditions in relation to the Proposed Project, the total number of truck trips that could occur as a result of the throughput increase is an additional 3.9 truck trips per day over the CEQA baseline, or 11.4 truck trips per day over the current operations. In addition, not all of those truck trips would utilize the Northbound or Eastbound Routes associated with these intersections, with some going south, depending on market for the Refinery products. Only 1-2 trucks leaving the Refinery would be reaching these intersections during peak hours since most trucks are loaded and depart the facility throughout the day. Due to the small number of added truck trips during peak hours and the number of potential routes that could be taken, no impacts are anticipated therefore the portion of this measure that requires the use of Willow Road for north and eastbound trips should be considered a recommended condition.</p> <p>Project-related traffic using the Southbound Route through Guadalupe would not significantly impact the intersection at State Route 1 and State Route 166. According to a 2004 study of this intersection, the AM and PM levels of service are both B.</p> <p>Along roadways, traffic would increase from 0.4 and 1.0 percent in Guadalupe at the Highway 166 interchange (currently an LOS of A). Impacts along the most congested roadways at Pomeroy, for example would increase less than 0.21 percent. Therefore, project-related impacts</p>	

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Transportation and Circulation	
to local roads and the freeway would be less than significant (Class III). The requirement to pay the South County Area 2 Road Impact Fee is required by ordinance and the portion of the measure requiring use of Willow Road should be considered a recommended measure by the Department of Public Works.	

Water Resources	
<b>Impact WR.1</b>	The Proposed Project one percent increase in water usage would not adversely impact the current and future availability of groundwater for other users, including agricultural and residential users.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> The rights to extract water from the Santa Maria Groundwater Basin (SMGB) have been disputed since the 1990s, resulting in several legal proceedings and culminating with a multi-pronged lawsuit known as the Santa Maria Groundwater Litigation. The litigation was resolved in 2008 (Lead Case No. 1-97-CV-770214) with The Judgment After Trial (January 25, 2008), which approved the Stipulation (June 30, 2005). The Stipulation includes provisions for the rights to use the groundwater, development of the groundwater monitoring programs, and development of plans and programs to respond to Potentially Severe and Severe Water Shortage Conditions for the Nipomo Mesa Management Area (NMMA). The Nipomo Mesa Management Area Technical Group (NMMATG), which represents various groups and organizations, was formed as a result of a legal judgment to monitor water usage and produce annual reports for the NMMA. These reports provide a breakdown of the available data for the NMMA, production records, and data presented herein.</p> <p>Based on the 2011 report, the estimated production of groundwater in the NMMA was 10,538 acre-feet (AF) in 2011. Of the 10,538 AF of groundwater produced, the Applicant reported production of 1,100 AF, approximately ten percent of the total production.</p> <p>Currently, no projected increase is predicted for Rural Water Company, and no estimates are available for future agricultural uses.</p> <p>The Proposed Project would result in an increase in groundwater use of one percent, or 11 AFY. According to the Stipulation, Phillips has no limit to the beneficial and reasonable use of groundwater unless there is a Severe Water Shortage Condition. In the next 20 years, if a Severe Water Shortage Condition occurs, per the Stipulation, Phillips would have rights to 110 percent of the highest amount of prior groundwater use (1,550 AFY). The Proposed Project demand (1,111 AFY) is less than Phillips groundwater rights, per the Stipulation. Therefore, the WSA concludes there is sufficient water supply for the Proposed Project for the next 20 years.</p> <p>The water supply assessment is based on the groundwater rights of Phillips, as defined in the Stipulation. San Luis Obispo County and all major water purveyors in the NMMA are signed parties to the Stipulation and are bound by the water management agreement to comply with each and every term, which includes upholding Phillips groundwater rights. The monitoring and water management requirements of the Stipulation are designed to protect the current and future availability of groundwater in the NMMA. Since the Proposed Project water demand is within the groundwater rights of Phillips and less than 110 percent of the highest amount of prior groundwater use, impacts associated with current and future water availability of groundwater for other users, including agricultural and residential users, is considered <i>less than significant (Class III)</i>.</p>	

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Water Resources	
<b>Impact WR.2</b>	The Proposed Project increase in groundwater pumping of onsite wells would not exceed sustained pumping capacities of existing wells, nor result in drawdown of onsite wells and wells on neighboring properties.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<p><b>Supportive Evidence:</b> Water wells within the Santa Maria Groundwater Basin (SMGB) are screened over alluvial and bedrock approximately 1,500 feet below mean sea level under the Santa Maria River and approximately 200 feet above mean sea level under the northeastern edge of the Nipomo Mesa. Wells in the Nipomo Mesa and Santa Maria area are screened for hundreds of feet within alluvial and Paso Robles Formation bedrock. Hydraulic conductivity is estimated to be approximately 15 to 110 gpd/ft<sup>2</sup> in the western portion of the Santa Maria River Valley increasing to 100 to 400 gpd/ft<sup>2</sup> in the central Santa Maria River Valley (Luhdorff and Scalmanini 2002).</p> <p>The existing wells have considerably greater capacity and production capabilities than the current and projected uses. In addition, the Nipomo Mesa Management Area Technical Group (NMMATG) has adopted a Well Management Plan and protocol for establishing and measuring groundwater level measurements. To date, no drawdown or adverse effects have been noted and none are anticipated based on the available data and well conditions. However, the well monitoring program will continue to document and verify these findings. Therefore, the existing water wells have sufficient capacity to provide the additional water demand supply for the Proposed Project.</p> <p>Impacts due to increased groundwater pumping on the adjacent properties would be less than significant (Class III).</p>	

#### V. FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT BUT MITIGABLE (CLASS II)

Air Quality	
<b>Impact AQ.1</b>	Operational activities at the Refinery and offsite would generate emissions that exceed SLOC APCD thresholds.
<b>Mitigation</b>	<p><b>AQ-1.1</b> Prior to issuance of the updated permit and increase in Refinery throughput, the Applicant shall apply BACT on the crude heaters, coker heaters and boilers, vacuum heaters and superheaters, and/or utilize an equivalent method onsite with other equipment, to reduce the NOx emissions to less than the SLOCAPCD thresholds.</p> <p><b>AQ-1.2</b> To the extent feasible, and if AQ-1.1 does not reduce emissions to below the thresholds, all trucks under contract to the SMF shall meet EPA 2010 or 2007 model year NOx and PM emission requirements and a preference for the use of rail over trucks for the transportation of coke shall be implemented to the extent feasible in order to reduce offsite emissions. Annual truck trips associated with refinery operations and their associated model year and emissions shall be</p>

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Air Quality	
	submitted to the SLOCAPCD annually.
AQ-1.3	Prior to issuance of the updated permit, if emissions cannot be mitigated below significance thresholds through implementation of mitigation measures AQ-1.1 and AQ-1.2, then offsite mitigation will be required as per SLOCAPCD guidance in the CEQA Handbook.
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
<p><b>Supportive Evidence:</b> Emissions associated with an increase in crude oil processed would be a linear increase in emissions in relation to the level of crude oil processed for most equipment. The amount of gas used to heat the crude oil would increase by the same level as the increased throughput of crude oil. This is true for most of the combustion processes at the facility. Therefore, an estimate of facility emissions associated with the Proposed Project crude oil throughput increase was produced by increasing the 2009 emissions by the ratio of the Proposed Project crude oil throughput level to the crude oil throughput level in 2009.</p> <p>An increase in emissions of criteria pollutants (CO, ROG, NOx, SO<sub>2</sub>, and PM) during operations would occur due to the increased intensity of operations of the Refinery equipment needed to process the additional crude oil. The ROG+NOx emissions associated with the daily emissions would increase by more than the SLOCAPCD thresholds. Daily emissions of diesel particulate matter, fugitive dust or CO would be below the thresholds. The annual emissions of ROG+NOx and fugitive dust would also be less than the thresholds. Increases in emissions would be subject to New Source Review requirements.</p> <p>Air emissions of criteria pollutants (CO, ROG, NOx, SO<sub>2</sub>, and PM) during operations would also increase as a result of increased transportation of materials associated with the Refinery operations. The level of increase in emissions associated with the transportation of crude oil would be a function of the crude oil origin and the transportation methods. At this time, it is not known where the additional crude oil would come from that would allow the Refinery to operate at a higher throughput level. Increased throughput could be produced from onshore fields or from offshore fields. It could be transported by pipeline or it could be transported by truck to the Santa Maria Pump Station. Since the mode and source of the transportation are not known, a reasonable worst-case scenario is defined where the additional crude oil would come from onshore sources and would be transported by truck to the Santa Maria Pump Station. This scenario would produce the highest emissions associated with an increase in crude deliveries to the Refinery.</p> <p>The Proposed Project would not increase the emissions associated with employees or miscellaneous Refinery deliveries since an increase in the crude oil throughput would not increase employee travel or miscellaneous deliveries.</p> <p>Daily offsite mobile emissions of ROG+NOx and diesel particulate matter would increase more than the SLOCAPCD thresholds. Annual thresholds would not be exceeded.</p> <p>Emissions associated with Refinery operations would increase with the Proposed Project due to the increased use of equipment associated with crude oil processing. Emissions associated with the transportation of sulfur and coke and the delivery of crude oil to the Santa Maria Pump Station would also increase. The increase would be more than the SLOCAPCD thresholds and would therefore be a significant impact.</p>	



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Air Quality	
However, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).	
<b>Impact AQ.2</b>	Operational activities could increase the frequency or duration of odor events.
<b>Mitigation</b>	AQ-2 The Applicant shall prepare and submit an Odor Control Plan, which shall be approved by the SLOCAPCD prior to the issuance of a revised permit. The Odor Control Plan shall identify all potential sources of odors at the Refinery. The plan shall detail how odors will be controlled at each odor source and the mechanism in place in the event of an upset or breakdown, as well as design methods to reduce odors, including redundancy of equipment (e.g., pumps and VRU compressors) or reductions in fuel gas sulfur content. Area monitoring shall be discussed. The Plan shall also include a complaint monitoring and reporting section and include a hotline number for individuals to call in case of a complaint.
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
<p><b>Supportive Evidence:</b> Odor events could occur from many different situations associated with Refinery equipment operations. The equipment components could leak and cause odors. Tanks are equipped with hatches to protect them from overpressure. These hatches could lift, leading to odor events. The amount of throughput through the crude oil tanks would increase under the Proposed Project. The storage of sulfur at the Refinery could also be a source of odors to nearby residences and the amount of sulfur moved through the Refinery would increase with the Proposed Project. The combustion of Refinery gases that contain sulfur produces SO<sub>2</sub> which could travel downwind after combustion and produces odors. Sulfur levels of Refinery fuel gases vary, but generally are limited by the SLOCAPCD permit to less than 797 ppm and generally range from 250 to 300 ppm. Although these levels would not change with the Proposed Project, the amount of gas that is treated and combusted would increase with the Proposed Project.</p> <p>Released materials that cause odors can travel a substantial distance since the odor thresholds for materials can be as low as parts per billion. Odor impacts associated with accidental releases or from normal operations at the Refinery could impact surrounding areas. Increased processing of crude oil would lead to increased movements of sulfur and increased emissions, increased cycling of coker units and increased cycling of crude tank levels in the crude oil tanks, all of which would lead to an increase in emissions and a potential for an increased frequency and/or duration of odor events. This would be considered a significant impact; however, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).</p>	
<b>Impact AQ.3</b>	Operational activities could increase GHG emissions.
<b>Mitigation</b>	AQ-3 The Applicant shall implement a program to increase efficiency of the Refinery stationary combustion devices to maintain GHG emissions to less than the SLOCAPCD thresholds (10,000 metric tonnes per year) over the emissions associated with the current permitted throughput. In addition to increasing stationary



