COASTAL APPEALABLE FORM

SLO CNTY PLANNING/BUILDING DEPT

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING
976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

2016 OCT 19 PM 2:30

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 66 Development Plan/Coastal Development File Number: DRC2012-00095

Type of permit being appealed:

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

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: October 5, 2016

The decision is appealed to:

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

BASIS FOR APPEAL The appeal is based on Coastal Act grounds and non-Coastal Act Grounds. Please see attachment for explanation of the basis for the 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: _____

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: Phillips 66 Company

Address: 2555 Willow Road, Arroyo Grande, CA 93420 Phone Number (daytime): 805-343-1776

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.

James O. Anderson
Signature

October 19, 2016
Date

OFFICE USE ONLY
Date Received: 10/19/16 By: Chris MACEK, Secretary

Amount Paid: ∅ Receipt No. (if applicable): _____

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.)

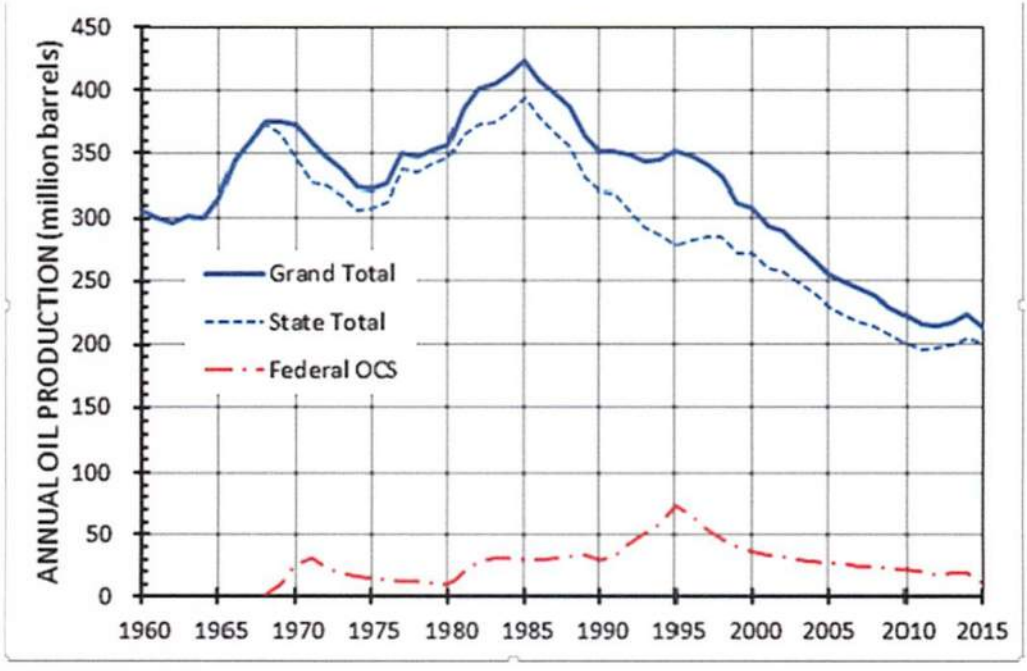
The Santa Maria Refinery's location restricts its ability to receive a steady supply of crude oil to refine. Phillips 66 does not produce any of the local crude oil and must purchase all of the crude oil for the Refinery from unrelated third party crude producers. (Final EIR, p. 2-37.) Recently, the 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

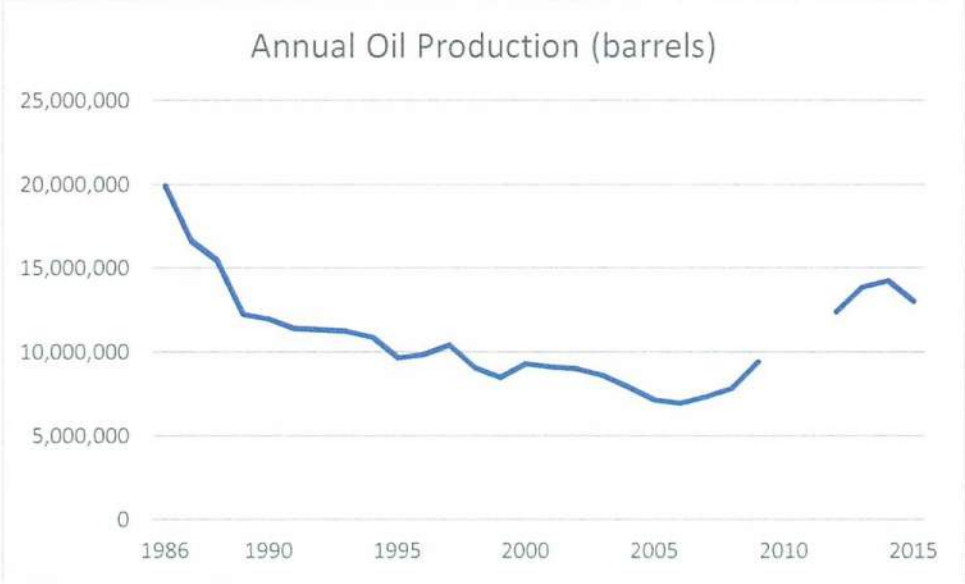
Graph created October 14, 2016, at https://www.eia.gov/dnav/pet/pet_pri_spt_s1_d.htm

Figure 2 – California Oil Production 1960 to 2015



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 ftp://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. District 3 includes San Luis Obispo, Santa Barbara, Monterrey, 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 Louis 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).[1]

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.)

[1] 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.[2]

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 5th. (See Exhibit F hereto.)[3]

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

[2] Public Resources Code §21081(b); 14 Cal. Code Reg. §15093(a).

[3] The attached version does not necessarily capture all changes discussed by the Planning Commissioners at the October 5th 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 of 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 CO2e 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, if 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 A

PHILLIPS 66
Santa Maria Refinery
2555 Willow Road
Arroyo Grande, CA 93420
805-343-1776

February 4, 2016

Via Hand Delivery

Members of the Planning Commission
San Luis Obispo County
Department of Planning and Building
976 Osos Street, Room 200
San Luis Obispo, CA 93408-2040

Attention: Ramona Hedges, Planning Commission Secretary

Re: Phillips 66 Rail Spur Extension Project

Dear Commissioners:

On behalf of Phillips 66 Company ("Phillips 66"), I would like to thank the Planning Commissioners and the County staff again for the great effort that the County has undertaken to review Phillips 66's Rail Spur Extension Project and produce the Final Environmental Impact Report (FEIR) (December 2015) and staff report (January 2016). After reviewing the FEIR and staff report, Phillips 66 hereby commits to the Reduced Train Deliveries Alternative as analyzed in the FEIR. Under that Alternative, the Santa Maria Refinery would receive only a maximum of three unit trains per week, with up to 150 trains per year, instead of the five trains per week (250 trains per year) that would have been included in the project as originally proposed. Accordingly, Phillips 66 respectfully requests that the Planning Commission review the Reduced Train Deliveries Alternative as the proposed project that Phillips 66 would implement as its Rail Spur Extension Project.

Sincerely,

WD Schroll

Bill Schroll
Phillips 66 Company
Site Manager, Santa Maria Refinery

WDS:sm
L-16-001

cc: Commissioner Jim Irving
Commissioner Don Campbell
Commissioner Ken Topping
Commissioner Eric Meyer
Commissioner Jim Harrison

Exhibit B

PHILLIPS 66
Santa Maria Refinery
2555 Willow Road
Arroyo Grande, CA 93420
805-343-1776

April 14, 2016

Members of the Planning Commission
San Luis Obispo County
Department of Planning and Building
976 Osos Street, Room 200
San Luis Obispo, CA 93408-2040

Attention: Ramona Hedges, Planning Commission Secretary

Re: Phillips 66 Rail Spur Extension Project

Dear Commissioners:

I have recently replaced Bill Schroll as the acting Site Manager for Phillips 66's Santa Maria Refinery. As you prepare for the next session of hearings on the Rail Spur Extension Project, scheduled for April 15, 2016, I would like to update you on our company's transition to rail crude oil tank cars meeting the new, more rigorous standards adopted in May 2015. Transition of our owned and leased rail tank car fleet to upgraded cars is proceeding apace. At the same time, it has taken longer than we expected to complete the permitting process for the Project, and we estimate that Project construction will take 9-10 months after the Project receives full approval. Due to the confluence of these two things, we expect that by the time we complete construction, our upgraded tank car fleet will be large enough that only the upgraded tank cars will be used in unit trains delivering crude to the refinery. Therefore, we are willing to commit to the following mitigation measure, in lieu of Mitigation Measure HM-2a in the Final EIR:

> Crude oil unit trains shall not be allowed to unload crude oil at the Santa Maria Refinery unless all the tank cars in the train are designed or retrofit to meet or exceed the DOT 117, 117P or 117R standards set forth in 49 CFR § 179.202 (as published May 8, 2015 at 80 Fed. Reg. 26644); except that ECP brakes shall not be required prior to the compliance date for such equipment as enforced by the Federal Railroad Administration and the federal Pipeline and Hazardous Materials Safety Administration.

Compliance with the referenced federal standards means that all the tank cars in unit trains delivering crude oil to the refinery will have the latest ceramic thermal protection and steel jackets for additional protection from puncture or rupture, and will have full head shields and reinforced protective housing for valves and fittings.

At this time, we cannot commit to accelerated compliance with the ECP braking requirements because there is continuing uncertainty regarding these requirements. In December 2015, Congress enacted the Fixing America's Surface Transportation ("FAST") Act, which requires the Comptroller General of the United States to conduct an independent evaluation of ECP brake systems, including examination of pilot program data and the research and analysis conducted by the Department of Transportation regarding costs, benefits and effects of ECP brake systems. The FAST Act also directs the Comptroller General to commission the National Academy of Sciences to test ECP brake systems during emergency braking applications, including scenarios involving unit trains with DOT 117 or 117R tank cars. Per the current regulations, the ECP braking standards are scheduled to go into effect in 2021 or 2023, depending upon the train configuration and the cargo; however these standards may be affected by the independent evaluation and testing mandated by The FAST Act. Rest assured that we will comply with the braking requirements in the regulations at or before the deadline enforced by the federal agencies.

Thank you for the time you and your staff have taken in considering our project.

Sincerely,

J.O. Anderson

for Darin Grandfield
Phillips 66 Company
Site Manager, Santa Maria Refinery

DG:sm
M-16-004
EEF100

Exhibit C

EXHIBIT B-1: Conditions of Approval (DRC2012-00095)

The following conditions are listed by category or issue area. Section 8.0 of the Final EIR (FEIR) includes the Mitigation Monitoring and Reporting Plan, which identifies when monitoring is required for environmental conditions, as well as which public agencies will be involved. The term 'Applicant' is currently referring to Phillips 66 Company. However, 'Applicant' shall also refer to any successor in interest for the life of the project.

The final section of this Exhibit B2 lists Conditions of Approval that have been pulled from Section 8.0 of the FEIR due to the possible preemption by Federal law which could prevent these mitigation measures from being implemented (outside of the SMR facility boundary) and are not considered a part of the final conditions of approval.

Approved Development

1. This approval authorizes modification of the existing rail spur currently on the southwest side of the Santa Maria Refinery in order to allow for the import/unloading of crude oil at the refinery via train and related elements as follows:

   a. Rail Spur Facility – The Facility would include extension of an existing rail spur which is currently used for shipment of coke (an oil refinement by-product) from the southwest side of the refinery extending east to add an unloading facility for crude oil trains, onsite pipelines, and replacement coke rail loading tracks.

   b. Operations – Once constructed, the Project ~~would~~ will involve unloading of up to three unit trains per week (or a combined total of three unit and manifest trains), with an annual maximum number of trains of 150. Trains will ~~ould~~ arrive from different North American oilfields and/or crude oil loading points depending on market availability. In a unit train configuration, each train ~~would~~ will consist of up to three locomotives, two buffer cars, and up to 80 railcars carrying approximately 27,300 gallons each, for a total of approximately 2,190,000 gallons (52,000 barrels) of crude oil. The Project shall~~would~~ not affect the ~~amount of material processed at the refinery~~permitted capacity of the refinery. Trains could arrive at the Project site from the north or the south. The refinery feedstock ~~definition ((~~meaning the materials that could be transported by train into the proposed facility) shall excludes gaseous feeds, natural gas liquids (NGL), liquefied petroleum gas (LPG), finished refined products, and Bakken crude. The feedstock would be sourced from oilfields throughout North America based on market economics and other factors. Crude oil would be shipped to the refinery in DOT approved tank cars as listed in condition of approval number 73.

   c. Rail Facility - The rail facility ~~would~~ will be designed around "train slots" (a track that can contain an entire unit train). An eighty rail car unit train would typically be unloaded within 10 to 12 hours, including time for positioning and preparing the train for departure. ~~The proposed two slot facility would allow adequate capacity unloading.~~ Modification of the existing rail spur ~~would~~ will include constructing five parallel tracks. In addition, two new coke rail loading tracks ~~would~~ will be installed north of the new crude oil unloading tracks to allow for easier and shorter access to the coke storage area. Additionally, the two existing coke rail storage tracks, south of the crude oil unloading tracks, ~~would~~ will have new rails installed and ~~would~~ will no longer be used for loading coke, but ~~would~~ will be used as part of the rail unloading facilities. Two tracks ~~would~~ will surround an unloading rack and then ~~would~~ will come together to form a common track that extends to the east of the loading area to allow for the entire train to be parked off of the mainline track and unloaded. Three additional tracks ~~would~~ will extend the full length of the rail spur and run parallel to the unloading area. The system

has been designed to allow for up to two full trains to temporarily be on the Refinery Site at one time in case a second train arrives while the first is still being unloaded.

d. Unloading Facility - The unloading component of the rail facility ~~would~~ will include an access platform and a system of pumps and meters, suction lines from the railcars, carbon beds for vapor treatment, steam lines and steam condensate vessel, and a common pipeline leading to the refinery's existing tank farm. The access platform will~~ould~~ run parallel to the railcar unloading tracks, with an individual gangway and safety cage at each rail car unloading station. The unloading facility ~~would~~ will be equipped with two 10-car unloading systems allowing 20 rail cars to be unloaded at one time. The unloading rack is configured to unload two 10-car strings simultaneously. The 600-foot-long center platform ~~would~~ will provide access to the tops of the railcars. The unloading facility ~~would~~ will also be equipped with steam lines that ~~would~~ will allow the rail cars to be heated prior to unloading. Infrastructure to utilize steam already produced at SMR will~~ould~~ be constructed to heat cars that have been subject to unanticipated delays during transit that has allowed the crude oil to cool. The rail car steam heating system is conditioned to be used only once per year.

e. Pipelines - Downstream of the two unloading facility meter assemblies, a new 24-inch above ground crude oil pipeline ~~would~~ will be routed along an existing internal dirt road on the Project Site between the unloading facility and the refinery. This pipeline ~~would~~ will connect with the existing refinery crude oil storage tanks. The new crude oil pipeline will~~ould~~ be approximately 3,525 feet in length. The crude pipeline to the existing storage tanks ~~would~~ will be equipped with electrical heat tracing that ~~would~~ will be used to keep the heated crude warm until the next train load of crude can be used to push it into the existing storage tanks. New steam and condensate pipelines ~~would~~ will be installed from the existing SMR boilers to the unloading rack. The total length of the steam pipelines ~~would~~ will be approximately 6,300 feet. The total length of the condensate pipeline will~~ould~~ be about 2,300 feet.

f. Emergency Vehicle Access Road ~~Additionally,~~The ~~an~~ existing agricultural road ~~would~~ will be improved as an ~~unpaved eastern~~all weather Emergency Vehicle Access route between the eastern end of the rail spur and State Route 1. ~~This road will only be used for emergency access.~~ The road shall not be used for the rail spur construction or refining operations.

g. Areas of Disturbance - The project construction ~~would~~ will occur entirely within the existing Phillips 66 Santa Maria Refinery (SMR) boundary and is summarized below:

- 6,915 feet – Length of spur extension (including approximately 2,445 feet within the existing industrial coke plant area);
- 270 feet – Maximum width of construction area for rail extension;
- 2,325 feet – Length of the new pipeline route from the unloading facility to the internal refinery (an additional 2,800 feet would be constructed within the existing refinery connecting to the existing storage tanks and existing steam boilers);
- 2,400 feet - Length of new steam pipelines from the unloading facility east between Tracks 1 and 2; and,

- Maximum width of the temporary construction area for pipeline installation would be 25 feet.

Acreage breakdowns (temporary + permanent) are summarized below:

- 41.6 acres – Rail Spur and Unloading Facility (25.3 acres permanent + 16.3 temporary),
- 3.8 acres – New Pipeline (1.8 acres permanent + 2 acres temporary), and
- 1.6 acres – Secondary Emergency Vehicle Access (1.6 acres permanent).

Collectively, the entire project, including temporary and permanent impacts, ~~would~~ will affect approximately 47 acres. Of this area, 19.5 acres ~~would~~ will occur within the existing refinery and coke area, and 27.5 acres ~~would~~ will occur in undeveloped areas outside the refinery and coke facilities.

h. Construction Duration - Construction is anticipated to occur over a period of 9 – 10 months. In some cases, portions of the individual tasks below would occur concurrently.

i. Security Fencing and Lighting - An extension of the existing eight-foot in height chain link fencing topped with barbed wire ~~would~~ will be required around the periphery of the new tracks. The security fence ~~would~~ will not extend east around the perimeter of the secondary emergency access road. Additional lighting ~~would~~ will also be required for the rail unloading facility. LED flood lights ~~would~~ will be mounted on standards. The security fence lighting ~~would~~ will be on standards that are 15-feet high and spaced 500 feet apart. The unloading facility lighting ~~would~~ will be on standards that are 25-feet high and spaced 150-feet apart. Each light would have a rating of a maximum of 13,138 lumen. All lights shall be dark sky compliant.

j. Support Buildings - The unloading facility ~~would~~ will include a small parking area and restroom facilities. Both men's and women's restroom facilities ~~would~~ will be served by potable water and a septic system for wastewater disposal.

k. Project Lifetime - The project is expected to operate for the remaining life of the SMR, which could be another 20 ~~or~~ to 30 years, ~~if not~~or longer. Decommissioning and abandonment of the Rail Spur facilities ~~would~~ will require similar equipment and durations as the construction of the facilities and is subject to other discretionary, permitting, and environmental requirements including but not limited to necessary Coastal Development Permits. Once all of the equipment ~~was~~ is removed the area would be graded and then revegetated. The remaining life of the refinery is dependent on crude oil supplies, prices and overall economics.

l. Previous Conditions – 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 ~~therein~~herein.

~~The project description in the Final EIR (Section 2.0) provides greater detail that shall also be used to guide construction-level development.~~

2. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Coastal Zone Land Use Ordinance Section (CZLUO) 23.02.040 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 CZLUO Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.

3. This conditional use permit would not have been approved without each and every condition of approval associated with it. In the event that a court of law, or an administrative agency with authority to do so, finally determines one or more of the conditions of this conditional use permit to be unenforceable then: (1) if such a final determination is made prior to the Applicant or its successor-in -interest obtaining a vested right to construct the Project the conditional use permit shall become void and shall only proceed upon a rehearing at the Planning Commission, and new approval of the conditional use permit, and (2) if such final determination is made following the Applicant or its successor-in-interest having obtained a vested right to construct the Project then the conditional use permit will be immediately set for hearing at the Planning Commission, where new and modified conditions ~~may~~ will be established to achieve the objectives of any stricken conditions.

4. 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 unless the condition relates solely to pre- construction and construction activities and must be satisfied prior to obtaining a construction permit. These conditions will apply to decommissioning as required by the County. 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 CZLUO.

GENERAL

Site Development

5. **At the time of application for construction permits**, plans submitted shall show all development necessary for the requested permit for the entire development consistent with the approved site plan, floor plan, architectural elevations and landscape plan.

6. Prior **to construction permit issuance**, the FEIR Mitigation Monitoring and Reporting Plan shall be updated and incorporated into the project development to ensure adherence to the applicable Conditions of Approval in this exhibit.

7. **At least 90 days prior to initiating any decommissioning activities**, the operator shall request a **Notice to Proceed** from the County Department of Planning and Building. Decommissioning activities shall not occur until the County issues the notice after first reviewing and approving all related mitigation measures are being implemented or will be in place as specified in the conditions relating to the decommissioning process.

Services (for on-site water and septic)

8. **At the time of application for construction permits**, the Applicant shall submit evidence that there is adequate water to meet the water supply requirements of construction and operation activities that are expected to occur in the current phase of the Project.

9. **At the time of application for construction permits**, the Applicant shall submit evidence that a septic system, adequate to serve the needs of the Project, can be installed on the site, that adhere to the following:

a. On-site wastewater system shall be in conformance with the County-approved Central Coast Regional Water Quality Control Board basin plan and County Building and Construction Ordinance, Title 19.

b. No sewage disposal system installations are to be placed closer than 100 feet from the top of any perennial or continuous creek banks, drainage swales or areas subject to inundation.

c. Sewage disposal systems shall be separated from any individual domestic well and/or agricultural well, as follows: 1) leaching areas, feed lots, etc., one hundred (100) feet and bored seepage pits (dry wells), one hundred and fifty (150) feet. Domestic wells intended to serve 5 or more parcels shall be separated by a minimum of two hundred (200) feet from septic systems and dry wells.

Other Agency Review

10. **Prior to issuance of a construction permits**, the Applicant shall provide the County with Agency letters or other verification acceptable to the County that the following agencies have reviewed and approved within their respective jurisdictions, or been consulted with regarding, the portion of project plans applicable to their respective jurisdictions, with any agency requirements approved by the County, other than those required in these COA, shown on all applicable plans:

    a. CalFire

    b. County Health Department

    c. County Air Pollution Control District

    d. County Public Works

    e. County Sheriff's Department

    f. California Public Utilities Commission

    g. Caltrans (District 5 and Caltrans Division of Rail)

    h. California Department of Fish and Wildlife / Office of Oil Spill Prevention and Response

    i. Regional Water Quality Control Board

    j. Federal Agencies (USFWS, Federal Railroad Administration (FRA), etc.)

11. **At the time of application for construction permits,** the applicant shall submit complete drainage plans and report prepared by a licensed civil engineer for review and approval in accordance with Section 22.52.110 (Drainage) or 23.05.040 (Drainage) of the Land Use Ordinance / Coastal Zone Land Use Ordinance. All drainage must be retained or detained on-site and the design of the basin shall be approved by the Department of Public Works. The drainage plans and report shall also address:

    a. The project is located near the edge of the Nipomo mesa, all site grading and drainage shall be designed and constructed in accordance with County Code.

    b. The project site may be subject to potential flooding within undrained depressions. If required per County Code, prepare a detailed flood analysis for review and approval by Public Works to delineate the extent of the flood hazard and identify the areas suitable for building.

12. **At the time of application for construction permits**, the applicant shall submit complete erosion and sedimentation control plan for review and approval in accordance with the Coastal Zone Land Use Ordinance.

13. **At the time of application for construction permits,** the applicant shall provide evidence to the Department of Planning and Building that onsite circulation and pavement structural sections have been designed and shall be constructed in conformance with Cal Fire standards and specifications back to the nearest public maintained roadway.

14. **As an on-going condition of approval (valid for the life of the project)**, The project shall comply with the requirements of the National Pollutant Discharge Elimination System Phase I and/or Phase II storm water program and the County's Storm Water Pollution Control and Discharge Ordinance.

ENVIRONMENTAL CONDITIONS

Environmental Monitor

15. **MM EM-1** Prior to issuance of construction permits, the Applicant shall provide funding for the County of San Luis Obispo to retain an environmental monitor for all measures requiring environmental mitigation to ensure compliance with County Conditions of Approval and EIR mitigation measures. The monitor shall assist the County in condition compliance and mitigation monitoring for all applicable construction, post-construction, operation of the project, as specified in a scope of work, and as approved by the County Department of Planning and Building.

    The monitoring plan shall include a post-construction program to monitor construction measures that extend beyond the construction period (e.g., success of sedimentation and erosion control measures, etc.), as well as monitor ~~certain~~ mitigation measures required during the operational phase.

    The monitor will prepare a working monitoring plan that reflects the County-approved environmental mitigation measures/conditions of approval. This plan will include (1) goals, responsibilities, authorities, and procedures for verifying compliance with environmental mitigations; (2) lines of communication and reporting methods; (3) daily and weekly reporting of compliance; (4) construction crew training regarding environmental sensitivities; (5) authority to stop work; and (6) action to be taken in the event of non-compliance. The environmental monitor shall be under contract to the County of San Luis Obispo. Costs of the monitor, and any County administrative fees, shall be paid by the Applicant.

    The Applicant shall also be responsible for funding work required by mitigation measures specifying use of individuals with special expertise (e.g., botanist, wildlife biologist) and for coordinating with resource agencies. The County's environmental monitor will coordinate with specialists to ensure their availability at appropriate times (prior to issuance of construction permits, or during construction, as required by the Conditions of Approval). In addition, the County's environmental monitor shall coordinate and communicate with resource agencies (i.e., CDFG, USFWS, ACOE) regarding project–related requirements. The monitor may also be tasked with monitoring implementation of resource agency requirements if desired by the resource agencies and coordinated through the County.

The applicant shall provide for a 24 hour phone line for complaints related to the construction and operation of the project.

Aesthetics

16. **MM AV-1a - Prior to issuance of grading and construction permits**, the applicant shall submit a revised site-grading plan to the Department of Planning and Building for review and approval showing the following:

    a. An earthen berm shall be constructed around the eastern perimeter of the rail spur. The berm shall be ~~a minimum of 10 feet tall and a maximum of~~ 25 feet tall above the existing grade and as shown on the Berm Location Concept Map (FEIR Figure 4.1-11) for the purpose of reducing views of the rail spur and trains from State Route 1 and the California Coastal Trail / De Anza Trail.

    b. The berm shall be designed and constructed to appear as a natural dune landform and shall have gradually undulated horizontal and vertical dimensions (consistent with Policy 5: Landform Alterations).

    c. No other existing landforms which would provide visual screening of the facility shall be used as source of borrow material for the required berm.

    d. The berm shall be revegetated with native grasses and shrubs to match the surrounding natural land cover and plant community.

    No disturbance shall occur outside of the identified area of disturbance shown on the site-grading plan.

17. **MM AV-1b - Prior to issuance of grading and construction permits**, the applicant shall submit a revised site-grading plan to the Department of Planning and Building for review and approval showing the following:

    a. All new cut and fill slopes shall include slope-rounding and landform grading techniques to avoid an engineered appearance (consistent with Policy 5: Landform Alterations).

18. **MM AV-1c - Prior to issuance of grading and construction permits**, the applicant shall submit a Habitat / Landscape Revegetation Plan to the Department of Planning and Building for review and approval showing the following:

    a. All new slopes shall be revegetated with native grasses and shrubs to match the surrounding natural land cover and plant community.

    ~~a.~~b. Screening landscape including trees shall be placed along the ~~westerneastern~~ perimeter of the rail spur facility security fence line.

19. **MM AV-3a - Prior to issuance of grading and construction permits**, the applicant shall submit a comprehensive lighting plan to the Department of Planning and Building for review and approval showing the following:

a. The Lighting Plan shall be based on a photometric study prepared by a qualified engineer who is an active member of the Illuminating Engineering Society of North America (IESNA).

b. The Lighting Plan shall be prepared by a qualified engineer who is an active member of the IESNA using guidance and best practices endorsed by the International Dark Sky Association.

c. The applicant shall provide the specific technical data and performance criteria required by the applicable safety policy used as the basis for the Lighting Plan.

d. As part of the Lighting Plan, illumination levels shall be the minimum required by the specifically defined public safety policy and ordinances.

e. As part of the Lighting Plan, direct views of all lighting sources shall be directed downward and shielded from view from public roads.

f. As part of the Lighting Plan, lights shall be designed and constructed to reduce illumination of the adjacent slopes and dunes where applicable.

g. As part of the Lighting Plan, no lights shall be placed east of any portion of the screening berm required in mitigation measure AV-1a.

h. As part of the Lighting Plan, lighting for all rail spur security perimeter fencing shall be equipped with motion sensors for activation rather than left on continuously.

20. **MM AV-3b - Within six months following completion of construction**, a Lighting Evaluation Report shall be submitted to the Department of Planning and Building for review and approval. The purpose of the Lighting Evaluation Report shall be to assess and correct any unexpected or residual lighting impacts following project completion. The report shall be prepared by a by a qualified engineer who is an active member of the IESNA who was not associated with the preparation of the Lighting Plan described in mitigation measure AV-3a. Preparation of the Lighting Evaluation Report shall be by a qualified engineer retained by the County of San Luis Obispo and funded by the project applicant. The Lighting Evaluation Report shall include the following at a minimum:

a. A comprehensive assessment of the lighting resulting from the rail spur project and project operations as seen from State Route 1, Oso Flaco Road, the California Coastal Trail, De Anza Trail and public viewing areas to the east. The Lighting Evaluation Report shall assess the completed project during a variety of operational conditions including all typical procedures such as unloading, moving of trains, multiple trains present, etc. The Report shall evaluate and identify where, if any unexpected light impacts occur, such as but not limited to reflection off trains, adjacent landforms, buildings, unexpected sources, etc.

b. The Lighting Evaluation Report shall make specific recommendations to reduce the effects of any unexpected or excessive residual lighting impacts identified in the report. Recommendations may include but not be limited to: repositioning lights, lowering heights, increasing sizes of cut-off shields, reducing types of luminaires, reducing wattage, and modifying operational procedures.

21. **MM AV-3c - Existing Facility and Operations Lighting Evaluation. Prior to issuance of grading and construction permits**, the applicant shall submit a comprehensive evaluation of the existing refinery facility and operations lighting to the Department of Planning and Building for review and approval showing the following:

    a. The Existing Facility and Operations Lighting Evaluation shall be prepared by a qualified engineer who is an active member of the Illuminating Engineering Society of North America (IESNA).

    b. The Existing Facility and Operations Lighting Evaluation shall assess the sources and levels of all existing lighting associated with the refinery operations, and shall determine what, if any, changes can be made to the lighting to reduce nighttime glare. This shall include but not be limited to lighting direction, shielding, use of motion sensors, and use of dark sky compliant lighting~~if any lighting levels exceeds the minimum required by applicable County of San Luis Obispo, state and federal safety regulations~~.

    ~~c. If lighting levels exceed the applicable regulations, the Existing Facility and Operations Lighting Evaluation shall make specific recommendations to reduce the lighting levels to the minimum required.~~

    The project applicant shall implement all recommendations made by the Lighting Evaluation Report and required by the Department of Planning and Building.

Air Quality

22. **MM AQ-1a - Prior to issuance of grading and construction permits**, and throughout project construction, as applicable, the Applicant shall implement the following construction emission reduction measures:

    a. Properly maintain all construction equipment according to manufacturer's specifications;

    b. Fuel all off-road and portable diesel powered equipment with CARB-certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);

    c. Applicant shall include the following, in addition to complying with state Off-Road Regulations, in order to reduce peak daily/quarter ROG+NO_x emissions: 1) Use CARB Tier 4 certified diesel construction equipment off-road heavy-duty diesel engines to the maximum extent feasible and 2) Stagger the construction schedule to prevent peak day/quarter emissions from exceeding the threshold (for example, no site preparation during grading and soil transport);

    d. Use CARB 2010 or cleaner certified on-road heavy-duty diesel trucks to the extent feasible and comply with state On-Road Regulations;

    e. If construction or trucking companies that are awarded the bid or are subcontractors for the project do not have equipment to meet the above two measures, the impacts from the dirtier equipment shall be addressed through SLOCAPCD approved off-site or other mitigation measures;

f. All on- and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and job sites to remind drivers and operators of the 5 minute idling limit;

g. Diesel idling within 1,000 feet of sensitive receptors is not permitted (Sensitive receptors are defined in the SLOCAPCD Handbook as people that have an increased sensitivity to air pollution or environmental contaminants. Sensitive receptor locations include schools, parks and playgrounds, day care centers, nursing homes, hospitals, and residential dwelling units);

h. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors;

i. Equipment shall be electrified when feasible;

j. Substitute gasoline-powered or diesel hybrids in place of diesel-powered equipment, where feasible; and

k. Use alternatively fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane, or biodiesel.

23. **MM AQ-1b - Prior to issuance of grading and construction permits,** the Applicant shall ensure SLOCAPCD regulations that prohibit developmental burning of vegetative material within San Luis Obispo County are followed for the life of the project.

24. **MM AQ-1c - Prior to issuance of grading and construction permits,** the Applicant shall ensure that portable equipment and engines 50 horsepower or greater, used during grading and construction activities must have a California portable equipment registration (issued by the ARB) or a SLOCAPCD permit. Proof of registration must be provided to the SLOCAPCD prior to the start of grading or construction or a permit secured from the SLOCAPCD prior to the start of grading or construction. The following list is as a guide to equipment and operations that may have permitting requirements, but it is not exclusive:

a. Power screens, conveyors, diesel engines, and/or crushers;

b. Portable generators and equipment with 50-horsepower or greater engines;

c. Internal combustion engines;

d. Unconfined abrasive blasting operations;

e. Concrete batch plants;

f. Rock and pavement crushing;

g. Tub grinders; and

h. Trommel screens.

25. **MM AQ-1d - Prior to delivery of each piece of equipment to the SMR,** the Applicant shall ensure that all grading and construction equipment greater than 100 bhp be equipped with CARB Level 3 diesel particulate filters (DPF), or equivalent, to achieve an 85 percent reduction in diesel particulate emissions from an uncontrolled engine. If CARB verified

Level 3 DPFs cannot be secured for all of the equipment greater than 100 hp then the applicant will offset the added DPM with measures including but not limited to schedule modifications, implementation of no idling requirement, or other applicable measures providing a total reduction equivalent to an 85 percent reduction from uncontrolled engines as approved by the SLOCAPCD.

26. **MM AQ-1e - Prior to issuance of grading and construction permits, or during construction**, if emissions of ROG+NO_x with the above mitigations still exceed the thresholds (137 lbs per day or 2.5 tons per quarter), the Applicant shall secure SLOCAPCD-approved onsite or off-site reductions in ROG+NO_x emissions to ensure that ROG+NO_x emissions do not exceed the SLOCAPCD quarterly thresholds. Coordination with the SLOCAPCD should begin at least six (6) months prior to issuance of grading and/or construction permits for the Project to allow time for refining calculations and for the SLOCAPCD to review and approve the Construction Activity Management Plan (CAMP) and on-site or off-site mitigation approach.

27. **MM AQ-1f - Prior to issuance of applicable grading permits**, the Applicant shall prepare a Dust Control Plan to be approved by the APCD and County Health and include requirements in the SLOCAPCD CEQA Handbook identified as fugitive dust mitigation measures and shall include a combination of the following, as approved by the SLOCAPCD and County Health:

    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. An adequate water supply source must be identified. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water should be used whenever possible.

    c. All dirt stockpile areas should be sprayed daily as needed, covered, or a SLOCAPCD-approved alternative method will be used. (90 percent reduction from no dust control).

    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 and shall use native species that have been shown to reduce particulate emissions to the extent feasible.

    e. Exposed ground areas that will 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 SLOCAPCD.

    g. All roadways, driveways, etc. to be paved should be completed as soon as possible. In addition, equipment 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 2 feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CVC Section 23114.

j. Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site.

k. 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

l. Apply water every 3 hours to disturbed areas within the construction site. For areas not being actively worked, soil binders may be used in place of watering. ~~.~~

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 Rule 401 requirement that opacity not exceed 20% 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 the designated monitor shall be provided to the SLOCAPCD Compliance Division and the Department of Planning and Building prior to the start of any grading, earthwork, or demolition.

n. All PM_{10} mitigation measures required shall be shown on grading and building plans.

o. Between June 1 and November 30, when Valley Fever rates of infection are the highest, additional dust suppression measures (such as additional water or the application of additional soil stabilizer) will be implemented prior to and immediately following ground disturbing activities if wind speeds exceed 15 miles per hour (mph) or temperatures exceed 95 degrees Fahrenheit for three consecutive days. The additional dust suppression will continue until winds are 10 mph or lower and outdoor air temperatures are below 90 degrees for at least two consecutive days. The additional dust suppression measures will be incorporated into the Final Dust Control Plan. The Plan will be submitted to the County for review and approval.

p. The primary project construction contractor will prepare and implement a worker training program that describes potential health hazards associated with Valley Fever, common symptoms, proper safety procedures to minimize health hazards, and notification procedures if suspected work-related symptoms are identified during construction. The worker training program will identify safety measures to be implemented by construction contractors during construction. Safety measures will include: 1) Providing HEPA-filtered air-conditioned enclosed cabs on heavy equipment to the maximum extent feasible. ~~.~~ 2) Train workers on proper use of cabs, such as turning on air conditioning prior to using the equipment. 3) Providing communication methods, such as two-way radios, for use by workers in enclosed cabs. 4) Providing personal protective equipment (PPE), such as half-mask and/or full-mask respirators equipped with particulate filtration, to workers active in dusty work areas. 5) Providing separate, clean eating areas with hand-washing facilities for construction workers. 6) Cleaning equipment, vehicles, and other items before they are moved offsite to other work locations. 7) Providing training for construction workers so they can recognize

the symptoms of Valley Fever and promptly report suspected symptoms of work-related Valley Fever to a supervisor. 8) Directing workers that exhibit Valley Fever symptoms to immediately seek a medical evaluation.

q. Construction activities that will generate dust shall be limited to periods when good air quality is forecasted to the maximum extent feasible. The 6 day forecast for the CDF forecast zone shall be utilized as available from the APCD website, slocleanair.org. This information should be used by all on-site workers to plan construction activities for days when the air quality is forecast to be good.

28. **MM AQ-1g - Prior to issuance of applicable grading permits**, the Applicant shall submit a geologic evaluation under the CARB ATCM for Construction, Grading, Quarrying, and Surface Mining Operations, to determine if Naturally Occurring Asbestos (NOA) is present within the area that will be disturbed. NOA has been identified as a toxic air contaminant by the CARB. If NOA is not present, an exemption request must be filed with the SLOCAPCD. If NOA is found at the site, the Applicant must 1) comply with all requirements outlined in the Asbestos ATCM. This may include development of an Asbestos Dust Mitigation Plan and an Asbestos Health and Safety Program for approval by the SLOCAPCD; and 2) conduct a geological evaluation prior to any grading. Technical Appendix 4.4 of the SLOCAPCD CEQA Handbook includes a map of zones throughout the County where NOA has been found. More information on NOA is available at http://www.slocleanair.org/business/asbestos.php.

29. **MM AQ-1h - Prior to issuance of demolition permits**, if required, the Applicant shall comply with asbestos containing material (ACM) requirements. Demolition activities can have potential negative air quality impacts, including issues surrounding proper handling, demolition, and disposal of ACM. ACM could be encountered during demolition or remodeling of existing buildings. Asbestos can also be found in utility pipes and pipelines (transite pipes or insulation on pipes). If utility pipelines are scheduled for removal or relocation or a building(s) is proposed to be removed or renovated, various regulatory requirements may apply, including the requirements stipulated in the National Emission Standard for Hazardous Air Pollutants (40CFR61, Subpart M - asbestos NESHAP). These requirements include but are not limited to: (1) notification to the SLOCAPCD; (2) an asbestos survey conducted by a Certified Asbestos Inspector; and (3) applicable removal and disposal requirements of identified ACM. More information on asbestos is available at http://www.slocleanair.org/business/asbestos.php.

30. **MM AQ-1i - Should hydrocarbon contaminated soil be encountered during construction activities**, the SLOCAPCD must be notified as soon as possible and no later than 48 hours after affected material is discovered to determine if an SLOCAPCD Permit will be required. In addition, the following measures shall be implemented immediately after contaminated soil is discovered: 1) Covers on storage piles shall be maintained in place at all times in areas not actively involved in soil addition or removal; 2) Contaminated soil shall be covered with at least six inches of packed uncontaminated soil or other TPH –non-permeable barrier such as plastic tarp. No headspace shall be allowed where vapors could accumulate; 3) Covered piles shall be designed in such a way to eliminate erosion due to wind or water. No openings in the covers are permitted; 4) During soil excavation, odors shall not be evident to such a degree as to cause a public nuisance; and, 5) Clean soil must be segregated from contaminated soil. The notification and permitting determination requirements shall be directed to the SLOCAPCD Enforcement Division

31. **MM AQ-2a - Prior to issuance of Notice to Proceed**, the Applicant shall provide a mitigation, monitoring and reporting plan updated annually. The plan shall investigate methods for reducing the onsite emissions, both from fugitive components and from other SMR activities (such as the diesel pumps, trucks, and compressors to reduce DPM). The plan shall indicate that, on an annual basis, if onsite emissions of ROG+NO_x and DPM from the Project still exceed the thresholds (25 lbs a day and 25 tons per year for ROG+NO_x, and 1.25 lbs per day for DPM) as measured and confirmed by the SLOCAPCD, the Applicant shall secure SLOCAPCD-approved onsite and/or offsite emission reductions in ROG+NO_x and DPM emissions or contribute to new or existing programs to ensure that onsite project-related ROG+NO_x and DPM emissions do not exceed the SLOCAPCD thresholds. Coordination with the SLOCAPCD should begin at least six (6) months prior to issuance of the Notice to Proceed for the Project to allow time for refining calculations and for the SLOCAPCD to review and approve any required ROG+NO_x and DPM emission reductions.

32. **MM AQ-2b - Prior to issuance of Notice to Proceed**, the Applicant shall implement a program, including training and procedures, to limit all locomotive onsite idling to no more than 15 consecutive minutes except when idling is required for safety purposes. Locomotive idling records shall be maintained and provided to the SLOCAPCD on an annual basis, along with training materials and training records.

33. **MM AQ-4b - All trucks under contract to the SMR for moving coke and sulfur** shall meet EPA 2010 model year NO_x 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 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 once the rail unloading facility becomes operational. Annual coke and sulfur truck trips associated with refinery operations and their associated model year and emissions shall be submitted to the SLOCAPCD annually**.

34. **MM AQ-4c - Crude oil train ~~unloading and~~ switching activities at the SMR** shall be limited to the period of 7 a.m. to 7 p.m. to reduce the emissions during periods of calm meteorological conditions. Reports shall be submitted to the County and APCD indicating the time of arrival, the start and end time of train switching break-apart and unloading and departure time. These time limits do not apply to pull-in of the ~~unit~~ trains from the mainline. When a ~~unit~~ train is pulled in between 7 p.m. and 7 a.m., the locomotives shall shut down until the allowed ~~unloading~~ switching time starting at 7 a.m. No switching or breaking apart of trains or any other locomotive activity is allowed between 7 p.m. and 7 a.m. except for the minimum activity needed to move ~~the~~ a ~~unit~~ train onto the SMR property from the UPRR mainline.

35. **MM AQ-6/8 - 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 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, 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 measures. Coordination with the 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 to review and approve the mitigation approach.

36. **MM AQ-7 - Prior to issuance of Notice to Proceed,** the Applicant shall ensure that any new odor sources be added to the existing Refinery Odor Control Plan and submitted to the SLOCAPCD for review and approval before the start of construction. Mitigation shall include carbon canisters on all vacuum trucks, arrival and pre-departure inspection of all rail cars for fugitive leaks, monitoring of rail car top vents during unloading, and methods to reduce and eliminate odors associated with maintenance activities. Monitoring of odors from the rail facility and the other portions of the SMR potentially affected by a change in crude oil slate, shall be included in the Plan and shall be conducted by an independent third party monitor, retained by the County of San Luis Obispo Department of Planning, for the first three months of operation during each unit train visit. The APCD shall be notified of monitoring and unit train activity. Monitoring activities can be reduced, in coordination and agreement with the APCD, after the facility startup if odors are not determined to affect areas offsite. In addition to monitoring, the amended Odor Control Plan shall also detail control measures and/or operating procedures that will be implemented to reduce odor impacts if odors are a concern. The Plan shall also include an implementation schedule for incorporating additional measures if needed. The Plan measures shall include leak detection (if not already implemented), lower leak detection and repair threshold limits (to 100 ppm), increased component monitoring frequency (monthly), component replacement with lower leak levels and improved vapor control systems and these measures shall be discussed in the Odor Control Plan.

Biological Resources

37. **MM BIO-1 - Prior to earth disturbance activities,** a floristic survey shall be conducted within the Rail Spur Project area in accordance with the California Department of Fish and Wildlife (CDFW) Protocol for surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (2009) and the Guidelines for Conducting and Reporting Botanical Inventories for Federally listed, Proposed, and Candidate Species (USFWS 2000). The survey shall specifically focus on the presence/absence of Nipomo Mesa lupine and, if normal rainfall conditions are present during the survey, the findings would be only valid for a period of two years.

    The floristic survey shall be conducted during a blooming period with normal rainfall if feasible. A 'normal' rainfall period is equivalent to the monthly or annual average of precipitation over a 30 year time period for the area. The results of this survey shall be submitted to the County, United States Fish and Wildlife Service, and California Department of Fish and Wildlife within 30 days of completing the survey for review and approval. No grading activities shall occur until the survey results have been accepted by the County, United States Fish and Wildlife Service, and California Department of Fish and Wildlife.

    If 'normal' rainfall conditions have occurred prior to the initiation of the survey, and the results of this survey effort determine that Nipomo Mesa lupine is absent from the Rail Spur Project area, no further mitigation for this species shall be required at this time. Because it is well documented that Nipomo Mesa lupine may occur as a result of site disturbance, floristic surveys shall be conducted on an annual basis until there is no further disturbance to the native soil as a result of construction activities. Should Nipomo Mesa lupine be identified during construction, or if Nipomo Mesa lupine is identified prior to the

initiation of activities during 'normal' rainfall conditions, the project shall avoid the individual or population to the extent feasible. If avoidance is not feasible then the applicant would be required by law to coordinate with California Department of Fish and Wildlife to acquire a 2081 Incidental Take Permit for this species and comply with any conditions imposed by that permit. At a minimum, the applicant shall implement BIO-5a (Dune Habitat Restoration Plan) and include Conservation Measures to establish and monitor Nipomo Mesa lupine population(s) within the identified on-site mitigation area at a ratio of 3:1 for individuals. The mitigation area for Nipomo Mesa lupine may overlap with the mitigation area for sensitive community impacts, which shall be protected from any grazing activities in perpetuity.

38. **MM BIO-2 - Prior to beginning earth disturbance activities**, the total number of California spineflower (*Mucronea californica*), sand almond (*Prunus fasciculata* var. *punctata*), Blochman's groundsel (*Senecio blochmaniae*), Blochman's leafy daisy (*Erigeron blochmaniae*), and dune larkspur (*Delphinium parryi* ssp. *blochmaniae*) shall be accurately estimated during the implementation of BIO-1. These population estimates shall be utilized as the basis for the in-kind replacement of these species described in Mitigation Measure BIO-5a. Should any additional populations of sensitive plant species that are considered rare by the California Native Plant Society (and not formally listed under the Endangered Species Act) be identified during the implementation of BIO-1 that were not previously observed in 2013, these species will also be replaced in-kind as part of the Dune Habitat Restoration Program and replacement success would be held to the same performance standards.

39. **MM BIO-3 - Prior to issuance of grading and construction permits**, a qualified wildlife biologist shall prepare a Sensitive Species Management Plan, which outlines the procedures and protocols for capturing and relocating sensitive animal species including coast horned lizard and silvery legless lizard during all phases of grading. This plan shall be approved by the County and California Department of Fish and Wildlife. Implementation of the Plan is required where impacts to sensitive animal species and their habitats are unavoidable and located within a minimum of 100 feet of the Disturbance Area (or greater as determined by the California Department of Fish and Wildlife). Within 30 days prior to mobilization, grading or construction, a qualified wildlife biologist shall conduct a pre-construction survey of the area of impact to determine the presence of sensitive wildlife species. Individuals will be searched and captured using techniques appropriate to the species of concern and approved by the appropriate resource agencies. All captured individuals will be released as soon as possible into nearby suitable habitat that has been previously identified by the qualified wildlife biologist in consultation with the County and California Department of Fish and Wildlife. The size or age-class, location of capture, and the relocation site shall be recorded for each individual relocated from the site.

40. **MM BIO-4 - At a minimum**, the following measures shall be incorporated in the Sensitive Species Management Plan:

    1. Prior to grading activities, a County-approved biologist shall conduct a survey to identify whether badgers are using any portion of the site near the area in which disturbance is proposed. The survey shall be conducted no less than 14 days and no more than 30 days prior to construction. The survey shall cover the boundaries of proposed disturbance and 100 feet beyond, including all access roads, and shall examine both old and new dens. If potential badgers dens are found, they shall be

inspected to determine whether they are occupied by badgers. Occupation of the den shall be determined by one or more of the following methods:

a. Use of a fiber-optic scope to examine the den to the end:

b. Partially obstruct the den entrance with sticks, grass, and leaves for three consecutive nights and examine for signs that animals are entering or leaving the den;

c. Dust the den entrance with a fine layer of dust or tracking medium for three consecutive nights and examine the following mornings for tracks.

2. Inactive dens within construction areas shall be excavated by hand with a shovel to prevent re-use of dens during construction.

3. If badgers are found in dens between August and January, a qualified biologist shall establish a 50 foot diameter exclusion zone around the entrance. To avoid disturbance and the possibility of direct take of badgers, no construction, grading, or staging of equipment shall be conducted within the buffer area until the biologist has determined that the badger(s) have vacated the den.

4. If badgers are found in dens between February and July, nursing young may be present. Therefore, a County-approved biologist shall establish a 200-foot diameter buffer around the den. No construction, grading, or staging of equipment shall be conducted within the buffer area until the biologist has determined that the badgers have vacated the den.

41. **MM BIO-5a - Prior to issuance of any grading permits**, the applicant shall retain a qualified biologist and/or botanist acceptable to the County to prepare a Dune Habitat Restoration Plan (DHRP) for review and approval by the County in consultation with the California Department of Fish and Wildlife (CDFW) and the United States Fish and Wildlife Service (USFWS). The DHRP shall be signed by the retained qualified biologist and/or botanist and shall detail the methods for restoring or enhancing a minimum of 41.76 acres (2:1 for permanent impacts) of vegetation types considered to be sensitive communities by CDFW, with an emphasis on restoring known rare plant associations found within the BSA and those associations considered locally rare to the Guadalupe-Nipomo Dunes. The restoration area(s) shall be located within the Phillips 66 property boundary and protected from any grazing activity. The DHRP shall focus on restoring and enhancing sensitive communities, known rare plant associations, and species of locally rare plant associations, by removing invasive species (iceplant, veldt grass, and other invasive species) and planting appropriate native species, including but not limited to: mock heather, purple nightshade, Blochman's ragwort, Blochman's leafy daisy, California spineflower, sand almond and suffrutescent wallflower.

Should Nipomo Mesa lupine be identified within the Rail Spur Project area as a result of BIO-1, and avoidance of this species is not feasible, the DHRP shall also include methods of restoring and enhancing Nipomo Mesa lupine at a ratio of 3:1 for permanent impacts to individuals. Regardless of whether Nipomo Mesa lupine is identified on-site as part of BIO-1, the DHRP shall also focus on restoring and enhancing sensitive communities and rare plant associations immediately adjacent to known Nipomo Mesa lupine populations in order to promote expansion of the existing population.

At a minimum, the DHRP shall include the following elements:

a. Identification of locations, amounts, size and types of plants to be replanted, as well as any other necessary components (e.g., temporary irrigation, amendments, etc.) to ensure successful reestablishment.

b. Provide for a native seed collection effort prior to ground disturbing activities. Collection of native seed shall be propagated by a County-approved contractor. Plants shall include but not be limited to California Native Plant Society (CNPS) listed plant species that may be affected.

c. Quantification of impact based on "as-built plans" and quantification of mitigation areas such that the replacement criteria are met (2:1 acreage ratio, or 3:1 for Nipomo Mesa lupine individuals).

d. A program schedule and success criteria for a minimum five year monitoring and reporting program that is structured to ensure the success of the DHRP.

e. Provide for the in-kind replacement of the following sensitive species that occur within the Rail Spur Project area, which may include: California spineflower (*Mucronea californica*), sand almond (*Prunus fasciculata* var. *punctata*), Blochman's groundsel (*Senecio blochmaniae*), Blochman's leafy daisy (*Erigeron blochmaniae*) and dune larkspur (*Delphinium parryi* ssp. *blochmaniae*). Should Nipomo Mesa lupine be identified onsite, in-kind replacement of this species shall also be included. Individuals that are removed or damaged shall be replaced in-kind at a 3:1 ratio (based on square feet cover) within the designated restoration area with 100% success in 5 years.

f. Identification of access and methods of materials transport to the restoration area, including personnel, vehicles, tools, plants, irrigation equipment, water, and all other similar supplies. Access shall not result in new or additional impacts to habitat and special-status species.

g. The required Dune Habitat Restoration Program shall incorporate an invasive species control program and be implemented by qualified personnel to ensure that the invasive species control program does not result in any additional impacts to Nipomo Mesa lupine, or other rare species.

h. The restoration area shall be protected in perpetuity by an easement. The easement shall either be an open space easement, or a conservation easement if required by the California Department of Fish and Wildlife and United States Fish and Wildlife Service, or if chosen by the Applicant. The easement shall be in a form approved by County Counsel and CDFW and/or USFWS if required by those agencies.

i. Upon successful completion of the Dune Habitat Restoration Program and subsequent approval by the permitting resource agencies, the applicant shall consider providing non-profit organizations such as California Native Plant Society and The Land Conservancy with long term access to the restoration site for the purposes of education, and long-term maintenance of the restoration site. Long-term maintenance activities would only occur if permitted by the applicant, and would require coordination with California Department of Fish and Wildlife and United States Fish and Wildlife Service. Access to the site is not guaranteed as a result of this measure. Funding for

any future long-term maintenance activities shall be facilitated by the non-profit organization.

42. **MM BIO-5b - Prior to initiation of construction**, the applicant shall retain a qualified biologist or botanist acceptable to the County to supervise the implementation of the DHRP. The qualified biologist or botanist shall supervise plant salvage and/or seed collection (prior to construction), plant propagation, site preparation, implementation timing, species selected for planting, planting installation, maintenance, monitoring, and reporting of the restoration efforts. The qualified biologist or botanist shall prepare and submit four annual reports and one final monitoring report to the County for review and approval in consultation with California Department of Fish and Wildlife and United States Fish and Wildlife Service.. The annual and final monitoring reports shall include discussions of the restoration activities, project photographs, an assessment of success criteria attainment, and any remediation actions that may have been required in order to achieve the success criteria.

43. **MM BIO-5c - Prior to issuance of grading and construction permits**, the applicant shall define and clearly mark construction zone boundaries adjacent to known sensitive species occurrences with high visibility construction fencing, and shall mark groups of individual plants located within potential disturbance areas with highly visible flagging or fencing.

44. **MM BIO-5d - Prior to construction (within 48 hours)**, the applicant's retained biologist or botanist shall provide instruction to construction personnel regarding avoidance of sensitive habitats and special-status plants located in the vicinities of areas experiencing ground disturbance. The training shall include presentation of photos of sensitive plant species and habitat, summary of regulations and conditions applicable to protection of the species, identification of areas where removal of the species is permitted pursuant to the final conditions of approval and DHRP, and any ramifications for non-compliance.

45. **MM BIO-5e - During construction**, where disturbance to sensitive habitat and sensitive plant species is unavoidable (and permitted by the County upon approval of the project), the top four inches of surface material shall be salvaged and stockpiled for restoration use in consultation with the County, California Department of Fish and Wildlife and United States Fish and Wildlife Service. Existing native vegetation shall also be removed and included as mulch in order to capture any existing native seed material. The salvaged material shall be used as the finish layer on fill slopes and other disturbed areas that will not require regular vegetation maintenance.

