

## **CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
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# Th12a

## **A-3-SLO-21-0017 (PHILLIPS 66 REMEDIATION PROJECT) APRIL 15, 2021 HEARING EXHIBITS**

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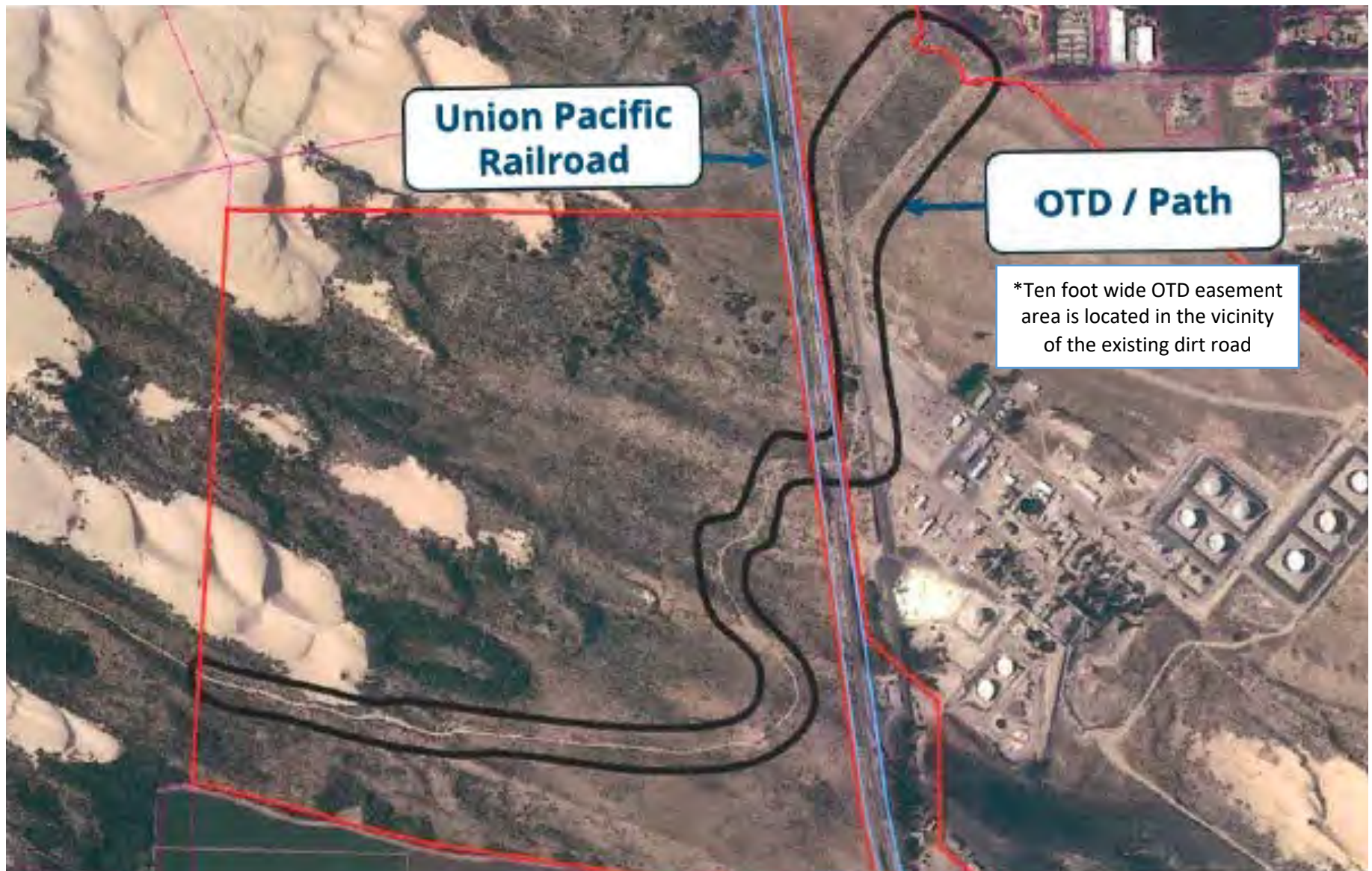
**Exhibit 6: Location of 2015 OTD Easement**















**COUNTY OF SAN LUIS OBISPO**  
**DEPARTMENT OF PLANNING & BUILDING**  
**TREVOR KEITH, DIRECTOR**

February 3, 2021

Phillips 66  
76 Broadway  
Sacramento, CA 95818

**FINAL LOCAL  
ACTION NOTICE**

REFERENCE # 3-SLO-21-0112  
APPEAL PERIOD 2/9/21-2/23/21

**NOTICE OF FINAL COUNTY ACTION**

HEARING DATE: January 26, 2021  
SUBJECT: **County File Number: DRC2019-00231**  
Phillips 66

**RECEIVED**

**FEB 08 2021**

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

LOCATED WITHIN COASTAL ZONE: YES  
COASTAL APPEALABLE: Yes

On January 26, 2021, the Board of Supervisors denied the appeal of Jeff Edwards, and the decision of the Planning Commission was upheld, and the application of Phillips 66 for a Minor Use Permit (DRC2019-00231) is approved subject to the findings and conditions set forth by the Board of Supervisors Resolution Number 2021-023 which are enclosed for your records.

This Notice of Final Action is being mailed to you pursuant to the Land Use Ordinance Section 23.02.036(a).

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 appeal must be made directly to the California Coastal Commission. For further information on their appeal procedures, contact the Commissions Santa Cruz Office at (831) 427-4863.

Additionally, county Coastal Zone Land Use Ordinance Section 23.01-043 and applicable sections of the Coastal Act provide the California Coastal Commission ten (10) working days to appeal the County's Final Action. This means the Applicant and County cannot act on this decision, including but not limited to, the request or issuance of a building permit, until the Coastal Commission Appeal period has expired without an appeal being filed.

An aggrieved party may obtain judicial review of this action by filing a petition for writ of mandate pursuant to California Code of Civil Procedure Section 1094.5 within the time specified in California Code of Civil Procedure Section 1094.6.



**COUNTY OF SAN LUIS OBISPO**  
**DEPARTMENT OF PLANNING & BUILDING**  
**TREVOR KEITH, DIRECTOR**

If you have questions regarding your project, please contact Lacey Minnick at [lminnick@co.slo.ca.us](mailto:lminnick@co.slo.ca.us).

Sincerely,

*Mia Trevelyan*

Mia Trevelyan  
Secretary, Planning and Building

c: California Coastal Commission, 725 Front Street #300, Santa Cruz, CA 95060, Att: Brian O'Neill  
Jeff Edwards, PO Box 6070, Los Osos, Ca 93412



**IN THE BOARD OF SUPERVISORS**  
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tuesday, January 26, 2021

**PRESENT:** Supervisors John Peschong, Bruce S. Gibson, Dawn Ortiz-Legg,  
Debbie Arnold and Chairperson Lynn Compton

**ABSENT:** None

RESOLUTION NO. 2021-023

RESOLUTION DENYING THE APPEAL OF JEFF EDWARDS, AFFIRMING THE  
DECISION OF THE PLANNING DEPARTMENT HEARING OFFICER, AND  
CONDITIONALLY APPROVING THE APPLICATION OF PHILLIPS 66 FOR MINOR  
USE PERMIT DRC2019-00231.

The following resolution is now offered and read:

WHEREAS, on September 4, 2020, the Planning Department Hearing Officer of the County of San Luis Obispo duly considered the application of Phillips 66 for Minor Use Permit DRC2019-00231 and conditionally approved the application on September 4, 2020; and

WHEREAS, Jeff Edwards has appealed the Planning Department Hearing Officer'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 January 26, 2021; 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,

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

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be denied and the decision of the Planning Department Hearing Officer be affirmed and that the application should be approved 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 hereinabove are true, correct and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibits A attached hereto and incorporated by reference herein as though set forth in full.
4. That the appeal filed by Jeff Edwards is hereby denied, that the decision of the Planning Department Hearing Officer is hereby affirmed, and that the application of Phillips 66 for Minor Use Permit DRC2019-00231 is hereby approved subject to the conditions of approval set forth in Exhibits B attached hereto and incorporated by reference herein as though set forth in full.
5. That the Mitigated Negative Declaration (State Clearinghouse No. 2020070364, ED20-098) prepared for this project represents the independent judgment and analysis of the County as Lead Agency and that it is hereby approved as complete and adequate and as having been prepared in accordance with the provisions of the California Environmental Quality Act.



Upon motion of Supervisor Compton, seconded by Supervisor Gibson,  
and on the following roll call vote, to wit:

AYES: Chairperson Compton, Supervisors Gibson, Peschong, Ortiz-Legg and Arnold

NOES: None

ABSENT: None

ABSTAINING: None

the foregoing resolution is hereby adopted.

Lynn Compton  
Chairperson of the Board of Supervisors

ATTEST:

WADE HORTON  
Ex-Officio Clerk of the Board of Supervisors

By: T'Ana Christiansen  
Deputy Clerk

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL  
County Counsel

By: /s/ Jon Ansolabehere  
Chief Deputy County Counsel

Dated: December 24, 2020

STATE OF CALIFORNIA,                    )  
  ) ss.  
COUNTY OF SAN LUIS OBISPO,        )

I, WADE HORTON, 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 29<sup>th</sup> day of January, 2021.

WADE HORTON

Ex-Officio Clerk of the Board of Supervisors

(SEAL)

By: 

Deputy Clerk



**EXHIBIT A – FINDINGS**  
**DRC2019-00231 / Phillips 66**

*Environmental Determination*

- A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on July 17, 2020 for this project. Mitigation measures are proposed to address Air Quality, Biological Resources, and Hazards & Hazardous Materials and are included as conditions of approval.

*Minor Use Permit*

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the project is the remediation of contaminated soils from an environmentally sensitive area and as conditioned, is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use 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 the remediation activities do not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the remediation will not result in a permanent structure in the dune habitat and is therefore similar to, and will not conflict with, the surrounding lands and uses.
- 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 because the project is located within the Santa Maria Refinery's property and all transportation requirements will take place entirely onsite. The project site is accessed via the existing paved parking lot and is able to handle any additional traffic associated with the project.

*Coastal Access*

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is a remediation project with no permanent development or improvements and will not inhibit or otherwise affect access to the coastal waters and recreation areas. Further, the applicant has substantially complied with Condition No. 17 of previous Conditional Use Permit DRC2008-00146 because it has recorded an offer of dedication for a public access easement across the Phillips 66 owned portion of the property. Completion of an access way is not realistically feasible at the time

or the foreseeable future because said access is bisected perpendicularly by a railroad owned by Union Pacific.

#### *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 conditions requiring the restoration and enhancement of sensitive resources within the project site, and implementation of the project's conditions/mitigation measures.
- I. Natural features and topography have been considered in the design and siting of all proposed physical improvements because *multiple surveys have been* conducted to identify the exact limits of contamination and therefore, the necessary extent of grading.
- J. The proposed clearing of topsoil is the minimum necessary to achieve safe and convenient access and will not create significant adverse effects on the identified sensitive resource because the project will only remove contaminated soil and mitigation measures will protect and replace impacted vegetation.
- K. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff, because proposed slopes of 2:1 have been reviewed and are determined to be appropriate for the project. Hydroseeding will take place over the entire area of disturbance including the resulting slopes.

#### *Environmentally Sensitive Habitat Area*

- L. There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat because of the biological mitigation measures including pre-construction wildlife surveys, environmental awareness training, focused floristic surveys, and habitat restoration.
- M. The proposed use will not significantly disrupt the habitat because the project requires a restoration plan and re-planting of impacted Nipomo Mesa Lupine to ensure the native vegetation reestablishes the habitat.



**EXHIBIT B - CONDITIONS OF APPROVAL**  
**DRC2019-00231 / Phillips 66**

**Approved Development**

1. This approval authorizes the restoration of the Northern Inactive Waste Site (NIWS) through the removal of approximately 14,520-cubic-yards of hydrocarbon and asbestos impacted soil, and domestic waste. The restoration will result in the disturbance of approximately 1.38-acres of the 560-acre site.

**Conditions required to be completed at the time of application for construction permits**

***Air Quality***

2. **Prior to issuance of construction permits**, the following measures related to fugitive dust emissions shall be incorporated into the construction phase of the project and shown on all applicable construction plans (AQ-1):
  - a) Reduce the amount of the disturbed area where possible;
  - b) Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site and from exceeding the APCD's limit of 20% opacity for greater than 3 minutes in any 60-minute period. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water should be used whenever possible. Please note that when water use may be a concern due to drought conditions, the contractor or builder should consider the use of an APCD-approved dust suppressant where feasible to reduce the amount of water used for dust control. Please refer to the following link for potential dust suppressants: Products Available for Controlling Dust; All dirt stock pile areas should be sprayed daily as needed;
  - c) All dirt stockpile areas should be sprayed daily and covered with tarps or other dust barriers as needed;
  - d) Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible following completion of any soil disturbing activities;
  - e) Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with a fast germinating, non-invasive grass seed and watered until vegetation is established;
  - f) All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD;
  - g) All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used;
  - h) Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;

- i) All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CVC Section 23114;
  - j) "Track-Out" is defined as sand or soil that adheres to and/or agglomerates on the exterior surfaces of motor vehicles and/or equipment (including tires) that may then fall onto any highway or street as described in CVC Section 23113 and California Water Code 13304. To prevent 'track out', designate access points and require all employees, subcontractors, and others to use them. Install and operate a 'track-out prevention device' where vehicles enter and exit unpaved roads onto paved streets. The 'track-out prevention device' can be any device or combination of devices that are effective at preventing track out, located at the point of intersection of an unpaved area and a paved road. Rumble strips or steel plate devices need periodic cleaning to be effective. If paved roadways accumulate tracked out soils, the track-out prevention device may need to be modified; Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible;
  - k) Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers shall be used with reclaimed water where feasible. Roads shall be pre-wetted prior to sweeping when feasible;
  - l) All of these fugitive dust mitigation measures shall be shown on grading and building plans; and
  - m) In support of APCD standard fugitive dust mitigation measures, the applicant shall designate a Visible Emission Evaluation certified person or persons to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize nuisance violations from dust complaints (Rule 402) and to reduce visible emissions below the APCD's limit of 20% opacity (Rule 401) for greater than 3 minutes in any 60-minute period. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD Engineering & Compliance Division prior to the start of any grading, earthwork or demolition.
  - n) The APCD recommends construction activities that will generate dust should be limited to periods when good air quality is forecasted. The 6-day forecast for the CDF forecast zone is available from the APCD website, [slocleanair.org](http://slocleanair.org). This information should be used by all on-site workers to plan construction activities for days when the air quality is forecasted to be good.
  - o) Provide training to all site workers regarding dust control policies and practices and maintain records of training; and
  - p) Take additional measures as needed to ensure dust from the project site is not impacting areas outside the project boundary.
3. **Prior to application for construction permits**, provide evidence to the County Department of Planning and Building that all applicable permits and/or clearances from SLO County APCD have been obtained prior to conducting site work. Based on the information provided, the APCD is unsure of the types of equipment that may be present during the project's construction phase. Portable equipment, 50 horsepower (hp) or greater, used during construction activities may require California statewide portable equipment registration (issued by the California Air Resources Board) or an APCD permit (AQ-6).

### Conditions to be completed prior the issuance of any grading permits

#### **Biological Resources**

4. **Prior to the issuance of any grading permits and**, the Applicant shall submit grading plans and specifications to the County of San Luis Obispo, which indicate that the proposed project shall implement the following Best Management Practices (BIO-3):
- Restrict non-essential equipment to the existing roadways and/or ruderal areas to avoid disturbance to native vegetation.
  - All excavation, steep-walled holes or trenches shall be provided with one or more escape ramps constructed of earth dirt fill or wooden planks. Trenches would also be inspected for entrapped wildlife each morning prior to onset of construction activities. Before such holes or trenches are filled, they would be thoroughly inspected for entrapped wildlife. Any wildlife discovered would be allowed to escape before construction activities are allowed to resume or removed from the trench or hole by a qualified biologist holding the appropriate permits (if required).
  - Minimize mechanical disturbance of soils to reduce impact of habitat manipulation on small mammals, reptiles, and amphibians.
  - Removal or disturbance of vegetation shall be minimized to the greatest extent feasible.
  - To avoid impacts to undisturbed habitat within the larger BSA, outside of the proposed project area, no vehicles will be allowed to travel outside of existing asphalt/dirt roads within the BSA; refer to Figure 3 in Section IV of the project's Mitigated Negative Declaration (State Clearinghouse No. 2020070364). Biological Resources for a depiction of the existing roads.

### Conditions to be completed prior to any ground disturbing activities

#### **Air Quality**

5. The applicant will be required to notify the APCD **prior to any ground disturbing activities**, such as any dirt moving, dust creation and/or excavation activities would commence. Specifications of this condition would be outlined in the APCD permit required to begin excavation. This information would be used to maintain the APCD's AirAware community alert notification program and help the APCD differentiate dust emissions from the project's activities and blowing dust from the Oceano Dunes (AQ-3).
6. APCD Permitting of Hydrocarbon Contaminated Soil Processes. This Remediation project shall require an APCD permit to address proper management of the hydrocarbon contaminated soil **prior to the start of any ground disturbing activities**. This permit shall include conditions to minimize emissions from any excavation, disposal or related process. To the extent feasible, Phillips 66 shall contact the APCD Engineering & Compliance Division at 805-781-5912 within 120 days before the start of excavation to begin the permitting process (AQ-5).

#### **Biological Resources**

7. The Applicant shall retain a qualified lead biologist(s) to conduct a pre-construction survey immediately **prior to initial project activities** (i.e., the morning of the commencement of project activities) within 50 feet of suitable habitat. Construction monitoring shall also be



conducted by a qualified biologist during all *initial ground-disturbing* and vegetation removal activities (e.g., grading, grubbing, vegetation trimming, vegetation removal, etc.) within suitable habitat. The lead biologist(s) shall have the right to halt all activities that are in violation of special-status species protection measures. If any special-status wildlife species are discovered during surveys or monitoring, they will be allowed to leave the area on their own or will be hand-captured by a qualified biologist and relocated to suitable habitat outside the area of impact. Work shall proceed only after hazards to special-status species are removed, the species are allowed to leave, or are removed (if allowed) and the species is no longer at risk (BIO-1).

The biologist will place clearly marked boundaries of the proposed work area before construction with highly visible flagging or fencing to avoid expanding the work area into any adjacent vegetation or buffer areas. All established buffers shall remain in place until the biologist has determined that the nest is inactive; when buffers are needed a highly visible fence/material shall be installed (and kept in good working order) to mark the outer edge of this buffer; once the buffer area is established, all construction related activities shall cease within this area.

All pre-construction and on-going surveys shall be submitted by the applicant to the County within one week of the field work being completed. For any buffers proposed at less than 250 feet, the biologist shall provide a written basis supporting this reduction to the County for concurrence. If any additional ground- or vegetation-disturbing activities occur on the project site, the above surveys and monitoring will be repeated.

8. **Prior any site disturbance**, an environmental awareness training shall be presented to all project personnel by a qualified biologist. The training shall include color photographs and a description of the ecology of all special-status species known or determined to have potential to occur, as well as other sensitive resources requiring avoidance near project impact areas. The training shall also include a description of protection measures required by the project's discretionary permits, an overview of the federal Endangered Species Act, the California Endangered Species Act, and implications of noncompliance with these regulations, as well as an overview of the required avoidance and minimization measures. A sign-in sheet with the name and signature of the qualified biologist who presented the training and the names and signatures of the trainees will be kept and provided to the County of San Luis Obispo (County). If new project personnel join the project after the initial training period, they will receive the environmental awareness training from a designated crew member on site before beginning work. A qualified biologist will provide refresher trainings during site visits or other monitoring events (BIO-2).

*Prior to the development of the Worker Environmental Education program*, it is recommended the applicant contact the USFWS to provide specific comments, pictures, and additional information regarding the sensitive species in the area, to be included in the WEEP.

9. If work is planned to occur between February 1 and September 15, a qualified biologist shall survey the area for nesting birds **within one week prior to initial project activity beginning**, including ground disturbance and/or vegetation removal/trimming. If nesting birds are located on or near the proposed project site, they shall be avoided until they have successfully fledged, or the nest is no longer deemed active (BIO-4).
  - o A 50-foot exclusion zone shall be placed around non-listed, passerine species, and a 250-foot exclusion zone will be implemented for raptor species. Each exclusion zone shall encircle the nest and have a radius of 50 feet (non-listed passerine species) or 250 feet (raptor species). All project activities, including foot and

vehicle traffic and storage of supplies and equipment, are prohibited inside exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, or it has been determined by a qualified biologist that the young have fledged or that proposed project activities would not cause adverse impacts to the nest, adults, eggs, or young.

- If special-status avian species (aside from the burrowing owl or tricolored blackbird [if identified in biological report]) are identified and nesting within the work area, no work will begin until an appropriate exclusion zone is determined in consultation with the County and any relevant resource agencies.
- The results of the survey shall be provided to the County prior to initial project activities. The results shall detail appropriate fencing or flagging of exclusion zones and include recommendations for additional monitoring requirements. A map of the project site and nest locations shall be included with the results. The qualified biologist conducting the nesting survey shall have the authority to reduce or increase the recommended exclusion zone depending on site conditions and species (if non-listed).

If two weeks lapse between different phases of project activities (e.g., vegetation trimming and the start of grading), during which no or minimal work activity occurs, the nesting bird survey shall be repeated.

10. **Prior to the start of proposed project activities**, and within a year of project construction, a qualified biologist/botanist shall conduct a pre-construction survey immediately prior to initial project activities (i.e., the morning of the commencement of project activities) within 50 feet of suitable habitat. Construction monitoring shall also be conducted by a qualified biologist during all initial ground-disturbing and vegetation removal activities (e.g., grading, grubbing, vegetation trimming, vegetation removal, etc.) within suitable habitat. If any special-status wildlife species are discovered during surveys or monitoring, they will be allowed to leave the area on their own or will be hand-captured by a qualified biologist and relocated to suitable habitat outside the area of impact. A minimum of three survey events should be conducted and timed to account for the variance in blooming periods for special-status plants known or with the potential to occur in the BSA. Upon completion of the surveys a detailed survey report shall be prepared and submitted to the County of San Luis Obispo, as an addendum to this BRTR, for review and approval. This report shall include, at a minimum, a description of survey methodologies, a compendium of all species observed, and detailed GIS based maps showing locations of all mapped species (BIO-5).

All occurrences of special-status plants will be mapped and occurrences within 100 feet of proposed project activities flagged in the field. A minimum of a 25-foot buffer shall be placed around all known locations of special-status species within 100-ft of project activities to avoid potential impacts to seed banks and microhabitats that support the species. These buffers shall be flagged/fenced and avoided during construction. All occurrences of Nipomo Mesa lupine, or any other federal or state listed species, will be avoided. Occurrences of CRPR species will be avoided to the extent possible. If prior to or during construction, it is found that populations of special-status plant species have expanded within the 25-foot buffer from Project features (e.g. existing access roads), the Applicant will coordinate with the County Planning and Building Department on proposed reductions or modifications. This may include the placement of additional visual demarcations (e.g. temporary high visibility fencing) to eliminate direct impacts to the species. No Project related activity modifications to existing buffers would be allowed without approval from the County Planning and Building Department; proposed reductions

or modifications must not result in direct impacts to or increased indirect impacts to listed plant species.

If CRPR species (e.g., sand almond) cannot be avoided the individual plants shall be salvaged (e.g., plant placed in large nursery pot and/or seed collection) for use in habitat restoration activities (refer to MM BIO-6) once project related construction activities are complete. Details of the proposed salvage activity will be presented in the Habitat Restoration Plan (HRP [refer to MM BIO-6]). All plants directly salvaged or propagated from collected seed shall be monitored and must survive in good health or demonstrate stable or expanding populations, for a minimum of three years, post planting, for salvage to be considered successful. Details of the salvage methodology will be presented in the HRP detailed under MM BIO-6.

### **Conditions to be completed during project construction**

#### ***Air Quality***

11. Limits of Idling. State law prohibits idling diesel engines for more than 5 minutes. During project construction, all projects with diesel-powered construction activity shall comply with Section 2485 of Title 13 of the California Code of Regulations and the 5-minute idling restriction identified in Section 2449(d)(2) of the California Air Resources Board's In-Use Off-Road Diesel regulation to minimize toxic air pollution impacts from idling diesel engines. The specific requirements and exceptions for the on-road and off-road regulations can be reviewed at the following web sites: [arb.ca.gov/msprog/truck-idling/factsheet.pdf](http://arb.ca.gov/msprog/truck-idling/factsheet.pdf) and [arb.ca.gov/regact/2007/ordiesl07/frooal.pdf](http://arb.ca.gov/regact/2007/ordiesl07/frooal.pdf) (AQ-2).  
  
In addition, because this project is within 1,000 feet of sensitive receptors residential dwellings, the project applicant shall comply with the following more restrictive requirements to minimize impacts to nearby sensitive receptors:
  1. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors;
  2. Diesel idling within 1,000 feet of sensitive receptors shall not be permitted;
  3. Use of alternative fueled equipment is recommended; and
  4. Signs that specify no idling areas must be posted and enforced at the site.
12. Asbestos in Soil. This project would be excavating asbestos contaminated soil, indicating this project is subject to various regulatory jurisdictions, including the requirements stipulated in the National Emission Standard for Hazardous Air Pollutants (40CFR61, Subpart M - asbestos NESHAP). Additionally, asbestos-containing material could be encountered in the demolition, or relocation of above or below ground utility pipes/pipelines (e.g., transite pipes or insulation on pipes). NESHAP requirements include but are not limited to (AQ-4):
  - 1) Written notification to the APCD, within at least 10 business days of activities commencing.
  - 2) Asbestos survey report conducted by a Certified Asbestos Consultant.
  - 3) Written work plan addressing asbestos handling procedures in order to prevent visible emissions.

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



## **Biological Resources**

13. Construction activities shall be done in such a manner as to minimize the removal of native vegetation. If native vegetation removal cannot be avoided, and the removal is approved by the County of San Luis Obispo, the impacted plant communities shall be replaced at a mitigation ratio of 1:1. Sensitive communities (e.g., silver dune lupine – mock heather scrub) shall be replaced at a mitigation ratio of 2:1. The compensation for the loss of habitats may be achieved either by a) on-site habitat creation or enhancement of impacted communities with similar species compositions to those present prior to construction, b) off-site creation or enhancement of dune scrub communities, or c) participation in an established mitigation bank program (BIO-6).

*Prior to the removal of native vegetation, a Habitat Restoration Plan shall be prepared to address the temporary and permanent impacts to the sensitive habitat and will guide all restoration and monitoring activities. This plan shall be reviewed and approved by the County of San Luis Obispo's Environmental Coordinator. Any usable topsoil with the potential to hold the seeds of sensitive species will be salvaged and used when revegetating the area. This plan shall include, at a minimum, the following:*

- Proposed species list for creation/enhancement;
- Planting/seeding methodology;
- Details on methodologies for salvage of CRPR species;
- Irrigation plan;
- Weeding schedule;
- Success criteria;
- Monitoring methodology and schedule;
- Reporting requirements; and
- Contingency plan.

Prior to ground disturbing activities, it is recommended that the applicant send the habitat restoration plan to the USFWS for review.

The property owner shall be responsible for execution of the restoration plan that will re-establish the previous natural conditions of the site, subject to monitoring and periodic inspection by the County. Failure to adequately execute the plan shall be subject to the enforcement provisions by the County.

14. Prior to final of construction permits, if project-related impacts result in the loss of more than 10% of the on-site (BSA) population of any CRPR plant species, compensatory mitigation will be required. Compensation will be required for all impacts that exceed the 10% threshold (e.g. impacts to 15% of a population will only require compensation for 5% or the amount of impacts that exceed the 10% threshold). Compensation for permanent impacts to CRPR species may be achieved either by a) on-site habitat creation or enhancement of impacted communities with similar species compositions to those present prior to construction, b) off-site creation or enhancement of dune scrub communities, or c) participation in an established mitigation bank program at a 1:1 mitigation ratio (one acre preserved for each acre impacted). Compensation for temporary impacts will be at a 0.5:1 ratio. Enhanced/restored habitat for an impacted plant species shall be of equal or greater habitat quality to the impacted areas in terms of soil features, extent of disturbance, and vegetation structure (BIO-7).

## **Timelines**

15. 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 a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.

16. 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.

***Indemnification Clause***

17. The applicant shall as a condition of approval of this land use permit, defend (with counsel acceptable to the County), at applicant's sole expense, any action brought against the County of San Luis Obispo, its present or former elected and appointed officials, agents, or employees, by a third party challenging either its decision to approve this land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to approval or implementation of this land use permit. The applicant shall reimburse the County for any court costs and attorney fees that 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 their obligation under this condition.



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

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 1/26/2021	(3) CONTACT/PHONE Matt Ringel, Project Manager (805) 788-2414	
(4) SUBJECT Hearing to consider an appeal (APPL2020-00011) by Jeff Edwards of the Planning Department Hearing Officer's approval of a request by Phillips 66 for a Minor Use Permit (DRC2019-00231) to allow for the remediation of the Northern Inactive Waste Site comprised of approximately 14,520-cubic-yards of hydrocarbon and asbestos impacted soil, and domestic waste. District 4.			
(5) RECOMMENDED ACTION It is recommended that the Board adopt the resolution to deny the appeal of Jeff Edwards and uphold the decision of the Planning Department Hearing Officer to approve Minor Use Permit DRC2019-00231 based on the findings and conditions set forth in Attachment 2 – Exhibit A and Exhibit B.			
(6) FUNDING SOURCE(S) Planning and Building Department Budget	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. 30 minutes) <input type="checkbox"/> Board Business (Time Est. _____)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? Yes	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A    Date _____	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) District 4			





## COUNTY OF SAN LUIS OBISPO

TO: Board of Supervisors

FROM: Planning and Building  
Matt Ringel, Project Manager

VIA: Xzandrea Fowler, Environmental Planning Manager

DATE: January 26, 2021

SUBJECT: Hearing to consider an appeal (APPL2020-00011) by Jeff Edwards of the Planning Department Hearing Officer's approval of a request by Phillips 66 for a Minor Use Permit (DRC2019-00231) to allow for the remediation of the Northern Inactive Waste Site comprised of approximately 14,520-cubic-yards of hydrocarbon and asbestos impacted soil, and domestic waste. District 4.

### **RECOMMENDATION**

It is recommended that the Board adopt the resolution to deny the appeal of Jeff Edwards and uphold the decision of the Planning Department Hearing Officer to approve Minor Use Permit DRC2019-00231 based on the findings and conditions set forth in Attachment 2 – Exhibit A and Exhibit B.

### **DISCUSSION**

On September 4, 2020, the Planning Department Hearing Officer heard and approved a request by Phillips 66 for Minor Use Permit DRC2019-00231 to allow for the remediation of the Northern Inactive Waste Site. On September 16, 2020, an appeal of the Planning Department Hearing Officer's approval was filed.

The Appeal form and letter (Attachment 3) presents one issue, which is summarized and discussed below.

#### *Appeal Issue*

County staff did not analyze this project relative to Coastal Zone Land Use Ordinance Section 23.04.420 relating to public access policies of the California Coastal Act.

#### *Staff Response*

The Phillips 66 Santa Maria Refinery is a fenced and gated industrial facility that cannot currently provide legal public access to coastal waters and recreation areas due to the location of the Union Pacific Railroad

and land owned by the California State Parks and requirements of the California Public Utilities Commission.

This fact was described in the Staff Report prepared for Minor Use Permit DRC2019-00231. Relative to Policy 1 and 9 of the analyzed Shoreline Access Policies within the Coastal Plan Policies, the Staff Report stated that "Access routes exist on the western side of the project parcel. The project is located within the interior of the Santa Maria Refinery's property and will not interfere with the public's right of access to the sea."

Additionally, the Staff Report states that "there is no nexus for costal access improvements" because the remediation project has no permanent development or improvements.

Therefore, the issue of public access to the coast has been adequately analyzed and addressed for the Phillips 66 Santa Maria Refinery. This project would not require additional provisions for public access to the coast.

Furthermore, Coastal Zone Land Use Ordinance Section 23.04.420 states:

*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.*

The Phillips 66 Santa Maria Refinery is located between Highway 1 and the public beach; however, the remediation of the Northern Inactive Waste Site will not change or inhibit public access to coastal waters and recreation areas in any way. Additionally, the Phillips 66 Santa Maria Refinery was constructed in 1955, and since that time, has obtained various land use entitlements which have sufficiently addressed Section 23.04.420 for the facility.

As part of a previous Conditional Use Permit DRC2008-00146, which allowed additional throughput of oil at the facility, the Phillips 66 Santa Maria Refinery was required to provide vertical public access to the ocean. More specifically, Condition #17 stated:

***Prior to the 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).***

On April 1, 2015, Phillips 66 recorded an *Irrevocable Offer to Dedicate Vertical Public Access Easement and Declaration of Restrictions* ("OTD") to the County of San Luis Obispo. The OTD does not include land over Union Pacific-owned railroad tracts which run parallel to the ocean and perpendicular to the access way in

the OTD. Instead, the OTD includes a 10-foot wide path that leads up to, and from Union Pacific's property to the edge of Phillips 66 property. Neither Union Pacific nor the California Public Utilities Commission will allow public crossing over the railroad tracks at this location and therefore, the OTD offers public access to the maximum extent feasible. The County believes the offer and recordation of the OTD meets the intent of Condition #17 and the County has affirmed that Phillips 66 has substantially complied with this condition on multiple occasions.

Therefore, staff's recommendation is to deny the appeal.

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

The project was referred to Public Works, County Fire, Environmental Health, the Building Division, the Air Pollution Control District, California Department of Fish and Wildlife, United States Fish and Wildlife Service, and the California Coastal Commission.

County Counsel has reviewed and approved the attached resolution with findings as to form and legal effect.

#### **BUSINESS IMPACT STATEMENT**

Denying this appeal of the Planning Department Hearing Officer's approval would mean that remediation of the Northern Inactive Waste Site would be approved with conditions.

Failure to complete this remediation project timely and in accordance with the approved corrective action work plan will result in the issuance of orders under Water Code Sections 13267, 13304, or other notices of violation from the Regional Water Control Board to the Phillips 66 company.

#### **FINANCIAL CONSIDERATIONS**

The appeal is not subject to an appeal fee as it is located in the Coastal Zone and raises a costal resource issue. This appeal was processed using the Department's allocated General Fund support.

#### **RESULTS**

Denying the appeal and upholding the Planning Department Hearing Officer's decision to approve Minor Use Permit DRC2019-00231 would mean that the permit is approved. This is consistent with the County's goal to promote a safe, healthy and livable community.



#### **ATTACHMENTS**

- 1 PowerPoint Presentation
- 2 Resolution Denying the Appeal of Jeff Edwards, Affirming the Decision of the Planning Department  
Hearing Officer, and Conditionally Approving the Application of Phillips 66 for Minor Use Permit  
DRC2019-00231
- 3 Appeal Form and Letter
- 4 Notice of Final County Action
- 5 Minutes from September 4, 2020 Planning Department Hearing
- 6 Staff Report from September 4, 2020 Planning Department Hearing
- 7 Project Graphics
- 8 Board of Supervisors February 26, 2013 Resolution for DRC2008-00146
- 9 Offer to Dedicate
- 10 Applicant's Response to Appellant

Attachment 1



## COUNTY OF SAN LUIS OBISPO

[www.slocounty.ca.gov](http://www.slocounty.ca.gov)

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# **Board of Supervisors January 26, 2021**

## **Appeal APPL2020-00011 of Minor Use Permit/ Coastal Development Permit DRC2019-00231**



COUNTY OF SAN LUIS OBISPO

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## **BACKGROUND**

- Minor Use Permit/Coastal Development Permit was approved by the Planning Department Hearing Officer on September 4, 2020
- Appeal was filed on September 16, 2020



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## PROJECT DESCRIPTION

- Remediation of the Northern Inactive Waste Site
  1. Excavation of 14,520-cubic-yards of material
  2. Transportation via trucks and rail cars
  3. Revegetation with native species
- 1.38 acres of disturbance of an approximate 560-acre site

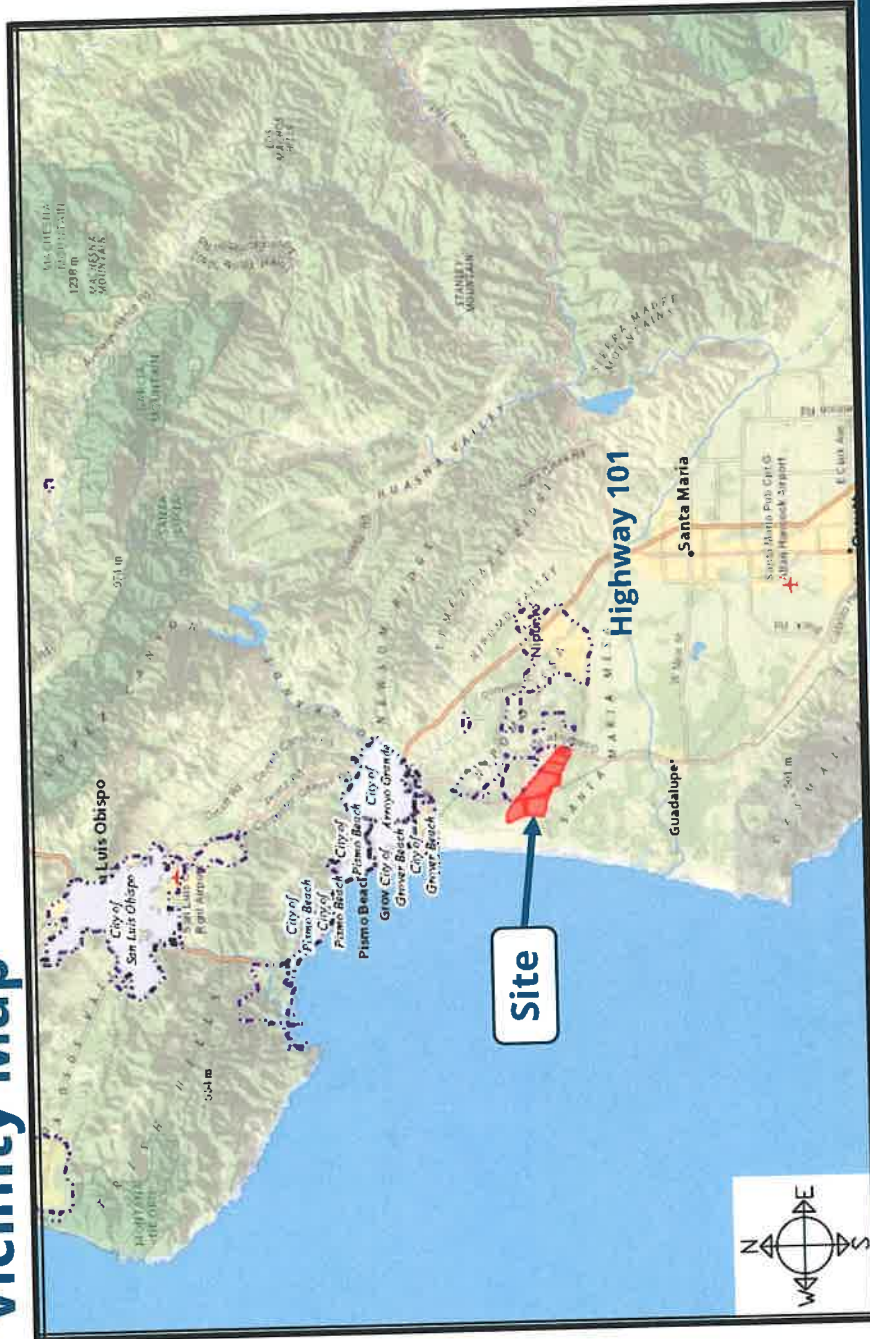


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# Vicinity Map



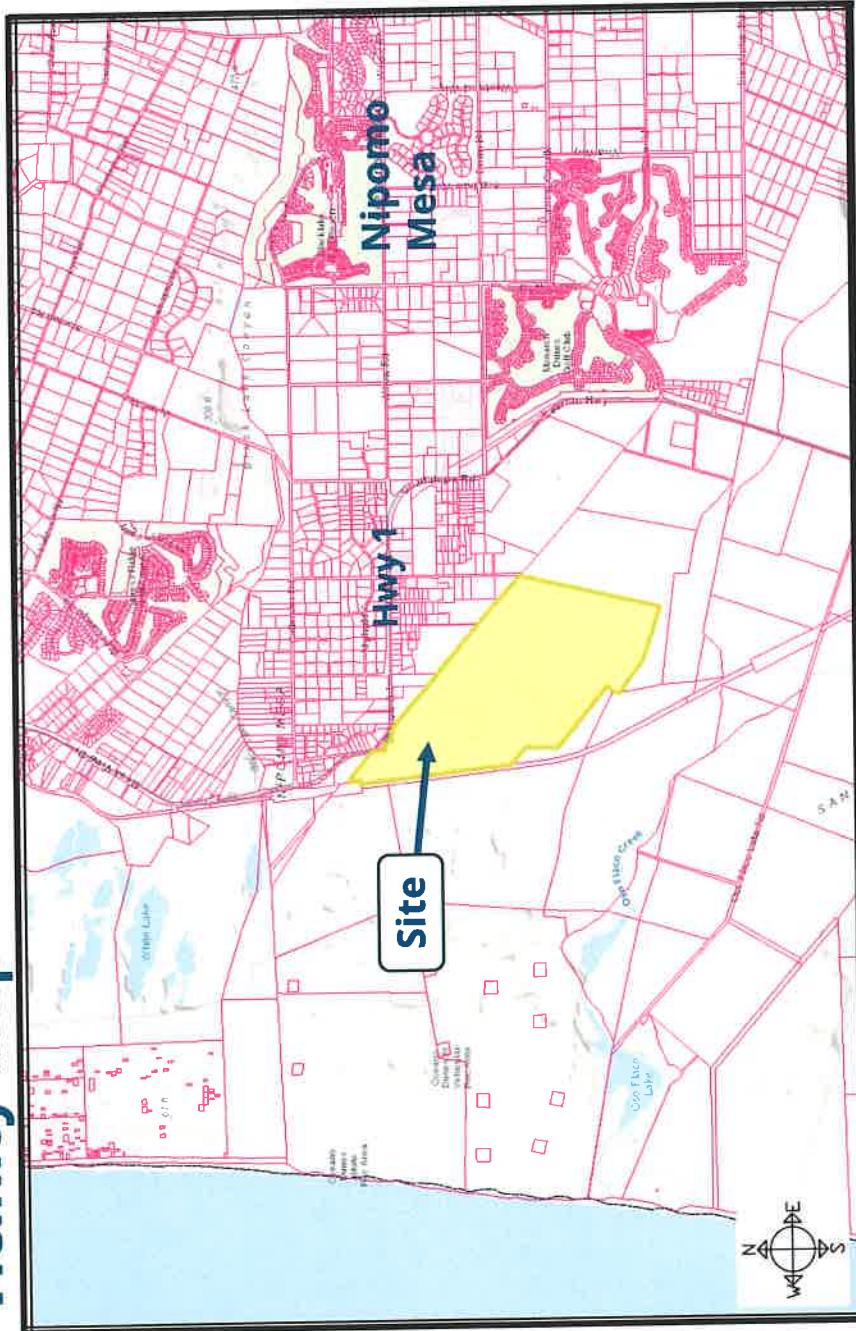
APPL2020-00011

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# Vicinity Map

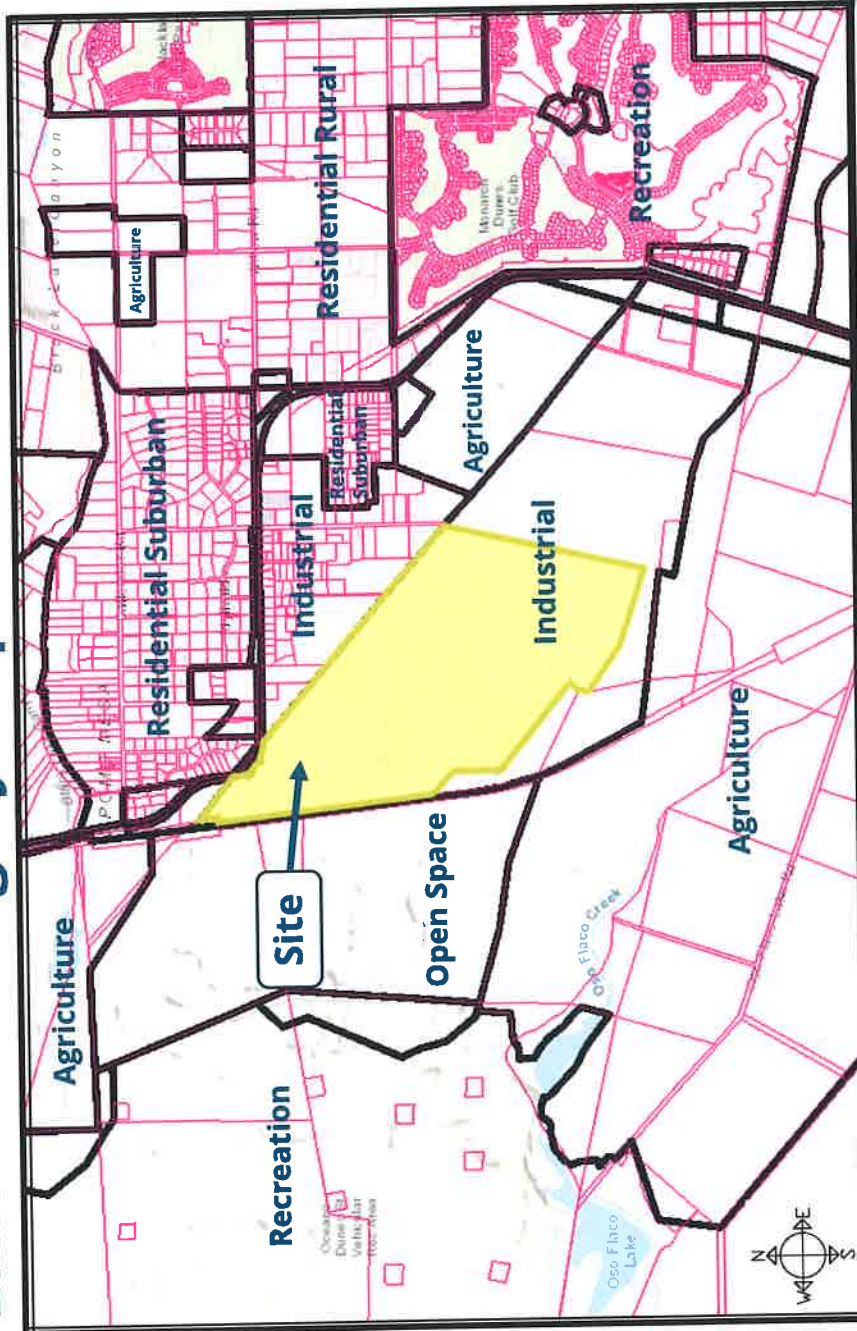


APPL2020-00011

COUNTY OF SAN LUIS OBISPO



# Land Use Category Map



COUNTY OF SAN LUIS OBISPO

APPL2020-00011

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## Aerial View



Union Pacific  
Railroad

Site



COUNTY OF SAN LUIS OBISPO

APPL2020-00011

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## **APPEAL ISSUE**

- County staff did not analyze this project relative to Coastal Zone Land Use Ordinance Section 23.04.420 relating to public access policies of the California Coastal Act



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## STAFF RESPONSE

- Analysis of Shoreline Access Policies 1 & 9
- No nexus for coastal access improvements



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## STAFF RESPONSE

- Condition #17 of Conditional Use Permit DRC2008-00146 required Phillips 66 to provide coastal access from the Santa Maria Refinery to the ocean
- On April 1, 2015, Phillips 66 recorded an *Irrevocable Offer to Dedicate Vertical Public Access Easement and Declaration of Restrictions* to the County
- Does not include crossing over Union Pacific Railroad tracts



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## Coastal Access Location Map 2

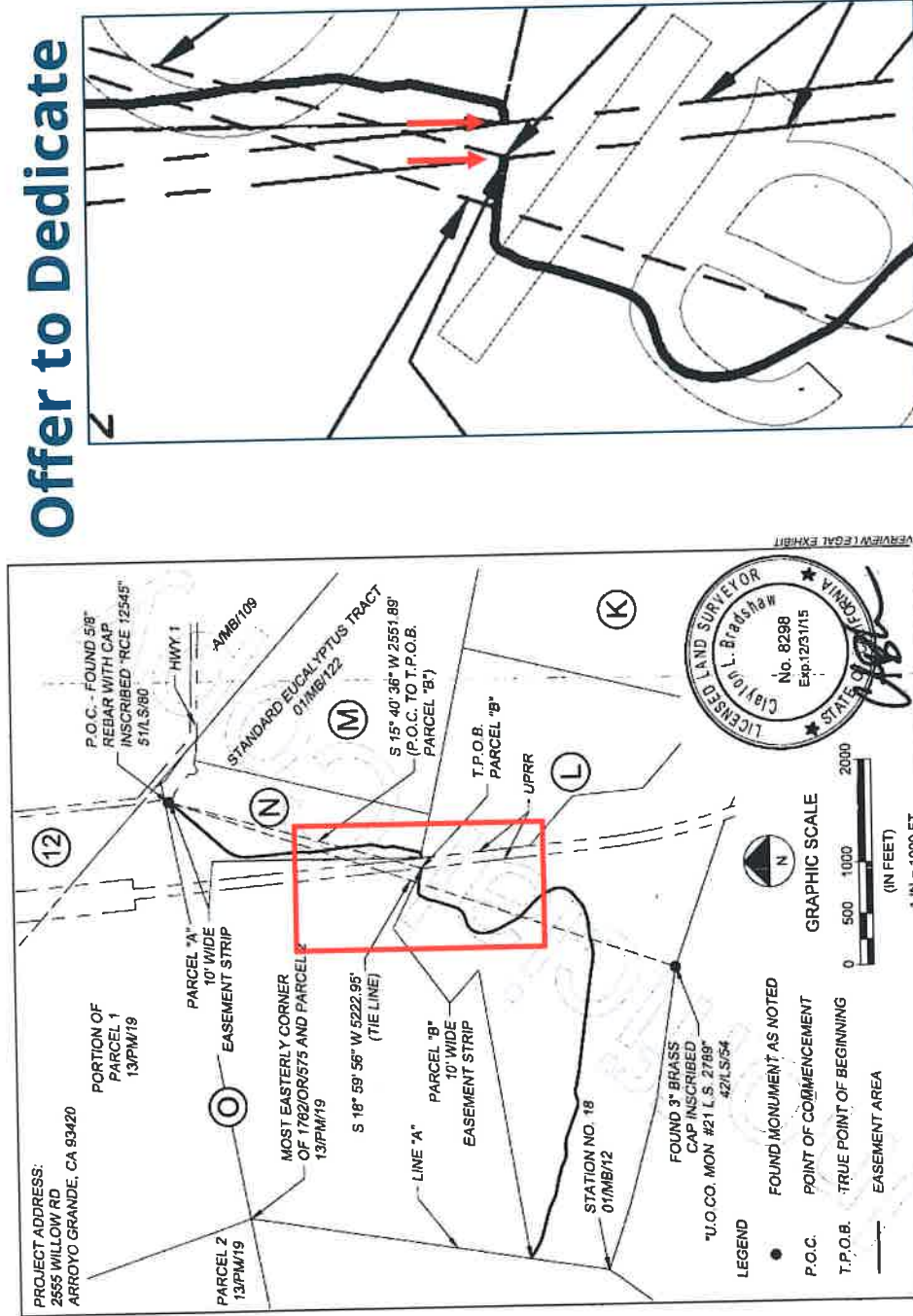


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# Offer to Dedicate



APPL2020-00011

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## **RECOMMENDATION**

- Adopt the resolution to deny the appeal (APPL2020-00011) and uphold the decision of the Planning Department Hearing Officer to approve Minor Use Permit DRC2019-00231 based on the findings and conditions set forth in Attachment 2 – Exhibit A and Exhibit B.