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Air Quality	
	equipment efficiency, additional measures may include the use of more efficient model year trucks or alternative fueled vehicles for hauling vehicles. If after all applicable measures have been implemented, emissions are still over the thresholds, then off-site mitigation will be required. The off-site mitigation measures shall be approved by the SLOCAPCD prior to permit issuance.
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
<p><b>Supportive Evidence:</b> GHG associated with operations include emissions from combustion sources (e.g., flare, heaters, boilers, and electrical generators), offsite vehicles, and fugitive emissions that contain CO<sub>2</sub> and methane. The largest source of GHG emissions are the heaters and the electrical generators.</p> <p>Refinery operations account for more than 90 percent of the GHG emissions, with onsite stationary sources creating the vast majority of emissions and offsite mobile emissions accounting for the remaining percentage.</p> <p>The GHG emissions estimate utilizes the same approach as the criteria emissions estimate, whereby emissions from equipment are assumed to increase proportional to the increase in crude throughput. Since the majority of emissions are associated with Refinery combustion from the crude oil heaters, the coke heaters, and boilers, which would have an increase in heating requirements as a function of the increase in crude oil throughput, this estimate is considered to be an accurate assessment of the Proposed Project GHG emissions.</p> <p>Emissions of GHG would be greater than the significance threshold of 10,000 metric tonnes CO<sub>2</sub>e. However, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).</p>	

Public Safety and Hazardous Materials	
<b>Impact PSHM.3</b>	The Proposed Project could introduce contamination to groundwater through exacerbation of existing contamination issues.
<b>Mitigation</b>	PSHM-3 Prior to issuance of the updated permit and increase in Refinery throughput, the Applicant shall ensure that any additional coke produced shall be deposited within designated areas as specified by the Coke and Sulfur Storage and Handling Plan and that these areas shall be clearly delineated to all operators. Storage of coke outside these existing delineated areas shall be only within lined areas or other equivalent measures to prevent any additional groundwater contamination, as per consultation with the RWQCB.
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
<p><b>Supportive Evidence:</b> The proposed Project could increase the amount of coke produced and stored at the coke piles. The coke piles have been identified by the RWQCB as a source of localized, low-level groundwater contamination. Based on a review of the most recent (May 2011) Coke and Sulfur Storage and Handling Plan, the coke pile is limited in its extents to the area in the layout figure in the plan. As long as coke is deposited within this designated area, then the extent of coke affected area would not increase with the proposed increase in coke</p>	

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<b>Public Safety and Hazardous Materials</b>	
throughput associated with the Proposed Project. However, any increased coke storage outside of this area could exacerbate this groundwater contamination and thereby produce a potentially significant impact. Therefore, with implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).	

<b>Noise and Vibration</b>	
<b>Impact N.1</b>	Operation increases at the Refinery could increase noise levels in the area.
<b>Mitigation</b>	N-1 The Applicant shall provide for a noise monitoring study, under the supervision of the County staff, to determine the noise levels in the vicinity of the Santa Margarita Pump Station and the compliance with applicable codes and standards. If noise levels are a concern, the Applicant shall install, at the Santa Margarita Pump Station, a sound wall constructed of barrier pads between the noise sources and residences, as close to the pumping operations as feasible, to reduce noise levels at the closest receptor property line to the County significance threshold level 50 dBA. Additional barrier walls shall be installed as deemed necessary by in-field measurements. Installation of the sound wall shall be verified by County Planning and Building prior to the issuance of the updated permit/authorization to proceed.
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
<p><b>Supportive Evidence:</b> Various operations and alarms at the Refinery generate noise in the community. The level of noise impacts on the community would not increase due to an increase in crude oil throughput at the Refinery. Alarm frequency would remain the same. Although equipment use, such as the crude heaters, would increase, noise levels would not increase at receptors near the Refinery.</p> <p>The pump stations along the pipeline routes from the Santa Maria Pump Station to the Refinery and from the Refinery north to the Bay Area could increase their pumping frequency or pump-drive load or operate in a manner that would increase noise levels as more crude oil would need to be pumped (e.g., operating multiple pumps).</p> <p>The Summit Pump Station, located midway between the Santa Maria Pump Station and the Refinery, is in close proximity to residences. However, as there are no pumps at this location, an increase in throughput would not generate additional noise levels at nearby residences.</p> <p>The Santa Margarita Pump Station, located along the pipeline from the Refinery to the Bay Area, is also located in a rural area in close proximity to residences. Natural gas engines operate the pumps and make substantially more noise than electricity driven pumps. Noise monitoring at the Santa Margarita Pump Station indicated that noise levels during the nighttime would be audible to nearby residences, but would not produce a significant impact. However, noise levels at the Santa Margarita Pump Station property line currently exceed the County Noise Element limit of 50 dBA. Increasing operations of these pumps, which might or might not occur under the Proposed Project, would be considered a significant impact. However, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).</p>	

<b>Land Use and Policy Consistency Analysis</b>
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Land Use and Policy Consistency Analysis	
<b>Impact LU.1</b>	Noise from throughput increase operations would be incompatible with the adjacent land uses.
<b>Mitigation</b>	Implementation of mitigation measure N-1.
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
<p><b>Supportive Evidence:</b> Potential future operations would be in close proximity to land uses zoned as recreational, agricultural, residential land, and open space. Various operations and alarms at the Refinery generate noise in the community. The level of noise impacts on the community would not increase due to an increase in crude oil throughput at the Refinery. Alarm frequency would remain the same. Although use of equipment, such as the crude heaters, would increase, noise levels would not increase at receptors near the Refinery.</p> <p>The pump stations along the pipeline routes from the Santa Maria Pump Station to the Refinery and from the Refinery north to the Bay Area could increase their pumping frequency or operate in a manner that would increase noise levels (e.g., operating multiple pumps).</p> <p>The Summit Pump Station, located midway between the Santa Maria Pump Station and the Refinery, is in close proximity to residences. However, the pumps at this location have been shut down and the facility produces minimal noise. An increase in throughput at this location would not generate additional noise levels at nearby residences.</p> <p>The Santa Margarita Pump Station, located along the pipeline from the Refinery to the Bay Area, is also located in a rural area in close proximity to residences. Natural gas engines operate the pumps and create noise in the vicinity. Noise monitoring at the Santa Margarita Pump Station indicated that noise levels during the nighttime would be audible to nearby residences, but would not produce a significant impact. However, noise levels at the Santa Margarita Pump Station property line currently exceed the County Noise Element limit of 50 dBA. Increasing operations of these pumps, which might or might not occur under the Proposed Project, would be considered a significant impact. However, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).</p>	
<b>Impact LU.2</b>	Emissions and odors from operations could be incompatible with adjacent land uses.
<b>Mitigation</b>	Implementation of mitigation measure AQ-2.
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
<p><b>Supportive Evidence:</b> Throughput increase operations at the SMF could cause emissions and odor events as various components in the operations equipment could leak and cyclical operations (coking, crude tanks, etc) at the Refinery would increase with the increased throughput, thereby causing odors. The storage of sulfur at the Refinery could also be a source of odors to nearby residences and more sulfur would be processed with the Proposed Project. The combustion of Refinery gases that contain sulfur produces SO<sub>2</sub> which could travel downwind after combustion and produces odors and more gases would be combusted under the Proposed Project. Sulfur levels of Refinery fuel gases vary, but generally are limited by the SLOCAPCD permit to less than 250 to 300 ppm.</p> <p>Released materials that cause odors can travel a substantial distance since the odor thresholds for materials can be as low as parts per billion. Odor impacts associated with accidental releases or from normal operations at the Refinery could impact surrounding areas. Increased processing of crude oil, leading to increased movements of sulfur and increased emissions,</p>	

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Land Use and Policy Consistency Analysis	
could lead to increased frequency and/or duration of odor events. The impacts to adjacent land uses due to emissions and odors would be considered significant. However, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).	

Water Resources	
<b>Impact WR.3</b>	The Proposed Project may have significant impacts on water quality.
<b>Mitigation</b>	<p>WR-3.1 Ensure that any additional increased process water is treated by the wastewater treatment system in conformance with the NPDES Permit.</p> <p>WR-3.2 Existing spill management precautions shall be amended as needed to mitigate an increased spill size due to the increased amount of crude oil processing as reviewed and approved by San Luis Obispo County Planning and Building and San Luis Obispo County Water Resources Division.</p>
<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
<p><b>Supportive Evidence:</b> Impacts to water quality would be significant if spill volume increased along the pipeline route due to the Proposed Project. The Refinery operates under the Environmental Protection Agency National Pollutant Discharge Elimination System (NPDES) Permit No. CA0000051 to minimize potential pollutants to the groundwater and outfall areas.</p> <p>In addition, the facility maintains two separate collection systems: one system processes wastewater and contact stormwater and the second system collects non-contact stormwater. The process water sewer system collects process wastewater and precipitation runoff from the oil storage tank dikes and the operating units. This wastewater flows by gravity to a waste treatment plant that also remediates the groundwater. The wastewater plant includes three oil-water separators, two surge tanks, dissolved air flotation, a trickling filter, an Orbal aeration system, and a secondary clarifier. The treated wastewater is discharged to the Pacific Ocean.</p> <p>The increased crude oil refined at the site would be managed under the same spill prevention guidelines currently in place at the Refinery. In addition, any increased process water shall be treated in the existing treatment system. Impacts could be significant; however, with the implementation of mitigation measures including the minor modification shown in the Conditions of Approval, impacts would be reduced to less than significant (Class II).</p>	

#### VI. FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT AND UNAVOIDABLE (CLASS I)

No significant and unavoidable impacts (Class I) were identified for the Proposed Project.

#### VII. CEQA GENERAL FINDINGS

- A. The Planning Commission finds that changes or alterations have been incorporated into the project to eliminate or substantially lessen all significant impacts where

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feasible. These changes or alterations include mitigation measures and project modifications outlined herein and set forth in more detail in the Phillips Santa Maria Refinery Throughput Increase Project Final EIR.