46. **MM BIO-5f - During construction**, the use of heavy equipment shall be restricted to within the identified work areas throughout the duration of construction activities and all construction personnel shall be advised of the importance of limiting ground disturbance and construction activities to within the identified work areas. During ground disturbance activities, a full-time biological monitor shall monitor and map any populations or individual sensitive species that may bloom within, or directly adjacent to, areas of ground disturbance. Should Nipomo Mesa lupine be identified at any time during construction, the species shall not be disturbed and the County shall be contacted immediately. The applicant shall develop a plan for avoidance of the identified Mesa Lupine if possible. If avoidance is not feasible, or the species was inadvertently impacted during construction before identification by the biological monitor, the County and the applicant shall coordinate directly with the California Department of Fish and Wildlife and United States

Fish and Wildlife Service. At a minimum, the impacts to any sensitive plant species shall be mitigated though implementation of BIO-5a.

47. **MM BIO-6a - At the time of application for grading and/or construction permits**, the applicant shall prepare an Oak Tree Inventory, Avoidance, and Protection Plan as outlined herein. The plan shall be reviewed by a County-approved arborist prior to approval of grading and/or construction permits, and shall include the following items:

    a. Construction plans shall clearly delineate all trees within 50 feet of areas where soil disturbance would occur, and shall show which trees are to be impacted, and which trees are to remain unharmed. All inventoried trees shall be shown on maps. The species, diameter at breast height, location, and condition of these trees shall be documented in data tables.

    b. Prior to any grading or grubbing, all trees that are within fifty feet of construction or grading activities shall be marked for protection and their root zone shall be fenced. The outer edge of the tree root zone to be fenced shall be outside of the canopy 1/2 again the distance as measured between the tree trunk and outer edge of the canopy (i.e., 1-1/2 times the distance from the trunk to the drip line of the tree), unless otherwise shown on the approved construction plans.

    c. Prior to any grading or grubbing, a certified arborist shall be retained by the applicant to identify at risk limbs and perform all necessary trimming of oak tree limbs that could be damaged by project activities. Pruning shall be conducted as needed along all access roads and construction areas, including paved portions of County roads used for project equipment access. All pruning shall be conducted prior to construction equipment passage to minimize the potential for inadvertent damage to oak tree limbs. Removal of larger lower branches should be minimized to 1) avoid making tree top heavy and more susceptible to "blow-overs", 2) reduce having larger limb cuts that take longer to heal and are much more susceptible to disease and infestation, 3) retain wildlife habitat values associated with the lower branches, 4) retain shade to keep summer temperatures cooler and 5) retain the natural shape of the tree. The certified arborist shall document all pruning impacts in a report submitted to the County San Luis Obispo.

    d. A certified arborist shall be retained by the applicant to supervise all construction activities in areas containing oak trees in order to minimize disturbance to identified trees and their root zones wherever possible. The certified arborist will document all construction-related impacts to oak trees in an "as-built" report submitted to the County San Luis Obispo.

    e. Immediately following submittal of the oak tree impact "as-built" report to the County San Luis Obispo, the applicant shall implement mitigation for all identified pruning and construction-related oak impacts per current County San Luis Obispo ratios and methods for oak tree mitigation and replacement. County oak tree replacement standards require a project proponent to prepare and implement an oak tree replacement plan. The plan shall provide for the in-kind replacement, at a 4:1 ratio, of all oak trees removed as a result of the project. In addition, the plan must provide for the in-kind planting, at a 2:1 ratio, of all oak trees impacted but not removed. The replacement trees must be monitored for seven years after planting.

48. **MM BIO-6b - Upon application for grading and construction permits**, the applicant shall submit an Oak Tree Replacement, Monitoring, and Conservation Plan to the County Department of Planning and Building. The Plan shall include the following:

a. The County-approved arborist shall provide or submit approval of an oak tree replacement plan at a minimum 4:1 ratio for oak trees removed and a minimum replacement ration of 2:1 ratio for oak trees impacted (i.e., disturbance within the root zone area).

b. Replacement oak trees shall be from regionally or locally collected seed stock grown in vertical tubes or deep one-gallon tree pots. Four-foot diameter shelters shall be placed over each oak tree to protect it from deer and other herbivores, and shall consist of 54-inch tall welded wire cattle panels (or equivalent material) and be staked using T-posts. Wire mesh baskets, at least two feet in diameter and two feet deep, shall be use below ground. Planting during the warmest, driest months (June through September) shall be avoided. The plan shall provide a species-specific planting schedule. If planting occurs outside this time period, an irrigation plan shall be submitted prior to permit issuance and implemented upon approval by the county.

c. Replacement oak trees shall be planted no closer than 20 feet on center and shall average no more than four planted per 2,000 square feet. Trees shall be planted in random and clustered patterns to create a natural appearance. As feasible, replacement trees shall be planted in a natural setting on the north side of and at the canopy/dripline edge of existing mature native oak trees (if present); on north-facing slopes; within drainage swales (except when riparian habitat present); where topsoil is present; and away from continuously wet areas (e.g., lawns, irrigated areas, etc). Replanting areas shall be either in native topsoil or areas where native topsoil has been reapplied. A seasonally timed maintenance program, which includes regular weeding (hand removal at a minimum of once early fall and once early spring within at least a three-foot radius from the tree or installation of a staked "weed mat" or weed-free mulch) and a temporary watering program, shall be developed for all oak tree planting areas. A qualified arborist/botanist shall be retained to monitor the acquisition, installation, and maintenance of all oak trees to be replaced. Replacement trees shall be monitored and maintained by a qualified arborist/botanist for at least seven years or until the trees have successfully established as determined by the County Environmental Coordinator. Annual monitoring reports will be prepared by a qualified arborist/botanist and submitted to the County by October 15 each year.

d. The restored area shall be at a minimum equal in size to the area of oak habitat lost or disturbed.

49. **MM BIO-7 - Prior to issuance of grading and construction permits**, the existing Santa Maria Refinery Spill Prevention, Control and Countermeasure Plan (SPCCP) shall be amended and submitted for review and approval to the County Planning and Building Department and the California Department of Fish and Wildlife, Office of Spill Prevention and Response. The Plan shall address protection of sensitive biological resources and revegetation of any areas disturbed during an oil spill or cleanup activities. The Plan shall incorporate, at a minimum, the following:

a. An estimate of the worst case spill volume associated with the rail unloading operations.

b. A description of the spill containment equipment for the facility that clearly demonstrates that the worst case spill can be contained within the rail facility boundaries.

c. A description of the operating procedures for the rail unloading facilities that sever to prevent an oil spill.

d. Measures taken to assure that the crude oil pipeline shall be designed such that any spill from the pipeline shall drain back to rail unloading area or shall otherwise be contained within the access roadway.

e. Provide a list of onsite oil spill response equipment that is adequate to handle the worst case spill volume.

f. Identify training requirement for oil spill response personnel, which includes annual spill drills.

g. Identification and communication protocols and agreements for responsible parties tasked with emergency response, cleanup, and rehabilitation efforts of any wildlife species and habitat that may be impacted.

h. Identification of known sensitive resources within any area that may be impacted by a potential oil spill or cleanup activities, and identification of staging areas and predetermined access and egress routes that pose little or no threat to sensitive biological resources.

i. Identification of oil spill cost recovery procedures for state and local government agencies.

j. Specific measures to avoid impacts to native vegetation and wildlife habitats, plant and animal species, and environmentally sensitive habitat areas during oil spill response and cleanup operations. For Rail Spur construction and operation, the Plan shall specifically address measures to 1) prevent oil spills from entering the adjacent property which includes a tributary to Oso Flaco Creek, and 2) in case a spill does enter any of these water features, shall include measures to prevent a spill from reaching the waters of Oso Flaco Lake. The plan shall describe the worst case scenario for maximum oil spill volume.

k. When habitat disturbance cannot be avoided, the Plan shall provide protocol and methodologies for removing contaminated vegetation from sensitive areas. Low-impact site-specific techniques such as hand-cutting contaminated vegetation, hand raking, and shoveling of contaminated soils shall be specified to remove spilled material from particularly sensitive wildlife habitats.

l. When habitat disturbance cannot be avoided, the Plan shall provide stipulations for development and implementation of site-specific habitat restoration plans and to restore native plant communities to pre-spill conditions. Procedures for timely re-establishment of vegetation that replicates the habitats disturbed (or, in the case of disturbed habitats dominated by non-native species, replaces them with suitable native species) shall also be included.

50. **MM BIO-8a - Prior to and during construction**, the applicant shall avoid disturbance of bird breeding and nesting activities if construction activities are scheduled to occur during the typical bird nesting season (February 15 and September 1). A qualified biologist shall also be retained to conduct a pre-construction survey on a weekly basis throughout the breeding season only during construction for the purpose of identifying potential bird nesting activity. Should construction continue to occur beyond September 1, a qualified biologist shall conduct a bi-weekly survey during the wintering season for overwintering use by burrowing owl. If no nesting activities or overwintering burrowing owl are detected within the proposed work area, noise-producing construction activities may proceed and no further mitigation is required. If nesting activity or overwintering burrowing owl are detected during pre-construction nesting surveys or at any time during the monitoring of construction activities, the following shall occur:

    a. Work activities within 300 feet (500 feet if raptors) shall be delayed. CDFW and/or USFWS shall be contacted to determine the appropriate biological buffer distance around active nest sites.

    b. Construction activities will be prohibited within the buffer zone until a biologist determines that the young birds have fledged and left the nest, or overwintering burrowing owl is no longer utilizing the burrow. The results of the surveys shall be immediately submitted to the CDFW and the County, demonstrating compliance with the Migratory Bird Treaty Act of 1918.

    c. If destruction of occupied burrows is unavoidable during the non-breeding season, or if burrowing owls must be translocated during the non-breeding season, a Burrowing Owl Exclusion Plan shall be developed by a qualified biologist following the guidance of the CDFW Staff Report on Burrowing Owl Mitigation (2012).

51. **MM BIO-8b - To mitigate for the loss of burrowing owl habitat**, a minimum of 26.5 acres of suitable burrowing owl foraging and nesting habitat shall be provided in perpetuity through an easement prior to any project construction activities. If feasible, the protected lands shall occur within the boundaries of the Phillips 66 property or lands immediately adjacent to any known burrow site. At a minimum, the mitigation lands shall include similar vegetative attributes as the impact area, be of sufficiently large acreage and include the presence of fossorial mammals. Mitigation lands for burrowing owl may overlap with lands which are designated for restoration under the Dune Habitat Restoration Plan. Should there be any overlap, neither mitigation effort should negatively affect the goals and success criteria of the other. The location of the protected lands shall be determined in coordination with CDFW.

52. **MM BIO-9 - Prior to issuance of grading and construction permits**, the following measures shall be included on applicable plan sheets and the Dune Habitat Restoration Plan:

    a. During construction, the applicant will make all reasonable efforts to limit the use of imported soils for fill. Soils currently existing on-site should be used for fill material. If the use of imported fill material is necessary, the imported material must be obtained from a source that is known to be free is invasive plant species; or the material must consist of purchased clean material such as crushed aggregate, sorted rock, or similar.

b. During construction, the contractor shall stockpile topsoil and redeposit the stockpiled soil within disturbed areas onsite after construction of the Rail Spur is complete, or transport the topsoil to a certified landfill or other allowable location for disposal if soil cannot be used within disturbed areas onsite.

c. All erosion control materials including straw bales, straw wattles, or mulch used on-site must be free of invasive species seed.

d. The required Dune Habitat Restoration Program shall incorporate an invasive species control program.

Cultural Resources

53. **MM CR-1a - Prior to issuance of grading and construction permits**, the Applicant shall submit plans showing a modified road alignment for the Emergency Vehicle Access (EVA) road to the Department of Planning and Building for review and approval. Grading and construction of the EVA shall avoid all ground disturbing activities within the previously identified boundary of CA-SLO-1190. The plans shall note the boundaries of the site as an Environmentally Sensitive Area (ESA) and shall include a 50-foot buffer around the ESA. No grading, storage of materials or equipment, or use of equipment shall occur within the ESA.

54. **MM CR-1b - Prior to issuance of grading and construction permits for the emergency access road**, the Applicant shall submit an Archaeological Monitoring Plan to the Department of Planning and Building for review and approval. The plan shall include, at minimum:

a. List of personnel involved in the monitoring activities including a Native American monitor;

b. Clear identification of what portions of the project area in relation to CA-SLO-1190 shall be monitored;

c. Description of how the monitoring shall occur;

d. Description of monitoring frequency;

e. Description of resources expected to be encountered;

f. Description of circumstances that would result in the "work diversion," in the case of discovery, at the project site;

g. Description of procedures for diverting work on the site and notification procedures; and

h. Description of monitoring reporting procedures.

55. **MM CR-1c - A County approved archaeological monitor** shall be present during all ground disturbing construction activities within intact native soil (i.e., undisturbed soils) within 300 feet of the previously identified boundary of CA-SLO-1190, and as noted in the approved Archaeological Monitoring Plan.

56. **MM CR-1d - Upon completion of all monitoring and mitigation activities required by CR-1 through CR-5, and prior to final inspection or occupancy**, whichever occurs first, the Applicant shall submit to the Department of Planning and Building a report summarizing all monitoring and mitigation activities and confirming that all recommended mitigation measures have been met.

57. **MM CR-2a - Prior to any grading or construction**, contractors involved in grading and grubbing activities shall receive training from a County-qualified archeologist. The training shall address the following issues:

    a. Review the types of archaeological artifacts that may be uncovered;

    b. Provide examples of common archaeological artifacts to examine;

    c. Review what makes an archaeological resource significant to archaeologists and local native Americans;

    d. Describe procedures for notifying involved or interested parties in case of a new discovery;

    e. Describe reporting requirements and responsibilities of construction personnel;

    f. Review procedures that shall be used to record, evaluate, and mitigate new discoveries;

    g. Describe procedures that would be followed in the case of discovery of disturbed as well as intact human burials and burial-associated artifacts; and

    h. Employees completing this training shall be given a special helmet sticker or card to show they have completed the training, where the sticker/card shall be kept with them at all times while at the work site.

58. **MM CR-2b - Prior to issuance of grading and construction permits**, the Applicant shall submit an Archaeological Monitoring Plan to the Department of Planning and Building for review and approval. The plan shall include, at minimum:

    a. List of personnel involved in the monitoring activities including a Native American monitor;

    b. Description of how the monitoring shall occur;

    c. Description of monitoring frequency;

    d. Description of circumstances that would result in the "work diversion," in the case of discovery, at the project site;

    e. Description of procedures for diverting work on the site and notification procedures; and

    f. Description of monitoring reporting procedures.

59. **MM CR-2c - A County approved archaeological monitor** shall be present during all ground disturbing construction activities within intact native soil (i.e., undisturbed soils) as noted in the approved Archaeological Monitoring Plan.

60. **MM CR-3 - If human remains are exposed during construction**, the Applicant shall notify the County Environmental Coordinator immediately and comply with State Health and Safety Code Section 7050.5, which states that no further disturbance shall occur until the County Coroner has been notified and can make the necessary findings as to origin and disposition of the remains pursuant to Public Resources Code 5097.98. Construction shall halt in the area of the discovery of human remains, the area shall be protected, and consultation and treatment shall occur as prescribed by law.

61. **MM CR-5 - If any paleontological resources are encountered during ground-disturbing activities**, activities in the immediate area of the find shall be halted and the discovery assessed. A qualified paleontologist shall be retained to evaluate the discovery and recommend appropriate treatment options pursuant to guidelines developed by the Society of Vertebrate Paleontology. A paleontological resource impact mitigation program for treatment of the resources shall be developed and implemented if paleontological resources are encountered.

Geological Resources

62. **MM GR-1a - At the time of application for grading and construction permits**, the proposed rail spur, unloading facility, and oil pipeline infrastructure shall be designed and constructed to withstand anticipated horizontal and vertical ground acceleration in the Project area, based on the California Building Code. The calculated design base ground motion for project components shall consider the soil type, potential for liquefaction, and the most current and applicable seismic attenuation methods that are available.

63. **MM GR-1b - At the time of application for construction permits**, all surface facilities and equipment shall have suitable foundations and anchoring design, surface restraints, and moment-limiting supports to withstand seismically induced groundshaking.

64. **MM GR-1c - A Registered Civil Engineer and Certified Engineering Geologist** shall complete an updated geotechnical investigation specific to the proposed rail spur and oil pipeline site, as previous on-site geotechnical investigations were completed in other areas of the refinery. All geotechnical recommendations provided in the report shall be followed during grading and construction at the Project Site. The updated geotechnical evaluation shall include, but not be limited to, an estimation of both vertical and horizontal anticipated peak ground accelerations, as well as an updated liquefaction analysis.

65. **MM GR-1d - The geotechnical report shall be completed** prior to completion of the final Project design and shall be submitted to the County of San Luis Obispo Building Division for review and approval. The Project design must conform to the recommendations within the updated geotechnical evaluation. The geotechnical recommendations would likely include, but not be limited, to the following:

    a. Proposed structures shall be designed and constructed to withstand anticipated horizontal and vertical ground acceleration in the Project area, based on the California Building Code.

b. Proposed structures shall be designed and constructed to withstand the effects of liquefaction, as applicable, based on the California Building Code.

c. The Project Site shall be cleared of unsuitable materials and graded to provide a firm base for compacted fill, as applicable. Ground surfaces to receive compacted fill shall be prepared by removing organics, rubble, debris, existing disturbed fill, artificial fill, unconsolidated materials, and soft or disturbed soils. Removal of unconsolidated materials would likely include several feet of over-excavation.

d. All fill material shall be placed in uniform lifts not exceeding 8 inches in its loose state and compacted to a minimum of 90 percent relative compaction, as determined by the latest ASTM Test Designation D-1557.

e. Due to the low cohesion of the onsite soils (i.e., dune sands), the potential need for mechanical stabilization of fill slopes shall be evaluated and implemented, as applicable, to attain the acceptable factors of safety for stability. Mechanical stabilization may include Mechanically Stabilized Earth (MSE), which includes use of engineered geogrids placed at 2-foot vertical spacing within fill slopes. Cut slopes may similarly require construction of overlying stability fills, using MSE.

f. Surface runoff shall be directed away from slopes and foundations and collected in lined ditches or drainage swales, via non-erodible engineered drainage devices. Fill slopes and stability fills, as applicable, shall be provided with subsurface drainage for stability.

66. **MM GR-1e - At the time of application for grading and construction permits**, all proposed slope, building pad, and rail track bed construction shall be properly engineered, with fill placed in accordance with requirements of the current County of San Luis Obispo Building and Construction Ordinance (Title 19 of the San Luis Obispo County Code), and California Building Code.

67. **MM GR-1f - During construction**, the proposed aboveground oil pipeline shall be anchored to prevent pipeline movement, as determined by a California Registered Civil Engineer, in accordance with California Building Code, San Luis Obispo County requirements, and the American Public Works Association Greenbook.

68. **MM GR-1g - At the time of application for construction permits**, the facilities and equipment, including spill containment vaults and Project-related pipelines, shall be designed for predicted, site-specific seismic loading in accordance with applicable codes, including the California Building Code.

69. **MM GR-1h - The Applicant shall cease rail car unloading and pipeline oil conveyance** following any perceptible (i.e., felt by humans) seismic event and inspect all project-related facilities, equipment, and pipelines for damage prior to restarting operations.

70. **MM GR-1i - Consistent with California Building Code Section 3401.2**, all project-related facilities, equipment, and pipelines shall be maintained in conformance with the California Building Code edition under which it was installed. Annual inspections shall be completed by a California Registered Civil Engineer to verify that project components have

not been damaged or compromised by seismic induced ground shaking, corrosion, soil erosion, soil settlement, or other geologic hazards.

71. **MM GR-2 - During construction and operations**, the Applicant shall implement a Storm Water Pollution Prevention Plan using Best Management Practices and monitor and maintain stormwater pollution control facilities identified in the Storm Water Pollution Prevention Plan, in a manner consistent with the provisions of the Federal Water Pollution Control Act (National Pollutant Discharge Elimination System Program). Stormwater management protection measures and wet weather measures shall be designed by a California registered, Qualified Storm Water Pollution Prevention Plan Developer. In addition, a California registered, Qualified Storm Water Pollution Prevention Plan Practitioner shall oversee and monitor construction and operational Best Management Practices and stormwater management, in accordance with the State General Construction Permit and the Central Coast Regional Water Quality Control Board. Conventional measures typically recommended by the State Water Resource Board and the California Department of Transportation include the following:

    a. Implement permanent erosion and sediment control measures:

        - Minimize grading, clearing, and grubbing to preserve existing vegetation;
        - Use mulches and hydroseed, free of invasive plants, to protect exposed soils;
        - Use geotextiles and mats to stabilize soils;
        - Use drainage swales and dissipation devices; and
        - Use erosion control measures outlined in the California Stormwater Quality Association Best Management Practice Handbook.

    b. Implement temporary Best Management Practice mitigation measures:

        - Use silt fences, sandbags, and straw wattles;
        - Use temporary sediment basins and check dams; and
        - Use temporary Best Management Practices outlined in the California Stormwater Quality Association Best Management Practice Handbook.

    c. Implement tracking control Best Management Practices to reduce tracking sediment offsite.

        - Use stabilized construction entrance and exit with steel shakers;
        - Use tire wash areas; and
        - Use tracking control Best Management Practices outlined in the California Stormwater Quality Association Best Management Practice Handbook.

        Personnel at the site shall be trained in equipment use and containment and cleanup of an oil spill. Dry cleanup methods, such as absorbents, shall be used on paved and impermeable surfaces. Spills in dirt areas shall be immediately

contained with an earthen dike and the contaminated soil shall be dug up and discarded in accordance with local and state regulations.

72. **MM GR-3 - Implement Mitigation Measure GR-1c** to confirm the absence of expansive soil.

Hazards and Hazardous Materials

73. **MM HM-2a - Only rail cars designed to DOT-117/117P standards** set forth in 49 CFR § 179.202 (as published May 8, 2015 at 80 Fed. Reg. 26644) shall be allowed to unload crude oil at the Santa Maria Refinery. EPC brakes shall not be required prior to the compliance date for such equipment as enforced by the Federal Railroad Administration and the federal Pipeline and Hazardous Materials Safety Administration.

    If DOT adopts new rail car design standards for Class 3 flammable liquids in the future, thaen the Applicant shall use the most stringent DOT approved tank car design for the rail cars that unload at the SMR- based on the approved DOT implementation schedule.

74. **MM HM-2d - The refinery shall not accept or unload at the rail unloading facility** any crude oil or petroleum product with an API Gravity of 30° or greater.

Noise and Vibration

75. **MM N-1 - The Applicant shall ensure** that all construction activity at the Project Site is limited to the hours of 7:00 A.M. to 9:00 P.M., Monday through Friday, and 8:00 A.M. to 5:00 P.M. on Saturdays and Sundays. This restriction shall be a note placed on all construction plans.

76. **MM N-2a - Prior to issuance of the Notice to Proceed**, the Applicant shall develop for review and approved by the County Department of Building and Planning a Rail Unloading and Management Plan that addresses procedures to minimize noise levels at the rail spur, including but not limited to the following: 1) oil train unloading and switching activities at the SMR shall be limited to the period of 7 a.m. to 7 p.m.; 2) when a unit train is pulled in between 7 p.m. and 7 a.m., the locomotives shall shut down until the allowed unloading switching time starting at 7 a.m. No switching or breaking apart of trains or any other locomotive activity is allowed between 7 p.m. and 7 a.m. except for the minimum activity needed to move the unita train onto the SMR property from the UPRR mainline.; 3) no horns, annunciators or other signaling devices shall be allowed onsite unless it is an emergency. If horns and annunciators are needed onsite for worker safety, then warning devices shall be developed, to CPUC standards, to alert the safety of plant personnel when trains are in motion without an audible warning device.; 4) Any trains repairs shall be conducted only between the hours of 7 A.Ma.m. and 7 P.Mp.m.

77. **MM N-2b - Prior to issuance of the Notice to Proceed**, the Applicant shall provide to the County Department of Planning and Building evidence from the manufacturer that each unloading pump and associated electric motor can achieve a noise level no greater than 71 dBA at 50 feet, including the installation of pump enclosures, or similar devices if necessary.

78. **MM N-2c - Prior to issuance of the Notice to Proceed**, the Applicant shall submit to the County Department of Planning and Building for review and approval a Noise Monitoring Plan that outlines procedures for regular noise monitoring of the operational aspect of the

Rail Spur facility. The Plan shall specify at a minimum the duration and location of monitoring activities with and without trains present at the SMR site. The monitoring locations shall **include at least one location within 100 to 200** feet of the unloading activities and a monitoring location located at the property line of the nearest noise-sensitive receptor. The noise monitoring shall be conducted within one month of rail spur operations commencing. The results of the monitoring shall be reported to the **County within one month of monitoring completion.** If the results of the noise monitoring indicate that noise levels are above the thresholds, then the Applicant shall amend the Rail Unloading and Management Plan with additional mitigation measures that would reduce noise levels below County thresholds. Additional mitigation could include, but not be limited to, additional limits on the times of unloading activities.

Public Services and Utilities

79. **MM PS-1 - Prior to issuance of grading permits**, the Applicant shall submit a Solid Waste Management Plan (SWMP) for approval by San Luis Obispo County to maintain a diversion rate of at least 50 percent of construction waste from reaching the landfill. The SWMP shall consist of information regarding, but not limited to:

    a. The name and contact information of who will be responsible for implementing the recycling plan;

    b. A brief description of the Project wastes to be generated, including types and estimated quantities of each material to be salvaged, reused, or recycled during the construction phase of this Project;

    c. Waste sorting/recycling and/or collection areas shall be clearly indicated on the Site Map;

    d. A description of the means of transportation and destination of recyclable materials and waste, and a description of where recyclable materials and waste will be sorted (whether materials will be site-separated and hauled to designated recycling or landfill facilities, or whether mixed materials will be removed from the site to be processed at a mixed waste sorting facility);

    e. The name of the landfill(s) where trash will be disposed of and a projected amount of material that will be landfilled;

    f. A description of meetings to be held between Applicant and contractor to ensure compliance with the recycling plan;

    g. A contingency plan shall identify an alternate location to recycle and/or stockpile construction debris in the event of local recycling facilities becoming unable to accept material (for example: all local recycling facilities reaching the maximum tons per day due to a time period of unusually large volume);

    h. Disposal information including quantity of material landfilled, which landfill was used, total landfill tipping fees paid, and copies of weight tickets, manifests, receipts, and invoices;

    i. Recycling information including quantity of material recycled, receiving party, and copies of weight tickets, manifests, receipts, and invoices; and

j. Reuse and salvage information including quantities of salvage materials, storage locations if they are to be used on-site, or receiving party if resold/used off-site.

80. **MM PS-3a - Prior to issuance of construction permits**, the Applicant shall submit to Cal Fire/County Fire for review and approval a final Fire Protection Plan for the Rail Spur Project that meets all the applicable requirements of API, NFPA, UFC, and Cal Fire/County Fire.

81. **MM PS-3b - Prior to notice to proceed for the rail unloading facility**, the Applicant shall update the SMR Emergency Response Plan to include the rail unloading facilities and operations.

82. **MM PS-3c - Prior to notice to proceed for the rail unloading facility**, the Applicant shall update the existing SMR Spill Prevention Control and Countermeasure Plan to include the rail unloading facilities and operations.

83. **MM PS-3d - Prior to notice to proceed for the rail unloading facilities**, the Applicant shall assure that the existing SMR fire brigade meets all the requirements outlined in Occupational Safety and Health Administration 29 CFR 1910.156, and NFPA 600 & 1081.

84. **MM PS-3e - Prior to issuance of grading permits**, the Applicant shall have an executed operational Memorandum of Understanding (MOU) (now called the Operating Plan) with Cal Fire/County Fire that includes fire brigade staffing/training requirements and Cal Fire/County Fire funding requirements. This MOU shall be reviewed and updated annually by Cal Fire and the Applicant.

85. **MM PS-3f - Prior to issuance of grading permits**, the Applicant shall have an agreement to reimburse Cal Fire/County Fire for time spent by a qualified fire inspector to conduct the annual fire inspections at the SMR including all structures, and support facilities consistent with Cal Fire/County Fire's authority and jurisdiction. The Applicant shall reimburse all costs associated with travel time, inspections, inspection training, and documentation completion. The reimbursement rate shall be according to the most recent fee schedule adopted by the San Luis County Board of Supervisors.

86. **MM PS-3g - Prior to issuance of grading permits**, the Applicant shall have an agreement to reimburse Cal Fire/County Fire for offsite training for emergency responders to railcar emergencies, such as the 40-hour course offered by Security and Emergency Response Training Center Railroad Incident Coordination and Safety (RICS) meeting Department of Homeland security, NIIMS, OSHA 29CFR 1910.120 compliance. Initial training shall be two members of the Interagency Hazardous materials Response Team, two members of the interagency Urban Search and Rescue Team, and two members annually from Cal Fire/County Fire or fire districts in San Luis Obispo that have automatic aid agreements with Cal Fire/County Fire for a total of six slots per year for the life of the project.

87. **MM PS-3h - Prior to issuance of grading permits**, the Applicant shall have an agreement to reimburse Cal Fire/County Fire for Fire Chief Officer attendance such as the 40 hour course offered by Security and Emergency Response Training Center; Leadership & Management of Surface Transportation Incidents. Funding shall be for two Fire Chief Officers annually for the life of the project.

88. **MM PS-3i - Prior to issuance of grading permits**, the Applicant shall have an agreement with Cal Fire/County Fire to conduct annual emergency response scenario/field based training including Emergency Operations Center Training activations with the Applicant, Cal Fire/County Fire, UPRR, and other San Luis Obispo County First response agencies that have mutual aid agreements with Cal Fire/County Fire. These annual emergency response drills shall occur for the life of the project.

89. **MM PS-5 - Prior to notice to proceed for the rail unloading facility**, the Applicant shall update their existing Security Plan to include the Rail Spur Project.

Transportation and Circulation

90. **MM TR-1 - Prior to issuance of grading permits**, the Applicant shall develop a Construction Traffic Management Plan for review and approval by the County Public Works Department and CalTrans. The plans shall include at least the following items:

    a. A scheduling plan showing operational schedules to minimize traffic congestion during peak hours. The plan shall limit project related traffic to and from the refinery during the peak AM and PM hours. This plan shall note the schedule for completing various construction activities, and to the extent feasible avoid an overlap of the construction of the rail spur/unloading area and pipeline construction. The plan shall show the hours of operation to minimize traffic congestion during peak hours.

    b. Willow Road shall be use for truck deliveries to and from the refinery.

    c. Monitoring program for street surface conditions so that damage or debris resulting from construction of the Project can be identified and corrected by the Applicant.

    d. A traffic control plan showing proposed temporary traffic control measures, if any.

    e. A delivery schedule for construction materials, including an evaluation of the feasibility of transporting construction materials to the site by rail.

Water Resources

91. **MM WR-1 - During construction**, oil and other chemical spills shall be contained and cleaned according to measures outlined in the California Stormwater Quality Association Best Management Practice Handbook. Best Management Practices would likely include, but not be limited, to the following:

    a. Ensure minor spill containment and clean up equipment is readily available in areas of demolition, construction, and operations.

    b. Store petroleum products in covered areas with secondary containment dikes.

    c. If vehicle maintenance and fueling occur onsite, use a designated area and/or secondary containment, located away from drainage courses, to prevent the run-on of storm water and the runoff of spills.

    d. Regularly inspect onsite vehicles and equipment for leaks, and repair immediately.

e. Always use secondary containment, such as a drain pan or drop cloth, to catch spills or leaks when removing or changing fluids.

f. Use absorbent materials on small spills.

92. **MM WR-2 - Prior to the County's issuance of a Notice to Proceed**, the existing Santa Maria Refinery Spill Prevention Control and Countermeasure Plan (SPCCP) shall be amended to reflect operation of the rail car unloading facility and associated oil pipeline. See mitigation measure BIO-7 for the detailed SPCCP requirements for the rail unloading operations.

93. **MM WR-6 - If ~~possible~~ feasible, the Applicant shall use recycled water for construction and operational activities** to reduce impacts to local groundwater supplies. Recycled water could be generated onsite and/or secured via truck transport or water pipeline from the South San Luis Obispo County Sanitation District.

Other Conditions

94. **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 pedestrians access. ~~, no motor vehicles or bicycles shall be allowed~~. 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.

95. **During operation of the rail spur project**, fueling of locomotives on the project site, except when re-fueling is needed for manifest trains, shall be prohibited.

96. **During operation of the rail spur project**, steam heating of rail cars shall occur no more than once per calendar year.

97. **Within ten (10) days of final approval of this use permit**, the applicant shall, as a condition of approval of this use permit, enter into and record an agreement, in a form approved by County Counsel, providing for the defense and indemnity of the County of San Luis Obispo and its present or former officers, agents, or employees, at the applicant's sole expense, against any claim, action, or proceeding 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 action by a third party relating to or arising out of the approval or implementation of this use permit. The agreement shall provide that the applicant shall indemnify the County and reimburse it for any costs and/or attorney's fees which the County incurs as a result of such claim, action, or proceeding, and that the County's participation or non-participation in any such action shall not relieve the applicant of his or her obligations under this condition or the agreement.

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~~97.~~98. **Decommissioning Fund.** In order to adequately protect the County and its citizens in the event the Applicant, or its successors or assigns, cease operation

of the Santa Maria Refinery for two or more years, the Applicant shall enter into an agreement with the County, executed by the Chair of the County Board of Supervisors, in a form approved by County Counsel, that provides for the establishment and maintenance of a nonwasting Decommissioning Fund, which shall provide sufficient financial assurances to fully restore the rail spur portions of the Project site to pre-Project conditions. The Decommissioning Fund will consist of a series of performance bonds or letters of credit issued by a California bank, or a California branch office of a national bank, doing business in California, or other form of financial assurance acceptable to County Counsel, **prior to construction permit issuance** for the Project. The agreement shall allow the County to use the Decommissioning Fund to restore the rail spur portion of the site to pre-Project conditions in the event that the Applicant, or its successors or assigns, do not properly decommission the Project or restore the rail spur portion of the site to its original conditions within a reasonable time following the cessation of business operations or the abandonment of the Project for whatever reason. The agreement shall provide that the amount of the Decommissioning Fund shall be calculated to fully implement decommissioning activities and a Final Closure Plan for the Project. Applicant shall pay reasonable costs for the County to retain a third party expert to review the decommissioning activities and a final closure plan and confirm the adequacy of the Decommissioning Fund. The Decommissioning Fund shall be adjusted for inflation (every three years) and for any update to the final closure plan. With regard to the inflationary adjustment, the agreement shall specify either a process or the most appropriate inflationary index(es) to capture the actual costs to perform the necessary decommissioning work. The agreement shall provide that, in the event that the Decommissioning Fund is inadequate to fully decommission the Project the Applicant, its successors or assigns, shall be liable for any amount expended by the County over the Decommissioning Fund balance and shall provide for termination of the Decommissioning Fund upon the completion of implementation of the final closure plan.

Exhibit D

SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

October 12, 2016

Phillips 66 Company
Attn: James Anderson
2555 Willow Road
Arroyo Grande, CA 93420

SUBJECT: PLANNING COMMISSION ACTION FOR DENIAL
Phillips 66 / County File Number: DRC2012-00095

At the meeting of October 5, 2016, the County Planning Commission denied your application, based on adopted Findings. A copy of the Findings is enclosed for your records.

If you disagree with this action, pursuant to County Land Use Ordinance Section 22.70.050 or County Real Property Division Ordinance Section 21.04.020 or Coastal Zone Land Use Ordinance Section 23.01.042, you have the right to appeal this decision to the Board of Supervisors up to 14 calendar days after the date of the action, in writing on the proper department appeal form, to the Department of Planning and Building. If legitimate coastal resource issues related to our local Coastal Program are raised in the appeal, there will be no fee. If an appeal is filed for an inland project, or for a coastal project with no legitimate coastal issues, there will be a fee set by the current fee schedule. If a fee is required, it must accompany the appeal form. The appeal will not be considered complete if a fee is required but not paid. There must be an original form and original signature, a FAX is not accepted.

If you have any questions regarding this matter, please contact me at (805)781-5611.

Sincerely,

R. Hedges

RAMONA HEDGES, SECRETARY
COUNTY PLANNING COMMISSION

Exhibit C – Findings for Denial

A. Environmental Determination

1. 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 considers the following issues: Aesthetics and Visual Resources, Agricultural Resources, Air Quality and Greenhouse Gases, Biological Resources, Cultural and Historical Resources, Geological Resources, Hazards and Hazardous Materials, Land Use and Recreation, Noise and Vibration, Population and Housing, Public Services and Utilities, Transportation and Circulation and Water Resources. The FEIR also considers alternatives in addition to the "No Project" alternative.

2. While a FEIR has been prepared, per the Public Resources Code 21080(b)(5) and CEQA Guidelines, CEQA does not apply to projects which a public agency rejects or disapproves. However, the FEIR has provided evidence and information to support this recommendation for denial, including an evaluation of the significant and unavoidable environmental impacts of the proposed project.

3. There are insufficient specific, overriding economic, legal, social, technological, or other benefits of the project that outweigh the significant effects on the environment, as would be required to approve the project pursuant to Public Resources Code section 21081. Additionally, due to federal preemption, implementation of mitigation measures to lessen the Class I impacts on the Mainline within San Luis Obispo County and the state are infeasible, as argued by the Applicant.

B. Environmentally Sensitive Habitat

4. The proposed project is located within an Environmentally Sensitive Habitat area:

   Following the circulation of the Public Draft EIR, additional biological survey efforts were conducted in 2015 by Arcadis and Leidos to ensure accuracy and consistency with vegetation type mapping with the National Vegetation Classification system, as described within A Manual of California Vegetation (Sawyer et al 2009).

   Based on the best available information, it is determined that the Rail Spur Project area:

   a. Is currently occupied by plant species that are listed as Rank 1B status by the California Native Plant Society; and,

   b. Is currently occupied by sensitive communities as classified by the California Department of Fish and Wildlife (CDFW) under the National Vegetation Classification system described in A Manual of California Vegetation, Second Edition.

   Due to these factors, the project site meets the definition of Unmapped ESHA in the County's LCP (CZLUO Section 23.11). The area contains sensitive plant and animal species needing protection, including Rank 1B status plants, sensitive communities recognized by the CDFW, burrowing owls, and coast horn lizard. In addition, the Rail Spur Project area meets the definition of ESHA as defined in the guidelines set forth by the California Coastal Commission for defining ESHA (CCC 2013). As discussed further below in impact BIO.5, the Rail Spur Project would permanently impact a total of about 20 acres of ESHA, including the sensitive plant communities as classified by the California Department of Fish and Wildlife (CDFW)

under the National Vegetation Classification system described in A Manual of California Vegetation, Second Edition.

5. The Proposed Project does not meet the requirements of Coastal Zone Land Use Ordinance Section 23.07.170 b for Environmentally Sensitive Habitat Areas:

   a. *There would be a significant negative impact on the identified sensitive habitat and the proposed uses would be inconsistent with the biological continuance of the habitat* because the proposed rail spur would remove approximately 20 acres of habitat area containing "rare" or "1B" species, and is not a project that is included within the list of projects noted in the ordinance as a "development project (which) would be allowable within an ESHA" such as a resource dependent use, habitat enhancement project, or coastal access way.

   b. *The proposed uses would significantly disrupt the habitat* because development would remove approximately 20 acres of habitat area containing listed "rare" or "1B" species by the California Department of Fish and Wildlife and the California Native Plant Society. The Project is located within dune habitat containing sensitive vegetative communities as classified by the California Department of Fish and Wildlife (CDFW) under the National Vegetation Classification system described in A Manual of California Vegetation, Second Edition (i.e., Silver dune lupine – mock heather scrub). The Project and associated infrastructure would extend within this habitat area. Due to the extensive distribution of Unmapped ESHA, there does not appear to be an alternative design or Project configuration that would avoid disturbance and removal of this habitat in order for the Project, or any project alternative, to proceed on the portion of the property outside the existing disturbed envelope of the refinery. The inability to avoid ESHA is in direct conflict with sub-section (e) of 23.07.170 which states, "All development and land divisions within or adjacent to an Environmentally Sensitive Habitat Area shall be designed and located in a manner which avoids any significant disruption or degradation of habitat values."

C. <u>Development Plan Findings</u>

The proposed project does not meet the requirements of 23.02.034.c.4 as follows:

A. <u>The proposed project or use is not consistent with the Local Coastal Program, the Land Use Element of the General Plan, and the General Plan. Following is a list of the items for which the project is not in compliance:</u>

Coastal Plan Policies:

6. Environmentally Sensitive Habitats, Sensitive Habitats, Policy 1, Land Uses Within or Adjacent to Environmentally Sensitive Habitats: This policy states that 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. Unmapped ESHA is present throughout the Project area and within 100 feet of other areas determined to be Unmapped ESHA, including portions of the project area where the rail spur and unloading facility would be constructed, the emergency vehicle access route, and the area where the pipelines would be constructed from the rail spur unloading facility to the existing storage tanks. The Project would impact 20 acres of Unmapped ESHA. The Refinery was built in 1955 to be in close proximity to local onshore oil sources (non-coastal dependent). In the mid-1980's, upon development of offshore oil, the Refinery began use of offshore crude as a major source. During this time, and to present day, the Refinery has used a combination of offshore crude as well as a variety of onshore sources (including Canadian

Tar Sands crude which arrives by truck from the Central Valley and is delivered to the Santa Maria Pump Station). The Refinery is dependent upon a complex arrangement of roadways, rail lines, pump stations, and pipelines that are located, in some instances in the coastal zone, but primarily outside of the coastal zone. The Refinery does not rely on the ocean or marine resources and is therefore not coastal dependent. Because the Project would impact Unmapped ESHA and is not a coastal dependent use, it would be inconsistent with this policy.

7. **Environmentally Sensitive Habitats, Sensitive Habitats, Policy 29, Protection of Terrestrial Habitats:** This policy states that 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. The Project would be located within and would impact an approximate 20-acre area that contains Unmapped ESHA. In addition the Project is not a coastal dependent use as described above. Because the Project is not considered a coastal dependent use and would impact Unmapped ESHA, it is not consistent with this policy.

   The proposed Project has the potential to result in oil spills and resultant fires that could impact terrestrial habitats along the mainline rail routes. Depending upon the location of an oil spill it could result in significant impacts to terrestrial habitats. Given the potential significant impacts that could occur to terrestrial habitats within the County in the case of an oil spill, rail transport of crude oil along the mainline it is not consistent with this policy.

8. **Environmentally Sensitive Habitat Area Policy 36, Protection of Dune Vegetation:** Policy 36 states "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. Development activities and uses within dune vegetation shall protect the dune resources and shall be limited to resource dependent, scientific, educational and passive recreational uses. Coastal dependent uses may be permitted if it can be shown that no alternative location is feasible, such development is sited and designed to minimize impacts to dune habitat and adverse environmental impacts are mitigated to the maximum extent feasible." Based on the location of proposed improvements associated with the Project, portions of the development would be located within and would impact approximately 20 acres of Unmapped ESHA. As described above, neither the Project nor the existing refinery are coastal dependent uses (i.e., requiring a site on, or adjacent to, the sea to be able to function at all). The objective of the Project is to increase the Applicant's ability to access more economically priced crude from a wider diversity of suppliers throughout various locations in North America. Because the Project and the existing refinery are not "coastal dependent" and would result in the removal of Unmapped ESHA, the Project does not comply with this policy.

Coastal Zone Framework for Planning:

9. **Land Use Goal 4:** The Land Use Element land use categories identify areas that are to be compatible with each other and specific goals related to conflicts of uses and preservation of important areas. Land use goal no. 4 provides that "areas where agricultural, residential, commercial and industrial uses may be developed in harmonious patterns and with all the necessities for satisfactory living and working environments." The proposed rail spur project would modify an existing industrial property to allow the construction of the spur within a buffer area between neighboring residential and agricultural land uses. Operation of the rail spur project could result in significant health risk impacts to the closest residences mainly due to diesel particulate matter from the locomotives servicing the refinery. The project would also generate additional particulate matter emissions due to fugitive dust and diesel locomotive engines at the refinery in an area that already exceeds state PM_{10} standards. Therefore, the

project would be inconsistent with this policy by allowing an expansion of a use that is not compatible with neighboring residential or agricultural uses and would result in additional negative health impacts.

10. **Strategic Growth Goal 1, Objective 2. Air Quality:** This air quality objective is put forth to maintain and protect a living environment that is safe, healthful and pleasant for all residents. The applicable goal associated with this objective seeks to ensure that development projects maintain, or exceed, the minimum state and federal ambient air quality standards. The Project would not comply with this objective and goal because it would generate toxic air emissions that exceed San Luis Obispo County APCD (SLOCAPCD) health risk thresholds when factoring in the 2012 California Office of Environmental Health Hazard Assessment (OEHHA) childhood exposure and breathing rate adjustments. The proposed Project would result in a maximum exposed individual resident (MEIR) cancer risk of 26.5 in a million. This includes emission sources at the project site as well as the mainline emissions near the SMR. The SLOCAPCD cancer risk threshold is 10 in a million for toxic emissions. The use of Tier 4 locomotives and reduced idling time for locomotives onsite as mitigation would reduce the MEIR to 6.0 in a million at the same receptor. However, since UPRR (and not the Project Applicant) would own the locomotives, and the locomotives are used for interstate commerce, the mitigation measure requiring the use Tier 4 locomotives would likely be preempted by Federal law, and therefore may not be a feasible mitigation measure. Without the use of Tier 4 engines but with implementation of other mitigation measures, the MEIR would be 13.6 in a million at the same receptor (this includes the reduction in idling at the site, use of cleaner truck engines, and daytime unloading only).In addition, without full mitigation, the project would also exceed the SLOCAPCD diesel particulate matter threshold of 1.25 lbs per day onsite.

    The Project would also not comply with this objective and goal because it would generate toxic air emissions that exceed San Luis Obispo County APCD (SLOCAPCD) health risk thresholds of 10 in a million for mainline rail operations in areas were train speeds would be less than 30 mph. The project would also exceed the SLOCAPCD NO_x, ROG, and diesel particulate matter emission CEQA thresholds without full mitigation. Due to Federal preemption, the County may not be able to require emissions reduction credits for the mainline rail NO_x, ROG, and DPM emissions, leaving potential exceedances of the state and/or federal ambient air quality standards unmitigated and making the Project inconsistent with this goal.

11. **Combining Designations, SRA – Sensitive Resource Area, General Objectives: 1.** General Objective 1 states that Environmentally Sensitive Habitats should be identified and protected by construction setbacks, use limitations, and other appropriate regulations. A portion of the Project area of disturbance is located within the existing refinery site in an area previously disturbed for storage and handling of coke; however, a large portion of the improvements associated with the Project would be located within identified sensitive vegetative communities as classified by the California Department of Fish and Wildlife (CDFW) under the National Vegetation Classification system described in A Manual of California Vegetation, Second Edition and Unmapped ESHA (i.e., Silver dune lupine – mock heather scrub). Project construction would impact approximately 20 acres of this sensitive vegetative community and Unmapped ESHA. For this reason, the Project would not comply with this objective.

12. **Coastal Zone Framework for Planning, Coastal Zone Land Use Element Strategic Growth Goal 1:** The Land Use Element states that the County will "preserve open space, scenic natural beauty and natural resources" and in addition "conserve energy" and "protect agricultural land and resources." The project has the potential to result in an increased risk of oil spills and fires that could impact natural resources, scenic areas, and agricultural land along the mainline rail routes as a result of this project. An oil spill could result in significant impacts to agricultural, biological, and water resources in the event of a spill because of the

additional rail traffic from this proposed project. These impacts are discussed in applicable sections of Chapter 4.0 of the FEIR. Because the project is anticipated to increase the oil spill risk, the project would not be in compliance with this goal of the Land Use Element.

13. **Strategic Growth Goal 1: Objective 4. Agriculture & Land Use Goal 2:** This objective states that agricultural land for the production of food, fiber and other agricultural commodities is to be protected. This includes the protection and support of the rural economy and locally based commercial agriculture. The proposed rail spur project has the potential to result in oil spills or fires that could impact agricultural land along the mainline rail routes. An oil spill could result in significant impacts to agricultural commodities and soils within the County. Because of the increase in risk and potential for a spill which would directly impact agricultural resources the project is not consistent with this land use policy.

14. **Chapter 6: Environmentally Sensitive Habitats, Coastal Streams Policy 20:** Coastal streams and adjoining riparian vegetation are environmentally sensitive habitat areas and the natural hydrological systems and ecological functions of coastal streams shall be "protected and preserved". The proposed rail spur project has the potential to result in oil spills and fires that could impact coastal streams and riparian areas along the mainline rail routes. An oil spill could result in significant impacts to coastal streams and riparian vegetation which is discussed in section 4.4 (Biological Resources) of the FEIR. This project would allow for an increase of rail traffic which would increase the probability of a potential spill which could severely impact the County's riparian areas. Because of this, the project is not consistent with this Coastal Policy.

15. **Chapter 7: Agriculture Policy 1:** Policy 1 states that prime agricultural land shall be maintained and protected for agricultural uses. Similar to the strategic growth goals listed above related to agriculture, the Coastal Plan Policies also outlines requirements for protection of agricultural lands which would potentially be impacted severely as a result of an accident or spill of oil on agricultural resources or soils, which is discussed in section 4.2 Agricultural Resources in the FEIR. The proposed project would increase oil traffic via rail throughout the County and thereby increase the probability of an accident or spill. In the event of a spill or fire there could be significant impacts to agricultural resources as a result of this project. Therefore, the project is not in compliance with this policy.

16. **Chapter 12: Archaeology, Policy 1: Protection of Archaeological Resources:** This General Plan policy states that the County shall provide for the protection of both known and potential archaeological resources. All available measures shall be explored at the time of a development proposal to avoid development on important archaeological sites. While development is not proposed on or near an archaeological site, impacts to archaeological resources could occur as a result of an oil spill and associated clean up actions along the mainline rail routes. Impacts to archaeological resources could not be avoided if a spill were to occur within an area where these resources are located in proximity to the mainline rail within the County. Therefore, the project is not in compliance with this policy.

South County Coastal Area Plan:

17. **Land Use, Rural Area Land Use, Industrial:** The Area Plan states that for the existing Santa Maria Refinery (SMR), the refinery occupies only a portion of the total area, and the large vacant areas around the refinery provide a desirable buffer from adjacent uses and an area where wind-carried pollutants can be deposited onsite, thereby not affecting neighboring properties. This is particularly important to the agricultural uses in the vicinity of the project site. The Area Plan provides that any proposed modification or expansion of the refinery (e.g., the proposed rail spur project) should be subject to Development Plan approval covering the entire property to designate buildable and open space areas. The Area Plan continues by

stating offshore oil and gas lease sales may generate the need for onshore partial oil and gas processing facilities and that expansion of industrial uses in the vacant portion of the rail spur project site may be appropriate in the future to accommodate offshore oil and gas lease sales. However, the Plan does not envision expansion for other purposes such as the Project. The rail spur component of the Project would extend an approximate 200-foot wide swath of development and industrial use approximately 0.8 mile to the east beyond the currently industrialized portion of SMR, toward existing residences and Highway 1. From the eastern terminus of the proposed rail spur, the buffer would be reduced to approximately 0.5 mile to the eastern boundary of the project site. This would reduce the buffer area between the Project and the residential area to the east and would therefore result in the Project being inconsistent with this policy.

18. **Industrial Air Pollution Standards:** This requirement of the South County Area Plan requires that "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 (SLOCAPCD) standards." The Project does not comply with this requirement as it exceeds the minimum threshold for cancer risk of 10 in a million. Without full mitigation, the project would also exceed the SLOCAPCD threshold for DPM of 1.25 lbs per day onsite and due to federal preemption, the County cannot impose measures (e.g. Tier 4 locomotives) to fully mitigate this impact. The toxic air emissions including the DPM added to the basin as a result of this project is not in compliance with this requirement.

Safety Element of the General Plan:

19. **Safety Element of the General Plan, Fire Safety Goal S-4:** "Reduce the threat to life, structures and the environment caused by fire." There is the potential for fire and explosions along the mainline rail routes due to a train derailment, which could impact life, structures and the environment depending on the location of the accident. The County is likely preempted from implementing conditions or mitigation measures that could mitigate these impacts along the mainline rail route. There are significant impacts to the safety of the populations near the rail lines within the County and the project is not consistent with this policy of the General Plan.

20. **Safety Element of the General Plan, Fire Safety Policy S-14, Facilities, Equipment and Personnel:** "Ensure that adequate facilities, equipment and personnel are available to meet the demands of fire fighting in San Luis Obispo County based on the level of service set forth in the fire agency's master plan." It has come to the County's attention through numerous letters from jurisdictions along the mainline that there are not adequate resources through their respective fire agencies to respond to a derailment, spill or explosion as a result of a rail accident. In addition, the County may be preempted from implementing conditions or mitigation measures that could mitigate these impacts along the mainline rail routes, therefore the County can't ensure there will be adequate facilities, equipment and personnel available in the event of an accident. This is the case throughout the state as well as within San Luis Obispo County. Therefore, the project is not consistent with this policy of the General Plan.

21. **Safety Element of the General Plan, Hazardous Materials Policy S-26, Program S-68:** S-26 states: "Reduce the potential for exposure to humans and the environment by hazardous substances." S-68 states "Review commercial projects which use, store, or transport hazardous materials to ensure necessary measures are taken to protect public health and safety." Implementation measure Program S-68 states that commercial projects which use, store, or transport hazardous materials are to ensure necessary measures are taken to protect public health and safety. As the Applicant has stated, the County would not be able to mitigate or require conditions upon the project which would ensure the safety for citizens along the mainline rail routes, including the portions within the County, due to the County likely being preempted from requiring these types of measures. The project is not in compliance with this

policy because the County would not be able to ensure the safety of the residents of the County, or the state, as a result of the additional probability of a derailment, spill, fire or explosion because of the proposed project.

Conservation and Open Space Element of the General Plan:

22. **Air Quality Policy AQ 3.2, Attain Air Quality Standards:** Policy AQ 3.2 states that the County will attain or exceed federal or state ambient air quality standards for measured criteria pollutants. San Luis Obispo County is in non-attainment for ozone standards as well as the state particulate matter standards. The Project would generate fugitive dust and DPM onsite that would contribute to PM_{10} emissions within the County. It is unlikely that these fugitive dust and DPM emissions (i.e., PM_{10} emissions) could be offset at the SMR due to a lack of available onsite emission reductions. The addition of these onsite PM_{10} emissions would further exacerbate the ability for the County to attain the state particulate matter standards and therefore the project would not be in compliance with this General Plan policy of the Conservation and Open Space Element.

    The rail spur project would be generating NO_x and ROG emissions along the mainline rail route that would lead to ozone increases and would generate DPM along the mainline rail routes that would contribute to PM_{10} emissions within the County. Due to Federal preemption, the County may not be able to require emissions reduction credits for the mainline rail NO_x, ROG, and DPM emissions. The addition of these NO_x, ROG, and PM_{10} emissions would further exacerbate the ability for the County to attain the state particulate matter and ozone standards. The addition of these NO_x, ROG, and PM_{10} emissions along the mainline rail route within the County would further exacerbate the ability for the County to attain the state particulate matter and ozone standards and therefore the project would not be in compliance with this General Plan policy of the Conservation and Open Space Element.

23. **Air Quality Policy AQ 3.3, Avoid Air Pollution Increases:** Policy AQ 3.3 states that the County will, "Avoid a net increase in criteria air pollutant emissions in planning areas certified as Level of Severity II or III for Air Quality by the County's Resource Management System (RMS)." The Nipomo Mesa area is in a level of severity II for Ozone, a level of severity III for $PM_{2.5}$, and a level of severity III for PM_{10}. The "PM" or particulate matter includes hazardous materials in the air that gets into the lungs and causes a variety of health effects. The $PM_{2.5}$ tends to be a greater health risk because the particles are smaller and can travel deeper into the lungs. Sources of particulate pollution include diesel exhaust, mineral extraction and production, combustion products from industry and motor vehicles, smoke, wind-blown dust and other sources (Source: County Resource Summary Report). The Project does not comply with this standard because it would add diesel exhaust from locomotives to an area which is currently in a level of severity of III. Even with implementation of mitigation measures the Project would exceed the threshold of cancer causing diesel particulate which is 10 in a million by creating a risk factor of about 13.6 in a million (for emissions occurring at the project site and along the mainline impacting the same receptors near the SMR). Without implementation of mitigation, the Project would create a risk factor of 26.5 in a million, both of which are exceeding the threshold. In addition, without full mitigation, the Project would exceed the 1.25 lbs per day threshold for DPM onsite. In addition, the most effective mitigation measure is likely not implementable due to federal preemption (i.e., requiring use of Tier 4 locomotives).