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# Questions?



COUNTY OF SAN LUIS OBISPO

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## IN THE BOARD OF SUPERVISORS

County of San Luis Obispo, State of California

\_\_\_\_\_ day \_\_\_\_\_, 20\_\_\_\_

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION DENYING THE APPEAL OF JEFF EDWARDS, AFFIRMING THE DECISION OF  
THE PLANNING DEPARTMENT HEARING OFFICER, AND CONDITIONALLY APPROVING  
THE APPLICATION OF PHILLIPS 66 FOR MINOR USE PERMIT DRC2019-00231**

The following resolution is now offered and read:

**WHEREAS**, on September 4, 2020, the Planning Department Hearing Officer of the County of San Luis Obispo duly considered the application of Phillips 66 for Minor Use Permit DRC2019-00231 and conditionally approved the application on September 4, 2020; and

**WHEREAS**, Jeff Edwards has appealed the Planning Department Hearing Officer'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 January 26, 2021; 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, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

**WHEREAS**, the Board of Supervisors has duly considered the appeal and finds that the appeal should be denied and the decision of the Planning Department Hearing Officer be affirmed and that the application should be approved 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 hereinabove are true, correct and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibits A attached hereto and incorporated by reference herein as though set forth in full.
4. That the appeal filed by Jeff Edwards is hereby denied, that the decision of the Planning Department Hearing Officer is hereby affirmed, and that the application of Phillips 66 for Minor Use Permit DRC2019-00231 is hereby approved subject to the conditions of approval set forth in Exhibits B attached hereto and incorporated by reference herein as though set forth in full.
5. That the Mitigated Negative Declaration (State Clearinghouse No. 2020070364, ED20-098) prepared for this project represents the independent judgment and analysis of the County as Lead Agency and that it is hereby approved as complete and adequate and as having been prepared in accordance with the provisions of the California Environmental Quality Act.

Upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor  
\_\_\_\_\_, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

\_\_\_\_\_  
Chairperson of the Board of Supervisors

ATTEST:

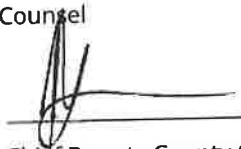
WADE HORTON  
Ex-Officio Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy Clerk

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL  
County Counsel

By:   
Chief Deputy County Counsel

Dated: December 24, 2020

**EXHIBIT A – FINDINGS**  
**DRC2019-00231 / Phillips 66**

*Environmental Determination*

- A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on July 17, 2020 for this project. Mitigation measures are proposed to address Air Quality, Biological Resources, and Hazards & Hazardous Materials and are included as conditions of approval.

*Minor Use Permit*

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the project is the remediation of contaminated soils from an environmentally sensitive area and as conditioned, is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use 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 the remediation activities do not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the remediation will not result in a permanent structure in the dune habitat and is therefore similar to, and will not conflict with, the surrounding lands and uses.
- 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 because the project is located within the Santa Maria Refinery's property and all transportation requirements will take place entirely onsite. The project site is accessed via the existing paved parking lot and is able to handle any additional traffic associated with the project.

*Coastal Access*

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is a remediation project with no permanent development or improvements and will not inhibit or otherwise affect access to the coastal waters and recreation areas. Further, the applicant has substantially complied with Condition No. 17 of previous Conditional Use Permit DRC2008-00146 because it has recorded an offer of dedication for a public access easement across the Phillips 66 owned portion of the property. Completion of an access way is not realistically feasible at the time

or the foreseeable future because said access is bisected perpendicularly by a railroad owned by Union Pacific.

*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 conditions requiring the restoration and enhancement of sensitive resources within the project site, and implementation of the project's conditions/mitigation measures.
- I. Natural features and topography have been considered in the design and siting of all proposed physical improvements because *multiple surveys have been* conducted to identify the exact limits of contamination and therefore, the necessary extent of grading.
- J. The proposed clearing of topsoil is the minimum necessary to achieve safe and convenient access and will not create significant adverse effects on the identified sensitive resource because the project will only remove contaminated soil and mitigation measures will protect and replace impacted vegetation.
- K. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff, because proposed slopes of 2:1 have been reviewed and are determined to be appropriate for the project. Hydroseeding will take place over the entire area of disturbance including the resulting slopes.

*Environmentally Sensitive Habitat Area*

- L. There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat because of the biological mitigation measures including pre-construction wildlife surveys, environmental awareness training, focused floristic surveys, and habitat restoration.
- M. The proposed use will not significantly disrupt the habitat because the project requires a restoration plan and re-planting of impacted Nipomo Mesa Lupine to ensure the native vegetation reestablishes the habitat.



**EXHIBIT B - CONDITIONS OF APPROVAL**  
**DRC2019-00231 / Phillips 66**

**Approved Development**

1. This approval authorizes the restoration of the Northern Inactive Waste Site (NIWS) through the removal of approximately 14,520-cubic-yards of hydrocarbon and asbestos impacted soil, and domestic waste. The restoration will result in the disturbance of approximately 1.38-acres of the 560-acre site.

**Conditions required to be completed at the time of application for construction permits**

**Air Quality**

2. **Prior to issuance of construction permits**, the following measures related to fugitive dust emissions shall be incorporated into the construction phase of the project and shown on all applicable construction plans (AQ-1):
  - a) Reduce the amount of the disturbed area where possible;
  - b) Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site and from exceeding the APCD's limit of 20% opacity for greater than 3 minutes in any 60-minute period. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water should be used whenever possible. Please note that when water use may be a concern due to drought conditions, the contractor or builder should consider the use of an APCD-approved dust suppressant where feasible to reduce the amount of water used for dust control. Please refer to the following link for potential dust suppressants: [Products Available for Controlling Dust](#); All dirt stock pile areas should be sprayed daily as needed;
  - c) All dirt stockpile areas should be sprayed daily and covered with tarps or other dust barriers as needed;
  - d) Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible following completion of any soil disturbing activities;
  - e) Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with a fast germinating, non-invasive grass seed and watered until vegetation is established;
  - f) All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD;
  - g) All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used;
  - h) Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;

- i) All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CVC Section 23114;
  - j) "Track-Out" is defined as sand or soil that adheres to and/or agglomerates on the exterior surfaces of motor vehicles and/or equipment (including tires) that may then fall onto any highway or street as described in CVC Section 23113 and California Water Code 13304. To prevent 'track out', designate access points and require all employees, subcontractors, and others to use them. Install and operate a 'track-out prevention device' where vehicles enter and exit unpaved roads onto paved streets. The 'track-out prevention device' can be any device or combination of devices that are effective at preventing track out, located at the point of intersection of an unpaved area and a paved road. Rumble strips or steel plate devices need periodic cleaning to be effective. If paved roadways accumulate tracked out soils, the track-out prevention device may need to be modified; Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible;
  - k) Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers shall be used with reclaimed water where feasible. Roads shall be pre-wetted prior to sweeping when feasible;
  - l) All of these fugitive dust mitigation measures shall be shown on grading and building plans; and
  - m) In support of APCD standard fugitive dust mitigation measures, the applicant shall designate a Visible Emission Evaluation certified person or persons to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize nuisance violations from dust complaints (Rule 402) and to reduce visible emissions below the APCD's limit of 20% opacity (Rule 401) for greater than 3 minutes in any 60-minute period. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD Engineering & Compliance Division prior to the start of any grading, earthwork or demolition.
  - n) The APCD recommends construction activities that will generate dust should be limited to periods when good air quality is forecasted. The 6-day forecast for the CDF forecast zone is available from the APCD website, [slocleanair.org](http://slocleanair.org). This information should be used by all on-site workers to plan construction activities for days when the air quality is forecasted to be good.
  - o) Provide training to all site workers regarding dust control policies and practices and maintain records of training; and
  - p) Take additional measures as needed to ensure dust from the project site is not impacting areas outside the project boundary.
3. **Prior to application for construction permits**, provide evidence to the County Department of Planning and Building that all applicable permits and/or clearances from SLO County APCD have been obtained prior to conducting site work. Based on the information provided, the APCD is unsure of the types of equipment that may be present during the project's construction phase. Portable equipment, 50 horsepower (hp) or greater, used during construction activities may require California statewide portable equipment registration (issued by the California Air Resources Board) or an APCD permit (AQ-6).

**Conditions to be completed prior the issuance of any grading permits**

***Biological Resources***

4. **Prior to the issuance of any grading permits and**, the Applicant shall submit grading plans and specifications to the County of San Luis Obispo, which indicate that the proposed project shall implement the following Best Management Practices (BIO-3):
- Restrict non-essential equipment to the existing roadways and/or ruderal areas to avoid disturbance to native vegetation.
  - All excavation, steep-walled holes or trenches shall be provided with one or more escape ramps constructed of earth dirt fill or wooden planks. Trenches would also be inspected for entrapped wildlife each morning prior to onset of construction activities. Before such holes or trenches are filled, they would be thoroughly inspected for entrapped wildlife. Any wildlife discovered would be allowed to escape before construction activities are allowed to resume or removed from the trench or hole by a qualified biologist holding the appropriate permits (if required).
  - Minimize mechanical disturbance of soils to reduce impact of habitat manipulation on small mammals, reptiles, and amphibians.
  - Removal or disturbance of vegetation shall be minimized to the greatest extent feasible.
  - To avoid impacts to undisturbed habitat within the larger BSA, outside of the proposed project area, no vehicles will be allowed to travel outside of existing asphalt/dirt roads within the BSA; refer to Figure 3 in Section IV of the project's Mitigated Negative Declaration (State Clearinghouse No. 2020070364). Biological Resources for a depiction of the existing roads.

**Conditions to be completed prior to any ground disturbing activities**

***Air Quality***

5. The applicant will be required to notify the APCD **prior to any ground disturbing activities**, such as any dirt moving, dust creation and/or excavation activities would commence. Specifications of this condition would be outlined in the APCD permit required to begin excavation. This information would be used to maintain the APCD's AirAware community alert notification program and help the APCD differentiate dust emissions from the project's activities and blowing dust from the Oceano Dunes (AQ-3).
6. APCD Permitting of Hydrocarbon Contaminated Soil Processes. This Remediation project shall require an APCD permit to address proper management of the hydrocarbon contaminated soil **prior to the start of any ground disturbing activities**. This permit shall include conditions to minimize emissions from any excavation, disposal or related process. To the extent feasible, Phillips 66 shall contact the APCD Engineering & Compliance Division at 805-781-5912 within 120 days before the start of excavation to begin the permitting process (AQ-5).

***Biological Resources***

7. The Applicant shall retain a qualified lead biologist(s) to conduct a pre-construction survey immediately **prior to initial project activities** (i.e., the morning of the commencement of project activities) within 50 feet of suitable habitat. Construction monitoring shall also be

conducted by a qualified biologist during all *initial ground-disturbing* and vegetation removal activities (e.g., grading, grubbing, vegetation trimming, vegetation removal, etc.) within suitable habitat. The lead biologist(s) shall have the right to halt all activities that are in violation of special-status species protection measures. If any special-status wildlife species are discovered during surveys or monitoring, they will be allowed to leave the area on their own or will be hand-captured by a qualified biologist and relocated to suitable habitat outside the area of impact. Work shall proceed only after hazards to special-status species are removed, the species are allowed to leave, or are removed (if allowed) and the species is no longer at risk (BIO-1).

The biologist will place clearly marked boundaries of the proposed work area before construction with highly visible flagging or fencing to avoid expanding the work area into any adjacent vegetation or buffer areas. All established buffers shall remain in place until the biologist has determined that the nest is inactive; when buffers are needed a highly visible fence/material shall be installed (and kept in good working order) to mark the outer edge of this buffer; once the buffer area is established, all construction related activities shall cease within this area.

All pre-construction and on-going surveys shall be submitted by the applicant to the County within one week of the field work being completed. For any buffers proposed at less than 250 feet, the biologist shall provide a written basis supporting this reduction to the County for concurrence. If any additional ground- or vegetation-disturbing activities occur on the project site, the above surveys and monitoring will be repeated.

8. **Prior any site disturbance**, an environmental awareness training shall be presented to all project personnel by a qualified biologist. The training shall include color photographs and a description of the ecology of all special-status species known or determined to have potential to occur, as well as other sensitive resources requiring avoidance near project impact areas. The training shall also include a description of protection measures required by the project's discretionary permits, an overview of the federal Endangered Species Act, the California Endangered Species Act, and implications of noncompliance with these regulations, as well as an overview of the required avoidance and minimization measures. A sign-in sheet with the name and signature of the qualified biologist who presented the training and the names and signatures of the trainees will be kept and provided to the County of San Luis Obispo (County). If new project personnel join the project after the initial training period, they will receive the environmental awareness training from a designated crew member on site before beginning work. A qualified biologist will provide refresher trainings during site visits or other monitoring events (BIO-2).

*Prior to the development of the Worker Environmental Education program*, it is recommended the applicant contact the USFWS to provide specific comments, pictures, and additional information regarding the sensitive species in the area, to be included in the WEEP.

9. If work is planned to occur between February 1 and September 15, a qualified biologist shall survey the area for nesting birds **within one week prior to initial project activity beginning**, including ground disturbance and/or vegetation removal/trimming. If nesting birds are located on or near the proposed project site, they shall be avoided until they have successfully fledged, or the nest is no longer deemed active (BIO-4).
  - o A 50-foot exclusion zone shall be placed around non-listed, passerine species, and a 250-foot exclusion zone will be implemented for raptor species. Each exclusion zone shall encircle the nest and have a radius of 50 feet (non-listed passerine species) or 250 feet (raptor species). All project activities, including foot and



vehicle traffic and storage of supplies and equipment, are prohibited inside exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, or it has been determined by a qualified biologist that the young have fledged or that proposed project activities would not cause adverse impacts to the nest, adults, eggs, or young.

- If special-status avian species (aside from the burrowing owl or tricolored blackbird [if identified in biological report]) are identified and nesting within the work area, no work will begin until an appropriate exclusion zone is determined in consultation with the County and any relevant resource agencies.
- The results of the survey shall be provided to the County prior to initial project activities. The results shall detail appropriate fencing or flagging of exclusion zones and include recommendations for additional monitoring requirements. A map of the project site and nest locations shall be included with the results. The qualified biologist conducting the nesting survey shall have the authority to reduce or increase the recommended exclusion zone depending on site conditions and species (if non-listed).

If two weeks lapse between different phases of project activities (e.g., vegetation trimming and the start of grading), during which no or minimal work activity occurs, the nesting bird survey shall be repeated.

10. **Prior to the start of proposed project activities**, and within a year of project construction, a qualified biologist/botanist shall conduct a pre-construction survey immediately prior to initial project activities (i.e., the morning of the commencement of project activities) within 50 feet of suitable habitat. Construction monitoring shall also be conducted by a qualified biologist during all initial ground-disturbing and vegetation removal activities (e.g., grading, grubbing, vegetation trimming, vegetation removal, etc.) within suitable habitat. If any special-status wildlife species are discovered during surveys or monitoring, they will be allowed to leave the area on their own or will be hand-captured by a qualified biologist and relocated to suitable habitat outside the area of impact. A minimum of three survey events should be conducted and timed to account for the variance in blooming periods for special-status plants known or with the potential to occur in the BSA. Upon completion of the surveys a detailed survey report shall be prepared and submitted to the County of San Luis Obispo, as an addendum to this BRTR, for review and approval. This report shall include, at a minimum, a description of survey methodologies, a compendium of all species observed, and detailed GIS based maps showing locations of all mapped species (BIO-5).

All occurrences of special-status plants will be mapped and occurrences within 100 feet of proposed project activities flagged in the field. A minimum of a 25-foot buffer shall be placed around all known locations of special-status species within 100-ft of project activities to avoid potential impacts to seed banks and microhabitats that support the species. These buffers shall be flagged/fenced and avoided during construction. All occurrences of Nipomo Mesa lupine, or any other federal or state listed species, will be avoided. Occurrences of CRPR species will be avoided to the extent possible. If prior to or during construction, it is found that populations of special-status plant species have expanded within the 25-foot buffer from Project features (e.g. existing access roads), the Applicant will coordinate with the County Planning and Building Department on proposed reductions or modifications. This may include the placement of additional visual demarcations (e.g. temporary high visibility fencing) to eliminate direct impacts to the species. No Project related activity modifications to existing buffers would be allowed without approval from the County Planning and Building Department; proposed reductions

or modifications must not result in direct impacts to or increased indirect impacts to listed plant species.

If CRPR species (e.g., sand almond) cannot be avoided the individual plants shall be salvaged (e.g., plant placed in large nursery pot and/or seed collection) for use in habitat restoration activities (refer to MM BIO-6) once project related construction activities are complete. Details of the proposed salvage activity will be presented in the Habitat Restoration Plan (HRP [refer to MM BIO-6]). All plants directly salvaged or propagated from collected seed shall be monitored and must survive in good health or demonstrate stable or expanding populations, for a minimum of three years, post planting, for salvage to be considered successful. Details of the salvage methodology will be presented in the HRP detailed under MM BIO-6.

#### **Conditions to be completed during project construction**

##### ***Air Quality***

11. Limits of Idling. State law prohibits idling diesel engines for more than 5 minutes. During project construction, all projects with diesel-powered construction activity shall comply with Section 2485 of Title 13 of the California Code of Regulations and the 5-minute idling restriction identified in Section 2449(d)(2) of the California Air Resources Board's In-Use Off-Road Diesel regulation to minimize toxic air pollution impacts from idling diesel engines. The specific requirements and exceptions for the on-road and off-road regulations can be reviewed at the following web sites: [arb.ca.gov/msprog/truck-idling/factsheet.pdf](http://arb.ca.gov/msprog/truck-idling/factsheet.pdf) and [arb.ca.gov/regact/2007/ordiesl07/frooal.pdf](http://arb.ca.gov/regact/2007/ordiesl07/frooal.pdf) (AQ-2).

In addition, because this project is within 1,000 feet of sensitive receptors residential dwellings, the project applicant shall comply with the following more restrictive requirements to minimize impacts to nearby sensitive receptors.

1. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors;
  2. Diesel idling within 1,000 feet of sensitive receptors shall not be permitted;
  3. Use of alternative fueled equipment is recommended; and
  4. Signs that specify no idling areas must be posted and enforced at the site.
12. Asbestos in Soil. This project would be excavating asbestos contaminated soil, indicating this project is subject to various regulatory jurisdictions, including the requirements stipulated in the National Emission Standard for Hazardous Air Pollutants (40CFR61, Subpart M - asbestos NESHAP). Additionally, asbestos-containing material could be encountered in the demolition, or relocation of above or below ground utility pipes/pipelines (e.g., transite pipes or insulation on pipes). NESHAP requirements include but are not limited to (AQ-4):
    - 1) Written notification to the APCD, within at least 10 business days of activities commencing.
    - 2) Asbestos survey report conducted by a Certified Asbestos Consultant.
    - 3) Written work plan addressing asbestos handling procedures in order to prevent visible emissions.

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

***Biological Resources***

13. Construction activities shall be done in such a manner as to minimize the removal of native vegetation. If native vegetation removal cannot be avoided, and the removal is approved by the County of San Luis Obispo, the impacted plant communities shall be replaced at a mitigation ratio of 1:1. Sensitive communities (e.g., silver dune lupine – mock heather scrub) shall be replaced at a mitigation ratio of 2:1. The compensation for the loss of habitats may be achieved either by a) on-site habitat creation or enhancement of impacted communities with similar species compositions to those present prior to construction, b) off-site creation or enhancement of dune scrub communities, or c) participation in an established mitigation bank program (BIO-6).

*Prior to the removal of native vegetation*, a Habitat Restoration Plan shall be prepared to address the temporary and permanent impacts to the sensitive habitat and will guide all restoration and monitoring activities. This plan shall be reviewed and approved by the County of San Luis Obispo's Environmental Coordinator. Any usable topsoil with the potential to hold the seeds of sensitive species will be salvaged and used when revegetating the area. This plan shall include, at a minimum, the following:

- Proposed species list for creation/enhancement;
- Planting/seeding methodology;
- Details on methodologies for salvage of CRPR species;
- Irrigation plan;
- Weeding schedule;
- Success criteria;
- Monitoring methodology and schedule;
- Reporting requirements; and
- Contingency plan.

Prior to ground disturbing activities, it is recommended that the applicant send the habitat restoration plan to the USFWS for review.

The property owner shall be responsible for execution of the restoration plan that will re-establish the previous natural conditions of the site, subject to monitoring and periodic inspection by the County. Failure to adequately execute the plan shall be subject to the enforcement provisions by the County.

14. Prior to final of construction permits, if project-related impacts result in the loss of more than 10% of the on-site (BSA) population of any CRPR plant species, compensatory mitigation will be required. Compensation will be required for all impacts that exceed the 10% threshold (e.g. impacts to 15% of a population will only require compensation for 5% or the amount of impacts that exceed the 10% threshold). Compensation for permanent impacts to CRPR species may be achieved either by a) on-site habitat creation or enhancement of impacted communities with similar species compositions to those present prior to construction, b) off-site creation or enhancement of dune scrub communities, or c) participation in an established mitigation bank program at a 1:1 mitigation ratio (one acre preserved for each acre impacted). Compensation for temporary impacts will be at a 0.5:1 ratio. Enhanced/restored habitat for an impacted plant species shall be of equal or greater habitat quality to the impacted areas in terms of soil features, extent of disturbance, and vegetation structure (BIO-7).

***Timelines***

15. 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 a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
16. 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.

***Indemnification Clause***

17. The applicant shall, as a condition of approval of this use permit, defined, at his 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 this use permit or the manner in which the County is interpreting or enforcing the conditions of this use permit, or any other actions by a third party relating to approval of implementation of this use permit. The applicant shall reimburse the County for any court costs and attorney's fees which County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition.





## COASTAL APPEALABLE 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: PRC 2019-00231

## Type of permit being appealed:

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

## 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: September 4, 2020

## The decision is appealed to:

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

## BASIS FOR APPEAL

☐ INCOMPATIBLE WITH THE LCP. The development does not conform to the standards set forth in the Certified Local Coastal Program of the county for the following reasons (attach additional sheets if necessary)  
Explain: \_\_\_\_\_

☒ INCOMPATIBLE WITH PUBLIC ACCESS POLICIES. The development does not conform to the public access policies of the California Coastal Act – Section 30210 et seq of the Public Resource Code (attach additional sheets if necessary)  
Explain: No analysis pursuant to CZLUO Sec 23.04.420 - Coastal Access Required

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

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

## APPELLANT INFORMATION

Print name: Jeff EdwardsAddress: P.O. Box 16070, Los Osos, CA 93412 Phone Number (daytime): 805-235-0873

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the grounds specified in this form, as set forth in the CZLUO and State Public Resource Code Section 30603 and have completed this form accurately and declare all statements made here are true.

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

Date: 9/16/20

## OFFICE USE ONLY

Date Received: September 16, 2020By: Daniela ChavezAmount Paid: N/AReceipt No. (if applicable) N/A



**COUNTY OF SAN LUIS OBISPO**  
**DEPARTMENT OF PLANNING & BUILDING**  
**TREVOR KEITH, DIRECTOR**

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September 16, 2020

Phillips 66  
76 Broadway  
Sacramento, CA 95818

**SUBJECT: Appeal of Minor Use Permit / Coastal Development Permit**  
**Phillips 66 / DRC2019-00231/ APPL2020-00011**  
**Hearing Date: September 4, 2020 - Planning Department Hearing**

To whom it may concern,

The Department of Planning and Building has received a request for an appeal on the above referenced matter on September 16, 2020. In accordance with County Real Property Division Ordinance Section 21.04.020, Land Use Ordinance Section 22.70.050, and the County Coastal Zone Land Use Ordinance 23.01.043, the matter will be scheduled for public hearing before the Board of Supervisors. A copy of the appeal is attached.

The public hearing will be held in the Board of Supervisors' Chambers, County Government Center, 1055 Monterey Street, San Luis Obispo. Once a hearing date is scheduled, the applicant and appellant will be notified of the hearing date and be provided with a copy of the public hearing notice.

If you have any questions regarding this matter, please contact Steve McMasters at 805-781-5600.

Sincerely,

*Daniela Chavez*

Daniela Chavez, Secretary  
County of San Luis Obispo  
Department of Planning & Building

Enclosure

cc: Steve McMasters, Principal Environmental Specialist  
Jon Ansolabehere, County Counsel

Jeff Edwards, Appellant



Attachment 4 - Notice of Final County Action

COUNTY OF SAN LUIS OBISPO  
DEPARTMENT OF PLANNING & BUILDING  
**Trevor Keith** *Director of Planning & Building*

September 10, 2020

PHILLIPS 66 COMPANY  
76 BROADWAY  
SACRAMENTO, CA 95818

**SUBJECT:** Notice of Final County Action, Minor Use Permit / Coastal Development Permit DRC2019-00231

Dear Sir/Madam,

LOCATED WITHIN COASTAL ZONE: YES

On **September 04, 2020**, the above-referenced application was approved by the **Planning Department Hearing Officer** based on the approved Findings, and subject to the approved Conditions, which are both enclosed for your records.

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 appeal must be made directly to the California Coastal Commission. For further information on their appeal procedures, contact the Commission's Santa Cruz Office at (831) 427-4863.

County Coastal Zone Land Use Ordinance (CZLUO) Section 23.01.043 and applicable sections of the Coastal Act provide ten (10) working days for an appellant to appeal the County's Final Action. An appellant may include any of the following: an applicant, an aggrieved person as defined in CZLUO 23.01.043 and any two California Coastal Commissioners. This means the Applicant cannot commence development and the County cannot take any further administrative actions for the proposed development, including but not limited to, the request or issuance of a building permit, until the Coastal Commission Appeal period has expired without an appeal being filed and the County's notice of final action that it submitted to the Coastal Commission has been accepted by Commission staff as compliant with Title 14 CCR section 13571.

If you disagree with this action, pursuant to (County Real Property Ordinance Section 21.04.020 / County Land Use Ordinance Section 22.70.050 / County Coastal Zone Land Use Ordinance (CZLUO) Section 23.01.042), and in the manner described therein, you have the right to appeal this decision, or a portion of this decision, to the Board of Supervisors within 14 calendar days after the date of the action.



COUNTY OF SAN LUIS OBISPO  
DEPARTMENT OF PLANNING & BUILDING  
**Trevor Keith** *Director of Planning & Building*

The appeal must be submitted to the Director of the Department of Planning and Building on the proper Department appeal form, as provided on the County website. The appeal form must be submitted with an original signature; a facsimile will not be accepted.

If the appeal is consistent with the standards set forth in CZLUO Section 23.01.043d, there is no fee to file an appeal. If the appeal is not consistent with CZLUO Section 23.01.043.d, a fee, set by the current fee schedule, will be required and must be submitted with the appeal form at time of filing. If the County requires that an appellant submit a fee to file an appeal, the action is directly appealable to the California Coastal Commission pursuant to the CZLUO Section 23.01.043, and in the manner contained therein, precluding the need to exhaust local administrative appeals.

Additionally, CZLUO Section 23.01.043 and applicable sections of the Coastal Act provide the California Coastal Commission 10 working days following the expiration of the County appeal period to appeal the County's Final Action. This means the Applicant cannot commence development and the County cannot take any further administrative actions for the proposed development, including but not limited to, the request or issuance of a building permit, until the County appeal period and the Coastal Commission Appeal period have expired without an appeal being filed, and the County's notice of final action that it submitted to the Coastal Commission has been accepted by Commission staff as compliant with Title 14 CCR Section 13571.

Please note that exhaustion of local appeals at the County level is almost always required prior to appealing the matter to the California Coastal Commission. Three exceptions apply to this requirement as provided in CZLUO Section 23.01.043b.(1)-(3).

If you have any questions regarding your project, please contact **Steve Mcmasters** at 805-781-5096.

, Secretary  
County of San Luis Obispo  
Department of Planning & Building

CC: KRISTEN KOPP,  
KRISTEN KOPP,  
STANTEC CONSULTING SERVICES



**Friday, September 4, 2020**

The following DRAFT action minutes are listed as they were acted upon by the Planning Department Hearing and as listed on the agenda for the Regular Meeting of 9:00 AM, together with the maps and staff reports attached thereto and incorporated therein by reference.

Hearings are advertised for 9:00 a.m. Hearings generally proceed in the order listed, unless changed by the Planning Department Hearing Officer at the meeting.

**HEARING OFFICER: Ryan Foster**

**HEARINGS: (ADVERTISED FOR 9:00 A.M.)**

A request by **Phillips 66** for a Minor Use Permit (DRC2019-00231) to allow for the remediation of the Northern Inactive Waste Site (NIWS) comprised of approximately 14,520-cubic-yards of hydrocarbon and asbestos impacted soil, and domestic waste. The excavated material and impacted soil would be loaded onto rail cars at the Santa Maria Refinery and transported by rail to a waste receiving facility in Utah. The project would result in 1.38-acres of disturbance of an approximate 560 acres site. The proposed project is within the Industrial land use category and is located at 2555 Willow Road, approximately 600 feet south of Willow Road, south of the village of Callendar-Garrett, in the South County Coastal Planning Area. Also to be considered at the hearing will be adoption of the Environmental Document prepared for the item. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on July 16, 2020 for this project. Mitigation measures are proposed to address Air Quality, Biological Resources, and Hazardous & Hazardous Materials and are included as conditions of approval.

**County File Number: DRC2019-00231**

Supervisory District: 4

**Project Manager: Steve McMasters**

Assessor Parcel Number: 092-401-011

Date Approved: April 1, 2020

**Recommendation: Approval**

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Kate Shea, Project Manager: Present Staff Report via PowerPoint.

Ryan Foster: opens Public Comment.

Megan Martin, Agent: speaks.

Jeff Edwards: speaks.

Ryan Foster, Hearing Officer: closes public comment

**Thereafter, on motion of the hearing officer, the request by Phillips 66 for a Minor Use Permit/Coastal Development Permit (DRC2019-00231) is granted based on the Findings A. through M. in Exhibit A and subject to the Conditions 1 through 18 in Exhibit B.**

Respectfully submitted,  
Daniela Chavez, Planning Department Hearing Secretary



Promoting the wise use of land  
Helping build great communities

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

**Tentative Notice of Action**

MEETING DATE September 4, 2020	CONTACT/PHONE Steven McMasters smcmasters@co.slo.ca.us	APPLICANT Phillips 66	FILE NO. DRC2019-00231
LOCAL EFFECTIVE DATE September 18, 2020	APPROX FINAL EFFECTIVE DATE October 9, 2020		
<b>SUBJECT</b> Request by Phillips 66 for a Minor Use Permit to allow for the remediation of the Northern Inactive Waste Site (NIWS) comprised of approximately 14,520-cubic-yards of hydrocarbon and asbestos impacted soil, and domestic waste. The excavated material and impacted soil would be loaded onto rail cars at the Santa Maria Refinery and transported by rail to a waste receiving facility in Utah. The project would result in 1.38-acres of disturbance of an approximate 560 acres site. The proposed project within the Industrial land use category and is located at 2555 Willow Road, approximately 600 feet south of Willow Road, south of the village of Callendar-Garrett, in the South County Coastal Planning Area.			
<b>RECOMMENDED ACTION</b> 1. Adopt the Negative Declaration in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq. 2. Approve Minor Use Permit DRC2019-00231 based on the findings listed in Exhibit A and the conditions listed in Exhibit B			
<b>ENVIRONMENTAL DETERMINATION</b> The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on July 17, 2020 for this project. Mitigation measures are proposed to address Air Quality, Biological Resources, and Hazards & Hazardous Materials and are included as conditions of approval.			
LAND USE CATEGORY Industrial	COMBINING DESIGNATION Coastal Zone, Flood Hazard Area	ASSESSOR PARCEL NUMBER 092-401-011	SUPERVISOR DISTRICT(S) 4
<b>PLANNING AREA STANDARDS:</b> South County Coastal Area Plan, Industrial Development <i>Does the project meet applicable Planning Area Standards: Yes - see discussion</i>			
<b>LAND USE ORDINANCE STANDARDS:</b> 23.05.036 - Sedimentation And Erosion Control; 23.05.040 – Drainage; 23.06.082 - Air Pollution Control District (APCD) Review; 23.06.120 - Toxic And Hazardous Materials; 23.01.043c.(3)(i): Appeals to the Coastal Commission (Coastal Appealable Zone); 23.07.060 - Flood Hazard Area (FH); 23.07.164 - SRA Permit And Processing Requirements; 23.07.170 Environmentally Sensitive Habitats; 23.07.176 - Terrestrial Habitat Protection <i>Does the project conform to the Land Use Ordinance Standards: Yes - see discussion</i>			

<b>FINAL ACTION</b> This tentative decision will become the final action on the project, unless the tentative decision is changed as a result of information obtained at the administrative hearing or is appealed to the County Board of Supervisors pursuant Section 23.01.042 of the Coastal Zone Land Use Ordinance; effective on the 10th working day after the receipt of the final action by the California Coastal Commission. If applicable, the tentative decision will be transferred to the Coastal Commission following the required 14 calendar day local appeal period after the administrative hearing.  The applicant is encouraged to call the Central Coast District Office of the Coastal Commission in Santa Cruz at (831) 427-4863 to verify the date of final action. The County will not issue any construction permits prior to the end of the Coastal Commission process.	
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ FAX: (805) 781-1242	
<b>EXISTING USES:</b> Santa Maria Refinery	
<b>SURROUNDING LAND USE CATEGORIES AND USES:</b> North: Residential Suburban; Single family residences      East: Industrial; Storage yard South: Industrial; Santa Maria Refinery/Agriculture      West: Open Space; Dunes/Pacific Ocean	
<b>OTHER AGENCY / ADVISORY GROUP INVOLVEMENT:</b> The project was referred to: South County Advisory Council, Air Pollution Control Board (APCD), Building Division, Public Works, Cal Fire/County Fire, Environmental Health, CA Fish and Wildlife Service, US Fish and Wildlife Service, RWQCB, California Coastal Commission	
<b>TOPOGRAPHY:</b> Gently to steeply sloping	<b>VEGETATION:</b> Coastal Dune Scrub
<b>PROPOSED SERVICES:</b> Water supply: NA Sewage Disposal: NA Fire Protection: Cal Fire/County Fire	<b>ACCEPTANCE DATE:</b> April 1, 2020

## PROJECT HISTORY

The project area is located near the entrance of the Santa Maria Refinery (SMR), which was constructed in 1955 by Unocal and currently occupies approximately 2.5-square-miles. The SMR receives crude oil from various source, and produces gas, oil, and pressure distillate, which is sent via a 200-mile pipeline to the San Francisco (Rodeo) Refinery for additional refining into finished petroleum products. The project site is known as the Northern Inactive Waste Site (NIWS) and was operated as part of the (formerly Unocal) SMR from approximately 1955 to 1974. It was reportedly used for the disposal of refinery byproducts and domestic waste, including petroleum hydrocarbons and potential asbestos containing materials. In support of the closure and remediation of the NIWS, the applicant has submitted a Conceptual Closure Plan (CCP) to the Regional Water Control Board (RWQCB) to remediate the site. The CCP among other actions, recommends the excavation of impacted soils to depths ranging from 3 to 10 feet below ground surface as required to meet the proposed soil cleanup goals.

Remediation activities will include excavating 14,520-cubic-yards of material, transportation of the soil via trucks and rail cars, and revegetation. Trucks used to transport contaminated soil from the excavation site will use existing onsite roadways delivery the materials to the covered bins at the Union Pacific Railroad Rail Spur onsite. The contaminated material will then be taken to a waste receiving facility in Utah. A total of 13 Roundtrips, or 26 one-way trips will be made to rail the soils from the project site to the waste receiving facility. Standard air quality control measures are proposed to ensure low dust emissions from the trucks and construction activities

onsite. Once excavation activities are complete, a final round of testing will take place to ensure all soil contaminated has been completely removed. No fill is proposed, the bottom of the excavation will be the final grade.

The project proposes an area of disturbance of 1.38-acres, requiring a Minor Use Permit per Table 3-A in Section 23.03.042 of the Coastal Land Use Ordinance.

### CEQA COMPLIANCE

A Mitigated Negative Declaration (MND) has been prepared for this project which concludes that the project could result in potentially significant impacts in the following topical areas.

**Air Quality.** The project would have the potential to result in PM10 emissions that exceed the quarterly thresholds established by SLOAPCD for construction emissions and be located within 1,000 feet of single-family residences. Mitigation Measures have been identified to reduce construction-related emissions. With implementation of these measures, potential impacts to air quality would be less than significant.

**Biological Resources.** Impacts of the proposed project are limited to short term temporary impacts during the excavation of the material within the NIWS. Nipomo Mesa lupine (*Lupinus nipomensis*), which is federally and state listed as endangered and a CRPR 1B.1 species and sand almond (*Prunus fasciculata* var. *punctata*), a CRPR 4.3 species were present in the Biological Survey Area. Neither species have been documented within the proposed excavation/impact areas nor are they expected to occur due to the disturbed soils associated with the landfill proposed for removal. However, the proposed construction activities could result in direct or indirect impacts to special-status species during excavation activities and the transport of material to an off-site location. Mitigation measures have been developed to require pre-construction wildlife surveys, environmental awareness training, focused floristic surveys, and habitat restoration.

**Hazards & Hazardous Materials.** The proposed cleanup goals are to lower the petroleum hydrocarbons (primarily total petroleum hydrocarbons in the oil range [TPHo]) concentration to below Tier 1 Environmental Study Level (ESL) and eliminate any detectable concentrations of ACM within the soil. The project proposes to transport the contaminated soil from the project location to a waste receiving facility in Utah by licensed haulers via railroad. The waste haulers will follow all state and federal regulations regarding the transportation and disposal of asbestos containing materials. Short-term risks to on-site workers, public health, and the environment could result from dust or particulates that may be generated during excavation and soil handling activities. Standard dust mitigation measures are proposed to make impacts from hazardous materials less than significant.

### SOUTH COUNTY COASTAL PLANNING AREA STANDARDS

**Industrial - Union Oil.** The following standards apply to the large industrial area west and south of Highway 1 currently occupied by the Santa Maria Oil Refinery and the Santa Maria chemical plant.

2. Limitation on Use. All uses are prohibited except petroleum refining and related industries (including partial oil and gas processing and related industries); coastal accessways; water wells and impoundments; and pipelines and power transmissions. No off-road vehicular use is permitted other than for management of the industrial and natural areas.

*Staff comments: The project proposes the use of grading and construction vehicles to access the contamination site (the Northern Inactive Waste Site) and provide remediation activities for the damage produced from the previous industrial activities in the area. Once remediation/grading activities are complete, the site will continue to be used as an open space*

area between the Santa Maria Refinery and non-industrial uses as well as habitat for sensitive species. No new use is proposed.

3. Site Location. Site location shall minimize impacts to identified rare and endangered plant species and be located to provide a buffer from exposed dune areas on site. A qualified biologist shall survey the site and make recommendations on siting alternatives and appropriate mitigation.

*Staff comments: Special Status Species are known to occur onsite. The applicant has proposed grading plans which will complete project objectives as well as minimize species habitat disturbance. Multiple Biological surveys have been prepared prior to application submittal to identify current locations of endangered plant species. The MND has also identified the need for spring surveys, replacement ratio requirements, and compensation for impacts that may occur due to the project. The applicant has hired a qualified biologist in charge of carrying out these surveys and other mitigation measures during project construction. Therefore, the project complies with this standard.*

4. Buffer Zones. No facilities shall be located in the area west of the railroad, which shall serve as a protective, natural buffer separating the heavy industrial use from the recreational activities within the dunes. This buffer area shall be managed cooperatively between the property owners and the California Department of Parks and Recreation to encourage dune revegetation and stabilization within the buffer area. A buffer area shall be required to reduce impacts to the nearby residential areas.

*Staff comments: The project is not located west of the railroad and will not result in the construction of permanent facilities. Therefore, this standard does not apply to the proposed project.*

5. Air Pollutions Standards. Any expansion or modification of existing petroleum processing or transportation facilities or the construction of new facilities shall meet San Luis Obispo County Air Pollution District (APCD) standards. (LCP)

*Staff comments: The proposed project does not include expansion or modification of existing petroleum processing facilities, the project's purpose is to remove contaminated soil in the area. The project was referred to the SLO County APCD, who provided conditions of approval relating to standard Air Pollution mitigation measures. Therefore, the project complies with this standard.*

#### COASTAL LAND USE ORDINANCE STANDARDS:

**Section 23.05.036 - Sedimentation And Erosion Control.** Submittal of a sedimentation and erosion control plan for review and approval by the County Engineer is required when grading requiring a permit is proposed to be conducted or left in an unfinished state during the period from October 15 through April 15.

*Staff comments: The project is conditioned to provide a Sedimentation and Erosion Control Plan at time of construction permit application.*

**Section 23.05.040 – Drainage.** A drainage plan is required to be submitted to the County Engineer for review and approval.

*Staff comments: The proposed project is conditioned to provide a drainage plan at time of construction permit application.*

**Section 23.06.082 - Air Pollution Control District (APCD) Review.** The SLO County APCD shall have an opportunity to review a copy of an application and provide comments on applicable permit and air quality requirements, and to advise the Planning and Building Department of any APCD permit requirements in the case of Minor Use Permit or Development Plan applications, notification of permit requirements, or special concerns or recommendations.



*Staff comments: the project was referred to APCD who provided comments on November 8, 2019 (Jackie Mansoor). Therefore, the project complies with this standard.*

**Section 23.06.120 - Toxic And Hazardous Materials.** The storage and use of poisonous, corrosive, explosive and other materials hazardous to life or property are subject to specific standards in addition to all applicable state and federal standards, including but not limited to any regulations administered by the County Health Department, Fire Department, Sheriff's Office, Agricultural Commissioner, and Air Pollution Control District.

*Staff comments: The purpose of the project is to remove the existing soils contaminated with Asbestos Containing Materials (ACM). The ACMs will be removed and transported via truck to the Union Pacific Railroad Rail Spur onsite. The contaminated material will then be taken to a waste receiving facility in Utah. A total of 13 Roundtrips, or 26 one-way trips will be made to rail the soils from the project site to the waste receiving facility. Standard air quality control measures are proposed to ensure low dust emissions from the trucks and construction activities onsite. Once excavation activities are complete, a final round of testing will take place to ensure all soil contaminated has been completely removed.*

#### COMBINING DESIGNATIONS

##### **Section 23.07.120: Local Coastal Program**

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

##### **Section 23.01.043c.(3)(i): Appeals to the Coastal Commission (Coastal Appealable Zone)**

The project is appealable to the Coastal Commission because the site contains an Archaeological site.

**Section 23.07.060 - Flood Hazard Area (FH).** With the approval of the Director of Public Works, the of Planning and Building Director may authorize construction or placement of a temporary structure or use within a Flood Hazard area pursuant to the required land use permit without meeting these standards, provided that the structure or use will not be in place from October 15, to April 15.

*Staff comments: The project parcel is located within a Flood Hazard Area along the southern boarder. However, the project site involving the grading is located outside of the Flood Hazard Area and therefore does not need to comply with the required standards.*

**Section 23.07.164 - SRA Permit And Processing Requirements.** The type of land use permit application to be submitted is to be as required by Chapter 23.03 (Permit Requirements). When a land use permit application has been accepted for processing as set forth in Section 23.02.022 (Determination of Completeness), it shall be transmitted to the Environmental Coordinator for completion of an environmental determination pursuant to the California Environmental Quality Act (CEQA). Any land use permit application within a Sensitive Resource Area shall be approved only where the Review Authority can make the four findings.

*Staff comments: Per Chapter 23.03, Table 3-A, the project is required to submit an application for a Minor Use Permit. The initial study of the environmental determination resulted in a duly issued and effective negative declaration which finds that the proposed project will create no significant effect upon the identified sensitive resource. The required findings are outlined in Exhibit A.*

##### **Section 23.07.170 Environmentally Sensitive Habitats and**

**Section 23.07.176 - Terrestrial Habitat Protection.** The provisions of this section are intended to preserve and protect rare and endangered species of terrestrial plants and animals by

preserving their habitats. Emphasis for protection is on the entire ecological community rather than only the identified plant or animal.

Section 23.07.170(e)(1)(iv). Habitat creation and enhancement. Where the project results in an unavoidable loss (i.e., temporary or permanent conversion) of habitat area, replacement habitat and/or habitat enhancements shall be provided and maintained by the project applicant. Plans for the creation of new habitat, or the enhancement of existing habitat, shall consider the recommendations of the California Coastal Commission, the California Department of Fish and Game and/or U.S. Fish and Wildlife Service. Generally, replacement habitat must be provided at recognized ratios to successfully reestablish the habitat at its previous size, or as is deemed appropriate in the particular biologic assessment(s) for the impacted site. Replacement and/or enhanced habitat, whenever feasible, shall be of the same type as is lost ("same-kind") and within the same biome ("same-system"), and shall be permanently protected by a deed restriction or conservation easement.

*Staff comments: This project is located within an unmapped Environmentally Sensitive Habitat Area (ESHA) due to the presence of Nipomo Mesa lupine (Lupinus nipomensis), which is federally and state listed as endangered and a CRPR 1B.1 species; and sand almond (Prunus fasciculata var. punctata), a CRPR 4.3 species. Uses proposed within an ESHA are intended to be "resource dependent uses." Remediation activities are resource dependent within this sensitive area. Restoration or management measures are required to protect the resource. On May 12, 2020 County Staff, Katie Nall, and US Fish & Wildlife Botanist, Kristie Scarazzo discussed the project and its impacts to the Nipomo Mesa Lupine via telephone. Ms. Scarazzo supported the project but also outlined concerns regarding the project as well as potential mitigation measures to combat those concerns. These requests were added as recommendations in the mitigation measures outlined in Exhibit B. Mitigation measures have been developed to require pre-construction wildlife surveys, environmental awareness training, focused floristic surveys, and habitat restoration. Per mitigation measures BIO-6 and BIO-7, replacement mitigation ratios have been set in case of loss of populations. The area to be disturbed has been shown on the site plan and grading shall be defined on the site by readily identifiable barriers protecting the surrounding native habitat hares. As conditioned, the project is consistent with this policy.*

#### COASTAL PLAN POLICIES:

Shoreline Access:	Policy	No(s):	1	&
9Recreation and Visitor Serving:				
<input checked="" type="checkbox"/> N/A				
Energy and Industrial Development:	<input checked="" type="checkbox"/> N/A			
Commercial Fishing, Recreational Boating and Port Facilities:	<input checked="" type="checkbox"/> N/A			
Environmentally Sensitive Habitats:	Policy	No(s):	1, 2, 3, 29, 30, 34, 35, & 36	
Agriculture:	<input checked="" type="checkbox"/> N/A			
Public Works:	<input checked="" type="checkbox"/> N/A			
Coastal Watersheds:	Policy	No(s):	8, 9, & 10	
Visual and Scenic Resources:	<input checked="" type="checkbox"/> N/A			
Hazards:	<input checked="" type="checkbox"/> N/A			
Archeology:	<input checked="" type="checkbox"/> N/A			
Air Quality:	<input checked="" type="checkbox"/> N/A			

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

#### Shoreline Access

***Policy 1: Protection of Existing Access***

Public prescriptive rights may exist in certain areas of the county. Development shall not interfere with the public's right of access to the sea where acquired through historic use or legislative authorization.