- B. The Planning Commission finds that the project, as approved, includes an appropriate Mitigation Monitoring Program. This mitigation monitoring program ensures that measures that avoid or lessen the significant project impacts, as required by CEQA and the State CEQA Guidelines, will be implemented as described.
- C. Per CEQA Guidelines 15126.4(a)(1)(B), the proposed project includes performance-based conditions relating to environmental impacts and includes requirements to prepare more detailed plans that will further define the mitigation based on the more detailed plans to be submitted as a part of the project's implementation and operations. For instance, each of the following mitigation measures contains performance-based standards and, therefore, avoids the potential for these measures to be considered deferred mitigation under CEQA:
  - i. AQ-1.1-1.3: Implement Best Available Control Technologies (BACT) or other measures to reduce emissions below thresholds
  - ii. AQ-2: Prepare an Odor Control Plan
  - iii. AQ-3: Develop and implement GHG Emissions Program
  - iv. PSHM-3: Conform with Coke and Sulfur Storage and Handling Plan
  - v. N-1: Provide for a Noise Monitoring Study
  - vi. WR-3.1: Conform with NPDES Permit
  - vii. WR-3.2: Amend Spill Management Precautions
  - viii. TR-1: Pay South County Area 2 Road Impact Fees

#### **VIII. MITIGATION MONITORING AND REPORTING PROGRAM**

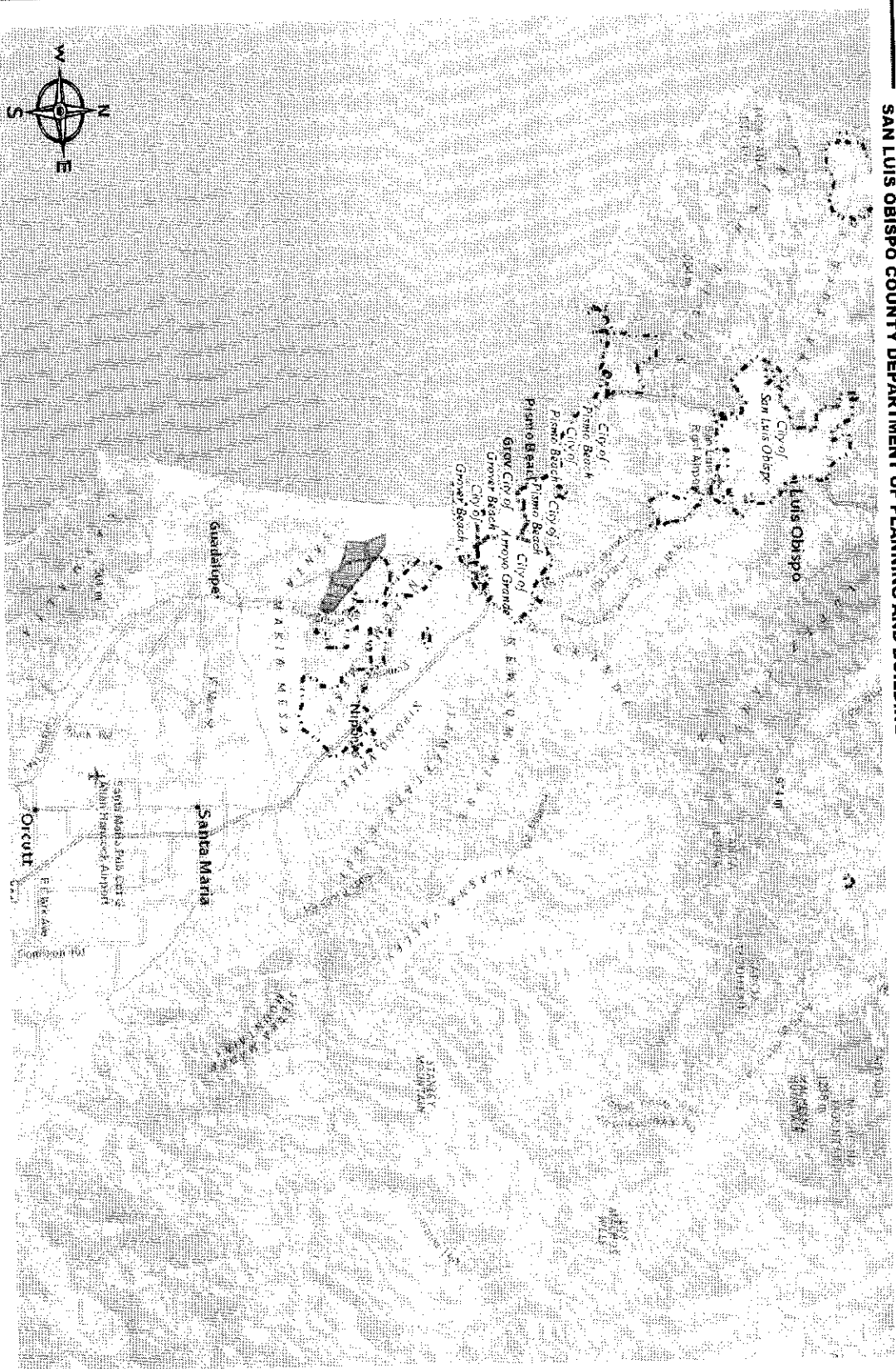
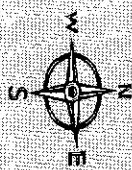
As the Co-Lead Agencies under the California Environmental Quality Act (CEQA), the San Luis Obispo County Air Pollution Control district (SLOCAPCD), and the County of San Luis Obispo (County) are required to adopt a program for reporting or monitoring regarding the implementation of mitigation measures for the Proposed Project, if it is approved, to ensure that the adopted mitigation measures are implemented as defined in the Final Environmental Impact Report (FEIR). This Lead Agency responsibility originates in Public Resources Code Section 21081.6(a) (Findings) and the CEQA Guidelines Sections 15091(d) (Findings) and 15097 (Mitigation Monitoring or Reporting).

The Planning Commission hereby finds and accepts that the Mitigation Monitoring Program for the Phillips Santa Maria Refinery Throughput Increase Project Final EIR meets the requirements of Section 21081.6 of the Public Resources Code by providing for the implementation and monitoring of mitigation measures intended to mitigate potential environmental effects.

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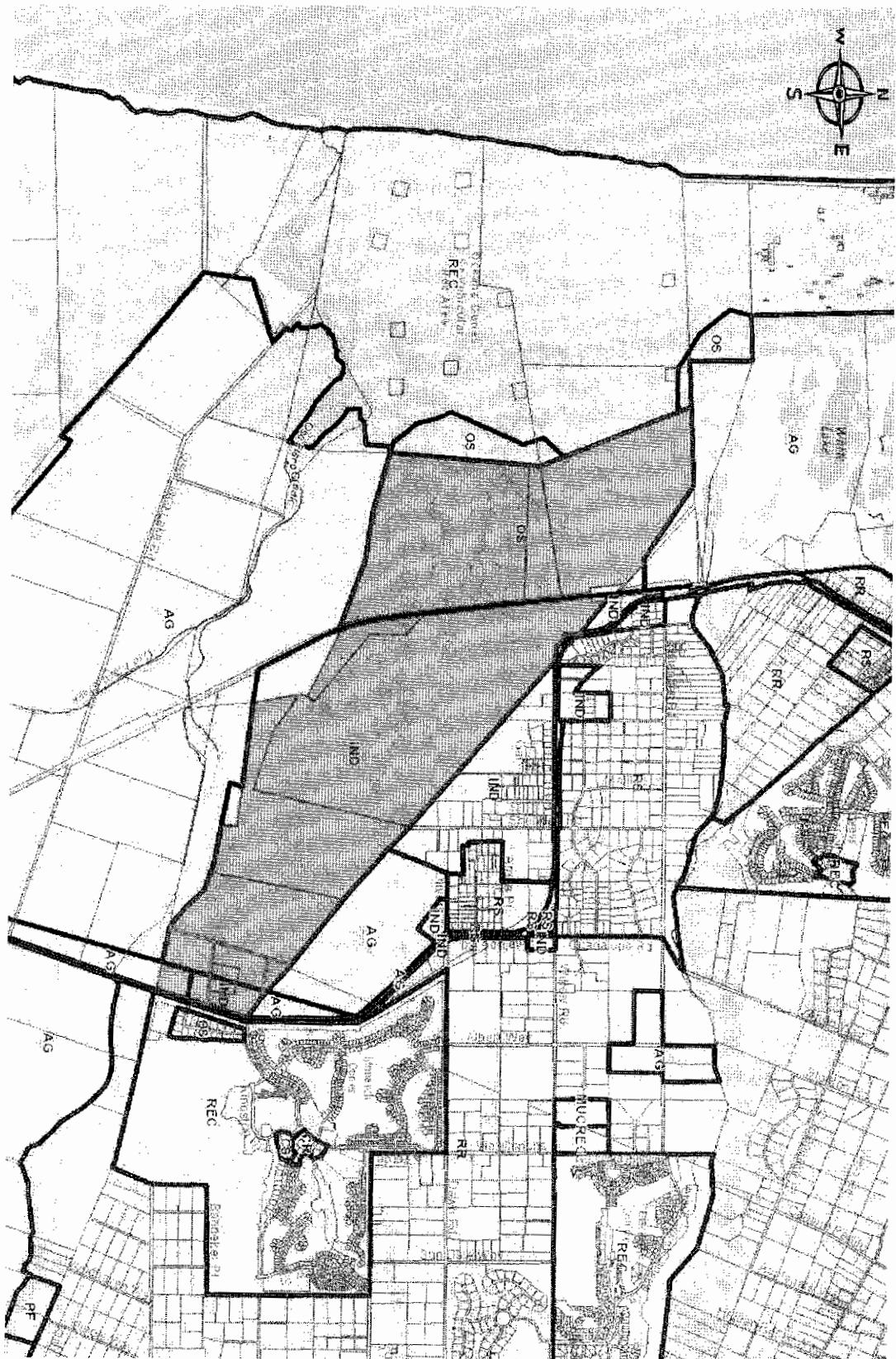
**EXHIBIT**  
Vicinity Map



SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING



**EXHIBIT** \_\_\_\_\_  
Land Use Category Map



ATTACHMENT 5  
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SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING



PROJECT

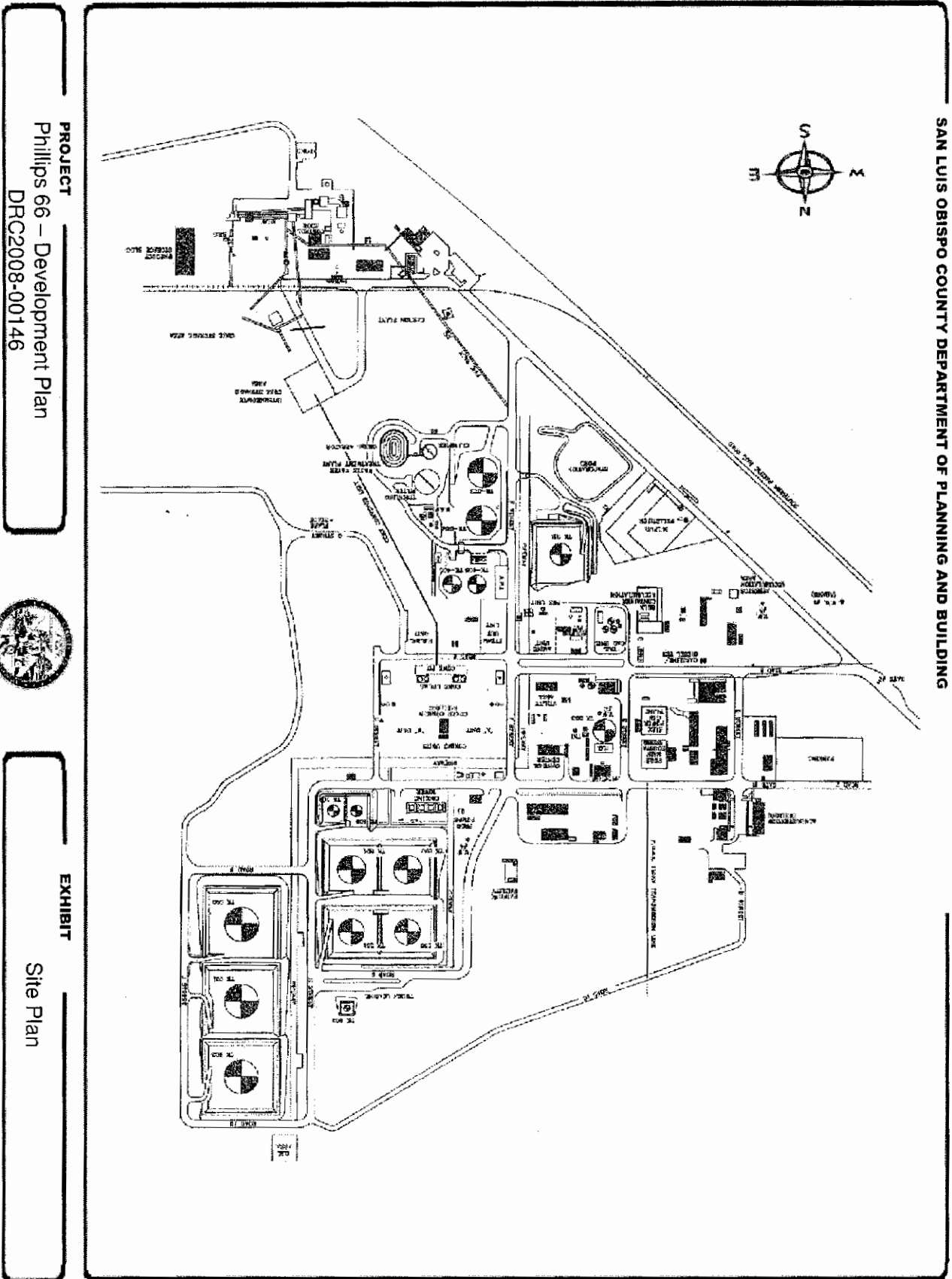
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EXHIBIT

Aerial Photograph





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EXHIBIT  
Coastal Access Location Map 1



COASTAL ACCESS LOCATION MAP 1

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EXHIBIT

Coastal Access Location Map 2



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To: "planningcommission@co.slo.ca.us" &lt;planningcommission@co.slo.ca.us&gt;

## Planning Commission Contact Form (response #170)

## Survey Information

Site:	County of SLO
Page Title:	Planning Commission Contact Form
URL:	<a href="http://www.slocounty.ca.gov/planning/contact/staff/PCForm.htm">http://www.slocounty.ca.gov/planning/contact/staff/PCForm.htm</a>
Submission Time/Date:	12/7/2012 3:30:32 PM

## Survey Response

Name	concerned citizen
Contact Information (Phone Number, Email, etc.)	
Question or Comment	<p>Are you aware of Phillips 66 Santa Maria Facilities decision to remove the Fire and Safety shift specialists who are the only true 24/7 safety professionals at the refinery with over 60 yrs combined experience and give their job duties to shift supervisors and gate guards who have little or no experience? And they want you to grant them a permit to run more rate through this facility that will no longer be as safe as it was prior to this decision. Please ask this question before granting any new permit.</p>

ATTACHMENT 5  
**J. H. EDWARDS COMPANY**  
A REAL PROPERTY CONCERN

December 12, 2012

San Luis Obispo County Planning Commission c/o Planning Department

Re: Request by PHILLIPS 66 for a Development Plan / Coastal Development Permit

Attention: Murray Wilson

Dear Mr. Wilson,

I apologize for the late arrival of my comments; however the issues I intend to raise are an important aspect in the consideration of the proposed project.

As you know, the extension to Willow Road and the associated improvements are nearing completion. With the interchange at Highway 101 an important new circulation component serving the Nipomo Mesa will be in place. Please see the attached Google Earth map generally showing the vertical alignment between the Conoco Phillips Refinery and US 101. The approximate distance between the refinery and the highway is 5 miles.

As you are also aware, there are a number of issues concerning the use of the Oceano Dunes and the State Vehicle Recreation Area (SVRA). For example, an alternative access has been considered for many years and in the November 15, 2006 Alternative Access Study prepared by Condor Environmental Planning Service, Inc. Currently, State Parks is not in compliance with Coastal Commission Conditions of Approval in not establishing additional vehicle access. Furthermore, there is considerable debate regarding the particulate matter issue as it relates to Off Highway Vehicle use of the SVRA. Solutions to these problems may be advanced by expanding the applicable condition of approval for the proposed project.

The staff report for the subject proposal contains a condition regarding "Coastal Access." Condition 17 establishes the improvement and dedication of vertical access along an existing maintenance road consistent with the Coastal Access Location Map 2, Exhibit. I believe the condition should be expanded to allow for vehicle access to the SVRA as well as pedestrian and other multi-uses.

I suggest the offer of dedication be made a condition of permit issuance and include a 80 ft. swath coterminous with the existing maintenance road over the Conoco Phillips property. This is consistent with Figure 2: Project Site of the 2006 Alternative Access Study. The improvements relative to the accessway would be performed by third parties as part of a larger management plan for the SVRA.

Please feel free to contact me with any questions you may have.

Sincerely,

*Jeff Edwards*

Jeff Edwards

P.O. Box 6070, Los Osos, CA 93412 (805)235-0873 [julietacker@charter.net](mailto:julietacker@charter.net)  
ACQUISITION MARKETING LAND USE REDEVELOPMENT





Phillips 66  
Santa Maria Refinery  
2555 Willow Road

*Via Email to rhedges@co.slo.ca.us*  
San Luis Obispo County Planning Commission  
c/o Ramona Hedges, Commission Secretary

December 12, 2012

**Re: Phillips 66 Development Plan/ Coastal Development Permit  
Throughput Increase  
Applicant Comments**

Dear Commissioners Irving, Topping, Christianson, Murphy and O'Grady,

Phillips 66 Company ("Phillips 66") thanks the San Luis Obispo County Planning Commission ("Planning Commission") and the Planning Department staff for their respective efforts in processing our Project application, responding to our comments regarding the *Phillips 66 Santa Maria Refinery Throughput Increase Project Draft Impact Report* ("Draft EIR"), and working with us on this Project. After reviewing the proposed permit Conditions of Approval and the *Phillips 66 Santa Maria Refinery Throughput Increase Project Final Impact Report* ("Final EIR"), and meeting with staff to discuss our concerns, we have only a few remaining items that need to be addressed prior to permit approval. This letter addresses those items.

**Conditions of Approval Overall**

Phillips 66 notes that most of the conditions of approval appear to have been purportedly proposed because they were listed as measures in the Final EIR to mitigate project impacts below significance levels. However, with the exception of Conditions of Approval Nos. 7 through 9, which pertain to NO<sub>x</sub> and PM emission impacts, Phillips 66 disagrees that significant project impacts exist and that mitigation is required. While this may seem counterintuitive given that the conditions apply to a development plan application for a refinery facility, keep in mind that this is a somewhat unusual permit application in as far as *there is no physical development or physical change to the facility as part of our proposed project, and therefore none of the usual "development" impacts will be generated (i.e. no construction activities, no new uses, no new structures, etc.)*. It is merely an increase in the throughput limit placed on the facility in a prior permit. Nonetheless, although we believe many of these conditions are not legally

## ATTACHMENT 5

*Letter to Commissioners Irving, Topping, Christianson, Murphy and G'Grady  
December 12, 2012  
Page 2*

required, we are willing to accept the conditions of approval crafted by County staff to move forward with the project, subject to the remaining concerns set forth below.

### **Condition of Approval No. 7, 8, 9, 10 & 11 Regarding Emissions**

We have discussed these conditions at length with the San Luis Obispo Air Pollution Control District ("SLOAPCD") and Planning Department staffs, and believe that we have a good understanding of how these conditions will be implemented, but ask that wording be added or changed slightly to better reflect/confirm those conversations. Specifically in regard to Condition #11, as we have discussed with both SLOAPCD and Planning Department staffs, increasing efficiency, if it is even possible, will not reduce GHG emissions. Therefore, we request that Condition No. 11 be modified to reflect the clarification reached with SLOAPCD and Planning Department staffs. Also, in regard to Conditions 7 through 11 generally, while it is implied, we want to clarify that the impacts we are required to mitigate are "project impacts" (i.e. the impacts created by the throughput increase), and not general or existing facility impacts (which are subject to existing regulatory and permitting requirements, i.e. AB 32, etc.)

Revisions that will address our concerns, read as follows:

- At the beginning of the "Air Quality" permit condition section, to state: "All references to 'emissions,' shall refer to 'project emissions.'"
- In Condition #11, to make the following revisions:

(AQ-3) Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput, the Applicant shall implement a program to increase efficiency of the Refinery stationary combustion devices to maintain project GHG emissions to less than the SLOAPCD thresholds (10,000 metric tonnes per year) over the emissions associated with the current permitted throughput. If such efficiency increases cannot reasonably be achieved, or if the emission reductions threshold cannot be met by increasing stationary equipment efficiency, then Applicant will implement additional measures to maintain project GHG emissions to less than the SLOAPCD thresholds, which may include the use of more efficient model year trucks or alternative fuel vehicles for hauling vehicles. If after all applicable measures have been implemented, emissions are still over the thresholds, then off-site mitigation will be required. The off-site mitigation



## ATTACHMENT 5

*Letter to Commissioners Irving, Topping, Christianson, Murphy and O'Grady  
December 12, 2012  
Page 3*

measure shall be approved by the SLOCAPCD prior to the Notice to Proceed authorizing an increase in Refinery throughput.