    Operation of the locomotives along the mainline rail routes would result in increase in NO_x and ROG emissions that would lead to ozone increases. The locomotives would also generate diesel particulate matter emissions along the mainline rail routes, which would increase PM_{10} emissions in the County. Due to Federal preemption, the County may not be able to require emissions reduction credits for the mainline rail NO_x, ROG, and diesel particulate matter emissions. The addition of these NO_x, ROG, and PM_{10} emissions would result in air pollution

increases in the County and therefore the project would not be in compliance with this General Plan policy of the Conservation and Open Space Element.

24. **Air Quality Policy AQ 3.4, Toxic Exposure:** Policy AQ 3.4 states that the County will, "Minimize public exposure to toxic air contaminants, ozone, particulate matter, sulfur dioxide, carbon monoxide, nitrogen oxides, and lead." This Project does not comply with this Policy of the General Plan because it allows for an increase in hazardous emissions as a result of the project. Calculations in the FEIR have shown that this Project would exceed the cancer threshold, which is 10 in a million, by resulting in a cancer risk of about 26.5 in a million (with no mitigation), or about 13.6 in a million (with partial mitigation). This impact would exceed San Luis Obispo County Air Pollution Control District (APCD) health risk thresholds when factoring in the 2012 California Office of Environmental Health Hazard Assessment (OEHHA) childhood exposure and breathing rate adjustments.

    The Project does not comply with this Policy of the General Plan because it allows for an increase in hazardous emissions as a result the locomotives operating on the mainline rail routes in the County. Calculations in the FEIR show that the Project would exceed the cancer threshold of 10 in a million for areas where trains speeds are limited to 30 miles per hour or less and thus impacting people in the county along the routes which will see the additional rail traffic as a result of this proposed project.

25. **Air Quality Policy AQ 3.5, Equitable Decision Making:** Policy AQ 3.5 states that the County will, "Ensure that land use decisions are equitable and protect all residents from the adverse health effects of air pollution." This policy is also consistent with the discussion above regarding air quality Policy AQ 3.3. The Project would bring locomotives (up to 5 trains per week, 10 round trips) to the site for unloading of heavy crude, and would depart the site empty. The additional diesel exhaust from these locomotives, upwind of many residences and sensitive receptors, would cause a significant impact to the air quality for these residences. In addition, a large onsite buffer between the residential neighborhoods and the facility would be reduced from over 7,600 feet to approximately 3,300 feet. This project application for a "Development Plan/Coastal Development Permit" is a discretionary land use permit with the discretion by the County to decide if this project complies with the General Plan including the health and safety of the County's residents. The Project imposes health risks which would be inconsistent with the health and safety requirements of the General Plan with regard to air quality from the property (increase in cancer causing thresholds). This project would not ensure that all residents are protected from the adverse health effects of air pollution as this policy requires.

26. **Air Quality Goal AQ 3: Implementation Strategy AQ 3.6.1, Identify Health Risks to Sensitive Receptors:** This implementation strategy of the General Plan states that health risks are to be mitigated consistent with Air Pollution Control District standards. This is generally applicable to projects for which construction would occur near a freeway or rail line and mitigation would be required to reduce the air quality hazards to "sensitive receptors" or citizens which are sensitive to these pollutants. However, this project would increase the amount of toxic emissions as an increase in rail traffic would occur as a result of the proposed project. Toxic emissions from the locomotives operating on the mainline rail routes would exceed the cancer risk thresholds for areas where speeds are limited to 30 miles per hour or less and thus impacting people in the county along the routes which will see the additional rail traffic as a result of this proposed project. Therefore, the project would not be in compliance with this General Plan policy of the Conservation and Open Space Element.

27. **Biological Resources Policy 1.2, Limit Development Impacts:** This policy calls for the regulation and minimization of proposed development in areas that contain essential habitat for special-status species, sensitive natural communities, wetlands, coastal and riparian

habitats, and wildlife habitat and movement corridors as necessary to ensure the continued health and survival of these species and protection of sensitive areas. The Project would result in the extension of refinery infrastructure (i.e., rail spur, unloading facility, pipelines, and emergency vehicle access road) into a dune habitat system. Approximately 20 acres of various project features would be constructed within dune vegetation that is considered sensitive habitat as classified by the California Department of Fish and Wildlife (CDFW) under the National Vegetation Classification system described in A Manual of California Vegetation, Second Edition and is also considered Unmapped ESHA; therefore, the Project does not comply with this policy.

28. **Biological Resources, Policy BR 1.15: Restrict Disturbance in Sensitive Habitats during Nesting Seasons:** This General Plan policy states that projects are to avoid impacts to sensitive riparian corridors, wetlands and coastal areas in order to protect bird-nesting activities. In addition to the impacts discussed above related to Coastal Streams in Coastal Plan Policies, impacts as a result of a spill along the mainline would negatively impact nesting birds which is in conflict with this General Plan policy. This project would increase the risk of a spill or fire which would remove and damage nesting habitats. Therefore, the project would not be in compliance with this General Plan policy of the Conservation and Open Space Element.

29. **Energy, Goal E 7: Design, siting, and operation of non-renewable energy facilities:** Implementation Strategy E 7.1.1 states that new facilities will not be located in a manner which will impact the health and safety of human populations with special attention to disabled and elderly populations as they require additional resources for evacuation in the event of an emergency. The risk analysis for the mainline rail routes found that significant hazards would exist to the public in the vicinity of the mainline rail routes in the event of a derailment and release of crude oil that could lead to a fire or explosion. This proposed project would increase crude oil rail traffic which could have potential for catastrophic impacts in the event of a derailment or explosion and would be in direct conflict with this General Plan policy as it relates to the health and safety of the citizens around the mainline within San Luis Obispo County.

30. **Non-Renewable Energy Facility Siting Policy E 7.1:** Energy Goal 7 states that, "Design, Siting, and Operation of Non-renewable energy facilities will be environmentally appropriate." In addition the related Policy E 7.1 for Non-Renewable Energy Facility Siting, "Energy fossil fuel, and related facilities will be sited, constructed, and operated in a manner to protect the public from potential hazards and significant environmental impacts." The implementation Strategy related to Goal 7 and Policy 7.1 requires facility design, siting and operational standards: There are 30 of these outlined for energy projects and the pertinent policies for the rail spur project are listed here (numbers correspond to the numbers in the Conservation and Open Space Element Energy Policy E 7.1):

    3) Continue to maintain, operate, monitor, and repair the facility so that it does not constitute a public safety hazard or an environmental threat.

    The Project does not comply with this component of the goal due to air toxic emissions from the operation of the Project that would exceed the acceptable levels determined by the SLOCAPCD for both cancer risk and diesel particulate matter. The Project, while located within and adjacent to an existing facility, would increase the intensity of rail activity and change the use of the site to allow for crude to be brought in via rail. The addition of up to five trains per week would increase toxic air emissions which would impact neighboring residences to the east and north of the project site.

    4) Employ the best reasonably achievable techniques available to prohibit disruption of environmentally sensitive areas such as wetlands, animal or bird refuges,

or habitat of species of special concern. Avoid impacts to habitat of rare, threatened, or endangered species.

The Project does not comply with this component of the policy because construction of the Project would impact about 20 acres of sensitive habitat as classified by the California Department of Fish and Wildlife (CDFW) under the National Vegetation Classification system described in A Manual of California Vegetation, Second Edition and an area of the project site considered Unmapped ESHA.

B. The proposed project does not satisfy all applicable provisions of Title 23 of the County Code because:

31. **Section 23.07.170 of the Coastal Zone Land Use Ordinance Environmentally Sensitive Habitats:** The Project is located within dune habitat containing sensitive vegetative communities as classified by the California Department of Fish and Wildlife (CDFW) under the National Vegetation Classification system described in A Manual of California Vegetation, Second Edition (i.e., Silver dune lupine – mock heather scrub). The Project will extend within this habitat area, and there are no alternatives around disturbance or removal of this habitat area in order for the project, or project alternative, to proceed. This is in direct conflict with this standard which states, "All development and land divisions within or adjacent to an Environmentally Sensitive Habitat Area shall be designed and located in a manner which avoids any significant disruption or degradation of habitat values. This standard requires that any project which has the potential to cause significant adverse impacts to an ESHA be redesigned or relocated so as to avoid the impact, or reduce the impact to a less than significant level where complete avoidance is not possible." The extension of the rail spur adjacent to the Santa Maria Refinery is located within a dune habitat area which also acts as a spatial buffer between the refinery and the residences to the east.

C. The establishment and subsequent operation or conduct of the use will, 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, and will be detrimental or injurious to property or improvements in the vicinity of the use because:

32. The Rail Spur Project would modify and expand the existing industrial uses and activities at the Santa Maria Refinery (SMR) by delivering crude oil to the refinery by rail. The onsite activities associated with the rail spur project would result in cancer risk from air toxics and increased DPM that would both exceed Air Pollution Control District CEQA thresholds. These significant air quality impacts would directly impact neighboring residences, employees, and populations in the vicinity of the Santa Maria Refinery. The Project would generate toxic air emissions that exceed San Luis Obispo County APCD (SLOCAPCD) health risk thresholds when factoring in the most recent 2012 California Office of Environmental Health Hazard Assessment (OEHHA) childhood exposure and breathing rate adjustments. The SLOCAPCD cancer risk CEQA threshold is 10 in a million for toxic emissions and with this proposed project (with partial mitigation) there would be a risk of 13.6 in a million, which exceeds these thresholds. Onsite operation of the locomotives would exceed the SLOCAPCD CEQA threshold of 1.25 lbs per day of diesel particulate matter even with partial mitigation. These are both considered a significant and unavoidable environmental impact.

Operation of the locomotives along the mainline rail routes would result in increase in NO_x and ROG emissions that would lead to ozone increases both in the County and in other parts of the State. Operational activities of trains along the mainline rail route outside of San Luis Obispo County associated with the Project would generate criteria pollutant emissions that exceed thresholds of 15 air districts other than SLOCAPCD. For three of these districts

impacts cannot be mitigated to less than significant levels. Mitigation has been recommended that includes use of Tier 4 locomotives and the purchase of emission credits. For the mainline rail emissions it is possible that contractually the Applicant could require the use of lower emission locomotives such as Tier 4 locomotives. However, since these are operated by UPRR on UPRR tracks, a requirement that the Applicant enter into this type of contractual provision would likely be preempted by Federal law and therefore unenforceable. The County may also be preempted by Federal law from requiring emission reduction credits for mainline rail emissions. Since these mitigation measures may not be implementable and it is uncertain if the other Air Districts could require emission reduction credits, the impacts associated with the mainline rail operation would remain significant.

The locomotives would also generate diesel particulate matter emissions along the mainline rail routes, which would increase PM_{10} emissions in the County. Due to Federal preemption, the County may not be able to require emissions reduction credits for the mainline rail NO_x, ROG, and diesel particulate matter emissions. The addition of these NO_x, ROG, and PM_{10} emissions would result in significant and unavoidable air quality impacts.

This proposed project would increase rail traffic by importing heavy crude via rail into the Santa Maria Refinery. A risk assessment was conducted for the mainline rail routes to the Santa Maria Refinery. The risk along the mainline rail routes that were evaluated was found to be significant in the event of a rail accident that occurred near populated areas. The EIR identified mitigation measures to reduce the potential for release of crude oil in the event of an accident. However, the County may be preempted by Federal law from applying these mitigations to the project. Furthermore it has been communicated to the County through numerous letters from outside jurisdictions that many of the jurisdictions do not have the necessary personnel, equipment or training in order to provide appropriate emergency response to an oil train derailment or explosion within their areas. This proposed project will create a significantly hazardous and potentially dangerous situation within many areas along the mainline not only in San Luis Obispo County, but to other jurisdictions along the main rail lines and therefore, the project is inconsistent with this policy.

D. <u>The proposed project or use will be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because:</u>

33. The proposed rail spur project will expand the existing industrial uses of the Santa Maria Refinery onto a currently vacant portion of the refinery property which acts as a buffer between the residential areas to the east and the refinery operations. The South County Coastal Area Plan specifically identifies the undeveloped areas of the project site as providing a desirable buffer from the heavy industrial activities and more sensitive adjacent land uses. The rail spur extension would extend a total of approximately 1.3 miles (6,915 feet), including approximately 0.5 mile (2,445 feet) within the exiting industrial coke area. This would result in an extension of industrial uses approximately 0.85 mile into the undeveloped area in the eastern portions of the project site. The buffer between residential and recreational uses east of State Route 1 would be reduced from approximately 1.4 miles to 0.6 mile. The rail spur extension would similarly reduce existing buffers between the industrial structures and agricultural crops located northeast and southeast of the project site.

This important buffer is what allows these incompatible land uses (refinery and residential) to coexist as neighbors, however this project will greatly reduce this buffer. The rail spur will be incompatible with the residential and agricultural resources that surround the spur and will bring additional toxic air contaminants and PM_{10} closer to the residential and agricultural land uses. Therefore, the proposed extension of the industrial activities by allowing the railroad spur would be incompatible with surrounding uses and would therefore not comply with the character of the immediate neighborhood and will be contrary to its orderly development.

E. Coastal Access:

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.

Exhibit E

ALSTON&BIRD LLP
1115 Eleventh Street
Sacramento, CA 95814

916-498-3354
Fax: 213-576-2864
www.alston.com

Paul J. Beard II Direct Dial: 916-498-3354 Email: paul.beard@alston.com

August 13, 2015

VIA EMAIL AND U.S. MAIL

Whitney McDonald, Esq.
Office of County Counsel
County Government Center
1055 Monterey Street, Rm D320
San Luis Obispo, CA 93408
wmcdonald@co.slo.ca.us

Re: Phillips 66 Company Rail Project

Dear Ms. McDonald,

The Revised Draft EIR ("EIR") correctly states that San Luis Obispo County ("County") did not identify the Phillips 66 Santa Maria Refinery Rail Project ("Project") area as unmapped Environmentally Sensitive Habitat Area ("ESHA") at, or before, the time of Phillips 66 Company's project application. The best available information supports the conclusion that there is no ESHA in or adjacent to the Project site. Additionally, the County's original no-unmapped-ESHA finding is, as a matter of law, final and impervious to collateral attack. As explained in greater detail below, the County therefore should stand by its original no-unmapped-ESHA finding.

I.
THERE IS NO UNMAPPED ESHA IN OR AROUND THE PROJECT SITE

The County's Coastal Zone Land Use Ordinance (CZLUO) recognizes two types of ESHA: mapped ESHA and unmapped ESHA. Mapped ESHA is defined as follows:

> "A type of Sensitive Resource Area where plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily [be] disturbed or degraded by human activities and development. They include wetlands, coastal streams and riparian vegetation, terrestrial and marine habitats and are mapped as Land Use Element combining designations. Is the same as an Environmentally Sensitive Habitat."

CZLUO § 23.11.030.

By contrast, Unmapped ESHA is defined as follows:

> "A type of Sensitive Resource Area where plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities and development. They include, but are not limited to, known wetlands, coastal streams and riparian vegetation, terrestrial and marine habitats that may not be mapped as Land Use Element combining designations. 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. Unmapped ESHA includes but is not limited to:
>
> a. Areas containing features or natural resources when identified by the County or County approved expert as having equivalent characteristics and natural function as mapped other environmental sensitive habitat areas;
>
> b. Areas previously known to the County from environmental experts, documents or recognized studies as containing ESHA resources;
>
> c. Other areas commonly known as habitat for species determined to be threatened, endangered, or otherwise needing protection."

Id.

Collectively, the two types of ESHA are defined both by ecological characteristics (*e.g.*, rare or especially valuable resources) and legal criteria (*e.g.*, legislative designations by mapping versus *ad hoc* designations made at or before the time of application acceptance, based on policy judgments about what can and should be protected). The County designated mapped ESHA on the portion of the Phillips 66 property that lies west of the Union Pacific Railroad (UPRR) property that bisects the Phillips 66 property. No other mapped ESHA occurs on the Phillips 66 property.

As stated above, the County made no determination at or before the time of Phillips 66 Company's application that the Project area contains or is surrounded by *unmapped* ESHA. In its application, Phillips 66 provided the County and the public with a comprehensive assessment of the ecological setting, including detailed characterization

of the botanical and wildlife resources of the area in and adjacent to the Project, as well as a quantitative assessment of potential Project impacts. *See Botanical Assessment* and *Wildlife and Habitat Assessment* in Phillips 66's Land Use Application (June 2013). These documents provide species lists, plant community composition data, and resource mapping to allow for a full understanding of the ecological setting.

Biologically, the County's no-unmapped-ESHA finding is supported by the ecological characteristics of the Project area. The Project area has been grazed for decades and, in large areas, the dominant plant species are non-native species including veldt grass (*Ehrharta calycina*), mustard (*Brassica tourneforii*), stork's-bill filaree (*Erodium botrys*), foxtail barley (*Hordeum murinum*) and others. Even the highest-quality native vegetation types within the Project area are degraded with significantly lower species diversity and cover than in the same vegetation types in the mapped ESHA west of the UPRR property.

For example, within the mapped *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance, the sampling transects revealed a total mean vegetation cover of 58.6% (the remaining area being bare ground without vegetation). Of the 58.6% vegetation cover, 47.2% was by non-native species. In other words, more than 80% of the vegetation is non-native, though the area is mapped as a native vegetation type. This reflects the high level of disturbance associated with decades of grazing in the Project area. In undisturbed high quality stands of this same plant community, such as in the mapped ESHA on the western portion of the Phillips 66 property, these ratios are reversed with non-native weed cover comprising less than 20% of the total cover. The low cover by native species in the disturbed area reduces the biodiversity and biological functionality of the land. Foraging and cover opportunities for wildlife are also lowered by the level of disturbance. Additionally, the Phillips 66 property east of the UPRR property is surrounded by developed industrial, residential, and agricultural land.

Moreover, the Project area does not support known wetlands, coastal streams or riparian vegetation, or marine habitats. No state or federally listed threatened or endangered botanical or wildlife species are known to occur or are expected to occur within the rail project footprint area. Conversely, the area designated by the County as mapped ESHA supports a unique assemblage of native plant species with high species diversity and native plant cover.

In July 2015, two focused field studies were completed to further evaluate vegetation types on the Phillips 66 property—one east and one west of the railroad property. *See* "Sensitive Resources Report—Botanical Addendum," prepared by ARCARDIS (July 2015) and attached as Exhibit A. The goals of the field studies were to (1) compare vegetation east and west of the railroad to determine if there is equivalency of environmental sensitivity, and (2) further evaluate the previously mapped *Saliva mellifera* Shrubland Alliance, and the relationship between *Ericameria* and *Saliva*-dominated vegetation. The studies conclude that the vegetation on the west side of the

railroad property differs significantly—both quantitatively and qualitatively—from the vegetation on the east side. Among other findings, the studies establish that vegetation types west of the railroad are more complex, are less degraded, and exhibit a higher level of ecological health than vegetation types east of the railroad. Simply put, habitats to the west and to the east of the railroad property lack equivalency in terms of their characteristics or their natural function. The studies support the same conclusion drawn from the best available information existing at the time of acceptance of the Project application: The Project site has no unmapped ESHA.

II.
EVEN IF THERE WERE UNMAPPED ESHA IN OR AROUND THE PROJECT SITE, THE PROJECT AS PROPOSED COULD STILL BE APPROVED

Even if there were unmapped ESHA in or adjacent to the Project site, the Project could still be approved consistent with the County's Local Coastal Program ("LCP"). Indeed, the LCP affirmatively supports certain developments, including the Project, in and around alleged ESHA.

By way of background, Section 23.07.170 of the CZLUO clearly contemplates that development can occur in or adjacent to ESHA. For example, subsection (a) sets forth the requirements for "[a] land use permit application for a project on a site located within or adjacent to an Environmentally Sensitive Habitat"; if a project in or near ESHA were categorically prohibited, no such application process would be needed. CZLUO § 23.07.170(a). Similarly, subsection (b) sets forth the required findings before the County may grant "[a]pproval of a land use permit for [such] a project." *Id.* § 23.07.170(b). And subsection (e) requires that development in or adjacent to ESHA "shall be designed and located in a manner which avoids any *significant* disruption or degradation of habitat values," establishing that projects with less-than-significant impacts on habitat values are allowed. *Id.* § 23.07.170(e) (emphasis added).

Against this permissive backdrop, section 23.07.170(e) contains a nonexclusive list of "[c]ircumstances in which a development project would be allowable within an ESHA." The list is illustrative of the kinds of approvable projects in ESHA and the relevant conditions of approval. Among these are projects that involve "habitat creation and enhancement," like Phillips 66's proposed rail spur extension.

Under 23.07.170(e), where a 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." CZLUO § 23.07.170(e). "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." *Id.*

Phillips 66 has proposed and the EIR requires on-site restoration of dune habitat ("same-kind"); Phillips 66 has prepared a dune habitat restoration plan; and Phillips 66 has identified a suitable location on its property ("same-system") to implement the restoration. The proposed on-site native habitat restoration meets or exceeds the 2:1 replacement ratio specified in the EIR (Mitigation Measure BIO 5-a), and results in a *net increase* in high quality native dune habitat on the Phillips 66 property following development of the Project.

Moreover, the County's Coastal Plan Policies affirm the vital economic importance of the energy-development industry, including refineries like Phillips 66 that are "coastal-dependent." A "Coastal-Dependent Development or Use" is "[a]ny development or use that requires a permanent location on or adjacent to the ocean." Coastal-dependent development has "priority" over other development on the coast, and "shall be encouraged to . . . expand within existing sites and shall be permitted reasonable long-term growth." Coastal Plan Policies (Revised June 2004), Chapter 4, at 4-1 (quoting Public Resources Code sections 30001.5, 30255, and 30260). Importantly, "where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of [the Coastal Act], they may nonetheless be permitted . . . if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible." *Id.* at 4-1 to 4-2 (quoting Public Resources Code section 30260).

The Project clearly is "coastal dependent," because it must, by definition, occur adjacent to the ocean, where both the refinery and the mainline rail to which the proposed rail spur is to be extended are located; no other permanent location for the proposed extension is possible. More generally, the Project is inextricably tied to a facility that is itself coastal dependent, as evidenced by the fact that it operates under a National Pollutant Discharge Elimination System ("NPDES") permit for outfall into the Pacific Ocean. In addition, as described above, the Project goes beyond mitigating for impacts and actually results in a net increase of native habitat. Moreover, barring the Project would seriously undermine the public welfare. Extending the rail spur is critical for Phillips 66 and the approximately 200 permanent jobs it provides in the community. The needs of "hundreds of thousands of consumers" are met by energy-related facilities like Phillips 66—and their ability to remain competitive and viable under increasingly challenging business conditions. Coastal Plan Policies, supra, at 4-5.

The County's Coastal Policies also state that "when new sites are needed for industrial or energy-related development, expansion of facilities on existing sites or on land adjacent to existing sites shall take priority over opening up additional areas or the

construction of new facilities" and that "adverse environmental impacts from the siting or expansion of coastal-dependent industrial or energy developments shall be mitigated to the maximum extent feasible." Coastal Plan Policies, supra, at 4-6 (Policy 1). This Project clearly promotes this policy, as it involves the expansion of an existing facility on an existing site, and offers generous mitigation for adverse environmental impacts.

Finally, even with unmapped ESHA in or near the Project area, the County can and should approve the Project as proposed in order to avoid a takings problem. Under the Fifth and Fourteenth Amendments to the United States Constitution, government action that takes private property without just compensation is unconstitutional. Importantly, government can effect an unconstitutional taking by regulation—for example, by declaring property to be undevelopable ESHA. *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003, 1016 (1992); *McAllister v. California Coastal Comm'n*, 169 Cal. App. 4th 912, 937-38.

Neither the Coastal Act nor the County's CZLUO authorizes permit actions that result in uncompensated takings. To the contrary, such actions are expressly prohibited. CZLUO § 23.07.17(e)(2); *see also* Pub. Res. Code § 30010 (declaring that the Coastal Act "shall not be construed as authorizing the commission . . . or local government acting pursuant to this [Act] to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor."). Consequently, if designating a parcel as ESHA threatens an uncompensated taking, the legally mandated response is to nevertheless allow the parcel to be developed enough to avoid a taking. Given how modest Phillips 66's Project is, and the extent to which it mitigates for alleged impacts to environmental values, there is little question that these takings considerations militate in favor of Project approval.

III.
THE COUNTY CODE PRECLUDES BELATED DESIGNATIONS OF UNMAPPED ESHA

The County's no-unmapped-ESHA determination finds full support, not just in the science, but in the law as well. As described below, the County's LCP—certified by the California Coastal Commission ("Commission")—authorizes unmapped-ESHA determinations only under extremely limited circumstances. Importantly, the County may designate unmapped ESHA in a project area only before or at the time of its acceptance of the project application. CZLUO § 23.11.030.

A. Background

Some historical context for section 23.11.030's "unmapped ESHA" provision sheds light on its meaning and purpose. In 2001, the Commission undertook a review of the County's LCP, comprised of its Land Use Plan and its implementing CZLUO. The

Commission found that, at the time, the County was not effectively implementing its LCP consistent with Coastal Act policies. One issue with which the Commission was particularly concerned was the LCP's treatment of ESHA. Among other things, the Commission demanded that the County clarify the definition of ESHA, identify standards for mapping ESHA and updating ESHA maps, and, most relevantly for purposes of this letter, adopt a clear process for identifying *unmapped* ESHA. *See, e.g.*, California Coastal Commission Staff Report, "Adopted Report: Periodic Review of the Implementation of San Luis Obispo County's Local Coastal Program" at 15-17 (July 12, 2001; as revised August 24, 2001).

The Commission and the County conducted multiple hearings throughout the LCP-amending process. All the County's stakeholders—homeowners, businesses, farmers, and environmentalists—had the opportunity to comment on proposed changes. There was broad agreement on the proposition that ESHA maps would be the main tool for protecting ESHA, but that a mechanism should exist for protecting *unmapped* ESHA, including in the context of a particular permit application. *See, e.g.*, *id.* at 137. Even the representatives of the environmental community, which called for the "entire coastal zone" to be treated as ESHA, acknowledged that such an extreme measure should apply only "[w]hile the necessary updates to ESHA maps and LCP procedures are being developed." *Id.* at 135. After all, if the County or Commission could declare non-developable ESHA at any time, without regard to maps and even on the eve of permit approval, project applicants would face undue hardship in terms of both the unpredictability of land use and the significant expenditures of resources required to see an application through to final permit decision.

After years of negotiation with Commission staff, the County amended section 23.11.030 of its Coastal Zone Land Use Ordinance ("CZLUO") to include a definition of "Unmapped ESHA" that balanced the need to protect ESHA, and the rights of project applicants to some level of certainty. As discussed above, the definition provides in part that "[t]he 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." CZLUO § 23.11.030 (emphasis added). No other provision in either the Ordinance or any other law authorizes the designation of unmapped ESHA *after* the time of application acceptance. The County's amendment took effect on January 7, 2009, when the Commission officially certified the definition as conforming to, and adequate to implement, the County's Land Use Plan.

B. The CZLUO Bars Belated Designations of Unmapped ESHA

Phillips 66 filed a land-use permit application for the Rail Spur Project in December 2012, and the County accepted a revised application as complete on July 12, 2013. The County made no determination, either at or before the time of acceptance of the original or revised application, that unmapped ESHA was located in or adjacent to the

Project site. The County correctly acknowledged this fact in its Revised Draft EIR, at p. 4.4.-24. The time to lawfully designate unmapped ESHA—a strict limitation that both the County and the Commission approved—passed almost two years ago. CZLUO § 23.11.030.

Importantly, the requirement that an unmapped-ESHA determination "be based on the best available information" in no way eliminates the prior requirement that it be made "at or before the time of application acceptance." To the contrary, Section 23.11.030 joins these two requirements in the conjunctive ("and"), such that an unmapped-ESHA designation must be based on the "best available information" existing "at or before the time of application acceptance." To read the "best available information" clause as authorizing ever-evolving "unmapped ESHA" determinations at any time during the application-review process is to nullify the express requirement that such determinations be made "at or before the time of application acceptance." Reading an ordinance in a way that renders part of it meaningless or inoperative violates fundamental rules of construction and must therefore be avoided. *Hassan v. Mercy American River Hosp.*, 31 Cal. 4th 709, 715-16 (2003) ("The words of the statute should be given their ordinary and usual meaning and should be construed in their statutory context. These canons generally preclude judicial construction that renders part of the statute meaningless or inoperative." (internal citations and quotation marks omitted)); *Audio Visual Servs. Group, Inc. v. Sup. Ct.*, 233 Cal. App. 4th 481, 491 (2015) ("In reviewing the text of an Ordinance, however, we must follow the fundamental rule of statutory construction that requires every part of the Ordinance to have some effect and not be treated as meaningless.").

Indeed, even the Commission recognizes the benefits of making unmapped-ESHA determinations "early" in the application-review process. For example, in its 2008 review of the County's LCP amendments, the Commission observed the following about the County's proposed power to designate unmapped ESHA:

> Expanding the Combining Designation map boundaries will help improve ESHA identification, but getting current and accurate information regarding the type and extent of habitats that may exist on a site is equally as important. ***Utilizing the best available information early in the development review stage*** will help address the shortfalls of the current map based identification system. Suggested modifications build on proposed standards by adding additional language to improve habitat information gathering at the permit application stage and establishes some more definitive criteria to be used for identifying and delineating the extent of ESHA on a project site.

California Coastal Commission's Staff Report (prepared July 8, 2008), entitled "Staff Report Addendum for Th16a SLO-MAJ-2-04 Part 2 (Estero Area Plan Update)."

The time limitation and "best available information" requirement work hand-in-hand to promote important public-policy goals. The law's expiration date on unmapped-ESHA designations provides project applicants some level of predictability in the permit process and protects the County against the constant threat of legal attack based on allegedly evolving information. On the other hand, the "best available information" requirement helps to protect environmental values by ensuring that the County's unmapped-ESHA determination is based on sound science. As described in detail in Part I, sound science was readily available to the County to support its "no unmapped ESHA" finding. That sound science constituted the "best available information" at that time and finds continued support in the latest field studies of habitat both west and east of the railroad property (including in and adjacent to the project site). *See* Exhibit A.

In sum, the County accepted the application, including the above "best available information." On that basis, the County made no "Unmapped ESHA" finding. By requiring the County to make any "Unmapped ESHA" determination before or at the time of application acceptance, section 23.11.030 of the CZLUO prohibits any *post hoc*, collateral attack on the "best . . . information" <u>available at the time of such determination</u>. As a consequence, the County's finding of "no unmapped ESHA" and the substantial evidence supporting it are legally conclusive.

Even absent section 23.11.030's express limitation, the County still should resist any call to make belated unmapped-ESHA designations in the permit context. A policy of designating unmapped ESHA at any time after application acceptance would wreak havoc on the County's land-use planning process, and on the project applicants who rely on clear and predictable rules. In this case, Phillips 66 has expended about $2,000,000 to advance the application to final permit approval since the application's acceptance by the County in July 2013. Phillips 66 made the significant expenditure in reasonable reliance on the County's "no unmapped ESHA" finding. To declare unmapped ESHA now would be grossly unfair to Phillips 66—and to the countless other project applicants in the County who would no longer be able to reasonably rely on orderly and predictable zoning regulation of their lands.

Finally, CEQA does not require the County to revisit its "no unmapped ESHA" determination. While the Act may require that EIRs provide the most accurate information about a project and its potential impacts, it does not require that particular *legal conclusions* be drawn, like whether certain facts justify designating an area as "unmapped ESHA." Nowhere does CEQA obligate the County to make the legal conclusion that a site has ESHA (mapped or unmapped), let alone dictate the factual or scientific basis for its conclusion. *Banning Ranch Conservancy v. City of Newport Beach*, 236 Cal. App. 4th 1341, 1359 n. 13 (2015) (holding that CEQA did not require city to identify ESHA (a "legal conclusion" in its EIR)). The *only* legal authority that dictates the criteria and procedure for "unmapped ESHA" determinations is section

23.11.030, and that section requires only that the determination be based on "the best available information" "at or before the time of application acceptance."

C. The County's Decision To Stand by Its Original "No Unmapped ESHA" Determination Is Well Insulated from Reversal by the Coastal Commission

From the perspective of a potential appeal to the Coastal Commission, the County has very strong grounds to stand by its "no unmapped ESHA" determination. The County has the comprehensive assessments and biological supplement to support that determination as a scientific matter. But even more fundamentally, as a matter of law, the Commission lacks the authority to disturb the County's unmapped ESHA determinations made at or before the time of application acceptance.

1. Under the CZLUO, Only the County Can Make Unmapped-ESHA Determinations Early in the Application Process

Again, section 23.11.030 provides, in relevant part, that "[t]he 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." CZLUO § 23.11.030. The plain language of section 23.11.030 supports the view that only the County has authority over unmapped ESHA within its boundaries and that, as a consequence, the Commission lacks jurisdiction over the issue. Importantly, the section makes clear that the existence of unmapped ESHA "is determined by" a specific permit authority—namely, "the County." *Id.* (emphasis added).

If the County and the Commission had intended for *both* permitting authorities to have the power to designate unmapped ESHA, they could easily have drafted section 23.11.030 to say that "the existence of Unmapped ESHA is determined by the County *or the Commission on appeal.*" That language is employed elsewhere in the CZLUO and in the Coastal Act itself. *See, e.g.*, CZLUO § 23.04.097(a) ("The Review Authority [i.e., the County] (or the Coastal Commission on appeal) may approve a density greater than that allowed by the underlying land use and zone district designations for affordable residential projects . . . ."); *id.* § 23.04.097(b) ("The Review Authority [i.e., the County] (or the Coastal Commission on appeal) may approve modifications of development standards for residential, commercial, industrial, and other projects . . . ."); *see also, e.g.*, Pub. Res. Code §§ 30520, 30604 (granting both local governments, and the Coastal Commission on appeal, regulatory authority to make particular decisions).

The fact that only the County can make unmapped ESHA determinations is buttressed by the requirement that such determinations be made "at or before the time of application acceptance." This strict time limitation on a power to make a particular substantive finding is unique in the CZLUO; no other provision has it. More importantly, the time limitation makes it impossible for the Commission to designate unmapped

ESHA, even if section 23.11.030 gave it the authority to do so: Any attempt by the Commission to designate unmapped ESHA would be made on appeal from a County permit decision—and therefore many months, if not years, after application acceptance, in direct contravention of the mandate that such a designation be made "at or before the time of application acceptance."

2. The CZLUO Effectively Removes Unmapped-ESHA Determinations from the Commission's Appeal Jurisdiction

The CZLUO section defining the Coastal Commission's appeal jurisdiction supports the conclusion that the County's unmapped-ESHA determinations are not subject to review by that agency. Section 23.1.043(c) contains an exhaustive and detailed list of the types of development over which the Commission has appeal jurisdiction. One type of appealable development involves ESHA. *Id.* § 23.01.043(c)(3)(i).

Section 23.01.043(c)(3)(i) makes development in ESHA appealable, *but only if the ESHA is mapped.* CZLUO § 23.01.043(c)(3)(i) ("Special marine and land habitat areas, wetlands, lagoons, and estuaries mapped and designated as Environmentally Sensitive Habitats (ESHA) in the Local Coastal Plan" are appealable.). It specifically removes from the Commission's appeal jurisdiction those "areas determined by the County to be Unmapped ESHA." *Id.* In other words, projects approved in areas determined by the County to be unmapped ESHA are not appealable to the Commission, despite the projects' potential impacts to environmentally sensitive habitat. If projects in unmapped ESHA are outside the Commission's appeal jurisdiction, then, *a fortiori,* projects in areas *neither* mapped as ESHA *nor* determined by the County to contain unmapped ESHA must be, too. After all, these projects—containing neither mapped nor unmapped ESHA—are the least likely to affect sensitive habitat and, therefore, the least likely to require the added procedural protection of appellate review by the Commission. It is perhaps for this reason that section 23.01.043(c)(3)(i) does not bother to make any mention whatsoever of resource areas that the County simply confirms as having no ESHA, consistent with the County's maps.

If the Commission had wanted to retain appeal jurisdiction over unmapped-ESHA areas, it could have conditioned LCP-certification on explicit recognition of that power. Instead, it approved of and certified the County's proposed language, including the special exemption for "unmapped ESHA" determinations:

> The LCP currently designates mapped ESHAs as Sensitive Coastal Resource Areas (SCRAs) for purposes of applying heightened procedural protections, including the extension of the Commission's appeal jurisdiction over development within an ESHA. However, the County proposes to amend CZLUO section 23.01.043c(3)(i) to clearly state that ***development in 'unmapped ESHA' would not trigger the Commission's***

> ***appeal jurisdiction*** (see Exhibit 1). Although the LUP does not provide any basis for distinguishing mapped and unmapped ESHA for such purposes, ***the decision to not include unmapped ESHA in the appeal jurisdiction is not inconsistent with the LUP.***

See California Coastal Commission's Staff Report, prepared June 27, 2008, entitled "San Luis Obispo Local Coastal Program Major Amendment No. 2-04 (Part 3) Title 23 Coastal Zone Land Use Ordinance Amendment," at 17-18 n.1 (emphasis added).

The Commission's own broad reading of section 23.01.043(c)(3)(i) is revealing. Again, in the Commission's view, "development in 'unmapped ESHA' [does] not trigger the Commission's appeal jurisdiction"—***period.*** The evident intent of section 23.01.043(c)(1), as understood by the Commission itself and consistent with section 23.11.030, is to keep "unmapped ESHA" determinations at the County level. Thus, even if a project occurs between the sea and the first public road—another basis for the Commission's appeal jurisdiction—section 23.01.043(c)(1) provides it no authority to review the County's "unmapped ESHA" determination made under section 23.11.030.

Importantly, section 23.11.030 provides no valid grounds for an appeal. In this case, an appeal challenging the County's "no unmapped ESHA" determination would have to be based on the allegation that the determination lacks support in the ***latest*** information about the site's ecological setting. Even if true—which it is not[1]—the allegation would fail to identify a *violation* of the LCP, which is the *only* grounds for appeal. Pub. Res. Code § 30603(b)(1) ("The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program . . . ."). Specifically, nothing in the LCP, let alone 23.11.030, requires that unmapped-ESHA determinations be based on the *latest* science; quite the contrary, as explained above, the County need only rely on the best information available "at or before the time of application acceptance." Thus, an unmapped-ESHA determination based on the best available information at or before the time of application acceptance is legally immune from appellate review, because it is perfectly consistent with the requirements of section 23.11.030. Without an LCP violation, no valid grounds for an appeal exist. Pub. Res. Code § 30603(b)(1).

With sections 23.01.043(c)(3)(i) and 23.11.030 insulating "unmapped ESHA" determinations from appellate review, the Commission would be bound on appeal by the County's maps, which identify where ESHA does and does not occur (an element of the Commission-certified LCP). Any attempt by the Commission to designate a parcel as

---

[1] To be clear, as a matter of science, the latest and best available information easily supports a finding of no-unmapped ESHA on the project site. But the scientific support for the County's "no unmapped ESHA" determination is relevant only if an appeal challenging the County's determination is legally cognizable.

ESHA, contrary to the relevant map for that parcel, would be an attempt to change the content of the County's LCP and therefore be an unlawful exercise of its jurisdiction. *See, e.g., Security National Guarantee, Inc. v .Cal. Coastal Comm'n*, 159 Cal. App. 4th 402, 422-23 (2008) (declaring unlawful Commission's attempt to declare a parcel "ESHA" on the appeal of city's permit approval, where city's LCP maps identified no ESHA on that parcel). "The Coastal Act expressly vests in local governments, rather than the Commission, the responsibility for determining the content of their LCP's," including ESHA maps, and "the Commission has no statutory authority to amend an LCP during the CDP appeal process." *Id.* at 419-20.

Here, there is mapped ESHA on the west side of the Union Pacific railroad tracks, but not on the east side, where the project site is located. To make an "unmapped ESHA" determination on appeal would be to amend *both* the LCP map *and* the LCP section delegating the power to make such determinations solely to the County, early in the application process (section 23.11.030). Therefore, any attempt on appeal to make an "unmapped ESHA" determination would be beyond the Commission's appeal jurisdiction.

Finally, the fact that an "unmapped ESHA" determination is not appealable *to the Commission* does not mean that such a determination evades any and all review. The LCP provides an appeal process for any "action, decision or determination" of the Planning Department, which generally makes the "unmapped ESHA" determination when it approves a land-use application. *See* CZLUO § 23.01.042a(3). In this case, the Planning Department certified Phillips 66's application as complete and, in light of the comprehensive assessments of the site's ecological setting, made no unmapped-ESHA finding either before or at that time. An appeal challenging the Department's acceptance of the application could have been made to the Planning Commission, and ultimately to the Board, on the grounds that the Department should have found unmapped ESHA on the site. *Id.* § 23.01.042b(1)(i). Any such appeal would have been resolved within a relatively short period of time—and well before Phillips 66 and the County expended significant time and resources to move the application forward. No appeal was filed, making that early determination final and immune from collateral attack. The point is that the County's "unmapped ESHA" determinations potentially are subject to multiple layers of review, even if such review does not traverse through the Commission.

If a different procedure for designating and protecting unmapped ESHA is preferred, the answer is not to change the rules at the end of a costly and lengthy application-review process. The proper course is for the Commission to make suggested modifications to sections 23.11.030 and 23.01.043(c)(3)(i) during its periodic review of the LCP, and for the Commission and the County to agree upon different procedural protections. Pub. Res. Code § 30519.5. In the meantime, Phillips 66 is "entitled to have its development proposal judged by the standards of the certified LCP in effect at the time of its application." *Security National*, 159 Cal. App. 4th at 422.

CONCLUSION

Phillips 66 appreciates the County's concern for protecting ESHA and will continue to work hand-in-hand with the County to mitigate for Project impacts to biological resources. But, for the reasons stated above, the County's original "no unmapped ESHA" finding should stand. The "best available information" at the time of application acceptance, along with the most recent data compiled and analyzed in the July 2015 "Sensitive Resources Report—Botanical Addendum," support the County's no-unmapped ESHA finding. And the County Code makes that finding final and irreversible.

If you have any questions or concerns, please feel free to contact me by email at paul.beard@alston.com or by phone at 916-498-3354.

Sincerely,

Paul J. Beard II
Counsel
Alston & Bird LLP

Enclosure: Exhibit A

cc: Jimmy Greene, Esq., Phillips 66 Company

Exhibit A

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Sensitive Resources Report – Botanical Addendum

Santa Maria Refinery Rail-Project

San Luis Obispo County, California

APNs: #092-401-011, #092-401-013, #092-411-005

July, 2015

ARCADIS

Sensitive Resources Report – Botanical Addendum

Phillips 66 Company
Santa Maria Refinery Rail Project

Greg McGowan
Principal Ecologist

Wayne Ferren
Project Ecologist

Mitch Siemens
Wildlife Biologist

Prepared for:
Phillips 66 Company

Prepared by:
ARCADIS U.S., Inc.
735 Tank Farm Road
Suite 150
San Luis Obispo
California 94301
Tel 805.706.2805

Our Ref.:
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Date:
July 2015

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Acronyms and Abbreviations

ARCADIS	ARCADIS U.S., Inc.
CDFG	California Department of Fish and Game
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality
CNDDB	California Natural Diversity Database
CNPS	California Native Plant Society
ESHA	Environmentally Sensitive Habitat
GPS	global positioning system
ha	hectare
km	kilometers
m	meters
Site	Phillips 66 Santa Maria Refinery Project Site
ha	hectare
USDA	United States Department of Agriculture
USFWS	United States Fish and Wildlife Service
USGS	U.S. Geological Survey

Table of Contents

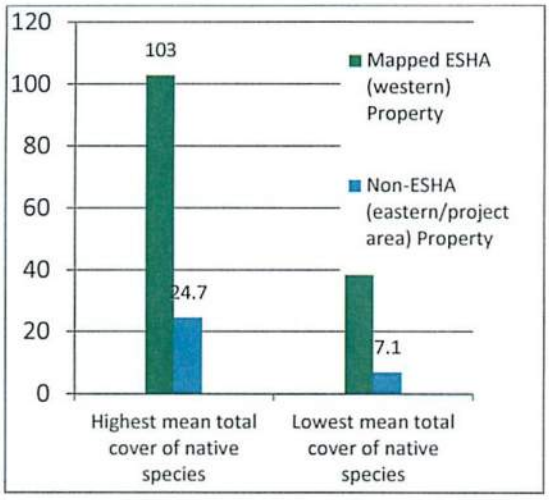
1 Executive Summary

To further evaluate vegetation types on the Phillips 66 Company (Phillips 66) property located on the Nipomo Mesa in San Luis Obispo County, California, two focused studies were completed in July, 2015: one east of the Union Pacific Railroad property that bisects the Phillips 66 property, and one west of the railroad property. These field studies addressed two objectives: (1) to compare vegetation east and west of the railroad to determine if there is equivalency of environmental sensitivity; and (2) to further evaluate the previously mapped *Saliva mellifera* Shrubland Alliance, and the relationship between *Ericameria* and *Saliva* – dominated vegetation. To accomplish the first objective, 19 new transects with 10 plots each were placed west of the railroad in vegetation mapped as Environmentally Sensitive Habitat Area (ESHA) by the County of San Luis Obispo and certified by the California Coastal Commission; and five additional transects (i.e., additional to the transects located during previous investigative efforts) with 10 plots each were located east of the railroad property, generally in the proposed rail project area, for a total of 28 transects east of the railroad property in areas of vegetation mapped previously as *Salvia mellifera* Shrubland Alliance. Plant species cover was measured in 10 plots along each transect.

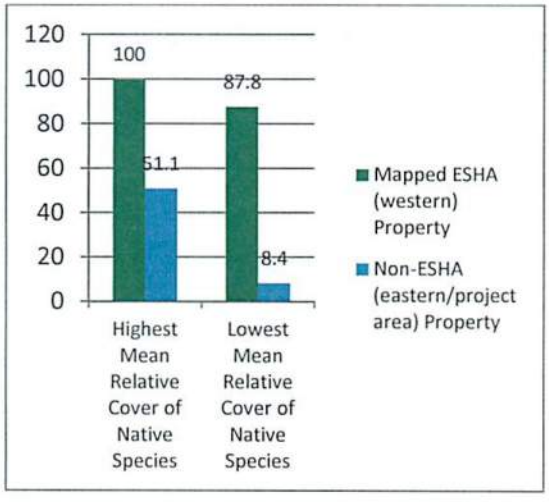
Analysis of the transect results indicates the *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance west of the railroad, classified as ESHA, has significantly greater native shrub cover and overall native cover than vegetation east of the railroad, and supports colonies of locally endemic and sensitive plant species including *Erigeron blochmaniae* and *Senecio blochmaniae*. In contrast, vegetation mapped as the same *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance east of the railroad has sparser cover, in general lacks local endemic species, and is impacted by cattle grazing. Habitats west of the railroad are more complex, are less degraded, and exhibit a higher level of ecological health than vegetation types east of the railroad, which are less complex, exhibit a greater degree of degradation, and exhibit a lower level of ecological health. Results of the initial and additional studies confirm that vegetation east of the railroad is not equivalent in terms of composition or habitat function to the vegetation mapped as ESHA west of the railroad, and that the eastern area has been properly treated as non-ESHA by the County.

Significant differences in native vegetation were recorded. The first two charts below provide the overall findings for native cover in the sampled vegetation areas:

Mean Total Cover of Native Species in Surveyed Alliances and Associations

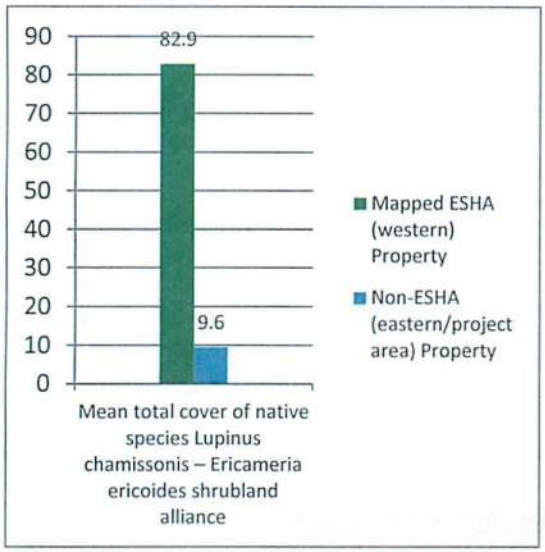


Mean Relative Cover of Native Species in Surveyed Alliances and Associations

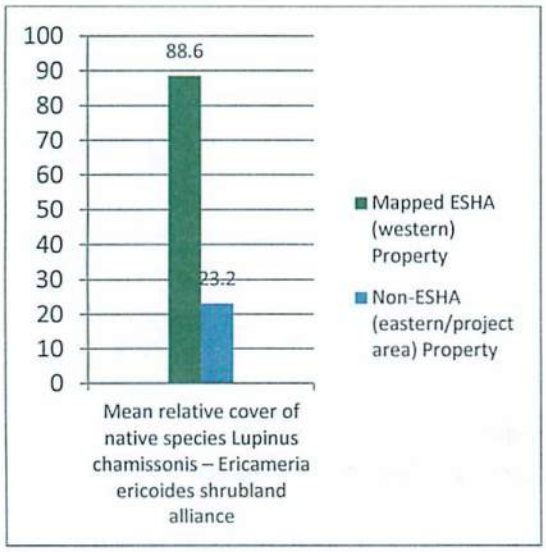


In assessing the *Lupinus chamissonis – Ericameria ericoides* shrubland alliance in mapped ESHA west of the railroad property compared to the eastern property, the data indicate a stark difference in the character and quality of the vegetation:

Mean Total Cover of Native Species in *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance



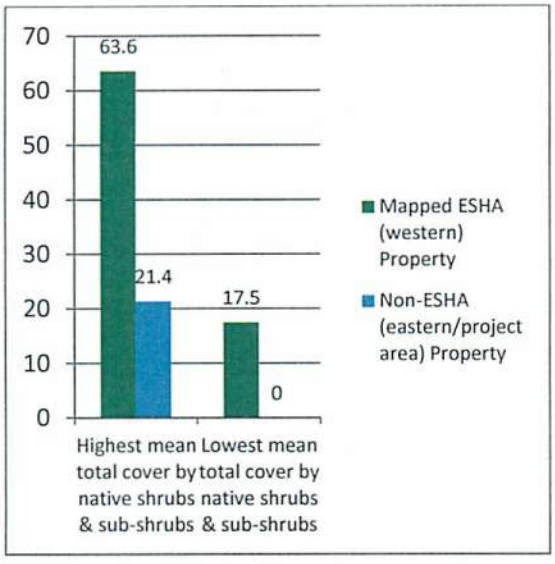
Mean Relative Cover of Native Species in *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance



ARCADIS also compared the cover by different native vegetation structural components between the mapped ESHA on the western property to the eastern property in the project

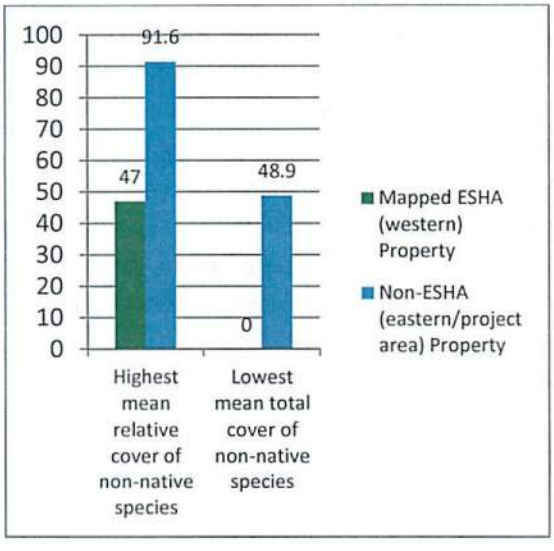
area.

Mean Total Cover by Native Shrubs and Subshrubs



ARCADIS also assessed the cover by non-native species in both areas:

Mean Relative Cover by Non-Native Species



Of additional importance regarding equivalency of environmental sensitivity between the two areas, the east side is relatively flat with consistent low topographic relief in the vicinity of the proposed rail spur corridor, whereas west of the railroad there is consistently high topographic relief, mixing of wetland and upland habitat types, and extensive areas with dynamic dune processes that provide a high degree of ecological complexity. Example habitats west of the railroad include dune crests, north and south-facing dune slopes, dune swales, dune swale wetlands, Jack Lake, and dune flats. There is significant contrast in overall ecological health and sensitivity between the two portions of the Phillips 66 property, which is a major focus of these additional studies.

Additional assessment of vegetation east of the railroad, within the heavily grazed and periodically cut vegetation, demonstrates that the *Salvia mellifera* Shrubland Alliance was previously mapped accurately, including large portions of the proposed rail spur corridor.

2 Introduction

This report serves as an addendum to the prior analyses of the vegetation of the Phillips 66 Santa Maria Refinery Rail Project Site ("the Site"). The Site is located on Highway 1 approximately five miles (8.05 km) south of the intersection of Highway 1 and Halcyon Road on the Nipomo Mesa in unincorporated San Luis Obispo County, California (Figure 1). The Site is bordered to the north by agriculture fields, industrial facilities and residential housing. It is bordered to the south by agriculture, by residential development to the east, and by undeveloped coastal dunes to the west, also a focus of the additional work reported in this Addendum.

ARCADIS conducted an initial habitat assessment in 2012 and 2013. At that time, ARCADIS primarily employed the Holland and Keil classification system to describe vegetation types. To support the current transition to the Sawyer, Keeler-Wolf, Evens classification system, ARCADIS broadly mapped the Holland communities to the Sawyer, Keeler-Wolf, Evens Alliances, though this was not done based on quantitative data analysis. In June 2015 ARCADIS conducted a quantitative assessment to formally map the vegetation types in the study area in accordance with the Sawyer, Keeler-Wolf, and Evens approach. The purpose of the additional 2015 work reported in this Addendum is two-fold: (1) to compare vegetation in mapped ESHA west of the railroad property, to the vegetation east of the railroad (generally in the project area) to determine if there is equivalency of environmental sensitivity; and (2) to further evaluate the previously mapped *Saliva mellifera* Shrubland Alliance, and the relationship between *Ericameria* and *Saliva* – dominated vegetation.

The entire study area east of the railroad tracks has supported cattle grazing for decades. As a result, even the highest quality native vegetation types within this portion of the study area are degraded with significantly lower species diversity, cover, and frequency than in the undisturbed condition of the same vegetation types west of the Union Pacific Railroad tracks, which have not

been grazed or cut. Furthermore, many areas of sensitive vegetation west of the railroad tracks have been managed for eradication of veldt grass, including use of herbicides and manual weeding of this invasive nonnative grass.

3 Methods

ARCADIS mapped and sampled vegetation of the Site, with focus on the proposed rail project area, in October 2012, in April and June 2013, in January and February 2015, and in June and July 2015. Mary Carroll (Sr. Project Ecologist), Wayne Ferren (Project Ecologist), and Mitch Siemens (Wildlife Biologist) participated in the field surveys at various times during the assessment. The fieldwork for this Addendum was performed by Wayne Ferren and Mitch Siemens on July 13 – 16, 2015 east and west of the railroad property.