*Staff Response: Access routes exist on the western side of the project parcel. The project is located within the interior of the Santa Maria Refinery's property and will not interfere with the public's right of access to the sea.*

***Policy 9: Restoration and Enhancement of Shoreline Access Areas***

Areas that have been severely degraded through overly intense and unrestricted use should be restored by such techniques as revegetation with native plants, trail consolidation and improvement and through the provision of support facilities such as parking, defined trail and/or beach walk stairway systems, trash receptacles, restrooms, picnic areas, etc. In extremely degraded areas (especially sensitive habitat areas), a recovery period during which public access would be controlled and limited may be necessary.

*Staff Response: The project is located between Hwy. 1 and the ocean/beach. However, the project is remediation project with no permanent development or improvements. It would not result in a barrier or restriction of access of the public to the ocean. There is no nexus for coastal access improvements.*

***Environmentally Sensitive Habitats***

***Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats:***

New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area.

*Staff Response: This project is located within a unmapped Terrestrial Habitat and Environmentally Sensitive Habitat Area. See ESHA discussion in Section 23.07.170 and 176, as these standards implement this policy.*

***Policy 2: Permit Requirement:***

As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat. This shall include an evaluation of the site prepared by a qualified professional which provides: a) the maximum feasible mitigation measures (where appropriate), and b) a program for monitoring and evaluating the effectiveness of mitigation measures where appropriate.

*Staff Response: The proposed project complies with this policy because the project includes surveys, fencing, and replacement ratios to ensure that the project will not result in a significant impact to the sensitive area.*

***Policy 3: Habitat Restoration:***

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

*Staff Response: The project will restore and enhance habitat. Therefore, consistent with this policy.*

*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. Only uses dependent on the resource shall be permitted within the identified sensitive habitat portion of the site.

*Staff Response: The conditions of approval included as part of the project emphasize the protection of the entire ecological community. The conditions include pre-construction wildlife surveys, environmental awareness training, focused floristic surveys, and habitat restoration.*

*Policy 30: Protection of Native Vegetation:*

Native trees and plant cover shall be protected wherever possible. Native plants shall be used where vegetation is removed.

*Staff Response: The most sensitive portion of the site supporting native vegetation (Nipomo Mesa Lupine and Sand Almond) will, as conditioned, be replanted and restored in areas of the site precluded from development.*

*Policy 34: Rare and Endangered Species Survey:*

The State Department of Fish and Game should continue to identify rare or endangered plant and animal species within the county.

*Staff Response: The project site has known occurrences of Nipomo Mesa Lupine and Sand Almond. USFWS and the SLO County Land Conservancy have been involved in the discussion of their presence and mitigation measures.*

*Policy 35: Protection of Vegetation*

Vegetation which is rare or endangered or serves as cover for endangered wildlife shall be protected against any significant disruption of habitat value.

*Staff comments: The project includes mitigation measures to protect sensitive vegetation onsite.*

*Policy 36: Protection of Dune Vegetation*

Disturbance or destruction of any dune vegetation shall be limited to those projects which are dependent upon such resources where no feasible alternatives exist and then shall be limited to the smallest area possible.

*Staff comments: The purpose of the project is to remove contaminated soils from a previous disposal site. Multiple surveys have been conducted to identify the exact limits of contamination and necessary extent of grading.*

**Coastal Watersheds**

*Policy 8: Timing of new construction:*

Land clearing and grading shall be avoided during the rainy season if there is a potential for serious erosion and sedimentation problems. All slope and erosion control measures should be in place before the start of the rainy season. Soil exposure should be kept to the smallest area and the shortest feasible period.

*Staff Response: The proposed project is consistent with this policy because it is conditioned to require an erosion and sedimentation control plan when grading is conducted or left in an unfinished state during the period from October 15 through April 15.*

*Policy 9: Techniques for Minimizing Sedimentation:*

Appropriate control measures (such as sediment basins, terracing, hydro-mulching, etc.) shall be used to minimize erosion and sedimentation.

*Staff Response: The proposed project is consistent with this policy because the project is conditioned to apply Best Management Practices in the selection and implementation of site maintenance.*

*Policy 10: Drainage Provisions:*

Site design shall ensure that drainage does not increase erosion. This may be achieved either through on-site drainage retention, or conveyance to storm drains or suitable watercourses.

*Staff Response: The proposed project is conditioned to comply with this policy by meeting all drainage plan and erosion control measures required by the San Luis Obispo County Public Works Department.*

COMMUNITY ADVISORY GROUP COMMENTS: The project was referred to the South County Advisory Council on October 25, 2019. The project was accepted for processing April 1, 2020, once shelter in home orders were initiated in response to the COVID-19 pandemic. Therefore the Council has not had an opportunity to review the project and is working to review it before the hearing date, September 4, 2020.

AGENCY REVIEW:

Public Works – Comments and conditions provided in a letter dated November 12, 2019 (JR Beard).

Environmental Health – No response.

Cal Fire/County Fire – No concerns in a letter dated November 7, 2019 (Dell Wells).

APCD – Comments and conditions provided in a letter dated November 8, 2019 (Jackie Mansoor).

CA Fish and Wildlife Service – No response.

US Fish and Wildlife Service – Comments provided in a conversation with County Staff, Katie Nall, on May 12, 2020 (Kristie Scarazzo).

California Coastal Commission – No response.

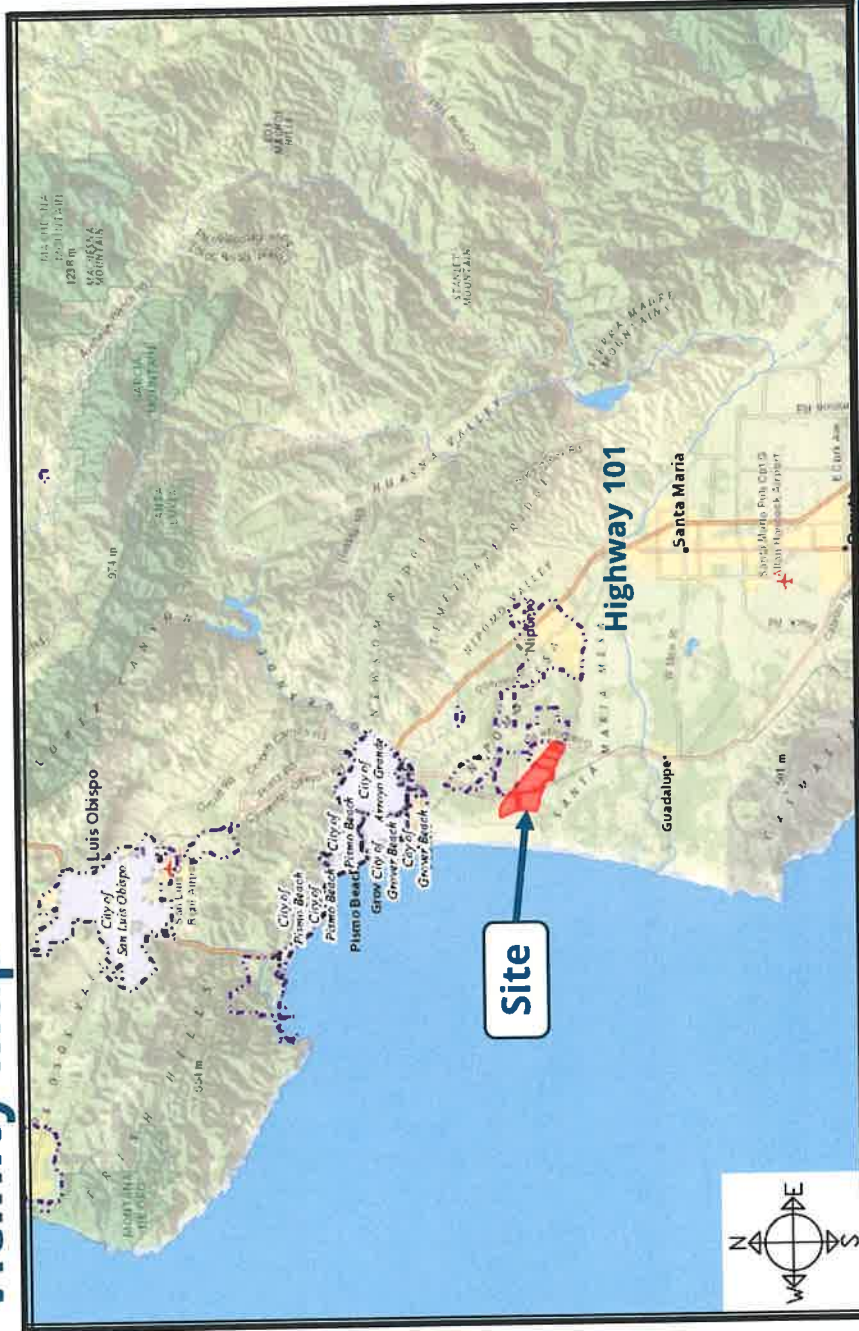
LEGAL LOT STATUS:

The one existing parcel is a portion of I, K, L, and N and all of Lots J, and M of the Standard Eucalyptus Tract filed in the office of the County Recorder of said County of San Luis Obispo on 11/1/1909 and recorded in Book 1, at Page 12 of maps thereof, and also Lots 1-6 inclusive and Lots 9 to 19 inclusive of the map entitled "Map of the Subdivisions of Lot "E" of the Standard Eucalyptus Tract" filed in the office of the County Recorder of said County of San Luis Obispo on 3/10/1910 and recorded in Book 1, at Page 17 of maps thereof. The parcel was legally created by deeds, Public Lot 80-88 and Parcel Map CO73-350, at a time when that was a legal method of creating parcels.

Staff report prepared by Katie Nall and reviewed by Steven McMasters.



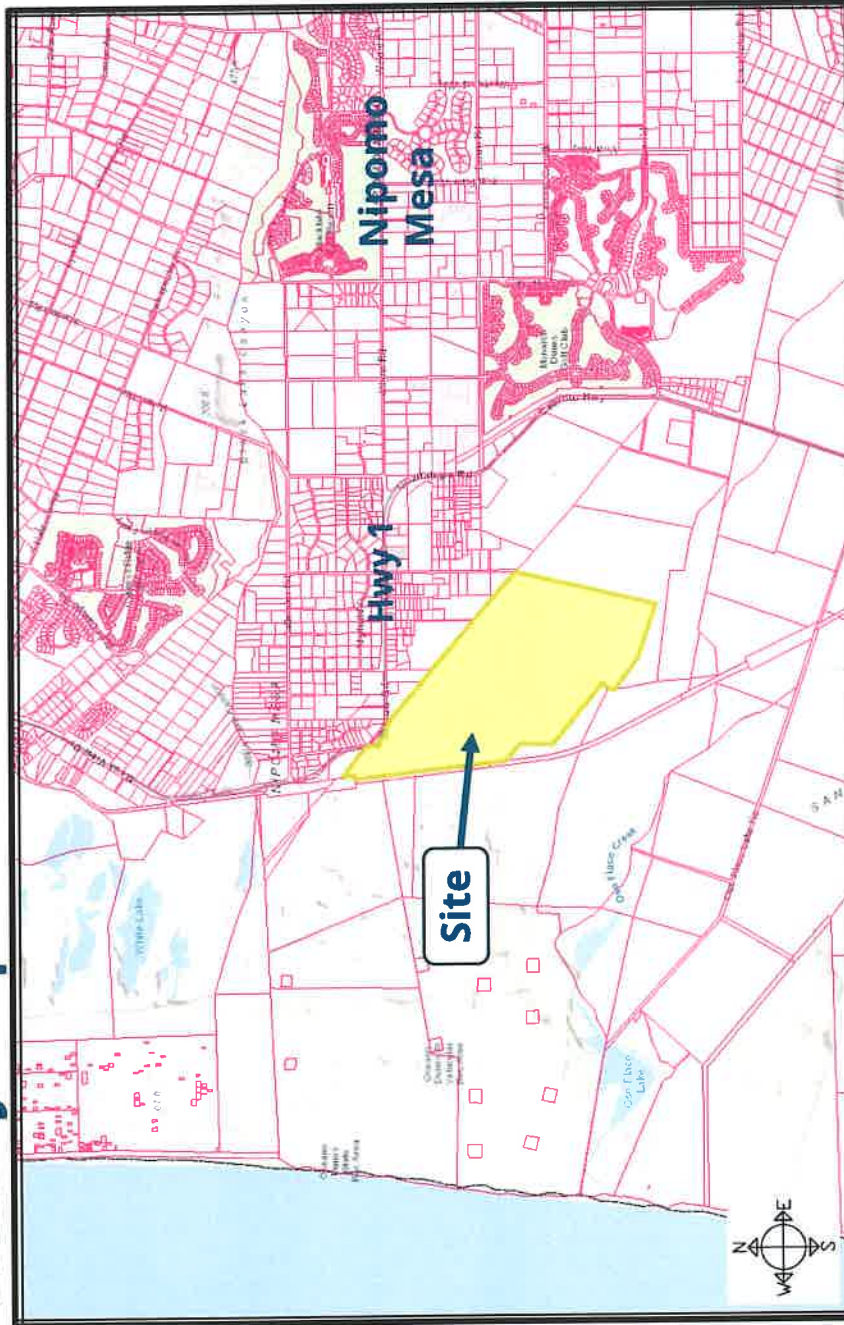
## Vicinity Map



COUNTY OF SAN LUIS OBISPO

APPL2020-00011

# Vicinity Map



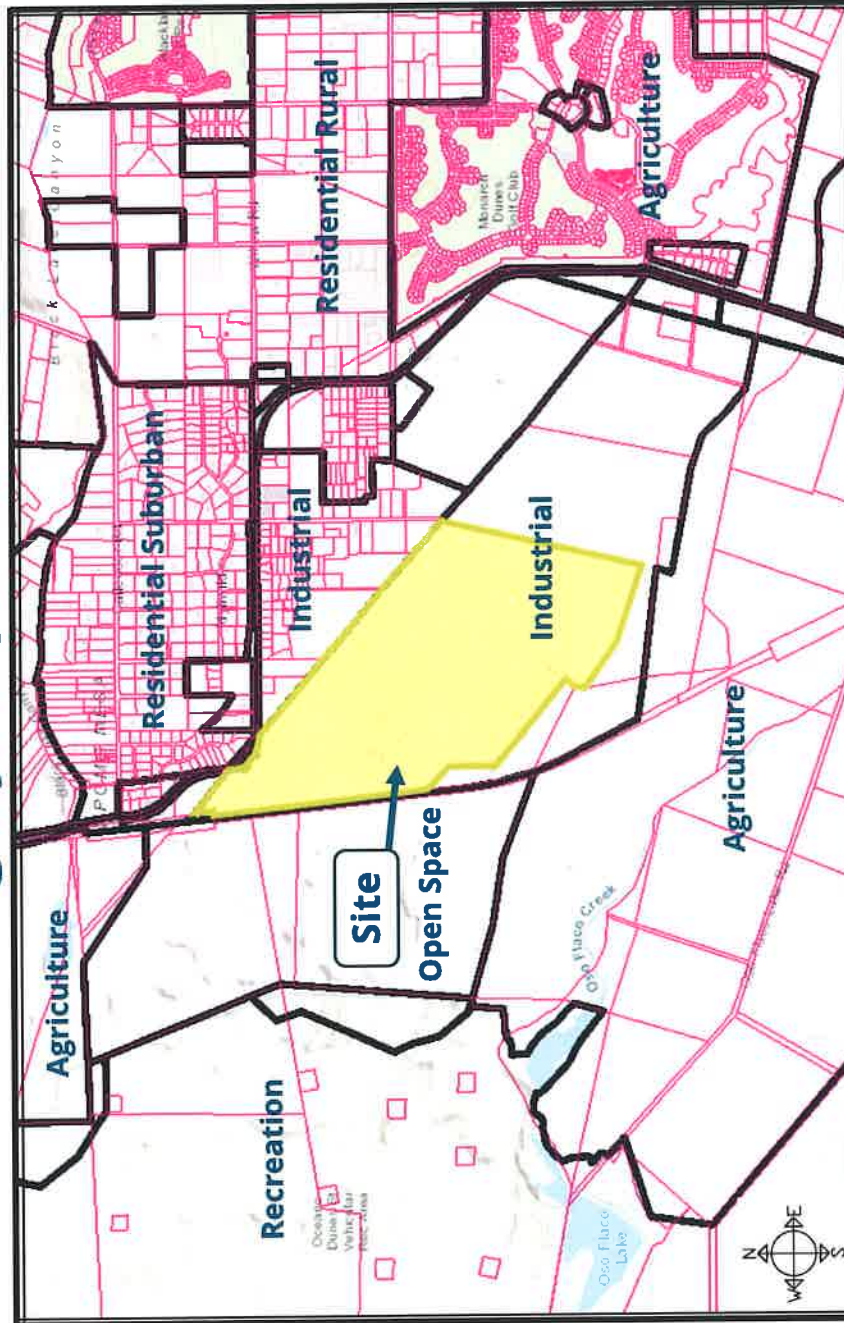
COUNTY OF SAN LUIS OBISPO

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# Land Use Category Map



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## Aerial View



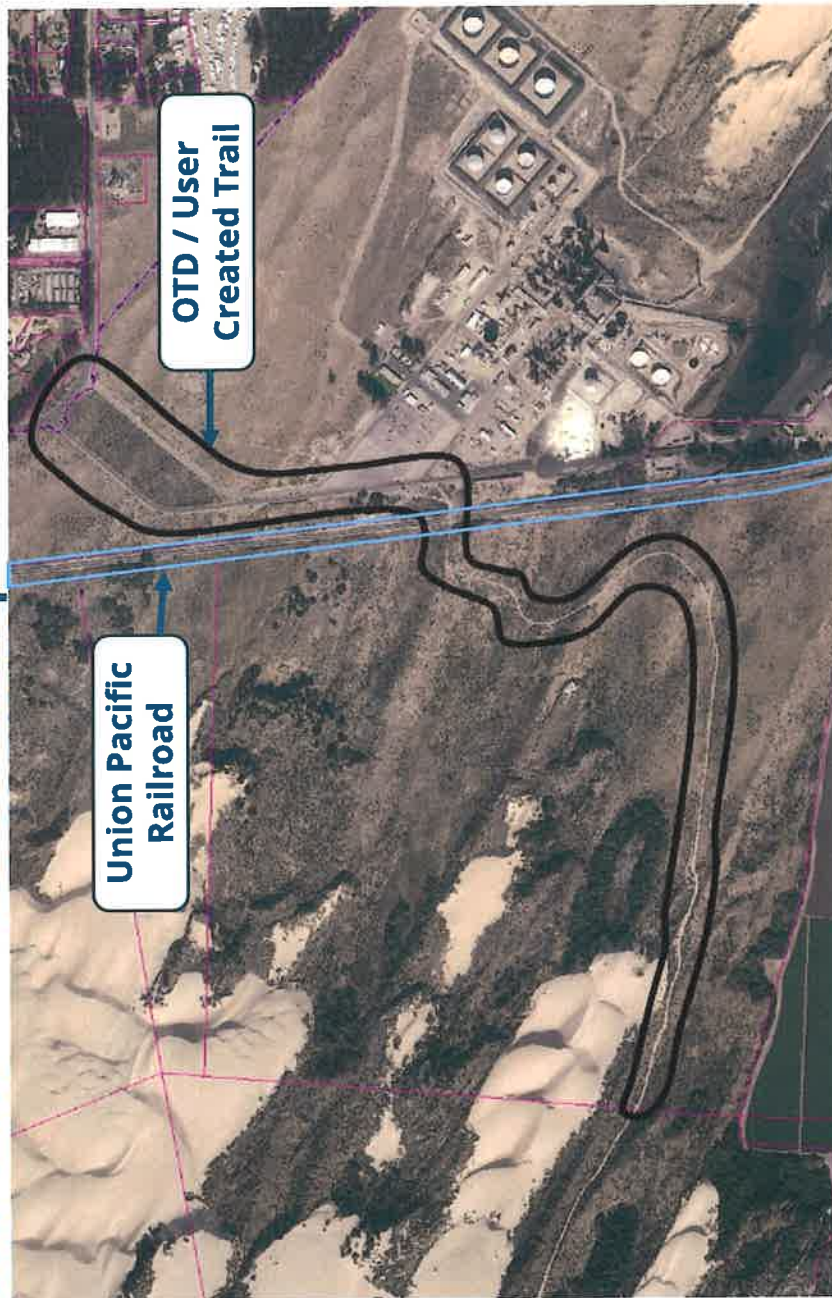
COUNTY OF SAN LUIS OBISPO

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## Coastal Access Location Map 2

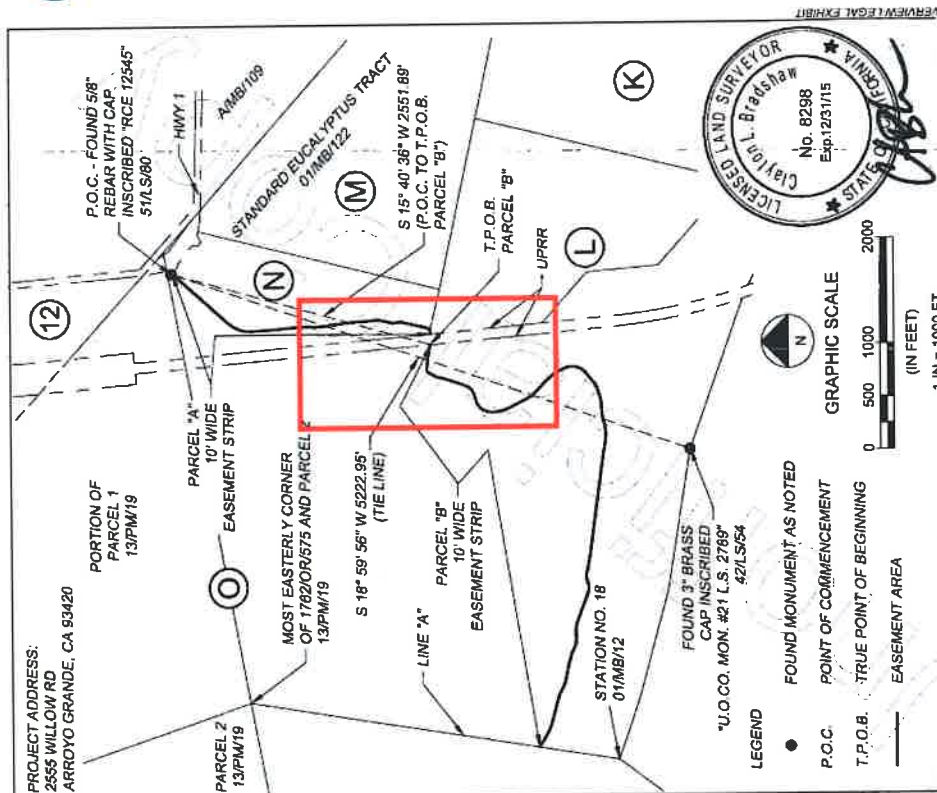


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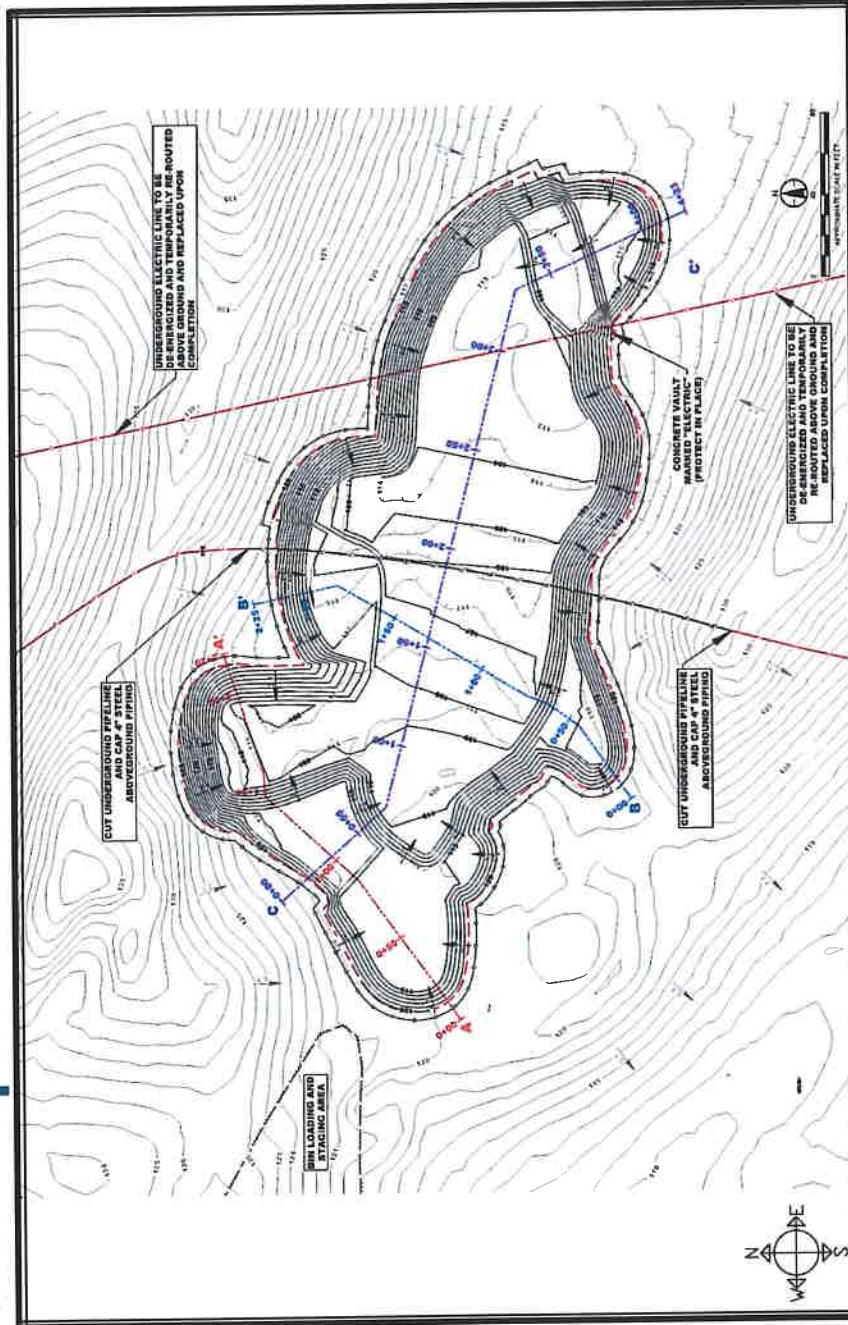




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# Site Map

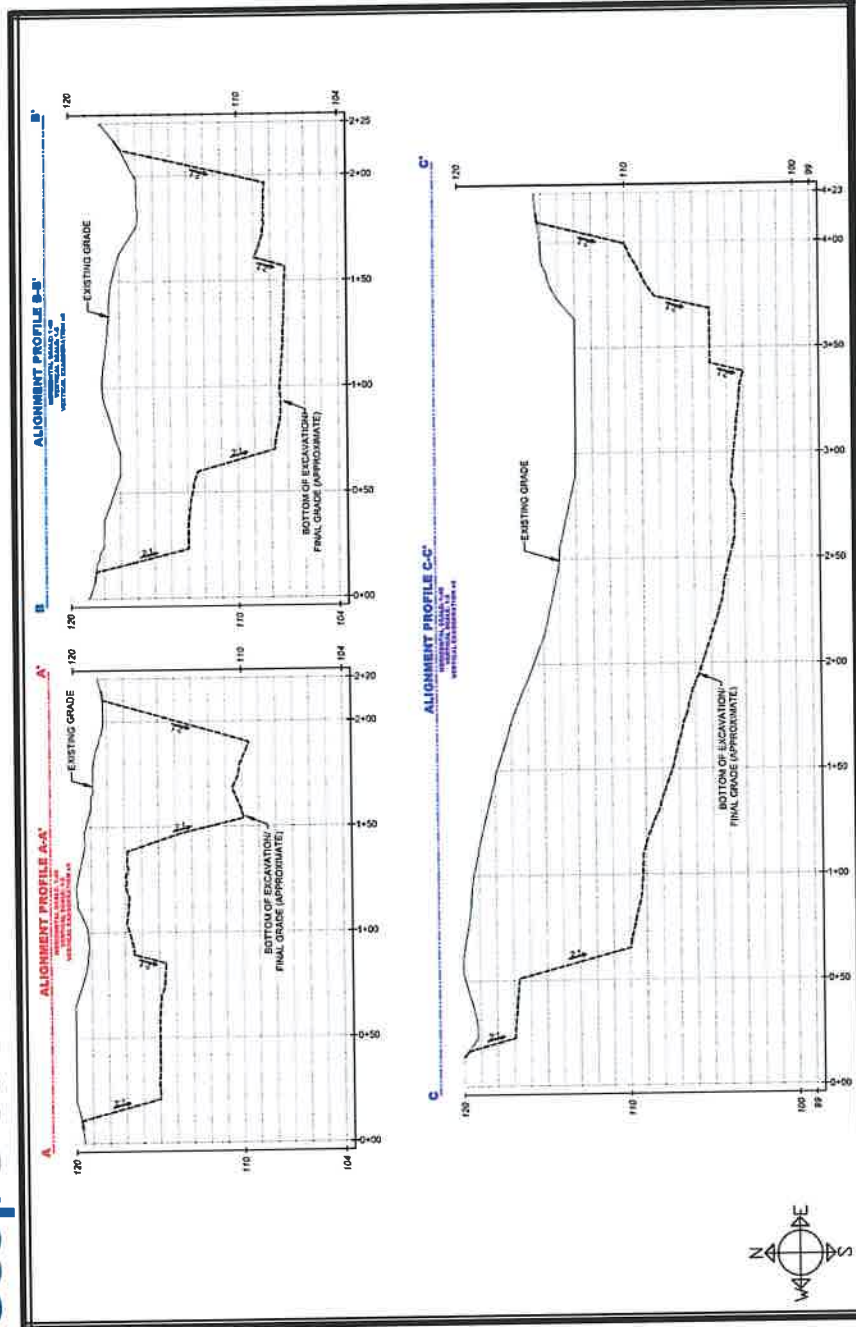


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# Scope of Remediation



COUNTY OF SAN LUIS OBISPO

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**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,

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.



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:

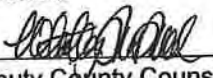
**JULIE L. RODEWALD**  
Clerk of the Board of Supervisors

By: C.M. Christensen, Deputy Clerk

(SEAL)

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL  
County Counsel

By:   
Deputy County Counsel

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.

(SEAL)

**JULIE L. RODEWALD**  
County Clerk and Ex-Officio Clerk of the Board  
of Supervisors

By: CM 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).

- 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 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 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 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;



- 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>	

#### 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.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<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).	
<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.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<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 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.	

<b>Public Safety and Hazardous Materials</b>	
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).	

<b>Noise and Vibration</b>	
<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).	

<b>Public Services</b>	
<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 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	

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.

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>	



### 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.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .

**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.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant</i> (Class III).

**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

<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>	

Air Quality	
<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+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> <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>	

<b>Air Quality</b>	
Proposed Project, the amount of gas that is treated and combusted would increase with the Proposed Project.	
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).	
<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 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



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> .
<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 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).</p>	

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> .
<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>	

### Noise and Vibration

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).

### Land Use and Policy Consistency Analysis

<b>Impact LU.1</b>	Noise from throughput increase operations would be incompatible with the adjacent land uses.
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<b>Mitigation</b>	Implementation of mitigation measure N-1.
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<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
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**Supportive Evidence:** 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.

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).

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.

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).

<b>Impact LU.2</b>	Emissions and odors from operations could be incompatible with adjacent land uses.
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<b>Mitigation</b>	Implementation of mitigation measure AQ-2.
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<b>Findings</b>	Impacts are considered <i>less than significant with mitigation (Class II)</i> .
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**Supportive Evidence:** 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.

### 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.

Attachment 9

**TOMMY GONG**  
San Luis Obispo County – Clerk/Recorder  
Recorded at the request of  
**FIS: MULTIPAY CREDIT/DEBIT**

SC  
4/01/2015  
11:35 AM

RECORDING REQUESTED BY:

County of San Luis Obispo

AND WHEN RECORDED MAIL TO:

Clerk of the Board of Supervisors  
County of San Luis Obispo  
County Government Center  
San Luis Obispo, California 93408

DOC#: 2015014726



Titles: 1 Pages: 54

Fees	170.00
Taxes	0.00
Others	0.00
PAID	\$170.00

**IRREVOCABLE OFFER TO DEDICATE VERTICAL PUBLIC  
ACCESS EASEMENT AND DECLARATION OF RESTRICTIONS**

THIS IRREVOCABLE OFFER TO DEDICATE VERTICAL PUBLIC ACCESS  
EASEMENT AND DECLARATION OF RESTRICTIONS (hereinafter referred to as the  
"Offer") is made this 1<sup>st</sup> day of April, 2015, by PHILLIPS 66  
COMPANY, a Delaware corporation, (hereinafter referred to as "Grantor").

**WITNESSETH:**

WHEREAS, Grantor is the legal owner of a fee interest of certain real property  
(hereinafter referred to as the "Property") located in the unincorporated area of the  
County of San Luis Obispo (hereinafter referred to as the "County") described in Exhibit  
A attached hereto and incorporated by reference herein as though set forth in full; and

WHEREAS, all of the Property is located within the coastal zone as defined in  
Public Resources Code section 30103; and

ck. title rpt./Development Plan DRC2008-00146  
Revised: February 13, 2015



WHEREAS, the California Coastal Act of 1976 (hereinafter referred to as the "Act") and the County's Local Coastal Program require that any land use permit, subdivision, or other development located in the coastal zone approved by the County must be consistent with the policies of the Act set forth in Chapter 3 of Division 20 of the Public Resources Code and with the policies of the Local Coastal Program set forth in the Land Use Element of the General Plan of the County and in Title 23 of the San Luis Obispo County Code; and

WHEREAS, pursuant to the Act and the Local Coastal Program, Grantor applied to the Department of Planning and Building of the County for a land use permit or other approval to undertake development as defined in section 30106 of the Public Resources Code and Section 23.11.030 of Title 23 of the San Luis Obispo County Code on Property located within the coastal zone of the County; and

WHEREAS, Development Plan/Coastal Development Permit DRC2008-00146 (hereinafter referred to as the "Permit") was duly considered and conditionally approved on February 26, 2013, by the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") in accordance with the staff recommendation in the staff report and with the findings and conditions set forth in Board of Supervisors Resolution No. 2013-35 (which is attached hereto as Exhibit B and is incorporated by reference herein as though set forth in full), subject to the following condition:

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).

; and

WHEREAS, the Property is located between the first public road and the shoreline;

and

WHEREAS, under the policies of section 30210 through section 30212 of the Public Resources Code and the coastal plan policies of the Land Use Element of the General Plan and of Section 23.04.420 of Title 23 of the San Luis Obispo County Code, public access to the shoreline and along the coast is to be maximized and, in all new development projects located between the first public road and the shoreline, such public access shall be provided; and

WHEREAS, the Board of Supervisors found that but for the imposition of the above condition, the proposed development could not be found consistent with the public access policies of section 30210 through section 30212 of the Public Resource Code and the public access policies of the Land Use Element of the General Plan and of Section 23.04.420 of Title 23 of the San Luis Obispo County Code and that, therefore, in the absence of such a condition, a permit could not have been approved; and

WHEREAS, Grantor has elected to comply with said condition and execute this Offer so as to enable Grantor to undertake the development authorized by the Permit.

NOW, THEREFORE, in consideration of County approval of the above Permit for Grantor and the benefits conferred thereby on Grantor and the Property, Grantor hereby

irrevocably offers to dedicate to the People of the State of California, a vertical access easement in gross and in perpetuity over the Property as follows:

1. Description. The easement offered hereby affects a portion of the Property so as to provide for vertical public access to the shoreline, as well as room for the construction and installation of improvements required by Section 23.04.420 of the San Luis Obispo County Code, and is more particularly described in the legal description and delineated on the accompanying map, which are set forth in Exhibit C attached hereto and incorporated by reference herein as though set forth in full.

2. Purpose. The easement is for the purpose of allowing public access to and from the shoreline as well as allowing the construction and installation of improvements therefor, as required by Section 23.04.420 of the San Luis Obispo County Code.

3. Declaration of restrictions. This offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the Offer, to interfere with any rights of public access acquired through use which may exist on the Property. After acceptance, Grantor shall not interfere with the public's use of the easement nor take any action inconsistent with such use, including, without limitation, constructing or improving the Property in a manner inconsistent with the public's use or enjoyment of the easement. Grantor shall not be bound to undertake any construction, maintenance, or repair to provide for the public purposes hereunder. Grantor shall retain all normal rights and incidents of ownership of the underlying fee interest in the Property not inconsistent with this easement.

4. Duration, acceptance and transferability. This offer of dedication shall be irrevocable by the Grantor and the heirs, assigns, or successors in interest to the Property for a period of twenty-one (21) years from the date of recordation. This Offer

may be accepted by the County of San Luis Obispo or may be accepted by any agency of the State of California or a private association acceptable to the Planning Director (hereinafter referred to as the "Grantee"). Such acceptance shall be effectuated by recordation by the Grantee of an acceptance of this Offer in the form attached hereto as Exhibit D and incorporated by reference herein as though set forth in full. Upon such recordation of acceptance, this Offer and terms, conditions, and restrictions shall have the effect of a grant of a vertical access easement in gross and perpetuity, which shall run with the land and be binding on the heirs, assigns, and successors of the Grantor. After acceptance, this easement may be transferred to and held by any entity which qualifies as a Grantee under the criteria hereinabove stated. Acceptance of the Offer is subject to a covenant which runs with the land, providing that the Grantee may not abandon this easement until such time as Grantee effectively transfers said easement to an entity which qualifies as a Grantee under the criteria hereinabove stated.

5. Remedies. Any act, conveyance, contract, or authorization by Grantor whether written or oral which uses or would cause to be used or would permit use of the easement contrary to the terms of this Offer will be deemed a breach hereof. The Grantor, any Grantee of this easement, and any offeree of this Offer may pursue any and all available legal and/or equitable remedies to enforce the terms and conditions of the Offer and easement and their respective interest in the Property. In the event of a breach, any forbearance on the part of any such party to enforce the terms and provisions hereof shall not be deemed a waiver of enforcement rights regarding any subsequent breach.

6. Taxes and assessments. Grantor agrees to pay or cause to be paid all real property taxes and assessments levied or assessed against the Property. It is intended

that this Irrevocable Offer and the use restrictions contained herein shall constitute enforceable restrictions within the meaning of: (a) Article XIII, section 8, of the California Constitution, and (b) section 402.1 of the California Revenue and Taxation Code or successor statute. Furthermore, this Offer, easement and restrictions shall be deemed to constitute a servitude upon and burden to the Property within the meaning of section 3712(d) of the California Revenue and Taxation Code, or successor statute, which survives a sale of tax-deeded property.

7. Successors and assigns. The terms, covenants, conditions, exceptions, obligations, and reservations contained in this Offer shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

8. Severability. If any provision of this Offer is held to be invalid, or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

Executed on this 2<sup>nd</sup> day of April, 2015, at  
San Luis Obispo, California.

GRANTOR

PHILLIPS 66 COMPANY,  
a Delaware corporation

By: Bill A. Hallett  
Name: Bill A. Hallett  
Title: Attorney In Fact



This is to certify that the Offer to Dedicate set forth above is hereby acknowledged and approved by the undersigned officer on behalf of the County of San Luis Obispo pursuant to authority conferred by the County when it approved Development Plan/Coastal Development Permit DRC2008-000146 on February 26, 2013, and the County of San Luis Obispo consents to recordation thereof by its duly authorized officer.  
Dated: 3.31.2015

JAMES A. BERGMAN, AICP  
Director of Planning and Building  
County of San Luis Obispo

By: 

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL  
County Counsel

By: 

Deputy County Counsel

Dated: March 27, 2015

[NOTE: This Offer to Dedicate will be recorded. All signatures to this offer must be acknowledged by a notary.]  
44plhagr.docx

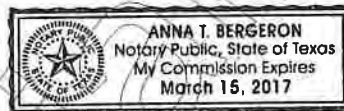
STATE OF TEXAS       §  
                                  §  
COUNTY OF HARRIS   §

On this 10<sup>th</sup> day of March, 2015, before me personally appeared Bill A. Hallett, known to me to be the person whose name is subscribed to the foregoing instrument as Attorney-in-Fact, of Phillips 66 Company and acknowledged to me that he or she executed the same for purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this 10<sup>th</sup> day of March 2015

  
Notary Public in and for the  
State of Texas

My Commission Expires:  
3-15-17



ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF SAN LUIS OBISPO

ss.

On 3-31, 2015, before me, M. FISHER,  
a Notary Public, in and for the State of California, personally appeared  
James A. Bergman, who proved to me on the basis  
of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the  
within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the  
instrument the person(s) or the entity upon behalf of which the person(s) acted,  
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California  
that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

M. Fisher  
Signature of Notary Public

[SEAL]

217plhstdmsc.docx

## EXHIBIT A

### LEGAL DESCRIPTION

Real property in the unincorporated area of the County of San Luis Obispo, State of California, described as follows:

PARCEL A: (A.P.N.: 092-401-005)

Those portions of Lots I, K and L of the Standard Eucalyptus Tract in the County of San Luis Obispo, State of California, according to map recorded in Book 1, Page 12 of Maps, in the office of the County Recorder of said County, described as follows:

Beginning at the intersection of the Southwesterly line of said Lot L with that certain curve in the Northeasterly line of the Southern Pacific Railroad Right of Way, 100 feet wide, having a radius of 5672.823 feet; a radial line through said point bears South 70°02'08" West;

thence South 62°37'34" East along said Southwesterly line 1702.36 feet;

thence North 40°32'48" East, 385.90 feet;

thence North 49°27'12" West, 2072.00 feet;

thence North 6°23'17" West, 688.42 feet;

thence North 49°25'38" West, 645.92 feet to the Easterly line of said Railroad Right of Way;  
thence South 6°22'00" East along said Easterly line, 612.88 feet to the beginning of a tangent spiral curve concave Easterly having a radius of 22868.317 feet;

thence Southerly along said curve 29.93 feet to the beginning of a compounding curve, concave Easterly having a radius of 11409.166 feet;

thence Southerly along said curve 29.87 feet to the beginning of a compounding curve, concave Easterly having a radius of 7589.449 feet;

thence Southerly along said curve, 29.80 feet to the beginning of a compounding curve, concave Northeasterly having a radius of 5672.823 feet; thence Southeasterly along said curve 1301.75 feet to the point of beginning.

PARCEL B: (A.P.N.: 092-401-011)

Lots I, J, K, L, M and N of the Standard Eucalyptus Tract, a division of the Oso Flaco Ranch, part of the Rancho Bolsa de Chemisal and part of Lots 19, 20, 21 and 22 of the Rancho Guadalupe, San Luis Obispo County, State of California surveyed by A. F. Parsons and N. E. Grider, in October 1909, as shown on map of said tract, recorded November 1, 1909 in Book 1, Page 12 of Maps, in the office of the County Recorder of said County.

EXCEPT that portion conveyed to the State of California for public highway purposes by deed recorded July 25, 1985 in Book 2731, Page 382 of Official Records.

EXCEPT for that portion described in Certificate of Compliance recorded April 13, 1982 in Book 2400, Page 346 of Official Records.

## EXHIBIT A

EXCEPT for that portion described in Book 1069, Page 408 of Official Records.

PARCEL C: (A.P.N.: 092-391-034 and 091-141-062)

Certificate of Compliance, Book 2400, Page 382 of Official Records:

That portion of Parcel 1 of Parcel Map No. CO-73-350 in the County of San Luis Obispo, State of California, according to map recorded in Book 13, Page 19 of Parcel Maps, in the office of the County Recorder of said County, being a portion of Lot N and Lot O of the Standard Eucalyptus Tract and a portion of Lot A of Pomeroy's Resubdivision of the Los Berros Tract, an Luis Obispo County, California, said portion being more particularly described as follows:

Beginning at the Easterly terminus of the course in the boundary line of the 1121.418 acre parcel of land conveyed by Union Oil Company of California to Pacific Gas and Electric Company by deed dated October 28, 1963 and recorded in Book 1274, Page 306 of Official Records, which course has a bearing of South 89°50' West and a length of 4081.68 feet and running thence South 89°50' West, along the Northerly boundary line of said 1121.418 acre parcel of land, said Northerly boundary line being the Northerly boundary line of Lot O of the Standard Eucalyptus Tract, according to map recorded in Book 1, Page 12 of Maps, in the office of the County Recorder of said County, a distance of 830.00 feet to the true point of beginning; thence continuing along said line, South 89°50' West, 970.00 feet to the Northwestern corner of Parcel 1 of Parcel Map No. CO-73-350;

thence along the Southwesterly line of said Parcel 1, South 19°54'40" East, 4594.82 feet (record being South 19°58'04" East, 4589.98 feet) to most Southerly corner thereof; thence along the Southerly line of said Parcel 1, North 78°22' East, 4342.86 feet (record being North 78°17'11" East, 4346.37 feet) to a one inch iron pipe tagged RCE 6923 monumenting a point in the Northeasterly line of Lot N;

thence along said Northeasterly line, North 48°54'35" West, 289.51 feet to a 4 inch iron pipe and brass cap marked post 37, property line monument, RE 6923, said monument being shown as a 4" x 4" post partially scribed on the record of survey filed in Book 7, Page 31 of Licensed Surveys;

thence continuing along said Northeasterly line, North 49°05'48" West, 1051.85 feet to a 4 inch iron pipe and brass cap marked B-36, RCE 6923, as shown on said Book 7, Page 31 of Licensed Surveys, said monument marking the most Northerly corner of Lot N and being on the Easterly right-of-way line of the Southern Pacific Railroad;

thence North 49°06'42" West, 438.57 feet to a 4 inch iron pipe and brass cap marked RCE 6923 set at the intersection of the Northwestern prolongation of the Northeasterly line of Lot N and the Westerly right-of-way line of the Southern Pacific Railroad;

thence along said Westerly right-of-way line, North 5°56'57" West, 650.15 feet to a one inch iron pipe tagged RCE 12748 as shown on the record of survey recorded in Book 14, Page 36 of Licensed Surveys and the Northeasterly corner of the 4.615 acre parcel designated as Parcel 1 according to said map; thence along the Northerly line thereof South 83°59'02" West, 617.39 feet (record being South 83°37'27" West) 618.58, to the most Easterly corner of the parcel of land described in the deed to Dune Lakes, Ltd. recorded in Book 1314, Page 585 of Official Records;

thence along the Southerly line thereof, South 84°05' West, 105.59 feet to the most Southerly corner of said parcel; thence North 57°48'59" North, 3210.66 feet to the true point of beginning.

EXCEPTING therefrom that portion described in the deed to the Southern Pacific Railroad



## EXHIBIT A

Company recorded in Book 24, Page 456 of Deeds.

ALSO EXCEPTING that portion conveyed to the State of California for public highway by deed recorded July 25, 1985 in Book 2731, Page 382 of Official Records.

ALSO EXCEPTING therefrom that portion of said land conveyed to the Southern Pacific Railroad Company in deed dated December 27, 1890 and recorded February 7, 1891 in Book 9, Page 539 of Deeds.

PARCEL D: (A.P.N.: 091-192-034)

That portion of Lot 21 of Division "A" Pomeroy's Resubdivision of part of the Los Berros Tract, in the County of San Luis Obispo, State of California, according to map recorded September 26, 1903, in the office of the County Recorder of said County, described as follows:

Beginning at a bronze monument, marked Pacific Gas and Electric Company property Corner No. 4 L. S. 2114, in the Southwesterly boundary line of said Lot 21, from which the bronze cap monument, marked Pacific Gas and Electric Company property Corner No. 5 L. S. 2114, marking the most Southerly corner of said Lot 21 bears South 49°45' 1/2' East, 532.3 feet distant and running thence North 40°20' East a distance of 83.9 feet to a bronze cap monument, marked Pacific Gas and Electric Company property Corner No. 3 L. S. 2114;

thence North 0°13' West a distance of 853.9 feet to a bronze cap monument, marked Pacific Gas and Electric Company property Corner No. 2 L. S. 2114, in the Southerly boundary line of the state highway extending in part along the Northerly boundary line of said Lot 21;

thence continuing North 0°13' West a distance of 30.0 feet to the Northerly boundary line of said Lot 21, said Northerly boundary line being the center line of said state highway; thence South 89°47' West along the Northerly boundary line of said Lot 21, a distance of 1165.4 feet to the most Westerly corner of said Lot 21, said most Westerly corner being in the Southwesterly boundary line of said state highway;

thence South 49°45' 1/2' East along the Southwesterly boundary line of said Lot 21, a distance of 46.2 feet to the steel rod marking the intersection of the Southerly boundary line of said state highway with the Southwesterly boundary line of said Lot 21;

thence continuing South 49°45' 1/2' East, along the Southwesterly boundary line of said Lot 21, a distance of 1413.9 feet, more or less, to the point of beginning.