### **Condition of Approval No. 13 Noise & Vibration**

This condition was the result of citizen concerns raised during the EIR process regarding noise from the Santa Margarita Pump Station. Since the issue was first raised, we have constructed a new sound barrier and conducted subsequent monitoring to confirm compliance with County noise significance thresholds. A copy of that report has been supplied to Murry Wilson for review and approval. Therefore, we accept this condition, but ask that it be amended slightly to reflect actions already taken by Phillips 66 and to clarify any ambiguity as to what is required. We propose the following revisions:

#### **Phillips 66's Proposal:**

"The Applicant shall conduct a noise monitoring study to determine the noise levels in the vicinity of the Santa Margarita Pump Station and the compliance with applicable noise codes and standards. If noise levels exceed the County significance threshold of 50 dBA, the Applicant shall install at the Santa Margarita Pump Station a sound wall constructed of barrier pads between the noise sources and residences, as close to the pumping operations as feasible, to reduce noise levels at the closest receptor property line below the County significance threshold level. Installation of the sound wall shall be verified by County Planning and Building prior to the issuance of the updated permit/authorization to proceed."

### **Condition of Approval No.16**

As an initial matter, the Final EIR correctly concludes that traffic impacts are less than significant, but still proposes mitigation measures (under CEQA, mitigation measures are only proposed for significant impacts). County staff has explained that while the impact fees are being required to address the cumulative impacts identified in the EIR, the change in truck traffic routes is being required as a planning condition, not as an EIR mitigation condition. In any event, we believe that because the identified impact is less than significant, no mitigation is required.

Notwithstanding our position that no mitigation is required, Phillips 66 agrees to pay the South County Area 2 Road Impact Fees as described in the condition. The condition goes on to require use of the Willow Road interchange and for Phillips 66 to end its use of the northbound and eastbound truck routes. Phillips 66 does not object to ending use of the eastbound truck

## ATTACHMENT 5

*Letter to Commissioners Irving, Topping, Christianson, Murphy and O'Grady  
December 12, 2012  
Page 4*

route, but is concerned about ending use of the northbound truck route due to prior concerns expressed by residents in the Black Lake area. Phillips 66 has a "gentleman's agreement" with the residents in the Black Lake area that Phillips 66 will use the northbound truck route to avoid noise and circulation concerns raised by those residents with respect to traffic near their residences. We have raised these concerns several times to staff, but it is our understanding that there are overriding planning/circulation goals which require this change in route. In the end, we would like to be able to honor our prior agreement with the Black Lake area residents if we can and therefore ask the Commission to allow continued use of the northbound route.

### **Condition of Approval #18 Regarding Habitat Restoration.**

In our meeting with staff last week we discussed two changes to this condition. First, we requested that the trigger for habitat restoration should be when the area is no longer used for "industrial purposes," not just when it is no longer used for coke storage. We are still waiting for a response from staff on that requested change. Second, we asked that the line that allows for restoration of the same or similar degraded habitat be expanded to allow for restoration of degraded habitat *offsite*, which staff has said is acceptable.

### **Conditions Regarding Fire Safety.**

It has come to our attention today that the County may require additional conditions of approval regarding fire safety. We are working with staff on these conditions and hope that we are able to come to agreement on those conditions prior to the hearing tomorrow.

### **General Comments to Final EIR**

We thank members of the SLOAPCD and the San Luis Obispo County Department of Planning and Building for the efforts necessary to respond to our comments regarding the Draft EIR. In going through the process with the County we realized that there was not a complete record of the facility's existing operations in the County's files. As a result, we felt it was necessary to correct any errors or omissions regarding the existing facility that appeared in the EIR, as the EIR is now a record of not only what is approved, but what existed prior to the approval. We appreciate staff's and the consultant's time and patience, and are pleased that the end result more accurately describes the property and facility operations than did the draft. We have some lingering concerns that there are still statements that we believe are incorrect and/or misleading in the final draft, but as many of these statements do not affect the substantive conclusions of the Final EIR or proposed Conditions of Approval, we will not bother this Commission or its staff with further comments on those types of statements.

ATTACHMENT 5

*Letter to Commissioners Irving, Topping, Christianson, Murphy and O'Grady  
December 12, 2012  
Page 5*

We again thank the Commission and its staff, as well as the SLOAPCD, for their efforts in processing our application, responding to our comments, and working with us on this Project.

Sincerely,

  
Kristen M. Kopp

Superintendent, Health, Safety and Environment

cc: Murry Wilson (SLO Planning Dept.) (via email)  
Aeron Arlin Genet (SLOAPCD) (via email)  
Jean St. Martin (St. Martin & Waylett)(via email)

## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060-4508  
VOICE (831) 427-4863 FAX (831) 427-4877

MAR 18 2013



CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Jeff Edwards

Mailing Address: PO Box 6070

City: Los Osos

Zip Code: 93412

Phone: 805-235-0873

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Conoco Phillips, also known as Phillips 66 or Santa Maria Facility proposes to increase the permitted volume of processed crude oil "throughput".

3. Development's location (street address, assessor's parcel no., cross street, etc.):

2555 Willow Road, Arroyo Grande, CA 93420

Willow Road at State Route One APN(s): 091-141-062; 092-391-021,034; 092-410-005, 011, 013; 092-411-002, 005.

4. Description of decision being appealed (check one.):

- ☐ Approval; no special conditions  
☒ Approval with special conditions:  
☐ Denial

**Note:** For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

DISTRICT: \_\_\_\_\_

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)**

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator  
☒ City Council/Board of Supervisors  
☐ Planning Commission  
☐ Other

6. Date of local government's decision: February 26, 2013

7. Local government's file number (if any): DRC2008-00146

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Conoco Phillips Co.  
Attn: Kristen Knopp  
2555 Willow Road  
Arroyo Grande, CA 93420

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Brent C. Marshall  
District Superintendent (Acting)  
Oceano Dunes District  
California State Parks  
340 James Way, Ste. 270  
Pismo Beach, CA 93449

(2) Aeron Arlin-Genet, Manager  
San Luis Obispo County  
Air Pollution Control District  
3433 Roberto Court  
San Luis Obispo, CA 93401

(3)

(4)

## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

### **SECTION IV. Reasons Supporting This Appeal**

#### **PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

I respectfully submit the approval as conditioned is overly broad and lacked the specificity to adequately implement Coastal Zone Land Use Ordinance (CZLUO) Section 23.04.420-Coastal Access. Presently Condition #17 of the approval regarding public access provides as follows:

Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput, the applicant shall comply with Section 23.04.420 – Coastal Access Required. Construction of improvements associated with vertical public access (if required) shall occur within 10 years of the effective date of this permit (including any required Coastal Development Permit to authorize such construction) or at the time of any subsequent use permit approved at the project site, whichever occurs first. The approximate location of the vertical access required by this condition of approval shall be located within or immediately adjacent to the existing maintenance road as shown in Exhibit D – Project Graphic (Coastal Access Location Map 1 and 2).

I have three (3) points of contention to be considered in connection with the subject appeal.

1. CZLUO Section 23.04.420 d.(2)-Vertical access dedication. The minimum width of 10-feet for the vertical access is inadequate. An offer of dedication can be reduced in width; however it cannot easily be enlarged in the future. Consequently I recommend a 100-foot wide offer of dedication as a condition of approval.
2. CZLUO Section 23.04.420 e.-Timing of access requirements. Condition #17 requires the applicant to dedicate and construct improvements at some future point. I submit an offer of dedication as suggested in contention #1 above would fulfill the requirements for coastal access without any continued obligation to construct and/or maintain the public accessway. In this event, it makes the ten (10) year provision currently in condition #17, moot. Moreover, by requiring only an offer of dedication, it creates a greater certainty relative to the obligations of the applicant in the future. Requiring more than a dedication of land may exceed the thresholds contemplated for “rough proportionality” with regard to exactions and dedications under State law.
3. CZLUO Section 23.04.420 k.-Sighting [sic] criteria for coastal accessway. Presently, Condition #17 requires the access follow the existing maintenance road of approximately 7,500 linear feet. I agree that the public access should be conterminous with the existing maintenance road to minimize potential

## Reasons Supporting This Appeal (continued)

environmental effects; therefore the siting has been predetermined. A November 15, 2006 "Alternative Access Study" was prepared by Condor Environmental Planning Services Inc. is the equivalent of a siting study referenced in the County approval. Commissioned by State Parks, the study evaluates alternative access points for the Oceano Dunes State Vehicular Recreation Area (ODSVRA) as required by Coastal Development #Permit 4-82-300, Special Condition 1B.

The Condor Study is available at: [http://www.slostateparks.com/pdf/ODSVRA\\_Alternative\\_Access\\_Study.pdf](http://www.slostateparks.com/pdf/ODSVRA_Alternative_Access_Study.pdf). Please note the Figures are not included in the Internet version of the study, however Figure 4 C: Conoco Phillips alternative was the highest ranking unimproved access point.

With regard to the intensity of use, the 100-foot wide accessway likely would be sufficient to accommodate any number of uses including, but limited to, habitat buffers, pedestrian, equestrian, bicycle, emergency and off-highway vehicle access and staging to the adjacent (ODSVRA). Recently, a new highway interchange on the Nipomo mesa was constructed. The extension of Willow Road and the associated improvements are complete. With the afore mentioned interchange at Highway 101 installed, an important new circulation component linking the two highways is in place. The approximate distance between the refinery at Willow Road/State Route One and Highway 101 is just 5 miles.

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**

**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.

\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent

Date: March 13, 2013

**Note:** If signed by agent, appellant(s) must also sign below.

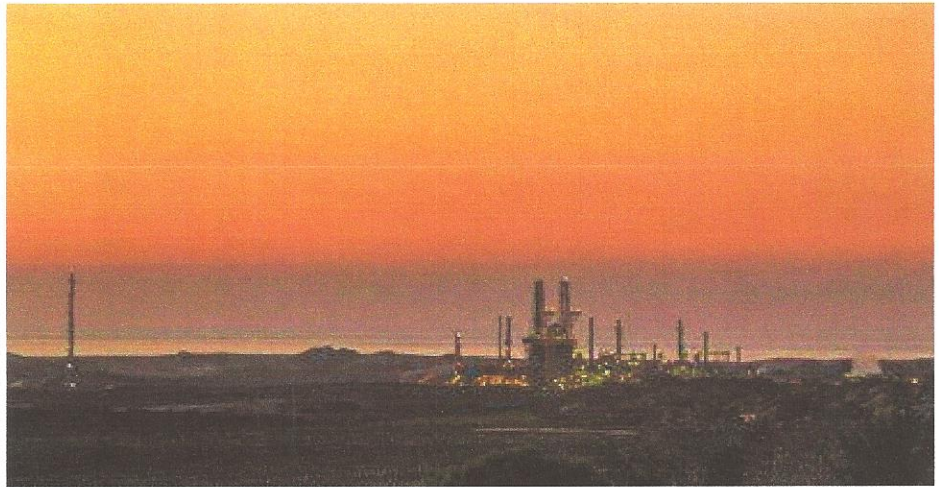
**Section VI. Agent Authorization**

I/We hereby authorize \_\_\_\_\_  
to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date: \_\_\_\_\_





**Phillips 66 Santa Maria Refinery  
Throughput Increase Project**

**California Coastal Commission  
Substantial Issue Determination  
2013**

A-3-SLO-13-014  
San Luis Obispo County



**J. H. EDWARDS COMPANY**  
A REAL PROPERTY CONCERN

August 15, 2013

Dear Commissioners,

By way of history, in June of 1982 the Commission approved Coastal Development Permit 4-82-300 for the Oceano Dunes State Vehicular Recreation Area (ODSVRA). Special Condition 1B requires establishment of a permanent staging and access for the off-highway motor vehicle enthusiasts. Your consideration of the subject appeal at a de Novo hearing would allow your Commission to receive all of the information regarding this matter to ensure informed decision making.