Desktop Data Search: Prior to performing each of the episodes of fieldwork, ARCADIS conducted a review of documents concerning the Site and the surrounding areas, including a search of the California Natural Diversity Database (CNDDB; California Department of Fish and Wildlife [CDFW] 2015) for the U.S.G.S. 7.5 minute series Oceano topographic quadrangle and the adjacent quadrangles (Arroyo Grande NE, Guadalupe, Nipomo, Santa Maria, Tar Spring Ridge, Orcutt, Casmalia, and Pismo Beach). The California Native Plant Society's (CNPS) Electronic Inventory of Rare and Endangered Vascular Plants (CNPS 2014) was also queried for appropriate habitat within the Oceano Quadrangle and adjacent quadrangles. Aerial photographs from approximately the last twenty years were also reviewed to better understand the history of the Site.

Botanical Surveys: ARCADIS botanical surveys encompass documentation of species composition, abundance, relative distribution, and community composition (including dominants, associates, and uncommon elements). The additional survey is intended to provide further characterization of the vegetation types east and west of the railroad that bisects the property and record plant species observed (along transects for the purpose of this additional analysis). Physiographic features are noted and correlated with plant distributions. The survey area included the proposed rail extension and surrounding areas, which were verified utilizing global positioning system (GPS) coordinates in the field, and representative sites west of the railroad within the Phillips 66 property boundary. Coordinates for all additional transects were recorded using GPS and these sites are noted on Figure 1.

All plant species found in a recognizable condition along transects during ARCADIS' vegetation surveys for this focused study were recorded and are listed in Tables 1, 2, and 3. Nomenclature follows the Jepson Manual: Vascular Plants of California, Second Edition (Baldwin et al. 2012). In addition, pertinent volumes of the Flora of North America (Flora of North America Editorial Committee, eds. 1993+) and a regional flora (Hoover 1970) were also utilized for plant identification.

It is important to note that the list of vascular plant species on the Site presented in this addendum report may not be comprehensive.

Vegetation Mapping: Vegetation polygon boundaries for previously mapped vegetation in and around the proposed project area east of the railroad property were reviewed during the process of installing and measuring transects and potential boundary modifications were noted if new transect results suggested changes to the current boundaries. Vegetation types west of the railroad were quantitatively characterized, but the various vegetation types were not delineated and mapped. Except for the dune swales and other wetland habitats, the majority of the western portion of the Site would be classified within the *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance. Eighteen of the 19 transects installed west of the railroad were located within this vegetation type.

During previous studies by ARCADIS (2015), vegetation was mapped at both the community and alliance levels, according to CNPS/CDFG mapping protocols described in the CNPS A Manual of California Vegetation (Sawyer, Keeler-Wolf, and Evens 2009) and digitized using ArcGIS software. Vegetation types were characterized by using Sawyer, Keeler-Wolfe, and Evens (2009) and the California Natural Diversity Database (CNDDB 2015). Photographs were taken of all mappable units, the minimum of which was approximately one acre, although in general the two-acre national vegetation classification standard was applied when the scale of the habitats and vegetation units were appropriate for the coarser unit. Additional photographs were taken for the work associated with this addendum including at transects and sites for wildlife surveys. Representative photographs are provided in Appendix A.

Vegetation Sampling and Analysis: To obtain quantitative information on the vegetation types for an accurate characterization and comparison of areas east and west of the railroad, ARCADIS located 19 new transects west of the railroad and five additional transects east of the railroad (i.e., additional to the 23 transects located during previous investigative efforts), resulting in a total of 28 transects east of the railroad in and around the project area. Transect sites were selected to obtain representative examples of vegetation from different habitats using characteristic habitat parameters (slope, aspect, degree of wetness), vegetation types, and management treatments. Absolute cover and density of plant species were measured in each of 10 square-meter plots along alternate sides of each 20 meter transect. The numerical data were recorded on field datasheets and subsequently entered into spreadsheets for analysis, the results of which are presented in summary tables (Tables 1 -3).

West of the railroad in mapped ESHA, 19 new transects were placed in the following alliances and associations:

- *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance [upland – 18 transects]

- *Lupinus chamissonis* Association
- *Ericameria ericoides* Association
- *Ericameria ericoides – Eriogonum parvifolium – Salvia mellifera* Association
- *Ericameria ericoides – Prunus fasciculatus* var. *punctata* Association

- *Carex barbarae* Herbaceous Alliance [wetland – 1 transect]

East of the railroad in and around the proposed project area, an additional five transects were placed in the following alliances and associations:

- *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance [1 transect with 16 total of all included associations]
  - *Ericameria ericoides – Eriogonum parvifolium – Salvia mellifera* Shrubland Alliance
- *Salvia mellifera* Shrubland Alliance [4 transects]

4 Vegetation Categories, Alliances, and Associations

In the following subsections, the vegetation categories, alliances, and associations identified at the Site are described. In some cases (e.g., *Salix lasiolepis* Shrubland/Woodland Alliance), there are no anticipated impacts to the vegetation type associated with the project, but the community characteristics are provided herein for reference to support the comparison of the vegetation in different areas of the Phillips 66 property. Survey results are discussed in Section 5. All descriptions follow *A Manual of California Vegetation* (Sawyer et. al. 2009) or are modified to the closest provisional association. A total of ten vegetation associations within seven alliances were initially identified and mapped from three main vegetation categories, based on plant habit (tree, shrub, herbaceous). Aspects of their definitions and descriptions relevant to the Site are included.

4.1 Forests and Woodlands

According to *A Manual of California Vegetation* forest and woodlands are areas where trees are evenly distributed and conspicuous throughout the stand. In areas where vegetation cover is greater than about 20%, tree canopy may be a low as 10% over denser layers of shrub and herbaceous species. In areas where vegetation is less than 20% total cover, trees may cover somewhat less than 10% (as low as about 8%) but are evenly distributed across the stand. Only one woodland alliance was observed at the site.

4.1.1 *Salix lasiolepis* Shrubland/Woodland Alliance [Arroyo willow thickets]

In this alliance *Salix lasiolepis* is dominant or co-dominant in the shrub or tree canopy, and other trees or large shrubs may be common understory associates, including blue elderberry (*Sambucus nigra* subsp. *caerulea*) and California blackberry (*Rubus ursinus*). Arroyo willows are generally less than 30 feet (10m) in height but can form thickets of considerable size, with open to continuous canopy and a variable herbaceous layer.

Membership rules: *S. lasiolepis* occurs at greater than 50% relative cover in the shrub or tree canopy or greater than or equal to 25% absolute-cover in the shrub or tree layer.

Salix lasiolepis Shrubland/Woodland Alliance occurs east of the railroad, as reported in ARCADIS (2015), and west of the railroad, as reported herein. Because the proposed rail spur corridor would not impact this vegetation, no transects were added to the various sites located west of the railroad. However, one transect was placed adjacent to a dune swale characterized by the *Salix lasiolepis* Shrubland/Woodland Alliance because an additional vegetation type, the *Carex barbarae* Herbaceous Alliance, was observed and this alliance is not known to occur on the east side of the property.

4.2 Shrublands

Shrublands are areas where woody shrubs or subshrubs are conspicuous throughout stand. When total vegetation cover is over approximately 20%, the tree layer, if present, is generally less than 10% cover; herbaceous species may total higher cover than shrubs. Shrubs are always at least 10% cover. In areas where total vegetation cover is less than 20%, total cover of shrubs may be less than 10%, but are evenly distributed across the stand. The following are descriptions of the alliances and associates observed on Site.

4.2.1 *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance [Silver dune lupine – mock heather scrub]

In this alliance, *Lupinus chamissonis* (silver dune lupine) and *Ericameria ericoides* (mock-heather, dune-heather) occur together or singly in the shrub canopy, along with other shrubs; associated shrubs may include coastal bush lupine (*Lupinus arboreus*), California sagebrush (*Artemisia californica*), black sage (*Salvia mellifera*), and poison-oak (*Toxicodendron diversilobum*). Shrub height varies from three to five feet (1m to 1.5 m) with open to continuous canopy and an open to intermittent herbaceous layer.

Membership rules: *L. chamissonis* and/or *E. ericoides* are conspicuous. The manual does not define the term "conspicuous." For the purposes of this analysis, a "conspicuous" species was conservatively defined as having a minimum of 5% mean cover in a given vegetation type.

Associations include the following:

Lupinus chamissonis – Ericameria ericoides Association: *Lupinus chamissonis* and *Ericameria ericoides* are often co-dominant. Areas lacking mock-heather or with minor amounts can be identified as the *Lupinus chamissonis* Association.

Ericameria ericoides Association: *Ericameria ericoides* is the dominant or sole shrub in the shrub layer.

Ericameria ericoides – Eriogonum parvifolium – Salvia mellifera Association (Provisional): Shrubland dominated by three shrub species, mock-heather, seacliff buckwheat (*Eriogonum parvifolium*), and black sage.

Ericameria ericoides – Frangula californica – Sambucus nigra Association (Provisional): Shrubland dominated by three shrub species, mock-heather, California coffeeberry (*Frangula californica*), and blue elderberry.

Ericameria ericoides – Prunus fasciculata var. punctata Association (Provisional): Shrubland dominated by two shrub species mock-heather (Ericameria ericoides) and desert almond (*Prunus fasciculata* var. *punctata*, a coastal form of the species).

4.2.2 Salvia mellifera Shrubland Alliance [Black sage scrub]

Saliva mellifera (black sage) is dominant or co-dominant in the shrub canopy, usually greater than 60% or combined with a coastal shrub species greater than 30% relative cover in the shrub layer.

4.2.3 *Baccharis pilularis* Shrubland Alliance [Coyote brush scrub]

Coyote brush (*Baccharis pilularis* subsp. *consanguinea*) is dominant in this shrubland.

Membership rule: *Baccharis pilularis* has greater than 50% absolute cover in the shrub layer; has greater than 15% shrub cover over grassy understory; or has greater than 50% relative cover than other shrubs.

Baccharis pilularis Association: *Baccharis pilularis* is the sole dominant in the shrub layer.

Baccharis pilularis – Ericameria ericoides Association (Provisional): Coyote brush and mock-heather are both common in the shrub layer.

4.3 *Herbaceous Vegetation*

Herbaceous vegetation is dominated by non-woody plants, including graminoid and forb species, which are dominant throughout the stand. When total vegetation cover is greater than 20%, the layers for trees, shrubs, subshrubs, and trees, if present, are of lower cover than herbaceous species and less than 10%. If total vegetation cover is less than approximately 20%, shrubs, subshrubs, and/or trees may be present, but are less than 2-5% cover and are not evenly distributed across the stand.

At the Site, the most abundant non-native weedy species dominating herbaceous semi-natural stands are Saharan mustard (*Brassica tournefortii*), veldt grass (*Ehrharta calycina*), *Erodium botrys* (stork's-bill filaree), and foxtail barley (*Hordeum murinum*).

The following herbaceous stands have been mapped on Site:

4.3.1 *Brassica* and Other Mustards Semi-Natural Herbaceous Stands [Upland mustards]

This provisional alliance is not listed - *Brassica tournefortii* (Saharan mustard) Semi-natural Herbaceous Stands (Provisional). A form of this stand type is listed for the Mojave Desert in Sawyer, Keeler-Wolf, and Evens 2009); however, the species also is reported from the Central Coast (A Flora of the Santa Barbara Region, C. Smith 1998) and occurs in disturbed (ruderal) dune habitats such as those heavily grazed at the Nipomo Mesa.

At the Site, foxtail barley, a non-native Mediterranean grass, is a common associate, as are veldt grass and stork's-bill filaree. Saharan mustard and foxtail barley are associated with areas at which hay is placed as a supplemental food source for cattle.

4.3.2 *Ehrharta* Semi-Natural Herbaceous Stands (Provisional) [Non-native veldtgrass grassland]

There is no veldt grass (*Ehrharta calycina*) Semi-Natural Herbaceous Stands vegetation type in the Manual, but this vegetation type is proposed on a provisional basis in this summary. Veldt grass is a perennial grass that has invaded sandy substrates on the Central Coast.

This provisional vegetation type is based on the *Ammophila arenaria* Semi-Natural Herbaceous Stands (European beachgrass swards, Sawyer, Keeler-Wolf, and Evens 2009). Veldt grass is a clump-forming grass that often is more widely spaced than European beachgrass, which forms rhizomatous colonies. As a result the non-native veldt grass vegetation type has been mapped when veldt grass is dominant and has greater than 25% relative cover in the herbaceous layer as defined above.

4.3.3 *Bromus diandrus - Erodium botrys* Semi-Natural Herbaceous Stands [Annual brome grasslands]

Bromus diandrus - Erodium botrys Semi-Natural Herbaceous Stands on Site are dominated by ripgut brome (*Bromus diandrus*) or *Erodium botrys* (stork's-bill filaree), often in sparse shrubland and heavily disturbed places at the Site. This vegetation type is characterized by a mixture of native and non-native herbaceous species in areas where the shrub cover is less than 10%. At the Site, the low shrub cover is associated with heavy grazing but generally does not include areas where cattle linger and disturb the soil repeatedly, such as feeding areas, favoring the occurrence of *Brassica tournefortii* Semi-Natural Herbaceous Stands.

5 Findings

The findings below are organized based on the objectives of assessing the characteristic and functional equivalency of the habitats and vegetation west and east of the railroad property that bisects the Site, and of confirming the characterization and mapping of the *Saliva mellifera* Shrubland Alliance on Site.

5.1 *Equivalency of Environmental Sensitivity West and East of the Railroad*

Mapped ESHA - Habitats and Vegetation West of the Railroad: Habitats west of the railroad are characteristic of high-quality dune environments in coastal central California. Observed habitats include dune crests, north and south-facing dune slopes, dune swales, dune swale wetlands, and dune flats. Dynamic, characteristic coastal processes are also present. Ecologically healthy, native vegetation types with characteristic native plant cover, consistent presence of local endemic and sensitive species dominate the landscape. Land management in this area has eliminated off-road vehicle (ORV) usage and included weed eradication to restore the historic degradation from the ORV usage.

Transect data from the mapped ESHA that occurs west of the railroad (Table 1), reveal the following:

- Mean total cover of native species in alliances and associations west of the railroad ranges from 52.3% to 103%, ***significantly greater (higher) than east of the railroad.*** Mean total cover in ESHA areas (west of the railroad) ranges from 400% - 700% higher than in the study areas east of the railroad tracks and refinery.
- Mean relative cover of native species in alliances and associations west of the railroad ranges from 87.8% to 100%, ***significantly greater (higher) than east of the railroad.*** Mean relative cover in ESHA areas (west of the railroad) ranges from 1000% - 2000% higher than in the study areas east of the railroad tracks and refinery.
- Mean total cover of native species in the *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance (16 transects) west of the railroad is 82.9% and mean relative cover is 88.6%, ***significantly greater (higher) than east of the railroad.*** Mean native cover in ESHA areas (west of the railroad) supporting this alliance ranges from 400% - 900% higher than in the study areas east of the railroad tracks and refinery.
- Mean total cover by native shrubs and subshrubs (19 transects) west of the railroad ranges from 17.5% to 63%, and within dune scrub from 20.1% to 63%, ***significantly greater (higher) than east of the railroad.*** Mean total cover by native shrubs and subshrubs in ESHA areas (west of the railroad) ranges from 300% - 1700% higher than in the study areas east of the railroad tracks and refinery.
- Mean total cover by native herbaceous species (19 transects) west of the railroad ranges from 9% to 63.6%, ***significantly greater (higher) than east of the railroad.*** Mean total cover by native herbaceous species in ESHA areas (west of the railroad) ranges from 900% - 1300% higher than in the project areas east of the railroad tracks and refinery.
- Mean total and relative cover of nonnative species (19 transects) west of the railroad ranges from 0% to 47%; the high cover percent is characteristic of sites where there is no eradication of nonnative species; this is ***significantly less weed cover than east of the railroad.***
- Mean cover by sensitive plant species west of the railroad:
    - *Erigeron blochmaniae* (CNPS list 1B.2: rare, threatened, or endangered; endemic to California): 0.2% mean cover (range 4.2% - 15%) cover in dune scrub transects; ***not present on transects east of the railroad.***
    - *Erysimum suffrutescens* (CNPS list 4.2 – limited distribution; local concern species): 0.2% mean cover (range 0 – 0.8%) cover 16 in dune scrub transects; ***not present in transects east of the railroad.***
    - *Prunus fasciculata* var. *punctata* (CNPS list 4.3 – limited distribution; local concern species): 5% mean cover (range 0% - 21%) in 16 dune scrub transects; **not present in transects east of the railroad.**
    - *Senecio blochmaniae* (CNPS list 4.2 – limited distribution; local concern species): 6% mean cover (range 0% to 15%) in 16 dune scrub transects; ***significantly greater (higher) cover than east of the railroad.***

These results demonstrate that vegetation west of the railroad has high cover of native species and low cover of nonnative species; has characteristic shrub cover by native dune shrub species; and supports sensitive plant species known to occur in dune habitats of the region. The complex array of habitats, presence of characteristic dynamic coastal processes, connectivity with large contiguous open space areas, and observed high ecological health differ significantly, both quantitatively and qualitatively, from that which is found on the east side of the railroad.

Habitats and Vegetation East of the Railroad: Habitats east of the railroad are highly degraded due to long-term cattle grazing, fragmentation by a series of roads, vegetation cutting, and placement of straw bales for cattle containing invasive weed species that now dominate large areas of the landscape. Much of the vegetation is uncharacteristically sparse and in some sites is dominated by non-native, invasive herbaceous species classified as the *Brassica tournefortii* (Saharan Mustard) Herbaceous Alliance, *Erodium botrys* (Storksbill) Herbaceous Alliance, and the *Ehrharta calycina* (Veldtgrass) Herbaceous Alliance vegetation types (ARCADIS 2015).

On the eastern portion of the Phillips66 property, transect data for the mapped *Ericameria ericoides – Eriogonum parvifolium – Salvia mellifera* Association (within the *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance (Table 2 and 3; ARCADIS 2015) has sparse cover compared to similar vegetation west of the railroad. It includes many nonnative herbaceous species and in general lacks the presence or has low cover of sensitive local endemic plant species (ARCADIS 2015).

Also within and in proximity to the rail spur corridor (Figure 1), the *Salvia mellifera* Shrubland Alliance is grazed, partially cut, and fragmented by unpaved roads. As noted in ARCADIS (2015), this vegetation type is not considered sensitive and lacks locally-endemic plant species. *Salvia mellifera* Shrubland Alliance was not observed west of the railroad and was not identified among the 19 transects placed on west of the railroad.

Transect data east of the railroad (Tables 2 & 3) reveal the following:

- Mean total cover of native species in alliances and associations ranges from 7.1% to 24.7%, ***significantly less than the west side.***
- Mean relative cover of native species in alliances and associations ranges from 8.4% to 51.1 %, ***significantly less than the west side.***
- Mean total cover of native species in the *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance (9 transects) is 9.6% and mean relative cover is 23.2%, ***significantly less than the west side.***
- Mean total cover by native shrubs and subshrubs in alliances and associations (28 transects) ranges from 0% to 21.4%, ***significantly less than the west side.***

- Mean total cover by native herbaceous species in alliances and associations (28 transects) ranges from 0.7% to 7.4%, ***significantly less than the west side.***
- Mean total and relative cover of nonnative species in alliances and associations (28 transects) ranges from 48.9% to 91.6%, ***significantly higher non-native cover than the west side.***
- Mean cover by sensitive plant species:
    - *Erigeron blochmaniae* (CNPS list 1B.2: rare, threatened, or endangered; endemic to California): ***not present in the 28 transects***
    - *Erysimum suffrutescens* (CNPS list 4.2 – limited distribution; local concern species): ***not present in the 28 transects***
    - *Prunus fasciculata* var. *punctata* (CNPS list 4.3 – limited distribution; local concern species): ***significantly less than west of the railroad.***

Additional transects east of the railroad installed and measured in July 2015 (Figure 1, Tables 2 & 3) support the findings reported previously in ARCADIS (2015) and are consistent with the above statements regarding the findings of vegetation surveys east of the railroad. Because previous surveys east of the railroad were conducted during wet season conditions, native annual species were observed that did not appear on transects east or west of the railroad in July. Continuing drought conditions also may have influenced some of the findings. Nonetheless, the significantly lower cover of native species and higher cover of nonnative species, and the general lack of sensitive plant species demonstrated that the habitats and vegetation east of the railroad property are not equivalent to, and lack the environmental sensitivity of the habitats and vegetation west of the railroad tracks.

5.2 *Presence of Salvia mellifera Shrubland Alliance*

As noted in Table 3, four transects were placed in polygons previously mapped as the *Salvia mellifera* Shrubland Alliance east of the railroad, including sites within and outside of the proposed rail spur corridor, to confirm the presence of this alliance as reported previously (ARCADIS 2015). Results of the additional transects include the mean cover of *S. mellifera* at 33.3%, with a relative cover of native shrubs at 74.6%. Mean cover of *Ericameria ericoides* was less than 5% (3.8%), indicating this vegetation does not meet the criteria to include *E. ericoides* within the classification nomenclature. As reported in ARCADIS (2015), the mean cover of *E. ericoides* in the *Salvia mellifera* Shrubland Alliance was calculated at 4.5%, also less than the 5% cover required for inclusion in the vegetation name as having a "conspicuous" presence. No sites sampled west of the railroad fit the criteria of the *Salvia mellifera* Shrubland Alliance. Other than wetland vegetation associated with some dune swales, all upland vegetation west of the railroad was determined to

belong to various associations within the *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance.

5.3 *Comparison of Salvia mellifera and Ericameria ericoides-dominated Areas East and West of the Railroad*

A part of the evaluation of the presence of the *Salvia mellifera* Shrubland Alliance east of the railroad is a consideration of the relationship of this vegetation to types with a conspicuous presence of *Ericameria ericoides* (5% or greater cover), which could require treatment of the vegetation as a sensitive community.

As noted above, on the property east of the railroad, extensive areas of vegetation mapped as *Salvia mellifera* Shrubland Alliance (Figure 1) support less than 5% *E. ericoides* and hence are not considered sensitive per the CNDDB listings (ARCADIS 2015). Other areas are mapped in one of several associations within the *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance because in part *E. ericoides* has a conspicuous presence including two areas that overlap with the proposed rail project footprint. Boundaries between these two types of vegetation are often transitional because small patches meeting the criteria of one type are often intergraded in the other type. ARCADIS mapped this vegetation at the two-acre minimum scale based on representative quantitative transect data, resulting in relatively large areas of similar vegetation within the same mapped polygon.

A second comparison can be made in regards to the presence of *E. ericoides*-dominated vegetation both east and west of the railroad, which also contributes to the discussion of environmental sensitivity. West of the railroad, vegetation associations within the *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance exhibit a maximum cover of 48.6% and a combined mean cover of 21.6% *E. Ericameria* (16 transects), and a total native cover of 82.9%. East of the railroad, vegetation associations within the *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance exhibit a maximum mean cover of 20% and a combined mean cover of 4.5% *E. ericoides*, and a total mean native cover of 9.6%. Clearly, not all examples of *Ericameria*-dominated vegetation are the same or have the same ecological health or environmental sensitivity. The information and analysis presented as a result of the previous and additional vegetation surveys demonstrate that the overall condition of surveyed areas east of the railroad within the *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance are not equivalent to the same plant community in mapped ESHA areas west of the railroad property.

6 Conclusions

As detailed in Sections 5.0, the results of new vegetation sampling and analysis demonstrate that the vegetation on the Phillips 66 property west of the railroad is characterized by the following:

- a complex topography and dynamic terrain with many habitat types including sensitive upland (active and semi-stabilized dunes) and wetland types;
- no grazing or vegetation cutting as part of the management strategy; upland vegetation classified mostly as the *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance, including several vegetation associations;
- low cover of invasive nonnative plants;
- a relatively high cover of native shrubs and total native cover in the sensitive dune environment;
- a relatively high frequency of locally-endemic, sensitive plant species among the upland transects sampled;
- connectivity to other coastal environments potentially important for the movement and maintenance of native wildlife associated with the Nipomo Mesa; and
- focused eradication of veldt grass.

In contrast, the results of additional vegetation sampling and analysis demonstrate that the vegetation on the Phillips 66 property east of the railroad tracks is highly degraded and does not provide comparable ecological characteristics or functions as indicated by the following:

- a relatively low and generally stable terrain with few habitat types;
- heavy, long-term cattle grazing and periodic cutting of portions of the vegetation as part of the management strategy;
- no focused eradication of veldtgrass over most of the site;
- high cover of invasive nonnative plants including several herbaceous vegetation alliances, and particularly as part of the groundcover of some of the shrubland alliances;
- relatively low cover of native shrubs in portions of the upland vegetation;
- a relatively low frequency of locally-endemic, sensitive plant species among the upland transects sampled;
- an isolated situation relative to other coastal environments, potentially impacting the movement and maintenance of native wildlife associated with the Nipomo Mesa; and
- upland vegetation classified mostly as non-sensitive types including the *Salvia mellifera* Shrubland Alliance.

ARCADIS concludes that the west side of the Phillips 66 property differs significantly, both quantitatively and qualitatively, from that which is found on the east side of the railroad.

7 References

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Tables

Table 2 - Native Plant Cover Data (Combined Survey Results)

Dominant Species		*Lupinus chamissonis – Ericameria ericoides* Association Transects				*Ericameria ericoides – Eriogonum parvifolium – Salvia mellifera* Association						*Ericameria ericoides – Frangula californica – Sambucus nigra* Association	*Lupinus chamissonis – Ericameria ericoides* Shubland Alliance	*Salvia mellifera* Shrubland Alliance										*Brassica tournefortii* (Asian mustard) Semi-natural Herbaceous Stands				Provisional *Ehrharta calycina* Semi-Natural Herbaceous Stands				Provisional *Erodium botrys* Semi-Natural Herbaceous Stands			
		% cover (mean)												% cover (mean)														% cover (mean)							
Scientific Name	Common Name	T2-E	T3-E	T21-E	Mean of 3 Transects	T1-E	T14-E	T15-E	T16-E	T24-E	Mean of 5 Transects	T19	Mean of 1 Transects	Mean of 9 Transects	T5-E	T6-E	T7-E	T17-E	T22-E	T23-E	T27-E	T28-E	T29-E	T30-E	Mean of 10 Transects	T12-E	T13-E	T20-E	Mean of 3 Transects	T4-E	T8-E	T18-E	Mean of 3 Transects	T9-E	T10-E	T11-E	Mean of 3 Transects
Hordeum murinum	foxtail barley	0.0%	1.9%	0.0%	0.6%	0.0%	0.8%	0.0%	0.0%	0.0%	0.2%	17.3%	17.3%	6.0%	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	37.3%	13.5%	0.0%	16.9%	0.0%	0.0%	0.1%	0.0%	2.1%	5.2%	6.4%	4.6%
Hypochaeris glabra	smooth cat's ear	0.0%	0.1%	0.1%	0.1%	0.0%	0.2%	0.0%	0.3%	0.0%	0.1%	0.1%	0.1%	0.1%	0.0%	0.1%	0.0%	1.9%	0.0%	0.4%	0.0%	0.0%	0.0%	0.0%	0.2%	0.0%	0.1%	0.1%	0.0%	0.5%	1.2%	0.2%	0.6%	0.6%	0.1%	0.1%	0.2%
Rumex angiocarpus	sheep sorrel	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.3%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Senecio vulgaris	common groundsel	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Spergula arvensis	corn spurry	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.9%	0.3%	0.4%	0.8%	0.4%	0.5%	0.1%	0.0%	0.0%	0.0%
Trifolium sp.	clover	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Urtica urens	annual stinging nettle	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	2.8%	2.8%	0.9%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Bare ground		45.0%	0.0%	0.0%	15.0%	60.8%	36.7%	41.6%	15.0%	48.7%	38.5%	33.6%	33.6%	29.0%	16.1%	10.9%	29.6%	42.9%	0.0%	0.0%	16.5%	22.3%	22.5%	#REF!	#REF!	0.0%	10.4%	38.5%	16.3%	0.0%	64.9%	44.4%	36.4%	30.9%	0.0%	0.0%	10.3%
Bare ground or thatch		61.0%	37.4%	69.8%	56.1%	68.1%	38.9%	78.3%	31.3%	58.6%	54.2%	44.8%	44.8%	51.7%	49.6%	48.4%	46.5%	44.8%	57.5%	62.8%	49.6%	65.4%	46.1%	49.4%	52.0%	21.7%	14.2%	40.0%	25.3%	68.3%	64.9%	46.2%	59.8%	34.0%	40.3%	8.4%	27.6%
Total cover by native species		**7.2%**	**5.5%**	**8.6%**	**7.1%**	**5.5%**	**18.1%**	**8.9%**	**20.2%**	**24.2%**	**13.1%**	**8.6%**	**8.6%**	**9.6%**	**23.4%**	**20.0%**	**39.2%**	**23.9%**	**28.6%**	**13.5%**	**68.0%**	**70.8%**	**93.1%**	**71.5%**	**24.7%**	**0.0%**	**4.2%**	**12.4%**	**5.5%**	**7.8%**	**31.3%**	**7.6%**	**15.6%**	**3.1%**	**12.1%**	**7.2%**	**7.5%**
Total cover by non-native species		22.7%	58.4%	18.1%	33.1%	19.0%	43.1%	12.3%	45.0%	25.8%	29.8%	42.3%	42.3%	35.0%	27.1%	28.7%	13.6%	32.0%	15.0%	23.5%	17.8%	1.0%	43.4%	22.3%	**23.3%**	76.7%	82.6%	48.5%	69.3%	22.9%	4.0%	46.4%	24.4%	63.7%	48.3%	85.4%	65.8%
Relative cover by native species		**24.1%**	**8.5%**	**32.1%**	**21.6%**	**22.3%**	**29.6%**	**41.8%**	**31.0%**	**48.4%**	**31.2%**	**16.9%**	**16.9%**	**23.2%**	**46.3%**	**41.1%**	**74.2%**	**42.7%**	**65.6%**	**36.5%**	**79.3%**	**98.6%**	**68.2%**	**76.2%**	**51.1%**	**0.0%**	**4.8%**	**20.4%**	**8.4%**	**25.4%**	**88.8%**	**14.0%**	**42.7%**	**4.6%**	**20.0%**	**7.8%**	**10.8%**
Relative cover by non-native species		75.9%	91.5%	67.9%	78.4%	77.7%	70.4%	58.2%	69.0%	51.6%	68.8%	83.1%	83.1%	76.8%	53.7%	58.9%	25.8%	57.3%	34.4%	63.5%	20.7%	1.4%	31.8%	23.8%	**48.9%**	100.0%	95.2%	79.6%	91.6%	74.6%	11.2%	86.0%	57.3%	95.4%	80.0%	92.2%	89.2%
Total Cover by Native Shrubs and Sub-shrubs		**7.1%**	**4.2%**	**8.0%**	**6.4%**	**4.9%**	**16.8%**	**8.9%**	**14.2%**	**20.0%**	**11.2%**	**6.8%**	**6.8%**	**8.1%**	**23.4%**	**19.5%**	**34.0%**	**11.5%**	**28.6%**	**11.7%**	**68.0%**	**67.8%**	**91.1%**	**71.5%**	**21.4%**	**0.0%**	**0.0%**	**0.0%**	**0.0%**	**0.0%**	**24.4%**	**0.0%**	**8.1%**	**0.1%**	**9.0%**	**0.1%**	**3.0%**
Total Cover by Native Herbaceous Species		**0.1%**	**1.3%**	**0.6%**	**0.7%**	**0.6%**	**1.3%**	**0.0%**	**6.0%**	**4.2%**	**2.0%**	**1.8%**	**1.8%**	**1.5%**	**0.0%**	**0.6%**	**5.2%**	**12.4%**	**0.6%**	**1.8%**	**0.0%**	**3.0%**	**2.0%**	**0.0%**	**3.3%**	**0.0%**	**4.2%**	**12.4%**	**5.5%**	**7.8%**	**7.0%**	**7.6%**	**7.4%**	**3.1%**	**3.1%**	**7.2%**	**4.4%**

Table 2 - Native Plant Cover Data (Combined Survey Results)

Dominant Species		*Lupinus chamissonis – Ericameria ericoides* Association Transects				*Ericameria ericoides – Eriogonum parvifolium – Salvia mellifera* Association						*Ericameria ericoides – Frangula californica – Sambucus nigra* Association		*Lupinus chamissonis – Ericameria ericoides* Shubland Alliance	*Salvia mellifera* Shrubland Alliance											*Brassica tournefortii* (Asian mustard) Semi-natural Herbaceous Stands				Provisional *Ehrharta calycina* Semi-Natural Herbaceous Stands				Provisional *Erodium botrys* Semi-Natural Herbaceous Stands			
		% cover (mean)				% cover (mean)									% cover (mean)											% cover (mean)				% cover (mean)				% cover (mean)			
Scientific Name	Common Name	T2-E	T3-E	T21-E	Mean of 3 Transects	T1-E	T14-E	T15-E	T16-E	T24-E	Mean of 5 Transects	T19	Mean of 1 Transects	Mean of 9 Transects	T5-E	T6-E	T7-E	T17-E	T22-E	T23-E	T27-E	T28-E	T29-E	T30-E	Mean of 10 Transects	T12-E	T13-E	T20-E	Mean of 3 Transects	T4-E	T8-E	T18-E	Mean of 3 Transects	T9-E	T10-E	T11-E	Mean of 3 Transects
		Shrubs and Sub-shrub Species													Shrubs and Sub-shrub Species											Shrubs and Sub-shrub Species				Shrubs and Sub-shrub Species							
Acmispon glaber	deerweed	0.0%	0.0%	0.0%	0.0%	0.6%	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.4%	4.3%	0.0%	0.0%	0.0%	5.0%	0.0%	3.5%	6.0%	1.9%	0.0%	0.0%	0.0%	0.0%	0.0%	0.4%	0.0%	0.1%	0.1%	0.0%	0.0%	0.0%
Artemisia californica	California sagebrush	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	2.3%	0.2%	0.0%	0.9%	0.0%	3.0%	7.8%	8.6%	30.0%	5.3%	0.0%	0.0%	0.0%	0.0%	0.0%	24.0%	0.0%	8.0%	0.0%	0.0%	0.0%	0.0%
Baccharis pilularis	coyote-bush	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	10.0%	5.0%	10.0%	0.0%	2.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Ericameria ericoides	mock-heather	0.0%	3.2%	5.1%	2.8%	1.7%	15.8%	1.8%	13.5%	20.0%	10.6%	0.2%	0.2%	4.5%	3.3%	13.7%	0.5%	6.5%	0.2%	3.1%	0.0%	15.0%	0.0%	0.0%	4.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	9.0%	0.0%	3.0%
Eriogonum parvifolium	seacliff buckwheat	0.0%	1.0%	0.0%	0.3%	0.0%	1.0%	0.0%	0.1%	0.0%	0.2%	0.0%	0.0%	0.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%
Frangula californica	California coffeeberry	0.5%	0.0%	0.0%	0.2%	0.0%	0.0%	0.0%	0.6%	0.0%	0.1%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	5.0%	0.0%	0.1%	14.0%	10.0%	37.5%	0.0%	6.7%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Lupinus chamissonis	silver dune lupine	6.6%	0.0%	2.9%	3.2%	0.0%	0.0%	7.1%	0.0%	0.0%	1.4%	0.0%	0.0%	1.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Mimulus aurantiacus subsp. *aurantiacus*	bush monkeyflower	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.6%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Salvia mellifera	black sage	0.0%	0.0%	0.0%	0.0%	2.6%	0.0%	0.0%	0.0%	0.0%	0.5%	0.0%	0.0%	0.2%	19.5%	3.1%	29.0%	0.0%	27.5%	8.5%	36.0%	30.0%	31.5%	35.5%	22.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Sambucus nigra subsp. *caerulea*	blue elderberry	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	6.6%	6.6%	2.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Toxicodendron diversilobum	poison-oak	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	9.5%	0.0%	0.0%	0.0%	1.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
		Native Herbaceous Species													Native Herbaceous Species											Native Herbaceous Species				Native Herbaceous Species							
Achillea millefolium	yarrow	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Acmispon maritimus var. *maritimus*	coastal lotus	0.0%	0.2%	0.1%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%	0.5%	0.0%	1.6%	0.0%	0.0%	0.0%	0.0%	0.2%	0.0%	0.0%	0.0%	0.0%	3.3%	1.6%	0.2%	1.7%	0.1%	0.7%	0.1%	0.3%
Amsinckia spectabilis var. *microcarpa*	small-fruited seaside fiddleneck	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.2%	0.0%	0.0%	1.1%	1.1%	0.4%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	3.5%	1.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Calandrinia ciliata	redmaids	0.0%	0.0%	0.1%	0.0%	0.0%	0.3%	0.0%	0.1%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.3%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.3%	0.0%	0.1%	0.7%	0.0%	0.1%	0.3%	0.7%	0.6%	0.1%	0.4%
Camissonia strigulosa	strigose sun cups	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.5%	0.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Camissoniopsis micrantha	miniature sun-cups	0.0%	0.2%	0.2%	0.1%	0.0%	0.4%	0.0%	0.2%	0.0%	0.1%	0.2%	0.2%	0.1%	0.0%	0.1%	0.0%	0.0%	0.0%	0.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%	3.4%	0.0%	0.0%	1.1%	0.1%	0.7%	0.0%	0.2%
Cardionema ramosissimum	sand carpet	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Chenopodium californicum	California goosefoot	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.5%	0.5%	0.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Chorizanthe sp.	spineflower	0.0%	0.0%	0.0%	0.0%	0.0%	0.6%	0.0%	0.1%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.1%	4.5%	6.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	1.1%	0.0%	0.0%	1.9%	0.6%	0.0%	3.2%	5.6%	2.9%	0.6%	0.0%	0.0%	0.2%
Corethrogyne filaginifolia	California aster	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Croton californicus	California croton	0.0%	0.0%	0.2%	0.1%	0.6%	0.1%	0.0%	0.0%	2.0%	0.5%	0.0%	0.0%	0.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.2%	0.0%	0.1%	0.0%	0.1%	0.0%	0.0%	0.2%	0.3%	0.0%	0.2%
Cryptantha clevelandii	Cleveland's white forget-me-not	0.0%	0.0%	0.1%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	1.9%	0.6%	0.2%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%
Deinandra increscens subsp. *increscens*	manystemmed woolly sunflower	0.0%	0.2%	0.0%	0.1%	0.0%	0.0%	0.0%	1.9%	2.2%	0.8%	0.0%	0.0%	0.3%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	3.8%	1.7%	1.8%	0.0%	0.0%	0.0%	0.0%	0.1%	0.6%	6.2%	2.3%
Dudleya lanceolata	lanceleaf liveforever	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Eriophyllum multicaule	branched woolly sunflower	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Galium californicum subsp. *maritimum*	coastal California bedstraw	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.3%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Horkelia cuneata var. *cuneata*	coast horkelia	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Lastarriaea coriacea	leather spineflower	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	2.2%	0.0%	0.4%	0.0%	0.0%	0.1%	0.0%	0.1%	0.7%	4.4%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.5%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Lupinus bicolor	miniature lupine	0.0%	0.5%	0.0%	0.2%	0.0%	0.0%	0.0%	0.3%	0.0%	0.1%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.8%	0.3%	0.0%	0.0%	1.0%	0.3%	0.3%	0.1%	0.2%	0.2%
Lupinus nanus	sky lupine	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	1.2%	0.4%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Melica imperfecta	Coast Range melic	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	3.0%	2.0%	0.0%	0.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Nuttallanthus texana	blue toadflax	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Plantago erecta	California plantain	0.0%	0.2%	0.0%	0.1%	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.6%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%	0.9%	0.3%	0.3%	2.2%	0.5%	1.0%	1.2%	0.4%	0.6%	0.7%
Pterostegia drymarioides	fairy mist	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
		Non-native Herbaceous Species													Non-native Herbaceous Species											Non-native Herbaceous Species				Non-native Herbaceous Species							
Avena barbata	slender wild oat	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.2%	0.1%	0.0%	0.0%	3.5%	1.2%	0.0%	0.0%	0.0%	0.0%
Brassica tournefortii	Saharan mustard	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	12.9%	7.4%	20.1%	13.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.4%	0.1%
Bromus diandrus	ripgut brome	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	2.7%	0.0%	0.5%	0.3%	0.3%	0.3%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Bromus madritensis subsp. *rubens*	red brome	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.6%	2.4%	0.6%	0.0%	0.0%	0.7%	0.0%	1.0%	15.6%	13.8%	3.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Chenopodium murale	nettleleaf goosefood	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	1.2%	1.2%	0.4%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.3%	0.0%	0.0%	0.1%	0.0%	8.0%	0.0%	2.7%
Conicosia pugioniformis	narrow leaved iceplant	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	8.2%	8.2%	2.7%	0.0%	0.0%	0.0%	0.0%	0.0%	0.5%	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	16.4%	0.0%	10.2%	8.9%	6.3%	3.6%	0.0%	3.3%
Ehrharta calycina	veldtgrass	22.5%	20.7%	17.8%	20.3%	19.0%	12.2%	12.3%	3.2%	7.0%	10.7%	12.3%	12.3%	14.5%	26.5%	25.0%	12.6%	17.5%	15.0%	21.9%	17.8%	0.0%	7.8%	8.5%	15.3%	0.7%	0.7%	12.3%	4.6%	31.3%	3.4%	1.6%	31.5%	12.2%	53.0%	31.1%	77.0%	53.7%
Erodium botrys	storkbill filaree	0.0%	35.3%	0.0%	11.8%	0.0%	29.5%	0.0%	36.8%	18.8%	17.0%	0.1%	0.1%	9.6%	0.0%	0.0%	0.0%	4.4%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.4%	24.3%	59.9%	9.6%	31.3%	3.4%	1.6%	31.5%	12.2%	53.0%	31.1%	77.0%	53.7%
Erodium cicutarium	redstem filaree	0.0%	0.4%	0.3%	0.2%	0.0%	0.3%	0.0%	1.9%	0.0%	0.4%	0.0%	0.0%	0.2%	0.0%	0.5%	0.0%	8.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.8%	1.5%	1.0%	5.1%	2.5%	2.0%	0.1%	0.5%	0.8%	1.2%	0.1%	0.8%	0.7%
Festuca myuros	rattail fescue	0.1%	0.0%	0.0%	0.0%	0.0%	0.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.7%	0.4%	0.2%	0.0%	0.0%	0.0%	0.0%	20.0%	0.0%	2.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.3%	0.0%	0.1%	0.5%	0.3%	0.7%	0.5%

Table 1 - Native Plant Cover West (July 2015)

Dominant Species		Potential *Lupinus chamissonis – Ericameria ericoides* Shubland Alliance	*Carex barbara-Urtica dioeca* Association		*Carex barbarae* Herbaceous Alliance
		% cover (mean)			
Scientific Name	Common Name	Mean of 16 Transects	T3-W	Mean of 1 Transects	Mean of 1 Transects
		Non-native Herbaceous Species			
Ammophila arenaria	European beach grass	0.1%	0.0%	0.0%	0.0%
Bromus diandrus	ripgut brome	0.8%	0.0%	0.0%	0.0%
Bromus madritensis subsp. *rubens*	red brome	0.5%	0.0%	0.0%	0.0%
Conicosia pugioniformis	narrow leaved iceplant	2.1%	0.0%	0.0%	0.0%
Ehrharta calycina	veldtgrass	4.5%	0.0%	0.0%	0.0%
Festuca myuros	rattail fescue	0.1%	0.0%	0.0%	0.0%
Bare ground		33.1%	39.3%	39.3%	39.3%
Bare ground or thatch		65.1%	39.3%	39.3%	39.3%
Total cover by native species		**82.9%**	**54.5%**	**54.5%**	**54.5%**
Total cover by non-native species		21.7%	0.0%	0.0%	0.0%
Relative cover by native species		**88.6%**	**100.0%**	**100.0%**	**100.0%**
Relative cover by non-native species		23.5%	0.0%	0.0%	0.0%
Total Cover by Native Shrubs and Sub-shrubs		**46.1%**	**17.5%**	**17.5%**	**17.5%**
Total Cover by Native Herbaceous Species		**41.3%**	**37.0%**	**37.0%**	**37.0%**

Table 1 - Native Plant Cover West (July 2015)

Dominant Species		Potential *Lupinus chamissonis – Ericameria ericoides* Shubland Alliance	*Carex barbara-Urtica dioeca* Association		*Carex barbarae* Herbaceous Alliance
		% cover (mean)			
Scientific Name	Common Name	Mean of 16 Transects	T3-W	Mean of 1 Transects	Mean of 1 Transects
		Shrubs and Sub-shrub Species			
Acmispon glaber	deerweed	0.7%	0.0%	0.0%	0.0%
Artemisia californica	California sagebrush	2.0%	0.0%	0.0%	0.0%
Artemisia dracunculus	tarragon	1.4%	0.0%	0.0%	0.0%
Ericameria ericoides	mock-heather	21.6%	0.0%	0.0%	0.0%
Eriogonum parvifolium	seacliff buckwheat	2.1%	0.0%	0.0%	0.0%
Frangula californica	California coffeeberry	7.9%	0.0%	0.0%	0.0%
Lupinus chamissonis	silver dune lupine	8.5%	0.0%	0.0%	0.0%
Prunus fasciculatus var. punctata	desert almond	5.0%	0.0%	0.0%	0.0%
Salix lasiolepis	arroyo willow	0.0%	17.5%	17.5%	17.5%
Salvia mellifera	black sage	3.7%	0.0%	0.0%	0.0%
		Native Herbaceous Species			
Achillea millefolium	yarrow	1.3%	0.0%	0.0%	0.0%
Calandrinia ciliata	redmaids	0.2%	0.0%	0.0%	0.0%
Camissoniopsis micrantha	miniature sun-cups	0.2%	0.0%	0.0%	0.0%
Carex praegracilis	clustered field sedged	1.7%	0.0%	0.0%	0.0%
Carex barbarae	Santa Barbara sedge	0.0%	37.0%	37.0%	37.0%
Cardionema ramosissimum	sandmat	0.9%	0.0%	0.0%	0.0%
Castilleja affinis	Indian paintbrush	1.4%	0.0%	0.0%	0.0%
Castilleja exserta	owl's clover	0.6%	0.0%	0.0%	0.0%
Chenopodium californicum	California goosefoot	0.5%	0.0%	0.0%	0.0%
Chorizanthe diffusa	spineflower	0.1%	0.0%	0.0%	0.0%
Cirsium occidentale	cobweb thistle, western thistle	0.3%	0.0%	0.0%	0.0%
Corethrogyne filaginifolia	California aster	8.2%	0.0%	0.0%	0.0%
Croton californicus	California croton	1.2%	0.0%	0.0%	0.0%
Deinandra increscens subsp. *increscens*	manystemmed woolly sunflower	0.1%	0.0%	0.0%	0.0%
Dudleya lanceolata	blue dicks	0.3%	0.0%	0.0%	0.0%
Erigeron blochmaniae	Blochman's erigeron, Blochman's leafy daisy	4.0%	0.0%	0.0%	0.0%
Erysimum suffrutescens	suffrutescent wallflower	0.2%	0.0%	0.0%	0.0%
Horkeia cuneata var cuneata	coast horkelia	0.4%	0.0%	0.0%	0.0%
Lastarriaea coriacea	leather spineflower	2.3%	0.0%	0.0%	0.0%
Linanthus californicus	prickly phlox	1.6%	0.0%	0.0%	0.0%
Melica imperfecta	Coast Range melic	0.1%	0.0%	0.0%	0.0%
Senecio blochmaniae	dune ragwort	6.3%	0.0%	0.0%	0.0%
Stephanomeria virgata	virgate stephanomeria	0.0%	6.5%	6.5%	6.5%
Urtica dioica	stinging nettle	0.0%	18.4%	18.4%	18.4%

Table 1 - Native Plant Cover West (July 2015)

Dominant Species		*Ericameria ericoides* Association					*Lupinus chamissonis* Association	
		% cover (mean)						
Scientific Name	Common Name	T1-W	T4-W	T10-W	T11-W	Mean of 4 Transects	T2-W	Mean of 1 Transects
		Non-native Herbaceous Species						
Ammophila arenaria	European beach grass	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Bromus diandrus	ripgut brome	0.0%	0.0%	3.6%	0.0%	0.9%	0.0%	0.0%
Bromus madritensis subsp. *rubens*	red brome	0.0%	0.0%	6.3%	0.0%	1.6%	0.0%	0.0%
Conicosia pugioniformis	narrow leaved iceplant	0.0%	0.0%	0.0%	35.0%	8.8%	0.0%	0.0%
Ehrharta calycina	veldtgrass	0.0%	0.0%	0.0%	0.0%	0.0%	7.2%	7.2%
Festuca myuros	rattail fescue	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Bare ground		32.0%	16.7%	24.3%	0.0%	18.2%	16.8%	16.8%
Bare ground or thatch		60.6%	32.3%	54.4%	0.0%	36.8%	64.6%	64.6%
Total cover by native species		**61.5%**	**180.6%**	**82.6%**	**87.1%**	**103.0%**	**96.1%**	**96.1%**
Total cover by non-native species		0.0%	0.0%	9.9%	35.0%	11.2%	7.2%	7.2%
Relative cover by native species		**100.0%**	**100.0%**	**89.3%**	**71.3%**	**90.2%**	**93.0%**	**93.0%**
Relative cover by non-native species		0.0%	0.0%	10.7%	28.7%	9.8%	7.0%	7.0%
Total Cover by Native Shrubs and Sub-shrubs		**41.6%**	**154.8%**	**52.4%**	**13.1%**	**65.5%**	**32.5%**	**32.5%**
Total Cover by Native Herbaceous Species		**19.9%**	**25.8%**	**30.2%**	**74.0%**	**37.5%**	**63.6%**	**63.6%**

Table 1 - Native Plant Cover West (July 2015)

Dominant Species		*Ericameria ericoides* Association					*Lupinus chamissonis* Association	
		% cover (mean)						
Scientific Name	Common Name	T1-W	T4-W	T10-W	T11-W	Mean of 4 Transects	T2-W	Mean of 1 Transects
		Shrubs and Sub-shrub Species						
Acmispon glaber	deerweed	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Artemisia californica	California sagebrush	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Artemisia dracunculus	tarragon	6.6%	3.5%	11.0%	6.6%	6.9%	0.0%	0.0%
Ericameria ericoides	mock-heather	35.0%	55.0%	20.1%	6.5%	29.2%	0.0%	0.0%
Eriogonum parvifolium	seacliff buckwheat	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Frangula californica	California coffeeberry	0.0%	96.3%	21.3%	0.0%	29.4%	0.0%	0.0%
Lupinus chamissonis	silver dune lupine	0.0%	0.0%	0.0%	0.0%	0.0%	32.5%	32.5%
Prunus fasciculatus var. punctata	desert almond	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Salix lasiolepis	arroyo willow	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Salvia mellifera	black sage	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
		Native Herbaceous Species						
Achillea millefolium	yarrow	0.0%	0.0%	0.0%	0.0%	0.0%	5.3%	5.3%
Calandrinia ciliata	redmaids	0.0%	0.0%	0.0%	3.8%	1.0%	0.0%	0.0%
Camissoniopsis micrantha	miniature sun-cups	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Carex praegracilis	clustered field sedged	3.8%	18.3%	0.0%	6.6%	7.2%	0.0%	0.0%
Carex barbarae	Santa Barbara sedge	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Cardionema ramosissimum	sandmat	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Castilleja affinis	Indian paintbrush	0.0%	0.0%	0.0%	0.0%	0.0%	6.0%	6.0%
Castilleja exserta	owl's clover	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Chenopodium californicum	California goosefoot	0.0%	0.0%	5.0%	0.0%	1.3%	0.0%	0.0%
Chorizanthe diffusa	spineflower	0.0%	0.0%	2.5%	0.0%	0.6%	0.0%	0.0%
Cirsium occidentale	cobweb thistle, western thistle	0.0%	0.0%	3.0%	0.0%	0.8%	0.0%	0.0%
Corethrogyne filaginifolia	California aster	6.6%	7.5%	3.0%	0.0%	4.3%	22.0%	22.0%
Croton californicus	California croton	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Deinandra increscens subsp. *increscens*	manystemmed woolly sunflower	0.0%	0.0%	0.0%	1.0%	0.3%	0.0%	0.0%
Dudleya lanceolata	blue dicks	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Erigeron blochmaniae	Blochman's erigeron, Blochman's leafy daisy	0.0%	0.0%	3.0%	0.0%	0.8%	15.0%	15.0%
Erysimum suffrutescens	suffrutescent wallflower	1.0%	0.0%	0.0%	2.0%	0.8%	0.0%	0.0%
Horkeia cuneata var cuneata	coast horkelia	6.5%	0.0%	0.0%	0.0%	1.6%	0.0%	0.0%
Lastarriaea coriacea	leather spineflower	0.0%	0.0%	13.7%	32.0%	11.4%	0.0%	0.0%
Linanthus californicus	prickly phlox	0.0%	0.0%	0.0%	28.6%	7.2%	0.0%	0.0%
Melica imperfecta	Coast Range melic	2.0%	0.0%	0.0%	0.0%	0.5%	0.0%	0.0%
Senecio blochmaniae	dune ragwort	0.0%	0.0%	0.0%	0.0%	0.0%	15.3%	15.3%
Stephanomeria virgata	virgate stephanomeria	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Urtica dioica	stinging nettle	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

Table 1 - Native Plant Cover West (July 2015)

Dominant Species		*Ericameria ericoides – Eriogonum parvifolium – Salvia mellifera* Association						*Ericameria ericoides – Prunus fasciculata* Association	
		% cover (mean)							
Scientific Name	Common Name	T6-W	T7-W	T9-W	T12-W	T15-W	T19-W	Mean of 6 Transects	T14-W	Mean of 1 Transects
		Non-native Herbaceous Species								
Ammophila arenaria	European beach grass	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Bromus diandrus	ripgut brome	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	2.5%	2.5%
Bromus madritensis subsp. *rubens*	red brome	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	1.0%	1.0%
Conicosia pugioniformis	narrow leaved iceplant	0.0%	1.0%	0.0%	5.0%	0.0%	0.0%	1.0%	0.0%	0.0%
Ehrharta calycina	veldtgrass	6.0%	2.3%	30.0%	7.7%	4.6%	2.0%	8.8%	0.0%	0.0%
Festuca myuros	rattail fescue	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Bare ground		53.0%	40.0%	38.5%	49.2%	15.0%	44.1%	40.0%	25.1%	25.1%
Bare ground or thatch		74.7%	53.3%	61.3%	72.2%	56.9%	63.6%	63.7%	60.7%	60.7%
Total cover by native species		**41.4%**	**89.5%**	**35.4%**	**53.0%**	**62.2%**	**90.5%**	**62.0%**	**52.3%**	**52.3%**
Total cover by non-native species		6.0%	3.3%	30.0%	12.7%	4.6%	2.0%	9.8%	3.5%	3.5%
Relative cover by native species		**87.3%**	**96.4%**	**54.1%**	**80.7%**	**93.1%**	**97.8%**	**84.9%**	**93.7%**	**93.7%**
Relative cover by non-native species		12.7%	3.6%	45.9%	19.3%	6.9%	2.2%	15.1%	6.3%	6.3%
Total Cover by Native Shrubs and Sub-shrubs		**12.4%**	**69.5%**	**27.4%**	**42.0%**	**20.2%**	**80.2%**	**42.0%**	**43.3%**	**43.3%**
Total Cover by Native Herbaceous Species		**29.0%**	**20.0%**	**8.0%**	**11.0%**	**42.0%**	**10.3%**	**20.1%**	**9.0%**	**9.0%**