EXCEPT for that portion lying within the state highway.

EXCEPT for that portion conveyed to the County of San Luis Obispo for the Nipomo Mesa Fire Station site by deed recorded May 20, 1991 in Book 3694, Page 480 of Official Records.

PARCEL E: (A.P.N.: 092-391-020 and 021)

Lot O of the Standard Eucalyptus Tract in the County of San Luis Obispo, State of California, according to map recorded in Book 1, Page 12 of Maps, in the office of the County Recorder of said County, lying Easterly of the following described line:

Beginning at Station No. 18 on the Southerly line of said Lot O; thence along a straight line in a Northerly direction 3567.00 feet, more or less to the most Easterly corner of that certain parcel of land conveyed to the State of California by deed recorded January 24, 1974 in Book 1762, Page 575 of Official Records, and the end of the herein described line, said corner being also the most Easterly corner of the land shown as Parcel 2 on the Parcel Map filed in Book 13, Page 19 of

## EXHIBIT A

Parcel Maps, in the office of the County Recorder of said County, and lying Westerly of the Westerly right-of-way of the Southern Pacific Railroad Company.

EXCEPT for that portion lying within the state highway.

EXCEPT for that portion conveyed to the County of San Luis Obispo for the Nipomo Mesa Fire Station site by deed recorded May 20, 1991 in Book 3694, Page 480 of Official Records.

PARCEL F: (A.P.N.: 092-401-013)

Lots C, F, G and H of the Standard Eucalyptus Tract, a division of the Oso Flaco Ranch, part of the Rancho Bolsa de Chemisal and part of Lots 19, 20, 21 and 22 of the Rancho Guadalupe, San Luis Obispo County, surveyed by A.F. Parsons and N.E. Grider, in October 1909, according to map recorded November 1, 1909 in Book 1, Page 12 of Maps, in the office of the County Recorder of said County.

EXCEPT that portion conveyed to the State of California by deed recorded June 20, 1991 in Book 3710, Page 594 of Official Records.

PARCEL G: (A.P.N.: 092-411-002)

Lots 7 and 8 of Map of Subdivision of Lot E of the Standard Eucalyptus Tract, in the County of San Luis Obispo, State of California, according to map recorded March 10, 1910 in Book 1, Page 17 of Maps, in the office of the County Recorder of said County.

PARCEL H: (A.P.N.: 092-411-005)

Lots 1 to 6 and 9 to 19 inclusive, of Map of Subdivisions of Lot E of the Standard Eucalyptus Tract, in the County of San Luis Obispo, State of California, according to map recorded March 10, 1910 in Book 1, Page 17 of Maps, in the office of the County Recorder of said County.

EXCEPT that portion conveyed to the State of California for public highway purposes by deed recorded November 26, 1974 in Book 1807, Page 433 of Official Records.

APN: 091-141-062 and 091-192-034 and 092-391-020 and 092-391-021 and 092-391-034 and 092-401-005 and 092-401-011 and 092-401-013 and 092-411-002 and 092-411-005

**EXHIBIT B**

**ATTACHMENT 2**

**RESOLUTION IN THE BOARD OF SUPERVISORS  
OF CALIFORNIA 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,

**EXHIBIT B**  
**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.

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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

EXHIBIT B  
ATTACHMENT 2

Dated: March 8, 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 8<sup>th</sup> day of March, 2013.



JULIE L. RODEWALD

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

By: Sandy Currens  
Deputy Clerk.



**EXHIBIT B**  
**ATTACHMENT 2**

**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).

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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.

**EXHIBIT B**  
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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.
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.

**EXHIBIT B**  
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**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.**

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**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

**EXHIBIT B**  
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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.**

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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 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)**

<b>Air Quality</b>	
<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 SLOAPCD 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.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<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).	
<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.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<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 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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<b>Public Safety and Hazardous Materials</b>	
<p>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.</p> <p>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.</p> <p>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).</p>	

<b>Noise and Vibration</b>	
<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> .
<p><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.</p> <p>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).</p>	

<b>Public Services</b>	
<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> .
<p><b>Supportive Evidence:</b> The Proposed Project would not generate large flows of increased sanitary wastewater.</p> <p>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.</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</p>	

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<b>Public Services</b>	
<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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<b>Public Services</b>	
<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>	
<b>Transportation and Circulation</b>	
<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.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .

**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

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<b>Water Resources</b>	
<p>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</i> (Class III).</p>	
<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</i> (Class III).
<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</p>	

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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+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> <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>	



**EXHIBIT B  
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 (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



**EXHIBIT B  
ATTACHMENT 2**

<b>Public Safety and Hazardous Materials</b>	
	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).	
<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> .
<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.	

**EXHIBIT B  
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**Noise and Vibration**

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).

**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> .

**Supportive Evidence:** 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.

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).

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.

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).

<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> .

**Supportive Evidence:** 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.

**EXHIBIT B  
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<b>Land Use and Policy Consistency Analysis</b>	
<p>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, 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).</p>	

<b>Water Resources</b>	
<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.

**EXHIBIT B**  
**ATTACHMENT 2**

**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.

**Exhibit "C"**  
**LEGAL DESCRIPTION OF**  
**EASEMENT AREA**

File no: 0660-0050-0100

January 7, 2015

**Parcel "A"**

A portion of Lots L and N of the Standard Eucalyptus Tract, a subdivision of the Oso Flaco Ranch, part of the Rancho Bolsa de Chemisal and part of Lots 19, 20, 21 and 22 of the Rancho Guadalupe, San Luis Obispo County, State of California surveyed by A. F. Parsons and N. E. Grider, in October 1909, as shown on map of said tract, recorded November 1, 1909 in Book 1, Page 12 of Maps, in the office of the County Recorder of said County, being a ten foot wide strip, the centerline of which is described as follows:

Commencing at a 5/8" rebar with cap inscribed "RCE 12545" at the northwesterly terminus of the course labeled North 49° 17' 30" West 91.00 feet and marking an angle point in the southwesterly line of the land conveyed to the State of California for public highway purposes described in the deed recorded July 25, 1985 in Book 2731 at page 382 of Official Records in the office of said County Recorder according to the Record of Survey filed in Book 51 of Licensed Surveys at page 80 in said office of the County Recorder, from which a 3" brass cap inscribed "U.O.CO. MON. #21 L.S. 2789" at the northwesterly terminus of the course labeled South 70° 59' 56" East 1504.11 feet and marking an angle point in the southerly line of said Lot O according to the Record of Survey filed in Book 42 of said Licensed Surveys at page 54 bears South 18° 59' 56" West 5222.95 feet;

Thence South 77° 48' 27" East, 10.05 feet (L1) to the **True Point of Beginning**;

Thence South 41° 49' 52" West, 718.44 feet (L2) to the beginning of a tangent curve to the left having a radius of 319.00 feet;

Thence along the arc of said curve through a central angle of 46° 28' 17" a distance of 258.73 feet (C1);

Thence South 04° 38' 26" East, 488.03 feet (L3);

Thence South 02° 46' 42" West, 100.84 feet (L4);

Thence South 04° 34' 06" East, 67.13 feet (L5);

Thence South 06° 50' 24" East, 149.27 feet (L6);

Thence South 08° 51' 34" East, 100.27 feet (L7);

Thence South 04° 38' 26" East, 269.00 feet (L8) to the beginning of a tangent curve to the right having a radius of 190.00 feet;

Thence along the arc of said curve through a central angle of 18° 18' 35" a distance of 60.72 feet (C2);

Thence South 13° 40' 09" West, 95.97 feet (L9);

Thence South 06° 00' 02" East, 79.67 feet (L10) to the beginning of a tangent curve to the right having a radius of 20.00 feet;

Thence along the arc of said curve through a central angle of 19° 24' 40" a distance of 6.78 feet (C3);

Thence South 13° 24' 38" West, 254.91 feet (L11) to the beginning of a tangent curve to the right having a radius of 31.00 feet;

Thence along the arc of said curve through a central angle of 74° 41' 57" a distance of 40.42 feet (C4);

Thence South 88° 06' 35" West, 28.57 feet (L12) to the easterly boundary line of the Union Pacific Railroad property;

Except therefrom that portion of land conveyed to the State of California for public highway purposes described in the deed recorded July 25, 1985 in Book 2731 at page 382 of Official Records in the office of said County Recorder.

The sidelines of said ten foot wide strip shall be lengthened or shortened so as to terminate on said easterly boundary line of Union Pacific Railroad property and said southwesterly line of the land conveyed to the State of California for public highway purposes.

#### **Parcel "B"**

A portion of Lots O of the Standard Eucalyptus Tract, a subdivision of the Oso Flaco Ranch, part of the Rancho Bolsa de Chemisal and part of Lots 19, 20, 21 and 22 of the Rancho Guadalupe, San Luis Obispo County, State of California surveyed by A. F. Parsons and N. E. Grider, in October 1909, as shown on map of said tract, recorded November 1, 1909 in Book 1, Page 12 of Maps, in the office of the County Recorder of said County, being a ten foot wide strip, the centerline of which is described as follows:

Commencing at a 5/8" rebar with cap inscribed "RCE 12545" at the northwesterly terminus of the course labeled North 49° 17' 30" West 91.00 feet and marking an angle point in the southwesterly line of the land conveyed to the State of California for public highway purposes described in the deed recorded July 25, 1985 in Book 2731 at page 382 of Official Records in the office of said County Recorder according to the Record of Survey filed in Book 51 of Licensed Surveys at page 80 in said office of the County Recorder, from which a 3" brass cap inscribed "U.O.CO. MON. #21 L.S. 2789" at the northwesterly terminus of the course labeled South 70° 59' 56" East 1504.11 feet and marking an angle point in the southerly line of said Lot O according to the Record of



Survey filed in Book 42 of said Licensed Surveys at page 54 bears South 18° 59' 56" West 5222.95 feet;

Thence South 15° 40' 36" West, 2551.89 feet to the **True Point of Beginning**;

Thence North 79° 19' 22" West, 120.06 feet (L13);

Thence North 84° 22' 22" West, 112.46 feet (L14) to the beginning of a tangent curve to the left having a radius of 44.00 feet;

Thence along the arc of said curve through a central angle of 78° 56' 21" a distance of 60.62 feet (C5) to the beginning of a reverse curve to the right having a radius of 76.00 feet;

Thence along the arc of said curve through a central angle of 17° 09' 17" a distance of 22.75 feet (C6) to the beginning of a reverse curve to the left having a radius of 189.00 feet;

Thence along the arc of said curve through a central angle of 21° 38' 38" a distance of 71.40 feet (C7) to the beginning of a reverse curve to the right having a radius of 761.00 feet;

Thence along the arc of said curve through a central angle of 06° 24' 09" a distance of 85.04 feet (C8);

Thence South 18° 36' 06" West, 185.01 feet (L15) to the beginning of a tangent curve to the right having a radius of 116.00 feet;

Thence along the arc of said curve through a central angle of 54° 47' 57" a distance of 110.95 feet (C9);

Thence South 73° 24' 03" West, 71.78 feet (L16) to the beginning of a tangent curve to the left having a radius of 144.00 feet;

Thence along the arc of said curve through a central angle of 68° 55' 14" a distance of 173.22 feet (C10);

Thence South 04° 28' 49" West, 13.48 feet (L17) to the beginning of a tangent curve to the left having a radius of 314.00 feet;

Thence along the arc of said curve through a central angle of 31° 05' 56" a distance of 170.43 feet (C11);

Thence South 26° 37' 07" East, 226.39 feet (L18) to the beginning of a tangent curve to the left having a radius of 139.00 feet;

Thence along the arc of said curve through a central angle of 18° 24' 35" a distance of 44.66 feet (C12);

Thence South 45° 01' 42" East, 188.60 feet (L19) to the beginning of a tangent curve to the right having a radius of 506.00 feet;

Thence along the arc of said curve through a central angle of 25° 19' 00" a distance of 223.58 feet (C13) to the beginning of a compound curve to the right having a radius of 171.00 feet;

Thence along the arc of said curve through a central angle of 69° 42' 57" a distance of 208.07 feet (C14);

Thence South 50° 00' 16" West, 133.65 feet (L20) to the beginning of a tangent curve to the right having a radius of 101.00 feet;

Thence along the arc of said curve through a central angle of 21° 13' 20" a distance of 37.41 feet (C15);

Thence South 71° 13' 37" West, 107.84 feet (L21) to the beginning of a tangent curve to the right having a radius of 156.00 feet;

Thence along the arc of said curve through a central angle of 17° 17' 47" a distance of 47.09 feet (C16);

Thence South 88° 31' 24" West, 33.08 feet (L22) to the beginning of a tangent curve to the left having a radius of 569.00 feet;

Thence along the arc of said curve through a central angle of 12° 14' 43" a distance of 121.61 feet (C17);

Thence South 76° 16' 41" West, 68.32 feet (L23) to the beginning of a tangent curve to the right having a radius of 341.00 feet;

Thence along the arc of said curve through a central angle of 25° 18' 05" a distance of 150.58 feet (C18) to the beginning of a reverse curve to the left having a radius of 2189.00 feet;

Thence along the arc of said curve through a central angle of 03° 41' 40" a distance of 141.15 feet (C19);

Thence North 82° 06' 54" West, 937.95 feet (L24);

Thence North 78° 55' 14" West, 172.48 feet (L25) to the beginning of a tangent curve to the left having a radius of 167.00 feet;

Thence along the arc of said curve through a central angle of 32° 20' 29" a distance of 94.27 feet (C20) to the beginning of a reverse curve to the right having a radius of 141.00 feet;

Thence along the arc of said curve through a central angle of 42° 31' 11" a distance of 104.64 feet (C21);

Thence North 68° 44' 32" West, 258.89 feet (L26) to the beginning of a tangent curve to the left having a radius of 347.00 feet;

Thence along the arc of said curve through a central angle of 28° 05' 49" a distance of 170.16 feet (C22) to the beginning of a reverse curve to the right having a radius of 183.88 feet;

Thence along the arc of said curve through a central angle of 35° 24' 27" a distance of 113.63 feet (C23) to the beginning of a reverse curve to the left having a radius of 417.00 feet;

Thence along the arc of said curve through a central angle of 11° 23' 01" a distance of 82.85 feet (C24) to the beginning of a compound curve to the left having a radius of 1177.93 feet;

Thence along the arc of said curve through a central angle of 09° 40' 33" a distance of 198.92 feet (C25) to the beginning of a reverse curve to the right having a radius of 253.00 feet;

Thence along the arc of said curve through a central angle of 23° 03' 55" a distance of 101.85 feet (C26) to the beginning of a reverse curve to the left having a radius of 515.93 feet;

Thence along the arc of said curve through a central angle of 15° 35' 22" a distance of 140.38 feet (C27);

Thence North 75° 00' 53" West, 188.34 feet (L27) to the beginning of a tangent curve to the right having a radius of 573.00 feet;

Thence along the arc of said curve through a central angle of 18° 46' 52" a distance of 187.82 feet (C28);

Thence North 56° 14' 02" West, 101.13 feet (L28) to a line from Station No. 18 on the southerly line of said Lot O to the most easterly corner of that certain parcel of land conveyed to the State of California by deed recorded January 24, 1974 in Book 1762 at page 575 of said Official Records, said easterly corner also being the most easterly corner of Parcel 2 of Parcel Map No. CO-73-350 filed in Book 13 of Parcel Maps at page 19 in the office of said County Recorder. Said line from said Station No. 18 to said most easterly corner herein called Line "A" for convenience.

The sidelines of said ten foot wide strip shall be lengthened or shortened so as to terminate on said Line "A" and the westerly boundary line of the Union Pacific Railroad property.

Parcel A and B being 2.0 acres more or less.

The above-described portion is graphically shown on Exhibit "C-1", being 7 sheets, attached hereto and made a part hereof.

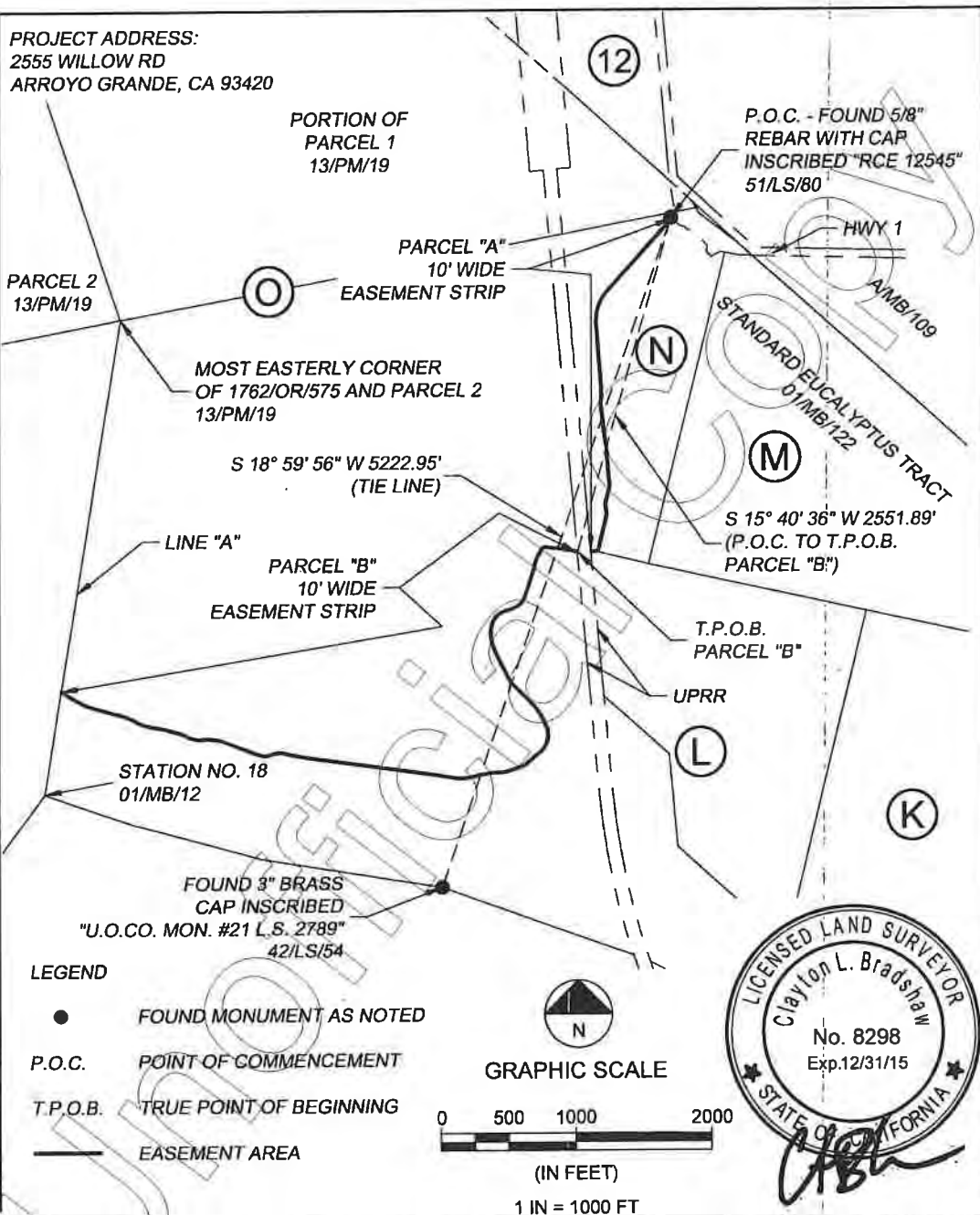
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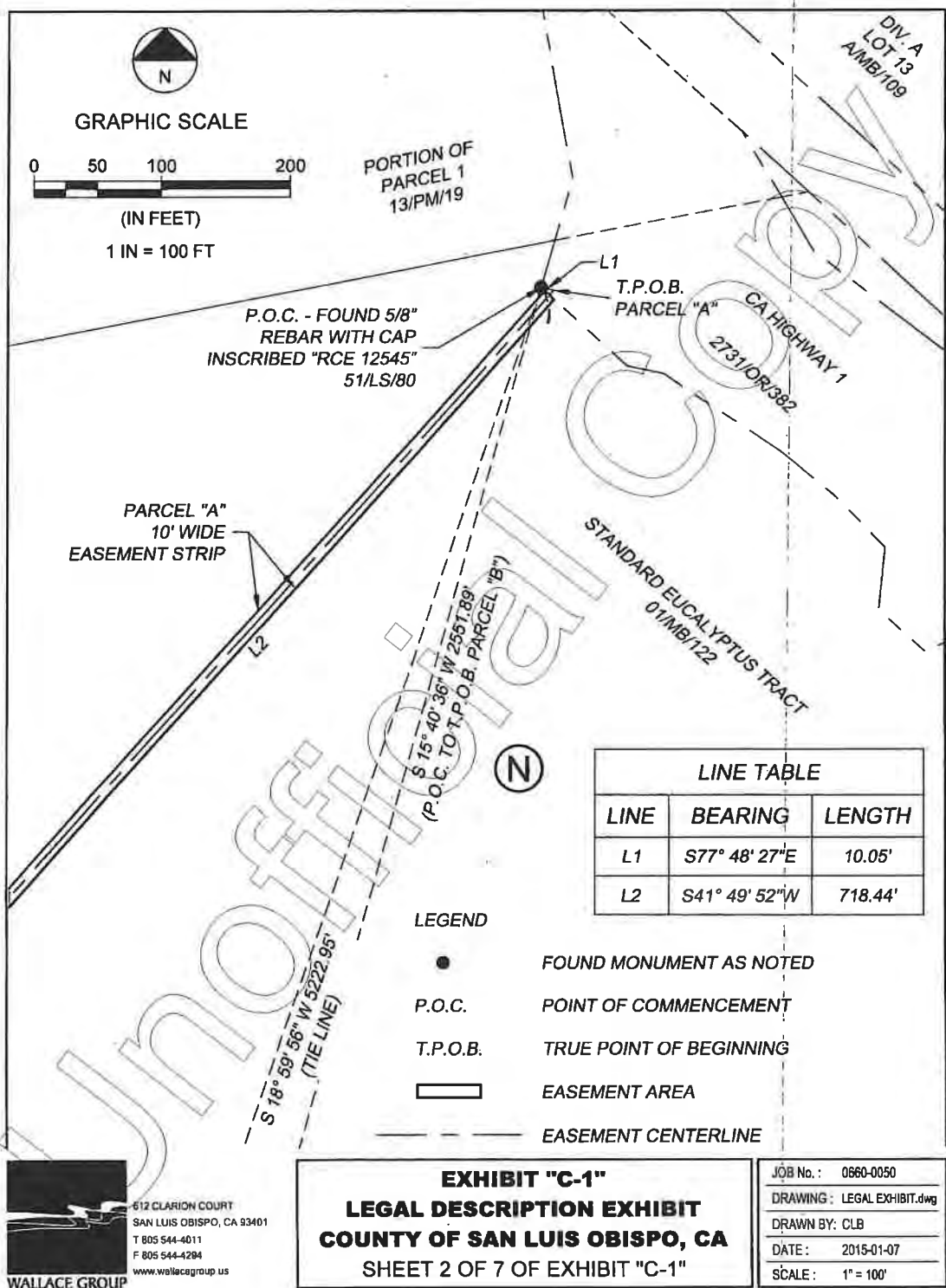
PROJECT ADDRESS:  
2555 WILLOW RD  
ARROYO GRANDE, CA 93420



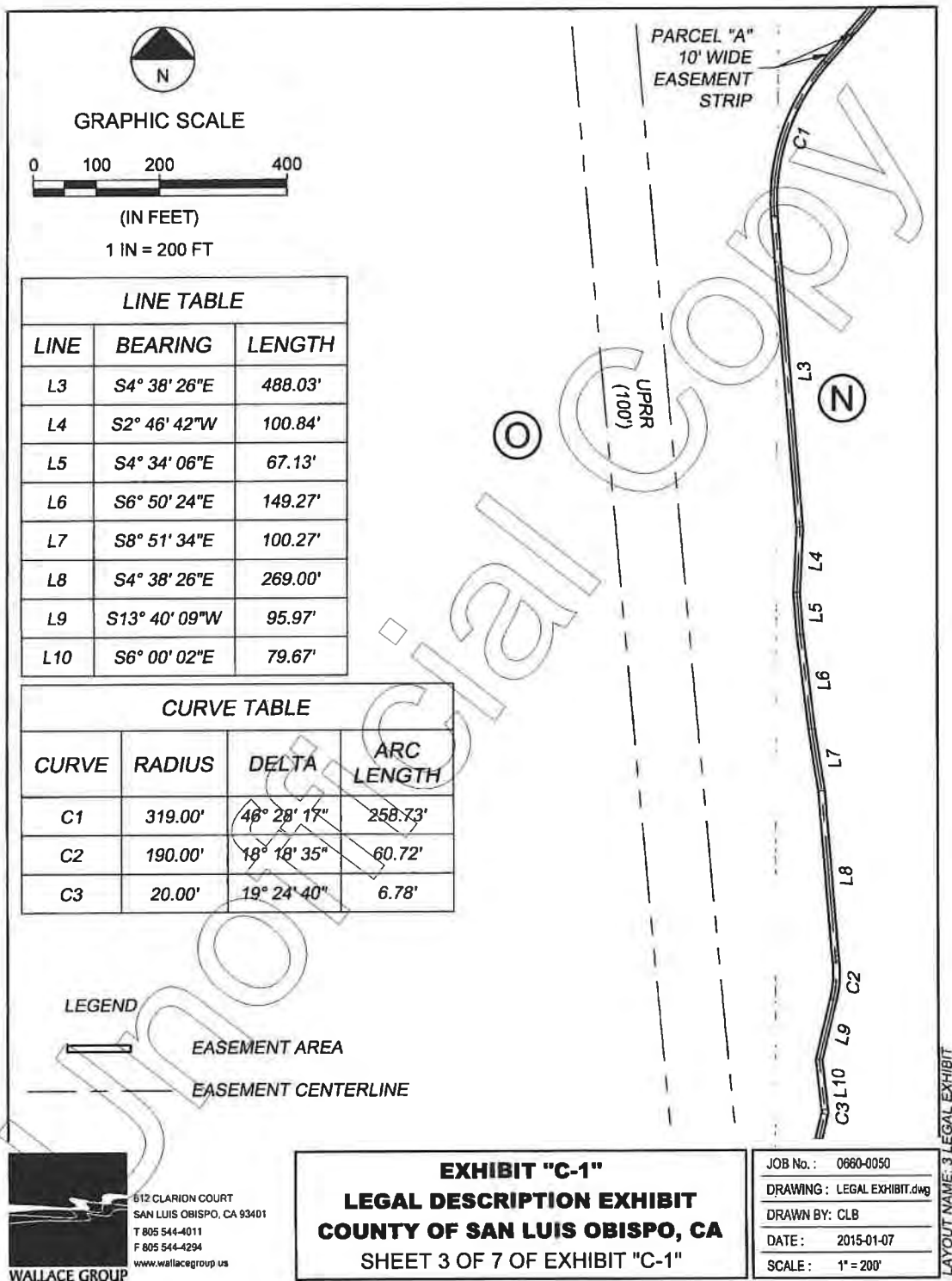
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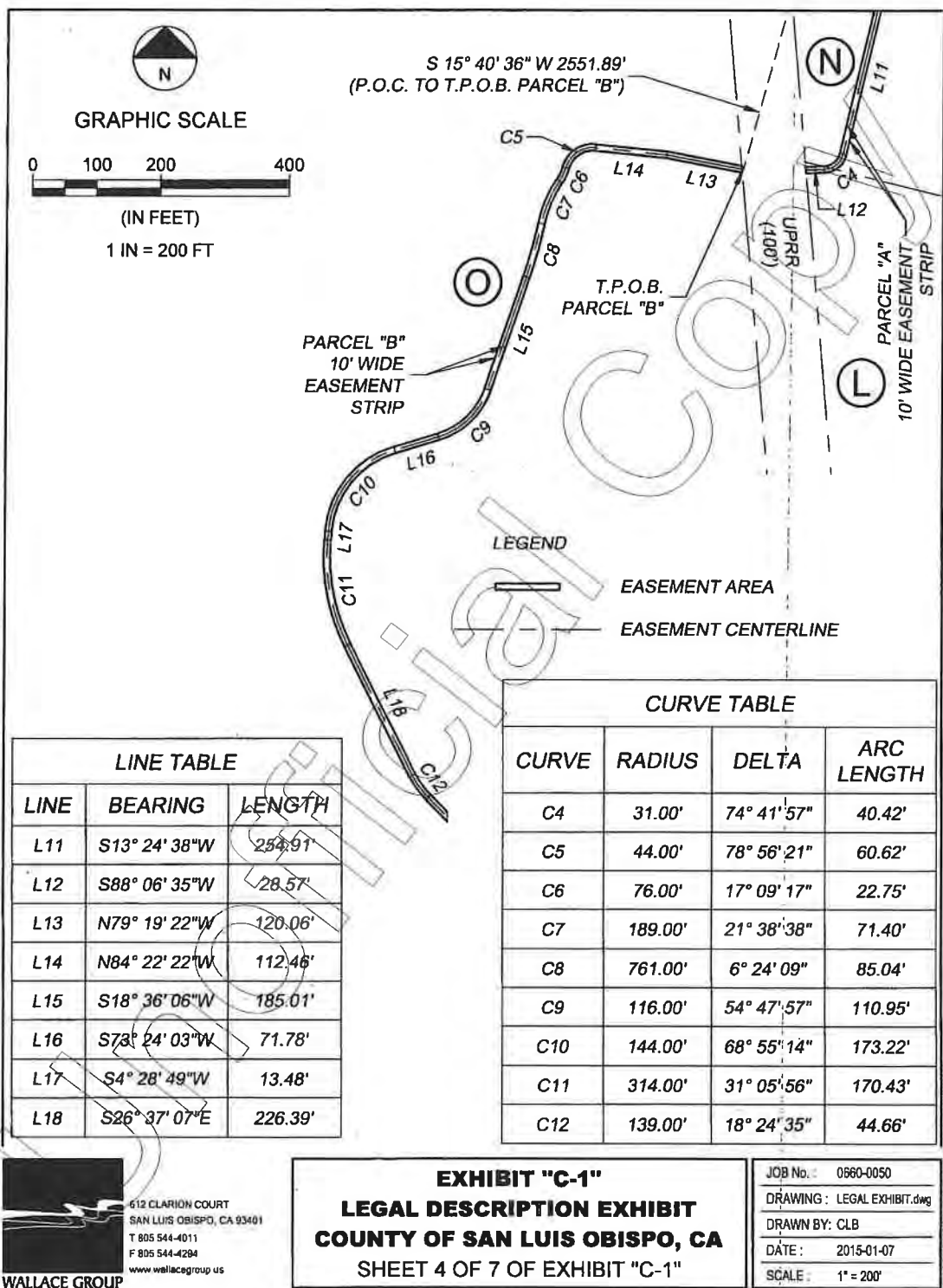
**EXHIBIT "C-1"**  
**LEGAL DESCRIPTION EXHIBIT**  
**COUNTY OF SAN LUIS OBISPO, CA**  
**SHEET 1 OF 7 OF EXHIBIT "C-1"**

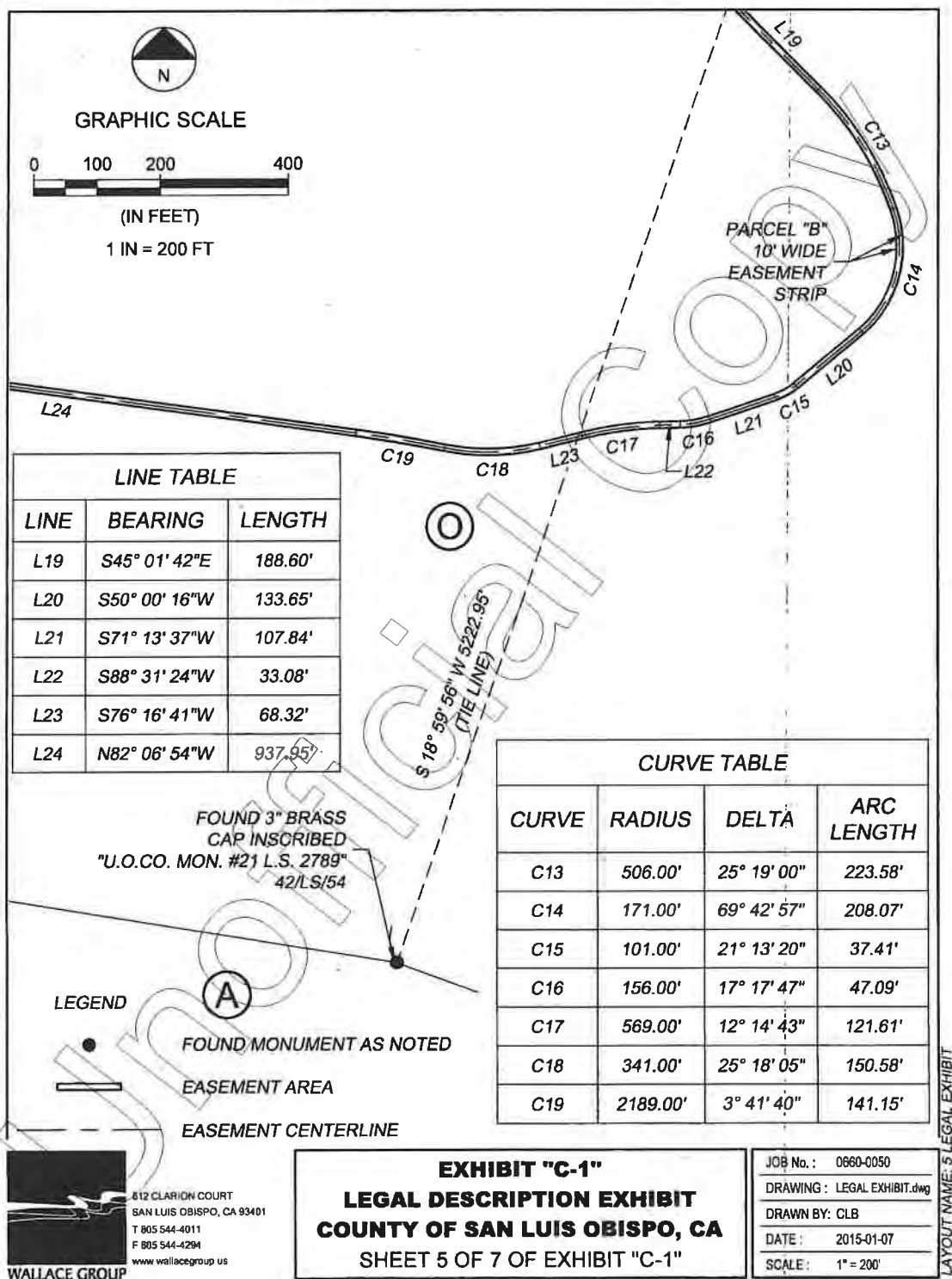
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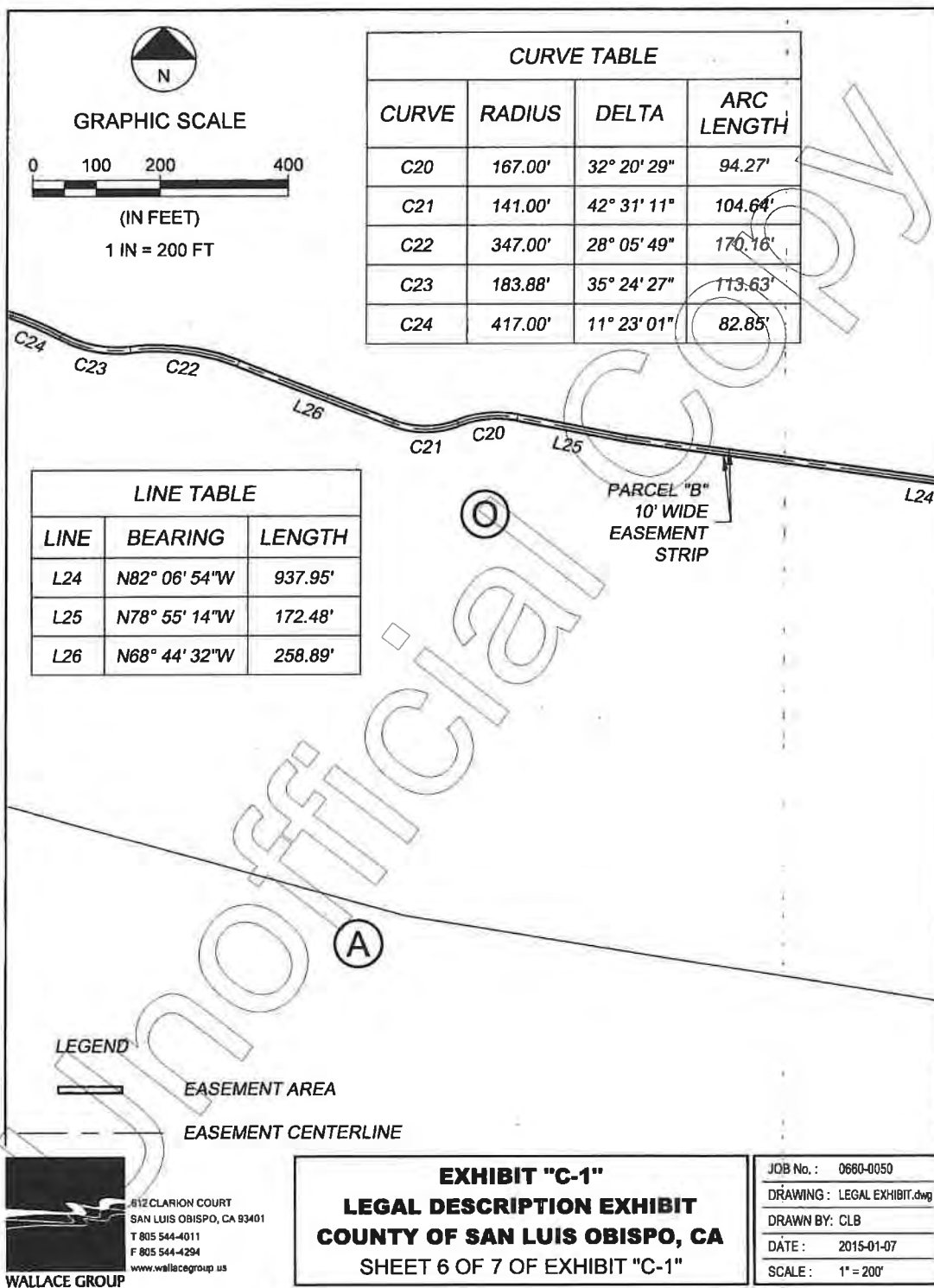


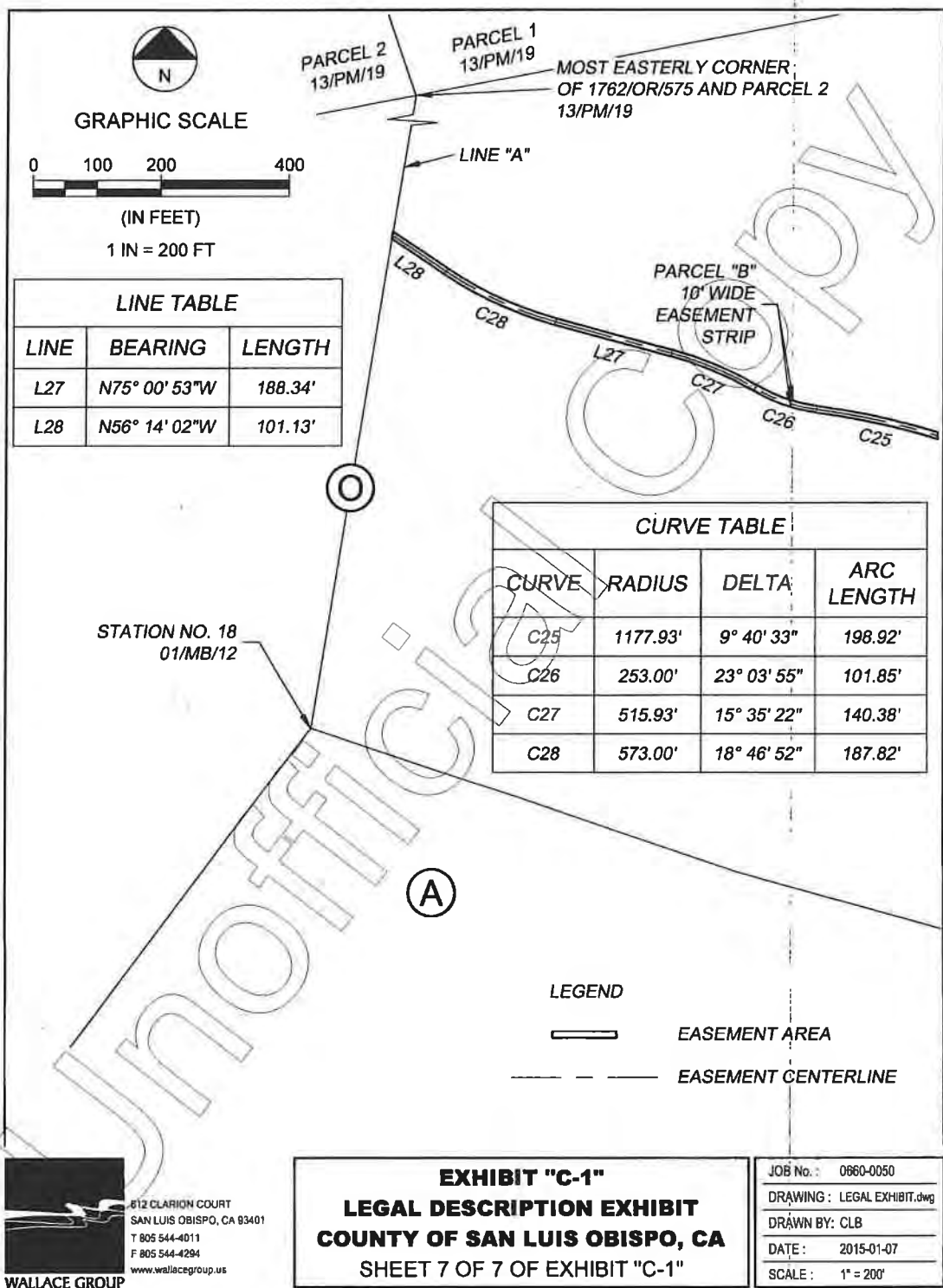












**EXHIBIT D**

**RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:**

Clerk of the Board of supervisors  
County of San Luis Obispo  
County Government Center  
San Luis Obispo, CA 93408

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the interest in real property conveyed by the Offer to  
Dedicate dated \_\_\_\_\_, 20\_\_\_\_, executed by PHILLIPS 66 COMPANY, a  
Delaware corporation, recorded on \_\_\_\_\_, 20\_\_\_\_, as Document Number  
\_\_\_\_\_ is hereby accepted by \_\_\_\_\_  
\_\_\_\_\_  
a public agency/private association on \_\_\_\_\_, 20\_\_\_\_, pursuant  
to authority conferred by resolution of the \_\_\_\_\_ adopted  
on \_\_\_\_\_, 20\_\_\_\_, and the Grantee consents to recordation thereof  
by its duly authorized officer.  
Dated: \_\_\_\_\_

**GRANTEE**



ACKNOWLEDGMENT BY THE COUNTY OF  
SAN LUIS OBISPO OF ACCEPTANCE OF OFFER TO DEDICATE

This is to certify that \_\_\_\_\_ is a public agency/private  
association acceptable to the County of San Luis Obispo to be Grantee under the Offer  
to Dedicate executed by PHILLIPS 66 COMPANY, a Delaware corporation, and  
recorded on \_\_\_\_\_, 20\_\_\_\_, as Document Number \_\_\_\_\_, in  
the office of the County Recorder of the County of San Luis Obispo, State of California.

Dated: \_\_\_\_\_

COUNTY OF SAN LUIS OBISPO

By: \_\_\_\_\_  
Chairperson of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board of Supervisors

[NOTE: This Certificate of Acceptance and Acknowledgment of Acceptance of Offer to  
Dedicate will be recorded. All signatures must be acknowledged by a notary!]  
44plhagr.docx

END OF DOCUMENT

Attachment 10 - Applicant's Response to Appellant



**QUEST PLANNING**  
ENVIRONMENTAL PERMITTING • PROJECT MANAGEMENT

**Date:** October 21, 2020  
**To:** Chairperson Lynn Compton and Honorable Board of Supervisors  
**From:** Megan Martin - Quest Planning on behalf of Phillips 66  
**Subject:** Applicant Response to Appeal Issues - APPL2020-00011 for DRC2019-00231 (P66 Minor Use Permit for Remediation of the Northern Inactive Waste Site)

Dear Supervisors,

Quest Planning on behalf of Phillips 66 Company (Phillips 66 or Applicant) provides this response to the appeal filed by Mr. Jeff Edwards (Appellant) in his appeal of the County of San Luis Obispo Planning Department Hearing approval for DRC2019-00231 for a Minor Use Permit/Coastal Development Permit (MUP/CDP) project covering the Remediation of the Northern Inactive Waste Site (NIWS) at the Santa Maria Refinery site. As explained in greater detail herein, Phillips 66 urges the Board to dismiss the appeal.

*Background*

On September 4, 2020, the Administrative Hearing Officer for the Planning and Building Department of the County of San Luis Obispo (County) approved a MUP/CDP allowing the remediation (grading and removal) of approximately 14,520-cubic-yards of refinery trash, nonhazardous debris, hydrocarbon waste, asbestos-containing material, and domestic waste on the Phillips 66 NIWS project at the Santa Maria Refinery. On September 16, 2020, an appeal was filed by the Appellant asserting County staff's analysis did not include a discussion pursuant to the Coastal Zone Land Use Ordinance (CZLUO) Section 23.04.420 in conformance to the public access policies of the California Coastal Act. Specifically, the Coastal Appealable Form filed with the County states the basis for the appeal is:

☒ INCOMPATIBLE WITH PUBLIC ACCESS POLICIES The development does not conform to the public access policies of the California Coastal Act – Section 30210 et seq of the Public Resource Code (attach additional sheets if necessary).  
Explain: No analysis pursuant to CZLUO Sec 23.04.420 - Coastal Access Required

**Applicable Title 23 - Land Use Ordinance Sections:**

CZLUO Sections 23.04.420 requires new development within the Coastal Zone between the first public road and the tidelands to provide vertical or lateral public access.

**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.

There are exceptions to this standard where new development is not required to provide access, including CZLUO Section 23.04.420(c)(2) (when the site has already provided access in conformance with the San Luis Obispo County Local Coastal Program (LCP)) and Section 23.04.420(c)(4)(iii) (when the new development does not change the intensity of the existing use by more than 10 percent, or block or impede public access).

**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.

Further, the CZLUO states under Section 23.04.420(d)(2) that vertical access shall be a minimum width of 10 feet in rural areas.

- 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.

In addition, the Takings Clause of the Fifth Amendment to the United States Constitution places important limitations on section 23.04.420's requirement that a project provide public access. No permit may be conditioned on the dedication of public access unless the condition bears an "essential nexus" and "rough proportionality" to the adverse impacts of the project being permitted. *Nollan v. California Coastal Commission*, 483 U.S. 825, 837 (1987) (striking down as unconstitutional a permit condition requiring lateral public access across the applicant's property, because the proposed project had no adverse impacts on existing public access); *Dolan v. City of Tigard*, 512 U.S. 374, 391 (1994) (striking down as unconstitutional permit conditions requiring dedication of easements, because they were disproportionate to the project's adverse impacts). A permit condition that violates the *Nollan* and *Dolan* standards are unconstitutional.

**Analysis of Applicable Title 23 - Land Use Ordinance Sections:**

**CZLUO Section 23.04.420(d)(2) – The site already satisfies subsection d; type of access required**

In a previously-approved land use entitlement at the refinery, commonly referred to as the "Throughput Increase Project" (File Number DRC2008-00146), the County conditioned the project to comply with CZLUO Section 23.04.020 via Condition No. 17. This condition states:

**Condition No. 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.

Phillips 66 made an offer of dedication to include a 10-foot wide easement between Highway 1 and the Union Pacific Railroad property, the latter of which cuts across and through the refinery property. This offer of dedication was made by Phillips 66 so that the company could obtain an authorization to proceed with the Throughput Increase Project. Both the County and the California Coastal Commission (Commission) approved the offer-to-dedicate language. However, at no time did or does Phillips 66 believe that coastal access is appropriate at the refinery or legally required pursuant to Condition 17 or the CZLUO. Please see pages 16-23 of the attached Exhibit A, which is a document entitled "Attachment to Phillips 66 Company's Appeal Form, October 19, 2016."<sup>1</sup> These pages provide an overview of Condition 17 and how Phillips 66 has interpreted and addressed that Condition through both the Throughput Increase Project and the subsequent Rail Spur Extension Project.