Please review this packet of photos and information in anticipation of the Phillips 66 Santa Maria Refinery Throughput Increase Project, A-3-SLO-13-014, Substantial Issue Determination hearing in September.

The San Luis Obispo County Local Coastal Program, CZLUO Section 23.04.410 d.(2) requires a **minimum** 10 foot vertical access in rural areas. The appeal seeks a wider access to possibly include an off-highway motor vehicle entrance to the ODSVRA.

An access at this location leads directly to the ODSVRA including the over 600 acres of land currently leased by Phillips 66 to State Parks. In fact, two-thirds of the 1.5 mile long land dedication for access lies within the leased land. The proposed vertical access alignment follows the existing maintenance road that services the refinery's ocean outfall.

The appeal of the Throughput Increase narrowly focuses on Public Access and provides the Commission a timely opportunity to analyze the potential for an alternative coastal access to the ODSVRA. Considering the longstanding negative environmental impacts of the current access at Pier Avenue, providing replacement access to the ODSVRA as required by the 1982 CDP may reduce impacts to coastal resources overall. A 2006 Alternative Access Study was commissioned by State Parks to analyze various alternatives. The Condor Environmental Alternative Access Study Figures (2,3, & 4) reflecting the Phillips 66 (ConocoPhillips) alternative are highlighted and included in this packet.

A replacement access to the ODSVRA through the Phillips 66 property may also help accomplish the Commission's long-term goals related to planned retreat due to sea-level-rise and eliminate the ongoing environmental impacts of the creek-crossing by off-highway motor vehicles at Arroyo Grande Creek. Coincidentally, Phillips 66 is processing a companion project for a Rail Spur extension with County approval expected in spring of 2014.

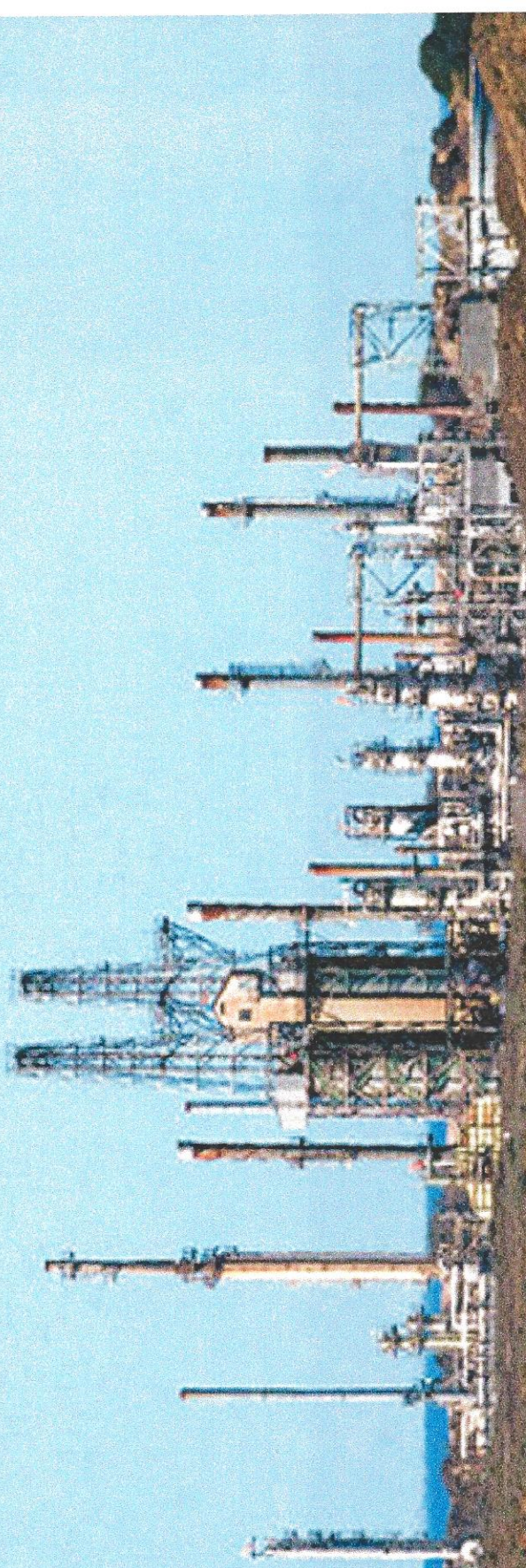
It is understood that your staff has not been presented a briefing on the ODSVRA since 2007. Please consider requesting staff make such a presentation prior to or concurrent with a de Novo hearing on A-3-SLO-13-014.

Feel free to contact me with any questions you may have.

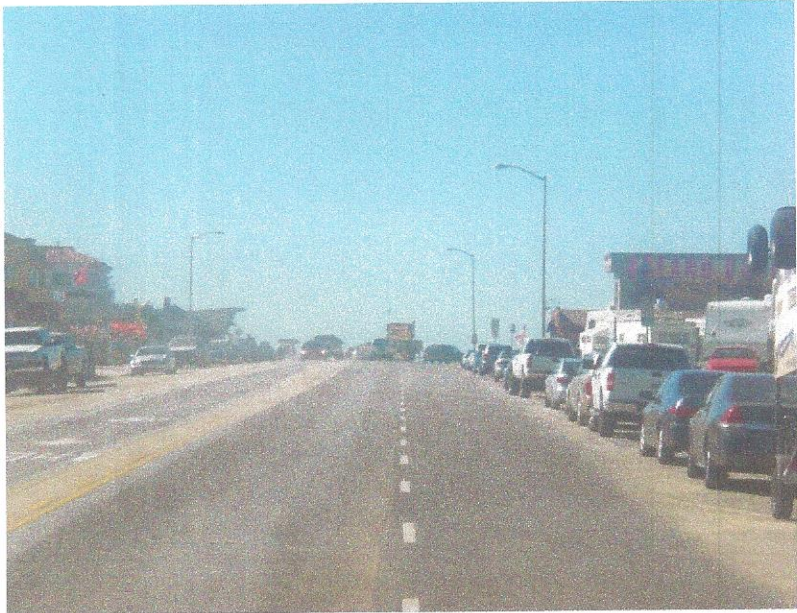
*Jeff Edwards*

P.O. Box 6070, Los Osos, CA 93412 (805)235-0873 [jhedwardscompany@gmail.com](mailto:jhedwardscompany@gmail.com)  
ACQUISITION   MARKETING   LAND USE   REDEVELOPMENT









Pier Avenue, Oceano

In June 1982, the CCC approved Coastal Development Permit 4-82-300 for the Oceano Dunes State Vehicular Recreation Area (ODSVRA) with Special Condition 1B which **requires** establishment of another permanent staging and motor vehicle access to replace the current Pier Avenue entrance.

Pier Avenue was intended to be a temporary or interim access location. It appears operation of the ODSVRA is out of compliance with the CDP.



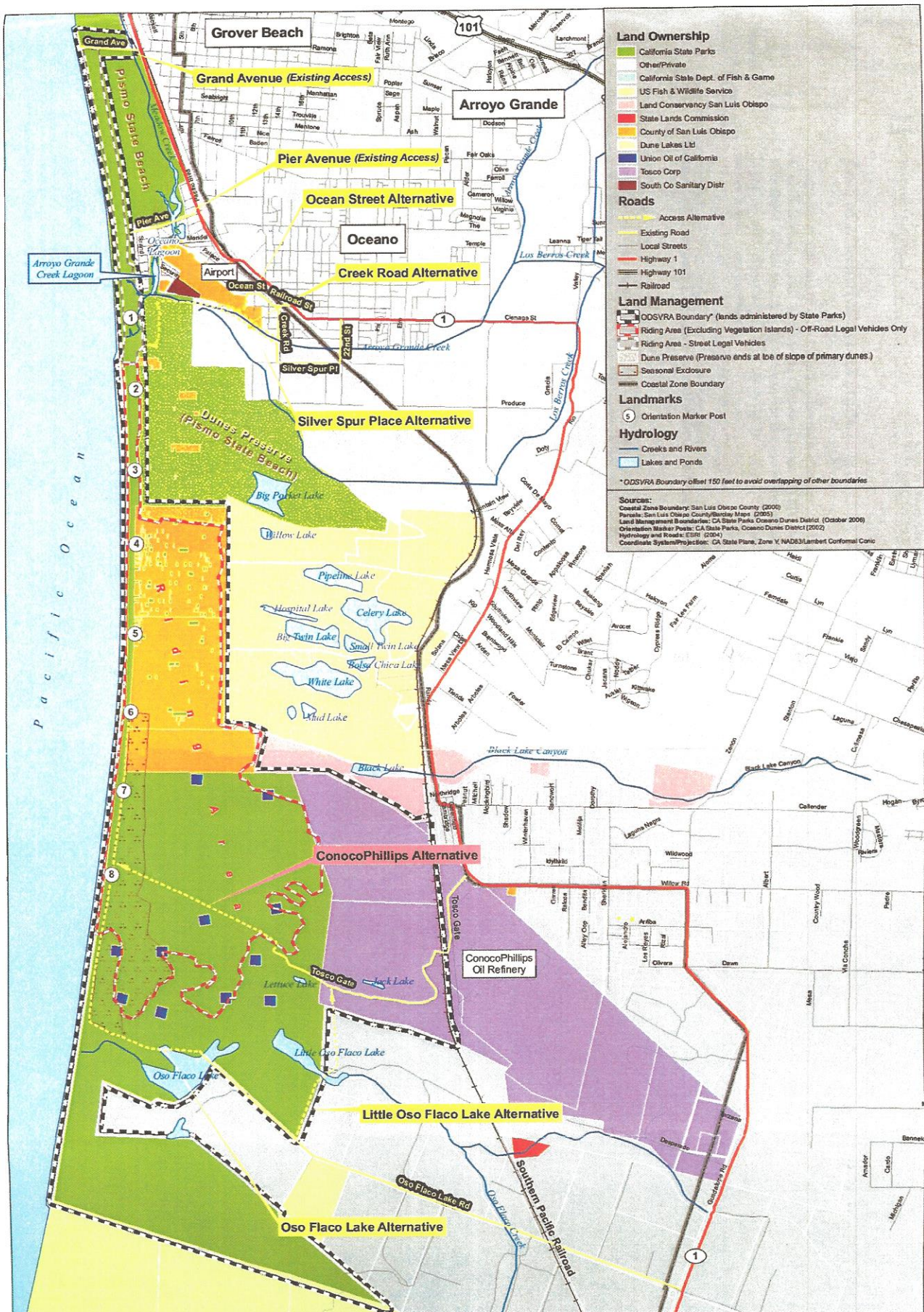
CALIFORNIA  
**COASTAL**  
COMMISSION



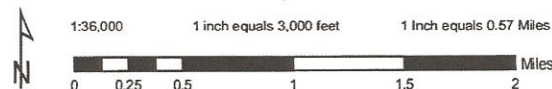


**Figure 2:  
Project Site**





**Figure 3:**  
**Land Ownership & Management**









## **Reasons the California Coastal Commission should find Substantial Issue.**

**Re: A-3-SLO-13-014**

1. Receive briefing on Oceano Dunes State Vehicular Recreation Area (ODSVRA) first.
2. Secure more direct Off-Highway Motor Vehicle (OHV) access and Staging to ODSVRA.
3. Avoid Arroyo Grande Creek motor vehicle crossing.
4. Address sea-level rise and planned retreat.
5. Free Pier Avenue from OHV conflicts per CDP 4-82-300.
6. Review water demand calculations and legal entitlements.
7. Allow possible consolidation of Throughput Increase and Rail Spur projects.
8. Consider Air Pollution Control District (Dust Rule 1001) implications.