Dominant Species		*Ericameria ericoides – Eriogonum parvifolium – Salvia mellifera* Association							*Ericameria ericoides – Prunus fasciculata* Association	
		% cover (mean)								
Scientific Name	Common Name	T6-W	T7-W	T9-W	T12-W	T15-W	T19-W	Mean of 6 Transects	T14-W	Mean of 1 Transects
		Shrubs and Sub-shrub Species								
Acmispon glaber	deerweed	0.0%	0.0%	0.0%	3.0%	0.0%	15.0%	3.0%	0.0%	0.0%
Artemisia californica	California sagebrush	0.0%	29.6%	0.0%	0.0%	0.0%	0.0%	4.9%	0.0%	0.0%
Artemisia dracunculus	tarragon	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Ericameria ericoides	mock-heather	12.4%	27.5%	27.4%	39.0%	20.2%	36.0%	27.1%	22.0%	22.0%
Eriogonum parvifolium	seacliff buckwheat	0.0%	0.0%	0.0%	0.0%	0.0%	29.2%	4.9%	0.0%	0.0%
Frangula californica	California coffeeberry	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Lupinus chamissonis	silver dune lupine	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Prunus fasciculatus var. punctata	desert almond	0.0%	12.4%	0.0%	0.0%	0.0%	0.0%	2.1%	21.3%	21.3%
Salix lasiolepis	arroyo willow	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Salvia mellifera	black sage	40.8%	49.0%	0.0%	21.7%	0.0%	0.0%	18.6%	0.0%	0.0%
		Native Herbaceous Species								
Achillea millefolium	yarrow	0.0%	0.0%	0.0%	0.0%	5.0%	0.0%	0.8%	0.0%	0.0%
Calandrinia ciliata	redmaids	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Camissoniopsis micrantha	miniature sun-cups	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	1.0%	1.0%
Carex praegracilis	clustered field sedged	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Carex barbarae	Santa Barbara sedge	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Cardionema ramosissimum	sandmat	0.0%	0.0%	0.0%	0.0%	20.0%	0.0%	3.3%	0.0%	0.0%
Castilleja affinis	Indian paintbrush	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Castilleja exserta	owl's clover	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	3.0%	3.0%
Chenopodium californicum	California goosefoot	0.0%	0.0%	5.0%	0.0%	0.0%	0.0%	0.8%	0.0%	0.0%
Chorizanthe diffusa	spineflower	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Cirsium occidentale	cobweb thistle, western thistle	0.0%	0.0%	0.0%	0.0%	3.0%	0.0%	0.5%	0.0%	0.0%
Corethrogyne filaginifolia	California aster	0.0%	15.0%	0.0%	1.0%	9.0%	0.0%	4.2%	5.0%	5.0%
Croton californicus	California croton	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Deinandra increscens subsp. *increscens*	manystemmed woolly sunflower	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Dudleya lanceolata	blue dicks	1.0%	0.0%	0.0%	0.0%	0.0%	2.0%	0.5%	0.0%	0.0%
Erigeron blochmaniae	Blochman's erigeron, Blochman's leafy daisy	25.0%	0.0%	0.0%	0.0%	0.0%	0.0%	4.2%	0.0%	0.0%
Erysimum suffrutescens	suffrutescent wallflower	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Horkeia cuneata var cuneata	coast horkelia	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Lastarriaea coriacea	leather spineflower	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Linanthus californicus	prickly phlox	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Melica imperfecta	Coast Range melic	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Senecio blochmaniae	dune ragwort	3.0%	5.0%	3.0%	10.0%	5.0%	8.3%	5.7%	0.0%	0.0%
Stephanomeria virgata	virgate stephanomeria	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Urtica dioica	stinging nettle	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

Table 1 - Native Plant Cover West (July 2015)

Dominant Species		*Lupinus chamissonis – Ericameria ericoides* Association Transects						
		% cover (mean)						
Scientific Name	Common Name	T5-W	T8-W	T13W	T16-W	T17-W	T18-W	Mean of 6 Transects
		Non-native Herbaceous Species						
Ammophila arenaria	European beach grass	2.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.3%
Bromus diandrus	ripgut brome	0.0%	0.0%	0.0%	3.4%	0.0%	0.0%	0.6%
Bromus madritensis subsp. *rubens*	red brome	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Conicosia pugioniformis	narrow leaved iceplant	0.0%	0.0%	0.0%	0.0%	0.0%	5.0%	0.8%
Ehrharta calycina	veldtgrass	4.1%	3.8%	11.9%	3.7%	3.5%	11.6%	6.4%
Festuca myuros	rattail fescue	0.0%	0.0%	0.0%	4.0%	0.0%	0.0%	0.7%
Bare ground		37.2%	31.9%	47.4%	50.3%	59.8%	28.8%	42.6%
Bare ground or thatch		61.9%	88.1%	78.9%	63.0%	71.2%	40.1%	67.2%
Total cover by native species		**107.0%**	**112.0%**	**40.3%**	**60.6%**	**100.8%**	**122.6%**	**90.6%**
Total cover by non-native species		**107.0%**	**112.0%**	**38.3%**	11.1%	3.5%	16.6%	**48.1%**
Relative cover by native species		**107.0%**	**112.0%**	**38.3%**	**84.5%**	**96.6%**	**88.1%**	**87.8%**
Relative cover by non-native species		**109.0%**	**112.0%**	**38.3%**	15.5%	3.4%	11.9%	**48.3%**
Total Cover by Native Shrubs and Sub-shrubs		**66.5%**	**89.3%**	**20.8%**	**43.3%**	**52.5%**	**108.6%**	**63.8%**
Total Cover by Native Herbaceous Species		**55.7%**	**82.3%**	**23.8%**	**17.3%**	**48.3%**	**14.0%**	**40.2%**

Dominant Species		*Lupinus chamissonis – Ericameria ericoides* Association Transects						
		% cover (mean)						
Scientific Name	Common Name	T5-W	T8-W	T13W	T16-W	T17-W	T18-W	Mean of 6 Transects
		Shrubs and Sub-shrub Species						
Acmispon glaber	deerweed	0.0%	0.0%	2.0%	0.0%	0.0%	0.0%	0.3%
Artemisia californica	California sagebrush	0.0%	0.0%	0.0%	0.0%	29.6%	0.0%	4.9%
Artemisia dracunculus	tarragon	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Ericameria ericoides	mock-heather	40.5%	22.7%	14.5%	28.3%	22.9%	48.6%	29.6%
Eriogonum parvifolium	seacliff buckwheat	12.8%	7.0%	0.0%	15.0%	0.0%	0.0%	5.8%
Frangula californica	California coffeeberry	0.0%	0.0%	0.0%	0.0%	0.0%	60.0%	10.0%
Lupinus chamissonis	silver dune lupine	41.7%	17.3%	0.0%	0.0%	0.0%	0.0%	9.8%
Prunus fasciculatus var. punctata	desert almond	0.0%	10.0%	0.0%	0.0%	0.0%	0.0%	1.7%
Salix lasiolepis	arroyo willow	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Salvia mellifera	black sage	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
		Native Herbaceous Species						
Achillea millefolium	yarrow	0.0%	0.0%	0.0%	3.0%	0.0%	0.0%	0.5%
Calandrinia ciliata	redmaids	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Camissoniopsis micrantha	miniature sun-cups	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Carex praegracilis	clustered field sedged	0.0%	0.0%	3.0%	3.0%	3.0%	0.0%	1.5%
Carex barbarae	Santa Barbara sedge	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Cardionema ramosissimum	sandmat	0.0%	0.0%	3.0%	0.0%	2.0%	2.0%	1.2%
Castilleja affinis	Indian paintbrush	5.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.8%
Castilleja exserta	owl's clover	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Chenopodium californicum	California goosefoot	0.0%	0.0%	0.0%	0.0%	0.0%	2.0%	0.3%
Chorizanthe diffusa	spineflower	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Cirsium occidentale	cobweb thistle, western thistle	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Corethrogyne filaginifolia	California aster	0.0%	5.0%	10.8%	4.3%	6.8%	5.0%	5.3%
Croton californicus	California croton	0.0%	0.0%	5.0%	0.0%	25.0%	5.0%	5.8%
Deinandra increscens subsp. *increscens*	manystemmed woolly sunflower	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Dudleya lanceolata	blue dicks	0.0%	0.0%	2.0%	2.0%	2.5%	0.0%	1.1%
Erigeron blochmaniae	Blochman's erigeron, Blochman's leafy daisy	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Erysimum suffrutescens	suffrutescent wallflower	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Horkeia cuneata var cuneata	coast horkelia	2.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.3%
Lastarriaea coriacea	leather spineflower	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Linanthus californicus	prickly phlox	5.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.8%
Melica imperfecta	Coast Range melic	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Senecio blochmaniae	dune ragwort	0.0%	50.0%	0.0%	5.0%	9.0%	0.0%	10.7%
Stephanomeria virgata	virgate stephanomeria	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Urtica dioica	stinging nettle	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

Table 3 - Native Plant Cover Data - July 2015 Surveys

Dominant Species		*Ericameria ericoides – Eriogonum parvifolium – Salvia mellifera* Association		*Salvia mellifera* Shrubland Alliance				
Scientific Name	Common Name	T24-E	Mean of 1 Transects	T27-E	T28-E	T29-E	T30-E	Mean of 4 Transects
Acmispon glaber	**deerweed**	**0.0%**	**0.0%**	**5.0%**	**0.0%**	**3.5%**	**6.0%**	**3.6%**
Artemisia californica	**California sagebrush**	**0.0%**	**0.0%**	**3.0%**	**7.8%**	**8.6%**	**30.0%**	**12.4%**
Baccharis pilularis	**coyote-bush**	**0.0%**	**0.0%**	**10.0%**	**5.0%**	**10.0%**	**0.0%**	**6.3%**
Ericameria ericoides	**mock-heather**	**20.0%**	**20.0%**	**0.0%**	**15.0%**	**0.0%**	**0.0%**	**3.8%**
Frangula californica	**California coffeeberry**	**0.0%**	**0.0%**	**14.0%**	**10.0%**	**37.5%**	**0.0%**	**15.4%**
Salvia mellifera	**black sage**	**0.0%**	**0.0%**	**36.0%**	**30.0%**	**31.5%**	**35.5%**	**33.3%**
Toxicodendron diversilobum	**poison-oak**	**0.0%**	**0.0%**	**9.5%**	**0.0%**	**0.0%**	**0.0%**	**2.4%**
Croton californicus	**California croton**	**2.0%**	**2.0%**	**0.0%**	**0.0%**	**0.0%**	**0.0%**	**0.0%**
Deinandra increscens* subsp. *increscens	**manystemmed woolly sunflower**	**2.2%**	**2.2%**	**0.0%**	**0.0%**	**0.0%**	**0.0%**	**0.0%**
Melica imperfecta	**Coast Range melic**	**0.0%**	**0.0%**	**0.0%**	**3.0%**	**2.0%**	**0.0%**	**1.3%**
Bromus madritensis subsp. *rubens*	red brome	0.0%	0.0%	0.0%	1.0%	15.6%	13.8%	7.6%
Ehrharta calycina	veldtgrass	7.0%	7.0%	17.8%	0.0%	7.8%	8.5%	8.5%
Erodium botrys	storkbill filaree	18.8%	18.8%	0.0%	0.0%	0.0%	0.0%	0.0%
Festuca myuros	rattail fescue	0.0%	0.0%	0.0%	0.0%	20.0%	0.0%	5.0%
Bare ground		48.7%	48.7%	16.5%	22.3%	22.5%	13.3%	**18.7%**
Bare ground or thatch		58.6%	58.6%	49.6%	65.4%	46.1%	49.4%	**52.6%**
Total cover by native species		**24.2%**	**24.2%**	**68.0%**	**70.8%**	**93.1%**	**71.5%**	**75.9%**
Total cover by non-native species		25.8%	25.8%	17.8%	1.0%	43.4%	22.3%	**21.1%**
Relative cover by native species		**48.4%**	**48.4%**	**79.3%**	**98.6%**	**68.2%**	**76.2%**	**80.6%**
Relative cover by non-native species		51.6%	51.6%	20.7%	1.4%	31.8%	23.8%	**19.4%**
Total Cover by Native Shrubs and Sub-shrubs		**20.0%**	**20.0%**	**68.0%**	**67.8%**	**91.1%**	**71.5%**	**74.6%**
Total Cover by Native Herbaceous Species		**4.2%**	**4.2%**	**0.0%**	**3.0%**	**2.0%**	**0.0%**	**1.3%**

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Figures

Site Features Legend

- Property Boundary
- Existing Rail Line
- Proposed Emergency Vehicle Access_(EVA)
- Vegetation Transect (ARCADIS 2015)
- Vegetation Transect (LEIDOS 2015)

Vegetation Classification (* - Sensitive Vegetation Type)

- SL, *Salix lasiolepis* Shrubland/Woodland Alliance* [Arroyo willow thickets]
- SLb, *Salix lasiolepis* Shrubland/Woodland Alliance* (Stormwater detention basin)
- LE, *Lupinus chamissonis – Ericameria ericoides* Shrubland Alliance [Silver dune lupine – mock--heather scrub]*
- LE-ES, *Ericameria ericoides – Eriogonum parvifolium – Salvia mellifera* Association*
- SM, *Salvia mellifera* Shrubland Alliance [Black sage scrub] (Formerly *Salvia mellifera – Ericameria ericoides* Association)*
- BP, *Baccharis pilularis* Shrubland Alliance [Coyote brush scrub]
- BP-BE, *Baccharis pilularis – Ericameria ericoides* Association*
- Br, *Brassica* and Other Mustards Semi-Natural Herbaceous Stands
- Br-Bt, *Brassica tournefortii* (Saharan mustard) Semi-natural Herbaceous Stands (Provisional)
- Eh, *Ehrharta* Semi-Natural Herbaceous Stands (Provisional) [Non-native veldtgrass grassland]
- Er, *Erodium* Semi-Natural Herbaceous Stands (Provisional)
- Er-Eb, *Erodium botrys* Semi-Natural Herbaceous Stands (Provisional)
- Pt, Planted trees
- Non-Vegetated/Unclassified

NOTES:

1. The mapped alliances and associations are based on the dominant native species. In most areas, the mapped native plant communities are degraded and support varying but relatively high concentrations of veldt grass and other non-native species.
2. Vegetation and sensitive species mapping based on ARCADIS field surveys in October 2012, April 2013, June 2013, January - April 2015 and July 2015.
3. Limits of Disturbance include both temporary and permanent disturbance areas.
4. Imagery accessed through ArcGIS Online World Imagery Layer Package by ESRI (12/1/2010) (c) 2010 Microsoft Corporation and its data suppliers accessed on 7/28/2015 through ArcGIS 10.

N

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SCALE IN FEET

Phillips 66
Santa Maria Refinery Rail Project

EXISTING HABITATS

ARCADIS

FIGURE 1

ENV: San Luis Obispo \\corpargis\Data\ArcGisData\ Z:\GISPROJECTS_ENV\Phillips66\GIS\Projects\07201\Fig 1 ExistingHabitats_SURVEYED_20150720.mxd 7/28/2015 baldwinb
Coordinate System: NAD 1983 StatePlane California V FIPS 0405 Feet

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Appendix A

Phillips 66 Vegetation Survey

Transect T1 (west): *Ericameria ericoides* Association

View looking West

Photograph # 973

July 13, 2015

Phillips 66 Vegetation Survey

Transect T2 (west): *Lupinus chamissonis* Association

View looking West

Photograph # 977

July 13, 2015

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Phillips 66 Vegetation Survey

Transect T6 (west): *Ericameria ericoides* Association

View looking East

Photograph # 986

July 14, 2015

Phillips 66 Vegetation Survey

Transect T7 (west): *Ericameria ericoides – Eriogonum parvifolium – Saliva mellifera* Association

View looking Northeast

Photograph # 988

July 14, 2015

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Phillips 66 Vegetation Survey

Transect T8 (west): *Lupinus chamissonis – Ericameria ericoides* Association

View looking East

Photograph # 990

July 14, 2015

Phillips 66 Vegetation Survey

Transect T10 (west): *Ericameria ericoides* Association

View looking West

Photograph # 993

July 14, 2015

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Phillips 66 Vegetation Survey

Transect T11 (west): *Ericameria ericoides* Association

View looking East

Photograph # 999

July 14, 2015

Phillips 66 Vegetation Survey

Transect T13 (west): *Lupinus chamissonis* – *Ericameria ericoides* Association

View looking West

Photograph # 1033

July 14, 2015

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Phillips 66 Vegetation Survey

Transect T15 (west): *Lupinus chamissonis – Ericameria ericoides* Association

View looking West

Photograph # 1008

July 14, 2015

Phillips 66 Vegetation Survey

Transect T24 (east): *Ericameria ericoides – Eriogonum parvifolium – Saliva mellifera* Association

View looking West

Photograph # 1011

July 15, 2015

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Phillips 66 Vegetation Survey

Transect T27 (east): *Salvia mellifera* Shrubland Alliance

View looking West

Photograph # 1014

July 15, 2015

Exhibit F

CEQA REQUIRED FINDINGS FOR THE PHILLIPS 66 COMPANY RAIL SPUR EXTENSION PROJECT CONDITIONAL USE PERMIT (DRC2012-00095 / ED12-201)

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1.0 ENVIRONMENTAL DETERMINATION

The Environmental Impact Report (EIR) was prepared, pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code [PRC] §21000 et seq.), to evaluate the environmental impacts resulting from approval of the Phillips 66 Company Rail Spur Extension Project, which consists of a 6,915-foot long rail spur, an unloading facility, onsite pipelines, replacement of coke rail loading tracks, the construction of five parallel tracks with the capacity to hold a 5,190-foot-long unit train consisting of 80 tank cars (60 feet each), two buffer cars (60 feet each), and three locomotives (90 feet each), and accessory improvements. Development would be under County jurisdiction.

The County acts as the Lead Agency for purposes of preparing this Environmental Impact Report (EIR) and for purposes of ultimately certifying a Final EIR. The findings and recommendations set forth below (Findings) are adopted by the County under CEQA and the CEQA Guidelines (California Code of Regulations [CCR] Title 14, §15000 et seq.) relating to the project. The Findings provide the written analysis and conclusions regarding the project's environmental impacts, mitigation measures, and alternatives to the project.

2.0 PROJECT DESCRIPTION

Phillips 66 is proposing to modify the existing rail spur currently on the southwest side of the Santa Maria Refinery (SMR) and to build and operate a crude oil rail unloading facility. The rail spur extension is proposed entirely on the SMR property and would be located east of the Union Pacific Railroad and adjacent to the existing refinery facilities. The area of the Rail Spur Project is zoned for industrial use.

2.1 GENERAL BACKGROUND

The SMR 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 land, and open space. The SMR operates 24 hours per day and 365 days per year, except when shut down for maintenance. The SMR was previously owned by several companies, including Union Oil Company of California, Tosco, Phillips Petroleum, and ConocoPhillips. Since 1955, the land use has been petroleum oil refining. The SMR and the Rodeo Refinery (located in the San Francisco Bay area), are linked by a 200-mile pipeline and comprise the San Francisco Refinery. The SMR is designed to process heavy, high-sulfur crude oil. The refinery is not designed to process large quantities of light crude oil. Semi-refined liquid products from the SMR are sent by pipeline to the Rodeo Refinery for upgrading into finished petroleum products. The semi-refined products that are shipped via pipeline to the Rodeo Refinery include naphtha and gas oils. Products leaving the SMR are: (1) semi-refined petroleum by pipeline; (2) solid petroleum coke by rail or haul truck; and (3) solid recovered sulfur by haul truck.

2.1.1 Project Location

The Project is located approximately 3 miles west of the community of Nipomo on the west side of State Route 1, immediately east of the Oceano Dunes State Vehicle Recreation Area (ODSVRA). The project site is located at 2555 Willow Road, Arroyo Grande (SR 1) (APN 091-141-062, 092-391-021, 034, 092-401-005, 011, 013, 092-411-002, 005). The project site is located within the Industrial Land Use Category.

2.1.2 Project Objectives

Pursuant to Section 15124(b) of the CEQA Guidelines, the description of the proposed project is to contain "a clearly written statement of objectives" that would aid the lead agency in developing a reasonable range of alternatives to evaluate in the EIR, would aid decision makers in preparing findings and, if necessary, a statement of overriding considerations.

The objectives of the project as defined by the Applicant are the following:

1. Allow 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.

2. Extend the existing rail spur within the refinery and install the necessary infrastructure to safely and efficiently transfer crude oil from rail cars to the existing refinery storage tanks for processing.

3. Avoid and minimize environmental and community impacts, and mitigate any unavoidable impacts to the maximum extent feasible.

4. Develop a project that is consistent with the objectives of the San Luis Obispo County General Plan and Local Coastal Program.

5. Design, construct, and operate a project that complies with all local, state, and federal regulatory requirements.

6. Maximize the use of existing infrastructure and resources to support the economic vitality of the County and State.

2.2 PROJECT COMPONENTS

Phillips 66 proposes to extend an existing rail spur which is currently used for shipment of coke (an oil refinement by-product) from the southwest side of the refinery extending east, to add an unloading facility for crude oil trains, onsite pipelines, and replacement coke rail loading tracks. The initial application submitted to the County by the Applicant was for five unit trains per week. During the Planning Commission Hearings, the Applicant amended the project to three trains per week and a maximum of 150 trains per year, consistent with the Reduced Delivery Alternative evaluated in the FEIR (see February 1, 2006 letter from Applicant to Planning Commission). These trains would deliver heavy crude for refinement at the Santa Maria Refinery. Additionally, an existing agricultural road would be improved as an unpaved eastern Emergency Vehicle Access route between the eastern end of the rail spur and State Route 1. The tracks and unloading facilities would be designed to accommodate trains of approximately 80 tank cars and associated locomotives and buffer cars in unit trains or manifest train configurations. These trains would deliver crude oil to the facility for refining. The unloaded material would be transferred to the existing crude oil storage tanks via a new pipeline that would be constructed across the existing coke storage area and along an existing internal refinery road. The project construction would occur entirely within the existing Phillips 66 SMR boundary.

2.1.3 Construction

The project would also include work within the existing refinery connecting and upgrading existing infrastructure. This includes adding a new electricity cable to an existing pipeway and adding a new fire water pipeline to an existing pipe rack. The rails on the existing rail spur would also be replaced. The new rail spur lines would extend from the terminus of the current spur. The unloading facility would be located at the end of the existing coke storage area and along an existing internal refinery road.

The construction areas are summarized below:

- 6,915 feet – Length of spur extension (including approximately 2,445 feet within the existing industrial coke plant area);
- 270 feet – Maximum width of construction area for rail extension;
- 2,325 feet – Length of the new pipeline route from the unloading facility to the internal refinery (an additional 2,800 feet would be constructed within the existing refinery connecting to the existing storage tanks and existing steam boilers); and
- 2,400 feet - Length of new steam pipelines from the unloading facility east between Tracks 1 and 2.

The maximum width of the temporary construction area for pipeline installation would be 25 feet. Acreage breakdowns (temporary + permanent) are summarized below:

- 41.6 acres – Rail Spur and Unloading Facility (25.3 acres permanent + 16.3 temporary),
- 3.8 acres – New Pipeline (1.8 acres permanent + 2 acres temporary), and
- 1.6 acres – Secondary Emergency Vehicle Access (1.6 acres permanent).

Collectively, the entire project, including temporary and permanent impacts, would affect approximately 47 acres. Of this area, 19.5 acres would occur within the existing refinery and coke area, and 27.5 acres would occur in undeveloped areas outside the refinery and coke facilities. A more detailed description of the Project can be found in section 2.0 of the Final EIR.

Currently undisturbed areas, temporarily affected during construction, would be retumed to pre-project conditions following completion of construction. The construction grading would create approximately 139,775 cubic yards of cut and 113,675 cubic yards of fill. Note that the final volumes may differ based on final engineering design plans. The overall construction is anticipated to occur over a period of 9 – 10 months.

2.1.4 Operations

Project operations would include unloading of up to three trains per week, with an annual maximum number of trains expected to be approximately 150. Trains would arrive from different oilfields and/or crude oil loading points depending on market availability. Trains could arrive at the Phillips 66 site from the north or the south. The refinery feedstock definition (meaning the materials that could be transported by train into the proposed facility) excludes gaseous feeds, natural gas liquids (NGL), liquefied petroleum gas (LPG), finished refined products, and Bakken

crude. The feedstock would be sourced from oilfields throughout North America based on market economics and other factors.

Crude oil would be shipped to the refinery in ~~non-jacketed CPC-1232~~DOT-117/117P~~/117R~~ tank cars ~~(i.e., post October 1, 2011 tank cars)~~. ~~Appendix A~~Table 4.7.20 of the FEIR provides the specification for the tanks cars (page~~s A-31 and A-32~~ 4.7-96). These cars have a capacity of approximately 31,808 gallons per car. Each car has a weight limit of 210,700 pounds of crude oil. Each tank car would be approximately 60 feet long. The total length of a unit train would be about 5,190 feet long (three locomotives at 90 feet, two buffer cars at 60 feet, and 80 tank cars at 60 feet).

On May 1, 2015, the DOT issued their final rule covering enhanced tank car standards for the ~~safe~~ transportation of flammable liquids by rail, which~~that~~ provides the minimum specifica~~i~~tions for tank car design standard~~s~~s and other requirements for the ~~safe~~ transportation of flammable liquids by rail. (i.e.,~~reduced~~ limits on operating speeds ~~to maximum of 50mph~~).~~In August 2011, the AAR Tank Car Committee adopted new industry construction specifications for tank cars and the CPC-1232 design became the standard for all tank cars built after October 2011. The rail cars would be designed to~~ The project's~~se~~ tank cars would be in compliance with the new DOT rule and also meet DOT Packing Group I requirements, which is the highest rating. The tank cars would be equipped with ~~half~~ full height head shields, double couplers, and all stainless steel valves. The relief valve would be designed for high flow.

In a unit train configuration, each train would consist of three locomotives, two buffer cars, and 80 railcars each carrying approximately carrying approximately 27,300 gallons crude oil (less than the tank size capacity due to weight) for a total of about 52,000 barrels of crude oil per unit train. With the delivery of three unit trains per week the average daily delivery of crude oil would be 21,370 barrels, which is less than the SLO County permitted capacity of 44,500 barrels per day.

Due to the weight of the train and the steep grade, an additional two locomotives would be required for the portion of the route between Santa Margarita, California and San Luis Obispo, California coming over the Cuesta Grade (a distance of approximately 15 miles). In a manifest train configuration, varying number of railcars would be dropped off at SMR by a passing train. A dedicated locomotive would remain on-site to move cars. This would be a small locomotive that would only be capable of moving a few rail cars at a time, and would not be used for unloading of unit trains. In a manifest train configuration, a number of crude oil railcars would be dropped at the refinery and then the train would continue to other destinations. Rail cars delivered via manifest train would meet the same DOT tank car design specifications as discussed above for the unit train tank cars. The refinery would have a dedicated locomotive that would be used to move the railcars from the manifest train while they are on site. This dedicated locomotive would only be used for manifest deliveries.

Because trains would arrive at different times throughout the week, the number of workers would vary depending on the number of trains and worker arrival and departure time would vary throughout the day and night. Additional employees over the current refinery employees would be required in order to unload and manage the trains, with the increase ranging as high as 12 additional employees at one time.

Consistent with current operations, the crude oil delivered by rail and pumped to the storage tanks at the refinery would be processed at the SMR and then the semi-refined products would be transported by pipeline to the Rodeo refinery in the Bay Area. No crude oil or refined product

would be transported out of the refinery by rail except for any off-spec crude that is delivered by rail. No crude oil would be moved from the refinery via pipeline.

Trains would arrive from different oilfields and/or crude oil loading points depending on market availability. The exact location of the source of crude oil that would be delivered to the refinery is unknown and could change over time based upon market conditions and availability. Union Pacific Railroad (UPRR) would be responsible for delivering the trains to the SMR. Trains could enter California from at least five different locations (one at the north end of the state from Oregon, two at the northeast from Nevada, one at the southeast from Nevada, and one at the south from Arizona). Depending upon the route taken by the train they could arrive at the Phillips 66 site from the north or the south.

It is unknown what route UPRR would use to deliver the trains to the SMR and it would likely vary based on the source location of the crude oil. However, there is certainty regarding the two segments of the route on the "Coast Line" that lead to the SMR from the north and from the south where there are no alternative routes. Coming from the north, the available routes merge south of San Jose. Coming from the south, the available routes merge north of Los Angeles. Locomotive refueling for the unit trains would not need to be conducted at the refinery since the main line engines would be used to handle the cars while at the refinery. UPRR would ensure the main line engines were adequately fueled prior to arrival on site. However, refueling of the dedicated locomotive that would be used with manifest trains would need to occur on site. Diesel fuel for the onsite locomotive would be delivered to the refinery by tanker truck. The fuel would be pumped from the tanker truck directly to the locomotive. The amount of refueling needed would depend upon the frequency of delivery of manifest railcars. The maximum refueling would be one tanker truck per week. Each tanker truck would carry about 4,000 gallons of diesel fuel.

The SMR is designed to handle heavy sour crude. SMR partially refines the crude oil to extract intermediates and gases, and uses the heavier crude oil components to produce petroleum coke. The SMR refinery is not designed to handle light sweet crudes such as Bakken, and is not designed to produce finish grade petroleum products such as gasoline, diesel fuel, jet fuel, etc. Gases produced at the refinery are processed in a sulfur removal system and then used as fuel at the refinery. Sulfur removed from the gas is converted to elemental sulfur and sold. Gas oil and naphtha recovered as part of the distillation and coking processes are shipped by pipeline to the Phillips Rodeo Refinery in the San Francisco Bay area for processing into gasoline, diesel fuel, and other petroleum end-use products.

The bulk of the crude oil processed at the SMR comes from offshore platforms in the Outer Continental Shelf of Santa Barbara County and from oil fields in the Santa Maria area. In addition, to the material shipped to SMR directly by pipeline from the source, crude oil from some onshore areas, such as the Arroyo Grande (Price Canyon) oil field and the San Joaquin Valley is delivered by pipeline and truck to the Santa Maria Pump Station and then pumped into a dedicated pipeline to the SMR. The SMR has been processing Canadian crude for about one year. The Canadian crude processed at the SMR has been Kearl Lake dilbit crude (i.e., diluted bitumen crude), which is a heavy, high sulfur crude mixed with a diluent, which is a less viscous hydrocarbon. Canadian crude has made up 2-7% of the crude processed at the SMR. The Canadian crude is shipped via rail to a crude unloading facility near Bakersfield California and then is trucked to the Santa Maria Pump Station for delivery into the dedicated pipeline, which carries crude oil to the SMR.

3.0 GENERAL FINDINGS

3.1 CEQA GENERAL FINDINGS

A. The County Planning Commission finds and declares that it has considered the Final EIR, that the Final EIR is adequate for use by the County in evaluating and approving the project, and that the following findings and determinations represent its own, independent conclusions on whether and how to approve the project.

B. The County Planning Commission finds that changes or alterations have been incorporated into the project to ~~eliminate~~ avoid or substantially lessen the project's significant environmental impacts where feasible. These changes or alterations include mitigation measures and project modifications outlined herein and set forth in more detail in the Project Description and the Alternatives sections (see Final EIR).

C. The County Planning Commission finds that the project, as approved, includes an appropriate Mitigation Monitoring and Reporting Program. This mitigation monitoring program ensures that measures that avoid or substantially lessen the ~~significant~~ project's significant environmental impacts, as required by CEQA and the State CEQA Guidelines, will be implemented as described.

D. Per CEQA Guidelines §15126.4(a)(1)(B), the project includes mitigation measures that contain specific performance-based ~~conditions~~ standards intended to avoid or substantially lessen the project's significant ~~relating to~~ environmental impacts and includes requirements to prepare more detailed plans that will further define the mitigation measures based on the performance-based standards adopted in this FEIR, which will ~~more detailed plans to~~ be submitted to County Planning and Building for review and approval ~~as a part of the~~prior to the construction ~~and~~or operational phase~~s~~. Conditions and mitigation measures contain specific performance-based standards upon which the project proponent will rely to establish the detailed plans and therefore avoid the potential for these conditions or measures to be considered deferred mitigation under CEQA.

3.2 LEAD AGENCY AND RESPONSIBLE AGENCY USE OF THE FINAL EIR AND FINDINGS

The CEQA Guidelines authorizes the lead ~~agencies~~ agency (defined in PRC § 21067 as "the public agency~~ies~~ which~~that~~ ~~have~~ has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment" ~~and for implementing CEQA~~) to approve a project with significant environmental effects if there is no feasible way to lessen or avoid the significant effects and the project's benefits outweigh these effects. Responsible agencies (defined in PRC § 21069 as "public agencies, other than the lead agency, ~~that~~ which have responsibility for carrying out or approving a project" ~~and for complying with CEQA~~) have a more limited authority to only make substantive comments on the lead agency's DEIRs ~~require changes in the project~~ regarding those activities involved in the project that are within the area of expertise of the agency or that are required to be carried out or approved by the agency. ~~to lessen or avoid only the effects, either direct or indirect, of that part of the project which the agency will be called on to carry out or approve~~ (PRC §21104(c), §21153(c); CEQA Guidelines §15041(b), §15042)..

3.3 THE RECORD

For purposes of CEQA and these Findings, the Record of Proceedings for the proposed project consists of the following documents and other evidence, at a minimum:

- The NOP and all other public notices issued by the County in conjunction with the proposed project;
- The certified Final EIR for the proposed project which consists of the Draft EIR, the technical appendices, and the Response to Comments;
- All written comments submitted by agencies or members of the public during the public review comment period on the Draft EIR;
- All responses to written comments submitted by agencies or members of the public during the public review and comment period on the Draft EIR;
- All written and verbal public testimony presented during noticed public hearings for the proposed project at which such testimony was taken;
- The Mitigation Monitoring and Reporting Program;
- The documents, reports, and technical memoranda included or referenced in the technical appendices of the Final EIR;
- All documents, studies, EIRs, or other materials incorporated by reference in the Draft and Final EIRs including all the application documents and studies submitted by the Applicant and the information provided by the Applicant in response to Planning Department information requests;
- The Resolutions adopted by the County in connection with the proposed project, and all documents incorporated by reference therein;
- Matters of common knowledge to the County, including but not limited to federal, state, and local laws, regulations, and policy documents including the County's General Plan Local Coastal Program, and Coastal Zone Land Use Ordinance;
- Written correspondence submitted to the County in connection with the project;
- All documents, County Staff Reports, County studies, and all written or oral testimony provided to the County in connection with the project;
- All findings and determinations made by the County in certifying the Final EIR;
- All testimony and deliberations received or held in connection with the project; and,
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e) (excluding privileged materials).
- Surface Transportation Board decision number FD36036 (Valero decision)

3.4 CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT

The San Luis Obispo County will need to make the following findings with respect to the Final EIR:

1. The Final EIR was prepared in compliance with the California Environmental Quality Act (CEQA) and was considered by the County prior to any approvals of the project.

2. The Final EIR reflects the independent judgment of the County.

3. For each significant environmental effect that can be mitigated to less than significant identified in the FEIR under the categories of Aesthetics, Agricultural Resources, Air Quality and Greenhouse Gases, Biological Resources, Cultural Resources, Geological Resources, Noise and Vibration, Public Services and Utilities, Transportation and Circulation and Water Resources, the approved mitigation measures contained in the FEIR will avoid or substantially lessen the identified significant adverse environmental impacts of the project to a level of insignificance and have been incorporated into the project.

San Luis Obispo County findings will also need to state that, "The significant effects identified in the Agricultural Resources, Air Quality and Greenhouse Gases, Biological Resources, Cultural Resources, Hazards and Hazardous Materials, Public Services and Utilities and Water Resources sections of the EIR will not be fully mitigated to a degree of insignificance with the incorporation of all the identified mitigation measures included in the EIR." Therefore, a Statement of Overriding Considerations Findings must be adopted.

The location and custodian of the documents and materials that comprise the record is:

San Luis Obispo County
Department of Planning and Building
976 Osos Street, Room 200
San Luis Obispo, CA 93408

The County has relied on all of the documents listed above, in section 3.3, "The Record," in reaching its decisions on the proposed Project even if not every document was formally presented to the Planning Commission or County Staff as part of the County files generated in connection with the Project. Without exception, any documents set forth above not found in the Project files fall into one of two categories. Some of them reflect prior planning or legislative decisions of which the Planning Commission was aware in approving the Project. (See *City of Santa Cruz v. Local Agency Formation Commission* (1978) 76 Cal.App.3d 381, 391-391; *Dominey v. Department of Personnel Administration* (1988) 205 Cal.App.3d 729, 738, fn. 6.) Other documents influencedormed the expert advice provided to County Staff or consultants, who then provided advice to the Planning Commission. For that reason, such documents may form part of the underlying factual basis for the County's decisions relating to approval of the Project. (See Pub. Res. Code, § 21167.6 (e)(10); *Browning-Ferris Industries v. City Council of City of San Jose* (1986) 181 Cal.App.3d 852, 866; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 153, 155.) These findings cite specific pieces of evidence, but none of the Commission's findings are based solely on those pieces of evidence. These project approval and the findings are based upon the entire record, and the Commission intends to rely upon all supporting evidence in the record for each of its findings.

3.5 DIFFERENCES OF OPINION REGARDING ENVIRONMENTAL ANALYSIS

In making its determination to certify the Final EIR and to approve the project, the Commission recognizes that the project involves controversial environmental issues and that a range of technical and scientific expert opinion exists with respect to those issues. The Commission has acquired an understanding of the range of this technical and scientific opinion by its review of the Revised Draft EIR, the comments received on the Revised Draft EIR and the Final EIR, including the responses to public comments, as well as other testimony, letters, and reports submitted for the record. The Commission recognizes that some of the comments submitted on the EIR and at the hearing disagree with the conclusions, analyses, methodology and factual bases stated in the EIR. The Commission has reviewed and considered, as a whole, the evidence and analysis presented in the EIR and in the record, and has gained a comprehensive and well-rounded understanding of the environmental issues presented by the Project. In turn, this understanding has enabled the Commission to make its decisions after weighing and considering the various viewpoints on these important issues. In adopting these findings and approving the Project, the Commission relies predominantly on the expertise of the consultants retained by the County, while recognizing that the evidence and opinions others submitted through the public comment process have also contributed to the final analysis and conditions of approval.

4.0 STATEMENT OF OVERRIDING CONSIDERATIONS

The Final EIR has identified and discussed significant effects that will occur as a result of the proposed project. With the implementation of the mitigation measures identified in the Final EIR, these effects can be feasibly mitigated to a level of insignificance except for the following issue areas:

- Agricultural Resources,
- Air Quality and Greenhouse Gases,
- Biological Resources,
- Cultural Resources,
- Hazards and Hazardous Materials,
- Public Services and Utilities, and
- Water Resources

All but one of the significant, unavoidable environmental effects of the Project are associated with mainline rail transportation of crude oil. These significant impacts are summarized in the CEQA Findings and constitute the impacts for which this Statement of Overriding Considerations is made because there are no legally feasible ~~project alternatives or~~ mitigation measures that the County can implement that can avoid or lessen the project's significant environmental effects on the issue areas, noted above. There are no significant, unavoidable adverse environmental impacts from project construction and one significant, unavoidable adverse environmental impact from operations on the refinery site due to ~~Diesel~~ diesel ~~Particulate~~ particulate ~~Matter~~ matter ("DPM") emissions, which exceed the San Luis Obispo Air Pollution Control District's ("SLOAPCD") daily threshold of 1.25 lbs per day. It is uncertain if there are feasible mitigation measures that would be adequate to reduce the DPM emissions ~~reductions~~ in the vicinity of the SMR to ~~reduce this~~

impact to a level of less than significant with mitigation. Therefore, it has remained a significant, unavoidable adverse environmental impact.

The Planning Commission finds and determines in approving the Project that the Final EIR has disclosed the significant effects of the Project, and identified means of avoiding or lessening those significant effects. The Planning Commission recognizes that, even with the incorporation of mitigation, significant and unavoidable impacts will result from implementation of the Project.

Having (1) reduced the environmental effects of the proposed project by adopting all feasible mitigation measures and a program to monitor the implementation of mitigation measures for project-related impacts, (2) recognized all significant, unavoidable impacts, and (3) balanced the benefits of the Project against the Project's significant and unavoidable impacts, the County Planning Commission pursuant to CEQA Guidelines sections 15093 and 15092 hereby determines that the benefits of the proposed project outweigh the significant, unavoidable adverse impacts based on the following overriding considerations:

1. **The Rail Spur Project would provide additional economic benefits to the local and regional economy -** The Rail Spur Project consists of a modification of the existing Santa Maria Refinery. The Rail Spur Project would benefit the local and regional economy in several ways that include the following:

    - Direct Expenditures for Project Construction - The project would involve a capital investment of approximately $40,000,000 – $60,000,000 dollars at the refinery in equipment and materials. This would include direct purchases of equipment and materials, and payments to construction contractors that cover equipment, materials, and other costs. This estimate does not include construction labor payroll.

    - Increased Employment - At its peak, construction of the project would create up to 200 jobs for construction workers. Given current employment patterns in the County, it is expected that a large majority (up to 90%) of the construction workers would come from the local work force. Accordingly, it is likely that a large portion of the construction payroll will be spent in the local economy. Project operations would create 8 to 12 new permanent, full-time jobs. These new jobs would increase the payroll beyond the current level of approximately $44,299,000, with a corresponding increase in employee expenditures in the local economy.

    - Added Tax Revenue - Following completion of construction, the County would likely reassess the value of the refinery for property tax purposes. Following reassessment, it is expected that the refinery's annual property taxes would increase. Other state and local taxes likewise would increase.

2. **The Rail Spur Project would enhance the economic viability of the refinery** - Currently, Phillips 66 faces challenges with respect to crude supply for the refinery. Phillips 66 does not itself produce crude oil and must purchase all crude from third parties. The refinery accesses crude that can be delivered via their local pipeline network or via truck. In addition, recently, the All American Pipeline that is used to deliver crude oil produced offshore in or adjacent to Santa Barbara County was shut down, and the pipeline operator is in the process of determining a date when the pipeline could return to operation. Loss of this pipeline severed the refinery from crude oil produced offshore in or adjacent to Santa Barbara County.

The Rail Spur Project would enhance the competitiveness and vitality of the refinery by increasing the refinery's access to crude markets across North America that are available by rail. By enhancing the refinery's competitiveness, the Rail Spur Project would help to sustain the economic benefits that the refinery contributes to the local economy.

When the refinery was built, it was owned by Union Oil Company of California. Most of the local crude production also was owned by Union Oil, so a single pipeline system was sufficient to deliver all of the crude oil needed to feed the refinery. However, Phillips 66 (the current refinery owner) does not produce crude oil and must purchase crude oil for the refinery from others. This change in relationship between the refinery and the sources of crude oil limits Phillips 66's ability to source competitively-priced crude oil. (EIR at 2-37 to 2-38.)

In addition, the ability of the refinery to receive more distant crude by a variety of modes of transportation is an important factor in being able to negotiate long-term contracts at competitive prices for both local and other North American crudes, thereby increasing the stability of the refinery. A relatively isolated refinery (due to current limited transportation options) such as the Santa Maria Refinery, faces challenges in establishing long-term contracts for crude oil at competitive prices, which can cause swings in refining margins. These swings in the refinery's profitability can affect employment numbers at the refinery, which would, correspondingly, reduce local purchases made by refinery workers, which affects sales tax revenue for the County~~es paid~~, and other direct and indirect payments and contributions to the County and the community. Thus, the County would benefit by greater stability in refinery operations which would be facilitated by approval of this project because of the enhancement of ~~transportation options~~crude delivery options for the refinery. –The Project would improve the future prospects for stability at the refinery by enabling it to access competitively-priced crude oil produced across North America that is available by rail.

The San Luis Obispo County Planning Commission hereby determines that the specific overriding benefits of the proposed project described above outweigh the significant, unavoidable adverse effects on the environment, and that the significant, unavoidable adverse effects are therefore acceptable based on the overriding considerations listed above.

The above benefits and considerations outweigh the significant and unavoidable adverse environmental impacts, and such benefits override, outweigh, and make "acceptable" any remaining unavoidable environmental impacts of the project (CEQA Guidelines Section 15092(b)). All of these benefits and considerations are based on the facts set forth in the findings, the Final EIR, and the record of proceedings for the Project. Each of these benefits and considerations is a separate and independent basis that justifies approval of the Project, so that if a court were to set aside the determination that any particular benefit or consideration will occur and justifies Project approval, this Planning Commission determines that it would stand by its determination that the remaining benefit(s) or consideration(s) is or are sufficient to warrant Project approval.

5.0 FEDERAL PREEMPTION OF MAINLINE RAIL MITIGATION MEASURES

The federal government has historically, and heavily, regulated rail transportation in the U.S., beginning with the Interstate Commerce Act of 1887. In 1995, Congress enacted the Interstate Commerce Commission Termination Act (ICCTA), which replaced the Interstate Commerce Commission with the Surface Transportation Board. The ICCTA also included a broad statement

of preemption of state and local regulation of rail transportation. In essence, this means that the federal government through the Surface Transportation Board has preempted local authority over all transportation by rail carrier and therefore the County is unable to require local regulation of such rail transportation:

As outlined in the ICCTA the jurisdiction of the [Surface Transportation] Board includes:

1. transportation by rail carriers, and the remedies provided in this part with respect to rates, classifications, rules (including car service, interchange, and other operating rules), practices, routes, services and facilities of such carriers; and

2. the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one State, is exclusive. Except as otherwise provided in this part, the remedies provided under this part with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law.

This law preempts state and local regulation "that may reasonably be said to have the effect of managing or governing rail transportation, while permitting the continued application of laws of general application having a more remote or incidental effect on rail transportation." (*People v. Burlington Northern Santa Fe Railroad* (2012) 209 Cal.App.4th 1513, 1528.). A project falling under the Surface Transportation Board's jurisdiction is not subject to CEQA or to local regulation, except for ministerial permits and generally applicable codes protecting the public health and safety such as electrical, plumbing, and fire codes. Other federal laws such as the Hazardous Materials Transportation Act, Federal Railroad Safety Act, the Pipeline and Hazardous Materials Safety Administration (PHMSA) regulations, etc., also likely preempt the ability of the County to impose mitigation measures on various aspects of crude by rail operations.

The Applicant has asserted that the ICCTA preempts the County from subjecting the rail component of the proposed project to CEQA review and from mitigating any of the potential impacts identified from project-related mainline activities. UPRR has generally concurred, pointing to cases where courts have found that local conditions imposed on permits unreasonably burdened rail carriage and were therefore preempted.

Opponents of this and other recently proposed rail-related projects state the regulatory authority granted by the ICCTA is not limitless, does not preempt CEQA, that CEQA is an information statute which does not interfere with interstate commerce, and that CEQA requires that all significant impacts of a project be mitigated if reasonably feasible.

In the case of this Project, it is clear that for activities performed within the Santa Maria Refinery (SMR) site the County is not preempted by federal law since these activities would not occur on UPRR property, would not involve infrastructure or trains operated by UPRR, and could not reasonably be characterized as managing or governing rail transportation. However, federal law would likely limit the ability of the County to regulate the type and design of locomotives since they are owned and operated by UPRR to transport goods throughout the nation and because regulation of the types of locomotives that could be used for this project would likely interfere with interstate commerce. The impacts of the activities that occur on the Project Site are described and evaluated in the FEIR, and the County as CEQA Lead Agency has the authority to impose mitigation measures or conditions of approval to reduce potential impacts within the boundaries of the SMR.

As lead agency, the County determined that it would analyze potential project-related impacts that may occur along UPRR's mainline in order to meet the information disclosure requirements of CEQA and to fully inform County decision-makers of the consequences of their decisions. While the FEIR describes these potential impacts of project-related train movements along the UPRR mainline throughout the state, the County Department of Planning and Building, based on input from legal counsel, understands the County as CEQA Lead Agency is likely preempted from imposing mitigation measures disclosed in the FEIR on UPRR equipment and train movements statewide on the mainline. This information was included in the FEIR to ensure full disclosure of impacts and mitigations. Exhibit B-2 of the staff report lists the mitigation measures that are preempted by federal law.

Since the County is likely preempted from imposing the mitigation measures for the significant impacts associated with project-related train movements along the UPRR mainline throughout the state, these impacts have been determined to be significant and unavoidable impacts as part of the CEQA findings.

6.0 CLASSIFICATION OF ENVIRONMENTAL IMPACTS

The FEIR classified the environmental impacts in to four categories, which are described below.

- **Class I.** Class I impacts are significant and unavoidable. To approve a project resulting in Class I impacts, the CEQA Guidelines require decision makers to make findings of overriding consideration that "... specific legal, technological, economic, social, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR..."

- **Class II.** Class II impacts are significant but can be mitigated to a level of insignificance by measures identified in this EIR and the project description. When approving a project with Class II impacts, the decision-makers must make findings that changes or alternatives to the project have been incorporated that reduce the impacts to a less than significant level.

- **Class III.** Class III impacts are adverse but not significant.

- **Class IV.** Beneficial impacts.

7.0 FINDING FOR IMPACTS IDENTIFIED AS BENEFICIAL

Class IV impacts are impacts that are beneficial. Beneficial impacts are ones that result in a net environmental benefit as of a result of the proposed project. The EIR did not identify any Class IV impacts of the project.

8.0 FINDINGS FOR IMPACTS IDENTIFIED AS LESS THAN SIGNIFICANT

The findings below are for Class III impacts. Class III impacts are impacts that are adverse, but not significant. Pursuant to Section 15091(a)(1) of the State CEQA Guidelines, the Planning Commission finds that each of the following effects associated with the project have been avoided or will have a less than significant impact, as identified in the Final EIR. The less than significant

effects (Impacts) are stated fully in the Final EIR. The following are brief explanations of the rationale for this finding for each impact:

8.1 AGRICULTURAL (CLASS III)

AR Impact 2 (AR.2) - Loss of Farmland	
The Rail Spur Project would result in the permanent conversion of approximately 22.3 acres of Farmland of Statewide Importance	
Mitigation	No mitigation measures are required since the impact is less than significant.
Findings	The SMR has historically had low intensity agricultural use (grazing), and the Rail Spur Project would allow for continued low intensity agricultural use on non-project areas, and would therefore not produce significant impacts.
Supportive Evidence	The site has not historically been grazed near the allowable capacity for industrial parcels, and the intensity of existing grazing activities (0 to 30 head) could easily be continued on remaining undeveloped areas of the Project Site. Because the proposed operations are similar to existing industrial operations at the refinery, no additional land use incompatibility issues are expected to result from the Rail Spur Project that would significantly affect grazing activities. Therefore, no significant impacts to existing grazing activities would occur.

8.2 BIOLOGICAL RESOURCES (CLASS III)

BIO Impact 10 (BIO.10) - Monarch Butterfly Impacts	
Long term air quality impacts could result in impacts to known overwintering monarch butterfly habitat located approximately one-mile east of the Rail Spur Project.	
Mitigation	No mitigation measures are required since the impact is less than significant.
Findings	Rail Spur Project impacts from the mainline rail activities related operational rail traffic and construction would not impact monarch butterflies at nearby areas.
Supportive Evidence	Because of the unknown effects of pollutants on the monarch species, impacts to this species have been inferred based existing conditions elsewhere along the UPRR route where diesel and particulates likely exceed the levels that are expected with construction and operations of the Rail Spur Project. For comparison purposes, the UPRR railroad is directly located adjacent to overwintering habitat located at the Pismo Preserve and at overwintering locations near Carpentaria. Given the level of short-term air and noise pollutants associated with operational activities along this route due to commuter rail traffic and cargo traffic, it is reasonable to assume that this short-term activity would expose monarchs to a higher level of pollutants than the long-term operation of the Rail Spur Project. Considering the long-term continued success of the overwintering populations at these locations given their proximity to pollutants from the UPPR mainline and the existing vehicle traffic adjacent to their locations, it is inferred that the potential impacts due to construction and operational activities of the Rail Spur Project would be less than significant.

BIO Impact 12 (BIO.12) - Mainline Wildlife Impacts
Crude oil transportation along the UPRR mainline could result impacts to wildlife in the vicinity of the mainline.

BIO Impact 12 (BIO.12) - Mainline Wildlife Impacts	
Mitigation	No mitigation measures are required since the impact is less than significant.
Findings	Rail Spur Project impacts along the mainline rail related to operational rail traffic would not impact wildlife along the mainline routes.
Supportive Evidence	The Rail Spur Project would use existing mainline rail routes that have been in service for long periods of time and carry substantial levels of existing freight and passenger train traffic. The addition of three trains per week (six one-way trips per week, as amended) to these existing mainline routes would not be expected to substantially increase the incident of wildlife collisions since there would be a relatively small increase in hourly average train traffic. Given that the trains would use existing mainline routes, the relatively small increase in train traffic that would result from the project and the low estimated probabilities of collisions with wildlife, the impact of train-wildlife collisions on the mainline would be considered less than significant.

8.3 GEOLOGICAL RESOURCES (CLASS III)

GEO Impact 4 (GEO.4) - Precluded Mineral Resources Extraction	
The Project could potentially preclude the future extraction of valuable mineral resources.	
Mitigation	No mitigation measures are required since the impact is less than significant.
Findings	The Rail Spur Project would not preclude the future extraction of valuable mineral resources.
Supportive Evidence	The Project Site is within an area classified as MRZ-3 by the California Geological Survey, which contain known or inferred mineral occurrences of undetermined mineral resource significance. Only Portland cement concrete (PCC)-grade criteria were considered in classifying MRZ-3 areas. MRZ-2 areas, which are areas with a high likelihood for the occurrence of significant mineral resources, have been mapped by the California Geological Survey in combination with areas having current land uses deemed compatible with potential mining. The closest such area to the Project Site is located approximately 0.6 mile southeast of the Project Site. Similarly, the Project Site is not located in an EX or EX-1 area, designated as aggregate production areas, as designated by the County of San Luis Obispo. The closest EX area is located approximately three miles southwest and six miles southeast of the Project Site, respectively, along the Santa Maria River. As a result, the Project would not preclude the future extraction of valuable mineral resources and impacts are considered less than significant.

8.4 HAZARDS AND HAZARDOUS MATERIALS (CLASS III)

HM Impact 1 (HM.1) - Spills and Fires at the SMR	
The proposed rail spur unloading facility would increase the risk of an oil spill, fires and explosions at the refinery and on the project site that could impact the public.	
Mitigation	No mitigation measures are required since the impact is less than significant.

HM Impact 1 (HM.1) - Spills and Fires at the SMR	
Findings	Rail Spur Project releases of crude oil from unloading equipment at the SMR would not produce public risks.
Supportive Evidence	Implementation of the project could result in spills at the Project Site due to mechanical failure, structural failure, corrosion, or human error during pipeline use and oil transportation to and from the Rail Spur. Given the low speed the trains would be moving at the site (3 mph) it is unlikely that a tank car could be impacted enough to result in a spill. The most likely spill related event would be a release during the unloading process due to a loading line failure. The unloading racks are equipped with oil spill drain boxes which would feed below-grade 16-inch-diameter drain lines routed to three parallel 20,000 gallon rectangular storage tanks located in a vault for containment. The total capacity of the containment system would be about 273,000 gallons (this includes the drain boxes, curbed area, pipelines and storage tanks). The containment system has been designed to move any spilled oil away from the rail cars and into the 60,000 gallon storage tanks. The loss of a loading hose could result in a maximum spill of about 27,300 gallons of crude oil (the capacity of one rail car). This system would effectively control spills that would from the loading operations. The loading area would also be equipped with a fire protection system that would consist of fire detection equipment hydrants, controls and piping. Downstream of the two unloading facility meter assemblies, a new 24-inch above ground pipeline would be routed along an existing internal dirt road on the Phillips 66 property between the unloading facility and the refinery. This pipeline would connect with the existing refinery crude oil storage tanks. Several crude oil spill scenarios were modeled to evaluate worst-case thermal radiation hazards associated with a large crude oil fire. Modeled scenarios ranged from small releases from a tank car, full release of rail car contents, and full release of the pipeline volume. None of these flammable hazard zones have the potential for offsite impacts associated with the worst-case unloading facility crude oil spill and fire. Since the worst case hazard zones are within the SMR boundaries, no sensitive receptors would be impacted. Therefore, potential hazards associated with the unloading facility are considered less than significant since the worst case hazard zones do not extend outside of the boundaries of the SMR.