The County and Commission approved the offer-to-dedicate language, in part because Phillips 66 had no ability to obtain an offer to dedicate over the Union Pacific Railroad property that intersects the property, and because Phillips 66 ultimately did not have the legal ability to build or construct over the railroad property. The Commission concluded the County's approval of the Throughput Increase Project carried out LCP requirements to dedicate and construct public access, and the project therefore provided public access consistent with the LCP and the Public Access and Recreation policies of the Coastal Act (see attached Exhibit B – Coastal Appeal No. A-3-LO-13-14 (Conoco Phillips Company) No Substantial Issue Found).

*CZLUO Section 23.04.420(c)(4)iii – Development does not result in intensification of use*

The nature, extent, and scope of the proposed project is very minor. It would result in the remediation and removal of refinery trash, nonhazardous debris, hydrocarbon waste, asbestos-containing material, and domestic waste from the project site and would not result in the physical expansion of the refinery facility or any significant adverse effects on coastal resources as discussed in the environmental document and as conditioned. In this case, the County would be granting an entitlement to allow for the remediation of impacted soil at the project site.

Here, the Appellant contends the County-approved project (remediation of the NIWS site -File Number DRC2019-00231) is inconsistent with the County's LCP because staff did not provide an analysis demonstrating the site adequately implements the public access requirements of the LCP. This contention is incorrect. As discussed above, and as outlined below, County staff's analysis concluded that the project did satisfy and was in conformance with Chapter 4 of the CZLUO as described in Finding G included in Attachment A – Findings of the September 4, 2020 Planning Department Hearing Staff Report:

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<sup>1</sup> The "Attachment to Phillips 66 Company's Appeal Form, October 19, 2016" was itself an attachment to Phillips 66's administrative appeal of the County Planning Commission's denial of Development Plan/Conditional Use Permit for the Phillips 66 Rail Spur Extension Project (File Number DRC2012-00095).

*Coastal Access*

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is a remediation project with no permanent development or improvements and will not inhibit access to the coastal waters and recreation areas.

Lastly, the remediation project is consistent with the LCP because:

- Phillips 66 has provided an offer to dedicate at the project site, satisfying Condition No. 17 of the Throughput Increase Project, whose purpose was to assure compliance with CZLUO Section 23.04.420; and,
- This environmental remediation project is minor in nature, scope, and extent, and will not affect any change to current facilities or to the intensity of use of the land; and,
- The project and its impacts are separate and independent from the access issues associated with the Oceano Dunes State Vehicular Recreation Area (ODSVRA), and there is no LCP or Coastal Act basis for requiring the County to link the remediation project to existing accessways to the ODSVRA; and,
- This environmental remediation project does not result in an intensification of use of the land (CZLUO Section 23.04.420 c(4)) so there is no nexus to require coastal access, even if it could be provided to the ODSVRA.

*Constitutional Principles Preclude a Permit Condition Requiring New or Additional Access*

Under *Nollan* and *Dolan*, no permit may be conditioned on the applicant's dedication of property, including land for public access, unless the permit agency can prove a sufficient causal connection exists between the need for such property and the project's adverse impacts. A permit condition that does not satisfy the *Nollan/Dolan* standard is unconstitutional. Here, even if section 23.04.420 authorized a condition requiring new or enlarged access (which it does not), the condition would be precluded by *Nollan* and *Dolan*. This remediation project does not adversely affect **any** coastal resources, let alone existing public accessways. Thus, the Appellant is wrong as a matter of constitutional law, and no demand can be made for new or additional public access rights across the refinery property.

*Conclusion*

In conclusion, the appeal contention that County staff's analysis did not include an adequate discussion regarding CZLUO Section 23.04.420 is incorrect. County staff's analysis did include a discussion pursuant to the Coastal Zone Land Use Ordinance Section 23.04.420 in conformance to the public access policies of the California Coastal Act. Additionally, the MUP/CDP for the remediation project qualifies for an exception to the public access requirements as the site already provides for access in conformance with the LCP and the new development does not



change the intensity of the existing use. Finally, a condition requiring new or additional public access would be constitutionally barred.

Therefore, we respectfully request that the Board of Supervisors deny the appeal and uphold the Administrative Hearing Officer's September 4, 2020 decision.

Regards,

**Megan Martin**

Senior Project Manager

**Phone** 559-917-1070

**Website** [www.questplanning.net](http://www.questplanning.net)

**Email** [megan@questplanning.net](mailto:megan@questplanning.net)

Attachments:

Exhibit A - Attachment to Phillips 66 Company's Appeal Form, October 19, 2016

Exhibit B – Coastal Appeal No. A-3-LO-13-14 (Conoco Phillips Company) No Substantial Issue Found

cc. Steve McMasters – County of San Luis Obispo Principal Environmental Specialist  
Matthew Ringel – County of San Luis Obispo Planning and Building  
Sean Hunt – Phillips 66 Program Manager/HSE-Remediation Management

**Exhibit A - Attachment to Phillips 66 Company's Appeal Form, October 19, 2016**

**Attachment To Phillips 66 Company's Appeal Form  
October 19, 2016**

**I. Summary**

Phillips 66 Company respectfully appeals the Planning Commission's decision denying the Rail Spur Extension Project proposed for the company's Santa Maria Refinery. The Refinery was established more than fifty years ago by a company that, at the time, owned most of the oil production in the area. But oil production and refining have changed considerably in the intervening years. Many different companies now own the rights to produce oil and gas in the Central Coast area, and the current owner of the Refinery – Phillips 66 – does not have an ownership interest in any of the crude oil production fields in the Central Coast. The Rail Spur Extension Project will support current and future operations at the Santa Maria Refinery, in the face of changing crude markets and increased competition, by better connecting the Refinery to the larger North American crude oil market. The Project is appropriate at this location, in light of the longstanding land use and the distance to residences and other sensitive land uses. Moreover, all actions necessary to project approval have been completed: An environmental impact report (EIR) has been prepared and is ready for certification, and the Planning Department and the Planning Commission developed proposed conditions and findings of approval.

Unfortunately, the staff and/or director of the Department of Planning and Building (together, Planning Department) incorrectly applied the provisions of the County's Coastal Zone Land Use Ordinance (CZLUO) regarding Environmentally Sensitive Habitat Areas (ESHA). An ESHA designation fundamentally affects the rules of development under the CZLUO, so it is critical that a property owner know whether his/her property is considered ESHA. The County has clearly designated some areas as ESHA by mapping them as Land Use Element combining designations ("Mapped ESHA"). If property proposed for development contains habitat that may qualify as ESHA, but is not Mapped ESHA, the CZLUO authorizes the Department to make an Unmapped ESHA determination for that property—*but only* at or before the time of application acceptance.

The Refinery site slated for development is not Mapped ESHA, and the Planning Department did not determine that it is Unmapped ESHA at or before the time it accepted Phillips 66's application as complete. Almost 3 years after it accepted Phillips 66's application as complete, the County Planning Department made a final determination that the Project site contains Unmapped ESHA. ESHA. The Planning Department further determined that, as Unmapped ESHA, the site cannot be developed to support the Project as proposed. But the Department's belated Unmapped ESHA determination violates the County Ordinance, which requires that any such determination be made at or before the time the Department accepts a development application as complete. As written, the County Ordinance assures that property owners understand the limitations on potential development prior to investing years and millions of dollars on a development proposal. As applied by the Planning Department, the ordinance induces owners to invest time and money on proposals that the Department may without warning declare un-approvable by law, summarily changing the standards of development applicable to the parcel. Phillips 66 invested more than two years and paid third parties (including the County Planning Department, the County Air Pollution Control District and environmental consultants) more than \$3 million to support review of the Project between the date that the Department accepted Phillips 66's application as complete and the date the Department issued its first staff report declaring that the site is Unmapped ESHA.

The Department's misapplication of the law permeated the decision of the Planning Commission, which adopted or acquiesced in the Department's unlawful Unmapped ESHA determination. It is featured in many of the findings regarding the Project's consistency with the County's programs, plans and policies. It also may have influenced the Commission's CEQA finding that project benefits do not outweigh project impacts, even though the EIR concludes that the site is actually highly degraded and that any habitat loss can be fully mitigated through the creation of habitat at a ratio of two new acres of habitat for every degraded acre lost to the Project's footprint.

Due to the importance and pervasive effect of the Department's Unmapped ESHA determination, Phillips 66 is forced to file a petition for writ of mandate seeking an order from the Superior Court directing the Planning Department to comply with the law and make a determination that the Project site has no Unmapped ESHA. Once the Superior Court issues its order on Phillips 66's writ petition, and the Planning Department corrects its unlawful ESHA determination, we expect that this matter will be returned to the Planning Commission for further action consistent with the corrected Planning Department ESHA determination. However, the short appeal period established by County ordinance does not allow Phillips 66 to delay filing an appeal of the Planning Commission decision until after the Court rules on the writ petition. Accordingly, Phillips 66 hereby appeals the Planning Commission's decision, but requests that the Board of Supervisors stay the matter, or not set it for hearing, during the pendency of the litigation. If the Superior Court directs further proceedings at the Board of Supervisors, rather than before the Planning Commission, this appeal will have been timely filed for such action.

In addition to the Department's Unmapped ESHA determination, and the Planning Commission's action on or acquiescence in that determination, the Planning Commission's decision on the application has defects. Many findings are factually inaccurate because they are based on the impacts of a project consisting of five unit trains per week and up to 250 unit trains per year, while the Project before the Commission was for only three trains per week and up to 150 trains per year. In addition, other findings are inconsistent with the EIR and proposed Conditions of Approval: Proposed Condition of Approval 31 (EIR Mitigation Measure AQ-2a) would require Phillips 66 to offset onsite air emissions or participate in other Air District-approved programs "to ensure that onsite project-related ROG+NOx and DPM emissions do not exceed" Air District thresholds, yet the findings adopted by the Planning Commission presumes that these offsets would not occur. Finally, the Planning Commission adopted Finding 34 regarding Coastal Access. This finding creates ambiguity regarding whether coastal access is required at this location, when the County should have issued a definitive decision that vertical coastal access at this location is contrary to protection of public health and safety and fragile coastal resources, i.e., the criteria set out in the CZLUO as warranting exemption from coastal access.

## **II. Refinery and Project Background**

### **A. Refinery History and Trends in Crude Oil Markets**

Phillips 66 Company's Santa Maria Refinery was built on the Arroyo Grande mesa in the southwestern corner of San Luis Obispo County in 1955. (Final EIR, p. 2-3.) Various companies

have owned the Santa Maria Refinery over the years, but the property has been used for petroleum oil refining since the Refinery was constructed. (Final EIR, p. 2-3.) The Santa Maria Refinery is surrounded by industrial, recreational, agricultural, residential uses, and open space. (Final EIR, p. 2-3.) It operates 24 hours a day year round, except when shut down for maintenance. (Final EIR, p. 2-3.)

The Santa Maria Refinery is designed to process primarily heavy, high-sulfur crude oil, not large quantities of light crude oil. (Final EIR, p. 2-4.) The Santa Maria Refinery sends semi-refined liquid products by pipeline to Phillips 66's refinery in Rodeo, California, where those semi-refined products are upgraded into finished petroleum products. (Final EIR, p. 2-5.) The products that leave the Santa Maria Refinery are: semi-refined petroleum by pipeline; solid petroleum coke by rail or haul truck; and solid recovered sulfur by haul truck. (Final EIR, p. 2-5.)

The Santa Maria Refinery's location restricts its ability to receive a steady supply of crude oil to refine. Phillips 66 does not produce any of the local crude oil and must purchase all of the crude oil for the Refinery from unrelated third party crude producers. (Final EIR, p. 2-37.) Recently, the price of crude oil fell dramatically nationwide from mid-2014 to early 2016. (See Figure 1 below.) Yet the Santa Maria Refinery was not able to take advantage of declining crude costs because it is isolated from the national and international crude markets. The Santa Maria Refinery is connected by pipeline only to local and regional sources of crude. (Final EIR, p. 2-37.) While the Santa Maria Refinery can receive crude by truck at the Santa Maria Pump Station, and to some degree at the Refinery itself, there are practical limits to the distance that crude can be trucked and remain competitive. Long-term trends show a decline in regional crude oil production, in contrast to the increased crude oil production across North America in recent years. (Final EIR, p. 2-38.) Figure 2 shows the decline in California crude oil production from 1985 to the present. Regional crude production has followed a similar trend. Despite modest increases from approximately 2009 to 2014, regional crude production fell again in 2015, and remains at just over half the amount produced 30 years ago. (See Figure 3.) These trends and the isolation of the Refinery combined have contributed to the uncompetitive pricing of crude at the local level.

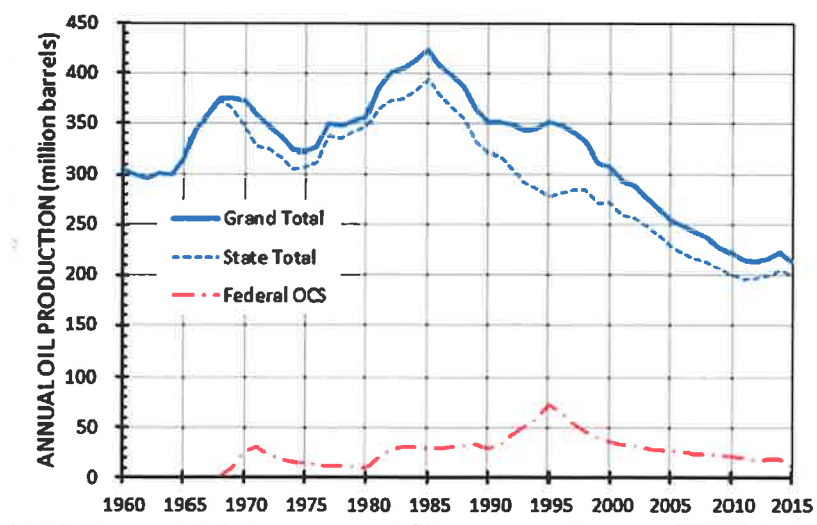
The prices for refined hydrocarbon products such as motor vehicle fuels tend to track the prices for crude oil. Thus, the recent nationwide decline in crude prices led to a decline in the prices for gasoline and diesel. (See Figure 1 below.) Consequently, while the Santa Maria Refinery could not take advantage of falling crude prices in buying its refinery inputs, the Refinery's output was ultimately converted into products whose prices were based on national crude prices that were falling. The Santa Maria Refinery became increasingly uncompetitive. Given those dynamics, the Santa Maria Refinery needs an alternative crude supply network to access national crude markets and compensate for the long-term decline in regional crude production.

**Figure 1 – Crude Cost Compared to Price for Refined Gasoline and Diesel Products**



Graph created October 14, 2016, at [https://www.eia.gov/dnav/pet/pet\\_pri\\_spt\\_s1\\_d.htm](https://www.eia.gov/dnav/pet/pet_pri_spt_s1_d.htm)

**Figure 2 – California Oil Production 1960 to 2015**

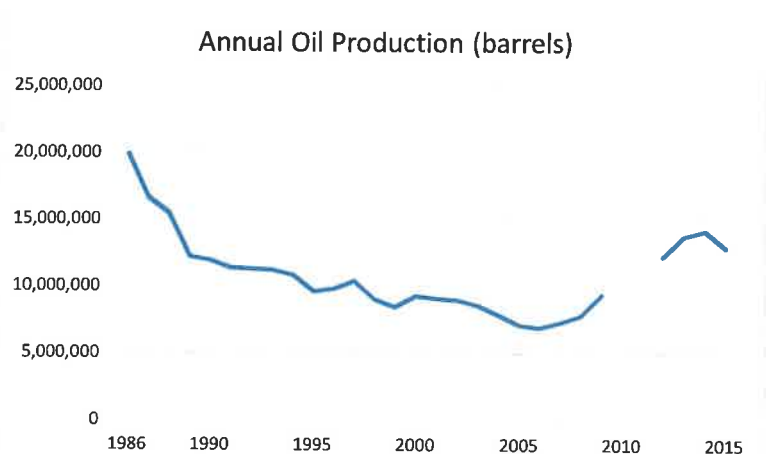


LEGAL02/36725996v3



Source: California Department of Conservation, Division of Oil, Gas and Geothermal Resources, *2015 Report of California Oil and Gas Production Statistics*, posted May 3, 2016, at [http://ftp.consrv.ca.gov/pub/oil/annual\\_reports/2015/PR03\\_2015.pdf](http://ftp.consrv.ca.gov/pub/oil/annual_reports/2015/PR03_2015.pdf).

**Figure 3 – California District 3 Oil Production 1986 to 2015**



Source: Data from California Department of Oil, Gas and Geothermal Resources Oil and Gas Production Reports, available at [http://www.conservation.ca.gov/dog/pubs\\_stats/annual\\_reports/Pages/annual\\_reports.aspx](http://www.conservation.ca.gov/dog/pubs_stats/annual_reports/Pages/annual_reports.aspx). District 3 includes San Luis Obispo, Santa Barbara, Monterey, Santa Cruz and Santa Clara Counties.

More recently, subsequent to Phillips 66's submission of the application for the Project, the Plains All American Pipeline ruptured and spilled crude in Santa Barbara County. As a result, that pipeline has been out of service since 2015. Prior to the shutdown, approximately 56% of the Refinery's feedstock was shipped from Las Flores Canyon in Santa Barbara County to the Santa Maria Refinery via that pipeline. The Refinery has lost its primary source of crude oil, and there is no announced date for that pipeline to resume normal operations. Phillips 66 has not been able to find sufficient alternative crude oil to replace its prior supplies, and has been running the Santa Maria Refinery at only approximately two-thirds of its capacity since May 2015. The pipeline shutdown sharply illustrates the precarious position of a facility that has insufficient connection to supplies of its primary input.

#### **B. The Proposed Rail Spur Extension and Crude Oil Unloading Facility (Project)**

Phillips 66 proposes to modify the existing rail spur currently located on the southwest side of the Santa Maria Refinery to allow it to receive crude oil via train. (Final EIR, p. 2-1.) The Project's purpose and objectives include: (i) allowing the Refinery to obtain a range of competitively priced crude oil by providing the capability to obtain raw material from North American sources that are served by rail; (ii) extending the existing rail spur within the Refinery and installing the necessary infrastructure to safely and efficiently transfer crude oil from rail cars to the existing refinery

storage tanks for processing; (iii) avoiding and minimizing environmental and community impacts and mitigating any unavoidable impacts to the maximum extent feasible; (iv) developing a project that is consistent with the objectives of the San Luis Obispo County General Plan and Local Coastal Program; (v) designing, constructing, and operating a project that complies with all local, state, and federal regulatory requirements; and (vi) maximizing the use of existing infrastructure and resources to support the economic vitality of the County and State. (Final EIR, pp. 2-1 to 2-3.)

The Project will include an eastward extension of the existing rail spur, on-site pipelines, and replacement coke rail loading tracks. (Final EIR, pp. 2-1, 2-5.) The rails on the existing rail spur will also be replaced. (Final EIR, p. 2-5.) Additionally, an existing agricultural road will be improved as an all-weather, eastern Emergency Vehicle Access route between the eastern end of the rail spur and State Route 1. (Final EIR, p. 2-5.) Once the Project is implemented, crude oil delivered by train will be unloaded at the new unloading facility and transferred to existing crude-oil storage tanks via a new on-site above-ground pipeline. (Final EIR, pp. 2-1, 2-5.) The Project will also include work within the existing Refinery to connect and upgrade existing infrastructure, including adding a new electricity cable to an existing pipeway, and adding a new fire water pipeline to an existing pipe rack. (Final EIR, p. 2-5.) The Project will occur entirely within the existing Phillips 66 boundary. (Final EIR, p. 2-5.)

The tracks and unloading facilities will be designed to accommodate trains of approximately 80 tank cars and associated locomotives in unit trains or manifest train configurations. (Final EIR, p. 2-5.) As originally proposed, the Project included unloading up to five trains per week, or 250 trains per year. (Final EIR, p. 2-8.) Yet the Final EIR for the Project also evaluated the potential environmental impacts associated with unloading up to three trains per week, or 150 trains per year (described as the Reduced Rail Delivery Alternative). (Final EIR, pp. 5-51 to 5-63.) The Final EIR identified mitigation to reduce all of the onsite environmental impacts to less than significant levels for the three-train-per-week alternative. (Final EIR, pp. 5-70 to 5-75.) Therefore, Phillips 66 amended its proposed Project to commit to the three-train-per-week Reduced Rail Delivery Alternative. (See Phillips 66's amended proposed project via letter to the County, dated February 4, 2016, Exhibit A hereto.) Additionally, Phillips 66 committed to having only rail cars that meet the newest federal Department of Transportation (DOT) design standards, specifically, DOT 117, 117P or 117R standards as set forth in 40 C.F.R. § 179.202 (as published May 8, 2015 at 80 Fed. Reg. 26644). (See Phillips 66's commitment via letter to the County, dated April 14, 2016, Exhibit B hereto.)

Importantly, the Project will not change the refining process. The Project will not increase the Santa Maria Refinery's crude refining capacity, and the Project will not change the characteristics of the crude slate refined at the Refinery. (Final EIR, p. 2-34 to 2-37.) The Refinery will remain capable of refining up to 48,950 barrels per day of primarily heavy, high sulfur crude oil, with some amount of lighter crudes blended in. (Final EIR, p. 2-34 to 2-37.) No Bakken crude will be delivered to the Refinery as part of the Project. (Final EIR, p. 2-1.) Also, no crude oil will be shipped out of the Refinery as part of the Project except for any off-spec crude delivered by rail that does not meet the agreed upon specification between Phillips 66 and the crude producer. (Final

EIR, p. 2-1.) It is not expected that much off-spec crude will be delivered to the Refinery and will likely be limited to one or two tank cars per year. (Final EIR, p. 2-1.)

The Project is appropriate at the Refinery's location. The Project supports a longstanding land use that has contributed to the local and regional economy for decades. (Final EIR, p. 2-3.) The Refinery is appropriately buffered from residences and other sensitive land uses. (Final EIR, p. 2-2 to 2-3.) After implementation, components of the Project will still be more than one-half mile from any residence or other sensitive land use. With incorporation of the mitigation measures identified in the Final EIR and expanded by the Planning Commission, there will be no significant adverse impacts on the environment or public health and safety associated with the Refinery site or near-site activities (see Section IV. A-B, below). (Final EIR, pp. 5-70 to 5-75.) The only impacts associated with the Project that cannot be mitigated to less than significant levels are associated with railroad operations on the mainline track. (Final EIR, pp. 5-70 to 5-75.) Those activities are heavily regulated by the federal government. Denial of the Project is not likely to avoid those impacts, as a denial will only shift those impacts to other locations (see Section IV.C, below).

#### **C. Planning Department Action**

Phillips 66 began early discussions about the Project with the County's Planning Department in late 2012 and early 2013. On May 2, 2013, Phillips 66 submitted its application package for the Project to the Planning Department. On July 12, 2013, the Planning Department accepted Phillips 66's application and deemed it complete. In November 2013, the Planning Department circulated the first Draft EIR evaluating the Project's potential environmental impacts. After reviewing public comments on the Draft EIR, the Planning Department decided to revise the Draft EIR. In October 2014, the Planning Department circulated a revised Draft EIR for public comment. On December 22, 2015, the Planning Department released a Final EIR for the Project, including revisions to the Draft EIR and responses to all public comments received.

Once the Final EIR for the Project was complete, the Planning Department scheduled the first public hearing on the Project before the County's Planning Commission for February 4, 2016. The Planning Department released a staff report on January 25, 2016, with a recommendation that the Planning Commission deny approval of the Project in large part because the Planning Department viewed the Project as inconsistent with policies in the County's General Plan and the Environmentally Sensitive Habitat Area (ESHA) requirements of the County's Coastal Zone Land Use Ordinance (CZLUO). The Planning Department reiterated its recommendation to deny approval of the Project in a second staff report released in September 2016.

#### **D. Planning Commission Action**

The Planning Commission held eight public hearings on the following dates, allowing hundreds of members of the public to provide comments, and then deliberating on all aspects of the Project:

- February 4, 2016
- February 5, 2016

- February 25, 2016
- March 11, 2016
- April 15, 2016
- May 16, 2016
- September 22, 2016
- October 5, 2016

For the hearings from February through May, 2016, the Planning Commission had before it only the Planning Department's recommendation to deny the Project, and findings related thereto. At the conclusion of the day on May 16, 2016, the Planning Commission continued the hearing until September 22, 2016, and directed the Planning Department to return with findings and conditions, a statement of overriding considerations, and a list of other conditions of approval that addressed the revised Project limited to three trains per week. Prior to the September 22, 2016 hearing, the Planning Department issued a second staff report that set forth options for Planning Commission action, and that included as attachments the proposed findings and conditions for the Planning Commission to approve the Project. The Planning Commission took testimony on the proposed conditions and findings at the September 22 hearing, and deliberated and reached a final decision on October 5, 2016. At that final hearing, the Planning Commission adopted two resolutions.

First, in light of the many hours that the Planning Commission dedicated to a line-by-line review and discussion of proposed mitigation measures, the Planning Commission voted to adopt the conditions of approval for transmittal to the Board of Supervisors. Those proposed conditions in the form approved by the Planning Commission are attached hereto as Exhibit C. Second, the Planning Commission voted 3 to 2 to deny the Project approval and adopt the Planning Staff's recommended findings for denial that were attached to the staff report for the February 4, 2016 Planning Commission hearing and resubmitted for the September 22 hearing. The adopted findings are attached hereto as Exhibit D. The findings for denial are largely based on the Planning Department's determination that the Project site is located within Unmapped ESHA, and the view that the Project's benefits do not outweigh its potential adverse environmental impacts. The Planning Commission took no action on the Project's Final EIR.

**III. The Planning Department's ESHA Findings are Contrary to County Ordinance, and the Department's Incorrect Conclusion Permeated the Planning Commission's Decision**

Section 23.11.030 of the County Code states: "The existence of Unmapped ESHA is determined by the County *at or before the time of application acceptance* and shall be based on the best available information" (emphasis added).

As discussed above, Phillips 66 submitted its application on May 2, 2013. On June 18, 2013, its environmental consultant provided the Department with a comprehensive assessment of the ecological setting of the proposed Project, including a detailed characterization of the botanical and wildlife resources of the area in and adjacent to the Project site, as well as a quantitative assessment of potential Project impacts on any environmentally sensitive habitats that might exist

on the Project site. The assessment established and concluded that there was no Unmapped ESHA in or around the Project site.

The Department decided to accept Phillips 66's application on July 12, 2013. The Department made no determination, at or before the time of application acceptance, that the Phillips 66 property had Unmapped ESHA. The Department never indicated that it needed additional time to review Phillips 66's comprehensive environmental assessment and determine, prior to accepting the application, whether the property had Unmapped ESHA. Relying on the fact that the Department made no Unmapped ESHA determination at or before the time of application acceptance, Phillips 66 invested significant resources to process its application.

It was not until the Department staff's report for the February 4, 2016 hearing before the Planning Commission that Phillips 66 learned that the Department had reversed its position and made a belated Unmapped ESHA determination for the Project site, with the effect of precluding the Project's viability. In spite of repeated attempts to persuade the Department that both the best available information and the law *required* a determination of "no Unmapped ESHA" (Exhibit E) the Department ignored Phillips 66 and instead reaffirmed its Unmapped ESHA determination in a packet of information provided to the Planning Commission for its September 22, 2016, hearing. On October 5, 2016, the Planning Commission relied largely on the Unmapped ESHA determination to deny the project. A number of findings supporting denial of the project incorporated and relied specifically on the Department's Unmapped ESHA determination.

The best available information supports the Department's initial decision not to designate the project site as Unmapped ESHA. In addition, the County Code positively *prohibits* any Unmapped ESHA determination made *after* application acceptance. Once the Department accepted Phillips 66's application on July, 12, 2013, it no longer had any power to determine that the Project site is Unmapped ESHA.

#### **IV. The Project Can Be Approved Under the California Environmental Quality Act**

As explained above, a Final EIR with responses to all comments received on the Draft EIR and related revisions was prepared and is ready for the County's certification. Through the eight public hearings on the Project, no one from the Planning Department and no Planning Commissioner ever suggested that the Final EIR is not complete, not accurate, or not sufficient under the California Environmental Quality Act (CEQA). Indeed, the Planning Commission relied on the information provided by the Final EIR to reach its decision. (See Finding #2 of Exhibit D.)

The Final EIR also shows that the Project can be approved in accordance with CEQA's requirements. All documents necessary for such approval have been prepared (see Exhibits C, F and G to this appeal, as well as the Findings for Approval prepared by the Planning Department and attached as Exhibit A to the staff report for the September 22, 2016 hearing).

#### **A. The Project's Potential Environmental Impacts**

The Final EIR categorized potential environmental impacts into three categories: impacts that are less than significant (Class III); impacts that are less than significant with implementation of mitigation measures (Class II); and impacts that are significant and unavoidable, meaning those impacts remain significant even after implementation of all feasible mitigation measures (Class I). (Final EIR, pp. IST-1 to IST-52, 5-70 to 5-75.) For the reduced project alternative adopted by Phillips 66 as its Project proposal (three trains per week; 150 trains per year), all environmental impacts were assessed as less than significant (Class III) or less than significant with implementation of mitigation measures (Class II), except for two impact areas: impacts related to mainline rail transportation; and impacts related to onsite air emissions of more than 1.25 lbs/day of Diesel Particulate Matter (DPM).<sup>1</sup>

For the impacts related to onsite DPM emissions, the EIR's significance conclusion is at odds with its own proposed mitigation measure. EIR Mitigation Measure AQ-2a (revised and updated by the Planning Commission as Condition of Approval 31 in Exhibit C) requires onsite increases in DPM emissions to be offset to less than significant levels. Onsite DPM emissions can be mitigated through infrastructure and equipment upgrades and replacement, operational energy efficiency measures, and reductions in transportation emissions. Although the Planning Department expressed skepticism that there are feasible mitigation measures for onsite DPM emissions, Phillips 66 has committed to the County that it is prepared to mitigate DPM emissions consistent with the San Luis Obispo County Air Pollution Control District (SLOCAPCD) CEQA Handbook, and consistent with mitigation conditions imposed on other projects approved by the County in recent years. With incorporation of Condition 31, the Project can proceed only if Phillips 66 mitigates the DPM increase to less than significant levels.

Accordingly, the Project's only significant, unmitigated impacts relate to the mainline rail operations. These impacts include air emissions from locomotive engines; risk of train accident; and risk of crude spill, with potential damage to agricultural, biological, cultural and water resources, and demands placed on emergency responders. Comprehensive federal programs regulate rail carriers, and federal law preempts the County's authority to impose mitigation measures regulating mainline railroad operations. (See Section IV.B, below.) Moreover, the mainline rail impacts cannot be avoided by Project denial; Project denial will only shift these impacts to a different location outside the County, and add one hundred crude truck trips per day to the County roads. (See Section IV.C, below.)

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<sup>1</sup> The Final EIR raised the potential for Unmapped ESHA in the Project area, but the Final EIR did not reach a clear conclusion that the Project Site is located in Unmapped ESHA. (See Final EIR, pp. 4.4-30 to 4.4-31, 4.8-19 to 4.8-20.) In any event, the Planning Department erroneously concluded that the Project Site is located in Unmapped ESHA. See Section III, above.



## **B. Mitigation Measures**

The Final EIR identified mitigation measures to reduce impacts to less than significant levels for all impacts other than those associated with mainline rail operations. As noted above (Section II.D), the Planning Commission reviewed the proposed mitigation measures in detail and developed a comprehensive set of conditions of approval that incorporates and expands on the EIR's mitigation measures (see Exhibit C). The Conditions of Approval contain more than 260 separately numbered requirements and limitations on operation of the Project. Phillips 66 accepts the proposed conditions of approval, with the exception of the four conditions discussed in Section VI, below. These are:

- The portion of Condition 33 (EIR Measure AQ-4b) prohibiting crude delivery trucks.
- The portion of Condition 35 (EIR Measure AQ-6/8) requiring onsite GHG emissions to be offset to zero instead of to the significance threshold.
- The portion of Condition 73 (EIR Measure HM-2a) excluding federally approved DOT 117R tank cars from list of tank cars allowed to serve the Project.
- Condition 94, if enforced to require docent-led coastal access.

The Planning Commission correctly concluded that preemption by Federal law prevents the County from requiring mitigation measures for mainline rail impacts outside of the SMR facility boundary. (See Exhibit D, Finding 3, and Exhibit C, ¶ 2.) While requiring mitigation measures for mainline rail operations is legally infeasible under Federal preemption law, there are comprehensive federal regulatory programs backed by the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) and the Federal Railroad Association (FRA) aimed at addressing the very same concerns. Indeed, many of the legally infeasible conditions did nothing more than reiterate the federal requirements or restate them with the County asserting oversight and enforcement authority. The following preempted EIR mitigation measures contain requirements already embodied in federal law:

- EIR Measure BIO-11, requiring railroads to prepare plans to avoid and respond to spills.
- EIR Measure HM-2b, requiring crude to be transported on rail routes with the lowest safety and security risk.
- EIR Measure HM-2c, requiring trains to be equipped with Positive Train Control.
- EIR Measure PS-4a, requiring notice to first responders along the rail route used for crude shipments.
- EIR Measure PS-4d, providing support for training of first responders along the rail route.
- EIR Measure TR-4, prioritizing passenger trains over freight trains.

The comprehensive federal program will regulate mainline operations to address these and other concerns identified in the EIR, even though the County lacks authority to regulate mainline transportation through CEQA mitigation measures.

### **C. The Project's Benefits Outweigh the Adverse Impacts**

CEQA provides that even where a project will have environmental impacts that will not be avoided or substantially lessened, a public agency may still approve the project if it adopts a statement that the project will provide overriding benefits. This requirement reflects the statutory policy that public agencies must weigh a proposed project's benefits against its unavoidable environmental impacts, and may find those impacts acceptable if the benefits outweigh the impacts.<sup>2</sup>

At the direction of the Planning Commission on May 16, 2016, Planning Department prepared a statement of overriding considerations and other CEQA-related documents that could be used by the Commission in conjunction with approving the Project. The initial version of this document, entitled *CEQA Required Findings for the Phillips 66 Company Rail Spur Extension Project Conditional Use Permit (DRC2012-00095 / ED12-201 (CEQA Findings))*, was Exhibit C to the Planning Department's report for the September 22, 2016 Planning Commission hearing. Following input from the public, the applicant and the Planning Commissioners, the staff presented a revised version to the Planning Commission on October 5<sup>th</sup>. (See Exhibit F hereto.)<sup>3</sup>

The proposed Statement of Overriding Considerations is Section 4 of the CEQA Findings. It describes two categories of economic benefits that would result from the Project. First, the Project will provide additional economic benefits to the local and regional economy through direct expenditures for project construction, increased employment, and added tax revenue. Construction of the Project would result in purchases of equipment and materials, payments to construction contractors that cover equipment, materials, and other costs. At its peak, project construction would create 200 jobs anticipated to be filled primarily through the local workforce. Project operations would result in 8 to 12 new, permanent, full time jobs, with attendant increases in employee expenditures in the local economy. Additional property tax revenue would come from the reassessed value of the refinery, and other state and local taxes would likewise increase. Second, the Project will enhance the economic viability of the refinery by increasing the Refinery's access to crude markets available by rail, thereby making the Refinery more competitive. Access to wider markets will assist the company in negotiating long-term crude supply contracts, increasing stability. This, in turn, reduces swings in refining margins, which affect employment numbers and corresponding reductions in employee purchases (leading to reduced sales tax revenue) and other direct and indirect contributions to the County and community. Enhancing the Refinery's competitiveness helps to sustain the economic benefits that the Refinery contributes to the local economy.

Additional factors support a statement of overriding considerations as well. Between the May and September hearings, the Planning Department requested that Phillips 66 prepare a draft statement of overriding considerations. Phillip 66's draft, submitted to the Planning Department on August 15, 2016, describes localized environmental benefits that would result from the project, related to

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<sup>2</sup> Public Resources Code §21081(b); 14 Cal. Code Reg. §15093(a).

<sup>3</sup> The attached version does not necessarily capture all changes discussed by the Planning Commissioners at the October 5<sup>th</sup> hearing, and staff may have a later version.

biological resources and to air quality. The Phillips 66 draft statement of overriding considerations also articulated why the Project is preferred over the no-project alternative on environmental grounds. (See Phillip 66's draft Statement of Overriding Considerations, attached as Exhibit G).

With respect to biological resources, the Project will increase the quantity and improve the quality of native habitat on the Phillips 66 site. Project construction will impact existing habitat at the Refinery, but that habitat is of poor quality and highly disturbed from decades of cattle grazing, and is largely dominated by non-native invasive species. The EIR determined that the habitat lost as a result of the Project can be mitigated by requiring habitat compensation at a 2:1 ratio. The proposed mitigation measure (EIR Mitigation Measure BIO-5a/proposed Condition of Approval 41) requires Phillips 66 to create twice as much new habitat meeting performance standards. Thus, the Project will ultimately result in the site supporting twice as much native habitat as will be lost, and the new habitat will be of higher quality than the habitat lost. Phillips 66 has a successful track record of conducting similar restoration on the western portion of its property, which is now designated Mapped ESHA.

Regarding local air quality, the Project will provide long-lasting benefits to the surrounding community, compared to existing (baseline) conditions, because it will reduce localized health risks from diesel exhaust. Under existing conditions, the trucks used to transport petroleum coke and sulfur from the Refinery emit diesel particulate matter that contributes to carcinogenic risk levels exceeding the threshold adopted by the San Luis Obispo County Air Pollution Control District (SLOAPCD) for health risk from toxic air contaminants. Currently, the area of elevated health risk extends into the community for more than two miles along and on either side of Willow Road. Under the Project, these trucks must meet more stringent emissions standards for NOx and PM. (See Exhibit C, proposed Condition of Approval 33/EIR mitigation Measure AQ-4b.) The result is that under the Project, the communities closest to the Refinery will no longer experience elevated health risks from diesel trucks hauling coke and sulfur from the Refinery. Compare Figure 4.3-4 (Final EIR p. 4.3-24) to Figure 5-7 (Final EIR p. 5-57).

Finally, the Project is preferable on environmental grounds to the No Project alternative, which is the most likely future crude delivery scenario if the Project is not approved. Mainline rail impacts remain the only Class I impacts from the Project after incorporation of mitigation. The County is preempted from imposing mitigation on mainline rail operations. However, disapproval of the Project would not avoid the impacts of mainline rail transportation. Instead, disapproval would simply divert them outside of San Luis Obispo County to other locations within California. The EIR explains how some crude oil destined for the Refinery is currently transported by train to a rail terminal near Bakersfield, California, where it is loaded into trucks that deliver the crude to the Santa Maria Pump Station for the final leg to the Refinery via pipeline. The mainline rail impacts (including air emissions, risk of accident, risk of crude spill, etc.) associated with mainline rail transport to the Central Valley are similar to those of mainline rail transport to San Luis Obispo, except that the final stretch of the route occurs at a different location.

In addition, this transportation pathway requires trucks to haul crude oil approximately 110 miles (220 miles round trip). If the Project is not approved, the EIR explains that the No Project

Alternative would entail an average of 2 ½ unit trains per week arriving at the Central Valley terminal, and 100 truck round trips per day between the rail terminal and the Santa Maria Pump Station, for a total of 22,000 truck miles per day. Truck transport itself has impacts in the form of diesel emissions affecting air quality, risk of accident and spill, etc. Without the Project, the County has no authority or opportunity to mitigate the environmental effects of the increased trucking, and would forgo the air quality benefits described above. (Nor would the County be able to impose the habitat restoration requirements described above.) The benefits of avoiding the impacts of increased truck transportation of crude oil within the County, when considered in light of the roughly equivalent mainline rail impacts, are preferable to the likely crude transportation impacts in the future if the Project is disapproved.

Any single one of the benefits articulated in the Planning Department's draft statement or Phillips 66's draft statement would be sufficient to override the adverse impacts and approve the Project. The Final EIR, the CEQA findings, and the record of proceedings all contain ample evidence to support the Board of Supervisors' adoption of a statement of overriding considerations for the Project.

#### **V. The Project Is Consistent with the County's Ordinances, Plans and Policies**

The Planning Commission adopted findings explaining the basis for its denial of the Project. Nearly all the findings are based on the Project's supposed failure to conform to the County's ordinances, plans or policies. But the findings are based on incorrect application of law (e.g., Unmapped ESHA), mistaken premises, or the wrong Project proposal (up to 5 trains per week as opposed to 3 trains per week). (See Exhibit D.) The Planning Commission's erroneous findings generally fall into six categories.

Nine of the numbered findings for denial are based on the Planning Department and Planning Director's incorrect determination that the Project Site is located in Unmapped ESHA. As explained above in Section III, the Project Site is not located in Unmapped ESHA as a matter of law. The findings within this category are Nos. 4, 5, 6, 7, 8, 11, 27, 30, and 31. Those findings are based on an incorrect premise, and therefore cannot justify Project denial.

Seven of the findings for denial are mistakenly based on the significant cancer risk associated with the Project as originally proposed to allow up to five trains per week and 250 trains per year to service the facility. The Final EIR concluded those significant impacts would not occur with the Reduced Rail Delivery Alternative of not more than three trains per week and 150 trains per year, the alternative that Phillips 66 has now adopted as the Project. The findings within this category are Nos. 10, 18, 23, 24, 25, 30, and 32. Those findings are based on a version of the Project that Phillips 66 is no longer pursuing and was not before the Planning Commission at the time of the decision. As such, those findings do not pertain to the current Project and so cannot justify Project denial.

Five of the findings for denial are based on a finding that onsite emissions of DPM would exceed 1.25 lbs/day and cannot be mitigated to a less than significant level, but the proposed conditions

of approval, to which Phillips 66 has agreed, would prevent that potential impact by requiring those DPM emissions to be offset. (See Exhibit C, Condition 31, EIR Measure AQ-2a.) The findings within this category are Nos. 9, 18, 22, 23, and 32. Those findings are based on the incorrect premise that Phillips cannot and will not mitigate onsite DPM impacts, despite the condition of approval requiring it to do so. There is no evidence that Phillips 66 would undertake the Project in violation of the condition, and so these findings are unsupported and cannot be the basis for denial.

Four findings refer to the reduction in distance between industrialized portions of the Refinery site and residences or other sensitive land uses. However, those findings are also based on the same errors concerning health risks associated with the original proposed Project of five trains per week and 250 trains per year. Those findings also fail to consider the condition of approval that Phillips 66 has accepted to offset DPM emission. Moreover, even after Project construction, the distance between the Refinery's industrial uses and residences or other sensitive land uses would remain more than one-half mile. The findings within this category are Nos. 17, 25, 32, and 33. Those findings as a basis for denial, therefore, are based on incorrect premises.

The bulk of the findings cite to impacts associated with mainline rail transportation. The federal law of preemption precludes the County from regulating mainline rail transportation to avoid or reduce those impacts. More important for the findings, however, those impacts will not be avoided through denial of the Project, but will merely be shifted to other locations. The findings within this category are Nos. 10, 12, 13, 14, 15, 16, 19, 20, 21, 22 ¶ 2, 23 ¶ 2, 24 ¶ 2, 26, 28, 29, and 32 ¶¶ 2-4. Because those findings are based on the erroneous premise that the Project will cause the impacts and that Project denial will avoid the impacts, they cannot justify denial of the Project.

Finally, finding No. 3 asserts that there are insufficient benefits to outweigh the Project's impacts. However, that finding is based on the incorrect premises described above concerning Unmapped ESHA, reference to impacts from five trains per week and 250 trains per year, and failure to recognize that the conditions of approval require offsets for DPM emissions. Once those errors are corrected, the only significant Project impacts stem from mainline rail operations. Those mainline rail operations will not be avoided as a result of a denial of this Project.

Finding No. 34, concerning Coastal Access, is discussed in Section VII, below.

After accounting for those errors, the Project will be consistent with the relevant policies in the County's Coastal Zone Land Use Ordinance, Coastal Plan Policies, Coastal Zone Framework for Planning, General Plan, and the South County Coastal Area Plan. Especially concerning the County's policies related to protecting sensitive habitat, as concluded in the Final EIR, the Project Site area has been highly disturbed and degraded from agricultural, industrial, and human activities for several decades. As part of the Project's conditions of approval to which Phillips 66 has committed, Phillips 66 will restore or enhance a minimum of 41.76 acres (a ratio of 2:1 for the area disturbed by the Project) for vegetation types considered to be sensitive communities by the California Department of Fish and Wildlife. (See Exhibit C, Condition 41, MM BIO 5a.) The restored areas will be located within Phillips 66's property boundary and protected from any

grazing activity. The restoration area will be protected in perpetuity by an easement for open space or by a conservation easement, in a form approved by the County's Counsel and California Department of Fish and Wildlife and/or the U.S. Fish and Wildlife if required by those agencies. Thus, by replacing the degraded habitat with restored habitat in a ratio of 2:1, the Project will be consistent with the County's land use policies related to habitat conservation.

Additionally, as described further above in Section IV.C, the Project will provide economic benefits that will further the County's economic vitality. Those economic benefits will help the County achieve several of the goals and policies in the General Plan's Economic Element. The goals of the Economic Element recognize the importance of economic activity in allowing residents in the County to find employment, grow locally operated businesses, and pursue lifestyles that they value. More specifically, the Project will help achieve the following goals, and corresponding policies that promote those goals: Goal EE 1 (Promote a strong and viable local economy by pursuing policies that balance economic, environmental, and social needs of the county); and Goal EE 2 (Retain and enhance a diverse economy).

Given the mistaken premises of the Planning Commission's findings for denial of the Project relating to Unmapped ESHA and DPM offset mitigation, the habitat restoration required by the Conditions of Approval, and the Project's contribution to the County's economic vitality, the Project is consistent with the County's applicable land use policies.

## **VI. Proposed Conditions That Are Inappropriate or Unlawful**

Of the more than 260 separately numbered requirements embodied in the proposed Conditions of Approval, Phillips 66 accepts the vast majority. Phillips 66 objects to only portions of three conditions (Nos. 33, 35 and 73), and all of Condition 94.

Proposed Condition 33 (EIR Measure AQ-4b) was originally designed to mitigate the health risk associated with air emissions (primarily diesel exhaust) from the Project site. To mitigate onsite emissions from new equipment and new activities, the condition limits the amount of diesel truck traffic associated with two existing activities, i.e., the transport of sulfur and petroleum coke from the refinery. Air quality modeling for the EIR assumed that these trucks would meet EPA NOx and PM emissions standards for 2010 model year engines. As presented in the EIR, this measure would ensure that mitigation is consistent with the modeling assumptions that concluded the Project's onsite emissions – with mitigation – would not cause a significant impact to public health. Phillips 66 did not object to the measure as presented in the Final EIR. Prior to the September 22, 2016 hearing, the Planning Department added two sentences to the proposed condition. First, a sentence was added to specify that the annual average maximum number of trucks shall be limited to 49 trucks per day. Phillips 66 does not object to the 49 truck-per-day limit because it assures consistency with the EIR analysis. However, the second added sentence is unwarranted and inappropriate. The condition now would prohibit delivery of crude oil to the Refinery by truck. The Planning Department asserted that this prohibition is needed because "the transportation of crude oil to or from the refinery by truck was not included in the cancer risk assessment." Phillips 66 objects to the prohibition on transportation of crude oil to the refinery by truck because



feedstock delivery by truck is a longstanding practice for the Refinery under certain circumstances. Moreover, the circumstances that prompt crude delivery by truck often coincide with lower processing rates, which reduces emissions throughout the refinery, and also reduces the number of sulfur and coke trucks. To ensure consistency with the EIR's health risk assessment while allowing continued crude delivery by truck, Phillips 66 suggests that the condition be revised as follows:

All trucks under contract to the SMR for moving coke and sulfur or delivering feedstock, including crude oil, shall meet EPA 2010 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. Trucking of coke and sulfur from the refinery and delivery of feedstock, including crude oil, to the refinery shall be limited to an annual average maximum of 49 trucks per day. ~~In addition, no crude oil shall be delivered to the refinery, or transported from the refinery by truck.~~ Annual truck trips associated with refinery operations and their associated model year and emissions shall be submitted to the SLOCAPCD annually.

Proposed Condition 35 (EIR Measure AQ-6/8) requires that Phillips 66 offset onsite emissions of greenhouse gases (GHGs) from the Project. Phillips 66 does not object to offsetting GHG emissions to the extent needed to reduce impacts from these emission to a less than significant level. However, the condition requires offsetting GHG emissions to zero. This is a departure from past practice, and cannot be justified by CEQA, which requires only that mitigation be included to reduce significant impacts. We suggest the following edits to address this issue, as well as correct typographical errors:

Prior to issuance of the Notice to Proceed, ~~Prior to issuance of the Notice to Proceed,~~ the Applicant shall provide a GHG mitigation, monitoring and reporting plan for the onsite GHG emissions. The plan shall investigate methods to bring the onsite Rail Spur Project GHG emissions at the refinery ~~to zero for the entire project~~ to below the CEQA significance threshold of 10,000 metric tons of CO<sub>2</sub>e each year. The plan shall indicate that, on an annual basis, if after all onsite mitigations are implemented, the onsite GHG emissions from the Rail Spur Project still exceed ~~zero~~ the CEQA significance threshold, then SLOCAPCD-approved off-site mitigation will be required. Methods could include the contracting arrangement that increases the use of more efficient locomotives, or through other, ~~onsite~~ off-site measures. Coordination with SLOCAPCD should begin at least six (6) months prior to issuance of operational permits for the Project to allow time for refining calculations and for the SLOCAPCD review and approve the mitigation approach.