*Prepared by Jeff Edwards (805) 235-0873*



**23.04.420 - Coastal Access Required.**

Development within the Coastal Zone between the first public road and the tidelands shall protect and/or provide coastal access as required by this section. The intent of these standards is to assure public rights of access to the coast are protected as guaranteed by the California Constitution. Coastal access standards are also established by this section to satisfy the intent of the California Coastal Act.

**a. Access defined:**

- (1) **Lateral access:** Provides for public access and use along the shoreline.
- (2) **Vertical access:** Provides access from the first public road to the shore, or perpendicular to the shore.
- (3) **Pass and repass:** The right of the public to move on foot along the shoreline.

**b. Protection of existing coastal access.** Development shall not interfere with public rights of access to the sea where such rights were acquired through use or legislative authorization. Public access rights may include but are not limited to the use of dry sand and rocky beaches to the first line of terrestrial vegetation.**c. When new access is required.** Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) Access would be inconsistent with public safety, military security needs or the protection of fragile coastal resources; or
- (2) The site already satisfies the provisions of subsection d of this section; or
- (3) Agriculture would be adversely affected; or
- (4) The proposed new development is any of the following:
  - (i) Replacement of any structure pursuant to the provisions of Section 30610(g) of the California Coastal Act.
  - (ii) The demolition and reconstruction of a single-family residence; provided that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure. As used in this subsection, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.
  - (iii) Improvements to any structure that do not change the intensity of its use, or increase either the floor area, height or bulk of the structure by more than 10 percent, which do not block or impede public access and do not result in additional seaward

encroachment by the structure. As used in this subsection, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

- (iv) The reconstruction or repair of any seawall; provided that the reconstructed or repaired seawall is not seaward of the location of the former structure.
- (v) Any repair or maintenance activity excluded from obtaining a land use permit by this title, except where the Planning Director determines that the use or activity will have an adverse effect on lateral public access along the beach.
- (vi) Nothing in this subsection shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

d. **Type of access required:**

(1) **Vertical Access:**

- (i) **Within urban and village areas:** Within an urban or village area where no dedicated or public access exists within one-quarter mile of the site, or if the site has more than one-quarter mile of coastal frontage, an accessway shall be provided for each quarter mile of frontage.
- (ii) **In rural areas:** In rural areas where no dedicated or public access exists within one mile, or if the site has more than one mile of coastal frontage, an accessway shall be provided for each mile of frontage.
- (iii) **Prescriptive rights:** An accessway shall be provided on any site where prescriptive rights of public access have been determined by a court to exist.
- (iv) **Additional accessways:** The applicable approval body may require accessways in addition to those required by this section where the approval body finds that a proposed development would, at the time of approval or at a future date, increase pedestrian use of any adjacent accessway beyond its capacity.

(2) **Vertical access dedication.** Accessways shall be a minimum width of five feet in urban areas and 10 feet in rural areas.

(3) **Lateral access dedication:** All new development shall provide a lateral access dedication of 25 feet of dry sandy beach available at all times during the year. Where topography limits the dry sandy beach to less than 25 feet, lateral access shall extend from the mean high tide to the toe of the bluff. Where the area between the mean high tide line (MHTL) and the toe of the bluff is constrained by rocky shoreline or other limitations, the County shall evaluate the safety and other constraints and whether alternative siting of accessways is appropriate. This consideration would help maximize public access consistent with the LCP and the California Coastal Act.

- e. **Timing of access requirements.** The type and extent of access to be dedicated, and/or constructed and maintained, as well as the method by which its continuing availability for public use is to be guaranteed, shall be established at the time of land use permit approval, as provided by this section.
- (1) **Dedication:** Shall occur before issuance of construction permits or the start of any construction activity not requiring a permit.
  - (2) **Construction of improvements:** Shall occur at the same time as construction of the approved development, unless another time is established through conditions of land use permit approval.
  - (3) **Opening access for public use.** No new coastal access required by this section shall be opened or otherwise made available for public use until a public agency or private association approved by the county agrees to accept responsibility for maintenance of the accessway and any liability resulting from public use of the accessway.
  - (4) **Interference with public use prohibited.** Following an offer to dedicate public access pursuant to subsection e(1) of this section, the property owner shall not interfere with use by the public of the areas subject to the offer before acceptance by the responsible entity.
- f. **Permit requirement.** Except as otherwise provided by this subsection, Minor Use Permit approval is required before issuance of any construction permit for an accessway, or the start of any access construction not requiring a permit, unless the details of the required access are approved as part of another Minor Use Permit or Development Plan for the principal use. The permit requirement of this subsection applies to the construction of a new accessway, or alteration, major restoration, transfer of maintenance responsibility or abandonment of an existing accessway. No land use permit is required for:
- (1) The offer of dedication, grant of easement or other conveyance of title for future accessway construction where no public use exists or is proposed at the time of conveyance; or
  - (2) Normal maintenance or minor improvements, where the total valuation of work does not exceed \$1500 as determined by the County Fee Ordinance.
- g. **Access title and guarantee:** Where public coastal accessways are required by this section, approval of a land division, or land use permit for new development shall require guarantee of such access through deed restriction, or dedication of right-of-way or easement. Before approval of a land use permit or land division, the method and form of such access guarantee shall be approved by County Counsel, and shall be recorded in the office of the County Recorder, identifying the precise location and area to be set aside for public access. The recorded document shall include the mapped location of the access area prepared by a licensed professional, as well as legal descriptions of the access area and the affected properties. The method of access guarantee shall be chosen according to the following criteria:
- (1) **Deed restriction.** Shall be used only where an owner, association or corporation agrees to assume responsibility for maintenance of and liability for the public access area, subject to approval by the Planning Director.
  - (2) **Grant of fee interest or easement:** Shall be used when a public agency or private organization approved by the Planning Director is willing to assume ownership, maintenance and liability for the access.

- (3) **Offer of dedication:** Shall be used when no public agency, private organization or individual is willing to accept fee interest or easement for accessway maintenance and liability. Such offers shall not be accepted until maintenance responsibility and liability is established.
- (4) **Procedures for open space easements and public access documents.** Pursuant to Section 13574 of Title 14 of the California Administrative Code, all land use permits and tentative subdivision maps subject to conditions of approval pertaining to public access, open space, agricultural or conservation easements shall be subject to the following procedures:
  - (i) All legal documents shall be forwarded to the executive director of the Coastal Commission for review and approval as to the legal adequacy and consistency with the requirements of potential accepting agencies;
  - (ii) The executive director of the Coastal Commission shall have 15 working days from the receipt of the documents in which to complete the review and to notify the applicant and the county of recommended revisions, if any;
  - (iii) If the executive director of the Coastal Commission has recommended revisions to the applicant, the land use permit shall not become effective pursuant to Section 23.02.034d of this title until the deficiencies have been resolved to the satisfaction of the executive director;
  - (iv) The land use permit may become effective (Section 23.02.034d) upon expiration of the 15 working day period if the Coastal Commission has not notified the applicant and the county that the documents are not acceptable.
- h. **Requirements for access improvements and support facilities.** Coastal accessways required by this section or by planning area standards of the Land Use Element shall be physically improved as provided by this subsection. The need for improvements to any accessway shall be considered as part of land use permit approval, and responsibility for constructing the improvement shall be borne by the developer or consenting public agency. After construction, maintenance and repair may be accomplished by a public agency or by a private entity approved by the applicable review body taking action on the project land use permit.
  - (1) **Typical improvements that may be required.** The extent and type of improvements and support facilities that may be required may include but are not limited to drainage and erosion control measures, planting, surfacing, structures such as steps, stairways, handrails, barriers, fences or walls, benches, tables, lighting, parking spaces for the disabled, safety vehicles or general public use, as well as structures such as restrooms or overlooks.
  - (2) **Type and extent of improvements - required findings.** The improvements described in subsection h(1) of this section shall be required to an extent where such improvements:
    - (i) Are necessary to either assure reasonable public access, protect the health and safety of access users, assure and provide for proper long-term maintenance of the accessway, or protect the privacy of adjacent residents.

- (ii) Are adequate to accommodate the expected level and intensity of public use that may occur;
- (iii) Can be properly maintained by the approved maintenance entity;
- (iv) Incorporate adequate measures to protect the privacy and property rights of adjoining property owners and residents.

i. **Accessway signing.** Where required through land use permit or tentative subdivision map approval, signs installed in conjunction with accessways shall conform to the following standards:

- (1) **Sign design.** Accessway signs shall use white letters on a brown background. The number and dimensions of signs are to be determined through land use permit review.
- (2) **Identification Signs:** Shall contain the words "COASTAL ACCESS" in three-inch letters at the top of the sign, as well as the name of the accessway, if any, and indicate if there are any hazards or rare or endangered species.
- (3) **No Trespass Signs:** Shall contain the words "RESPECT PRIVATE PROPERTY - NO TRESPASSING".
- (4) **Hazard Signs:** Shall be located at the tops of bluffs or cliffs.
- (5) **Parking area signing:** Each parking area shall be posted in a location visible from the public road with a sign that is between two and four square feet in area, stating: "PARKING FOR PUBLIC COASTAL ACCESS". Lettering shall be a minimum of two inches high and clearly legible.

j. **Restoration of degraded access areas.** Existing coastal access areas that have been degraded through intense use shall be restored along with construction of new development on the site to the maximum extent feasible. Restoration techniques shall be established through landscaping plan review and approval, and may include trail consolidation and revegetation using native plant species, as well as controlling public access. Restoration shall be required as a condition of land use permit approval, subject to the criteria of this subsection. Restoration of an accessway by a public agency shall require Minor Use Permit approval. The following standards shall apply in addition to any other access improvements required as part of Minor Use Permit review:

- (1) Areas of the site where native vegetation has been destroyed, that are not proposed to be improved with structures, paved areas or landscaping, shall be revegetated with indigenous plants. Prior to revegetation, a landscape plan shall be prepared, reviewed and approved pursuant to Section 23.04.180 et seq. (Landscape) for the areas of revegetation.
- (2) The use of motor vehicles on the accessway, other than maintenance, emergency and agricultural vehicles, shall be prevented by physical barriers for areas other than designated parking.
- (3) Installation of a physical barrier may be required through Minor Use Permit or Development Plan approval to restrict access to degraded areas.