HM Impact 3 (HM.3) - Change in Crude Slate Hazards	
A change in crude slate from rail deliveries could increase hazards at the refinery that would impact the public.	
Mitigation	No mitigation measures are required since the impact is less than significant.
Findings	A change in the crude slate due to the Rail Spur Project would not be expected to increase corrosion or operational hazards at the SMR.
Supportive Evidence	The SMR is designed to handle heavy sour crude, to only partially refine crude oil to extract intermediates and gases, and uses the heavier crude oil components to produce petroleum coke. For the SMR, key crude slate parameters that could impact hazards and potential releases at the refinery have to do with the corrosivity of the crude oil. This type of corrosion is referred to as naphthenic acid corrosion (NAC). Because of the lack of available naphthenic acid concentration data for crude oil, the petroleum industry uses a measurement known as the total acid number (TAN) to qualitatively measure the potential for an oil to produce such corrosion problems. High sulfur levels can lead to sulfide related corrosion. SMR currently processes sour, heavy crudes with elevated levels of sulfur and organic acids. The SMR follow the guidelines laid out in the American Petroleum Institute Recommended Practice "Guidelines for Avoiding Sulfidation Corrosion Failures in Oil Refineries". Phillips 66 also has a required standard for their refineries (M-42-RS-03 "Sulfidation Service Equipment."),

HM Impact 3 (HM.3) - Change in Crude Slate Hazards	
	which the SMR is in compliance with. Both these documents provide rules and guidelines to monitor, mitigate and prevent sulfidation corrosion of process equipment. With respect to organic acid corrosion, SMR follows generally accepted industry practices and the Phillips 66 Consensus Best Practice for "Naphthenic Acid Service Equipment." This document provides guidelines and recommendations for appropriate metallurgy and wide-spread risk based inspection including inspection frequency and methods, use of corrosion inhibitors and suggestions for possible equipment locations, material types, fluid velocities and temperature ranges where naphthenic acid corrosion may be expected to occur. SMR has a comprehensive inspection and monitoring program for naphthenic acid corrosion and has made numerous metallurgical upgrades of piping and equipment in response to program findings. The expected range of sulfur and TAN would be within the range of the crudes that are currently being processed at the SMR. Therefore, the change in crude slate would not be expected to change the sulfur or TAN levels compared to the crude sources that are currently being processed at the SMR. It is possible that the TAN could increase when compared to the typical crude blend. However, with the programs and management systems, discussed above, in place, this potential increase would not be expected to increase the hazards or likelihood of a release at the SMR. Therefore, the impact would be less than significant.

8.5 LAND USE AND RECREATION (CLASS III)

REC Impact 1 (REC.1) - Increase Demand for Recreational Opportunities	
The Rail Spur Project would increase use or demand for parks and recreational opportunities.	
Mitigation	No mitigation measures are required since the impact is less than significant.
Findings	The Rail Spur Project is not expected to induce population growth or increase demand on recreational resources in the project vicinity.
Supportive Evidence	The Rail Spur Project would expand and/or modify existing industrial uses at the Project Site and is not expected to induce population growth or increase demand on recreational resources in the project vicinity. No increase in demand for parks and recreational opportunities would result from use of the UPRR mainline rail routes for transporting crude oil to the SMR, as this would not constitute a change in use from existing UPRR operations. The project would, however, generate the need for as many as 200 temporary construction workers and 12 permanent operational employees to construct and operate the new facilities. Phillips 66 anticipates that most or all of these employees would come from the local workforce (up to 90%). This increase would not cause a significant permanent increase in population or demand on local recreational resources. Any marginal increase in demand resulting from employment demands associated with development of the project could be easily met with existing recreational parks and recreation facilities in the project vicinity. Therefore, impacts would be less than significant.

REC Impact 2 (REC.2) - Access to Recreational Opportunities	
The Rail Spur Project would affect access to existing trails, parks or recreational opportunities.	
Mitigation	No mitigation measures are required since the impact is less than significant.
Findings	The Rail Spur Project would not create long term impact to trails, parks or other recreational

REC Impact 2 (REC.2) - Access to Recreational Opportunities	
	opportunities due to visual impacts or oil spills.
Supportive Evidence	The Rail Spur Project would be predominantly located within an area designated for industrial use, which currently supports the Santa Maria Refinery and grazing activities outside of the active refinery area, as well as a small section of Agricultural designated land in the southeast portion of the Project Site where the emergency vehicle access is proposed. There are no trails, parks or other recreational opportunities within the Project Site other than the historic Anza corridor, which is not supported by any physical recreational facilities or uses within the Project Site. The Anza Trail staff of the National Park Service (NPS) concluded that the proposed modification of the existing refinery operation would not result in any impacts to Anza Trail resources, including historic resources and existing or planned recreational resources. Views of the Rail Spur Project from the Anza recreational trail would be generally precluded by intervening topography and development. Mitigation proposed in the EIR to minimize potential effects through construction of an earthen berm designed to appear as a natural dune landform consistent with surrounding undeveloped areas would reduce any visual impacts on the Anza Trail resources (refer to mitigation measure AV-1a). Therefore, impacts on recreational facilities due to visual or impacts on a trail, park or other recreational opportunity would be less than significant. The northern and southern UPRR mainline track from the SMR to the California border, would pass in close proximity to a number of recreational areas. Although it is unlikely, derailment of a train could result in the release of crude oil from rail tanker cars, which could affect a recreational area. This could prevent public access to these areas during the cleanup process. Depending upon the location and extent of the spill, the cleanup effort could take anywhere from a few days to months. During this period, public access to the affected recreational area could be limited, but would be temporary. Given the low probability of a spill impacting recreational areas and that access to a recreational area would be temporary, the impact would be considered less than significant.

8.6 NOISE AND VIBRATION (CLASS III)

N Impact 3 (N.3) - Mainline Noise	
Operational activities along the UPRR mainline tracks would generate transportation related noise levels.	
Mitigation	No mitigation measures are required since the impact is less than significant.
Findings	The Rail Spur Project operational increases in noise levels along the mainline would be less than the San Luis Obispo thresholds.
Supportive Evidence	Noise from locomotive engines and from trains during mainline transportation while traveling along the mainline were estimated using the FTA computational algorithms to estimate noise levels. With the addition of the Rail Spur Project crude oil trains, the CNEL noise level would increase by about 0.5 to 2.5 dBA. The higher increases would be for areas that have less existing train traffic, with the lower increases for areas that have higher levels of existing train traffic. In the Bay Area, Sacramento, and Los Angeles Basin where there are in excess of 20 freight and passenger trains per day, the increase in CNEL from two additional crude oil unit trains per day would be about 0.5 dBA. For all other areas along the mainline within California, an increase of between 1.0 and 2.5 dBA CNEL would be expected. These increases are less than the thresholds and would therefore be less than significant.

N Impact 4 (N.4) - Operational Vibrations	
Operational activities could produce vibration levels that exceed San Luis Obispo thresholds.	
Mitigation	No mitigation measures are required since the impact is less than significant.
Findings	Vibration levels from operational activities would not produce vibration levels that exceed San Luis Obispo thresholds
Supportive Evidence	Vibration from locomotive engines and from train cars during mainline transportation or from unloading operations at the site would produce vibrations. Train vibrations are a function of train type, locomotive type, track arrangement and configuration and of the soil types between the train tracks and the receptor. Although the perceptibility threshold for vibration is about 0.002 inches/sec, human response to vibration is not usually significant unless the vibration exceeds 0.003 inches/sec. Because of the heavy locomotives on diesel rail systems, the vibration levels can exceed the 0.01 inches/sec threshold defined in the EIR. The FTA has established a 0.004 inches/sec as an acceptable threshold. The FTA screening assessment for residential locations indicates that residences should be located more than 200 feet from a railway with diesel locomotives traveling at 50 mph. For the rail spur area located within the SMR, locomotive speeds would be substantially below this and distances to receptors would be substantially more than 200 feet. Therefore, vibration impacts from the rail spur operations would be less than significant. The addition of one train per day along the mainline would increase the frequency of trains passing by residential and other areas, but would not increase the peak vibration levels along the railway as freight trains already pass along the mainline track. Therefore, impacts from vibration would be less than significant.

8.7 POPULATION AND HOUSING (CLASS III)

P/H Impact 1 (P/H.1) - Population Growth	
The Project could induce substantial population growth in the area.	
Mitigation	No mitigation measures are required since the impact is less than significant.
Findings	The Project would not induce substantial population growth in the area.
Supportive Evidence	The project does not propose any use that would directly or indirectly induce population growth, such as the development of new housing units or recreational, commercial or retail uses that may stimulate population growth in the area. The project would not remove any existing obstacles to growth, such as water availability in the Nipomo Mesa area, and does not propose any expansions to existing infrastructure other than those necessary to serve the proposed unloading facility and related project components. The proposed transport of crude would not induce population growth in any area along the UPRR mainline route since the train would just pass though the areas to and from the SMR. Potential impacts would be less than significant.

P/H Impact 2 (P/H.2) - Displacement of People due to Hazardous Materials Transportation
The project would increase the transfer of hazardous substances through residential areas, potentially resulting in the indirect displacement of people.

P/H Impact 2 (P/H.2) - Displacement of People due to Hazardous Materials Transportation	
Mitigation	No mitigation measures are required since the impact is less than significant.
Findings	The Project would not result in the indirect displacement of people.
Supportive Evidence	The Project Site consists of an existing oil refining facility and undeveloped adjacent areas currently used for grazing. No residential uses or structures are located on the Project Site and development of the Rail Spur Project would not directly displace any existing housing or people or require the development of replacement housing elsewhere. All crude oil is currently brought to the Project Site by pipeline, whereas the Rail Spur Project would enable crude delivery of up to three trains per week, or approximately 150 annual deliveries as amended, via the proposed rail spur extension. The ability to transfer crude oil by rail would increase exposure to potentially hazardous substances in residential areas adjacent to the UPRR mainline routes. However, development of the project is not expected to result in the displacement of people located along the proposed UPRR mainline routes. The transfer of crude oil by rail to the refinery does not significantly differ from existing uses of the rail line, including the refinery's existing use of the rail to deliver solid petroleum coke products from the Project Site. The U.S. Department of Transportation Federal Railroad Administration administers a comprehensive set of safety standards for rail operations in the U.S., particularly those involving the transport of hazardous materials, to minimize the potential for dangerous incidents. Therefore, development of the project is not expected to cause significant displacement of people along the proposed UPRR mainline routes. Potential impacts would be less than significant.

P/H Impact 3 (P/H.3) - Need for New Housing	
The project would generate temporary and permanent employment needs, which could result in the need for new housing in the project vicinity.	
Mitigation	No mitigation measures are required since the impact is less than significant.
Findings	The Project would not result in the need for new housing in the project vicinity.
Supportive Evidence	Construction of the project would require up to 200 workers during the peak of construction activities, while less intensive construction activities would require as few as eight employees. Construction workers are expected to consist of Phillips 66 construction contractors. After construction, the number of additional permanent employees required to operate the proposed rail spur and offloading facility would vary based on the frequency and timing of train deliveries, but is expected to be no more than 12 at any given time. At this time, the residential location of potential future employees is unknown. However, Phillips 66 expects that a large majority (up to 90%) of the workers would come from the local work force and would not generate the need for any new housing in the area. Construction activities would be short-term, with total construction estimated to occur over a nine to 10 month period and peak activities (necessitating up to 200 workers) limited to four to six months in time. Certain construction activities may require the utilization of some non-local workers with specialized skills. Nipomo, Arroyo Grande, and the surrounding areas have a variety of hotels and motels that would be adequate to serve short-term housing needs of any non-local construction contractors. Permanent employment demands that would result from the project are expected to be filled almost entirely from the local workforce. However, in the event non-local workers move to the area to fill the project's operational needs, 2010 Census data indicates that there is sufficient

P/H Impact 3 (P/H.3) - Need for New Housing	
	existing housing stock available in the project area to accommodate the potential increase and no new housing would be necessary. Based on the short construction schedule, anticipated utilization of the local work force and limited increase in permanent employment positions, potential impacts would be less than significant.

8.8 PUBLIC SERVICES AND UTILITIES (CLASS III)

PS Impact 1 (PS.1) - Solid Waste Disposal	
The Rail Spur Project would generate solid waste requiring disposal at landfills.	
Mitigation	PS-1 Prior to issuance of grading permits, the Applicant shall submit a Solid Waste Management Plan (SWMP) for approval by San Luis Obispo County to maintain a diversion rate of at least 50 percent of construction waste from reaching the landfill. The SWMP shall consist of information regarding, but not limited to: a. The name and contact information of who will be responsible for implementing the recycling plan; b. A brief description of the Project wastes to be generated, including types and estimated quantities of each material to be salvaged, reused, or recycled during the construction phase of this Project; c. Waste sorting/recycling and/or collection areas shall be clearly indicated on the Site Map; d. A description of the means of transportation and destination of recyclable materials and waste, and a description of where recyclable materials and waste will be sorted (whether materials will be site-separated and hauled to designated recycling or landfill facilities, or whether mixed materials will be removed from the site to be processed at a mixed waste sorting facility); e. The name of the landfill(s) where trash will be disposed of and a projected amount of material that will be landfilled; f. A description of meetings to be held between Applicant and contractor to ensure compliance with the recycling plan; g. A contingency plan shall identify an alternate location to recycle and/or stockpile construction debris in the event of local recycling facilities becoming unable to accept material (for example: all local recycling facilities reaching the maximum tons per day due to a time period of unusually large volume); h. Disposal information including quantity of material landfilled, which landfill was used, total landfill tipping fees paid, and copies of weight tickets, manifests, receipts, and invoices; i. Recycling information including quantity of material recycled, receiving party, and copies of weight tickets, manifests, receipts, and invoices; and j. Reuse and salvage information including quantities of salvage materials, storage locations if they are to be used on-site, or receiving party if resold/used off-site.
Findings	The Project would not produce solid waste that exceed the landfill capacities.
Supportive Evidence	Waste from the construction activities would include waste generated by the workers as well as general construction waste. The EIR estimated that approximately 45 tons of construction waste would be disposed of in landfills during the construction activities. The operational solid waste would be generated by the workers at the facility. The EIR estimated that on average the facility would generate about 0.4 tons of solid waste per week from general operations. This trash and rubbish would be collected in waste bins and disposed

PS Impact 1 (PS.1) - Solid Waste Disposal	
	of by a local waste hauler. The local landfills have more than sufficient capacity to meet the increased need resulting from the project. Based on the available capacity of the landfill, potential impacts due to solid waste generation would be considered less than significant.

PS Impact 2 (PS.2) - Electricity Supplies	
The Rail Spur Project would potentially impact electricity supplies.	
Mitigation	No mitigation measures are required since the impact is less than significant.
Findings	The Project would not impact electricity supplies.
Supportive Evidence	The Rail Spur Project would use a peak of about 1,000 kW, with the average consumption being about 900 kW. Assuming 150 trains per year and eight hours per train unloading, the amount of electrical use by the Rail Spur Project would be about 960 MW-hrs for the unloading operations. Electrical requirements at the SMR are met by an onsite cogeneration unit that produces both steam and electricity, and via purchases from Pacific Gas and Electric Company (PG&E). The Applicant indicates that the amount of electricity purchased would continue to decrease with increased crude oil throughputs due to the increased availability of onsite electrical generation. 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 SMR cannot be definitively estimated. Therefore, with the Rail Spur Project, electricity purchased from PG&E as a worst case would most likely remain the same as historical levels since the SMR would be able to generate more onsite electricity due to increased fuel gas production. Therefore, the impacts to electrical utilities form the Rail Spur Project would be less than significant.

PS Impact 5 (PS.5) - Increase Police Services	
The Rail Spur Project would increase demand for police services at the SMR.	
Mitigation	No mitigation measures are required since the impact is less than significant.
Findings	The Project would not increase demand for police services at the SMR.
Supportive Evidence	The SMR maintains an onsite security service that is at the refinery 24-hours per day, 365 days per year. The operational areas of the refinery are fenced and entrances to these areas of the SMR are controlled by guards. The Rail Spur Project site would be fenced with night time perimeter lighting. The SMR would provide security for this area of the refinery as part of the existing security service. This onsite security service would limit the demands for police services. In the event of an incident at the rail unloading services, police services would be needed to manage traffic on Highway 1, and to assist with any evacuations that may be needed in the developed areas that are in close proximity to the SMR. These would be similar services that would be required for the current refinery operations. Given that the SMR maintains an onsite security service, which limits the need for police services, the Rail Spur Project would not be expected to affect the overall response time for

PS Impact 5 (PS.5) - Increase Police Services	
	police services at the SMR, or result in the need for the construction of new police services facilities to maintain adequate response times. Therefore, the impacts of the Rail Spur Project on police services would be less than significant.

8.9 TRANSPORTATION AND CIRCULATION (CLASS III)

TR Impact 2 (TR.2) - Operations Traffic	
Traffic associated with operation of the Rail Spur Project could impact traffic on roadways in the Project vicinity due to increased traffic.	
Mitigation	No mitigation measures are required since the impact is less than significant.
Findings	The Project would not increase traffic on the roadways beyond the thresholds.
Supportive Evidence	Project operations would generate additional traffic due to the additional employees required to unload and manage the trains. Up to 12 additional employees would be needed to handle the unloading of a unit train at the SMR. It is also possible that the change in crude slate at the refinery would result in one additional sulfur truck trip per day. The AADT for the project roads ranges from about 3,200 to 56,000 as shown in the EIR. The addition of 26 daily one-way trips associated with the 12 employees and a sulfur truck would not result in any of these roadways exceeding their capacity numbers. Therefore, operational traffic would be less than significant.

TR Impact 3 (TR.3) - Mainline At-Grade Traffic Delays	
Crude oil trains servicing the SMR could cause traffic delays in the vicinity of at-grade crossing.	
Mitigation	No mitigation measures are required since the impact is less than significant.
Findings	The Project would not cause significant traffic delays in the vicinity of at-grade crossing.
Supportive Evidence	The Rail Spur Project would involve up to three unit trains per week being delivered to the SMR via the Union Pacific Coast Line. Once a train arrives at the SMR it is expected to be onsite for about 12 hours. This means that the peak train travel associated with the Rail Spur Project would be one round trip per day. The unit trains that would be delivered to the SMR would be approximately 5,190 feet long and be comprised of 80 tanker cars, two buffer cars, and three locomotives. The amount of delay at any give intersection would be based upon the speed of the train, with delays as long as 6.5 minutes for a train traveling 10 mph to 1.3 minutes for a train traveling 50 mph. Depending upon the location of the at-grade crossing and the time the crude oil train made the crossing it could affect delay times at an intersection. The greatest chance for this would be if a train crossed the at-grade crossing during the AM or PM peak hours. Under normal operations, only one train would cross an at-grade crossing during the AM and PM peak hours, it would not affect the average delay time for the intersection over the peak three hour period. In addition, there would only be about an eight percent chance that a train would cross an intersection during the AM or PM peak hours for three trains per week assuming an equal probability of a train being present for all hours of the day. Therefore, the impacts of a crude oil

TR Impact 3 (TR.3) - Mainline At-Grade Traffic Delays	
	train impacting traffic delays in the vicinity of an at-grade crossing would be less than significant.

TR Impact 4 (TR.4) - Mainline Trains and Public Transit Facilities	
Increased rail traffic on Union Pacific main rail lines could impact the performance of the public rail transit facilities.	
Mitigation	TR-4 The Applicant shall work with UPRR to schedule unit trains serving the Santa Maria Refinery so that they do not interfere with passenger trains traveling the Coast Rail Route.
Findings	The Project would not impact the performance of the public rail transit facilities.
Supportive Evidence	Trains would arrive from different oilfields and/or crude oil loading points depending on market availability. The exact location of the source of crude oil that would be delivered to the refinery is unknown and could change over time based upon market conditions and availability. Union Pacific Railroad (UPRR) would be responsible for delivering the trains to the SMR. Trains could enter California from least five different locations (one at the north end of the state from Oregon, two at the northeast from Nevada, one at the southeast from Nevada, and one at the south from Arizona). The EIR used an approach to assess impacts to passenger trains performance based upon available on-time performance and delay data for the various passenger trains that could be affected by the proposed project. In addition, Caltrans has conducted dynamic simulation modeling along portions of the coastal route that provides some insight into what could be the impacts of adding an additional one unit train per day to this portion of the mainline track. In some areas, UPRR has two tracks available one that is primarily used for freight and one used for passenger trains. Therefore, interference with passenger trains along this portion of the route should not be an issue. Another factor that would limit the impact of the crude oil train on passenger OTP is that freight trains are usually not operated according to a particular schedule, and can be slotted-in between scheduled passenger trains where capacity exists so as to not impede passenger train movements In the Bay Area, for example, UPRR has demonstrated the ability to regularly meet passenger train schedules. The passenger trains dispatched by UPRR are on time over 90% of the time. One can assume that UPRR will have little difficulty scheduling one additional crude oil train, given their success with the on-time performance for the passenger trains that operate on their tracks. For the northern route, the EIR analysis shows that the addition of one crude oil unit train to a track system that is currently handling between 26 and 75 trains per day, and has OTP values that are above 90% would not likely result in a significant effect on passenger trains operating in the Bay Area north of San Jose. The Caltrans conducted dynamic simulation modeling of rail traffic along the coast line from San Jose to San Luis Obispo which showed that the addition of two freight trains per day would not affect the on time performance of the Coast passenger trains. For the southern routes, the EIR analysis also indicated that the UPRR mainline track is not the major cause of delay for the passenger trains and would support the conclusion that the addition of a crude oil train traveling to the SMR from the south would not impact the end point on time performance of the coastal passenger trains. From Moorpark to the Colton rail yard, there is currently additional capacity for freight trains and therefore impacts on passenger trains would be minimal. Impacts would therefore be less than significant.

TR Impact 4 (TR.4) - Mainline Trains and Public Transit Facilities	

8.10 WATER RESOURCES(CLASS III)

WR Impact 4 (WR.4) - Stormwater Runoff	
Project operations would result in an increase in the amount of stormwater runoff at the site.	
Mitigation	No mitigation measures are required since the impact is less than significant.
Findings	The Project would not cause of stormwater runoff impacts at the site.
Supportive Evidence	Construction of the rail car unloading facility would include construction of a 32,860 square foot canopy. In addition, 1.7 acres of roads would be paved during construction. Such features would increase the amount of impermeable surfaces, resulting in increased stormwater runoff. Left unchecked, increased runoff could cause flooding and cause soil erosion. However, a stormwater detention/percolation basin would be constructed to prevent offsite runoff of increased surface flows from proposed unloading facility canopy. This basin would have a working capacity of about 193,000 gallons, which is more than enough to handle the 100-year 24-hour storm event. Runoff would be collected in downspouts constructed around the perimeter of the canopy and then transmitted to the detention/percolation basin, where the runoff would percolate into the permeable sandy soil. Runoff from paved roads would be dispersed over the Project Site, i.e., not concentrated, and would percolate into the sandy soils. Similarly, the rail spur bed and adjoining slopes would be compacted, thus reducing infiltration and increasing runoff. However, the runoff would also be dispersed along the length of the rail spur, i.e., not concentrated, and would percolate into the sandy soils. Based on a site reconnaissance of the Project Site, erosive gullying and rilling does not occur, even in sloped, disturbed areas, void of vegetation. Therefore, it is unlikely that increased runoff associated with the Project-related paving would cause flooding or increase erosion. Impacts are considered less than significant.

WR Impact 5 (WR.5) - 100-year Flood Plain	
The Project would not involve activities within the 100-year flood plain.	
Mitigation	No mitigation measures are required since the impact is less than significant.
Findings	The Project would not involve activities within the 100-year flood plain and would therefore not cause flood plain related impacts.
Supportive Evidence	Construction would not occur within the 100 year flood plain. The proposed rail spur and unloading facility are located approximately 500 feet north of the flood plain, at the closest point. Similarly, Project operations would not involve activities within the 100-year flood plain. Therefore, impacts are considered less than significant.

WR Impact 6 (WR.6) - Availability of Groundwater	
The Project would potentially change the quantity or movement of available ground water or adversely affect a community water service provider.	
Mitigation	WR-6 If possible, the Applicant shall use recycled water for construction and operational activities to reduce impacts to local groundwater supplies. Recycled water could be generated onsite and/or secured via truck transport or water pipeline from the South San Luis Obispo County Sanitation District.
Findings	The Project would not change the quantity or movement of available ground water or would not adversely affect a community water service provider.
Supportive Evidence	Operational activities would be expected to increase water use by approximately 250 gallons per day. An average single-family dwelling on the Nipomo Mesa would use approximately 460 gallons per day (0.51 AFY) (Water Systems Consulting 2011). Therefore, as the Rail Spur Project would use less than 500 homes, the Rail Spur Project would not be considered a "Project" under SB 610 criterion and a Water Supply Assessment would not be required for the Project. Water use during construction would be vary between 1,000 and 2,000 gallons per day during the grading operations. It is estimated that for the entire construction project about 180,000 gallons of water would be used. This water would be used primarily for dust control and revegetation. The estimated water demand in the Nipomo Mesa Management Area in 2013 was about 16,349 AF (NMMA 2014), and the Rail Spur Project would only increase demand by 0.3 AFY. In combination, the SMR water use would be less than the 1,550 AFY of water available for SMR use under a count agreed Stipulation Therefore, water supply related impacts are considered less than significant.

9.0 FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT BUT MITIGABLE

Pursuant to §15091(a)(1) of the CEQA Guidelines, the Planning Commission finds that, for each of the following significant effects as identified in the Final EIR, changes or alterations (mitigation measures) have been required in, or incorporated into, the project which avoid or substantially lessen each of the significant environmental effects as identified in the Final EIR. The significant effects (impacts) and mitigation measures are stated fully in the Final EIR. The following are brief explanations of the rationale for this finding for each impact:

9.1 AESTHETICS AND VISUAL RESOURCES (CLASS II)

AV Impact 1 (AV.1) - Reduction in View Quality	
The eastern extension of the proposed rail spur and its associated trains would reduce quality views of the open space as seen from portions of State Route 1, the California Coastal Trail, the De Anza Trail, and other public areas east of State Route 1, resulting in a potentially significant impact.	
Mitigation	AV-1a Prior to issuance of grading and construction permits, the applicant shall submit a revised site-grading plan to the Department of Planning and Building for review and approval showing the following: a. An earthen berm shall be constructed around the eastern perimeter of the rail spur. The berm shall be a minimum of 10 feet tall and a maximum of 20 feet tall above the existing

AV Impact 1 (AV.1) - Reduction in View Quality	
	grade and as shown on the Berm Location Concept Map shown below (Figure 4.1-11) for the purpose of reducing views of the rail spur and trains from State Route 1 and the California Coastal Trail / De Anza Trail. b. The berm shall be designed and constructed to appear as a natural dune landform and shall have gradually undulated horizontal and vertical dimensions (consistent with Policy 5: Landform Alterations). c. No other existing landforms which would provide visual screening of the facility shall be used as source of borrow material for the required berm. d. The berm shall be revegetated with native grasses and shrubs to match the surrounding natural landcover and plant community. No disturbance shall occur outside of the identified area of disturbance shown on the site-grading plan. AV-1b Prior to issuance of grading and construction permits, the applicant shall submit a revised site-grading plan to the Department of Planning and Building for review and approval showing the following: a. All new cut and fill slopes shall include slope-rounding and landform grading techniques to avoid an engineered appearance (consistent with Policy 5: Landform Alterations). AV-1c Prior to issuance of grading and construction permits, the applicant shall submit a Habitat / Landscape Revegetation Plan to the Department of Planning and Building for review and approval showing the following: a. All new slopes shall be revegetated with native grasses and shrubs to match the surrounding natural landcover and plant community.
Findings	The installation of earthen berms, landform grading and vegetation would reduce the aesthetic impacts of the eastern extension of the proposed rail spur and its associated trains as seen from portions of State Route 1, the California Coastal Trail, the De Anza Trail, and other public areas east of State Route 1, to a less than significant impact.
Supportive Evidence	Although the entire Project parcel is zoned industrial, the eastern portion of the project site serves as scenic open space for viewpoints along State Route 1, the California Coastal Trail, the De Anza Trail, and from streets within the Trilogy development. The westernmost portion of the project is in an area of heavy industrial use and as a result has little visual sensitivity. From viewpoints to the east of the SMR, the existing refinery can be seen, although intervening topography and distance limit views of much of the ground-level operations. Where visible, the existing refinery dominates views to the northwest and creates a strong industrial visual identity. The view looking west and southwest from State Route 1 is considered a scenic vista because of the panoramic composition of natural and agricultural land use patterns, sweeping views of the dunes and the coastline, and the Pacific Ocean beyond. The Rail Spur Project elements, where visible, would not block views of coastal visual resources such as the dunes, the ocean, riparian areas, or agriculture. The eastern extension of the rail spur and its associated trains would however reduce views of the open space seen in the mid-ground, an important visual contributor to the overall scenic vista, which has the potential to be a significant impact. The proposed unpaved access road from the rail spur to State Route 1 would appear as a typical farm road and would not affect scenic views. As seen from viewpoints south of the project such as Oso Flaco Road, views toward the project site are more dominated by agriculture in the foreground, with the Nipomo Mesa and inland hills rising up as a backdrop. Scenic vistas from these viewpoints are defined by the agricultural and natural land uses in the foreground, with the hills framing the background to the northeast. Because of the viewing distance and orientation, the Rail Spur Project elements would not block views of any of these coastal resources, and as a result would not have an adverse effect of scenic vistas as seen from Oso Flaco Road.

AV Impact 1 (AV.1) - Reduction in View Quality	
	Amtrak passenger trains would also have direct views of the project site, passing immediately adjacent to the existing refinery and coke processing facility. From these elevated viewpoints, scenic vistas include the varied natural and man-made land use patterns, the dunes, agriculture, open space and the surrounding hillsides. The proposed unloading facility would be seen as part of the existing industrial area and would have no effect on scenic vistas. By reducing visibility of the rail spur and associated trains in the current open space area, mitigation measures AV-1a through AV-1c would lessen the project's adverse effects on scenic vistas as seen from key public viewpoints on State Route 1, the California Coastal Trail, the De Anza Trail, and other public areas east of State Route 1. As a result, these measures would result in visual impacts considered to be less than significant.

AV Impact 2 (AV.2) - Effects on Views and SLOC Policy Goals	
The expanded industrial use and visibility of the rail spur and associated trains on the existing open space would cause the project to be more noticeable as seen from public viewpoints on State Route 1, the California Coastal Trail, the De Anza Trail, and other public areas east of State Route 1. This effect on the existing visual character would be inconsistent with the County of San Luis Obispo visual policy goals, resulting in a potentially significant impact.	
Mitigation	AV-2 Implementation of mitigation measures AV-1a through AV-1c required for Impact AV.1 would also reduce potential impacts to existing visual character and quality of the site and its surroundings.
Findings	The installation of earthen berms, landform grading and vegetation would reduce the aesthetic impacts of the rail spur and would be consistent with the County of San Luis Obispo visual policy goals.
Supportive Evidence	As seen from State Route 1, the Coastal Trail, the De Anza Trail and other eastern viewpoints, the rail spur and associated rail cars would represent a visual expansion of the adjacent industrial refinery use. This expansion of industrial elements would not be entirely unexpected at this location, however the current balance of visual character elements would be altered. The visual encroachment of the industrial refinery-related activities onto the adjacent visual open space would have an adverse effect on the existing character of the site, and would represent a potentially significant impact. By implementing mitigation measures AV-1a through AV-1c the impacts to the visual character and quality of the site and surroundings would be considered less than significant with mitigation. The required mitigation measures would cause the project to be less noticeable in the landscape, and as a result the perceived encroachment of industrial character into the current open space would be less evident.

AV Impact 3 (AV.3) - Light and Glare from SMR	
The project would create a new source of substantial light and glare which would adversely affect nighttime views in the area.	
Mitigation	AV-3a Prior to issuance of grading and construction permits, the applicant shall submit a comprehensive lighting plan to the Department of Planning and Building for review and approval showing the following: a. The Lighting Plan shall be based on a photometric study prepared by a qualified engineer who is an active member of the Illuminating Engineering Society of North America (IESNA). b. The Lighting Plan shall be prepared by a qualified engineer who is an active member of

AV Impact 3 (AV.3) - Light and Glare from SMR	
	the IESNA using guidance and best practices endorsed by the International Dark Sky Association. c. The applicant shall provide the specific technical data and performance criteria required by the applicable safety policy used as the basis for the Lighting Plan. d. As part of the Lighting Plan, illumination levels shall be the minimum required by the specifically defined public safety policy and ordinances. e. As part of the Lighting Plan, direct views of all lighting sources shall be directed downward and shielded from view from public roads. f. As part of the Lighting Plan, lights shall be designed and constructed to reduce illumination of the adjacent slopes and dunes where applicable. g. As part of the Lighting Plan, no lights shall be placed east of any portion of the screening berm required in mitigation measure AV-1a. h. As part of the Lighting Plan, lighting for all rail spur perimeter fencing shall be equipped with motion sensors for activation rather than left on continuously. AV-3b Within six months following completion of construction, a Lighting Evaluation Report shall be submitted to the Department of Planning and Building for review and approval. The purpose of the Lighting Evaluation Report shall be to assess and correct any unexpected or residual lighting impacts following project completion. The report shall be prepared by a by a qualified engineer who is an active member of the IESNA who was not associated with the preparation of the Lighting Plan described in mitigation measure AV-3a. Preparation of the Lighting Evaluation Report shall be by a qualified engineer retained by the County of San Luis Obispo and funded by the project applicant. The Lighting Evaluation Report shall include the following at a minimum: a. A comprehensive assessment of the lighting resulting from the rail spur project and project operations as seen from State Route 1, Oso Flaco Road, the California Coastal Trail, De Anza Trail and public viewing areas to the east. The Lighting Evaluation Report shall assess the completed project during a variety of operational conditions including all typical procedures such as unloading, moving of trains, multiple trains present, etc. The Report shall evaluate and identify where, if any unexpected light impacts occur, such as but not limited to reflection off trains, adjacent landforms, buildings, unexpected sources, etc. b. The Lighting Evaluation Report shall make specific recommendations to reduce the effects of any unexpected or excessive residual lighting impacts identified in the report. Recommendations may include but not be limited to: repositioning lights, lowering heights, increasing sizes of cut-off shields, reducing types of luminaires, reducing wattage, and modifying operational procedures. AV-3c Existing Facility and Operations Lighting Evaluation. Prior to issuance of grading and construction permits, the applicant shall submit a comprehensive evaluation of the existing refinery facility and operations lighting to the Department of Planning and Building for review and approval showing the following: a. The Existing Facility and Operations Lighting Evaluation shall be prepared by a qualified engineer who is an active member of the Illuminating Engineering Society of North America (IESNA). b. The Existing Facility and Operations Lighting Evaluation shall assess the sources and levels of all existing lighting associated with the refinery operations, and shall determine if any lighting levels exceeds the minimum required by applicable County of San Luis Obispo, state and federal safety regulations. c. If lighting levels exceed the applicable regulations, the Existing Facility and Operations Lighting Evaluation shall make specific recommendations to reduce the lighting levels to the minimum required. The Existing Facility and Operations Lighting Evaluation shall also identify and make recommendations to eliminate visibility of all point source lighting as seen from public roadways. The project applicant shall implement all recommendations made by the Lighting Evaluation Report and required by the Department of Planning and Building.
Findings	The utilization of light shielding, motion-activated lights, limited light location and an as-built

AV Impact 3 (AV.3) - Light and Glare from SMR	
	evaluation, would reduce the light and glare impacts of the rail spur to less than significant.
Supportive Evidence	New outdoor lighting is proposed throughout the project. The unloading area would have 70 floodlights placed or mounted under the canopy at the unloading area. The lights associated with the unloading area would be used on an as-needed basis, when trains are being unloaded. This could occur at night between dusk and dawn, since trains could arrive at any hour. Trains would be on site approximately 10 to 12 hours, and unloading would last approximately 8 hours per train. Additional lighting is proposed along the perimeter fencing around the rail spur, which would extend approximately 0.9 mile east of the unloading area. This lighting would be placed on 15-foot tall poles, at 500 feet apart around the entire perimeter of the spur. Two floodlights would be placed on each pole. These security lights are proposed to remain on only when a train is at the refinery. The preliminary Applicant supplied lighting plans describe that Dark Skies Compliant light fixtures would be used, however no additional information is provided regarding the specific design, orientation and connection angles of project lighting as they relate to Dark Sky practices. The lighting proposed at the unloading facility would appear to be part of the existing coke processing area and would likely go unnoticed to the casual observer. Although the unloading facility lights would introduce light into a new area, they would not appear out of place given the relatively close proximity to the refinery and coke processing facility. The closest residence to the unloading area lights would be approximately 0.5 mile away east and south. The security lighting proposed for the rail spur perimeter would be seen from viewpoints along State Route 1 and portions of the Trilogy and Monarch Ridge Townhome developments. The security lighting would extend to just beyond the east terminus of the Rail Spur. The closest residence to the unloading area lights would be approximately 0.5 mile away. Since the final lighting plan is not complete at this time, the potential exists for visible glare and light trespass into the surrounding area due to improper design, and therefore the impact is considered potentially significant. By implementing mitigation measures AV-3a and AV-3b the impacts to nighttime lighting and glare would ensure that lighting would not produce light and glare impacts and would be considered less than significant with mitigation (Class II). The required mitigation measures would limit the amount of light that would spill over from the lighting fixtures.

AV Impact 4 (AV.4) - Light and Glare from Train Headlights at SMR	
Visibility of headlights and other operational and safety lights from trains on the rail spur would create a new source of light and glare which would adversely affect nighttime views in the area.	
Mitigation	AV-4 Implementation of mitigation measures AV-1a through AV-1c required for Impact AV.1 and mitigation measure AV-3b required for Impact AV.3 would also reduce potential impacts caused by trains operating on the rail spur.
Findings	The installation of earthen berms, and evaluations of as-built operations would reduce the light and glare impacts of the rail spur to less than significant.
Supportive Evidence	Due to safety requirements, train engines and other equipment operating at nighttime on the rail spur would have headlights and other lights turned on for an undetermined length of time. Because of the generally east-west orientation of the rail spur tracks, lights from train engines moving the tanker cars around would potentially be a highly visible new source of light and glare as seen from public viewpoints to the east. Implementation of mitigation measures AV-3a and

	AV-3b and AV-4 would reduce the project's adverse night lighting effects as seen from key public viewpoints on State Route 1, the California Coastal Trail, the De Anza Trail, and other public areas surrounding the Project Site by minimizing glare and light spillover into the surrounding area. As a result, the project impacts would be considered to be less than significant.

9.2 AGRICULTURAL RESOURCES (CLASS II)

AR Impact 3 (AR.3) - Impacts on Agricultural Areas Adjacent to SMR	
The project could result in effects that impair adjacent agricultural uses, including the generation of dust and contaminated air emissions, soil and water contamination, use of water within the Santa Maria Groundwater Basin, the spread of noxious weeds, and increased risk of fire or oil spills, which have the potential to adversely affect adjacent agricultural areas.	
Mitigation	AR-3 Implement WR-1 (BMPs for spills), WR-2 (SPCC Amended); AQ-1f (dust control measures), and BIO-9 (storm water materials free of invasive weed seeds).
Findings	Mitigation measures related to BMPs for spills, SPCC Plans amendments, dust control measures, and measures requiring storm water materials be free of invasive weed seeds would limit impacts on agricultural resources to less than significant.
Supportive Evidence	Project development could generate dust and contaminated air emissions, create hazardous materials contamination, increase water demands, spread noxious weeds, increase risk of fire or oil spills, and result in other effects, all with the potential to adversely affect on-site grazing activities and adjacent off-site agricultural uses. Although the potential for oil spills currently exists at the SMR, the Rail Spur Project increases the potential for leaks or spills due to operation of the unloading facility and associated pipeline. The potential for impacts from spills related to soil and water contamination, and destruction by accidental fires and spills is considered low but would still be considered potentially significant. Regarding dust, the applicant is required to comply with San Luis Obispo County APCD standards for control of particulate matter, which would reduce the generation and transport of dust during construction (see mitigation measure AQ-1f). Regarding the spread of noxious weeds, mitigation is identified in the Biological Resources section that addresses the potential spread of invasive plants (refer to BIO-9). Potential impacts on agricultural uses of other properties would be potentially significant prior to implementation of these mitigation measures. Based on implementation of mitigation measures referenced above, potential impacts to agricultural resources onsite and in the area would be less than significant

9.3 AIR QUALITY (CLASS II)

AQ Impact 1 (AQ.1) - SMR Construction Emissions	
Construction activities associated with the Rail Spur project would generate criteria pollutant emissions that exceed SLOCAPCD thresholds.	
Mitigation	AQ-1a Prior to issuance of grading and construction permits, and throughout project construction, as applicable, the Applicant shall implement the following construction emission reduction measures: a. Properly maintain all construction equipment according to manufacturer's specifications; b. Fuel all off-road and portable diesel powered equipment with CARB-certified motor vehicle diesel fuel (non-taxed version suitable for use off-road); c. Applicant shall include the following, in addition to complying with state Off-Road

AQ Impact 1 (AQ.1) - SMR Construction Emissions	
	Regulations, in order to reduce peak daily/quarter ROG+NO_x emissions: 1) Use CARB Tier 4 certified diesel construction equipment off-road heavy-duty diesel engines and 2) Stagger the construction schedule to prevent peak day/quarter emissions from exceeding the threshold (for example, no site preparation during grading and soil transport); d. Use CARB 2010 or cleaner certified on-road heavy-duty diesel trucks to the extent feasible and comply with state On-Road Regulations; e. If construction or trucking companies that are awarded the bid or are subcontractors for the project do not have equipment to meet the above two measures, the impacts from the dirtier equipment shall be addressed through SLOCAPCD approved off-site or other mitigation measures; f. All on- and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and job sites to remind drivers and operators of the 5 minute idling limit; g. Diesel idling within 1,000 feet of sensitive receptors is not permitted (Sensitive receptors are defined in the SLOCAPCD Handbook as people that have an increased sensitivity to air pollution or environmental contaminants. Sensitive receptor locations include schools, parks and playgrounds, day care centers, nursing homes, hospitals, and residential dwelling units); h. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors; i. Equipment shall be electrified when feasible; j. Substitute gasoline-powered or diesel hybrids in place of diesel-powered equipment, where feasible; and k. Use alternatively fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane, or biodiesel. AQ-1b Prior to issuance of grading and construction permit, the Applicant shall ensure SLOCAPCD regulations that prohibit developmental burning of vegetative material within San Luis Obispo County are followed for the life of the project. AQ-1c Prior to issuance of grading and construction permit, the Applicant shall ensure that portable equipment and engines 50 horsepower or greater, used during grading and construction activities must have a California portable equipment registration (issued by the ARB) or a SLOCAPCD permit. Proof of registration must be provided to the SLOCAPCD prior to the start of grading or construction or a permit secured from the SLOCAPCD prior to the start of grading or construction. The following list is as a guide to equipment and operations that may have permitting requirements, but it is not exclusive: a. Power screens, conveyors, diesel engines, and/or crushers; b. Portable generators and equipment with 50-horsepower or greater engines; c. Internal combustion engines; d. Unconfined abrasive blasting operations; e. Concrete batch plants; f. Rock and pavement crushing; g. Tub grinders; and h. Trommel screens. AQ-1d Prior to issuance of grading and construction permit, the Applicant shall ensure that all grading and construction equipment greater than 100 bhp be equipped with CARB Level 3 diesel particulate filters (DPF), or equivalent, to achieve an 85 percent reduction in diesel particulate emissions from an uncontrolled engine. If CARB verified Level 3 DPFs cannot be secured for all of the equipment greater than 100 hp then the applicant will offset the added DPM with measures including but not limited to schedule modifications, implementation of no idling requirement, or other applicable measures providing a total reduction equivalent to an 85 percent reduction from uncontrolled engines as approved by the SLOCAPCD. AQ-1e Prior to issuance of grading and construction permits, or during construction, if emissions of ROG+NO_x with the above mitigations still exceed the thresholds, the Applicant shall secure SLOCAPCD-approved onsite or off-site reductions in ROG+NO_x emissions to

AQ Impact 1 (AQ.1) - SMR Construction Emissions	
	ensure that ROG+NO_x emissions do not exceed the SLOCAPCD quarterly thresholds. Coordination with the SLOCAPCD should begin at least six (6) months prior to issuance of grading and/or construction permits for the Project to allow time for refining calculations and for the SLOCAPCD to review and approve the Construction Activity Management Plan (CAMP) and on-site or off-site mitigation approach. AQ-1f Prior to issuance of applicable grading permit, the Applicant shall prepare a Dust Control Plan to be approved by the APCD and County Health and include requirements in the SLOCAPCD CEQA Handbook identified as fugitive dust mitigation measures and shall include a combination of the following, as approved by the SLOCAPCD and County Health: 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. An adequate water supply source must be identified. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water should be used whenever possible. c. All dirt stockpile areas should be sprayed daily as needed, covered, or a SLOCAPCD-approved alternative method will be used. (90 percent reduction from no dust control). 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 and shall use native species that have been shown to reduce particulate emissions to the extent feasible. e. Exposed ground areas that will 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 SLOCAPCD. g. All roadways, driveways, etc. to be paved should be completed as soon as possible. In addition, equipment 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 2 feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CVC Section 23114. j. Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site. k. 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 l. Apply water every 3 hours to disturbed areas within the construction site in order to achieve a 61 percent reduction in particulate emissions. In addition, when drought conditions are present, fugitive dust control measures need to be modified by utilizing soil binders or other equivalent measures, to conserve water resources while still providing the necessary emission reductions. 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 Rule 401 requirement that opacity not exceed 20% 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 the designated monitor shall be provided to the SLOCAPCD Compliance Division and the Department of Planning and Building prior to the start of any grading, earthwork, or demolition. n. All PM_{10} mitigation measures required shall be shown on grading and building plans. o. Between June 1 and November 30, when Valley Fever rates of infection are the highest, additional dust suppression measures (such as additional water or the application of

AQ Impact 1 (AQ.1) - SMR Construction Emissions	
	additional soil stabilizer) will be implemented prior to and immediately following ground disturbing activities if wind speeds exceed 15 miles per hour (mph) or temperatures exceed 95 degrees Fahrenheit for three consecutive days. The additional dust suppression will continue until winds are 10 mph or lower and outdoor air temperatures are below 90 degrees for at least two consecutive days. The additional dust suppression measures will be incorporated into the Final Dust Control Plan. The Plan will be submitted to the County for review and approval. p. The primary project construction contractor will prepare and implement a worker training program that describes potential health hazards associated with Valley Fever, common symptoms, proper safety procedures to minimize health hazards, and notification procedures if suspected work-related symptoms are identified during construction. The worker training program will identify safety measures to be implemented by construction contractors during construction. Safety measures will include: 1) Providing HEPA-filtered air-conditioned enclosed cabs on heavy equipment. 2) Train workers on proper use of cabs, such as turning on air conditioning prior to using the equipment. 3) Providing communication methods, such as two-way radios, for use by workers in enclosed cabs. 4) Providing personal protective equipment (PPE), such as half-mask and/or full-mask respirators equipped with particulate filtration, to workers active in dusty work areas. 5) Providing separate, clean eating areas with hand washing facilities for construction workers. 6) Cleaning equipment, vehicles, and other items before they are moved offsite to other work locations. 7) Providing training for construction workers so they can recognize the symptoms of Valley Fever and promptly report suspected symptoms of work related Valley Fever to a supervisor. 8) Directing workers that exhibit Valley Fever symptoms to immediately seek a medical evaluation. q. Construction activities that will generate dust shall be limited to periods when good air quality is forecasted to the maximum extent feasible. The 6 day forecast for the CDF forecast zone shall be utilized as available from the APCD website, slocleanair.org. This information should be used by all on-site workers to plan construction activities for days when the air quality is forecast to be good. AQ-1g Prior to issuance of applicable grading permit, the Applicant shall submit a geologic evaluation under the CARB ATCM for Construction, Grading, Quarrying, and Surface Mining Operations, to determine if Naturally Occurring Asbestos (NOA) is present within the area that will be disturbed. NOA has been identified as a toxic air contaminant by the CARB. If NOA is not present, an exemption request must be filed with the SLOCAPCD. If NOA is found at the site, the Applicant must 1) comply with all requirements outlined in the Asbestos ATCM. This may include development of an Asbestos Dust Mitigation Plan and an Asbestos Health and Safety Program for approval by the SLOCAPCD; and 2) conduct a geological evaluation prior to any grading. Technical Appendix 4.4 of the SLOCAPCD CEQA Handbook includes a map of zones throughout the County where NOA has been found. More information on NOA is available at http://www.slocleanair.org/business/asbestos.php. AQ-1h Prior to issuance of demolition permits, if required, the Applicant shall comply with asbestos containing material (ACM) requirements. Demolition activities can have potential negative air quality impacts, including issues surrounding proper handling, demolition, and disposal of ACM. ACM could be encountered during demolition or remodeling of existing buildings. Asbestos can also be found in utility pipes and pipelines (transite pipes or insulation on pipes). If utility pipelines are scheduled for removal or relocation or a building(s) is proposed to be removed or renovated, various regulatory requirements may apply, including the requirements stipulated in the National Emission Standard for Hazardous Air Pollutants (40CFR61, Subpart M - asbestos NESHAP). These requirements include but are not limited to: (1) notification to the SLOCAPCD; (2) an asbestos survey conducted by a Certified Asbestos Inspector; and (3) applicable removal and disposal requirements of identified ACM. More information on asbestos is available at http://www.slocleanair.org/business/asbestos.php. AQ-1i Should hydrocarbon contaminated soil be encountered during construction activities, the SLOCAPCD must be notified as soon as possible and no later than 48 hours after affected material is discovered to determine if an SLOCAPCD Permit will be required. In addition, the following measures shall be implemented immediately after contaminated soil is discovered: 1) Covers on storage piles shall be maintained in place at all times in areas

AQ Impact 1 (AQ.1) - SMR Construction Emissions	
	not actively involved in soil addition or removal; 2) Contaminated soil shall be covered with at least six inches of packed uncontaminated soil or other TPH –non-permeable barrier such as plastic tarp. No headspace shall be allowed where vapors could accumulate; 3) Covered piles shall be designed in such a way to eliminate erosion due to wind or water. No openings in the covers are permitted; 4) During soil excavation, odors shall not be evident to such a degree as to cause a public nuisance; and, 5) Clean soil must be segregated from contaminated soil. The notification and permitting determination requirements shall be directed to the SLOCAPCD Enforcement Division.
Findings	With the implementation of construction related mitigation measure above, including clean diesel engines and dust control and onsite or offsite reductions in ROG+NO_x, impacts would be reduced to less than significant.
Supportive Evidence	Air emissions from construction equipment were estimated using the emission factors and equations from the CalEEMod 2013.2.2 software models for both onsite and offsite emissions, and the assumptions on the duration and personnel detailed in the EIR Section 2.0, Project Description. The emissions from construction activities would exceed the SLOCAPCD thresholds for the daily emissions of NO_x and ROG, the quarterly emissions of NO_x and ROG Tier 1, the daily emissions of diesel particulate matter, and the quarterly emissions of diesel particulate matter Tier 1. Therefore, impacts would be potentially significant. There would be no exceedances of the construction thresholds for fugitive dust emissions. Implementation of mitigation measures related to construction equipment controls for diesel particulate matter would reduce DPM to levels below the thresholds. Emissions of ROG+NO_x would remain above the daily and quarterly thresholds without offsite reductions or the staggering of the construction schedule. Staggering of the construction schedule to prevent rail spur construction from occurring at the same time as grading and soil transport would reduce the peak daily ROG+NO_x to below the thresholds. Extending the grading and soil transport activities to 5 months, instead of 4, would reduce the quarterly ROG+NO_x emissions to below the thresholds. With the implementation of offsite reductions through mitigation measure AQ-1e or scheduling staggering (AQ-1a), impacts would be less than significant.

AQ Impact 4 (AQ.4)- SMR Impacts of Toxic Emissions	
Operational activities at the Refinery associated with the Rail Spur Project would generate toxic emissions that exceed SLOCAPCD thresholds.	
Mitigation	AQ-4a Implement measures AQ-2a (Tier 4 locomotives and/or offsets) and AQ-2b (idling restrictions). AQ-4b All trucks under contract to the SMR for moving coke and sulfur shall meet EPA 2010 model year NO_x 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. AQ-4c If mitigation measure AQ-2a (the use of Tier 4 locomotives only) is not implemented, then crude oil train unloading and switching activities at the SMR shall be limited to the period of 7 a.m. to 7 p.m. to reduce the emissions during periods of calm meteorological conditions. Reports shall be submitted to the County and APCD indicating the time of arrival, the start and end time of train switching break-apart and unloading and departure time. These time limits do not apply to pull-in of the unit trains from the mainline. When a unit train is pulled in between 7 p.m. and 7 a.m., the locomotives shall shut down until the allowed unloading time starting at 7 a.m. No switching or breaking apart of trains or any other locomotive activity is allowed between 7 p.m. and 7 a.m. except for the minimum activity needed to move the unit train onto the SMR property.

AQ Impact 4 (AQ.4)- SMR Impacts of Toxic Emissions	
Findings	Mitigation measures would reduce the severity of impacts to less than significant, Impacts associated with the 3 trains per week EIR alternative in the vicinity of the SMR would be less than significant with mitigation (Class II)
Supportive Evidence	Operational activities at the SMR would produce emissions of toxic materials from fugitive emissions sources containing Benzene, Toluene, etc, and from the diesel combustion used for the locomotives. As part of the EIR analysis a health risk assessment (HRA), utilizing the HARP2 modeling program, was conducted to estimate the impacts of the fugitive and locomotive diesel emissions, in combination with the existing SMR and truck traffic emissions, on nearby offsite worker and agricultural areas and residential parcels. The HARP2 model is a health risk assessment model and is recommended in CARB's Health Risk Assessment Guidance. The results of the HRA showed that acute and chronic (short term) impacts would have a health index of less than 1.0 at all parcel boundary points and at residential receptors and the offsite worker receptors located to the north and at the agricultural fields to the south of the SMR, and therefore not produce an impact. The results of the HRA for the three trains per week project showed that cancer (long term) impacts would be below the APCD thresholds for residential receptors and would be less than significant with mitigation. The use of all Tier 4 locomotives (AQ-2a) and limits on locomotive idling time (AQ-2b) would reduce DPM emissions, which are the main driver of the health risk cancer impacts. With the implementation of the mitigation, including the Tier 4 locomotives, idling restrictions and the use of 2010 trucks (mitigation measures AQ-2a, AQ-2b and AQ-4b), the cancer risks would be reduced to below the thresholds and impacts would be less than significant with mitigation. In addition, with just the limits on locomotive idling time, the cleaner trucks, and the limits on nighttime unloading (AQ-2b, AQ-4b and AQ-4c), and the three trains per week project, if the Tier 4 locomotives mitigation measure AQ-2a is preempted by Federal law and cannot be implemented, the highest cancer risk at a residential or sensitive receptor would also be below the thresholds and would be less than significant with mitigation and the three trains per week project.