Condition 73 (EIR Measure HM-2a) originally specified that the rail tank cars arriving at the Refinery must meet construction and performance specifications that were under consideration by the federal government, but had not been adopted (so-called "Option 1" tank cars). In fact, when the federal government adopted new rail tank car standards in 2015, the "Option 1" cars were not included. Instead, the Department of Transportation adopted construction and performance

standards and timetables for implementation of DOT 117, 117P and 117R tank cars. Phillips 66 objected that the original Measure HM-2a was preempted by federal law. Prior to the September 22, 2016 hearing, the Planning Department updated the condition to remove the requirement for Option 1 tank cars and instead require the use of DOT 117 tank cars. Phillips 66 again objected, stating that – pursuant to federal regulatory requirements and the law of preemption – the condition should allow use of 117P and 117R rail tank cars as well. At the hearing on October 5, 2016, the Planning Department presented a new version that referenced DOT 117 and DOT 117P standards and made other changes, but continues to exclude DOT 117R cars. Federal preemption requires that the condition allow DOT 117R cars as well. Condition 73 attempts to regulate the railroad's method of rail transportation, and the Interstate Commerce Termination Act expressly preempts state or local regulation of transportation by rail carriers. Specifying which cars may be unloaded is no different than specifying which ones are allowed for mainline transport, because the cars being unloaded must first travel to the site on the mainline rail. Measure HM-2a is also preempted by the Hazardous Materials Transportation Act, which directs the Secretary of Transportation to adopt standards for packaging, including rail cars. This responsibility is carried out by the Pipeline and Hazardous Materials Safety Administration (PHMSA). 49 CFR 1.97(b). PHMSA regulations specify requirements for rail cars transporting crude oil. 49 CFR Part 179, adopted May 8, 2015 (80 Fed. Reg. 26644). Congress expressly confirmed the PHMSA standards and set deadlines for phase-in in the FAST Act § 7304. Where PHMSA has adopted standards on packaging, state standards are preempted unless they are substantially the same. 49 USC § 5125. Condition 73 is not substantially the same as the federal standards because it effectively prohibits use of a class of rail tank cars expressly authorized under the new federal regulations – DOT 117R cars.

Condition 94 is not CEQA mitigation designed to reduce environmental impacts of the Project, and so it did not appear in the EIR. Condition 94 was proposed by the Planning Department prior to the September 22, 2016 hearing. This new condition relates to docent-led pedestrian tours. As described further below under Section VII, Coastal Access, evidence in the record supports a determination by Board of Supervisors that coastal access is not appropriate at this location. If the Board of Supervisors makes such a determination, proposed Condition 94 will not be relevant and should be rejected. If it is retained, it must be revised to comply with the law and to reflect an accurate understanding of property rights of adjacent land owners.

## **VII. Coastal Access**

The issue of vertical coastal access first arose in the context of an earlier, independent project at the Refinery, referred to as the Throughout Increase Project. Shortly before the Planning Commission hearing on that project, the Planning Department staff presented Phillips 66 with a proposed condition requiring vertical public access. Phillips 66 objected because access is not appropriate at this location, due to the presence of the railroad tracks with no public crossing, and Mapped ESHA on the western side of the railroad tracks. Phillips 66 argued that the site was exempt from the access requirement under Coastal Zone Land Use Ordinance Section 23.04.420 (c), which provides that coastal access is not required where access would be inconsistent with public safety, military security needs or the protection of fragile coastal resources. At the time, however, the Planning Department did believe it had sufficient information to make a decision on

the applicability of the exemptions. This issue was discussed at length before the Planning Commission at its hearing of December 13, 2012, before the Commission voted on the project. The Planning Commission approved the Throughput Increase Project with Condition of Approval 17, which states:

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).

It was understood by all that further discussion and a decision would be needed in order to determine whether coastal access would be required, or whether the one of the exemption applied. The Planning Commission's approval was appealed by a third party to the Board of Supervisors and then to the Coastal Commission, but those proceedings did not include any further evidence or discussion of the exemption. Both appeals were denied, and Condition 17 remained unchanged.

Subsequently, Phillips 66 developed evidence demonstrating that coastal access is not appropriate at this site due to public safety risks and the potential damage to fragile coastal resources. Phillips 66's evidence is supported by additional evidence in the Final EIR and other documents in the administrative record. Regardless of the outcome of the writ petition in Superior Court or the Board of Supervisors' action on the appeal of the Planning Commission's denial of the Rail Spur Project, the Board should take definitive action putting the coastal access issue to rest.

Before it would issue Phillips 66 the notice to proceed with the Throughput Increase Project, the Planning Department and County Counsel's Office required that Phillips 66 make an offer to dedicate vertical coastal access. Phillips 66 objected, because the County had not yet decided whether the exemption applies. To support its request for exemption, Phillips 66 retained a biological resources expert to survey the property and prepare a report regarding the exemption criteria. *See* "Coastal Access Feasibility Review," dated August 2013 prepared by Arcadis. The report documented the biological resources in the area – which all parties agree contains Mapped ESHA as well as other valuable resources – and explained how those resources would be harmed by vertical coastal access. Phillips 66 also pointed out that the Union Pacific Railroad owns a corridor of land that bisects the Phillips 66 parcels, and that there is no controlled or protected public crossing in the vicinity of the refinery. Phillips 66 submitted extensive information on the property ownership, which demonstrated that Phillips 66 has a private right to cross the railroad dating back to the railroad's original acquisition of the corridor from a farmer in 1891, and that Phillips 66 has no legal right to expand that crossing for public use. Without a properly designed public crossing, Phillips 66 has no ability to provide access to the coast, and leading the public the

short distance from the highway to the railroad tracks would appear to invite the public to trespass across the tracks, putting people at risk of injury or death. Notwithstanding this evidence, the Planning Department insisted on receiving the offer to dedicate before issuing the notice to proceed for the Throughput Increase Project. Phillips 66 acquiesced based on the deputy county counsel's assurance that the offer would not be accepted until the County reached a decision on the applicability of the exemptions, and that if the exemptions applied, the offer to dedicate would be declined and returned to Phillips 66. By this point, Phillips 66 had submitted an application for the Rail Spur Extension Project, and the County staff suggested that the applicability of the exemptions would be determined in the context of that project. At this time, the offer to dedicate has not yet been accepted or rejected by the County.

The Rail Spur Extension Project was considered a project approval that could accelerate the requirement of vertical coastal access, if it is required at all. Therefore, the EIR for the Rail Spur Extension Project included an independent chapter presenting programmatic environmental analysis of coastal access. Phillips 66 has not proposed vertical coastal access. Therefore, County staff developed several hypothetical access scenarios for environmental review. The Final EIR concludes that all access scenarios involve significant environmental impacts, but that docent-led pedestrian access would result in less impact than vehicular access and other more intensive and less regulated uses.

With respect to public safety, the Final EIR contains important information regarding rail crossings, injuries and deaths. Union Pacific Railroad, the owner of the rail corridor that bisects Phillips 66's properties, sent a letter to the County reiterating that this location has no public crossing, and that the company would not support a public crossing at this location. Even more importantly, there is no safe public railroad crossing connecting the Phillips 66 parcels on the east and west sides of the railroad tracks. The Final EIR also documents that trespass along and across the railroad tracks is a real safety hazard: The EIR discloses that people in San Luis Obispo County have been killed or injured trespassing on the railroad tracks in nearly every year from 2003 to 2012.

With respect to fragile coastal resources, removal of even the highly degraded habitat that will be affected by the Project has been identified as a significant impact by the EIR. The areas that would be affected by coastal access are of much higher quality and value. The EIR confirms that fragile coastal resources would be affected by coastal access in two ways. First, for safety reasons, the public cannot share the route of the current access road with the trucks servicing and inspecting the water outfall; therefore, a new route would be required, and the footprint of any such path or road would eliminate sensitive habitat. Second, as described in the EIR, it can be difficult to confine the public to the designated path or road, risking the degradation or loss of additional habitat and sensitive and rare plants as people wander or carve their own short cuts.

Use of docent-led access can reduce some but not all of these hazards. The presence of a docent would likely reduce the incidence of visitors straying from the path. However, it will not avoid loss of habitat in the creation of the path itself. Most importantly, the County has not obtained a right of public access across the railroad track, and correspondence from Union Pacific

demonstrates that the company will not voluntarily offer such access. Accordingly, there is no current, safe and legal railroad crossing, and there is unlikely to be one in the foreseeable future. A docent cannot change this. Altogether, the EIR contains information confirming that access is inappropriate at this location.

The Planning Commission voted to deny the Rail Spur Extension Project, avoiding an immediate need to determine the applicability of the coastal access exemptions. The Planning Commission's findings for denial included the following related to coastal access – Finding for Denial No. 34:

Coastal access was addressed in a previously approved permit (Throughput DRC2008-00146), which included a condition of approval requiring Phillips 66 to construct coastal access improvements associated with the vertical public access 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." Because the proposed rail spur project (DRC2012-00095) is recommended for denial, the previous condition of approval from the Throughput project will remain in place and effective. Phillips 66 will be required to uphold the previous coastal access condition of approval from DRC2008-00146 as adopted. Denial of the proposed rail spur project will not impact Coastal Access.

Finding 34 creates ambiguity. The language purportedly quoted from the description of the condition for the Throughput Increase Project, but the statement does not accurately reflect the condition of approval imposed on the Throughput Increase Project.

At minimum, even if no action is taken on the appeal of the Planning Commission denial of the Rail Spur Project or the appeal is denied, Finding 34 must be corrected to accurately reflect the condition of approval for the Throughput Increase project. But simply correcting Finding 34 would unnecessarily perpetuate uncertainty. Evidence now clearly confirms that the exemption applies at this location. Vertical coastal access across the Refinery property is inconsistent with protection of public safety and protection of fragile public resources. We request that the Board of Supervisors issue a finding consistent with the evidence.

In sum, the Coastal Zone Land Use Ordinance, Section 23.04.420 (c), provides that coastal access is not required where access would be inconsistent with public safety, military security needs or the protection of fragile coastal resources. The EIR and other evidence in the record support a determination that coastal access is not required at the Refinery site because it would be inconsistent with public safety and the protection of fragile coastal resources.

The staff report, p. 3, seems to be based on the mistaken belief that the County can accept an offer of public access from Phillips 66 and then require Phillips 66 to (1) acquire a right of public access across the Union Pacific property and (2) build whatever facilities are necessary to ensure safe crossing of the railroad tracks. This assumption is fundamentally wrong. Under certain circumstances, the Coastal Act and the County's CZLUO require a property owner to dedicate

public access across his own land. But there is absolutely no basis in the Coastal Act or cases interpreting that law for the County to require the owner of one property to acquire a different property or property right for the sole purpose of dedicating it to public use. Similarly, there is no basis in the Coastal Act or cases interpreting that law for the County to require the owner of one property to ensure that access across a different owner's property is safe for public use.

Accordingly, Phillips 66 respectfully requests that the Planning Commission take the following actions:

1. Amend the Findings for Approval (attached as Exhibit A to the September 22, 2016 Staff Report), by replacing Section H with the following language:

Public access across the Refinery Site is not required under Section 23.04.420 (c) of the Coastal Zone Land Use Ordinance because it would be inconsistent with public safety, and because it would be inconsistent with the need to protect fragile coastal resources. Each of these factors individually supports the finding of exemption.

2. Amend the Conditions of Approval (attached hereto as Exhibit C) by deleting Condition 94, which states: Vertical coastal access is consistent with CZLUO requirements for public safety, military security, and need for protection of fragile coastal resources, therefore access shall be provided as required by Development Plan/Coastal Development Permit DRC2008-00146, and limited to docent led pedestrian access. Provision of this access may be delayed in the event that the necessary docent led access across Union Pacific property is prevented. The applicant shall submit a coastal access plan for implementation of this condition for review and approval by the Department of Planning and Building. The plan shall include details such as parking, docent arrangements, hours, and frequency of docent led tours.

These changes show that the condition regarding public coastal access should be rejected, and the Board of Supervisors should make a finding that there is no public access required at this location.

#### **VIII. Relief Requested**

As explained above, Phillips 66 has filed a petition for writ of mandate requesting a Superior Court order directing the Planning Department to correct its erroneous determination that the site contains Unmapped ESHA. Due to the extent that the Planning Commission findings for denial incorporate and rely on this Planning Department's erroneous determination, we respectfully request that the Board of Supervisors stay this appeal during the litigation.

If the Court does not return the matter to the Planning Department/Planning Commission, then we request that the Board of Supervisors find that the Planning Department misapplied the Unmapped ESHA provision in the County Ordinance, instruct the Department to make a determination of "No



Unmapped ESHA,” and remand the matter to the Planning Commission to allow it the opportunity in the first instance to reconsider the Project on the basis that there is no Unmapped ESHA on the Project site. In the alternative, we request that the Board of Supervisors grant Phillips 66’s appeal, overturn the Planning Commission decision, certify the EIR, approve the Project with conditions, and adopt findings of approval, CEQA findings and a statement of overriding considerations.

For Coastal Access, the Board of Supervisors should make a definitive finding that public access is not required at this location because the criteria for exemption apply. In the alternative, at a very minimum, Finding of Denial No. 34 should be revised to accurately reflect the condition approved in the Throughput Increase Project.

**Exhibit B – Coastal Appeal No. A-3-LO-13-14 (Conoco Phillips Company) No  
Substantial Issue Found**

From the Desk of Julie Tacker

September 3, 2013

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

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W28a  
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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

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805-528-3569

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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,



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**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."

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ACQUISITION MARKETING LAND USE REDEVELOPMENT

**J. H. EDWARDS COMPANY**

**A REAL PROPERTY CONCERN**

**W 28a**

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.

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**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

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Wd 8a

**Chapman, Diana@Coastal**

**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> 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=CR4kTXaIXb0>

Thank you,

---

Jeff Edwards

J.H. Edwards Company

P.O. Box 6070

Los Osos, CA 93412

805.235.0873

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST AND NORTH CENTRAL COAST DISTRICT OFFICES  
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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

**Appeal Number:** A-3-SLO-13-014

**Applicant:** ConocoPhillips Company

**Appellant:** Jeff Edwards

**Local Government:** San Luis Obispo County

**Local Decision:** Approved with conditions

**Location:** ConocoPhillips Santa Maria oil refinery located at 2555 Willow Road on the Arroyo Grande mesa, San Luis Obispo County

**Project Description:** Increase the daily maximum crude oil throughput by 10 percent (from 44,500 to 48,950 barrels per day)

**Staff Recommendation:** No Substantial Issue

### 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

Appeal A-3-SLO-13-014 (ConocoPhillips)

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.

<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.).

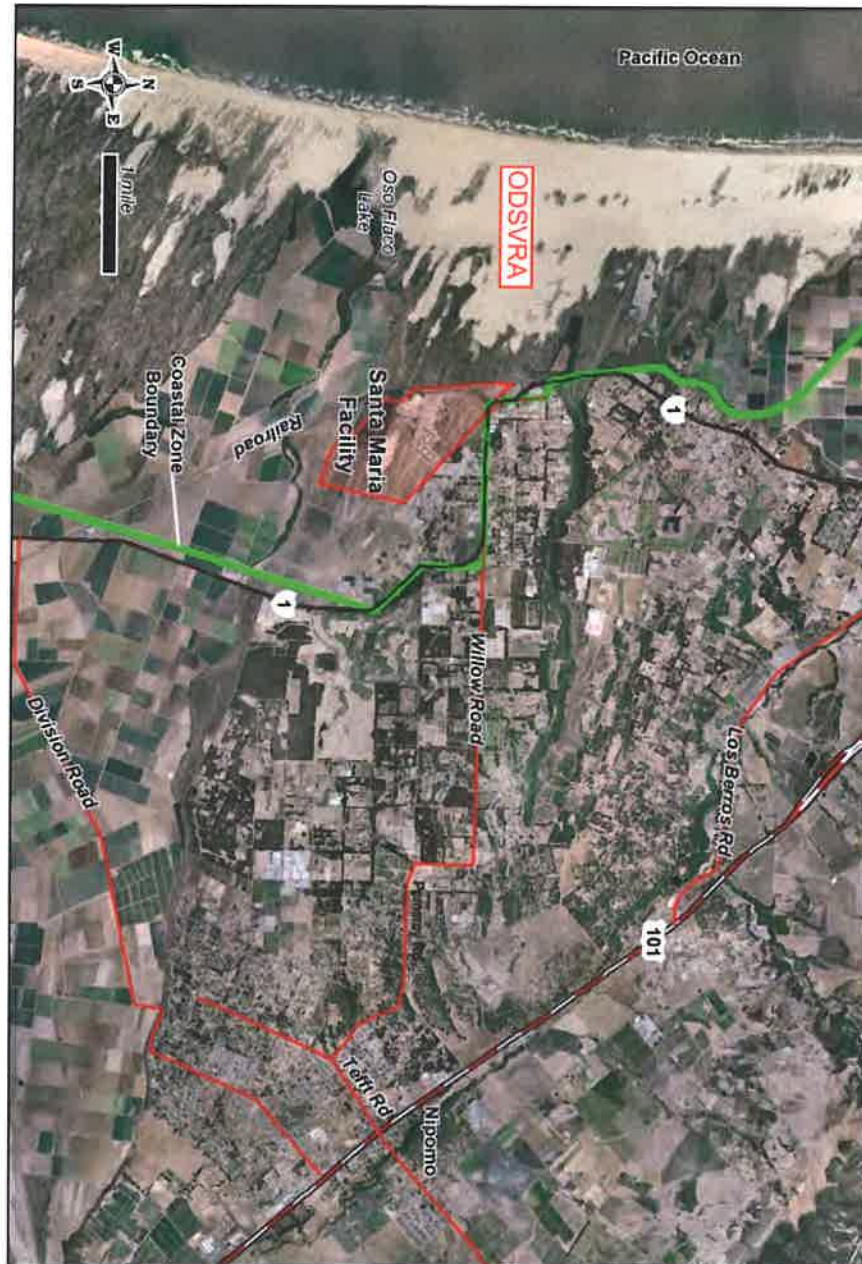
Appeal A-3-SLO-13-014 (ConocoPhillips)

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 - 3/21/13

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.

976 OSOS STREET, ROOM 300

SAN LUIS OBISPO

CALIFORNIA 93408

(805) 781-5600

EMAIL: [planning@co.slo.ca.us](mailto:planning@co.slo.ca.us)

FAX: (805) 781-1242

WEBSITE: <http://www.sloplanning.org>

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Exhibit 3

A-3-SLO-21-0017 (Phillips 66 Remediation Project)

205 of 389

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

---

(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**

(1) DEPARTMENT Planning and Building		(2) MEETING DATE 2/26/2013		(3) CONTACT/PHONE Murry Wilson, Environmental Resource Specialist/(805) 788-2352	
(4) 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.					
(5) RECOMMENDED ACTION 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.					
(6) FUNDING SOURCE(S) General Fund (No fee for Coastal Appeals)		(7) CURRENT YEAR FINANCIAL IMPACT \$0.00		(8) ANNUAL FINANCIAL IMPACT \$0.00	
(9) BUDGETED? Yes					
(10) AGENDA PLACEMENT { } Consent { } Presentation {X} Hearing (Time Est. 60 minutes) { } Board Business (Time Est. _____)					
(11) EXECUTED DOCUMENTS {X} Resolutions { } Contracts { } Ordinances { } N/A					
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A			(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: { } 4/5th's Vote Required {X} N/A		
(14) LOCATION MAP Attached		(15) BUSINESS IMPACT STATEMENT? Yes		(16) AGENDA ITEM HISTORY {X} N/A Date _____	
(17) ADMINISTRATIVE OFFICE REVIEW  Reviewed by Leslie Brown					
(18) SUPERVISOR DISTRICT(S) 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-foot 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 continuous 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 continuous 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)



## ATTACHMENT 1



## COASTAL APPEAL FORM

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING  
876 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

SLO CNTY  
PLANNING/BUILDING  
DEPT  
DEC 19 PM 4:24

## 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 - CZLUD 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: [Signature]Date: 12/19/12

## OFFICE USE ONLY

Date Received: 12/19/12By: [Signature]Amount Paid: 0Receipt No. (if applicable): [Signature]

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](mailto: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.

(SEAL)

**JULIE L. RODEWALD**  
County Clerk and Ex-Officio Clerk of the Board  
of Supervisors

By: *C. Christensen*

Deputy Clerk.

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### **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).



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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.
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.

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### **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.**

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### **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.

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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 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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<b>Air Quality</b>	
<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> <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> <p>Diesel-powered trucks traveling along area roadways could also increase health risks associated with emissions. Modeling was conducted using Aeronod 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>	

<b>Public Safety and Hazardous Materials</b>	
<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.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<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>	
<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.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<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 hazardous waste under the Proposed Project would be expected to be the same as the current operations.</p> <p>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.</p>	

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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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<b>Public Services</b>	
<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>	

## ATTACHMENT 2

<b>Transportation and Circulation</b>	
<p>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 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.</p>	
<b>Water Resources</b>	
<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</p>	

## ATTACHMENT 2

<b>Water Resources</b>	
<p>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</i> (Class III).</p>	
<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</i> (Class III).
<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</p>	



## ATTACHMENT 2

<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)

Air Quality	
Impact AQ.1	Operational activities at the Refinery and offsite would generate emissions that exceed SLOC APCD thresholds.
Mitigation	<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>
Findings	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>	

## ATTACHMENT 2

<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>	

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Air Quality		
<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>		
Impact AQ.3	Operational activities could increase GHG emissions.	
Mitigation	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.	
Findings	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		
Impact PSHM.3	The Proposed Project could introduce contamination to groundwater through exacerbation of existing contamination issues.	
Mitigation	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 (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.</p>	

## ATTACHMENT 2

<b>Land Use and Policy Consistency Analysis</b>	
<p>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, 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).</p>	

<b>Water Resources</b>	
<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.

## ATTACHMENT 2

### 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.



ATTACHMENT 3

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.

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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

## ATTACHMENT 3

### 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

### ATTACHMENT 3

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.

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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.
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.

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**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**

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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.



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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 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

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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.

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.

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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;
  - ii. The text of the Land Use Element;

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- 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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<b>Air Quality</b>	
<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> <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> <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> <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>	

<b>Public Safety and Hazardous Materials</b>	
<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.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<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>	
<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.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<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.
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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

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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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<b>Public Services</b>	
<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>	
<b>Transportation and Circulation</b>	
<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>

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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>	

### ATTACHMENT 3

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>	

### ATTACHMENT 3

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</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

### ATTACHMENT 3

<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>	



### ATTACHMENT 3

Public Safety and Hazardous Materials	
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> .
<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>	
Land Use and Policy Consistency Analysis	

### ATTACHMENT 3

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>	

### ATTACHMENT 3

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

### ATTACHMENT 3

- 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 (bpv) to 17,866,750 bpv. 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.

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**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  
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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 Commission's 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  
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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.

## ATTACHMENT 5

## 2-1



Promoting the wise use of land  
Helping build great communities

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

## PLANNING COMMISSION

MEETING DATE December 13, 2012	CONTACT/PHONE Murry Wilson / Environmental Resource Specialist (805) 788-2352	APPLICANT Phillips 66	FILE NO. 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 SLOAPCD 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.			
LAND USE CATEGORY Industrial	COMBINING DESIGNATION Flood Hazard, Sensitive Resource Area, Terrestrial Habitat, Local Coastal Program, and Coastal Appealable Zone	ASSESSOR PARCEL NUMBER 091-141-062, 092-391-020, 021, 034, 092-401-005, 011, 013, 092-411-002, 005	SUPERVISOR DISTRICT(S) 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			
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER y SAN LUIS OBISPO y CALIFORNIA 93408 y (805) 781-5600 y FAX: (805) 781-1242			

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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.

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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 (SLOAPCD) 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).*

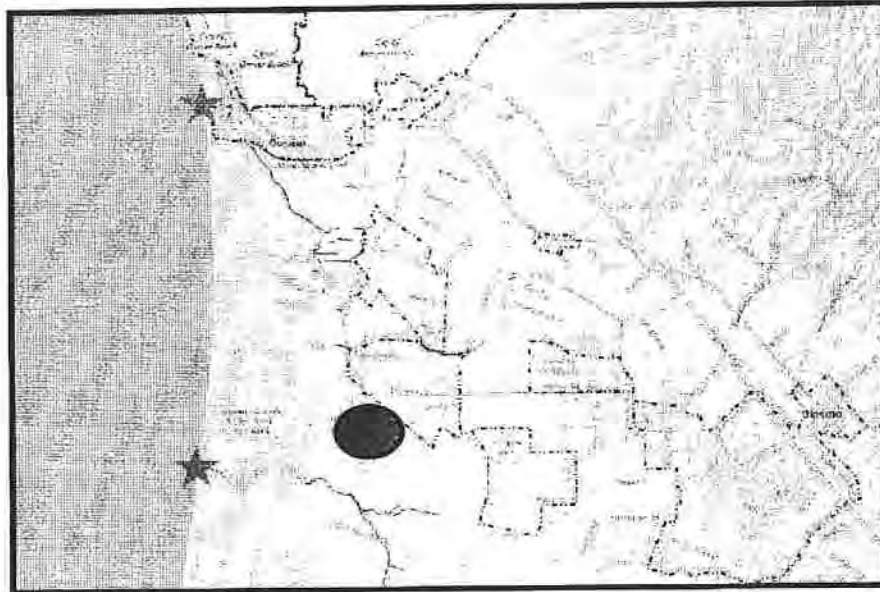
*The southern access point (Oso Flaco Lake) provides pedestrian only access to the beach. The northern access point (Pier Avenue, Oceano) provides for both pedestrian and vehicular access. By providing an additional vertical access point along the current service road (a likely location for vertical 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 (SLOAPCD) 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 longer 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 SLOAPCD was co-lead agency with regard to preparation of the EIR. The SLOAPCD 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 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

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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	
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.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<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).	
<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.
<b>Mitigation</b>	None.
<b>Findings</b>	Impacts are considered <i>less than significant (Class III)</i> .
<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	

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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	
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 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.	
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).	
<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> .
<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.	
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.	
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.	
<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> .
<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.	

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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>

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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>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>

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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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Public Safety and Hazardous Materials	
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> .
<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>	
Land Use and Policy Consistency Analysis	

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

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

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

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.

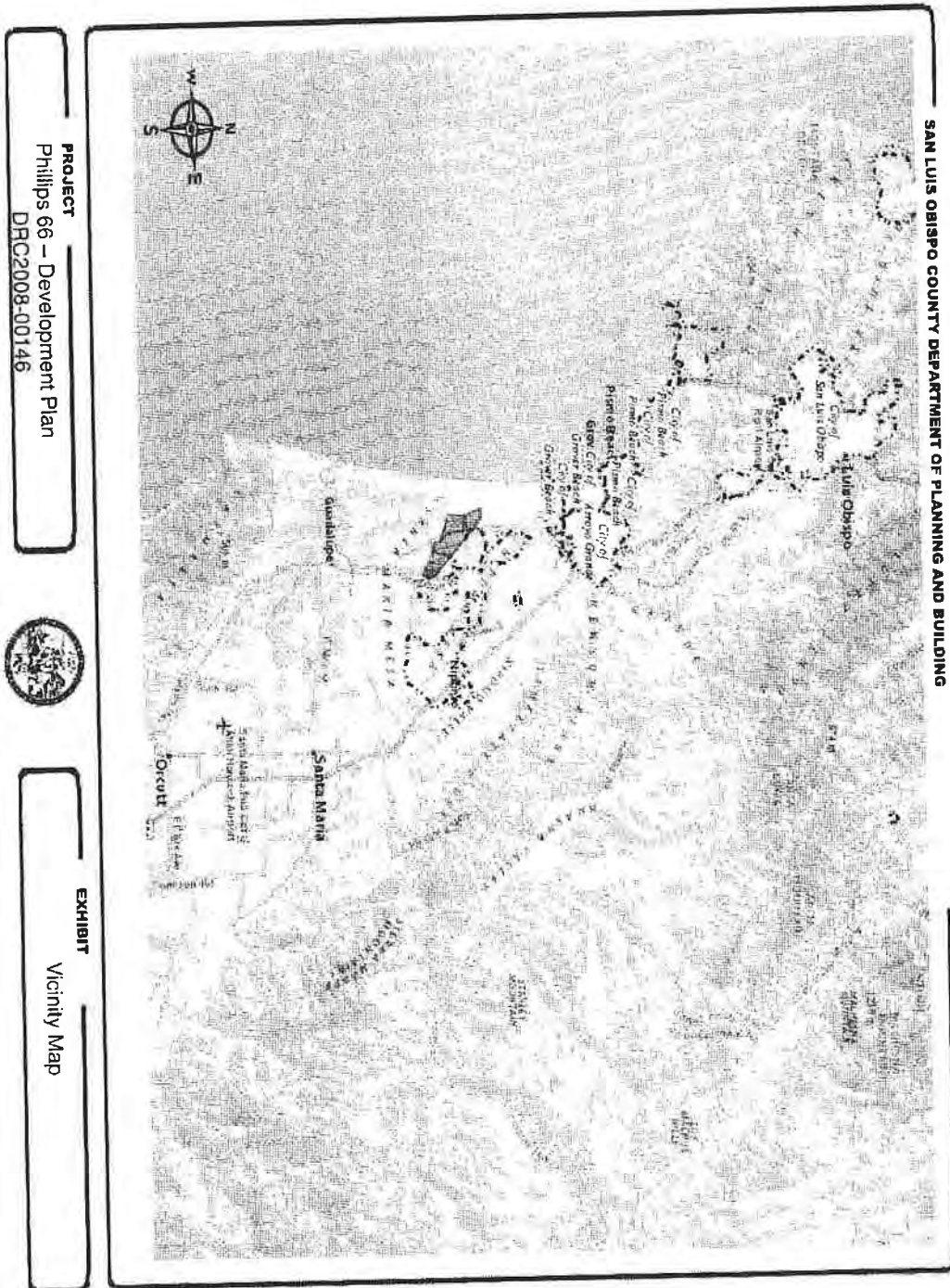
- B. The Planning Commission finds that the project, as approved, includes an appropriate Mitigation Monitoring Program. This mitigation monitoring program ensures that measures that avoid or lessen the significant project impacts, as required by CEQA and the State CEQA Guidelines, will be implemented 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**

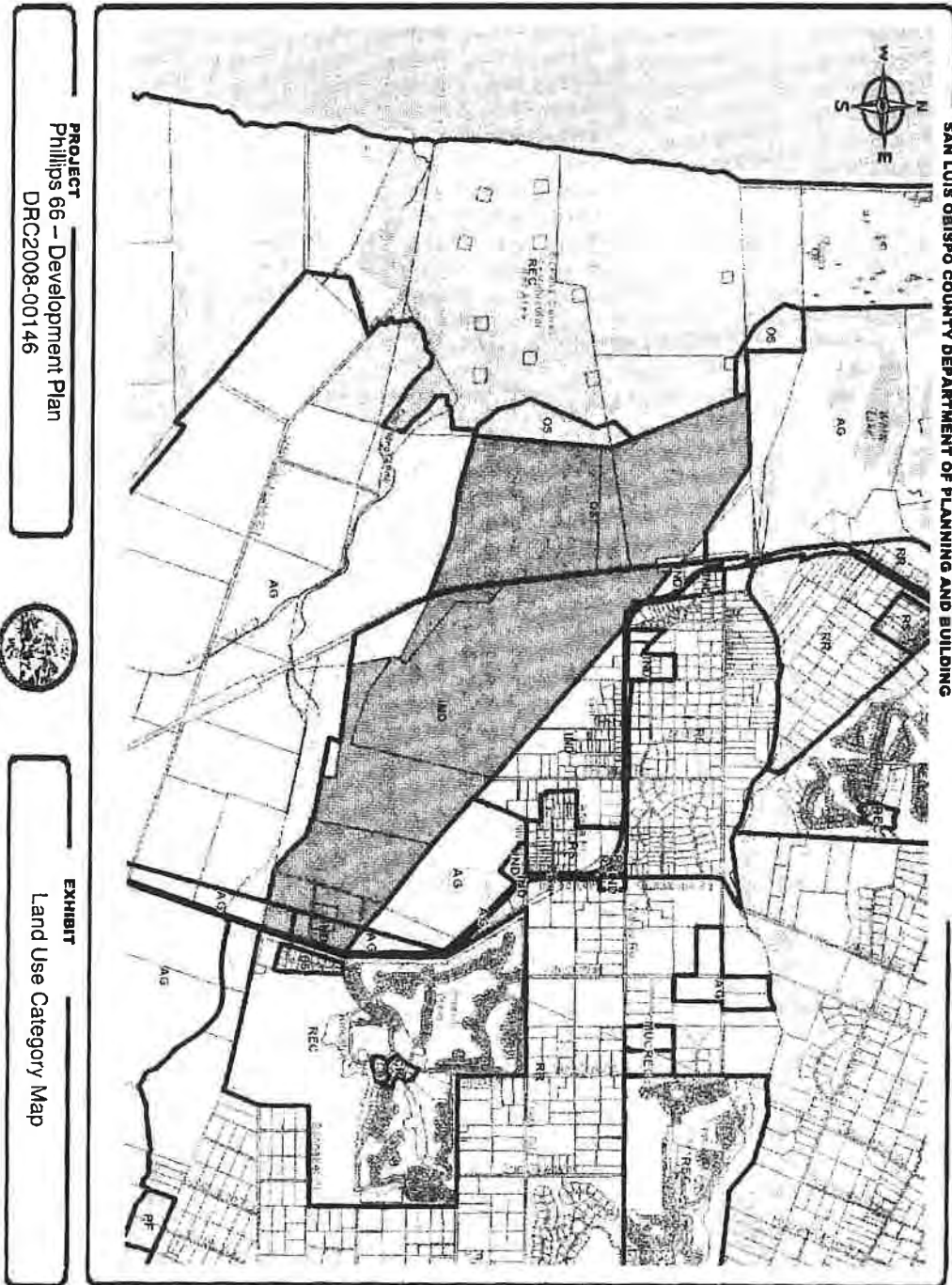
As the Co-Lead Agencies under the California Environmental Quality Act (CEQA), the San Luis Obispo County Air Pollution Control district (SLOCAPCD), and the County of San Luis Obispo (County) are required to adopt a program for reporting or monitoring regarding the implementation of mitigation measures 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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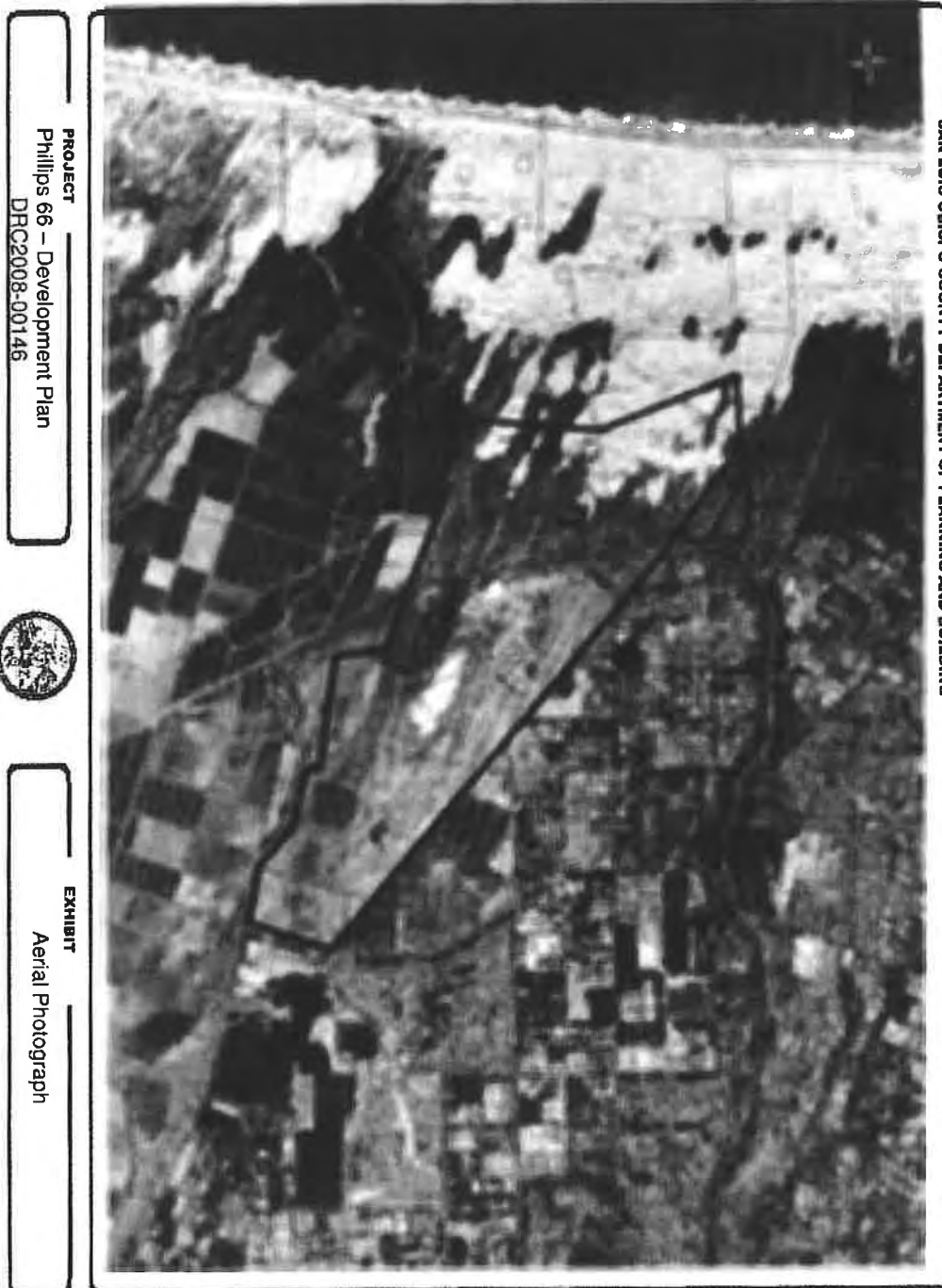


ATTACHMENT 5  
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## 2-43



**EXHIBIT** \_\_\_\_\_  
**Site Plan**



ATTACHMENT 5  
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ATTACHMENT 5  
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Planning Commission Contact Form (response #170)

Internet Webmaster

to:

planningcommission@co.slo.ca.us

12/07/2012 03:31 PM

Hide Details

From: "Internet Webmaster" <webmaster@co.slo.ca.us>

To: "planningcommission@co.slo.ca.us" <planningcommission@co.slo.ca.us>

## 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

ATTACHMENT 5



ATTACHMENT 5



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

ENV12-308

## ATTACHMENT 5

*Letter to Commissioners Irving, Topping, Christianson, Murphy and O'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

RECEIVED

MAR 18 2013

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

EDMUND G. BROWN JR., Governor



## 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.

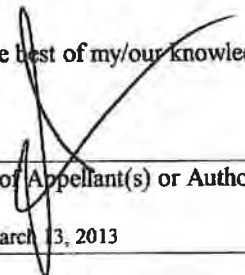
The Condor Study is available at: [http://www.slostateparks.com/pdf/ODSVRA\\_Alternative\\_Access\\_Study.pdf](http://www.slostateparks.com/pdf/ODSVRA_Alternative_Access_Study.pdf). Please note the Figures are not included in the Internet version of the study, however Figure 4C: Conoco Phillips alternative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



Page 182 of 195



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.

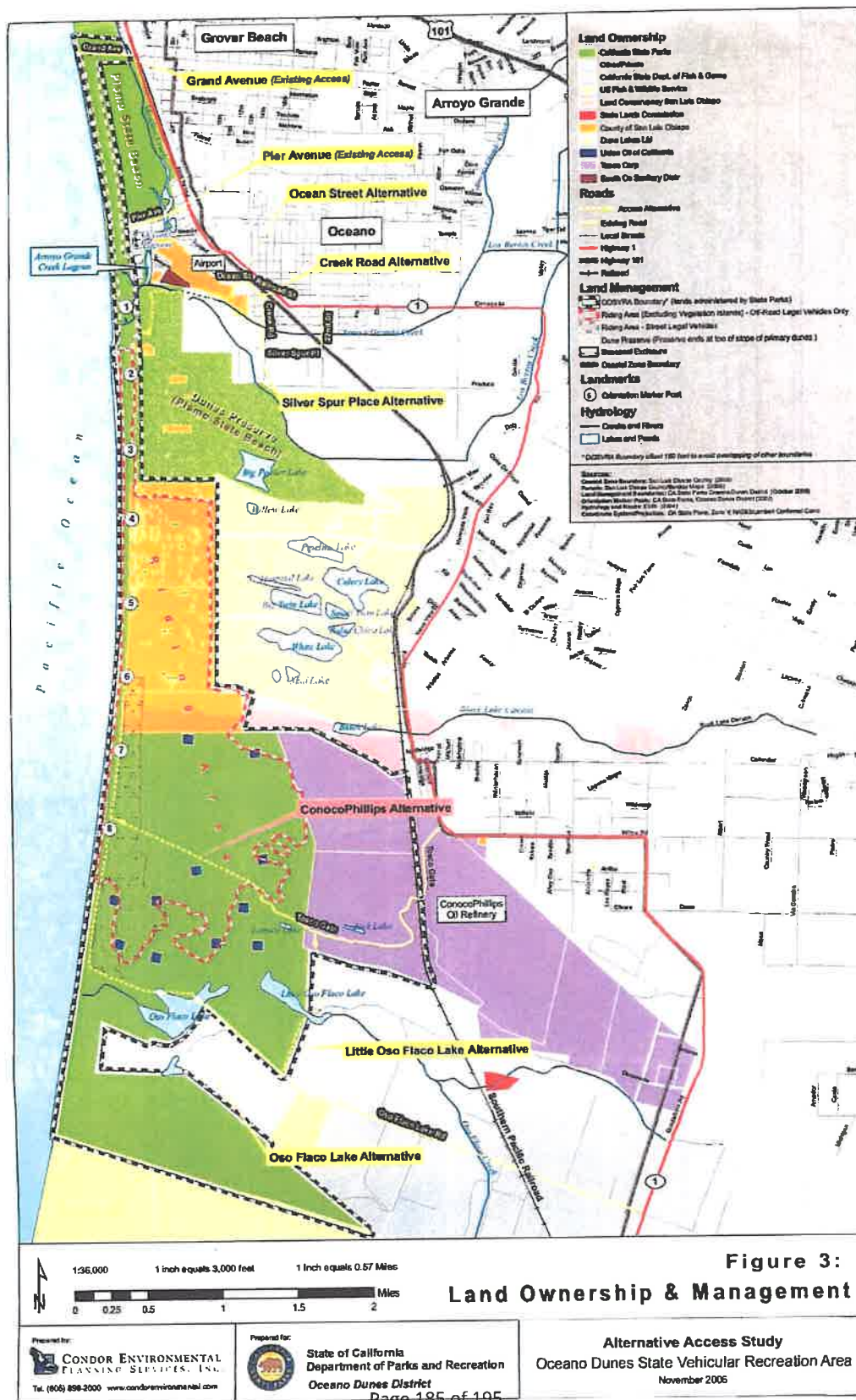
Pier Avenue was intended to be a temporary or interim access location. It appears operation of the ODSVRA is out of compliance with the CDP.



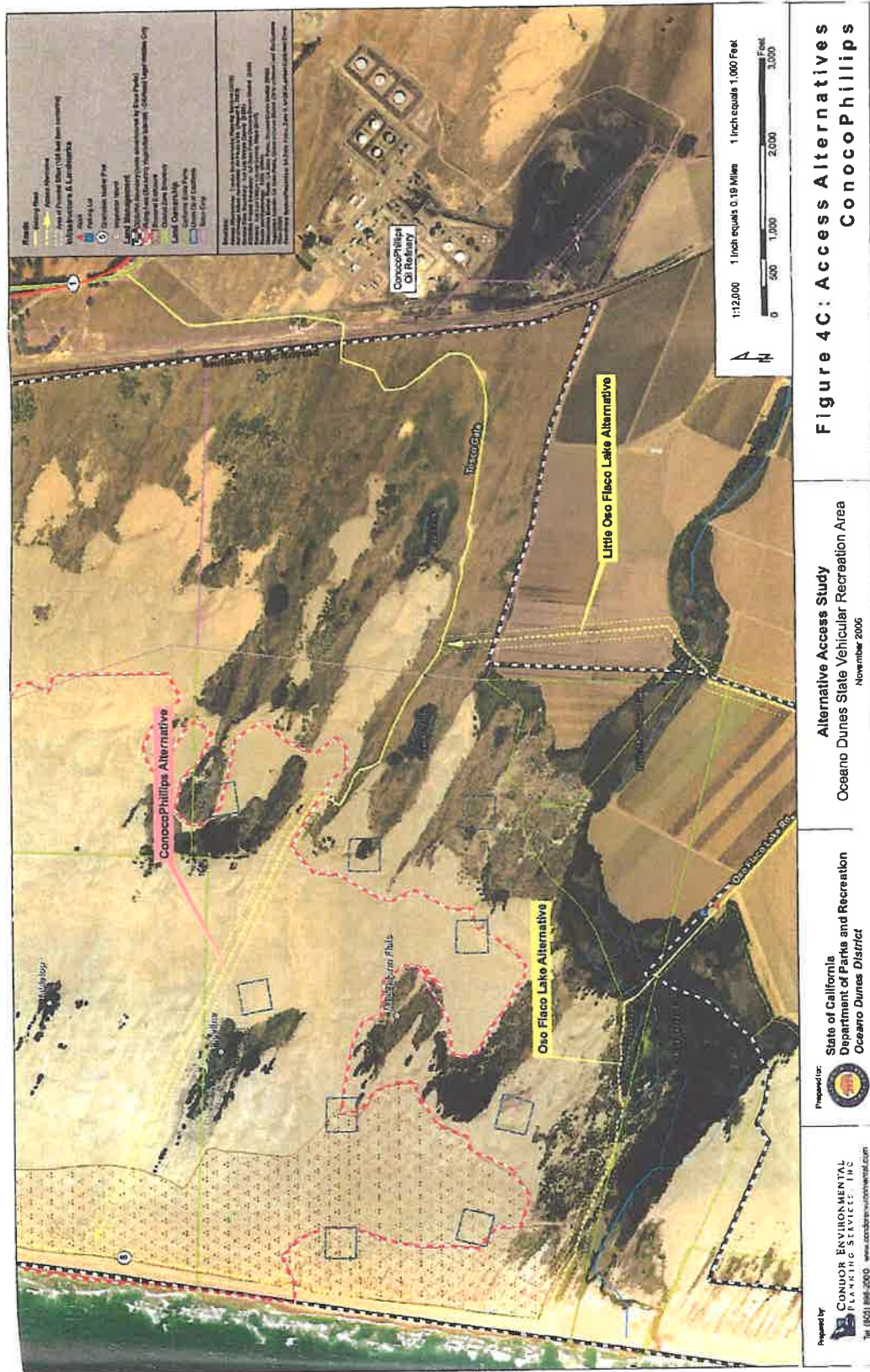
CALIFORNIA  
**COASTAL**  
COMMISSION











**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.

23.04.420

- (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.

#### 23.04.420 - 430

- (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.