- (4) Public access may be restricted if it is determined that the area is extremely degraded and time is needed to allow recovery of vegetation. Access may be restricted by temporary barriers such as fencing, with signs explaining the restriction. The degree of access and restrictions will be determined by the Planning Director after consultation with the property owner and affected public agencies. At the time of such restriction a date shall be set for removal of such barriers and signs. On or before that date, the Planning Director shall review the progress of recovery and may extend the restriction.

**k. Sighting criteria for coastal accessway.** In reviewing a proposed accessway, the applicable review body shall consider the effects that a public accessway may have on adjoining land uses in the location and design of the accessway. When new development is proposed, it shall be located so as not to restrict access or to create possible privacy problems. Where feasible, the following general criteria shall be used in reviewing new access locations, or the location of new development where coastal access considerations are involved:

- (1) Accessway locations and routes should avoid agricultural areas, sensitive habitats and existing or proposed residential areas by locating near the edge of project sites;
- (2) The size and location of vertical accessways should be based upon the level and intensity of existing and proposed access;
- (3) Review of the accessway shall consider: safety hazards, adequate parking provisions, privacy needs of adjacent residences, adequate signing, and levels of improvements necessary to provide for access;
- (4) Limiting access to pass and repass should be considered where there are nearby residences, where topographic constraints make the use of the beach dangerous, where there are habitat values that can be disturbed by active use.

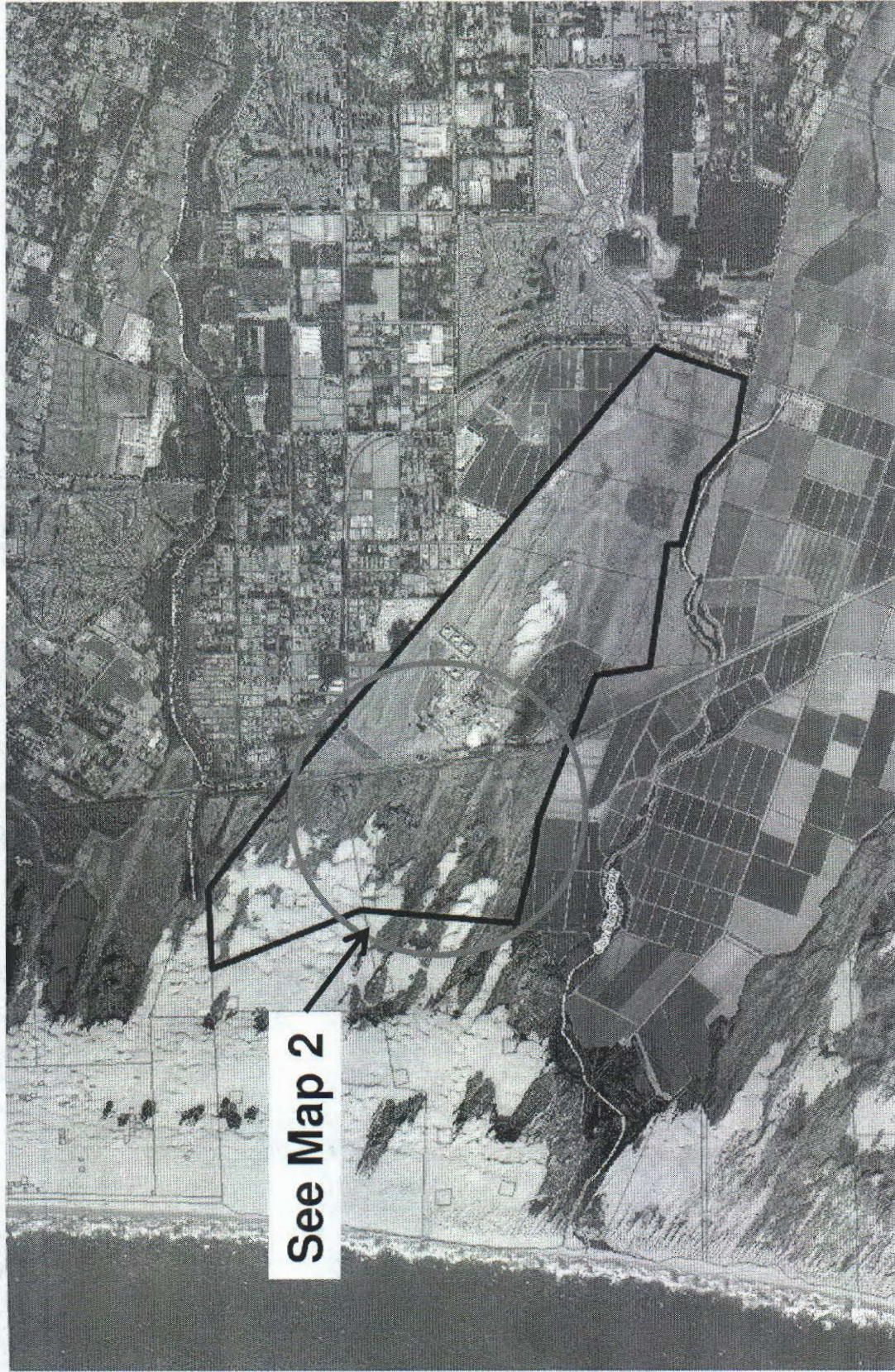
[Amended 1995, Ord. 2715; 2004, Ord. 2999]

### **23.04.430 - Availability of Water Supply and Sewage Disposal Services.**

A land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is adequate water and sewage disposal capacity available to serve the proposed development, as provided by this section. Subsections a. and b. of this section give priority to infilling development within the urban service line over development proposed between the USL and URL. In communities with limited water and sewage disposal service capacities as defined by Resource Management System alert levels II or III:

- a. A land use permit for development to be located between an urban services line and urban reserve line shall not be approved unless the approval body first finds that the capacities of available water supply and sewage disposal services are sufficient to accommodate both existing development, and allowed development on presently-vacant parcels within the urban services line.
- b. Development outside the urban services line shall be approved only if it can be served by adequate on-site water and sewage disposal systems, except that development of a single-family dwelling on an existing parcel may connect to a community water system if such service exists adjacent to the subject parcel and lateral connection can be accomplished without trunk line extension.





PROJECT

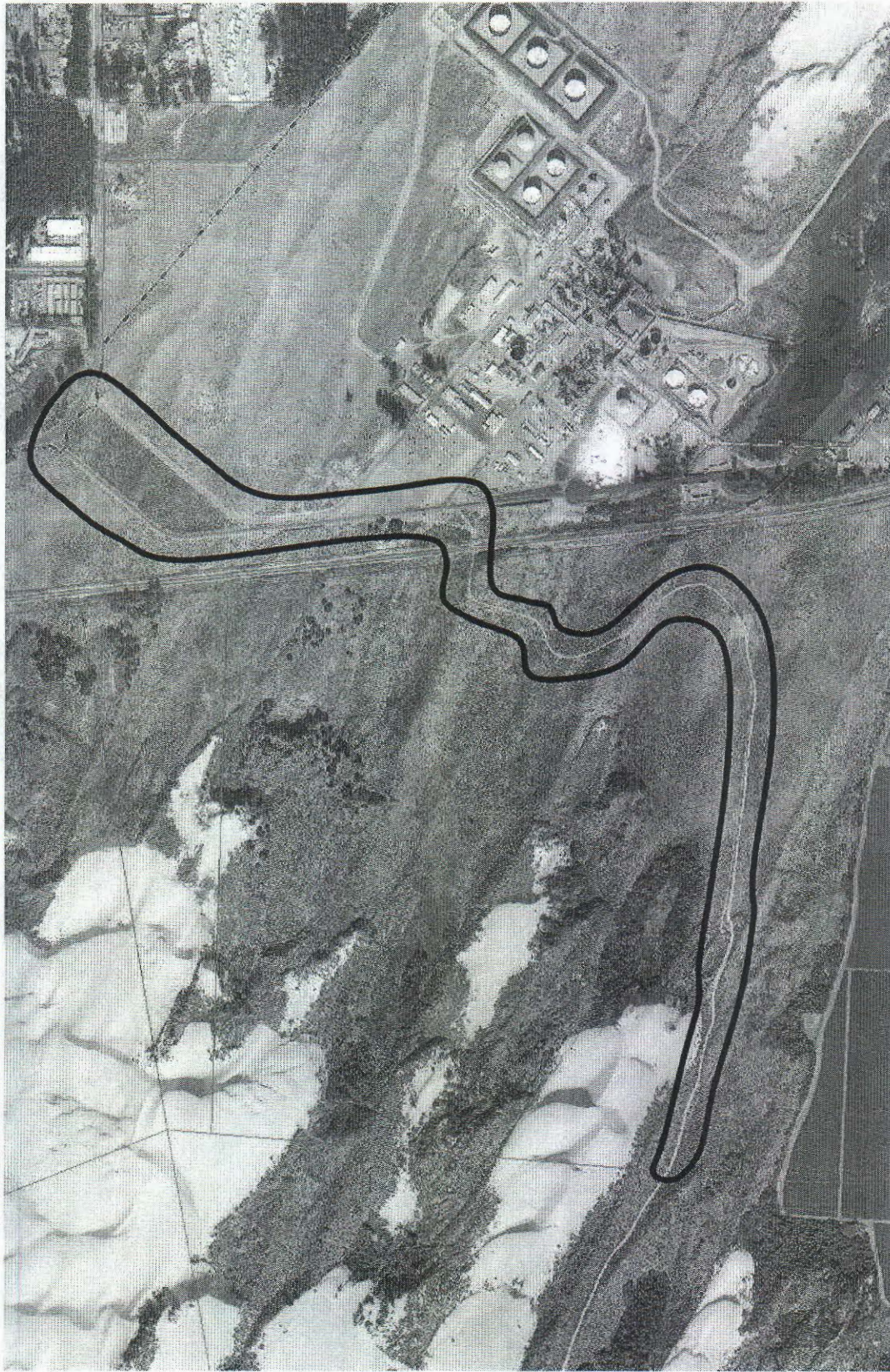
Phillips 66 – Development Plan  
DRC2008-00146

EXHIBIT

Coastal Access Location Map 1







PROJECT

Phillips 66 – Development Plan  
DRC2008-00146

EXHIBIT

Coastal Access Location Map 2