AQ Impact 7 (AQ.7) - SMR Operational Odors	
Operational activities associated with the Rail Spur Project could generate odors.	
Mitigation	AQ-7 Prior to issuance of Notice to Proceed, the Applicant shall ensure that any new odor sources be added to the existing Refinery Odor Control Plan and submitted to the SLOCAPCD for review and approval before the start of construction. Mitigation shall include carbon canisters on all vacuum trucks, arrival and pre-departure inspection of all rail cars for fugitive leaks, monitoring of rail car top vents during unloading, and methods to reduce and eliminate odors associated with maintenance activities. Monitoring of odors from the rail facility and the other portions of the SMR potentially affected by a change in crude oil slate, shall be included in the Plan and shall be conducted by an independent third party monitor, retained by the County of San Luis Obispo Department of Planning, for the first three months of operation during each unit train visit. The APCD shall be notified of monitoring and unit train activity. Monitoring activities can be reduced, in coordination and agreement with the APCD, after the facility startup if odors are not determined to affect areas offsite. In addition to monitoring, the amended Odor Control Plan shall also detail control measures and/or operating procedures that will be implemented to reduce odor impacts if odors are a concern. The Plan shall also include an implementation schedule for incorporating additional measures if needed. The Plan measures shall include leak detection (if not already implemented), lower leak detection and repair threshold limits (to 100 ppm), increased component monitoring frequency (monthly), component replacement with lower leak levels and improved vapor control systems and these measures shall be discussed in the Odor Control Plan.
Findings	With the implementation of mitigation measure above, including the use of air emission control devices such as carbon canisters and rail car inspections, impacts would be reduced to less

AQ Impact 7 (AQ.7) - SMR Operational Odors	
	than significant.
Supportive Evidence	Sources of odors from the facility would be related to emissions of hydrocarbons, hydrogen sulfide and emissions of diesel exhaust. Emissions of fugitive hydrocarbons from the Rail Spur Project would be substantially less than that from the existing refinery. The Applicant indicates the expected H_2S content of the crude oil vapor could be about one percent by weight. The release of material that contains even small amounts of sulfur compounds (H_2S) or hydrocarbons produces an odor. Sulfur compounds, found in oil and gas, have very low odor threshold levels. The Applicant has proposed the use of carbon canisters. Emissions of odiferous H_2S from the canisters would be very low and would not produce offsite H_2S levels that could produce odors. Under worst case meteorological conditions and high H_2S levels, fugitive emissions (leaking components) could cause odor impacts offsite and odor emissions would be potentially significant. Mitigation measures would be addressed under the Refinery Odor Control Plan to reduce the emissions from valves and components. Addition measures, such as lower leak detection and repair thresholds or monitoring frequency, would reduce emissions, reducing offsite impacts to less than significant. Odor impacts associated with the project would therefore be less than significant

AQ Impact 8 (AQ.8) - SMR GHG Cumulative Emissions	
Cumulative criteria pollutant and GHG emissions at the SMR could exceed SLOCAPCD thresholds.	
Mitigation	AQ-8 Prior to issuance of the Notice to Proceed, the Applicant shall provide a GHG mitigation, monitoring and reporting plan. The plan shall investigate methods to bring the Rail Spur Project GHG emissions at the refinery to zero for the entire project each year. The plan shall indicate that, on an annual basis, if after all onsite mitigations are implemented, the GHG emissions from the Rail Spur Project still exceed zero, 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 measures. Coordination with the 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 to review and approve the mitigation approach.
Findings	With the implementation of measures to reduce or offset GHG emissions, impacts would be reduced to less than significant.
Supportive Evidence	The Throughput Increase Project would increase criteria, toxic pollutants, and GHG emissions over the current baseline. The cumulative emissions for the two projects would exceed the daily SLOCAPCD threshold for ROG+NO_x and diesel particulate matter, and the annual threshold ROG+NOx and GHG. Mitigation measures AQ-2a and AQ-2b require the Applicant to reduce ROG+NO_x and DPM emissions through the use of Tier 4 engines and reduced idling and on-site refinery measures. Any remaining ROG+NO_x emissions would be mitigated by either onsite or offsite emissions credits. Therefore, with the mitigation required by the Throughput Increase permit and the mitigation required for the Rail Spur Project, cumulative criteria pollutant emissions would be less than significant. Given that the Throughput Increase permit only requires the GHG emissions to be reduced to less than 10,000 metric tonnes per year, any increase in GHG emissions associated with the Rail Spur Project would be considered cumulatively significant. By requiring the Rail Spur Project to reduce GHG emissions to zero, as in mitigation measure AQ-8, the residual cumulative criteria pollutant emissions at the refinery would be less than significant.

9.4 BIOLOGY (CLASS II)

BIO Impact 1 (BIO.1) - Nipomo Mesa Lupine Impacts	
Proposed construction of the Rail Spur Project has the potential to impact Nipomo Mesa lupine, a state and federally endangered plant species.	
Mitigation	BIO-1 Prior to initiation of project activities, a floristic survey shall be conducted within the Rail Spur Project area in accordance with the California Department of Fish and Wildlife (CDFW) Protocol for surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (2009) and the Guidelines for Conducting and Reporting Botanical Inventories for Federally listed, Proposed, and Candidate Species (USFWS 2000). The survey shall specifically focus on the presence/absence of Nipomo Mesa lupine and, if normal rainfall conditions are present during the survey, the findings would be only valid for a period of two years. The floristic survey shall be conducted during a blooming period with normal rainfall. A 'normal' rainfall period is equivalent to the monthly or annual average of precipitation over a 30 year time period for the area. The results of this survey shall be submitted to the County, United States Fish and Wildlife Service, and California Department of Fish and Wildlife within 30 days of completing the survey. If 'normal' rainfall conditions have occurred prior to the initiation of the survey, and the results of this survey effort determine that Nipomo Mesa lupine is absent from the Rail Spur Project area, no further mitigation for this species shall be required at this time. Because it is well documented that Nipomo Mesa lupine may occur as a result of site disturbance, floristic surveys shall be conducted on an annual basis until there is no further disturbance to the native soil as a result of construction activities. Should Nipomo Mesa lupine be identified during construction, or if Nipomo Mesa lupine is identified prior to the initiation of activities during 'normal' rainfall conditions, the project shall avoid the individual or population to the extent feasible. If avoidance is not feasible then the applicant would be required by law to coordinate with California Department of Fish and Wildlife to acquire a 2081 Incidental Take Permit for this species and comply with any conditions imposed by that permit. At a minimum, the applicant shall implement BIO-5a (Dune Habitat Restoration Plan) and include Conservation Measures to establish and monitor Nipomo Mesa lupine population(s) within the identified on-site mitigation area at a ratio of 3:1 for individuals. The mitigation area for Nipomo Mesa lupine may overlap with the mitigation area for sensitive community impacts, which shall be protected from any grazing activities in perpetuity.
Findings	With the implementation of restoration and mitigation areas, impacts would be reduced to less than significant.
Supportive Evidence	Nipomo Mesa lupine, a state and federally endangered plant species, is known to occur within the Project Site. Based on CNDDB records, the nearest known occurrence of this species is located adjacent to existing tank facilities. The current determination of presence/absence of Nipomo Mesa lupine within the Rail Spur Project area cannot be definitively determined based on the existing survey data. Although the presence of this species is unlikely due to the distance from historically mapped populations, the Rail Spur Project may result in potential impacts to Nipomo Mesa lupine, which would be considered a significant impact. With implementation of the above mitigation measures, any potential impacts to Nipomo Mesa lupine will be identified during an appropriate blooming period under a 'normal' rainfall period. A 'normal' rainfall period is equivalent to the monthly or annual average of precipitation over a 30 year time period for the area. Should this species be identified within the Rail Spur Project area, measures are proposed for avoidance or the development of mitigation at a 3:1 ratio and therefore direct impacts to Nipomo Mesa lupine would be less than significant

BIO Impact 2 (BIO.2) - Removal of Rare Plant Species	
Proposed construction of the Rail Spur and associated Emergency Vehicle Access route would result in the removal of plant species considered to be rare by the California Native Plant Society.	
Mitigation	BIO-2 Prior to project activities, the total number of California spineflower (Mucronea californica), sand almond (Prunus fasciculata var. punctata), Blochman's groundsel (Senecio blochmaniae), Blochman's leafy daisy (Erigeron blochmaniae), and dune larkspur (Delphinium parryi ssp. blochmaniae) shall be accurately estimated during the implementation of BIO-1. These population estimates shall be utilized as the basis for the in-kind replacement of these species described in Mitigation Measure BIO-5e. Should any additional populations of sensitive plant species that are considered rare by the California Native Plant Society (and not formally listed under the Endangered Species Act) be identified during the implementation of BIO-1 that were not previously observed in 2013, these species will also be replaced in-kind as part of the Dune Habitat Restoration Program and replacement success would be held to the same performance standards.
Findings	With the implementation of restoration and mitigation areas, impacts would be reduced to less than significant.
Supportive Evidence	Project impacts on plant species considered rare by the California Native Plant Society would occur as a result of the Rail Spur Project. Potential impacts may occur to species such as: California spineflower (Mucronea californica), sand almond (Prunus fasciculata var. punctata), Blochman's groundsel (Senecio blochmaniae), and Blochman's leafy daisy (Erigeron blochmaniae), and dune larkspur (Delphinium parryi ssp. blochmaniae). The population of these annual species is expected to fluctuate from year to year. However, given the estimated population and the relatively common occurrence of these species, with the implementation of mitigation measure BIO-2, including surveys and restoration areas at a 1:1 ratio, residual impacts are considered to be less than significant with mitigation (Class II). Implementation of the Dune Habitat Restoration Plan (DHRP) (BIO-5a) would further reduce any impacts to these species.

BIO Impact 3 (BIO.3) - Impacts on Ground Dwelling Wildlife	
Proposed construction and operational activities could result in disturbance and mortality to common ground-dwelling wildlife and sensitive ground-dwelling animal species.	
Mitigation	BIO-3 Prior to issuance of grading and construction permits, a qualified wildlife biologist shall prepare a Sensitive Species Management Plan, which outlines the procedures and protocols for capturing and relocating sensitive animal species including coast horned lizard and silvery legless lizard during all phases of grading. This plan shall be approved by the County and California Department of Fish and Wildlife. Implementation of the Plan is required where impacts to sensitive animal species and their habitats are unavoidable and located within a minimum of 100 feet of the Disturbance Area (or greater as determined by the California Department of Fish and Wildlife). Within 30 days prior to mobilization, grading or construction, a qualified wildlife biologist shall conduct a pre-construction survey of the area of impact to determine the presence of sensitive wildlife species. Individuals will be searched and captured using techniques appropriate to the species of concern and approved by the appropriate resource agencies. All captured individuals will be released as soon as possible into nearby suitable habitat that has been previously identified by the qualified wildlife biologist in consultation with the County and California Department of Fish and Wildlife. The size or age-class, location of capture, and the relocation site shall be recorded for each individual relocated from the site.
Findings	With the implementation of capturing and relocating sensitive animal species, impacts would be reduced to less than significant.

BIO Impact 3 (BIO.3) - Impacts on Ground Dwelling Wildlife	
Supportive Evidence	Construction and operational activities are expected to have impacts on common and sensitive wildlife species that are known to occur within the Rail Spur Project area. With implementation of capturing and relocating sensitive animal species, direct impacts to common fossorial wildlife and sensitive fossorial animals would be less than significant.

BIO Impact 4 (BIO.4) - Impacts on American Badger	
Proposed construction activities could result in disturbance of American badger, potentially including mortality.	
Mitigation	BIO-4 At a minimum, the following measures shall be incorporated in the Sensitive Species Management Plan: 1. Prior to grading activities, a County-approved biologist shall conduct a survey to identify whether badgers are using any portion of the site near the area in which disturbance is proposed. The survey shall be conducted no less than 14 days and no more than 30 days prior to construction. The survey shall cover the boundaries of proposed disturbance and 100 feet beyond, including all access roads, and shall examine both old and new dens. If potential badgers dens are found, they shall be inspected to determine whether they are occupied by badgers. Occupation of the den shall be determined by one or more of the following methods: a. Use of a fiber-optic scope to examine the den to the end: b. Partially obstruct the den entrance with sticks, grass, and leaves for three consecutive nights and examine for signs that animals are entering or leaving the den; c. Dust the den entrance with a fine layer of dust or tracking medium for three consecutive nights and examine the following mornings for tracks. 2. Inactive dens within construction areas shall be excavated by hand with a shovel to prevent re-use of dens during construction. 3. If badgers are found in dens between August and January, a qualified biologist shall establish a 50 foot diameter exclusion zone around the entrance. To avoid disturbance and the possibility of direct take of badgers, no construction, grading, or staging of equipment shall be conducted within the buffer area until the biologist has determined that the badger(s) have vacated the den. 4. If badgers are found in dens between February and July, nursing young may be present. Therefore, a County-approved biologist shall establish a 200-foot diameter buffer around the den. No construction, grading, or staging of equipment shall be conducted within the buffer area until the biologist has determined that the badgers have vacated the den.
Findings	With the implementation of surveying and construction exclusion zones, impacts would be reduced to less than significant.
Supportive Evidence	Construction activities are expected to have impacts on common and sensitive wildlife species that are known to occur within the Rail Spur Project area, including American badger. With implementation of the above mitigation measures, a take of American badger can be avoided and direct impacts would be less than significant.

BIO Impact 5 (BIO.5) - Impacts on Sensitive Vegetation
Proposed construction of the Rail Spur Project could result in a permanent impact to approximately 20.88 acres of vegetation types that are considered sensitive communities by the California Department of Fish and Wildlife following the National Vegetation Classification.

BIO Impact 5 (BIO.5) - Impacts on Sensitive Vegetation	
Mitigation	BIO-5a Prior to issuance of any grading permits, the applicant shall retain a qualified biologist and/or botanist acceptable to the County to prepare a Dune Habitat Restoration Plan (DHRP) for review and approval by the County in consultation with the California Department of Fish and Wildlife (CDFW) and the United States Fish and Wildlife Service (USFWS). The DHRP shall be signed by the retained qualified biologist and/or botanist and shall detail the methods for restoring or enhancing a minimum of 41.76 acres (2:1 for permanent impacts) of vegetation types considered to be sensitive communities by CDFW, with an emphasis on restoring known rare plant associations found within the BSA and those associations considered locally rare to the Guadalupe-Nipomo Dunes. The restoration area(s) shall be located within the Phillips 66 property boundary and protected from any grazing activity. The DHRP shall focus on restoring and enhancing sensitive communities, known rare plant associations, and species of locally rare plant associations, by removing invasive species (iceplant, veldt grass, and other invasive species) and planting appropriate native species, including but not limited to: mock heather, purple nightshade, Blochman's ragwort, Blochman's leafy daisy, California spineflower, sand almond and suffrutescent wallflower. Should Nipomo Mesa lupine be identified within the Rail Spur Project area as a result of BIO-1, and avoidance of this species is not feasible, the DHRP shall also include methods of restoring and enhancing Nipomo Mesa lupine at a ratio of 3:1 for permanent impacts to individuals. Regardless of whether Nipomo Mesa lupine is identified on-site as part of BIO-1, the DHRP shall also focus on restoring and enhancing sensitive communities and rare plant associations immediately adjacent to known Nipomo Mesa lupine populations in order to promote expansion of the existing population. At a minimum, the DHRP shall include the following elements: a. Identification of locations, amounts, size and types of plants to be replanted, as well as any other necessary components (e.g., temporary irrigation, amendments, etc.) to ensure successful reestablishment. b. Provide for a native seed collection effort prior to ground disturbing activities. Collection of native seed shall be propagated by a County-approved contractor. Plants shall include but not be limited to California Native Plant Society (CNPS) listed plant species that may be affected. c. Quantification of impact based on "as-built plans" and quantification of mitigation areas such that the replacement criteria are met (2:1 acreage ratio, or 3:1 for Nipomo Mesa lupine individuals). d. A program schedule and success criteria for a minimum five year monitoring and reporting program that is structured to ensure the success of the DHRP. e. Provide for the in-kind replacement of the following sensitive species that occur within the Rail Spur Project area, which may include: California spineflower (Mucronea californica), sand almond (Prunus fasciculata var. punctata), Blochman's groundsel (Senecio blochmaniae), Blochman's leafy daisy (Erigeron blochmaniae) and dune larkspur (Delphinium parryi ssp. blochmaniae). Should Nipomo Mesa lupine be identified onsite, in-kind replacement of this species shall also be included. Individuals that are removed or damaged shall be replaced in-kind at a 3:1 ratio (based on square feet cover) within the designated restoration area with 100% success in 5 years. f. Identification of access and methods of materials transport to the restoration area, including personnel, vehicles, tools, plants, irrigation equipment, water, and all other similar supplies. Access shall not result in new or additional impacts to habitat and special-status species. g. The required Dune Habitat Restoration Program shall incorporate an invasive species control program and be implemented by qualified personnel to ensure that the invasive species control program does not result in any additional impacts to Nipomo Mesa lupine, or other rare species. h. The restoration area shall be protected in perpetuity by an easement. The easement shall either be an open space easement, or a conservation easement if required by the California Department of Fish and Wildlife and United States Fish

BIO Impact 5 (BIO.5) - Impacts on Sensitive Vegetation	
	and Wildlife Service, or if chosen by the Applicant. The easement shall be in a form approved by County Counsel and CDFW and/or USFWS if required by those agencies. i. Upon successful completion of the Dune Habitat Restoration Program and subsequent approval by the permitting resource agencies, the applicant shall consider providing non-profit organizations such as California Native Plant Society and The Land Conservancy with long term access to the restoration site for the purposes of education, and long-term maintenance of the restoration site. Long-term maintenance activities would only occur if permitted by the applicant, and would require coordination with California Department of Fish and Wildlife and United States Fish and Wildlife Service. Access to the site is not guaranteed as a result of this measure. Funding for any future long-term maintenance activities shall be facilitated by the non-profit organization. BIO-5b Prior to initiation of construction, the applicant shall retain a qualified biologist or botanist acceptable to the County to supervise the implementation of the DHRP. The qualified biologist or botanist shall supervise plant salvage and/or seed collection (prior to construction), plant propagation, site preparation, implementation timing, species selected for planting, planting installation, maintenance, monitoring, and reporting of the restoration efforts. The qualified biologist or botanist shall prepare and submit four annual reports and one final monitoring report to the County for review and approval in consultation with California Department of Fish and Wildlife and United States Fish and Wildlife Service.. The annual and final monitoring reports shall include discussions of the restoration activities, project photographs, an assessment of success criteria attainment, and any remediation actions that may have been required in order to achieve the success criteria. BIO-5c Prior to issuance of grading and construction permits, the applicant shall define and clearly mark construction zone boundaries adjacent to known sensitive species occurrences with high visibility construction fencing, and shall mark groups of individual plants located within potential disturbance areas with highly visible flagging or fencing. BIO-5d Prior to construction (within 48 hours), the applicant's retained biologist or botanist shall provide instruction to construction personnel regarding avoidance of sensitive habitats and special-status plants located in the vicinities of areas experiencing ground disturbance. The training shall include presentation of photos of sensitive plant species and habitat, summary of regulations and conditions applicable to protection of the species, identification of areas where removal of the species is permitted pursuant to the final conditions of approval and DHRP, and any ramifications for non-compliance. BIO-5e During construction, where disturbance to sensitive habitat and sensitive plant species is unavoidable (and permitted by the County upon approval of the project), the top four inches of surface material shall be salvaged and stockpiled for restoration use in consultation with the County, California Department of Fish and Wildlife and United States Fish and Wildlife Service. Existing native vegetation shall also be removed and included as mulch in order to capture any existing native seed material. The salvaged material shall be used as the finish layer on fill slopes and other disturbed areas that will not require regular vegetation maintenance. BIO-5f During construction, the use of heavy equipment shall be restricted to within the identified work areas throughout the duration of construction activities and all construction personnel shall be advised of the importance of limiting ground disturbance and construction activities to within the identified work areas. A full-time biological monitor shall monitor shall map any populations or individual sensitive species that may bloom within, or directly adjacent to, areas of ground disturbance. Should Nipomo Mesa lupine be identified at any time during construction, the species shall be completely avoided and the County shall be contacted immediately. If avoidance is not feasible, or the species was inadvertently impacted during construction before identification by the biological monitor, the County and the applicant shall coordinate directly with the California Department of Fish and Wildlife and United States Fish and Wildlife Service. At a minimum, the impacts to any sensitive plant species shall be mitigated though implementation of BIO-5a.
Findings	With the implementation of restoration measures, impacts on sensitive vegetation would be

BIO Impact 5 (BIO.5) - Impacts on Sensitive Vegetation	
	reduced to less than significant.
Supportive Evidence	The EIR determined that the Rail Spur Project could permanently impact three sensitive communities (or vegetation types) as currently recognized by the California Department of Fish and Wildlife under the most recent classification system. These three vegetation types may be also generally referred to as Central Dune Scrub. The total acreage of potential impacts to these sensitive communities is 20.88 acres. The long-term impacts to this vegetation type resulting from removal of vegetation and permanent loss of habitat resulting from construction of the Rail Spur Project would be potentially significant. The identified mitigation would require restoration of 41.76 acres of habitat (2:1 acreage ratio for the permanent rail spur area). The restoration efforts, and five years of monitoring, would be documented by a biologist or botanist approved by the County, pursuant to an approved plan. The restoration area would be protected in the long term consistent with the required restoration plan. Therefore, with implementation of the above mitigation measures, direct impacts to CDFW sensitive communities (vegetation types) would be less than significant.

BIO Impact 6 (BIO.6) - Impacts on Coast Live Oak	
Proposed construction of the Rail Spur Project has the potential to impact individual specimens of coast live oak of 5-inch DBH or greater.	
Mitigation	BIO-6a At the time of application for grading and/or construction permits, the applicant shall prepare an Oak Tree Inventory, Avoidance, and Protection Plan as outlined herein. The plan shall be reviewed by a County-approved arborist prior to approval of grading and/or construction permits, and shall include the following items: a. Construction plans shall clearly delineate all trees within 50 feet of areas where soil disturbance would occur, and shall show which trees are to be impacted, and which trees are to remain unharmed. All inventoried trees shall be shown on maps. The species, diameter at breast height, location, and condition of these trees shall be documented in data tables. b. Prior to any grading or grubbing, all trees that are within fifty feet of construction or grading activities shall be marked for protection and their root zone shall be fenced. The outer edge of the tree root zone to be fenced shall be outside of the canopy 1/2 again the distance as measured between the tree trunk and outer edge of the canopy (i.e., 1-1/2 times the distance from the trunk to the drip line of the tree), unless otherwise shown on the approved construction plans. c. Prior to any grading or grubbing, a certified arborist shall be retained by the applicant to identify at risk limbs and perform all necessary trimming of oak tree limbs that could be damaged by project activities. Pruning shall be conducted as needed along all access roads and construction areas, including paved portions of County roads used for project equipment access. All pruning shall be conducted prior to construction equipment passage to minimize the potential for inadvertent damage to oak tree limbs. Removal of larger lower branches should be minimized to 1) avoid making tree top heavy and more susceptible to "blow-overs", 2) reduce having larger limb cuts that take longer to heal and are much more susceptible to disease and infestation, 3) retain wildlife habitat values associated with the lower branches, 4) retain shade to keep summer temperatures cooler and 5) retain the natural shape of the tree. The certified arborist shall document all pruning impacts in a report submitted to the County San Luis Obispo. d. A certified arborist shall be retained by the applicant to supervise all construction activities in areas containing oak trees in order to minimize disturbance to identified trees and their root zones wherever possible. The certified arborist will document all construction-related impacts to oak trees in an "as-built" report submitted to the County San Luis Obispo. e. Immediately following submittal of the oak tree impact "as-built" report to the County San

BIO Impact 6 (BIO.6) - Impacts on Coast Live Oak	
	Luis Obispo, the applicant shall implement mitigation for all identified pruning and construction-related oak impacts per current County San Luis Obispo ratios and methods for oak tree mitigation and replacement. County oak tree replacement standards require a project proponent to prepare and implement an oak tree replacement plan. The plan shall provide for the in-kind replacement, at a 4:1 ratio, of all oak trees removed as a result of the project. In addition, the plan must provide for the in-kind planting, at a 2:1 ratio, of all oak trees impacted but not removed. The replacement trees must be monitored for seven years after planting. BIO-6b Upon application for grading and construction permits, the applicant shall submit an Oak Tree Replacement, Monitoring, and Conservation Plan to the County Department of Planning and Building. The Plan shall include the following: a. The County-approved arborist shall provide or submit approval of an oak tree replacement plan at a minimum 4:1 ratio for oak trees removed and a minimum replacement ration of 2:1 ratio for oak trees impacted (i.e., disturbance within the root zone area). b. Replacement oak trees shall be from regionally or locally collected seed stock grown in vertical tubes or deep one-gallon tree pots. Four-foot diameter shelters shall be placed over each oak tree to protect it from deer and other herbivores, and shall consist of 54-inch tall welded wire cattle panels (or equivalent material) and be staked using T-posts. Wire mesh baskets, at least two feet in diameter and two feet deep, shall be use below ground. Planting during the warmest, driest months (June through September) shall be avoided. The plan shall provide a species-specific planting schedule. If planting occurs outside this time period, an irrigation plan shall be submitted prior to permit issuance and implemented upon approval by the county. c. Replacement oak trees shall be planted no closer than 20 feet on center and shall average no more than four planted per 2,000 square feet. Trees shall be planted in random and clustered patterns to create a natural appearance. As feasible, replacement trees shall be planted in a natural setting on the north side of and at the canopy/dripline edge of existing mature native oak trees (if present); on north-facing slopes; within drainage swales (except when riparian habitat present); where topsoil is present; and away from continuously wet areas (e.g., lawns, irrigated areas, etc). Replanting areas shall be either in native topsoil or areas where native topsoil has been reapplied. A seasonally timed maintenance program, which includes regular weeding (hand removal at a minimum of once early fall and once early spring within at least a three-foot radius from the tree or installation of a staked "weed mat" or weed-free mulch) and a temporary watering program, shall be developed for all oak tree planting areas. A qualified arborist/botanist shall be retained to monitor the acquisition, installation, and maintenance of all oak trees to be replaced. Replacement trees shall be monitored and maintained by a qualified arborist/botanist for at least seven years or until the trees have successfully established as determined by the County Environmental Coordinator. Annual monitoring reports will be prepared by a qualified arborist/botanist and submitted to the County by October 15 each year. d. The restored area shall be at a minimum equal in size to the area of oak habitat lost or disturbed.
Findings	With the implementation of restoration measures and long term monitoring of tree health, impacts on coast live oak would be reduced to less than significant.
Supportive Evidence	Based on current design plans for the Rail Spur Project, one mature coast live oak (Quercus agrifolia) may be impacted as part of the proposed Rail Spur Project. The specimen, along with other remnant oaks on the property, do not constitute an oak woodland, rather they are individual stands within dune scrub that serve as shading for cattle and optimal perching opportunities for foraging raptors, including red-tailed hawk and great horned owl, both of which have been regularly observed utilizing these trees. Implementation of identified mitigation would minimize potential impacts to oak trees, and will ensure that mitigation for all impacts will be conducted per County requirements, including replanting and long-term monitoring to ensure success. Therefore, potential impacts to coast

BIO Impact 6 (BIO.6) - Impacts on Coast Live Oak	
	live oak would be less than significant.

BIO Impact 7 (BIO.7) - Spill Impacts on Sensitive Habitats	
A rupture or leak from, pipelines, rails cars, or other facility related infrastructure during operation of the Rail Spur Project has potential to impact surrounding onsite sensitive habitats.	
Mitigation	BIO-7 Prior to issuance of grading and construction permits, the existing Santa Maria Refinery Spill Prevention, Control and Countermeasure Plan (SPCCP) shall be amended and submitted for review and approval to the County Planning and Building Department and the California Department of Fish and Wildlife, Office of Spill Prevention and Response. The Plan shall address protection of sensitive biological resources and revegetation of any areas disturbed during an oil spill or cleanup activities. The Plan shall incorporate, at a minimum, the following: a. An estimate of the worst case spill volume associated with the rail unloading operations. b. A description of the spill containment equipment for the facility that clearly demonstrates that the worst case spill can be contained within the rail facility boundaries. c. A description of the operating procedures for the rail unloading facilities that sever to prevent an oil spill. d. Measures taken to assure that the crude oil pipeline shall be designed such that any spill from the pipeline shall drain back to rail unloading area or shall otherwise be contained within the access roadway. e. Provide a list of onsite oil spill response equipment that is adequate to handle the worst case spill volume. f. Identify training requirement for oil spill response personnel, which includes annual spill drills. g. Identification and communication protocols and agreements for responsible parties tasked with emergency response, cleanup, and rehabilitation efforts of any wildlife species and habitat that may be impacted. h. Identification of known sensitive resources within any area that may be impacted by a potential oil spill or cleanup activities, and identification of staging areas and predetermined access and egress routes that pose little or no threat to sensitive biological resources. i. Identification of oil spill cost recovery procedures for state and local government agencies. j. Specific measures to avoid impacts to native vegetation and wildlife habitats, plant and animal species, and environmentally sensitive habitat areas during oil spill response and cleanup operations. For Rail Spur construction and operation, the Plan shall specifically address measures to 1) prevent oil spills from entering the adjacent property which includes a tributary to Oso Flaco Creek, and 2) in case a spill does enter any of these water features, shall include measures to prevent a spill from reaching the waters of Oso Flaco Lake. The plan shall describe the worst case scenario for maximum oil spill volume. k. When habitat disturbance cannot be avoided, the Plan shall provide protocol and methodologies for removing contaminated vegetation from sensitive areas. Low-impact site-specific techniques such as hand-cutting contaminated vegetation, hand raking, and shoveling of contaminated soils shall be specified to remove spilled material from particularly sensitive wildlife habitats. l. When habitat disturbance cannot be avoided, the Plan shall provide stipulations for development and implementation of site-specific habitat restoration plans and to restore native plant communities to pre-spill conditions. Procedures for timely re-establishment of vegetation that replicates the habitats disturbed (or, in the case of disturbed habitats dominated by non-native species, replaces them with suitable native species) shall also be included.

BIO Impact 7 (BIO.7) - Spill Impacts on Sensitive Habitats	
Findings	With the implementation of measures to ensure spill containment, response procedures, identification of sensitive species locations and avoidance measures and restoration procedures, impacts on sensitive habitats would be reduced to less than significant.
Supportive Evidence	Implementation of the project could result in spills at the Rail Spur Project area due to mechanical failure, structural failure, corrosion, or human error during pipeline use and oil transportation to and from the Rail Spur. The Rail Spur and the proposed pipeline are immediately adjacent to sensitive coastal scrub habitat and approximately 500 feet from a tributary channel to Oso Flaco Creek. Crude oil or oily water spills during the rainy season have the potential to affect large areas of coastal scrub and adjacent property with riparian habitat. In the unlikely event that spilled oil did reach sensitive habitat, the oiled vegetation and soils would likely need to be removed and taken to a landfill. Cleanup activities that result in the removal of vegetation would require restoration of native habitat following cleanup. The level of impact would depend on the type, size, and location of the spill, the types of habitats and species affected, and cleanup methods. The potential for oil spills is already present within the existing SMR, but the potential to impact sensitive habitats would increase as the Rail Spur project would be located in close proximity to coastal scrub habitat. Even though the likelihood of oil impacting sensitive habitat is low, it would be considered a potentially significant impact. With the implementation of mitigation measure BIO-7 and the design features of the rail spur and unloading racks, potential oil spill impacts within the SMR site would be less than significant

BIO Impact 8 (BIO.8) - Impacts to Nesting Birds and Burrowing Owls	
Proposed construction and operational activities could result in disturbance and mortality to nesting migratory bird species and overwintering burrowing owl.	
Mitigation	BIO-8a Prior to and during construction, the applicant shall avoid disturbance of bird breeding and nesting activities if construction activities are scheduled to occur during the typical bird nesting season (February 15 and September 1). A qualified biologist shall also be retained to conduct a pre-construction survey on a weekly basis throughout the breeding season only during construction for the purpose of identifying potential bird nesting activity. Should construction continue to occur beyond September 1, a qualified biologist shall conduct a bi-weekly survey during the wintering season for overwintering use by burrowing owl. If no nesting activities or overwintering burrowing owl are detected within the proposed work area, noise-producing construction activities may proceed and no further mitigation is required. If nesting activity or overwintering burrowing owl are detected during pre-construction nesting surveys or at any time during the monitoring of construction activities, the following shall occur: a. Work activities within 300 feet (500 feet if raptors) shall be delayed. CDFW and/or USFWS shall be contacted to determine the appropriate biological buffer distance around active nest sites. b. Construction activities will be prohibited within the buffer zone until a biologist determines that the young birds have fledged and left the nest, or overwintering burrowing owl is no longer utilizing the burrow. The results of the surveys shall be immediately submitted to the CDFW and the County, demonstrating compliance with the Migratory Bird Treaty Act of 1918. c. If destruction of occupied burrows is unavoidable during the non-breeding season, or if burrowing owls must be translocated during the non-breeding season, a Burrowing Owl Exclusion Plan shall be developed by a qualified biologist following the guidance of the CDFW Staff Report on Burrowing Owl Mitigation (2012). BIO-8b To mitigate for the loss of burrowing owl habitat, a minimum of 26.5 acres of suitable burrowing owl foraging and nesting habitat shall be provided in perpetuity through an easement prior to any project construction activities. If feasible, the protected lands shall occur within the boundaries of the Phillips 66 property or lands immediately adjacent to any

BIO Impact 8 (BIO.8) - Impacts to Nesting Birds and Burrowing Owls	
	known burrow site. At a minimum, the mitigation lands shall include similar vegetative attributes as the impact area, be of sufficiently large acreage and include the presence of fossorial mammals. Mitigation lands for burrowing owl may overlap with lands which are designated for restoration under the Dune Habitat Restoration Plan. Should there be any overlap, neither mitigation effort should negatively affect the goals and success criteria of the other. The location of the protected lands shall be determined in coordination with CDFW.
Findings	With the implementation of measures to avoid birds, and measures to relocate birds and provide habitat, impacts to nesting birds and burrowing owls would be reduced to less than significant.
Supportive Evidence	Vegetation within the Rail Spur Project area provides suitable nesting habitat for a variety of ground-nesting and shrub nesting bird species. Breeding by burrowing owls along the coast in Santa Barbara and San Luis Obispo Counties has not been documented since the late 1980's and possibly early 1990's (personal communication, Brad Schram). The entire Rail Spur Project area could be considered habitat for this species. Construction of the Rail Spur Project would result in a loss of 26.5 acres of available habitat for this species and operational project activities may also adversely affect these species. Depending on the actual timing, the project may result in direct disturbance of breeding and nesting special-status bird species during vegetation removal and ground disturbance, and generation of noise and equipment use during grading and construction activities would impact adjacent breeding and nesting of special-status bird species. During the construction and operation phase, noise and lighting from the Rail Spur could deter bird species from nesting and foraging within the area. Implementation of appropriate mitigation measures would reduce the potential for disturbance of nesting and breeding special-status birds, and therefore, this impact would be less than significant

BIO Impact 9 (BIO.9) - Spread of Invasive Species	
Proposed construction activities could result in disturbance and the introduction or spread of invasive plant species.	
Mitigation	BIO-9 Prior to issuance of grading and construction permits, the following measures shall be included on applicable plan sheets and the Dune Habitat Restoration Plan: a. During construction, the applicant will make all reasonable efforts to limit the use of imported soils for fill. Soils currently existing on-site should be used for fill material. If the use of imported fill material is necessary, the imported material must be obtained from a source that is known to be free is invasive plant species; or the material must consist of purchased clean material such as crushed aggregate, sorted rock, or similar. b. During construction, the contractor shall stockpile topsoil and redeposit the stockpiled soil within disturbed areas onsite after construction of the Rail Spur is complete, or transport the topsoil to a certified landfill or other allowable location for disposal if soil cannot be used within disturbed areas onsite. c. All erosion control materials including straw bales, straw wattles, or mulch used on-site must be free of invasive species seed. d. The required Dune Habitat Restoration Program shall incorporate an invasive species control program.
Findings	With the implementation of measures to limit soil import and criteria for erosion control materials, impacts from the spread of invasive species would be reduced to less than significant.
Supportive Evidence	Project construction activities would include a large amount of grading activities and stockpiling of soils within the boundaries of the Rail Spur Project area. Implementation of these project

BIO Impact 9 (BIO.9) - Spread of Invasive Species	
	elements would require removing and replacing soil that contains seeds of invasive plant species. Disturbance of the soil containing invasive species seeds could facilitate the spread of invasive species in and out of the Rail Spur Project area. Implementation of mitigation measure BIO-9 would reduce the potential for the introduction and spread of invasive species; therefore, this impact would be considered less than significant

9.5 CULTURAL RESOURCES (CLASS II)

CR Impact 1 (CR.1) - Disturbance of Known Cultural Sites	
Grading and excavation associated with the construction of the emergency vehicle access road (EVA) could result in the disturbance and destruction of a portion of CA-SLO-1190.	
Mitigation	CR-1a Prior to issuance of grading and construction permits, the Applicant shall submit plans showing a modified road alignment for the Emergency Vehicle Access (EVA) road to the Department of Planning and Building for review and approval. Grading and construction of the EVA shall avoid all ground disturbing activities within the previously identified boundary of CA-SLO-1190. The plans shall note the boundaries of the site as an Environmentally Sensitive Area (ESA) and shall include a 50-foot buffer around the ESA. No grading, storage of materials or equipment, or use of equipment shall occur within the ESA. CR-1b Prior to issuance of grading and construction permits, the Applicant shall submit an Archaeological Monitoring Plan to the Department of Planning and Building for review and approval. The plan shall include, at minimum: a. List of personnel involved in the monitoring activities including a Native American monitor; b. Clear identification of what portions of the project area in relation to CA-SLO-1190 shall be monitored; c. Description of how the monitoring shall occur; d. Description of monitoring frequency; e. Description of resources expected to be encountered; f. Description of circumstances that would result in the "work diversion," in the case of discovery, at the project site; g. Description of procedures for diverting work on the site and notification procedures; and h. Description of monitoring reporting procedures. CR-1c A County approved archaeological monitor shall be present during all ground disturbing construction activities within intact native soil (i.e., undisturbed soils) within 300 feet of the previously identified boundary of CA-SLO-1190, and as noted in the approved Archaeological Monitoring Plan. CR-1d Upon completion of all monitoring and mitigation activities required by CR-1 through CR-5, and prior to final inspection or occupancy, whichever occurs first, the Applicant shall submit to the Department of Planning and Building a report summarizing all monitoring and mitigation activities and confirming that all recommended mitigation measures have been met.
Findings	With the implementation of road re-alignments to avoid the cultural resources and monitoring, impacts on cultural sites would be reduced to less than significant.
Supportive Evidence	The cultural resource background research did reveal the presence of previously identified prehistoric archaeological site CA-SLO-1190 adjacent to the EVA route. The cultural resources survey confirmed the presence of artifacts associated with CA-SLO-1190 within the proposed EVA route. With implementation of the recommended mitigation measures, the resource could be avoided, and this impact would be considered less than significant.

CR Impact 2 (CR.2) - Disturbance of Unknown Cultural Resources	
Grading and excavation associated with the project could result in the disturbance and destruction of unknown subsurface archeological resources.	
Mitigation	CR-2a Prior to any grading or construction, contractors involved in grading and grubbing activities shall receive training from a County-qualified archeologist. The training shall address the following issues: a. Review the types of archaeological artifacts that may be uncovered; b. Provide examples of common archaeological artifacts to examine; c. Review what makes an archaeological resource significant to archaeologists and local native Americans; d. Describe procedures for notifying involved or interested parties in case of a new discovery; e. Describe reporting requirements and responsibilities of construction personnel; f. Review procedures that shall be used to record, evaluate, and mitigate new discoveries; g. Describe procedures that would be followed in the case of discovery of disturbed as well as intact human burials and burial-associated artifacts; and h. Employees completing this training shall be given a special helmet sticker or card to show they have completed the training, where the sticker/card shall be kept with them at all times while at the work site. CR-2b Prior to issuance of grading and construction permits, the Applicant shall submit an Archaeological Monitoring Plan to the Department of Planning and Building for review and approval. The plan shall include, at minimum: a. List of personnel involved in the monitoring activities including a Native American monitor; b. Description of how the monitoring shall occur; c. Description of monitoring frequency; d. Description of circumstances that would result in the "work diversion," in the case of discovery, at the project site; e. Description of procedures for diverting work on the site and notification procedures; and f. Description of monitoring reporting procedures. CR-2c A County approved archaeological monitor shall be present during all ground disturbing construction activities within intact native soil (i.e., undisturbed soils) as noted in the approved Archaeological Monitoring Plan.
Findings	With the implementation of training and monitoring, impacts to unknown subsurface archeological resources would be minimized and impacts would be reduced to less than significant.
Supportive Evidence	Although no potentially significant archaeological resources were identified within the project area during the cultural resources survey of the project, there is the possibility that unrecorded buried archaeological material could exist and be encountered during grading, clearing, grubbing, and/or other construction activities. If intact cultural remains are encountered during grading, clearing, grubbing, and/or other construction activities, the potential for destruction of these potential unknown finds would be a potentially significant impact on cultural resources. Given the extent of disturbance within the project area, archaeological monitoring shall focus on areas of intact native soils, which would be identified in the Archaeological Monitoring Plan prepared for the project. In addition to preparation and implementation of an Archaeological Monitoring Plan, cultural resources shall be included in the environmental training session for all construction staff to reduce the potential destruction of unanticipated resources. With implementation of the above measure, this impact would be considered less than significant

CR Impact 3 (CR.3) - Disturbance to Human Remains	
Unanticipated disturbance to human remains due to construction.	
Mitigation	CR-3 If human remains are exposed during construction, the Applicant shall notify the County Environmental Coordinator immediately and comply with State Health and Safety Code Section 7050.5, which states that no further disturbance shall occur until the County Coroner has been notified and can make the necessary findings as to origin and disposition of the remains pursuant to Public Resources Code 5097.98. Construction shall halt in the area of the discovery of human remains, the area shall be protected, and consultation and treatment shall occur as prescribed by law.
Findings	With the implementation of notification requirements, impacts to unknown human remains would comply with current laws and impacts would be reduced to less than significant.
Supportive Evidence	According to CEQA, "Archaeological sites known to contain human remains shall be treated in accordance with the provisions of Section (7050.5) Health and Safety Code." The PRC also ensures the protection of human remains (Sections 5097.94, 5097.98, and 5097.99). Section 22.10.040 of San Luis Obispo County's Land Use Ordinance has similar stipulations stating that "(i)n the event archeological resources are found to include human remains, or in any other case when human remains are discovered during construction, the County Coroner shall be notified in addition to the Department so proper disposition may be accomplished." The Coroner will determine the origin of the remains and, if determined to be of Native American origin, notify the Native American Heritage Commission, which will determine and notify a most likely descendant. The most likely descendant shall complete the inspection of the site within 48 hours of notification and may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials. If human remains were encountered during grading, the potential for disturbance of these remains would be potentially significant. Implementing mitigation measure CR-3 would reduce the impact of potentially encountering and disturbing human remains during grading and excavation to less than significant.

CR Impact 5 (CR.5) - Disturbance to Paleontological Resources	
Unanticipated disturbance to paleontological resources.	
Mitigation	CR-5 If any paleontological resources are encountered during ground-disturbing activities, activities in the immediate area of the find shall be halted and the discovery assessed. A qualified paleontologist shall be retained to evaluate the discovery and recommend appropriate treatment options pursuant to guidelines developed by the Society of Vertebrate Paleontology. A paleontological resource impact mitigation program for treatment of the resources shall be developed and implemented if paleontological resources are encountered.
Findings	With the implementation of notification and inspection procedures, impacts to paleontological resources would be reduced to less than significant.
Supportive Evidence	At present, there are no known paleontological resources or unique geologic formations or sites located within the project area. However, it is possible that paleontological resources could be discovered during ground disturbing activities associated with project construction. If unanticipated paleontological resources were disturbed it could potentially be a significant impact. Implementing mitigation measure CR-4, if needed, would reduce the impact of potentially encountering and disturbing paleontological resources during grading and excavation to less than significant.

9.6 GEOLOGICAL RESOURCES (CLASS II)

GR Impact 1 (GR.1) - Seismic Shaking Equipment Damage	
Seismically induced ground shaking could damage proposed structures and infrastructure, potentially resulting in loss of property, risk to human health and safety, and oil spills.	
Mitigation	GR-1a At the time of application for grading and construction permits, the proposed rail spur, unloading facility, and oil pipeline infrastructure shall be designed and constructed to withstand anticipated horizontal and vertical ground acceleration in the Project area, based on the California Building Code. The calculated design base ground motion for project components shall consider the soil type, potential for liquefaction, and the most current and applicable seismic attenuation methods that are available. GR-1b At the time of application for construction permits, all surface facilities and equipment shall have suitable foundations and anchoring design, surface restraints, and moment-limiting supports to withstand seismically induced groundshaking. GR-1c A Registered Civil Engineer and Certified Engineering Geologist shall complete an updated geotechnical investigation specific to the proposed rail spur and oil pipeline site, as previous on-site geotechnical investigations were completed in other areas of the refinery. All geotechnical recommendations provided in the report shall be followed during grading and construction at the Project Site. The updated geotechnical evaluation shall include, but not be limited to, an estimation of both vertical and horizontal anticipated peak ground accelerations, as well as an updated liquefaction analysis. GR-1d The geotechnical report shall be completed prior to completion of the final Project design and shall be submitted to the County of San Luis Obispo Building Division for review and approval. The Project design must conform to the recommendations within the updated geotechnical evaluation. The geotechnical recommendations would likely include, but not be limited, to the following: a. Proposed structures shall be designed and constructed to withstand anticipated horizontal and vertical ground acceleration in the Project area, based on the California Building Code. b. Proposed structures shall be designed and constructed to withstand the effects of liquefaction, as applicable, based on the California Building Code. c. The Project Site shall be cleared of unsuitable materials and graded to provide a firm base for compacted fill, as applicable. Ground surfaces to receive compacted fill shall be prepared by removing organics, rubble, debris, existing disturbed fill, artificial fill, unconsolidated materials, and soft or disturbed soils. Removal of unconsolidated materials would likely include several feet of overexcavation. d. All fill material shall be placed in uniform lifts not exceeding 8 inches in its loose state and compacted to a minimum of 90 percent relative compaction, as determined by the latest ASTM Test Designation D-1557. e. Due to the low cohesion of the onsite soils (i.e., dune sands), the potential need for mechanical stabilization of fill slopes shall be evaluated and implemented, as applicable, to attain the acceptable factors of safety for stability. Mechanical stabilization may include Mechanically Stabilized Earth (MSE), which includes use of engineered geogrids placed at 2-foot vertical spacing within fill slopes. Cut slopes may similarly require construction of overlying stability fills, using MSE. f. Surface runoff shall be directed away from slopes and foundations and collected in lined ditches or drainage swales, via non-erodible engineered drainage devices. Fill slopes and stability fills, as applicable, shall be provided with subsurface drainage for stability. GR-1e At the time of application for grading and construction permits, all proposed slope, building pad, and rail track bed construction shall be properly engineered, with fill placed in accordance with requirements of the current County of San Luis Obispo Building and Construction Ordinance (Title 19 of the San Luis Obispo County Code), and California Building Code. GR-1f During construction, the proposed aboveground oil pipeline shall be anchored to prevent pipeline movement, as determined by a California Registered Civil Engineer, in accordance with California Building Code, San Luis Obispo County requirements, and the American Public Works Association Greenbook.

GR Impact 1 (GR.1) - Seismic Shaking Equipment Damage	
	GR-1g At the time of application for construction permits, the facilities and equipment, including spill containment vaults and Project-related pipelines, shall be designed for predicted, site-specific seismic loading in accordance with applicable codes, including the California Building Code. GR-1h The Applicant shall cease rail car unloading and pipeline oil conveyance following any perceptible (i.e., felt by humans) seismic event and inspect all project-related facilities, equipment, and pipelines for damage prior to restarting operations. GR-1i Consistent with California Building Code Section 3401.2, all project-related facilities, equipment, and pipelines shall be maintained in conformance with the California Building Code edition under which it was installed. Annual inspections shall be completed by a California Registered Civil Engineer to verify that project components have not been damaged or compromised by seismic induced ground shaking, corrosion, soil erosion, soil settlement, or other geologic hazards.
Findings	With the implementation of seismic design, inspection and maintenance requirements, impacts to equipment due to seismic shaking would be reduced to less than significant.
Supportive Evidence	San Luis Obispo County is located in a geologically complex and seismically active region that is subject to earthquakes and potentially strong ground shaking. The proposed rail spur, unloading facility, and associated oil pipeline would be susceptible to damage as a result of an earthquake on these regional faults. Potential seismic impacts and associated damage to structures from a major earthquake on the nearby Orcutt-Casmalia or Hosgri faults, or any other regional fault, would be considered potentially significant. Implementing mitigation measures GR-1a through GR-1i would ensure equipment design can withstand seismic shaking, and would reduce the severity of seismic-related impacts to less than significant

GR Impact 2 (GR.2) - Increased Erosion	
Project grading would result in changes in topography, potentially unstable slopes, and potential increased erosion.	
Mitigation	GR-2 During construction and operations, the Applicant shall implement a Storm Water Pollution Prevention Plan using Best Management Practices and monitor and maintain stormwater pollution control facilities identified in the Storm Water Pollution Prevention Plan, in a manner consistent with the provisions of the Federal Water Pollution Control Act (National Pollutant Discharge Elimination System Program). Stormwater management protection measures and wet weather measures shall be designed by a California registered, Qualified Storm Water Pollution Prevention Plan Developer. In addition, a California registered, Qualified Storm Water Pollution Prevention Plan Practitioner shall oversee and monitor construction and operational Best Management Practices and stormwater management, in accordance with the State General Construction Permit and the Central Coast Regional Water Quality Control Board. Conventional measures typically recommended by the State Water Resource Board and the California Department of Transportation include the following: a. Implement permanent erosion and sediment control measures: Minimize grading, clearing, and grubbing to preserve existing vegetation; Use mulches and hydroseed, free of invasive plants, to protect exposed soils; Use geotextiles and mats to stabilize soils; Use drainage swales and dissipation devices; and Use erosion control measures outlined in the California Stormwater Quality Association Best Management Practice Handbook. b. Implement temporary Best Management Practice mitigation measures: Use silt fences, sandbags, and straw wattles; Use temporary sediment basins and check dams; and

GR Impact 2 (GR.2) - Increased Erosion	
	Use temporary Best Management Practices outlined in the California Stormwater Quality Association Best Management Practice Handbook. c. Implement tracking control Best Management Practices to reduce tracking sediment offsite. Use stabilized construction entrance and exit with steel shakers; Use tire wash areas; and Use tracking control Best Management Practices outlined in the California Stormwater Quality Association Best Management Practice Handbook. Personnel at the site shall be trained in equipment use and containment and cleanup of an oil spill. Dry cleanup methods, such as absorbents, shall be used on paved and impermeable surfaces. Spills in dirt areas shall be immediately contained with an earthen dike and the contaminated soil shall be dug up and discarded in accordance with local and state regulations.
Findings	With the implementation of storm water pollution measures, inspection and maintenance requirements, impacts due to increased erosion would be reduced to less than significant.
Supportive Evidence	Slope gradients within the proposed area of ground disturbance are predominantly gentle, with localized steep slopes along the proposed pipeline alignment. The proposed railcar unloading area consists of a relatively flat graded area used by the existing coke facility; however, the proposed rail spur alignment roughly trends along a broad east-west trending ridge with undulating topography. Approximately 135,771 cubic yards of cut and 114,075 cubic yards of fill would be required to establish the proposed rail spur final grade. As a result, the topography would be altered, primarily along the proposed rail spur alignment. Areas to be graded would initially be cleared of vegetation, thus exposing the sandy soils to increased wind and water erosion during construction. Areas not paved during construction would be susceptible to increased wind and water erosion following construction. Implementation of Mitigation Measures GR-1c, GR-1d, and GR-1e would ensure that the Rail Spur Project is consistent with goals and policies of the County's Safety Element relating to geologic hazards. Implementing mitigation measures GR-1c, GR-1d, GR-1e, and GR-2 would reduce the severity of slope stability- and erosion-related impacts to less than significant.

GR Impact 3 (GR.3) - Expansive Soils	
Expansive soils, if present, could damage proposed foundations.	
Mitigation	GR-3 Implement Mitigation Measure GR-1c to confirm the absence of expansive soil.
Findings	With the implementation of geotechnical evaluations and associated requirements, impacts due to expansive soils would be reduced to less than significant.
Supportive Evidence	Soil expansion generally occurs in clay rich soils as a result of wetting of the soil. The soils subsequently contract when dry, resulting in widespread cracking of the soil. This alternating sequence of soil expansion and contraction can result in damage to overlying foundations. However, because the Project Site soils consist of dune sand, the likelihood of expansive soils is low. However, in the absence of site-specific soils testing, impacts are potentially significant. Implementing mitigation measure GR-1c would reduce the severity of potential expansive soil-related impacts to less than significant

9.7 NOISE AND VIBRATION (CLASS II)

N Impact 1 (N.1) - Construction Noise	
Construction activities would generate noise that could exceed San Luis Obispo thresholds.	
Mitigation	N-1 The Applicant shall ensure that all construction activity at the Project Site is limited to the hours of 7:00 A.M. to 9:00 P.M., Monday through Friday, and 8:00 A.M. to 5:00 P.M. on Saturdays and Sundays. This restriction shall be a note placed on all construction plans.
Findings	With the implementation of limits on evening and nighttime construction activities, impacts due to construction noise would be reduced to less than significant.
Supportive Evidence	Noise impacts during construction would result from construction equipment with internal combustion engines (e.g., backhoes, cranes) operating at the site for grading, earth moving and the installation of project related equipment. The County Code exempts construction activities from the noise standards between the hours of 7:00 a.m. and 9:00 p.m., Monday through Friday, and between 8:00 a.m. and 5:00 p.m. Saturdays and Sundays. If construction activities were to occur outside of these times they would be subject to the County noise standards. As the data in the EIR shows, all of the nighttime noise levels at the sensitive receptors would exceed the 45 dBA hourly threshold. Therefore, if construction was to occur outside of the allowable hours specified in the County Code, the impacts would be significant. Limiting the hours of construction activities to the hours specified in the County Code would reduce the impact of construction noise to less than significant

N Impact 2 (N.2) - Operational Noise	
Operational activities would generate noise levels that exceed San Luis Obispo thresholds.	
Mitigation	N-2a Prior to issuance of the Notice to Proceed, the Applicant shall develop for review and approved by the County Department of Building and Planning a Rail Unloading and Management Plan that addresses procedures to minimize noise levels at the rail spur, including but not limited to the following: 1) All locomotives operating to the east of the unloading rack area between the hours of 10 P.M. and 7 A.M. shall be limited to a combined total of 100 locomotive-minutes (e.g., 2 locomotives for 50 minutes each or 1 locomotive for 100 minutes, etc. including switching and idling); 2) Arriving trains that enter the refinery between the hours of 10 P.M. and 7 A.M. and are not being immediately unloaded shall shutdown all locomotives once the train is on the refinery property; 3) No horns, annunciators or other signaling devices are allowed unless it is an emergency. If horns and annunciators are needed for worker safety, then warning devices shall be developed, to CPUC standards, to alert the safety of plant personnel when trains are in motion without an audible warning device; 4) No horns are to be used on the mainline siding track adjacent to the refinery unless it is an emergency; 5) Any train repairs shall be conducted only between the hours of 7 A.M. and 7 P.M.; and (6) The Plan shall include a copy of the agreement between the Applicant and UPRR demonstrating the two parties have entered into a legally binding contractual arrangement ensuring implementation of the above requirements. N-2b Prior to issuance of the Notice to Proceed, the Applicant shall provide to the County Department of Planning and Building evidence that each unloading pump and associated electric motor can achieve a noise level no greater than 71 dBA at 50 feet, including the installation of pump enclosures, or similar devices if necessary. N-2c Prior to issuance of the Notice to Proceed, the Applicant shall submit to the County Department of Planning and Building for review and approval a Noise Monitoring Plan that outlines procedures for regular noise monitoring of the operational aspect of the Rail Spur facility. The Plan shall specify at a minimum the duration and location of monitoring activities with and without trains present at the SMR site. The monitoring locations shall include at least one location within 100 to 200 feet of the unloading activities and a monitoring location located at the property line of the nearest noise-sensitive receptor. The noise monitoring

	shall be conducted within one month of rail spur operations commencing. The results of the monitoring shall be reported to the County within one month of monitoring completion. If the results of the noise monitoring indicate that noise levels are above the thresholds, then the Applicant shall amend the Rail Unloading and Management Plan with additional mitigation measures that would reduce noise levels below County thresholds. Additional mitigation could include, but not be limited to, additional limits on the times of unloading activities.
Findings	With the implementation of limits on unloading activities, nighttime activities and ensuring equipment is low-noise equipment, impacts from operational noise would be reduced to less than significant.
Supportive Evidence	Noise generated during operations would result from a number of different sources and activities. These would include train trains arriving; trains switching activities; pumps operating to unload rail cars, transformers, an HVAC system and an air compressor. Noise levels could increase at night by as much as 10.9 dBA at the closest area to the Project Site. However, for noise-sensitive receptors, the largest nighttime noise increase would be along Olivera Street (which has residences considered noise-sensitive receptors) and at the west end of Louise Lane. Noise levels at Monadella Street would increase above the allowable nighttime noise threshold of 45 dBA. The exceedances of the noise thresholds at noise-sensitive receptors are a potentially significant impact. Mitigation measures recommended to reduce exceedances include modifications to the operational procedures to minimize locomotive use of the east end of the rail spur and a reduction in pumping noise. Limiting the activities east of the unloading area closer to receptors, ensuring stationary equipment operates at or below the prescribed noise limits, and conducting monitoring to ensure compliance would ensure that impacts are less than significant.