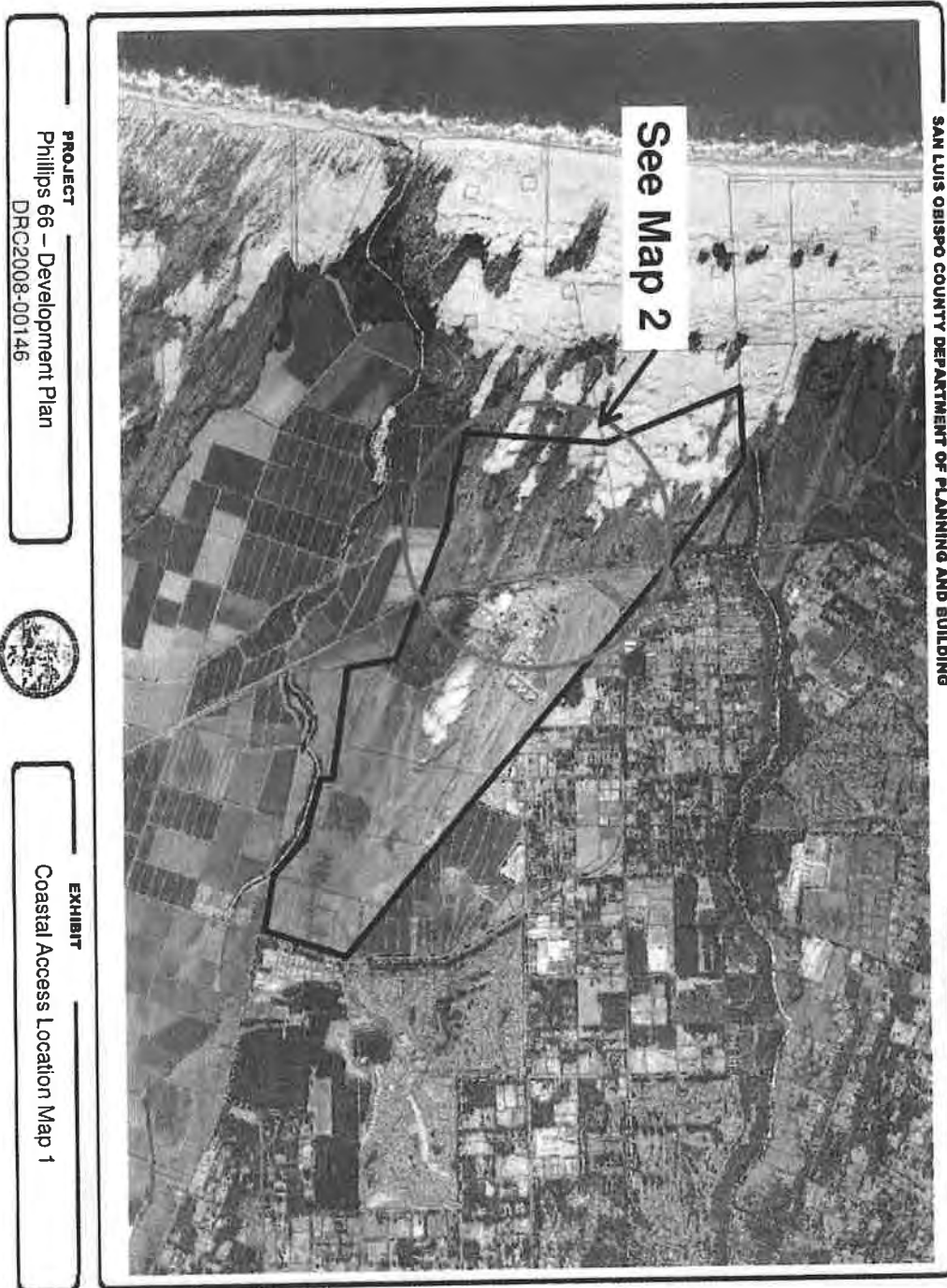
[Amended 1995, Ord. 2715; 2004, Ord. 2999]

#### 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.

ATTACHMENT 5  
**2-44**

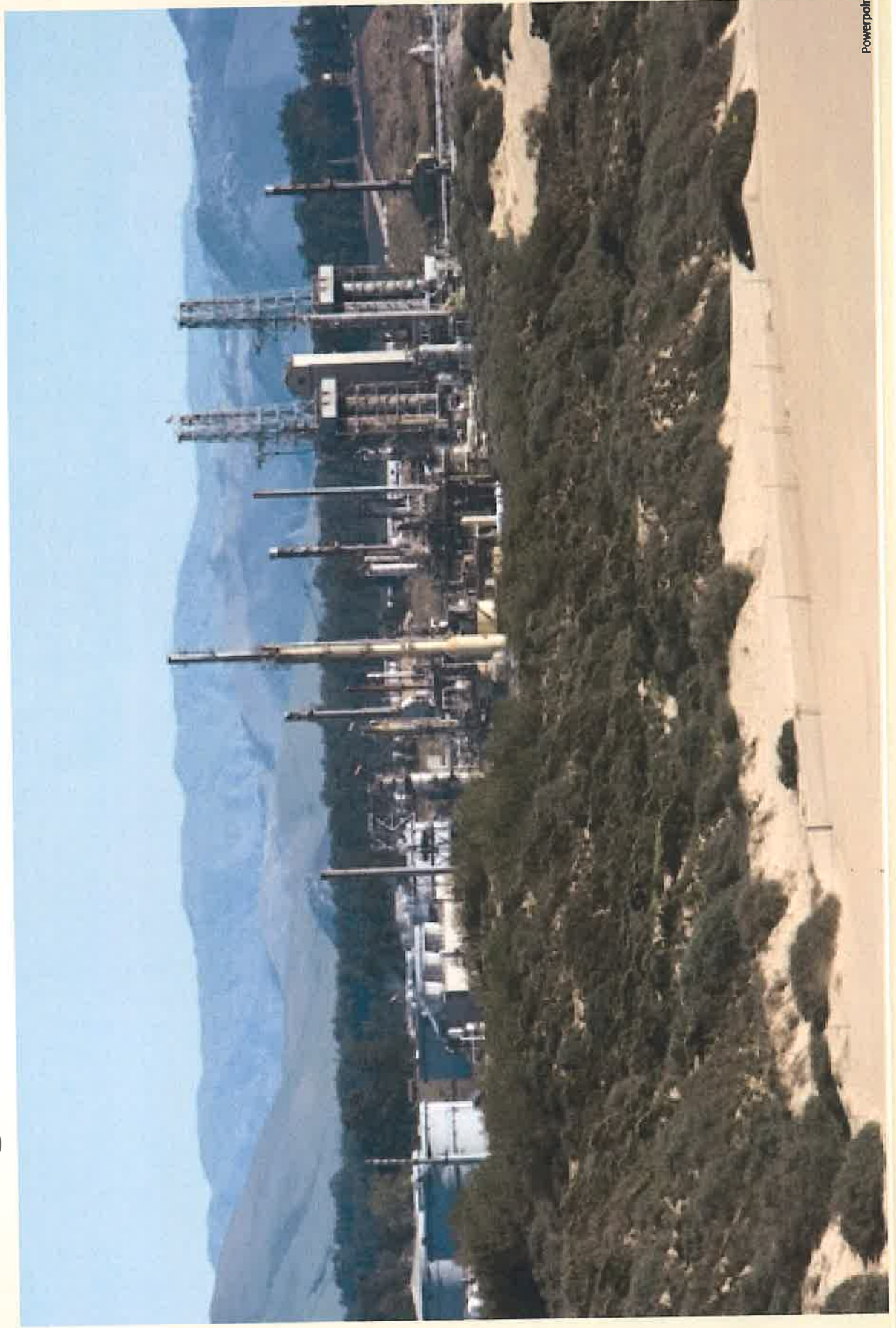


ATTACHMENT 5  
2-45

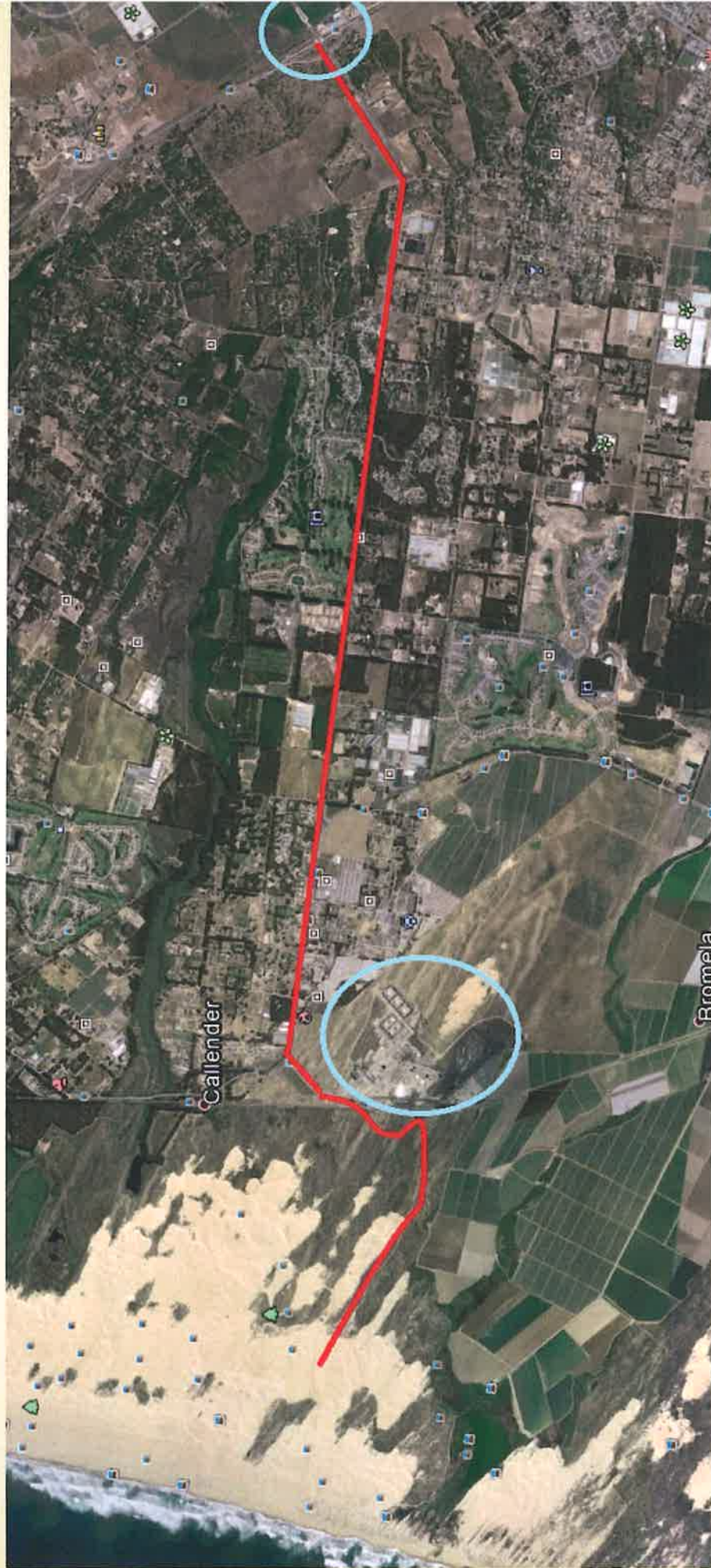




San Luis Obispo County Board of Supervisors  
Tuesday, January 26, 2021  
Agenda Item 31 APPL2020-00011







Willow Road Interchange at US 101 to Phillips 66 Santa  
Maria Refinery (Conoco Phillips)  
at State Highway 1  
is approximate distance of 5 miles



# ODSVRA

## Re-Envisioned

- Close Pier Ave. as access to ODSVRA
- State Parks to construct new southern entrance
- “No Net Loss” in riding area

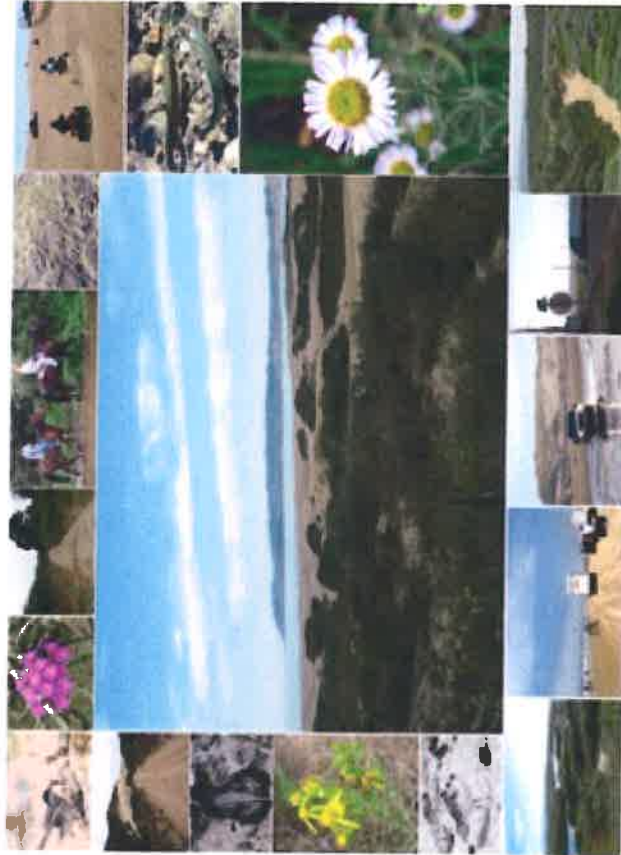




# CONDOR ENVIRONMENTAL PLANNING SERVICES, INC.

3944 STATE STREET, SUITE 310, SANTA BARBARA, CA 93105 USA  
PHONE: (805) 898-2000 • FAX: (805) 898-2211

## Alternative Access Study OCEANO DUNES STATE VEHICULAR RECREATION AREA



**November 15, 2006**

### *Prepared By*

Elihu Gevirtz, Jennifer Jackson, Steve Iunak, Robert Gibson,  
Vince Sorenson, Nadine Martins, Chris Bersbach, and Bernhard Preusser

*With the Assistance Of*  
Penfield and Smith

### *Prepared For*



Oceano Dunes District  
576 Camino Mercedes, Arroyo Grande, CA 94301



**PIER AVE**

**LA GRANDE TRACT**

**SAND HIGHWAY**

**SMR**

**WILLOW RD.**

**ALTERNATIVE ACCESS**

**Grand Avenue Street Access**

**Ocean Street Access**

**Crest Road Access**

**Silver Bear Place Access**

**Little One Place Lake Access**

**One Place Lake Access**

**Legend:**

- Grand Avenue Street Access
- Ocean Street Access
- Crest Road Access
- Silver Bear Place Access
- Little One Place Lake Access
- One Place Lake Access
- Various other land ownership types

**Scale:** 1 inch equals 3,000 feet. 1 inch equals 4.82 miles.

**Figure 3: Land Ownership & Management**

**Alternative Access Study**

**Ozono Dunes State Vehicular Recreation Area**

**November 2005**

**Agenda**

**Table 11**  
**Comparative Ranking of Corridor Sensitivity**  
**From Lowest to Highest Sensitivity**

Alternative Access Corridor	Biology	Archaeology	Visual	Traffic & Air Quality	Noise	Hydrology & Water Quality	Policy Consistency*	Total
Grand Ave	1	1	1	1	1	1	1.35	7.35
Rier Ave	1	1	1	1	1	1	1.35	7.35
ConocoPhillips	5	3	3	2	1	3	2.69	19.69
Little Oso Flaco Lake	5	2	3	4	1	5	3.23	23.23
Creek Road	5	4	4	4	1	5	2.92	25.92
Ocean Street	5	4	4	4	1	5	2.92	25.92
Silver Spur Place	5	4	4	4	1	5	3.10	26.10
Oso Flaco Lake	5	2	5	4	5	5	3.27	29.27

**Note:** 1 represents the lowest sensitivity, and 5 represents the highest sensitivity  
**\*Source:** Appendix 9









1.5 miles x 80 ft. wide=15 acres



# Nexus & Rough Proportionality

- 1) All land use permits require a Coastal Access Analysis per CZLUDO 23.04.420
- 2) The dedication required for the throughput project does not fully satisfy the provisions of the section.
- 3) The Phillips 66 site is 1,780 acres and 15 acres is .008 of total land area and not disproportionate relative to current and future projects.
- 4) Vertical access dedication shall be a minimum width of 10 feet in rural areas per CZLUDO 23.04.420(d)(2)



# Conclusion

## **Proposed Condition to supersede throughput Condition No. 17**

- 1) Expand the existing ten-foot (10') wide vertical access easement to eighty-feet (80') wide from State Hwy 1 / Willow Road to the westerly edge of the Phillips 66 property. This would entail preparing an additional OTD including a metes and bounds legal description.
- 2) Craft a new condition at the Board of Supervisors January 26, 2021 appeal hearing to supplant Condition No. 17 and release obligation on the part of Phillips 66 Company to plan, permit and construct improvements over the easement at any time.
- 3) Reset the 21-year duration of the OTD to the new recording date.
- 4) Phillips 66 would only be required to record an amendment to the OTD to effectuate the above provisions.

**J. H. EDWARDS COMPANY**  
A REAL PROPERTY CONCERN  
*Specializing in Water Neutral Development*

January 20, 2021

San Luis Obispo County Board of Supervisors  
1055 Monterey Street  
San Luis Obispo, CA 93408

Subject: Board of Supervisors Agenda, Item 31. January 26, 2021, APPL2020-00011

Dear Chairperson Compton and Board members,

**Introduction**

Last year Phillips 66 announced the closure in 2023 of the Santa Maria Refinery located at 2555 Willow Dr., south of the village of Callendar-Garrett. The total acreage of the Phillips 66 property is approximately 1,780 acres, 600+ acres of which are currently leased to State Parks and part of the Oceano Dunes State Vehicular Recreation Area (ODSVRA). The application subject of this appeal is the first of what will be numerous applications to permanently close the refinery including demolition and site remediation. Section 23.04.420 et. seq. of the Coastal Zone Land Use Ordinance (CZLUO) requires an analysis relative to the need for vertical public access upon the review of any discretionary approval. In the instant case, County Planning staff has not included an analysis or conditioned the project accordingly.

**Background**

In 2013 Phillips 66 received approval for an increase in throughput by ten percent (10%). This allowed the Santa Maria Refinery to substantially increase its processing of crude oil. Final approval of the project was received from the Board of Supervisors on February 26, 2013. Condition No. 17 (see below) related to the provision of vertical public access to the ocean and was required as a condition of approval. To date Phillips 66 has not fulfilled this condition in that it has not applied for, permitted or constructed the access in question and is running out of time.

**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).

jhedwardscompany@gmail.com  
SPECIAL DEVELOPMENT

Agenda Item No. 31  
Powerpoint by Jeff Edwards - Appellant  
Meeting Date: 01.26.2021  
Posted: 01.22.2021  
Page 12 of 17

**J. H. EDWARDS COMPANY**  
A REAL PROPERTY CONCERN  
*Specializing in Water Neutral Development*

On April 1, 2015 an Offer to Dedicate (OTD) for vertical coastal access for the public was recorded in satisfaction of the above referenced condition. Phillips 66 is required to permit and construct a 10-foot wide public access to the ocean by February 25, 2023. In light of the fact the refinery is closing, it would appear incongruous for Phillips 66 to be required to permit and build the improvements. Moreover, a key element of developing the public access relates to the acceptance of the outstanding OTD. The Offer to Dedicate is an appurtenance and as such will "run with the land" and will remain in effect until March 31, 2036. The logical entity to accept the OTD is the California Department of Parks and Recreation Division of Off-Highway Motor Vehicle Recreation. Additional details of the roughly 1.5 mile long, 10-foot wide OTD and the horizontal alignment in Exhibit C-1 are provided below:

**TOMMY ODG**  
San Luis Obispo County - Clerk/Recorder  
Recorded at the request of  
**PHILLIPS 66 MULTIPAY CREDIT/DEBIT**

DATE: 2015014726

RECORDING REQUESTED BY:  
County of San Luis Obispo  
AND WHEN RECORDED MAIL TO:  
Clerk of the Board of Supervisors  
County of San Luis Obispo  
County Government Center  
San Luis Obispo, California 93408

BOOK: 2015014726

PAGE: 1

PRICE: \$4

FEES:  
Fees: \$70.00  
Taxes: \$0.00  
Other: \$0.00  
PRD: \$170.00

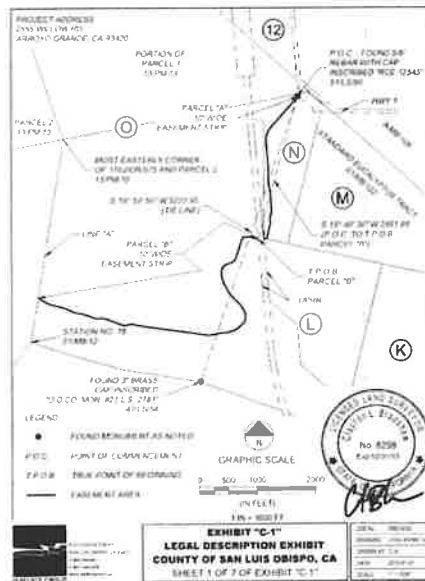
**IRREVOCABLE OFFER TO DEDICATE VERTICAL PUBLIC ACCESS EASEMENT AND DECLARATION OF RESTRICTIONS**

THIS IRREVOCABLE OFFER TO DEDICATE VERTICAL PUBLIC ACCESS EASEMENT AND DECLARATION OF RESTRICTIONS (hereinafter referred to as the "Offer") is made this 1st day of April, 2015, by PHILLIPS 66 COMPANY, a Delaware corporation, (hereinafter referred to as "Grantor")

WITNESSETH

WHEREAS, Grantor is the legal owner of a fee interest of certain real property (hereinafter referred to as the "Property") located in the unincorporated area of the County of San Luis Obispo (hereinafter referred to as the "County") described in Exhibit A attached hereto and incorporated by reference herein as though set forth in full, and

WHEREAS, all of the Property is located within the coastal zone as defined in Public Resources Code section 30103, and



jhedwardscompany@gmail.com  
ACQUISITION MARKETING LAND USE REDEVELOPMENT

Agenda Item No. 31  
Powerpoint by Jeff Edwards - Appellant  
Meeting Date: 01.26.2021  
Posted: 01.22.2021  
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**J. H. EDWARDS COMPANY**  
A REAL PROPERTY CONCERN  
*Specializing in Water Neutral Development*



**Need for Easement**

On December 31, 2020 State Parks released a draft Public Works Plan (PWP) which included numerous projects associated with the ODSVRA and Pismo State Beach. Through a PWP, a long-range land and development plan, State Parks will implement future operations and functions at the ODSVRA and Pismo State Beach that fall under the California Coastal Act.

jhedwardscompany@gmail.com  
ACQUISITION MARKETING LAND USE REDEVELOPMENT

Agenda Item No. 31  
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**J. H. EDWARDS COMPANY**  
A REAL PROPERTY CONCERN  
*Specializing in Water Neutral Development*



ODSVRA Land Ownership & Management / Condor Environmental Alternative Access Study 2006

The community of Oceano has been held captive by the ODSVRA for almost 40 years with Pier Avenue being the primary entrance to the park. While the community experiences many of the impacts from the entrance at this location including noise, traffic, trash, sand tract out, dust, etc., it receives little economic benefit from the entrance being located at Pier Avenue. Moreover, the 1982 Coastal Development Permit for the ODSVRA contemplated Pier Avenue being temporary in nature with prospects for a permanent southern entrance, presumably south of Arroyo Grande Creek. The PWP presents an opportunity to establish a new southern entrance and staging area at Phillips 66. [https://9670f26306f0aa722eb1-bf8a0720b767c6949515361a19a9737f.ssl.cf2.rackcdn.com/uploads/website\\_attachment/attachment/349/3 PWP V1 CH3 The PLAN.pdf](https://9670f26306f0aa722eb1-bf8a0720b767c6949515361a19a9737f.ssl.cf2.rackcdn.com/uploads/website_attachment/attachment/349/3 PWP V1 CH3 The PLAN.pdf)

The primary impediment facing State Parks in establishing a southern entrance is the absence of available land. Given the existing OTD, coupled with a modified condition of approval in this matter could address the land acquisition issue. An

jhedwardscompany@gmail.com

ACQUISITION MARKETING LAND USE REDEVELOPMENT

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**J. H. EDWARDS COMPANY**  
A REAL PROPERTY CONCERN  
*Specializing in Water Neutral Development*

eighty-foot wide OTD is necessary to co-locate a single multi-purpose vertical accessway to minimize ground disturbance. The Phillips 66/Southern Entrance Project is outlined in Section 3.3.14 of the PWP. The conceptual proposal discusses project components, operations and maintenance, trails, railroad trail crossings, camping and other opportunities. While the proposed components may be more long-term in nature, following portions of the site cleanup, the question of an access is very much in the fore. In other words, the entrance to the ODSVRA at Phillips 66 can be achieved in the near-term through adequately sizing the vertical access now and encouraging State Parks to accept the OTD.

### **Nexus and Rough Proportionality**

Concerning the nexus to establish a further condition regarding public access it is important to understand that any land use permit triggers an analysis with respect to CZLUO 23.04.420. In this case, while Phillips 66 would be expanding the land dedication, it would simultaneously be relieved of any current or future obligation relative to the development of the accessway.

The original OTD requirement was part of the throughput project. The condition established the width at the **minimum** distance as provided in the CZLUO. It could be argued, that the OTD width should have been greater at that time given the significance a ten percent (10%) increase in processing capacity represented. Importantly, the Board of Supervisors could take this opportunity to refine the condition of approval in a manner that would resolve any future questions related to public access in connection with the subsequent land use permits associated with the refinery closure and as a result would benefit Phillips 66. The timing of the expanded OTD also coincides with State Parks and Coastal Commission consideration of the PWP going forward. In actuality, the entrance and staging area to the ODSVRA will likely inform the priority of other PWP projects/improvements. There is a clear public purpose and benefit from addressing the access issue as it relates to the ODSVRA at this time.

Lastly, with regard to rough proportionality, at the requested width of eighty-feet for approximately one and one-half miles, the dedication equates to 15 acres and as a percentage of the entire Phillips 66 land holding of 1780 acres, it represents approximately eight tenths of one percent (.008)

### **Proposed Modification of Condition No. 17**

1. Expand the existing ten-foot (10') wide vertical access easement to eighty-feet (80') wide from State Hwy 1 / Willow Road to the westerly edge of the Phillips 66 property. This would entail preparing an additional OTD including a metes and bounds legal description.

J. H. EDWARDS COMPANY  
10000 SLOAN AVENUE, SUITE 100  
DALLAS, TEXAS 75243-1000  
TEL: 214.343.1000 FAX: 214.343.1001  
WWW.JHECO.COM

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**J. H. EDWARDS COMPANY**  
A REAL PROPERTY CONCERN  
*Specializing in Water Neutral Development*

2. Re-craft the condition at the Board of Supervisors January 26, 2021 appeal hearing to eliminate any obligation on the part of Phillips 66 Company to plan, permit and construct improvements over the easement at any time.
3. Reset the 21-year duration of the OTD to the new recording date.
4. Phillips 66 would only be required to record an amendment to the OTD to effectuate the above provisions.

California State Parks would then be in a position to accept the OTD and it would be their responsibility to plan, permit, construct, operate, and maintain the new vertical coastal public access to the ODSVRA. Likewise, State Parks would be responsible for working with Union Pacific Railroad (UPRR) and the California Public Utilities Commission (CA PUC) to design a railroad crossing that conforms to the Manual of Uniform Traffic Controlled Devices. Planning staff has incorrectly stated that neither UPRR or the CA PUC "will allow public crossing over the railroad tracks at this location ...". Any such decision would be subject to a review process advanced by State Parks.

**Request of the Board**

Partially uphold the subject appeal and require modification/amendment to the April 1, 2015 recorded OTD to conform to the proposed four modifications to Condition No. 17 of the throughput project referenced above.

Respectfully,

*Jeff Edwards*  
Jeff Edwards

ACQUISITION MARKETING LAND USE REDEVELOPMENT  
jhedwardscompany@gmail.com

Agenda Item No. 31  
Powerpoint by Jeff Edwards - Appellant  
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**Fw: [EXT]BOS Jan. 26, 2021 item 31**

AD-Board-Clerk <ad\_board\_clerk@co.slo.ca.us>

Mon 1/25/2021 09:17 AM

To: Vicki Janssen <vjanssen@co.slo.ca.us>; Micki Olinger <molingerchavez@co.slo.ca.us>; Caleb Mott <cmott@co.slo.ca.us>; Blake Fixler <bfixler@co.slo.ca.us>; Lynn Compton <lcompton@co.slo.ca.us>; Bruce Gibson <bgibson@co.slo.ca.us>; Dawn Ortiz-Legg <dortizlegg@co.slo.ca.us>; Aidan Beals <abeals@co.slo.ca.us>

Correspondence received.

**Sincerely,**

**Clerk of the Board Team**

Administrative Office, County of San Luis Obispo

1055 Monterey St., Ste. D430 | San Luis Obispo, CA 93408

Tel: (805) 781-1045 | Fax: (805) 781-5023

---

**From:** Annette Ramirez <aramirez@co.slo.ca.us>

**Sent:** Monday, January 25, 2021 08:06 AM

**To:** AD-Board-Clerk <ad\_board\_clerk@co.slo.ca.us>

**Subject:** Fw: [EXT]BOS Jan. 26, 2021 item 31

Correspondence for Item No. 31. Please circulate to the Board.

Thank you, Annette Ramirez

**Annette Ramirez**

**Deputy Clerk of the Board of Supervisors**

Administrative Office, County of San Luis Obispo

1055 Monterey St., Ste. D430 | San Luis Obispo, CA 93408

Tel: (805) 781-5145 | Fax: (805) 781-5023

[Website](#) | [Facebook](#) | [Twitter](#) | [YouTube](#) | [LinkedIn](#)

---

**From:** Julie Tacker <julietacker@charter.net>

**Sent:** Sunday, January 24, 2021 1:52 PM

**To:** Annette Ramirez <aramirez@co.slo.ca.us>

**Subject:** [EXT]BOS Jan. 26, 2021 item 31

**ATTENTION:** This email originated from outside the County's network. Use caution when opening attachments or links.

Good day,

As you may know, there is tremendous support for closing Pier Avenue in Oceano as an access point for vehicles on the beach. While some Oceanians support a full beach/dune closure to vehicles, others just want to protect the community from the negative impacts of having the ODSVRA entrance in this special little town.

On Tuesday, January 26<sup>th</sup>'s SLO County Board of Supervisors have an opportunity, albeit small, to effect change. The appellant's idea may be just a teeny tiny step toward having a southern access.

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Presented By: Julie Tacker  
Received and Posted: January 25, 2021  
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Phillips is asking for the first of many permits to close the refinery and begin a cleanup. This is your opportunity to widen the "paper path" (Offer to Dedicate/OTD) to be able to accommodate a road to the beach that was established in 2015. The 10 ft. wide path running concurrent with the emergency access road Cal Fire and P66 use to the beach was recorded as an OTD.

An OTD is only paper. There will be no improvements for many years, if ever. Not until, or if, State Parks accepts the OTD and proceeds on its own permitting path to develop something (road, boardwalk or trail) along that alignment.

This is just an opportunity. No real commitment. It is just a start that makes some sense and may lead to compromise.

Phillips claims that no railroad crossing can be obtained. Once State Parks accepts the OTD, it is they that will assume the challenge of obtaining a railroad crossing.

Where there's a will there's a way. This modification to the OTD is the will.

Using the metaphor from the Little Engine that Could is the way; "I think they can, I think they can, I think they can."

Please uphold the appeal and modify Condition No. 17 so one day State Parks **CAN** provide a southern access to the ODSVRA.

Thank you for your consideration.

Julie Tacker



**Fw: [EXT]Fwd: Jan 26 Item 31**

AD-Board-Clerk <ad\_board\_clerk@co.slo.ca.us>

Mon 1/25/2021 01:06 PM

To: Vicki Janssen <vjanssen@co.slo.ca.us>; Micki Olinger <molingerchavez@co.slo.ca.us>; Caleb Mott <cmott@co.slo.ca.us>; Blake Fixler <bfixler@co.slo.ca.us>; Lynn Compton <lcompton@co.slo.ca.us>; Bruce Gibson <bgibson@co.slo.ca.us>; Dawn Ortiz-Legg <dortizlegg@co.slo.ca.us>; Aidan Beals <abeals@co.slo.ca.us>

Correspondence received.

Sincerely,

**Clerk of the Board Team**

Administrative Office, County of San Luis Obispo

1055 Monterey St., Ste. D430 | San Luis Obispo, CA 93408

Tel: (805) 781-1045 | Fax: (805) 781-5023

---

**From:** Annette Ramirez <aramirez@co.slo.ca.us>

**Sent:** Monday, January 25, 2021 10:59 AM

**To:** AD-Board-Clerk <ad\_board\_clerk@co.slo.ca.us>

**Subject:** Fw: [EXT]Fwd: Jan 26 Item 31

Correspondence

Thank you, Annette Ramirez

**Annette Ramirez**

**Deputy Clerk of the Board of Supervisors**

Administrative Office, County of San Luis Obispo

1055 Monterey St., Ste. D430 | San Luis Obispo, CA 93408

Tel: (805) 781-5145 | Fax: (805) 781-5023

[Website](#) | [Facebook](#) | [Twitter](#) | [YouTube](#) | [LinkedIn](#)

---

**From:** Charles Varni <charles@varni.org>

**Sent:** Monday, January 25, 2021 10:47 AM

**To:** Annette Ramirez <aramirez@co.slo.ca.us>

**Subject:** [EXT]Fwd: Jan 26 Item 31

**ATTENTION:** This email originated from outside the County's network. Use caution when opening attachments or links.

Ms Ramirez--Plz confirm receipt. I had an old address for BOS but it never got kicked back (boardofsups@.....) Thanks CV

----- Forwarded message -----

From: **Charles Varni** <charles@varni.org>

Date: Thu, Jan 21, 2021 at 1:09 PM

Subject: Jan 26 Item 31

To: slo BOS <[boardofsups@co.slo.ca.us](mailto:boardofsups@co.slo.ca.us)>

Dear Supervisors,

I am a 20+ year resident and homeowner in Oceano and have the dream of a vehicle free ~~grove~~ <sup>grove</sup> beach extending a few miles South of Oceano.

Meeting Date: January 26, 2021  
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IF OHV use continues in the SVRA in the future there is no access to the area except along the local beaches with Grand Ave and Pier Ave entrances. In order to have a vehicle free beach there needs to be a Southern entrance to the dunes and the logical location for that is the Phillips 66 property which already has a County required public easement.

Mr Jeff Edwards has proposed a reasonable and just modification to this easement, essentially making it wider so it could, theoretically, become the long sought Southern entrance to the SVRA. We need to keep all our options open and this is an important one.

I support his proposal 100% and hope you will do so as well.

Charles Varni  
Oceano

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**Fw: [EXT]FW: Conditional Approval of Phillips 66 Minor Use Permit - Agenda item 31 CORRECTION**

Annette Ramirez <aramirez@co.slo.ca.us>

Mon 1/25/2021 10:29 AM

To: AD-Board-Clerk <ad\_board\_clerk@co.slo.ca.us>

2 attachments (232 KB)

SLO County Counsel letter to Katie Metraux 7-18-18.pdf; OHV Economic Impact Report Abstract a (002).docx;

Correspondence for Item No. 31

Thank you, Annette Ramirez

**Annette Ramirez**

**Deputy Clerk of the Board of Supervisors**

Administrative Office, County of San Luis Obispo

1055 Monterey St., Ste. D430 | San Luis Obispo, CA 93408

Tel: (805) 781-5145 | Fax: (805) 781-5023

[Website](#) | [Facebook](#) | [Twitter](#) | [YouTube](#) | [LinkedIn](#)

---

**From:** Nick Alter <nicalter@mindspring.com>

**Sent:** Monday, January 25, 2021 10:27 AM

**To:** Annette Ramirez <aramirez@co.slo.ca.us>

**Subject:** [EXT]FW: Conditional Approval of Phillips 66 Minor Use Permit - Agenda item 31 CORRECTION

**ATTENTION:** This email originated from outside the County's network. Use caution when opening attachments or links.

**From:** Nick Alter <nicalter@mindspring.com>

**Sent:** Monday, January 25, 2021 10:03 AM

**To:** Bruce Gibson <bgibson@co.slo.ca.us>; Dawn Ortiz Legg (dortizlegg@co.slo.ca.us) <dortizlegg@co.slo.ca.us>; Debbie Arnold (darnold@co.slo.ca.us) <darnold@co.slo.ca.us>; John Peschong (jpeschong@co.slo.ca.us) <jpeschong@co.slo.ca.us>; Lynn Compton (lcompton@co.slo.ca.us) <lcompton@co.slo.ca.us>

**Subject:** FW: Conditional Approval of Phillips 66 Minor Use Permit - Agenda item 31 CORRECTION

Please replace earlier version with this corrected one.

**From:** Nick Alter <nicalter@mindspring.com>

**Sent:** Monday, January 25, 2021 9:36 AM

**To:** Bruce Gibson <bgibson@co.slo.ca.us>; Dawn Ortiz Legg <dortizlegg@co.slo.ca.us>; Debbie Arnold <darnold@co.slo.ca.us>; John Peschong <jpeschong@co.slo.ca.us>; Lynn Compton <lcompton@co.slo.ca.us>

**Subject:** Conditional Approval of Phillips 66 Minor Use Permit - Agenda item 31

This is to request your Board's approval of the appeal filed by Jeff Edwards to conditionally approve a Phillips 66 request for a minor use permit at tomorrow's meeting.

However minor the permit's use might be, its conditional approval as stipulated in the appeal has major ramifications for Oceano residents, the local economy, and, in the long term, for the County. Jeff Edward's appeal posits a way to facilitate the opening of a southern entrance to the ODSVRA by having Phillips 66 widen the public right of way through its property as a condition of approving its request for the minor use permit.

A southern entrance would enable the Pier Avenue entrance to be closed while affording continued vehicular access to the SVRA without folks having to drive two miles on Pismo State Beach to get to the SVRA, obstructing safe pedestrian use of Oceano's beachfront in the process.

Oceano needs its beachfront. It's virtually the only decent park the town's residents have. And it is the town's most valuable asset to drive business development and create jobs for locals, as laid out in the attached doc.

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Its beachfront was effectively taken from them when the Coastal Commission authorized the conditional use of Pier Avenue for interim entrance to the SVRA in its 1982 operating permit. Parks has been non-compliant on this for more than 35 years, as stated on page two of attached June 2018 County Counsel letter to State Parks from Tim McNulty on Rita Neal's behalf.

The County has an important opportunity on Tuesday in acting on P66's seemingly insignificant request to do something majorly significant in the overall scheme of Oceano's and South County's socioeconomic welfare.

There will be more news on a related aspect of this in a few days when an economic council I'm in the process of forming with others releases results of an economic impact analysis on the SVRA recently completed by a Cal Poly finance professor we asked to do the analysis. Attached is an abstract to his report, which I'd appreciate your keeping to yourselves until we release the full report in the week ahead.

I ask your Board to back Jeff Edwards' appeal for the conditional approval of the Phillip 66's minor use permit. I also apologize for getting this to you at the eleventh hour, knowing how packed your schedule is on days before Board meetings.

Nick Alter

[REDACTED]

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**ECONOMIC IMPACT OF OFF-HIGHWAY VEHICLE (OHV) ACTIVITY  
AT THE PISMO STATE BEACH AND OCEANO DUNES SVRA**

By Pratish Patel, PhD  
Finance Department  
Cal Polytechnic State University at San Luis Obispo  
Patel29@calpoly.edu

On March 26, 2020, the California Coastal Commission suspended recreational vehicle activity for six months at the Pismo State Beach and the Oceano Dunes State Vehicular Recreation Area (SVRA). In this report, I analyze the suspension's economic impact for on San Luis Obispo County's regional economy.

A prior survey-based analysis, prepared by SMG Consulting and released in 2017 by the California Department of Parks and Recreation, claimed that the economic impact of OHV activity was estimated to be \$243 million.

A survey-based approach indirectly measures the impact and suffers from selection bias. For example, if most responders are vehicle users, then the approach overstates the impact. I use an alternative approach. Using a Difference in Difference (DiD) approach, I claim that the closure had a minimum impact on the Transit Oriented Tax/Transient Occupancy Tax (TOT) and County's unemployed. By using location data, I find that time spent at County's parks follows a similar pattern as nearby counties. Using small business revenue data, I find that the County's revenue decline pattern was similar to other nearby counties.

Overall, contrary to the implications from previous studies, I do not find a significant decline in economic impact from the suspension. Instead, I find increased lodging revenue in Oceano.

# # #

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RITA L. NEAL  
COUNTY COUNSEL

OFFICE OF THE  
**COUNTY COUNSEL**  
COUNTY OF SAN LUIS OBISPO  
COUNTY GOVERNMENT CENTER, ROOM D320  
SAN LUIS OBISPO, CA 93408  
TELEPHONE (805) 781-5400  
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ASSISTANT  
TIMOTHY McNULTY

CHIEF DEPUTY  
NINA NEGRAMI

DEPUTIES  
ANN CATHERINE DUGGAN  
PATRICK J. FORAN  
LESLIE H. KRAUT  
CHERIE J. VALLELUNGA  
SHANNON G. MATUSZEWICZ  
ERICA STUCKEY  
DEBRA K. BARRIGER  
BENJAMIN R. DORE  
ADRIENNE RATNER  
MATTHEW CHRISTEN  
HILLARY A. MATOS  
BRIAN J. STACK

July 18, 2018

BY U.S. MAIL

California Department of Parks and Recreation  
Attn: Katie Metraux, Acting OHMVR Planning Manager  
1725 23rd Street, Suite 200  
Sacramento, CA 95816

Re: Response to Notice of Preparation of an Environmental Impact Report – Pismo State Beach  
and Oceano Dunes State Vehicular Recreation Area Public Works Plan

Dear Ms. Metraux:

Thank you for the opportunity to comment on the Notice of Preparation (NOP) for the  
Environmental Impact Report (EIR) on Pismo Beach and Oceano Dunes Public Works Plan (PWP).

As you know, the County has been involved in the Oceano Dunes State Vehicular  
Recreational Area for decades. Starting in 1944 when we picked up 4,399 parcels in the 584 acre La  
Grande Tract for \$500, to playing a part in the 1982 Coastal Commission permit and being an active  
member of the Technical Review Team since its inception in 2001. In that time, we have attempted  
to work with State Parks to ensure maximum coastal access without negatively impacting the  
residents of Oceano. We recognize that the preparation of the PWP and its accompanying EIR  
represent an opportunity to describe and correct a number of longstanding problems associated  
with the continuing operation of the park.

**Project Description**

The project description in the Notice of Preparation for the PWP refers to several  
components of the project, including but not limited to: the Oso Flaco Campground and Public  
Access Project, the Park Corporation Yard Improvement Project, the Pier and Grand Avenue  
Entrances and Pier Avenue Lifeguard Tower Project, the Butterfly Grove Public Access Project, and  
the Pismo State Beach Boardwalk Project. This list of potential PWP components is long, but the  
County would like to see State Parks further broaden the EIR project description. Both of our  
agencies have acknowledged the need for a new Operating Agreement for those County-owned  
parcels within the La Grande Tract. We have also entertained serious discussions of the terms of a  
possible sale of the La Grande Tract parcels. Either of these activities, if undertaken, would likely  
require CEQA review. Including them in the project description for this EIR will allow the  
identification of impacts, mitigation measures and alternatives.

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Katie Metraux, Acting OHMVR Planning Manager

Re: Response to Notice of Preparation of an Environmental Impact Report – Pismo State Beach  
and Oceano Dunes State Vehicular Recreation Area Public Works Plan  
July 18, 2018

### **1982 Coastal Development Permit Conditions**

In 1982, the Coastal Commission approved Permit 4-82-300. This permit allowed two entrance kiosks – at Pier Avenue and Grand Avenues (another was proposed at Oso Flaco Lake but was not approved) and 35,000 linear feet of fencing. This permit was amended five times (1982, 1983, 1984, 1991, and 2001). The amendment in 2001 created the Technical Review Team to protect environmentally sensitive habitat, find the appropriate carrying capacity of the park, and identify ways to lessen impacts to the residents of Oceano.

Some conditions were changed with the amendments (e.g., increasing the maximum number of camping sites from 500 to 1500 in 1983), but many of the original conditions remain in effect. For example, Condition 1B requires a “permanent staging area” site be selected within 18 months of the County’s LUP certification, and construction begin at that staging area within 3 years remains unchanged. The County’s LUP was certified in 1984, yet no permanent staging area has been identified, and no construction has begun. More importantly, no proposal for a permanent staging area has been submitted to, or approved by, the Coastal Commission.

State Parks has completed at least two access studies, with the most thorough study being completed in 2006 (Condor). In the Condor study, State Parks evaluated eight access alternatives – including the two existing points at Pier and Grand Avenues. State Parks concluded that the two access points (Pier and Grand) were the most feasible and environmentally preferable access locations. It is reasonable and appropriate for State Parks to come such a conclusion regarding a “permanent staging area”, however, what is not reasonable and appropriate is for State Parks to stop there. Applicants (i.e., permittees) are supposed to submit condition compliance information or permit amendments to the permitting agency – in this case, the Coastal Commission – then the permitting agency makes the condition compliance determination. The permittee is never charged with determining permit condition compliance – that is the responsibility of the permit issuing agency. Further, we believe the County has more authority to determine permit compliance with Permit 4-82-300 than State Parks.

The permit amendment in 1983 increased the number of camping “units” from 500 to 1500 at the ODSVRA. Language was added to this condition including the County as part of the condition compliance determination. Specifically, the language stated: “If, after an annual (or any other) review it is found that the ORV use within the SVRA is not occurring in a manner that protects environmentally sensitive habitats and community values consistent with the conditions of this permit and County’s Local Coastal Plan, the OHV access and the number of camp units allowed may be further limited by the Executive Director with concurrence by resolution of the Board of Supervisors of San Luis Obispo County.” This language was added because it was becoming clear to the Coastal Commission that, although they issued the permit (and processed amendments), the local agency was answering complaints and dealing with significant issues related to the ODSVRA. It only made sense that the County should have some say as to whether conditions on the permit were being satisfied or not.

Katie Metraux, Acting OHMVR Planning Manager

Re: Response to Notice of Preparation of an Environmental Impact Report – Pismo State Beach  
and Oceano Dunes State Vehicular Recreation Area Public Works Plan

July 18, 2018

As part of the PWP, or separately as part of a permit amendment, State Parks should submit a condition compliance report to the Coastal Commission and the County of San Luis Obispo for review and approval for all conditions listed in the 1982 coastal development permit (as amended).

#### **Figure 4 of the LCP**

Figure 4 (page 8-11) of the South County – Coastal Area Plan shows the La Grande Tract as a buffer area. "Buffer" in this case meaning an area between the riding area to the west and the native habitat to the east. This means no riding should occur there.

However, Standard #9 on the previous page states: "ORV use of the county held portion (generally lying between the sandy beach and Dune Lakes) shall be limited to the Sand Highway west to the sandy beach" indicating that some OHV riding is allowed. The Sand Highway runs north to south and a quick calculation would suggest that approximately 75% of the La Grande Tract is open for OHV use and 25% of the La Grande Tract is not (according to Standard #9). However, Figure 4 is clear and it shows that all the La Grande Tract is off-limits to OHV riding and is, instead, designated as a buffer area. There is a conflict between Figure 4 and Standard #9.

Figure 4 and Standard #9 need to be updated to be consistent with the Coastal Commission permit. The project description for the PWP EIR needs to be broad enough to address the potential impacts associated with such an amendment to the County Local Coastal Plan. State Parks should submit and receive approval for that Local Coastal Plan amendment prior to approving the PWP.

#### **Impacts to Oceano Residents**

Oceano residents are impacted by the operation of the ODSVRA. The two million annual visitors to the park are impacting the residents of Oceano as they come and go using Pier Avenue (the primary access point to the park). Residents must deal with sand tracked out of the park on vehicle tires and blown off their trailers as they depart Oceano. Residents must also deal with an increased crime rate, additional trash and periods of significant noise. In addition, local first responders and hospitals are impacted as a result of the operation of the ODSVRA.

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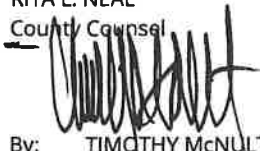
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July 18, 2018

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RITA L. NEAL  
County Counsel

  
By: TIMOTHY McNULTY  
Assistant County Counsel

TM:lr

cc: John Peschong, Chair, San Luis Obispo County Board of Supervisors  
Dan Carl, Deputy Director, California Coastal Commission  
Gary Willey, Executive Director, Air Pollution Control District  
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**FW: [EXT]FW: Conditional Approval of Phillips 66 Minor Use Permit - Agenda item 31  
CORRECTION**

Debbie Arnold <darnold@co.slo.ca.us>

Mon 1/25/2021 10:55 AM

To: AD-Board-Clerk <ad\_board\_clerk@co.slo.ca.us>

2 attachments (232 KB)

SLO County Counsel letter to Katie Metraux 7-18-18.pdf; OHV Economic Impact Report Abstract a (002).docx;

Correspondence for item 31

Sincerely,

**Micki Olinger Chavez**  
**Legislative Assistant**  
**5th District Supervisor Debbie Arnold**

(p) 805-781-4339

(f) 805-781-1350

[molinger@co.slo.ca.us](mailto:molinger@co.slo.ca.us)



**COUNTY OF SAN LUIS OBISPO**  
**BOARD OF SUPERVISORS**

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**Sent:** Monday, January 25, 2021 10:03 AM

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The County has an important opportunity on Tuesday in acting on P66's seemingly insignificant request to do something majorly significant in the overall scheme of Oceano's and South County's socioeconomic welfare.

There will be more news on a related aspect of this in a few days when an economic council I'm in the process of forming with others releases results of an economic impact analysis on the SVRA recently completed by a Cal Poly finance professor we asked to do the analysis. Attached is an abstract to his report, which I'd appreciate your keeping to yourselves until we release the full report in the week ahead.

I ask your Board to back Jeff Edwards' appeal for the conditional approval of the Phillip 66's minor use permit. I also apologize for getting this to you at the eleventh hour, knowing how packed your schedule is on days before Board meetings.

Nick Alter  


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**ECONOMIC IMPACT OF OFF-HIGHWAY VEHICLE (OHV) ACTIVITY  
AT THE PISMO STATE BEACH AND OCEANO DUNES SVRA**

By Pratish Patel, PhD  
Finance Department  
Cal Polytechnic State University at San Luis Obispo  
Patel29@calpoly.edu

On March 26, 2020, the California Coastal Commission suspended recreational vehicle activity for six months at the Pismo State Beach and the Oceano Dunes State Vehicular Recreation Area (SVRA). In this report, I analyze the suspension's economic impact for on San Luis Obispo County's regional economy.

A prior survey-based analysis, prepared by SMG Consulting and released in 2017 by the California Department of Parks and Recreation, claimed that the economic impact of OHV activity was estimated to be \$243 million.

A survey-based approach indirectly measures the impact and suffers from selection bias. For example, if most responders are vehicle users, then the approach overstates the impact. I use an alternative approach. Using a Difference in Difference (DiD) approach, I claim that the closure had a minimum impact on the Transit Oriented Tax/Transient Occupancy Tax (TOT) and County's unemployed. By using location data, I find that time spent at County's parks follows a similar pattern as nearby counties. Using small business revenue data, I find that the County's revenue decline pattern was similar to other nearby counties.

Overall, contrary to the implications from previous studies, I do not find a significant decline in economic impact from the suspension. Instead, I find increased lodging revenue in Oceano.

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RITA L. NEAL  
COUNTY COUNSEL

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TELEPHONE (805) 781-5400  
FAX (805) 781-4221

July 18, 2018

ASSISTANT  
TIMOTHY McNULTY

CHIEF DEPUTY  
NINA NEGRANTI

DEPUTIES  
ANN CATHERINE DUGGAN  
PATRICK J. FORAN  
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BENJAMIN R. DORE  
ADRIENNE RATNER  
MATTHEW CHRISTEN  
HILLARY A. MATOS  
BRIAN J. STACK

BY U.S. MAIL

California Department of Parks and Recreation  
Attn: Katie Metraux, Acting OHMVR Planning Manager  
1725 23rd Street, Suite 200  
Sacramento, CA 95816

Re: Response to Notice of Preparation of an Environmental Impact Report – Pismo State Beach  
and Oceano Dunes State Vehicular Recreation Area Public Works Plan

Dear Ms. Metraux:

Thank you for the opportunity to comment on the Notice of Preparation (NOP) for the  
Environmental Impact Report (EIR) on Pismo Beach and Oceano Dunes Public Works Plan (PWP).

As you know, the County has been involved in the Oceano Dunes State Vehicular  
Recreational Area for decades. Starting in 1944 when we picked up 4,399 parcels in the 584 acre La  
Grande Tract for \$500, to playing a part in the 1982 Coastal Commission permit and being an active  
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to work with State Parks to ensure maximum coastal access without negatively impacting the  
residents of Oceano. We recognize that the preparation of the PWP and its accompanying EIR  
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with the continuing operation of the park.

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The project description in the Notice of Preparation for the PWP refers to several  
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Katie Metraux, Acting OHMVR Planning Manager

Re: Response to Notice of Preparation of an Environmental Impact Report – Pismo State Beach  
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July 18, 2018

### **1982 Coastal Development Permit Conditions**

In 1982, the Coastal Commission approved Permit 4-82-300. This permit allowed two entrance kiosks – at Pier Avenue and Grand Avenues (another was proposed at Oso Flaco Lake but was not approved) and 35,000 linear feet of fencing. This permit was amended five times (1982, 1983, 1984, 1991, and 2001). The amendment in 2001 created the Technical Review Team to protect environmentally sensitive habitat, find the appropriate carrying capacity of the park, and identify ways to lessen impacts to the residents of Oceano.

Some conditions were changed with the amendments (e.g., increasing the maximum number of camping sites from 500 to 1500 in 1983), but many of the original conditions remain in effect. For example, Condition 1B requires a “permanent staging area” site be selected within 18 months of the County’s LUP certification, and construction begin at that staging area within 3 years remains unchanged. The County’s LUP was certified in 1984, yet no permanent staging area has been identified, and no construction has begun. More importantly, no proposal for a permanent staging area has been submitted to, or approved by, the Coastal Commission.

State Parks has completed at least two access studies, with the most thorough study being completed in 2006 (Condor). In the Condor study, State Parks evaluated eight access alternatives – including the two existing points at Pier and Grand Avenues. State Parks concluded that the two access points (Pier and Grand) were the most feasible and environmentally preferable access locations. It is reasonable and appropriate for State Parks to come such a conclusion regarding a “permanent staging area”, however, what is not reasonable and appropriate is for State Parks to stop there. Applicants (i.e., permittees) are supposed to submit condition compliance information or permit amendments to the permitting agency – in this case, the Coastal Commission – then the permitting agency makes the condition compliance determination. The permittee is never charged with determining permit condition compliance – that is the responsibility of the permit issuing agency. Further, we believe the County has more authority to determine permit compliance with Permit 4-82-300 than State Parks.

The permit amendment in 1983 increased the number of camping “units” from 500 to 1500 at the ODSVRA. Language was added to this condition including the County as part of the condition compliance determination. Specifically, the language stated: “If, after an annual (or any other) review it is found that the ORV use within the SVRA is not occurring in a manner that protects environmentally sensitive habitats and community values consistent with the conditions of this permit and County’s Local Coastal Plan, the OHV access and the number of camp units allowed may be further limited by the Executive Director with concurrence by resolution of the Board of Supervisors of San Luis Obispo County.” This language was added because it was becoming clear to the Coastal Commission that, although they issued the permit (and processed amendments), the local agency was answering complaints and dealing with significant issues related to the ODSVRA. It only made sense that the County should have some say as to whether conditions on the permit were being satisfied or not.

Katie Metraux, Acting OHMVR Planning Manager

Re: Response to Notice of Preparation of an Environmental Impact Report – Pismo State Beach  
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July 18, 2018

As part of the PWP, or separately as part of a permit amendment, State Parks should submit a condition compliance report to the Coastal Commission and the County of San Luis Obispo for review and approval for all conditions listed in the 1982 coastal development permit (as amended).

#### **Figure 4 of the LCP**

Figure 4 (page 8-11) of the South County – Coastal Area Plan shows the La Grande Tract as a buffer area. "Buffer" in this case meaning an area between the riding area to the west and the native habitat to the east. This means no riding should occur there.

However, Standard #9 on the previous page states: "ORV use of the county held portion (generally lying between the sandy beach and Dune Lakes) shall be limited to the Sand Highway west to the sandy beach" indicating that some OHV riding is allowed. The Sand Highway runs north to south and a quick calculation would suggest that approximately 75% of the La Grande Tract is open for OHV use and 25% of the La Grande Tract is not (according to Standard #9). However, Figure 4 is clear and it shows that all the La Grande Tract is off-limits to OHV riding and is, instead, designated as a buffer area. There is a conflict between Figure 4 and Standard #9.

Figure 4 and Standard #9 need to be updated to be consistent with the Coastal Commission permit. The project description for the PWP EIR needs to be broad enough to address the potential impacts associated with such an amendment to the County Local Coastal Plan. State Parks should submit and receive approval for that Local Coastal Plan amendment prior to approving the PWP.

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Oceano residents are impacted by the operation of the ODSVRA. The two million annual visitors to the park are impacting the residents of Oceano as they come and go using Pier Avenue (the primary access point to the park). Residents must deal with sand tracked out of the park on vehicle tires and blown off their trailers as they depart Oceano. Residents must also deal with an increased crime rate, additional trash and periods of significant noise. In addition, local first responders and hospitals are impacted as a result of the operation of the ODSVRA.

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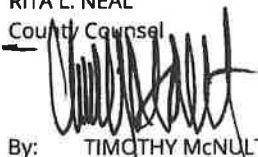
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TM:lr

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Lynn Compton <lcompton@co.slo.ca.us>

Mon 1/25/2021 02:19 PM

To: AD-Board-Clerk <ad\_board\_clerk@co.slo.ca.us>

2 attachments (232 KB)

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Comment on item 31.

- Caleb Mott

**Legislative Assistant District 4**

**San Luis Obispo County Supervisor Lynn Compton**

**(805) 781-4337**

**(800) 834-4636 ext 4337**

[District4@co.slo.ca.us](mailto:District4@co.slo.ca.us)

**1055 Monterey St D430**

**San Luis Obispo CA 93408**

[Visit our Website](#)

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By Pratish Patel, PhD  
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COUNTY COUNSEL

OFFICE OF THE  
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COUNTY OF SAN LUIS OBISPO  
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State Parks has completed at least two access studies, with the most thorough study being completed in 2006 (Condor). In the Condor study, State Parks evaluated eight access alternatives – including the two existing points at Pier and Grand Avenues. State Parks concluded that the two access points (Pier and Grand) were the most feasible and environmentally preferable access locations. It is reasonable and appropriate for State Parks to come such a conclusion regarding a “permanent staging area”, however, what is not reasonable and appropriate is for State Parks to stop there. Applicants (i.e., permittees) are supposed to submit condition compliance information or permit amendments to the permitting agency – in this case, the Coastal Commission – then the permitting agency makes the condition compliance determination. The permittee is never charged with determining permit condition compliance – that is the responsibility of the permit issuing agency. Further, we believe the County has more authority to determine permit compliance with Permit 4-82-300 than State Parks.

The permit amendment in 1983 increased the number of camping “units” from 500 to 1500 at the ODSVRA. Language was added to this condition including the County as part of the condition compliance determination. Specifically, the language stated: “If, after an annual (or any other) review it is found that the ORV use within the SVRA is not occurring in a manner that protects environmentally sensitive habitats and community values consistent with the conditions of this permit and County’s Local Coastal Plan, the OHV access and the number of camp units allowed may be further limited by the Executive Director with concurrence by resolution of the Board of Supervisors of San Luis Obispo County.” This language was added because it was becoming clear to the Coastal Commission that, although they issued the permit (and processed amendments), the local agency was answering complaints and dealing with significant issues related to the ODSVRA. It only made sense that the County should have some say as to whether conditions on the permit were being satisfied or not.

Katie Metraux, Acting OHMVR Planning Manager

Re: Response to Notice of Preparation of an Environmental Impact Report – Pismo State Beach  
and Oceano Dunes State Vehicular Recreation Area Public Works Plan  
July 18, 2018

As part of the PWP, or separately as part of a permit amendment, State Parks should submit a condition compliance report to the Coastal Commission and the County of San Luis Obispo for review and approval for all conditions listed in the 1982 coastal development permit (as amended).

#### **Figure 4 of the LCP**

Figure 4 (page 8-11) of the South County – Coastal Area Plan shows the La Grande Tract as a buffer area. "Buffer" in this case meaning an area between the riding area to the west and the native habitat to the east. This means no riding should occur there.

However, Standard #9 on the previous page states: "ORV use of the county held portion (generally lying between the sandy beach and Dune Lakes) shall be limited to the Sand Highway west to the sandy beach" indicating that some OHV riding is allowed. The Sand Highway runs north to south and a quick calculation would suggest that approximately 75% of the La Grande Tract is open for OHV use and 25% of the La Grande Tract is not (according to Standard #9). However, Figure 4 is clear and it shows that all the La Grande Tract is off-limits to OHV riding and is, instead, designated as a buffer area. There is a conflict between Figure 4 and Standard #9.

Figure 4 and Standard #9 need to be updated to be consistent with the Coastal Commission permit. The project description for the PWP EIR needs to be broad enough to address the potential impacts associated with such an amendment to the County Local Coastal Plan. State Parks should submit and receive approval for that Local Coastal Plan amendment prior to approving the PWP.

#### **Impacts to Oceano Residents**

Oceano residents are impacted by the operation of the ODSVRA. The two million annual visitors to the park are impacting the residents of Oceano as they come and go using Pier Avenue (the primary access point to the park). Residents must deal with sand tracked out of the park on vehicle tires and blown off their trailers as they depart Oceano. Residents must also deal with an increased crime rate, additional trash and periods of significant noise. In addition, local first responders and hospitals are impacted as a result of the operation of the ODSVRA.

The EIR for the PWP should thoroughly describe these offsite impacts and any potential changes that would result from implementation of the PWP. As part of the findings and/or conditions on the PWP, the State should mitigate the known and existing impacts to the residents of Oceano and surrounding areas by compensating the agencies that are responsible for dealing with these impacts (e.g., the County, APCD, Oceano Community Services District, the City of Grover Beach, etc.). The amounts paid to each agency should be negotiated between the State and each agency and these amounts should be codified prior to the approval of the PWP.

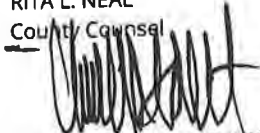
Katie Metraux, Acting OHMVR Planning Manager

Re: Response to Notice of Preparation of an Environmental Impact Report – Pismo State Beach  
and Oceano Dunes State Vehicular Recreation Area Public Works Plan  
July 18, 2018

We appreciate the opportunity to comment on the preparation of an EIR for the proposed Public Works Plan. We hope State Parks agrees with us that the preparation of the PWP and its EIR will allow the investigation and resolution of many issues that have long concerned the County and its residents and visitors. Let us know if you have any questions.

Respectfully submitted,

RITA L. NEAL  
County Counsel



By: TIMOTHY MCNULTY  
Assistant County Counsel

TM:lr

cc: John Peschong, Chair, San Luis Obispo County Board of Supervisors  
Dan Carl, Deputy Director, California Coastal Commission  
Gary Willey, Executive Director, Air Pollution Control District  
Marvin Rose, San Luis Obispo County Interim Planning Director  
Matt Janssen, Division Manager, Planning and Building

20182257  
4662lrtr.docx



**Item # 31 FWD : Jan 26**

Board of Supervisors <Boardofsups@co.slo.ca.us>

Mon 1/25/2021 05:12 PM

To: BOS\_Legislative Assistants Only <BOS\_Legislative-Assistants-Only@co.slo.ca.us>

Cc: AD-Board-Clerk <ad\_board\_clerk@co.slo.ca.us>

For your review. This is a District 4 constituent. This has been sent to the Clerk. Thank you.

*Sincerely,*



**Maria Brown**

**Administrative Assistant III-Confidential**

Administrative Office, County of San Luis Obispo

1055 Monterey St., Ste. D430 | San Luis Obispo, CA 93408

Tel: (805) 781-5011 | Fax: (805) 781-5023

[Website](#) | [Facebook](#) | [Twitter](#) | [YouTube](#) | [LinkedIn](#)

**From:** Charles Varni <charles@varni.org>

**Sent:** Sunday, January 24, 2021 10:21 AM

**To:** Board of Supervisors <Boardofsups@co.slo.ca.us>; Lynn Compton <lcompton@co.slo.ca.us>

**Subject:** [EXT]Fwd: Jan 26 Item 31

**ATTENTION:** This email originated from outside the County's network. Use caution when opening attachments or links.

----- Forwarded message -----

From: **Charles Varni** <[charles@varni.org](mailto:charles@varni.org)>

Date: Thu, Jan 21, 2021 at 1:09 PM

Subject: Jan 26 Item 31

To: slo BOS <[boardofsups@co.slo.ca.us](mailto:boardofsups@co.slo.ca.us)>

Dear Supervisors,

I am a 20+ year resident and homeowner in Oceano and have the dream of a vehicle free Grover and Oceano beach extending a few miles South of Oceano.

IF OHV use continues in the SVRA in the future there is no access to the area except along the local beaches with Grand Ave and Pier Ave entrances. In order to have a vehicle free beach there needs to be a Southern entrance to the dunes and the logical location for that is the Phillips 66 property which already has a County required public easement.

Mr Jeff Edwards has proposed a reasonable and just modification to this easement, essentially making it wider so it could, theoretically, become the long sought Southern entrance to the SVRA. We need to keep all our options open and this is an important one.

I support his proposal 100% and hope you will do so as well.

Charles Varni  
Oceano

Agenda Item No. 31  
Meeting Date: January 26, 2021  
Presented By: Board of Supervisors Office  
Received and Posted: January 25, 2021  
Page 24 of 24

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT ST., SUITE 300  
SANTA CRUZ, CA 95060-4508  
(831) 427-4863  
CENTRALCOAST@COASTAL.CA.GOV

**APPEAL FORM****Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: Central Coast

Appeal Number: \_\_\_\_\_

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

Appellant Name(s): \_\_\_\_\_

**APPELLANTS**

**IMPORTANT.** Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review [the appeal information sheet](#). The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>).

**Note regarding emailed appeals.** Please note that emailed appeals are accepted **ONLY** at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the Central Coast district office, the email address is [CentralCoast@coastal.ca.gov](mailto:CentralCoast@coastal.ca.gov). An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>.

## Appeal of local CDP decision

### Page 2

#### 1. Appellant information<sup>1</sup>

Name: Jeff Edwards  
Mailing address: PO Box 6070, Los Osos, CA 93412  
Phone number: 805-235-0873  
Email address: jhedwardscompany@gmail.com

How did you participate in the local CDP application and decision-making process?

☐ Did not participate    ☒ Submitted comment    ☒ Testified at hearing    ☐ Other

Describe: Please see attached correspondence dated Jan. 20, 2020

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: N/A

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: Participated in the administrative hearing process on August 7, 2020  
and appealed the Hearing Officer's decision to approve  
the project to the County Board of Supervisors (BOS). The  
BOS heard the appeal on January 26, 2021 and upheld the approval.

<sup>1</sup> If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

## Appeal of local CDP decision

### Page 3

#### 2. Local CDP decision being appealed<sup>2</sup>

Local government name: San Luis Obispo County  
Local government approval body: Board of Supervisors  
Local government CDP application number: DRC2019-00231  
Local government CDP decision: ☒ CDP approval ☐ CDP denial<sup>3</sup>  
Date of local government CDP decision: January 26, 2021

Please identify the location and description of the development that was approved or denied by the local government.

Describe: 2555 Willow Road, Arroyo Grande, California 93420  
San Luis Obispo County, APN 092-401-011  
A request by Phillips 66 for a MUP/CDP to allow for the remediation  
of the norther inactive waste site (NIWS) comprised of approx.  
14,520-cubic-yards of hydrocarbon and asbestos impacted soil  
and domestic waste. The excavated material and impacted  
soil would be loaded onto rail cars at the Santa Maria Refienry  
and transported by rail to a waste receiving facility in Utah.  
The project would result in 1.38-acres of disturbance on an approx.  
560 acre site. The site is located within the Industrial Land Use Category  
and lies within the South County Coastal Planning Area.

<sup>2</sup> Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

<sup>3</sup> Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the appeal information sheet for more information.

## Page 4

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., the applicant, other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

#### 4. Grounds for this appeal<sup>4</sup>

Describe: Please see the attached letter dated February 19, 2021.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Exhibit 4  
A-3-SLO-21-0017 (Phillips 66 Remediation Project)  
4 of 11

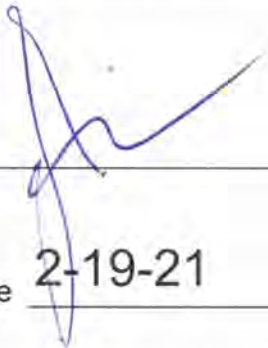
**Appeal of local CDP decision**  
**Page 5**

**5. Appellant certifications**

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Jeff Edwards

Signature



Date of Signature 2-19-21

**5. Representative authorizations**

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

<sup>5</sup> If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

<sup>6</sup> If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.



**J. H. EDWARDS COMPANY**  
A REAL PROPERTY CONCERN  
*Specializing in Water Neutral Development*

January 20, 2021

San Luis Obispo County Board of Supervisors  
1055 Monterey Street  
San Luis Obispo, CA 93408

Subject: Board of Supervisors Agenda, Item 31. January 26, 2021, APPL2020-00011

Dear Chairperson Compton and Board members,

**Introduction**

Last year Phillips 66 announced the closure in 2023 of the Santa Maria Refinery located at 2555 Willow Dr., south of the village of Callendar-Garrett. The total acreage of the Phillips 66 property is approximately 1,780 acres, 600+ acres of which are currently leased to State Parks and part of the Oceano Dunes State Vehicular Recreation Area (ODSVRA). The application subject of this appeal is the first of what will be numerous applications to permanently close the refinery including demolition and site remediation. Section 23.04.420 et. seq. of the Coastal Zone Land Use Ordinance (CZLUO) requires an analysis relative to the need for vertical public access upon the review of any discretionary approval. In the instant case, County Planning staff has not included an analysis or conditioned the project accordingly.

**Background**

In 2013 Phillips 66 received approval for an increase in throughput by ten percent (10%). This allowed the Santa Maria Refinery to substantially increase its processing of crude oil. Final approval of the project was received from the Board of Supervisors on February 26, 2013. Condition No. 17 (see below) related to the provision of vertical public access to the ocean and was required as a condition of approval. To date Phillips 66 has not fulfilled this condition in that it has not applied for, permitted or constructed the access in question and is running out of time.

***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).



**J. H. EDWARDS COMPANY**  
A REAL PROPERTY CONCERN  
*Specializing in Water Neutral Development*

On April 1, 2015 an Offer to Dedicate (OTD) for vertical coastal access for the public was recorded in satisfaction of the above referenced condition. Phillips 66 is required to permit and construct a 10-foot wide public access to the ocean by February 25, 2023. In light of the fact the refinery is closing, it would appear incongruous for Phillips 66 to be required to permit and build the improvements. Moreover, a key element of developing the public access relates to the acceptance of the outstanding OTD. The Offer to Dedicate is an appurtenance and as such will "run with the land" and will remain in effect until March 31, 2036. The logical entity to accept the OTD is the California Department of Parks and Recreation Division of Off-Highway Motor Vehicle Recreation. Additional details of the roughly 1.5 mile long, 10-foot wide OTD and the horizontal alignment in Exhibit C-1 are provided below:

<b>TOMMY GONG</b> San Luis Obispo County - Clerk/Recorder Recorded at the request of <b>FIS MULTIPAY CREDIT/DEBIT</b> DOC# 2015014726		SC 5/8/2015 11:35 AM
RECORDING REQUESTED BY:	Title: 1	Pages: 54
County of San Luis Obispo	Fees	170.00
AND WHEN RECORDED MAIL TO:	Taxes	0.00
Clerk of the Board of Supervisors	Others	0.00
County of San Luis Obispo	PAID	170.00
County Government Center		
San Luis Obispo, California 93408		

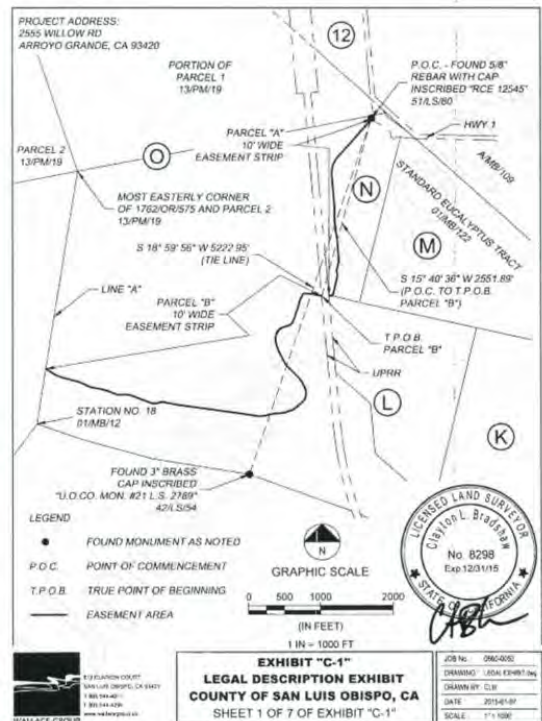
**IRREVOCABLE OFFER TO DEDICATE VERTICAL PUBLIC  
ACCESS EASEMENT AND DECLARATION OF RESTRICTIONS**

THIS IRREVOCABLE OFFER TO DEDICATE VERTICAL PUBLIC ACCESS  
EASEMENT AND DECLARATION OF RESTRICTIONS (hereinafter referred to as the  
"Offer") is made this 1<sup>st</sup> day of April, 2015, by PHILLIPS 66  
COMPANY, a Delaware corporation, (hereinafter referred to as "Grantor").

WITNESSETH:

WHEREAS, Grantor is the legal owner of a fee interest of certain real property  
(hereinafter referred to as the "Property") located in the unincorporated area of the  
County of San Luis Obispo (hereinafter referred to as the "County") described in Exhibit  
A attached hereto and incorporated by reference herein as though set forth in full; and

WHEREAS, all of the Property is located within the coastal zone as defined in  
Public Resources Code section 30103; and





## **Need for Easement**

On December 31, 2020 State Parks released a draft Public Works Plan (PWP) which included numerous projects associated with the ODSVRA and Pismo State Beach. Through a PWP, a long-range land and development plan, State Parks will implement future operations and functions at the ODSVRA and Pismo State Beach that fall under the California Coastal Act.

**J. H. EDWARDS COMPANY**  
A REAL PROPERTY CONCERN  
*Specializing in Water Neutral Development*



**ODSVRA Land Ownership & Management / Condor Environmental Alternative Access Study 2006**

The community of Oceano has been held captive by the ODSVRA for almost 40 years with Pier Avenue being the primary entrance to the park. While the community experiences many of the impacts from the entrance at this location including noise, traffic, trash, sand tract out, dust, etc., it receives little economic benefit from the entrance being located at Pier Avenue. Moreover, the 1982 Coastal Development Permit for the ODSVRA contemplated Pier Avenue being temporary in nature with prospects for a permanent southern entrance, presumably south of Arroyo Grande Creek. The PWP presents an opportunity to establish a new southern entrance and staging area at Phillips 66. [https://9670f26306f0aa722eb1-bf8a0720b767c6949515361a19a9737f.ssl.cf2.rackcdn.com/uploads/website\\_attachment/attachment/349/3\\_PWP\\_V1\\_CH3\\_The\\_Plan.pdf](https://9670f26306f0aa722eb1-bf8a0720b767c6949515361a19a9737f.ssl.cf2.rackcdn.com/uploads/website_attachment/attachment/349/3_PWP_V1_CH3_The_Plan.pdf)

The primary impediment facing State Parks in establishing a southern entrance is the absence of available land. Given the existing OTD, coupled with a modified condition of approval in this matter could address the land acquisition issue. An

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



eighty-foot wide OTD is necessary to co-locate a single multi-purpose vertical accessway to minimize ground disturbance. The Phillips 66/Southern Entrance Project is outlined in Section 3.3.14 of the PWP. The conceptual proposal discusses project components, operations and maintenance, trails, railroad trail crossings, camping and other opportunities. While the proposed components may be more long-term in nature, following portions of the site cleanup, the question of an access is very much in the fore. In other words, the entrance to the ODSVRA at Phillips 66 can be achieved in the near-term through adequately sizing the vertical access now and encouraging State Parks to accept the OTD.

### **Nexus and Rough Proportionality**

Concerning the nexus to establish a further condition regarding public access it is important to understand that any land use permit triggers an analysis with respect to CZLUO 23.04.420. In this case, while Phillips 66 would be expanding the land dedication, it would simultaneously be relieved of any current or future obligation relative to the development of the accessway.

The original OTD requirement was part of the throughput project. The condition established the width at the **minimum** distance as provided in the CZLUO. It could be argued, that the OTD width should have been greater at that time given the significance a ten percent (10%) increase in processing capacity represented. Importantly, the Board of Supervisors could take this opportunity to refine the condition of approval in a manner that would resolve any future questions related to public access in connection with the subsequent land use permits associated with the refinery closure and as a result would benefit Phillips 66. The timing of the expanded OTD also coincides with State Parks and Coastal Commission consideration of the PWP going forward. In actuality, the entrance and staging area to the ODSVRA will likely inform the priority of other PWP projects/improvements. There is a clear public purpose and benefit from addressing the access issue as it relates to the ODSVRA at this time.

Lastly, with regard to rough proportionality, at the requested width of eighty-feet for approximately one and one-half miles, the dedication equates to 15 acres and as a percentage of the entire Phillips 66 land holding of 1780 acres, it represents approximately eight tenths of one percent (.008)

### **Proposed Modification of Condition No. 17**

1. Expand the existing ten-foot (10') wide vertical access easement to eighty-feet (80') wide from State Hwy 1 / Willow Road to the westerly edge of the Phillips 66 property. This would entail preparing an additional OTD including a metes and bounds legal description.

**J. H. EDWARDS COMPANY**  
A REAL PROPERTY CONCERN  
*Specializing in Water Neutral Development*

2. Re-craft the condition at the Board of Supervisors January 26, 2021 appeal hearing to eliminate any obligation on the part of Phillips 66 Company to plan, permit and construct improvements over the easement at any time.
3. Reset the 21-year duration of the OTD to the new recording date.
4. Phillips 66 would only be required to record an amendment to the OTD to effectuate the above provisions.

California State Parks would then be in a position to accept the OTD and it would be their responsibility to plan, permit, construct, operate, and maintain the new vertical coastal public access to the ODSVRA. Likewise, State Parks would be responsible for working with Union Pacific Railroad (UPRR) and the California Public Utilities Commission (CA PUC) to design a railroad crossing that conforms to the Manual of Uniform Traffic Controlled Devices. Planning staff has incorrectly stated that neither UPRR or the CA PUC “will allow public crossing over the railroad tracks at this location ...”. Any such decision would be subject to a review process advanced by State Parks.

**Request of the Board**

Partially uphold the subject appeal and require modification/amendment to the April 1, 2015 recorded OTD to conform to the proposed four modifications to Condition No. 17 of the throughput project referenced above.

Respectfully,

*Jeff Edwards*  
Jeff Edwards

- (i) The proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this section will be observed.
  - (ii) The proposed use will not enlarge or encourage the development of a “skid row” area.
  - (iii) The establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor with it interfere with any program of urban renewal.
- f. Severability.** If any subsection, sentence, clause, phrase, or portion of this section is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity or the constitutionality of the remaining portions of this section. The Board of Supervisors hereby declare that it would have passed this section and each subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

### **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.

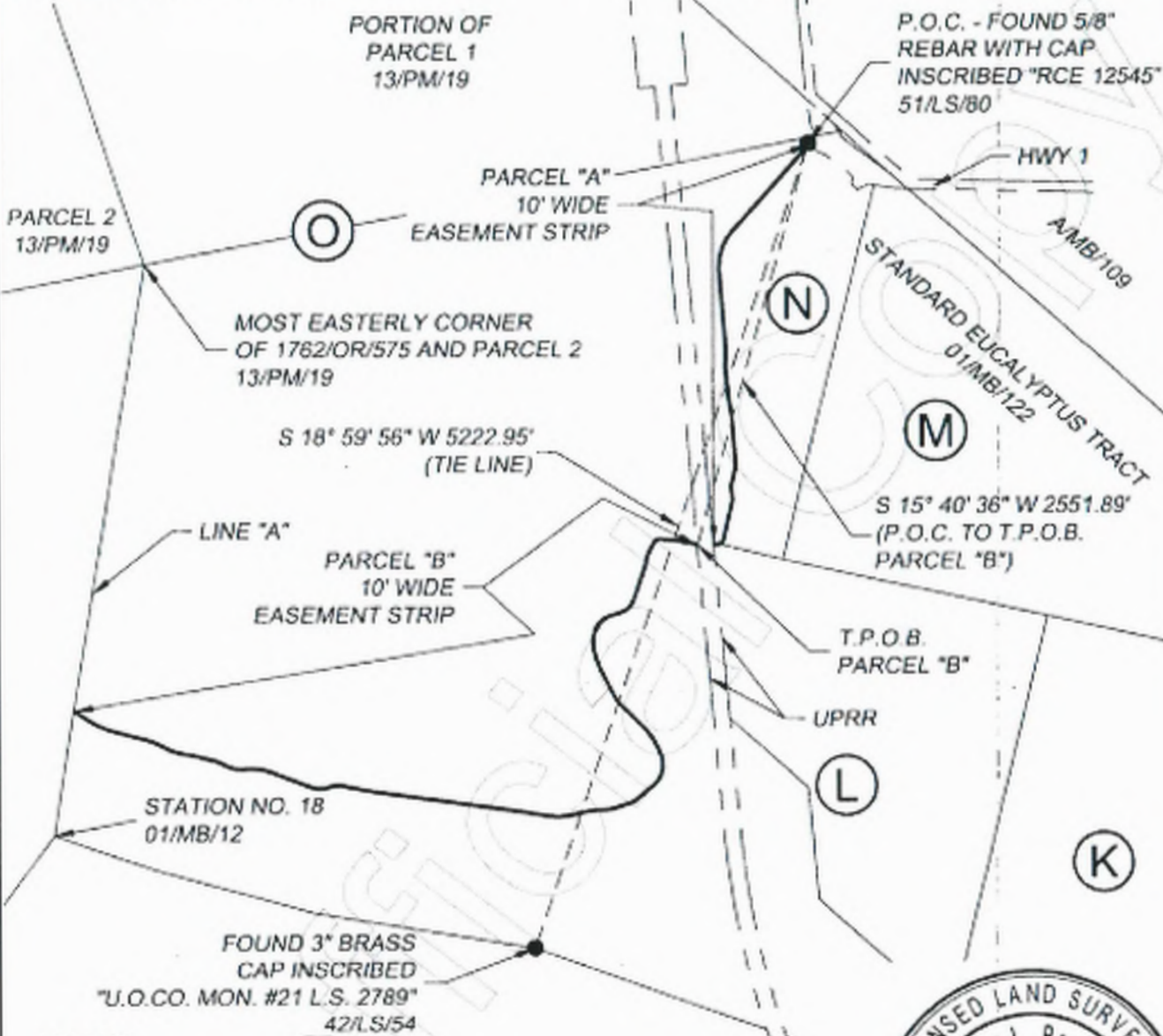
[Amended 1995, Ord. 2715; 2004, Ord. 2999]

### **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:

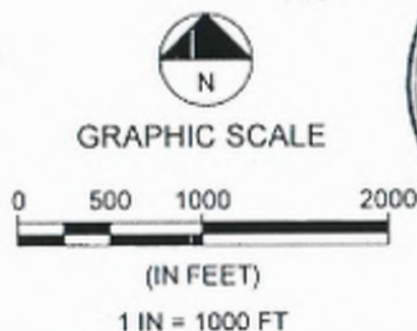
- a. A land use permit for development to be located between an urban services line and urban reserve line shall not be approved unless the approval body first finds that the capacities of available water supply and sewage disposal services are sufficient to accommodate both existing development, and 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

PROJECT ADDRESS:  
2555 WILLOW RD  
ARROYO GRANDE, CA 93420



LEGEND

- FOUND MONUMENT AS NOTED
- P.O.C. POINT OF COMMENCEMENT
- T.P.O.B. TRUE POINT OF BEGINNING
- EASEMENT AREA



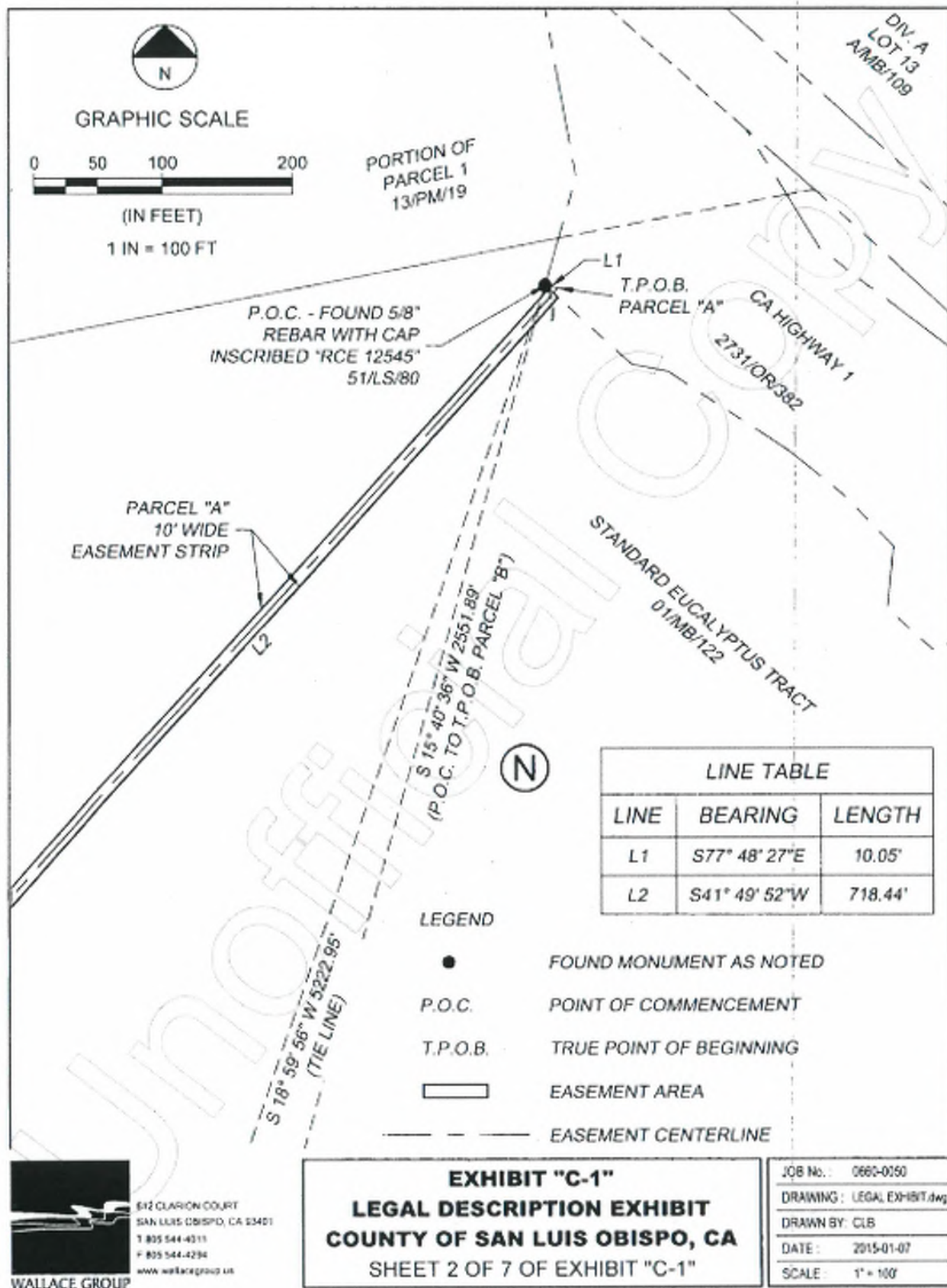
512 CLAYTON COURT  
SAN LUIS OBISPO, CA 93401  
T 805 544-4011  
F 805 544-4294  
www.wallacegroup.us

**EXHIBIT "C-1"**  
**LEGAL DESCRIPTION EXHIBIT**  
**COUNTY OF SAN LUIS OBISPO, CA**  
**SHEET 1 OF 7 OF EXHIBIT "C-1"**

JOB No.: 0660-0050  
DRAWING: LEGAL EXHIBIT.dwg  
DRAWN BY: CLB  
DATE: 2015-01-07  
SCALE: 1" = 1000'

LAYOUT NAME: T OVERVIEW LEGAL EXHIBIT







GRAPHIC SCALE



(IN FEET)

1 IN = 200 FT

LINE TABLE

LINE	BEARING	LENGTH
L3	S4° 38' 26"E	488.03'
L4	S2° 46' 42"W	100.84'
L5	S4° 34' 06"E	67.13'
L6	S6° 50' 24"E	149.27'
L7	S8° 51' 34"E	100.27'
L8	S4° 38' 26"E	269.00'
L9	S13° 40' 09"W	95.97'
L10	S6° 00' 02"E	79.67'

CURVE TABLE

CURVE	RADIUS	DELTA	ARC LENGTH
C1	319.00'	46° 28' 17"	258.73'
C2	190.00'	18° 18' 35"	60.72'
C3	20.00'	19° 24' 40"	6.78'

LEGEND



EASEMENT AREA



EASEMENT CENTERLINE



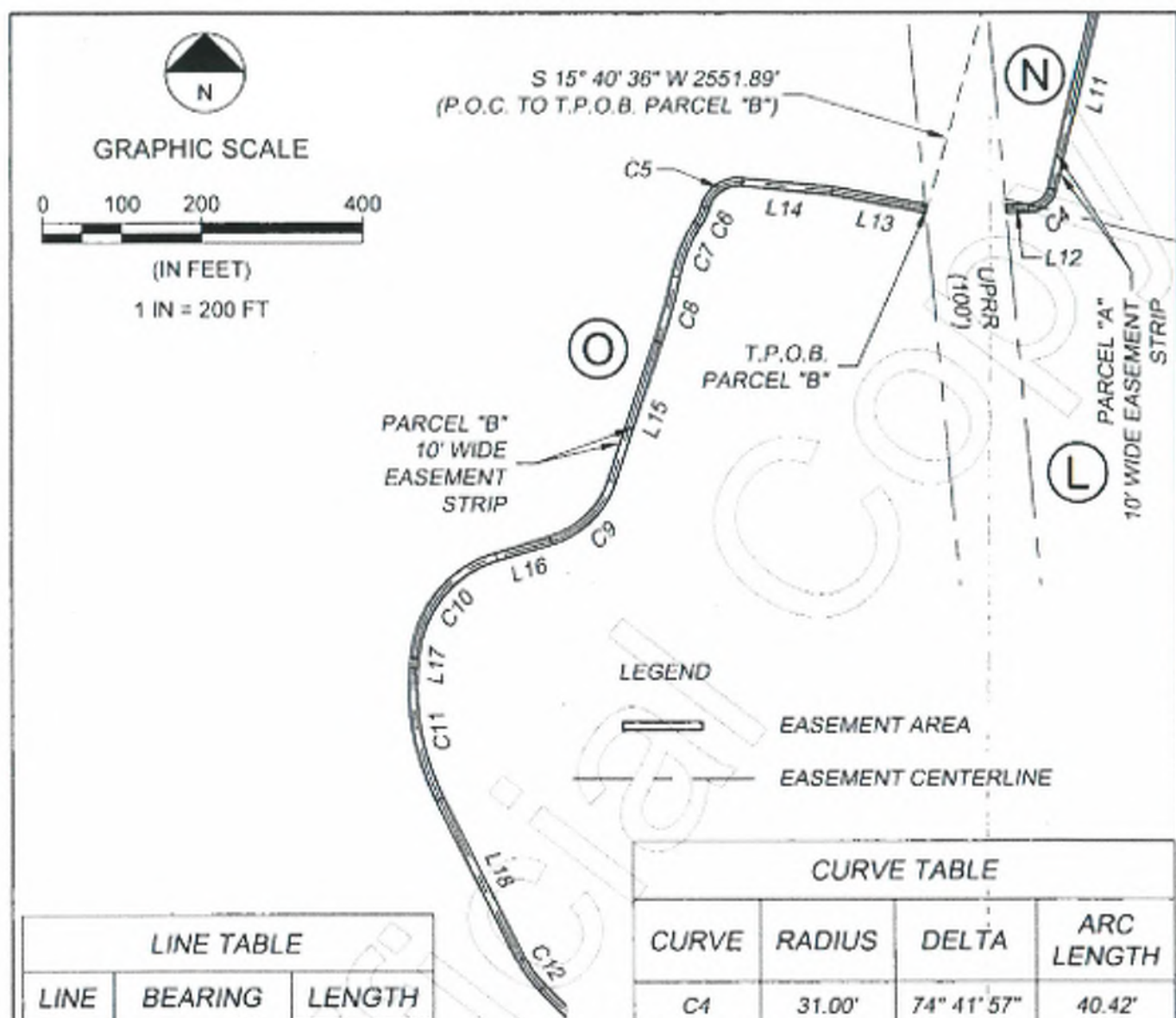
612 CLARION COURT  
SAN LUIS OBISPO, CA 93401  
T 805 566-4211  
F 805 566-4254  
www.wallacegroup.us

**EXHIBIT "C-1"**  
**LEGAL DESCRIPTION EXHIBIT**  
**COUNTY OF SAN LUIS OBISPO, CA**  
**SHEET 3 OF 7 OF EXHIBIT "C-1"**

JOB No.: 0860-0050  
DRAWING: LEGAL EXHIBIT.dwg  
DRAWN BY: CLB  
DATE: 2015-01-07  
SCALE: 1" = 200'

LAYOUT NAME: 3 LEGAL EXHIBIT





LINE TABLE		
LINE	BEARING	LENGTH
L11	S13° 24' 38\"W	254.91'
L12	S88° 06' 35\"W	28.57'
L13	N79° 19' 22\"W	120.06'
L14	N84° 22' 22\"W	112.46'
L15	S18° 36' 06\"W	185.01'
L16	S73° 24' 03\"W	71.78'
L17	S4° 28' 49\"W	13.48'
L18	S26° 37' 07\"E	226.39'

CURVE TABLE			
CURVE	RADIUS	DELTA	ARC LENGTH
C4	31.00'	74° 41' 57\"	40.42'
C5	44.00'	78° 56' 21\"	60.62'
C6	76.00'	17° 09' 17\"	22.75'
C7	189.00'	21° 38' 38\"	71.40'
C8	761.00'	6° 24' 09\"	85.04'
C9	116.00'	54° 47' 57\"	110.95'
C10	144.00'	68° 55' 14\"	173.22'
C11	314.00'	31° 05' 56\"	170.43'
C12	139.00'	18° 24' 35\"	44.66'



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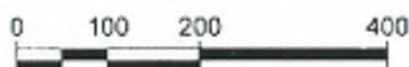
**EXHIBIT "C-1"**  
**LEGAL DESCRIPTION EXHIBIT**  
**COUNTY OF SAN LUIS OBISPO, CA**  
**SHEET 4 OF 7 OF EXHIBIT "C-1"**

JOB No.: 0680-0050  
DRAWING: LEGAL EXHIBIT.dwg  
DRAWN BY: CLB  
DATE: 2015-01-07  
SCALE: 1" = 200'

LAYOUT NAME: 4 LEGAL EXHIBIT



## GRAPHIC SCALE



(IN FEET)

1 IN = 200 FT

PARCEL "B"  
10' WIDE  
EASEMENT  
STRIP

LINE TABLE		
LINE	BEARING	LENGTH
L19	S45° 01' 42"E	188.60'
L20	S50° 00' 16"W	133.65'
L21	S71° 13' 37"W	107.84'
L22	S88° 31' 24"W	33.08'
L23	S76° 16' 41"W	68.32'
L24	N82° 06' 54"W	937.95'

FOUND 3" BRASS  
CAP INSCRIBED  
"U.O.CO. MON. #21 L.S. 2789"  
42/L.S/54

## LEGEND



FOUND MONUMENT AS NOTED

EASEMENT AREA

EASEMENT CENTERLINE

CURVE TABLE			
CURVE	RADIUS	DELTA	ARC LENGTH
C13	506.00'	25° 19' 00"	223.58'
C14	171.00'	69° 42' 57"	208.07'
C15	101.00'	21° 13' 20"	37.41'
C16	156.00'	17° 17' 47"	47.09'
C17	569.00'	12° 14' 43"	121.61'
C18	341.00'	25° 18' 05"	150.58'
C19	2189.00'	3° 41' 40"	141.15'

## EXHIBIT "C-1"

LEGAL DESCRIPTION EXHIBIT  
COUNTY OF SAN LUIS OBISPO, CA  
SHEET 5 OF 7 OF EXHIBIT "C-1"

JOB No.: 0860-0050

DRAWING: LEGAL EXHIBIT.dwg

DRAWN BY: CLB

DATE: 2015-01-07

SCALE: 1" = 200'

LAYOUT NAME: 5 LEGAL EXHIBIT

612 CLARION COURT  
SAN LUIS OBISPO, CA 93401  
T 805 544-4011  
F 805 544-4234  
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Exhibit 6

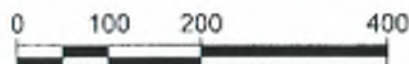
A-3-SLO-21-0017 (Phillips 66 Remediation Project)

5 of 7





GRAPHIC SCALE



(IN FEET)

1 IN = 200 FT

CURVE TABLE

CURVE	RADIUS	DELTA	ARC LENGTH
C20	167.00'	32° 20' 29"	94.27'
C21	141.00'	42° 31' 11"	104.64'
C22	347.00'	28° 05' 49"	170.16'
C23	183.88'	35° 24' 27"	113.63'
C24	417.00'	11° 23' 01"	82.85'

LINE TABLE

LINE	BEARING	LENGTH
L24	N82° 06' 54"W	937.95'
L25	N78° 55' 14"W	172.48'
L26	N68° 44' 32"W	258.89'

PARCEL "B"  
10' WIDE  
EASEMENT  
STRIP

LEGEND



EASEMENT AREA



EASEMENT CENTERLINE



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**EXHIBIT "C-1"**  
**LEGAL DESCRIPTION EXHIBIT**  
**COUNTY OF SAN LUIS OBISPO, CA**  
**SHEET 6 OF 7 OF EXHIBIT "C-1"**

JOB No.: 0680-0050  
DRAWING: LEGAL EXHIBIT.dwg  
DRAWN BY: CLB  
DATE: 2015-01-07  
SCALE: 1" = 200'

LAYOUT NAME: 6 LEGAL EXHIBIT



GRAPHIC SCALE



(IN FEET)

1 IN = 200 FT

LINE TABLE

LINE	BEARING	LENGTH
L27	N75° 00' 53"W	188.34'
L28	N56° 14' 02"W	101.13'

STATION NO. 18  
01/MB/12

PARCEL 2  
13/PM/19

PARCEL 1  
13/PM/19

MOST EASTERLY CORNER  
OF 1762/OR/575 AND PARCEL 2  
13/PM/19

LINE "A"

PARCEL "B"  
10' WIDE  
EASEMENT  
STRIP

CURVE TABLE

CURVE	RADIUS	DELTA	ARC LENGTH
C25	1177.93'	9° 40' 33"	198.92'
C26	253.00'	23° 03' 55"	101.85'
C27	515.93'	15° 35' 22"	140.38'
C28	573.00'	18° 46' 52"	187.82'

LEGEND



EASEMENT AREA



EASEMENT CENTERLINE

EXHIBIT "C-1"

LEGAL DESCRIPTION EXHIBIT  
COUNTY OF SAN LUIS OBISPO, CA  
SHEET 7 OF 7 OF EXHIBIT "C-1"

JOB No.: 0860-0050

DRAWING: LEGAL EXHIBIT.dwg

DRAWN BY: CLB

DATE: 2015-01-07

SCALE: 1" = 200'

LAYOUT NAME: 7 LEGAL EXHIBIT



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