9.8 PUBLIC SERVICES AND UTILITIES (CLASS II)

PS Impact 3 (PS.3) - SMR Fire Protection and Emergency Response Services	
The Rail Spur Project would increase demand for fire protection and emergency response services at the SMR.	
Mitigation	PS-3a Prior to issuance of construction permits, the Applicant shall submit to Cal Fire/County Fire for review and approval a final Fire Protection Plan for the Rail Spur Project that meets all the applicable requirements of API, NFPA, UFC, and Cal Fire/County Fire. PS-3b Prior to notice to proceed for the rail unloading facility, the Applicant shall update the SMR Emergency Response Plan to include the rail unloading facilities and operations. PS-3c Prior to notice to proceed for the rail unloading facility, the Applicant shall update the existing SMR Spill Prevention Control and Countermeasure Plan to include the rail unloading facilities and operations. PS-3d Prior to notice to proceed for the rail unloading facilities, the Applicant shall assure that the existing SMR fire brigade meets all the requirements outlined in Occupational Safety and Health Administration 29 CFR 1910.156, and NFPA 600 & 1081. PS-3e Prior to issuance of grading permits, the Applicant shall have an executed operational Memorandum of Understanding (MOU) (now called the Operating Plan) with Cal Fire/County Fire that includes fire brigade staffing/training requirements and Cal Fire/County Fire funding requirements. This MOU shall be reviewed and updated annually by Cal Fire and the Applicant. PS-3f Prior to issuance of grading permits, the Applicant shall have an agreement to reimburse Cal Fire/County Fire for time spent by a qualified fire inspector to conduct the annual fire inspections at the SMR including all structures, and support facilities consistent with Cal Fire/County Fire's authority and jurisdiction. The Applicant shall reimburse all costs associated with travel time, inspections, inspection training, and documentation completion. The reimbursement rate shall be according to the most recent fee schedule adopted by the San Luis County Board of Supervisors. PS-3g Prior to issuance of grading permits, the Applicant shall have an agreement to

PS Impact 3 (PS.3) - SMR Fire Protection and Emergency Response Services	
	reimburse Cal Fire/County Fire for offsite training for emergency responders to railcar emergencies, such as the 40 hour course offered by Security and Emergency Response Training Center Railroad Incident Coordination and Safety (RICS) meeting Department of Homeland security, NIIMS, OSHA 29CFR 1910.120 compliance. Initial training shall be two members of the Interagency Hazardous materials Response Team, two members of the interagency Urban Search and Rescue Team, and two members annually from Cal Fire/County Fire or fire districts in San Luis Obispo that have automatic aid agreements with Cal Fire/County Fire for a total of six slots per year for the life of the project. PS-3h Prior to issuance of grading permits, the Applicant shall have an agreement to reimburse Cal Fire/County Fire for Fire Chief Officer attendance such as the 40 hour course offered by Security and Emergency Response Training Center; Leadership & Management of Surface Transportation Incidents. Funding shall be for two Fire Chief Officers annually for the life of the project. PS-3i Prior to issuance of grading permits, the Applicant shall have an agreement with Cal Fire/County Fire to conduct annual emergency response scenario/field based training including Emergency Operations Center Training activations with the Applicant, Cal Fire/County Fire, UPRR, and other San Luis Obispo County First response agencies that have mutual aid agreements with Cal Fire/County Fire. These annual emergency response drills shall occur for the life of the project.
Findings	With the implementation of updated response plans, reimbursement agreements and training of SMR responders and Cal Fire/County Fire responders, impacts would be reduced to less than significant.
Supportive Evidence	The Rail Spur Project would increase demand for fire protection and emergency response services due to increased transportation and handling of crude oil at the SMR. While unlikely events, rail accidents, crude oil spills, fires during the unloading operations are the refinery could occur. Depending upon the extent of the event, Cal Fire and other local fire jurisdictions would need to respond. Given the complexity of the SMR and the unique hazards, the refinery maintains a fire brigade and a designated Fire Department Liaison. The fire brigade is staffed 24-hours per day, 365-days per year with a minimum of eight people. All members of the fire brigade undergo yearly training and conduct regular response drills. Some of these response drills are conducted with Cal Fire staff. In the event of an oil spill or fire at the unloading facility, the SMR fire brigade would initially respond until Cal Fire arrived at the site. Fire Station #22 (Mesa Fire Station) at 2391 Willow Road in Arroyo Grande, less than 0.5 miles away from the SMR, is the jurisdictional station ("first in") for the SMR, and has a five minute response time. The addition of a rail unloading facility at the SMR would serve to increase the facility hazards and risks. A single significant event at the rail unloading facility could overwhelm the first responder resources and additional emergency responders and equipment could be required. Without proper fire protection design, training, and resources the impacts of a release of crude oil or fire could have significant impacts on fire protection and emergency response services. Implementation of the above mitigation measures would assure that the emergency responders who might have to respond to an incident at the SMR would have adequate training and capabilities to address the hazards that could occur with operation of the rail unloading facilities. This would reduce the impacts to fire protection services to less than significant.

9.9 TRANSPORTATION AND CIRCULATION (CLASS II)

TR Impact 1 (TR.1) - Construction Traffic
Traffic associated with the construction phase of the Rail Spur Project could impact traffic on roadways in the Project vicinity due to construction traffic.

TR Impact 1 (TR.1) - Construction Traffic	
Mitigation	TR-1 Prior to issuance of grading permits, the Applicant shall develop a Construction Traffic Management Plan for review and approval by the County Public Works Department and CalTrans. The plans shall include at least the following items: a. A scheduling plan showing operational schedules to minimize traffic congestion during peak hours. The plan shall limit project related traffic to and from the refinery during the peak AM and PM hours. This plan shall note the schedule for completing various construction activities, and to the extent feasible avoid an overlap of the construction of the rail spur/unloading area and pipeline construction. The plan shall show the hours of operation to minimize traffic congestion during peak hours. b. Willow Road shall be use for truck deliveries to and from the refinery. c. Monitoring program for street surface conditions so that damage or debris resulting from construction of the Project can be identified and corrected by the Applicant. d. A traffic control plan showing proposed temporary traffic control measures, if any. e. A delivery schedule for construction materials, including an evaluation of the feasibility of transporting construction materials to the site by rail.
Findings	With the implementation of construction traffic time limits, monitoring of street surface conditions and planning, impacts due to construction traffic would be reduced to less than significant.
Supportive Evidence	The project would generate construction traffic, with trucks transporting equipment and materials to and from the site and employees accessing the site. Trucks would access the site via Willow Road and the Highway 101/Willow Road interchange. Willow Road is designated as a truck route by the County of San Luis Obispo for the SMR. The highest intensity of construction traffic would occur during the construction of the unloading area and pipelines which would generate up to 595 daily one-way passenger car equivalent trips. This overlaps with the portions of the grading, soil transport, and rail construction phases. The worst case of this overlap would be simultaneous grading with construction of the rail line, the pipeline, and the unloading area. These activities occurring simultaneously would result in up to 1,369 daily PCE trips. All of the study intersections operate acceptably at LOS C or better with the addition of construction traffic. The eastbound 95th percentile queue at the Willow Road/Pomeroy Road intersection would exceed ten vehicles during the PM peak hour with the project. This is the queue that would not be exceeded 95 percent of the time. This is a potentially significant impact. The preparation and implementation of an adequate construction traffic management plan would limit peak hour trips and would reduce impact TR.1 to less than significant.

9.10 WATER RESOURCES (CLASS II)

WR Impact 1 (WR.1) - Construction Water Quality	
Project grading and construction could degrade surface water and groundwater quality.	
Mitigation	WR-1 During construction, oil and other chemical spills shall be contained and cleaned according to measures outlined in the California Stormwater Quality Association Best Management Practice Handbook. Best Management Practices would likely include, but not be limited, to the following: a. Ensure minor spill containment and clean up equipment is readily available in areas of demolition, construction, and operations. b. Store petroleum products in covered areas with secondary containment dikes. c. If vehicle maintenance and fueling occur onsite, use a designated area and/or secondary containment, located away from drainage courses, to prevent the run-on of storm water and the runoff of spills.

WR Impact 1 (WR.1) - Construction Water Quality	
	d. Regularly inspect onsite vehicles and equipment for leaks, and repair immediately. e. Always use secondary containment, such as a drain pan or drop cloth, to catch spills or leaks when removing or changing fluids. f. Use absorbent materials on small spills.
Findings	With the implementation of construction BMPs, availability of spill containment equipment, vehicle fueling and maintenance procedures and secondary containment, impacts due to construction water quality would be reduced to less than significant.
Supportive Evidence	Project demolition, grading, and construction could result in incidental spills of petroleum products or other contaminants that could adversely affect water quality from demolition equipment, excavation and grading equipment, concrete washout, construction chemicals, cleaning solvents, pesticides, and construction debris. Any of these contaminants would potentially impair local surface water runoff. Implementing mitigation measures GR-2 (Storm Water Pollution Plan) and WR-1 would ensure appropriate containment and response to spills and would reduce construction impacts to surface and groundwater quality to less than significant.

WR Impact 2 (WR.2) - Spill Impacts on Surface and Ground Water	
A rupture or leak from the tanker rail cars, unloading facility, or oil pipeline during operation of the Rail Spur Project could substantially degrade surface water and groundwater quality.	
Mitigation	WR-2 Prior to the County's issuance of a Notice to Proceed, the existing Santa Maria Refinery Spill Prevention Control and Countermeasure Plan (SPCCP) shall be amended to reflect operation of the rail car unloading facility and associated oil pipeline. See mitigation measure BIO-7 for the detailed SPCCP requirements for the rail unloading operations.
Findings	With the implementation of operational BMPs, availability of spill containment equipment, vehicle fueling and maintenance procedures and secondary containment, impacts from spills would be reduced to less than significant.
Supportive Evidence	Rail car unloading and conveyance of oil through a proposed aboveground pipeline could result in spills due to geologic hazards, mechanical failure, structural failure, corrosion, or human error. Such spills could potentially result in onsite surface water quality and/or shallow groundwater quality impacts. Small leaks or spills, which are contained and remediated quickly, may have minor or negligible impacts to water resources. In contrast, large spills such as from unloading facility equipment, rail cars, or the oil pipeline, could potentially spread to local drainages and/or groundwater and could degrade water quality, with potential long-term impacts to beneficial uses and biological resources. Although the potential for oil spills currently exists at the SMR, the Rail Spur Project increases the potential for leaks or spills, and associated water quality impacts, due to operation of the unloading facility and associated pipeline. Mitigation measures WR-2 would assure that spills are contained within the rail unloading facility and that adequate spill response equipment is at the SMR and that spills are cleaned up quickly, which would reduce impacts to water quality. Implementing mitigation measures WR-2 along with the design features of the rail spur and unloading racks, potential oil spill impacts within the SMR site would reduce spill-related impacts to surface and groundwater quality to less than significant.

10.0 FINDINGS FOR IMPACTS IDENTIFIED AS SIGNIFICANT AND UNAVOIDABLE

The finding below is for Class I impacts. Class I impacts are impacts that are significant and unavoidable. The significant effects (Impacts) are stated fully in the Final EIR. The following is a brief explanation of the rationale for this finding for this impact:

10.1 AGRICULTURAL RESOURCES (CLASS I)

AR Impact 5 (AR.5)- Mainline Spill	
The project could result in effects that impair adjacent agricultural uses along the UPRR mainline in the event of a derailment and/or spill, including the generation of contaminated air emissions, soil and water contamination, and increased risk of fire, which have the potential to adversely affect adjacent agricultural areas.	
Mitigation	AR-5 Implement mitigation measures PS-4a through PS-4e (noticing, railcar design, first responder funding and training) and BIO-11 (Oil Spill Contingency Plan).
Findings	Mitigation measures would reduce the severity of impacts, but impacts to agricultural resources along the mainline due to a train derailment and/or spill would remain significant and unavoidable.
Supportive Evidence	The addition of up to three train round trips per week on the UPRR mainline routes would increase the potential for spills or fire-related impacts on adjacent agricultural soils in the event of an accident, derailment or other upset conditions during transport along the mainline routes. The mainline rail routes pass through numerous prime, statewide or local important farm lands. Some short-term impacts could be minimized through site remediation, clean-up, and restoration of the agricultural resources (i.e., replanting, removal of contaminated soils). However, impacts related to water source contamination and loss of some specialty crops (i.e., old growth vines that have value in their age) would be more difficult to mitigate. The loss of some crops, prime soils, and other agricultural resources may not be mitigable through restoration and replacement in kind. Therefore, impacts to agricultural resources associated with an oil spill along the mainline routes would be considered potentially significant. Implementation of mitigation measures would reduce the likelihood of an oil spill and the ability of first response agencies to respond to a crude oil spill. Even with implementation of these mitigation measures oil spill impacts to agricultural resources along the mainline rail routes would remain significant and unavoidable depending upon the location of the spill.

10.2 AIR QUALITY AND GREENHOUSE GASES (CLASS I)

AQ Impact 2 (AQ.2)- Emissions of ROG+NO_x and DPM within SLOC (SMR and Mainline)	
Operational activities associated with the Rail Spur Project within SLOC (i.e., on the project site (SMR) and on the mainline within SLOC) would generate criteria pollutant emissions that exceed SLOCAPCD thresholds.	
Mitigation	AQ-2a Prior to issuance of Notice to Proceed, the Applicant shall provide a mitigation, monitoring and reporting plan updated annually. The plan shall investigate methods for reducing the onsite and offsite emissions, both from fugitive components and from locomotives or from other SMR activities (such as the diesel pumps, trucks, and compressors to reduce DPM). In addition, locomotive emissions shall be mitigated to the extent feasible through contracting arrangements that require the use of Tier 4 locomotives or equivalent emission levels. The plan shall indicate that, on an annual basis, if emissions of ROG+NO_x and DPM with the above mitigations still exceed the thresholds, as measured and confirmed by the SLOCAPCD, the Applicant shall secure SLOCAPCD-approved onsite

AQ Impact 2 (AQ.2)- Emissions of ROG+NO_x and DPM within SLOC (SMR and Mainline)	
	and/or offsite emission reductions in ROG+NO_x emissions or contribute to new or existing programs to ensure that project-related ROG+NO_x emissions within SLO County do not exceed the SLOCAPCD thresholds. Coordination with the SLOCAPCD should begin at least six (6) months prior to issuance of the Notice to Proceed for the Project to allow time for refining calculations and for the SLOCAPCD to review and approve any required ROG+NO_x emission reductions. AQ-2b Prior to issuance of Notice to Proceed, the Applicant shall implement a program, including training and procedures, to limit all locomotive onsite idling to no more than 15 consecutive minutes except when idling is required for safety purposes. Locomotive idling records shall be maintained and provided to the SLOCAPCD on an annual basis, along with training materials and training records.
Findings	Mitigation measures would reduce the severity of impacts, but impacts to air quality within SLOC would remain significant and unavoidable.
Supportive Evidence	Emissions of ROG+NO_x would be exceeded for both the daily and the annual emissions thresholds, which would be considered a significant impact. Diesel particulate emissions would exceed the daily threshold, which would be considered a significant impact. Both fugitive dust and CO emissions would be emitted at levels below the thresholds. The primary source of the emissions of ROG+NO_x and diesel particulate would be the diesel powered train locomotives while operating on the refinery site and along the mainline within SLOC. Use of Tier 4 engines for the locomotives and limiting idling time at the refinery to no more than 15 consecutive minutes, as per the mitigation measures, reduces the annual ROG+NO_x and DPM emissions. Even with this mitigation ROG+NO_x and DPM emissions would remain significant for the peak day emissions. Even with these emission reductions the Applicant would still need to provide emission reduction credits for ROG+NO_x. With the implementation of the mitigation measures including the application of ROG+NO_x emission reduction credits, impacts for criteria ROG+NO_x pollutants would be reduced to less than significant. Impacts from DPM would remain above the thresholds. For the mainline rail emissions in SLOC it is possible that contractually the Applicant could require the use of lower emission locomotives such as Tier 4 locomotives. However, since these are operated by UPRR on UPRR track a requirement that the Applicant enter into this type of contractual provision may be preempted by Federal law. Due to the possible preemption by Federal law which could prevent the mitigation measures from being implemented (outside of the SMR facility boundary), emission reduction credits and reductions in DPM through the use of Tier 4 locomotives might not be achievable and impacts from criteria pollutant emissions within SLOC would remain significant and unavoidable

AQ Impact 3 (AQ.3)- Mainline Emissions of ROG and NO_x outside of SLOC	
Operational activities of trains along the mainline rail route outside of SLOC associated with the Rail Spur Project would generate criteria pollutant emissions that exceed thresholds.	
Mitigation	AQ-3 Prior to issuance of the Notice to Proceed, the Applicant shall provide a mitigation, monitoring and reporting plan. The plan shall investigate methods for reducing the locomotive emissions through contracting arrangements that require the use of Tier 4 locomotives or equivalent emission levels. The plan shall indicate that, on an annual basis, if the mainline rail emissions of ROG+NO_x with the above mitigations still exceed the applicable Air District thresholds, the Applicant shall secure emission reductions in ROG+NO_x emissions or contribute to new or existing programs within each applicable Air District, similar to the emission reduction program utilized by the SLOCAPCD, to ensure that the main line rail ROG+NO_x emissions do not exceed the Air District thresholds for the life of the project. The Applicant shall provide documentation from each Air District to the San Luis Obispo County Planning and Building Department that emissions reductions have been secured for the life of the project prior to issuance of the Notice to Proceed.

AQ Impact 3 (AQ.3)- Mainline Emissions of ROG and NO_x outside of SLOC	
Findings	Mitigation measures would reduce the severity of impacts, but impacts to air quality in areas outside of SLOC would remain significant and unavoidable.
Supportive Evidence	Trains traveling to the Refinery could come from the north or the south using the UPRR coastal track. Emissions of ROG and NO_x would be emitted at levels above the daily CEQA thresholds established by most of the air districts along the routes. The source of these emissions would be the diesel powered locomotives. This would be considered a significant impact. Implementation of the use of Tier 4 engines in mitigation measures AQ-3 would serve to reduce emissions on the mainline track. With these reductions the criteria emissions associated with the mainline rail operations would remain significant in some air districts and would be reduced to below the respective thresholds in other air districts. The remaining ROG and NO_x emissions could be mitigated by obtaining emission credits within each of the Air Districts where their respective thresholds would still be exceeded. However, it is unknown if these other Air Districts could require emission credits since train travel through their jurisdiction does not require any permitting action. Also it is unknown, if all of the potentially affected Air Districts have available emission reduction credits that can be purchased. Since mitigation measure AQ-3 may not be implemented due to Federal preemption, and it is uncertain if the other Air Districts could require emission reduction credits, the impacts associated with the mainline rail operation would remain significant and unavoidable.

AQ Impact 5 (AQ.5)- Mainline Impacts of Toxic Emissions	
Operational activities of trains along the mainline rail route associated with the Rail Spur Project would generate toxic emissions that exceed thresholds.	
Mitigation	AQ-5 Implement measure AQ-3 (Tier 4 Locomotives and/or Offsets).
Findings	Mitigation measures would reduce the severity of impacts to less than significant, but due to the potential for Federal preemption, the mitigation measures might not be applied and therefore impacts due to toxic emissions along the mainline would remain significant and unavoidable.
Supportive Evidence	Movement of the locomotives on the mainline to and from the SMR would contribute to health risks along the mainline due to the emissions of DPM. Modeling of rail emissions was conducted for a hypothetical rail mainline for a range of locomotive speeds and distances from the mainline. For three trains per week, trains traveling about 20 mph or greater the cancer risk would be below the SLOCAPCD threshold for cancer for areas outside of the railroad right-of-way. For slower speeds (when more emissions occur per length of rail due to the slower speeds), cancer risks would exceed the SLOCAPCD thresholds for cancer beyond the railroad right-of-way. There are areas along the mainline rail route that have reduced speed limits for trains that pass in proximity of sensitive receptors. For example, in the City of Davis, trains are limited to a speed of 10 miles per hour. For most of the mainline route trains are expected to have an average speeds between 30 and 40 mph, and in these areas the health risk impact would be less than significant. The use of Tier 4 locomotives would serve to reduce the toxic emissions associated with the locomotive operations along the mainline. With this mitigation the health risk would be less than the SLOCAPCD threshold for cancer for all speeds. However, given that the County may be preempted by Federal law from requiring the use of Tier 4 locomotives, the health risk impacts along the mainline rail routes would be significant and unavoidable.

AQ Impact 6 (AQ.6)- GHG Emissions (SMR and Mainline in California)	
Operational activities associated with the Rail Spur Project would generate GHG emissions that exceed SLOCAPCD thresholds.	
Mitigation	AQ-6 Prior to issuance of the Notice to Proceed, the Applicant shall provide a GHG mitigation, monitoring and reporting plan. The plan shall indicate that, on an annual basis, if GHG emissions exceed the thresholds, the Applicant shall provide GHG emission reduction credits for all of the project GHG emissions. Coordination with the San Luis Obispo Planning and Building Department 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 San Luis Obispo Planning and Building to review and approve the emission reduction credits.
Findings	Mitigation measures would reduce the severity of impacts to less than significant, but due to the potential for Federal preemption, the mitigation measures might not be applied and therefore impacts due to GHG emissions within California would remain significant and unavoidable.
Supportive Evidence	Emissions of GHG at the refinery and along the mainline would result from onsite activities (locomotives, etc.), vehicles (employee automobiles and occasional truck deliveries of materials), locomotives along the mainline, and from electricity consumption (to run pumps and other equipment). The total GHG emissions within SLOC associated with the Rail Spur Project would not exceed the SLOCAPCD thresholds for GHG emissions. However, emissions within California would exceed the thresholds and therefore would be considered significant. Since the State does not have a GHG threshold, this EIR has used the SLOCAPCD threshold for determining the significance of GHG emissions. Since the operation of the crude oil trains at the SMR would be on Phillips 66 property and the trains would be operated by Phillips 66, the County can require that GHG emissions within the SMR associated with the trains be mitigated using emission reduction credits. For the mainline rail GHG emissions it is possible that contractually the Applicant could require GHG emission reduction credits. However, the County may also be preempted by Federal law from requiring emission credits for main line rail GHG emissions. Due to the possible preemption by Federal law which could prevent the mitigation measure from being implemented (outside of the SMR facility boundary), emission reduction credits might not be achievable and impacts would remain significant and unavoidable.

10.3 BIOLOGICAL RESOURCES (CLASS I)

BIO Impact 11 (BIO.11)- Mainline Spill Impacts	
Crude oil transportation along the UPRR mainline could result in a crude oil spill that impacts sensitive plant and wildlife species and wetlands.	
Mitigation	BIO-11 The Applicant's contract with UPRR, shall include a provision to provide that UPRR has an Oil Spill Contingency Plan in place for all mainline rail routes in California that could be used for transporting crude oil to the SMR. The Oil Spill Contingency Plan shall at a minimum include the following: 1. A set of notification procedures that includes a list of immediate contacts to call in the event of a threatened or actual spill. This shall include a rated oil spill response organization, the California Office of Emergency Services, California Department of Fish and Wildlife, Oil Spill Prevention and Response, and appropriate local emergency responders. 2. Identification of the resources that could be at risk from an oil spill equal to 20% of the train volume. The resources that shall be identified in the plan, and shown on route maps, include but are not limited to the following:

BIO Impact 11 (BIO.11)- Mainline Spill Impacts	
	a. Habitat types, shoreline types, and associated wildlife resources in those locations; b. The presence of state or federally-listed rare, threatened or endangered species; c. The presence of aquatic resources including state fish, invertebrates, and plants including important spawning, migratory, nursery and foraging areas; d. The presence of terrestrial animal and plant resources; e. The presence of migratory and resident state bird and mammal migration routes, and breeding, nursery, stopover, haul-out, and population concentration areas by season; f. The presence of commercial and recreational fisheries including aquaculture sites, kelp leases and other harvest areas. g. Public beaches, parks, marinas, boat ramps and diving areas; h. Industrial and drinking water intakes, power plants, salt pond intakes, and important underwater structures; i. Areas of known historical and archaeological sites (but not their specific description or location); j. Areas of cultural or economic significance to Native Americans (but not their specific description or location). k. A description of the response strategies to protect the identified site and resources at risk. l. A list of available oil spill response equipment and staging locations along the mainline tracks and shall include. m. A program for oil spill training of response staff and a requirement for annual oil spill drillings. 3. The oil spill contingency plan must be able to demonstrate that response resources are adequate for containment and recovery of 20% of the train's volume within 24 hours. In addition, within six hours of the spill the response resources shall be adequate for containment and recovery of 50% of the spill, and 75% of the spill within 12 hours. The Applicant's contract with UPRR, shall include provision that UPRR's Oil Spill Contingency Plan shall be reviewed and approved by California Department of Fish and Wildlife, Office of Spill Prevention and Response prior to delivery of crude oil by rail to the Santa Maria Refinery. In addition, the Applicant's contract with UPRR, shall include provisions to provide a copy of UPRR's Oil Spill Contingency Plan to all first response agencies along the mainline rail routes in California that could be used by trains carrying crude oil to the Santa Maria Refinery for the life of the project. Only first response agencies that are able to receive security sensitive information as identified pursuant to Section 15.5 of Part 15 of Title 49 of the Code of Federal Regulations, shall be provided this information.
Findings	Mitigation measures would reduce the severity of impacts, but impacts to biological resources due to a crude oil spill along the mainline would remain significant and unavoidable.
Supportive Evidence	Transportation of crude oil along the UPRR mainline transects a very wide range of natural habitats and urban areas. Based on the database query along the UPRR mainline, there are currently a minimum of 167 sensitive plant species occurrences, a minimum of 219 sensitive animal species, a minimum of 411 streams and rivers, a total of 20 sensitive habitats and a minimum of 26 water bodies and 578 wetlands documented within 300 feet of the mainline. The UPRR mainline also transects a variety of "non-sensitive" habitats that may not be unique or threatened but serve as suitable habitat to a wide range of wildlife species for the purposes of foraging and breeding. Direct impacts or secondary impacts to biological resources as a result of any trail derailment crude oil spill would be a significant impact depending upon the location of the spill. Implementation of mitigation measures would serve to reduce the likelihood of an oil spill and the ability of first response agencies to respond to a crude oil spill by having equipment properly staged, and workers properly trained in oil spill response. Even with implementation of these mitigation measures oil spill impacts to biological resources along the mainline rail routes would remain significant and unavoidable depending upon the location of the spill. Note that the

BIO Impact 11 (BIO.11)- Mainline Spill Impacts	
	County may be preempted by federal law from implementing these mitigation measures.

10.4 CULTURAL RESOURCES (CLASS I)

CR Impact 6 (CR.6)- Mainline Spill Impacts	
Train traffic associated with the importation of crude oil to the project site could result in a derailment or a material spill, which could result in the disturbance and destruction of cultural resources along the mainline routes.	
Mitigation	CR-6 As part of the Applicant's contract with UPRR, it shall require that a qualified archaeologist, architectural historian, and paleontologist who meet the Secretary of the Interior's Professional Qualification Standards prepare an Emergency Contingency and Treatment Plan for Cultural and Historic Resources along the rail routes in California that could be used to transport crude oil to the SMR. The treatment plan shall include, but not be limited to, the following components: a. Protocols for determining the cultural resources regulatory setting of the incident site; b. Provide various methodologies for identifying cultural resources, as needed, within the incident site (e.g., California Historical Resources Information System records search, agency contact, field survey); and c. If cultural resources are present, identify measures for their avoidance, protection, and treatment. The Treatment Plan shall be in place prior to delivery of crude by rail to the Santa Maria Refinery.
Findings	Mitigation measures would reduce the severity of impacts, but impacts to cultural resources due to a crude oil spill along the mainline would remain significant and unavoidable.
Supportive Evidence	Cultural resources are known to occur throughout California and undoubtedly in the vicinity of existing rail lines that would be used to transport crude oil to the SMR. In the event of a train derailment or an oil spill, potentially significant adverse impacts to cultural resources could occur, including the destruction or disturbance of archaeological, historic, and paleontological resources as a result of the cleanup and restoration activities. Clean up of an oil spill would likely require the use of bulldozers, frontend loaders, and other construction equipment to remove any contaminated soil. Use of this type of construction equipment could impact both known and unknown cultural, historic, and paleontological resources. Total avoidance in the event of a derailment or a spill would not be feasible; therefore, if cultural resources are affected, the impact could be significant. Implementing mitigation measure CR-6 would potentially reduce potential impacts; however, there is the potential that a derailment or a spill may destroy a significant cultural or historic resource, and remediation actions may not result in the recovery of significant resources. In the event this occurs, the residual effect would be significant and unavoidable. Note that the County may be preempted by federal law from implementing these mitigation measures.

10.5 HAZARDS AND HAZARDOUS MATERIALS (CLASS I)

HM Impact 2 (HM.2)- Mainline Accident Impacts	
The potential for a crude oil unit train derailment would increase the risk to the public in the vicinity of the UPRR right-of-way.	
Mitigation	HM-2a Only rail cars designed to FRA, July 23, 2014 Proposed Rulemaking Option 1: PHMSA and FRA Designed Tank Car as listed in Table 4.7.6, shall be allowed to unload crude oil at

HM Impact 2 (HM.2)- Mainline Accident Impacts	
	the Santa Maria Refinery. HM-2b For crude oil shipments via rail to the SMR a rail transportation route analysis shall be conducted annually. The rail transportation route analysis shall be prepared following the requirements in 49 CFR 172.820. The route with the lowest level of safety and security risk shall be used to transport the crude oil to the Santa Maria Refinery. HM-2c The Applicant's contract with UPRR, shall include a provision to require that Positive Train Control (PTC) be in place for all mainline rail routes in California that could be used for transporting crude oil to the SMR. HM-2d The refinery shall not accept or unload at the rail unloading facility any crude oil or petroleum product with an API Gravity of 30° or greater. Implement mitigation measures PS-4a through PS4e (noticing, railcar design, first responder funding and training).
Findings	Mitigation measures would reduce the severity of impacts, but impacts to the public in the vicinity of the mainline due to a crude oil spill along the mainline would remain significant and unavoidable.
Supportive Evidence	Crude oil transported by rail could ignite and burn or explode given a train derailment and subsequent spill. This scenario could impact populated areas along the mainline routes. A quantitative risk analysis was prepared following the guidelines of the American Institute of Chemical Engineers, Center for Chemical Process Safety to access the risks of a train accidents on populated areas. In order to identify the frequency of an accident and oil spill from a crude oil train on each of the possible routes, the analysis took into account major risk factors, including route specific FRA track class, method of operation, tank car safety design, and the proposed volume of crude oil trains over the route. In addition, several crude oil spill scenarios were modeled to evaluate worst-case thermal radiation hazards associated with a large crude oil fire. Modeled scenarios ranged from small releases from a tank car, to the complete loss of multiple tank cars. Because maximum risks from proposed transport of crude oil are above the significant risk threshold, impacts would be considered potentially significant. These risk profiles represent the cumulative risk along the entire route. The risk within any individual City or County would be considerably less. The risk is primarily driven by the high threat urban areas (Los Angeles Area, Bay Area, and Sacramento) since these are the locations where fairly long stretches of track are in close proximity to heavily populated areas. Mitigation measures HM-2a through HM-2d would reduce the potential for a rail accident and loss of containment, and would also improve emergency response in the event of an accident. Even with this reduction in risk, the risk associated with the Rail Spur Project along the UPRR right-of-way in the event of a release of crude oil that resulted in a fire or explosion would still be significant and unavoidable. Note that the County may be preempted by federal law from implementing these mitigation measures.

10.6 PUBLIC SERVICES AND UTILITIES (CLASS I)

PS Impact 4 (PS.4)- Mainline Fire Protection and Emergency Response Impacts	
Operations of the crude oil train on the mainline UPRR tracks would increase demand for fire protection and emergency response services along the rail routes.	
Mitigation	PS-4a The Applicant shall provide advanced notice of all crude oil shipments to the Santa Maria Refinery, and quarterly hazardous commodity flow information documents to all first response agencies along the mainline rail routes within California that could be used by trains carrying crude oil to the Santa Maria Refinery for the life of the project. Only first response agencies that are able to receive security sensitive information as identified

PS Impact 4 (PS.4)- Mainline Fire Protection and Emergency Response Impacts	
	pursuant to Section 15.5 of Part 15 of Title 49 of the Code of Federal Regulations, shall be provided this information. The plan for providing notice to first response agencies shall be in place and verified by the County Department of Planning and Building prior to delivery of crude by rail to the Santa Maria Refinery. PS-4b Only rail cars designed to FRA, July 23, 2014 Proposed Rulemaking Option 1: PHMSA and FRA Designed Tank Car shall be allowed to unload crude oil at the Santa Maria Refinery. PS-4c The Applicant shall provide annual funding for first response agencies along the mainline rail routes within California that could be used by the trains carrying crude oil to the Santa Maria Refinery to attend certified offsite training for emergency responders to railcar emergencies, such as the 40 hour course offered by Security and Emergency Response Training Center Railroad Incident Coordination and Safety (RICS) meeting Department of Homeland security, NIIMS, OSHA 29CFR 1910.120 compliance. The Applicant shall fund a minimum of 20 annual slots per year for the life of the project. The plan for funding the emergency response training shall be in place and verified by the Cal Fire/County Fire prior to delivery of crude by rail to the Santa Maria Refinery. PS-4d As part of the Applicant's contract with UPRR, it shall require annual emergency responses scenario/field based training including Emergency Operations Center Training activations with local emergency response agencies along the mainline rail routes within California that could be used by the crude oil trains traveling to the Santa Maria Refinery for the life of the project. A total of four training sessions shall be conducted per year at various locations along the rail routes. This contract provision shall be in place and verified by the Cal Fire/County Fire prior to delivery of crude by rail to the Santa Maria Refinery. PS-4e As part of the Applicant's contract with UPRR, it shall require that all first response agencies along the mainline rail routes within California that could be used by trains carrying crude oil traveling to the Santa Maria Refinery be provided with a contact number that can provide real-time information in the event of an oil train derailment or accident. The information that would need to be provided would include, but not be limited to crude oil shipping papers that detail the type of crude oil, and information that can assist in the safe containment and removal of any crude oil spill. This contract provision shall be in place and verified by the Cal Fire/County Fire prior to delivery of crude by rail to the Santa Maria Refinery.
Findings	Mitigation measures would reduce the severity of impacts to less than significant, but due to the potential for Federal preemption, the mitigation measures might not be applied and therefore impacts due to the increased demand for fire protection and emergency response services along the mainline would remain significant and unavoidable.
Supportive Evidence	The Rail Spur Project would increase demand for fire protection and emergency response services due to increased transportation and handling of crude oil along the mainline. While unlikely events, rail accidents, crude oil spills, fires along the mainline could occur. Depending upon the extent of the event, local fire jurisdictions would need to respond. In the event of an incident on the mainline, State and local emergency responders (hazmat teams, fire fighters, and police) along with UPRR would be responsible for the response. A single significant event along the mainline could overwhelm the first responder resources and additional emergency responders and equipment could be required. Without proper fire protection design, training, and resources the impacts of a release of crude oil or fire could have significant impacts on fire protection and emergency response services. Implementation of mitigation measures PS-4a through PS-4e would help to assure that the emergency responders who might have to respond to an incident along the mainline rail routes would have adequate training, information, and capabilities to address the hazards that could occur with operation of the crude oil train along the mainline route. The County may be preempted by federal law from implementing these measures. However, it is not certain that implementation of various impending regulations would address all of the mitigation measures discussed above. Given that the County may be preempted from implementing mitigation measures PS-4a through PS-4e, oil spills impacts to fire protection and emergency response services along the UPRR mainline tracks would be significant and unavoidable.

10.7 WATER RESOURCES (CLASS I)

WR Impact 3 (WR.3)- Mainline Spill Impacts	
A rupture or leak from a rail car on the UPRR mainline track could substantially degrade surface water and groundwater quality.	
Mitigation	WR-3 Implement mitigation measures PS-4a through PS-4e (noticing, railcar design, first responder funding and training) and BIO-11 (Oil Spill Contingency Plan).
Findings	Mitigation measures would reduce the severity of impacts, but impacts on water quality due to a spill along the mainline would remain significant and unavoidable.
Supportive Evidence	The northern and southern UPRR mainline track from the Santa Maria Refinery to Roseville and Colton, respectively, would traverse numerous creeks, washes, rivers, wetlands, and sloughs. In addition, the routes are located in proximity to numerous lakes and marine waters. Although it is unlikely, derailment of a train could result in the release of crude oil from rail tanker cars, which could cause substantial degradation to surface water and/or groundwater quality depending upon the location of the spill. Spills into water ways and infiltration into groundwater could impact sources of drinking water, threatening water supplies for local populations or impact wetlands and other natural areas along with their inhabitants. Oiling could occur on vegetation and soil along the banks or shore of surface water bodies. In the event of a crude oil spill UPRR would rely first upon local emergency response agencies (police and fire). If needed, UPRR has standing contracts with emergency response firms that are available around the clock to manage any release of crude oil. UPRR maintains spill response contracts with companies throughout their rail network in California. Depending upon the location, and extent of a spill local response teams, UPRR response personnel and State and Federal response agencies would be involved in the containment and cleanup operations. Depending upon the location of an oil spill along the UPRR mainline tracks, there may be no oil spill containment or cleanup equipment immediately available, and it could take some time for emergency response teams to mobilize adequate spill response equipment. Depending upon the location of the spill this could allow enough time for the spill to impact water resources. Therefore, oil spills along the UPRR mainline tracks could be significant depending upon the location of the spill. Implementation of mitigation measure BIO-11 and PS-4a through PS-4e would serve to reduce the likelihood of an oil spill and the ability of first response agencies to respond to a crude oil spill. Even with implementation of these mitigation measures oil spill impacts to water resources, mainline rail oil spills impacts to water resources along the UPRR mainline tracks would remain significant and unavoidable, depending upon the location of the spill. Note that the County may be preempted by federal law from implementing BIO-11 and PS4a through PS-4e.

11.0 CUMULATIVE AND GROWTH INDUCING IMPACTS

11.1 CUMULATIVE IMPACTS

State CEQA *Guidelines* §15355 defines cumulative impacts as

> *"two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts". Further, "the cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects.*

Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time."

The Guidelines require the discussion of cumulative impacts to reflect the severity of the impacts and their likelihood of occurrence. However, the discussion need not be as detailed as the analysis of impacts associated with the project, and should be guided by the rule of reason. Cumulative impacts associated with this project are discussed in the topical analysis sections provided in Chapter 4 of the Final EIR. The cumulative development scenario is identified in Chapter 3 Cumulative Scenario and Methodology.

Discussed below is a summary of the issue areas where cumulative impacts were identified to be significant and unavoidable for the project.

Agricultural Resources – There is the potential for cumulative impacts associated with the crude by rail project discussed in Chapter 3 of the EIR. This level of crude oil train traffic would increase the probability of an oil spill along these mainline routes. In the event of an accident along stretches of track in proximity to prime, statewide or local important farm land, a spill of transported crude could occur, potentially damaging any agricultural areas, soils, crops, water sources, and uses within the area of the spill. An accident also create a fire hazard in agricultural areas, which could spread substantially beyond the areas directly adjacent to the tracks. Some short-term impacts could be minimized through site remediation, clean-up, and restoration of the agricultural resources (i.e., replanting, removal of contaminated soils). However, impacts related to water source contamination and loss of some specialty crops (i.e., old growth vineyards that have value in their age) would be more difficult to mitigate. The loss of some crops, prime soils, and other agricultural resources may not be mitigable through restoration and replacement in kind. Therefore, potential cumulative impacts to agricultural resources associated with an oil spill would be considered significant and unavoidable.

Air Quality – All cumulative projects within SLOC must comply with SLOCAPCD rules and regulations that include air emission reduction strategies for the basin. These, in concert with individual project mitigation measures, will help reduce air quality impacts. However, until the San Luis Obispo area as a whole attains all federal and state standards, it is likely that the criteria pollutant air emissions from the cumulative projects would be regionally significant and unavoidable. The Rail Spur Project would be required to provide emission reduction credits for all the significant construction and operational criteria pollutant emissions at the refinery, the County may be preempted from mitigating the mainline rail emissions within San Luis Obispo County. These additional project related criteria pollutant emissions would be considered cumulatively significant and unavoidable since the area is in non-attainment with some of the federal and state standards air quality standards.

For the Rail Spur Project mitigation measure have been provided that would require the Applicant to obtain emission credits for all main line rail NO_x emissions. If these emission credits were obtained then the Rail Spur Project's contribution to the cumulative NO_x and ROG/VOC emission impacts would be less than significant. However, the County may be preempted by Federal law from mitigating rail emissions outside of the SMR, and therefore may not have the authority to require offsite emission credits for the UPRR mainline emissions. In this case the Rail Spur Project's contribution to cumulative NO_x emissions associated with the URPP mainline emissions would also be significant and unavoidable in all of the air basins that the train would cross. The Rail Spur Project's ROG/VOC emissions would be cumulatively significant in the Bay Area and the San Luis Obispo County air basins.

For areas outside the County, cumulative toxic air emission for trains operating on the same tracks could be potentially significant and unavoidable.

For GHG emissions, the Applicant would be required to provide emissions reduction credits for all GHG emissions within California. However, the County may be preempted by Federal law from mitigating rail emissions outside of the SMR, and therefore may not have the authority to require offsite emission credits for the UPRR mainline emissions. Therefore, when compared to the SLOCAPCD significance threshold of 10,000 metric tonnes CO2e, the Project's contribution to GHG impacts would be cumulatively considerable, and there would be a significant cumulative GHG impact associated with the Project.

If Phillips 66 elects to utilize the rail spur to its capacity, this could then redirect some crude oil from proposed area cumulative projects to other destinations, most likely south to Los Angeles. Depending on the mode of transportation, if all of the crude oil were transported to Los Angeles area refineries, this could also increase emissions in the area and would also be a cumulatively significant impact.

Biological Resource – There is the potential for cumulative impacts associated with the crude by rail project discussed in Chapter 3 in the EIR. This level of crude oil train traffic would increase the probability of an oil spill along these mainline routes. The mainline rail routes pass through a number sensitive biological areas including water body crossings. In the event of an accident along these stretches of mainline rail routes, a crude oil spill of significant amounts of transported crude could occur, potentially impact sensitive biological resources. Depending upon the location of an oil spill along the UPRR mainline tracks, there may be no oil spill containment or cleanup equipment immediately available, and it could take some time for emergency response teams to mobilize adequate spill response equipment. Depending upon the location of the spill this could allow enough time for the spill to impact sensitive habitats, and plants and animal species that may occur within these habitats. Therefore, oil spills along the UPRR mainline tracks could be cumulatively significant depending upon the location of the spill.

Cultural and Historical Resources – There is the potential for cumulative impacts associated with the crude by rail project discussed in Chapter 3 in the EIR. This level of crude oil train traffic would increase the probability of an oil spill along these mainline routes. An oil spill along these stretches of mainline track could cause adverse impacts to cultural, historic and paleontological resources if an oil spill were to occur in a location where these resources were present. Clean up of an oil spill would likely require the use of bulldozers, frontend loaders, and other construction equipment to remove any contaminated soil. Use of this type of construction equipment could impact both known and unknown cultural, historic, and paleontological resources. Therefore, cumulative impacts to cultural, historic and paleontological resources in the unlikely event of an oil spill along these stretches of mainline tracks could be significant and unavoidable depending upon the location of the spill.

Hazards and Hazardous Materials – There is the potential for cumulative impacts associated with the crude by rail project discussed in Chapter 3 in the EIR. This level of crude oil train traffic would increase the probability of an oil spill along these mainline routes. Using the QRA conducted for the Rail Spur Project in the EIR, a cumulative risk analysis was developed for the mainline routes. The analysis in the EIR shows that the cumulative risk would be significant. For some routes, depending upon what tank car design USDOT adopts, the cumulative risk along the routes could be reduced to less than significant. However, since these are proposed regulations at this time, the cumulative risk would remain significant and unavoidable.

Public Services and Utilities – There is the potential for cumulative impacts associated with the crude by rail project discussed in Chapter 3 in the EIR. This level of crude oil train traffic would increase the probability of an accident along these mainline routes. An accident along one of these stretches of the mainline route could result in oil spill or fire. In the event of an accident, State and local emergency responders (hazmat teams, fire fighters, and police) along with UPRR would be responsible for the response. Fire and emergency responders lack resources, training and information in order to adequately respond to a crude oil train incident along the mainline tracks. Without proper training, information, and capabilities the cumulative impacts of a release of crude oil or fire on the mainline tracks would have significant cumulative impact on fire protection and emergency response services. Implementation of the mitigation measures PS-4a through PS-4e would provide training, information, and capabilities to all of the local emergency response agencies along these stretches of mainline track. However, The County may be preempted by federal law from implementing these measures and cumulative impacts would remain significant and unavoidable.

Water Resources - There is the potential for cumulative impacts associated with the crude by rail project discussed in Chapter 3 in the EIR. This level of crude oil train traffic would increase the probability of an oil spill along these mainline routes. Depending upon the location of an oil spill along the UPRR mainline tracks, there may be no oil spill containment or cleanup equipment immediately available, and it could take some time for emergency response teams to mobilize adequate spill response equipment, which could allow enough time for the spill to impact various surface water bodies, as well as plants and animal species that may occur within these habitats. Therefore, oil spills along the UPRR mainline tracks could be cumulatively significant depending upon the location of the spill.

11.2 GROWTH INDUCING IMPACTS

Section 15126.2(d) of the California Environmental Quality Act Guidelines requires that Environmental Impact Reports provide a discussion of the growth-inducing impacts of the proposed project. Growth-inducing impacts could be caused by projects that foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Growth-inducing impacts can also be caused by removing obstacles to population growth such as an expansion of a wastewater treatment plant. Growth-inducing impacts can result from population increases that require the construction of new community services facilities.

In general terms, a project may induce spatial, economic, or population growth in a geographic area if it meets any of these four criteria:

- Removal of an impediment to growth (e.g., establishment of an essential public service or the provisions of new access to an area);
- Economic expansion or growth (e.g., changes in revenue base, employment expansion);
- Establishment of a precedent-setting action (e.g., an innovation, a change in zoning or general plan amendment approval); or
- Development or encroachment in an isolated area or one adjacent to open space (being different from an "infill" type of project).

Should a project meet any one of the above listed criteria, it can be considered growth inducing. The impacts of the Rail Spur and Crude Unloading Project (Rail Spur Project) are evaluated below with regard to these four growth-inducing criteria.

Removal of an Impediment to Growth: Future development at the Rail Spur Project site would involve the unloading of crude oil from a unit or manifest train. The Rail Spur Project would not result in the establishment of an essential public service nor would it provide new access to a previously inaccessible area. The Rail Spur Project would not be responsible for, nor contribute to, the expansion of utility services into a previously unserved area or an under-served area. Water for construction and operation of the Rail Spur Project would be provided by groundwater wells that are used by the SMR, and an existing Pacific Gas and Electric Company (PG&E) electrical lines would be used to provide power to the Rail Spur Project. As a result, The Rail Spur Project would not cause significant growth inducement under this criterion.

Economic Growth: Economic growth is evaluated to the extent that it would relate directly or indirectly to a physical impact on the environment. Economic growth could occur in the area during construction of the Rail Spur Project. Employment due to construction would be limited to mostly short-term temporary labor. The construction is expected to last about ~~four~~ nine to 10 months, which could produce some short-term economic growth. It is expected that most of the construction workers would come from the local contractor pool within 20 to 30 miles of the project site. Therefore, no growth in hotel services would be expected to occur.

Minimal new operational employment would be associated with the Rail Spur Project. Only twelve employees would be needed during the time train are being unloaded at the SMR, and some of the staff would be existing SMR employees. Given the limited increase in local expenditures associated with the Rail Spur Project, the economic growth associated with future development at the proposed project site would not be significant from an environmental standpoint.

Precedent-Setting Action: The purpose of the Rail Spur Project is to provide a source for crude for SMR. The San Luis Obispo County Zoning Ordinance allows refining at the project site with a Coastal Development Permit. The Rail Spur Project would be within the property boundaries of the SMR and, therefore, would not be a precedent-setting action that would create significant growth inducing impacts.

Development of Open Space: Development of open space is considered growth inducing when it encroaches upon urban-rural interfaces or in isolated localities. The Rail Spur Project site is located on lands that are zoned specifically for refining operations, which by its nature requires the delivery of crude oil for refining. Therefore, the project would not cause new encroachment upon current open spaces.

12.0 ALTERNATIVES

CEQA, §15126.6(a), requires an EIR to "describe a reasonable range of alternatives to a project, or to the location of a project, which could feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives". Through the scoping process, if an alternative was found to be infeasible, as defined above, then it was dropped from further consideration. In addition, CEQA states that alternatives should "...attain most of the basic objectives of the project..." Please refer to Chapter 5, Alternatives Analysis, of the EIR for a detailed discussion of the alternatives. The following alternatives were selected for more detailed review.

12.1 NO PROJECT ALTERNATIVE

CEQA requires an evaluation of the No Project Alternative so that decision makers can compare the impacts of approving the project with the impacts of not approving the project. According to CEQA Guidelines §15126.6(3)(B), for a development project the No Project Alternative is the circumstances under which the project does not proceed. If disapproval of the project under consideration would result in predictable actions by others, such as the proposal of some other project, this "no project" consequence should be discussed.

Under the No Project Alternative, the predictable action would be for crude oil to continue to be delivered to the refinery by pipeline and truck (trucks deliver crude to the Santa Maia Pump Station (SMPS) where it is then sent via pipeline to the Santa Maria Refinery (SMR). Since the delivery of crude to the SMR is primarily from local sources via pipeline, in the long-term, if local supplies were to decline, then the amount of crude processed at the SMR could decline under the No Project Alternative. However, new local sources of crude oil could be developed in the future that would offset any decline.

Under the No Project Alternative, it is possible that crude oil shipments via truck to the Santa Maria Pump Station (SMPS) could increase. Crude oil shipments via truck to the SMPS have averaged about 6,800 barrels per day. This could increase to about 26,000 barrels per day, which was the permitted Santa Barbara County APCD limit at the time the NOP was issued for the Rail Spur Project. This increase (19,200 barrels per day) could add about 100 truck trips per day of crude travelling to the SMPS for crude unloading.

The SMR is currently receiving Canadian crude that is trucked from the Paloma Rail Unloading Terminal in Bakersfield. Under the No Project Alternative it is likely that additional out of state crudes would be brought to various rail unloading terminals in California and transferred to trucks for delivery to the SMPS. The crude oil would then be moved via pipeline from the SMPS to the SMR.

The transfer from rail to truck could also occur at a number of locations within the State. There are a number of new rail unloading facilities that have been approved in the Bakersfield area, such as Alon and All American Pipeline Company, as well as the existing Paloma Terminal, and the Kinder Morgan rail to truck facility in the Bay Area. While the Alon has been approved by Kern County, the approval has been appealed. Also, an expansion of the All American Terminal rail terminal has also been appealed.

Exactly what terminals might be used would depend upon available capacity and economics, and it is likely that crude would be delivered to multiple terminals and then trucked to the SMPS. Use of the All American Pipeline Company terminal would require the installation of truck loading facilities. The Alon facility is equipped with truck loading facilities, but some might have to be converted to crude service.

For the purposes of the No Project Alternative Analysis it has been assumed that crude oil unit trains would deliver the crude to one of the facilities near Bakersfield, transfer it to trucks, which would deliver it to the SMPS. The delivery of 19,200 barrels per day of crude (seven days per week) would require 2.5 crude oil unit trains per week to be delivered to one of the rail unloading terminals near Bakersfield. The trucks would leave these terminals and travel to Santa Maria using State Highway 166, to Highway 101 and exit at the East Stowell Road ramp. They would then travel southeast on Stowell Road to Rosemary Road to East Battles Road to reach the SMPS. The travel distance for the trucks would be about 110 miles one-way.

12.2 LOOP RAIL UNLOADING CONFIGURATION

The Loop Rail Unloading Configuration would be designed to handle up to five unit trains per week, with an annual maximum number of unit trains of approximately 250. Each unit train would consist of up to 80 tanker cars, which is the same as the Rail Spur Project. Each unit train would be capable of delivering about 52,000 barrels of oil to the SMR.

Construction of the Loop Rail Configuration Alternative would affect approximately 51.3 acres and would have an area of about 66.3 acres enclosed in the center of the loop. Due to the topography of the site approximately 350,000 cubic yards of cut and 218,000 cubic yards of fill would be required in order to provide level track and the required turn radius for the train. Approximately 80,000 cubic yards of excess cut may have to be trucked from the SMR, and the remainder of the excess cut could be used in other areas of the SMR.

The unloading facility would include an access platform and a system of pumps and meters, suction lines from the railcars, carbon beds for vapor treatment, and a common pipeline leading to the refinery's existing tank farm. The unloading system would be similar to the Rail Spur Project. It has been assumed that there would be two 10 car unloading systems. As the tanker cars are unloaded the train would be pulled around the loop until all 80 tanker cars have been unloaded. The total time needed or positioning, unloading, and departure of a unit train would be 10 to 12 hours. With this altemative an emergency access road would be constructed from the rail loop to State Route 1.

A new fire protection and safety system would be installed for the unloading rack, consisting of fire detection equipment, safety showers, eyewash stations, hydrants, controls and piping. The unloading rack would be equipped with a foam sprinkler deluge system and firewater monitors with foam generators at the unloading rack periphery. The foam spray system would require a foam concentrate storage tank. This would be the same fire protection system as the proposed Rail Spur Project.

An eastern Emergency Vehicle Access route would be constructed from the eastern end of the rail loop 3,000 feet to State Route 1. The secondary access road would be covered with crushed miscellaneous base (most likely decomposed granite or comparable surfacing) to support emergency vehicles as prescribed by Cal Fire but would not be paved.

12.3 REDUCED RAIL DELIVERIES

With this altemative the number of train deliveries to the SMR would be limited to a maximum of three per week, with an annual total of 150 trains. (The Proposed Rail Spur Project evaluated in the FEIR was a maximum of five trains per week. with an annual total of 250 trains.) All other aspects of this alternative would be the same as the Proposed Rail Spur Project evaluated in the FEIR.

The initial application submitted to the County by the Applicant was for five trains per week. During the Planning Commission Hearings, the Applicant amended the project to three trains per week and a maximum of 150 trains per year, consistent with the Reduced Delivery Altemative evaluated in the FEIR (see February 1, 2006 letter from Applicant to Planning Commission). These trains would deliver heavy crude for refinement at the Santa Maria Refinery. All other aspects of this alternative would be the same as the Rail Spur Project as analyzed in the EIR.

12.4 ENVIRONMENTALLY SUPERIOR ALTERNATIVE

CEQA Section 15126.6 requires an EIR to describe a reasonable range of alternatives to a project or to the location of a project which could feasibly attain its basic objectives and evaluate the comparative merits of the altematives. If the environmentally superior alternative is the "No Project" alternative, then the next most environmentally superior alternative must be identified in the FEIR.

The determination of environmentally superior alternative is somewhat complicated by the Federal preemption issue. If the County is preempted from requiring mitigation of the impacts on the UPRR mainline track and locomotives, then the No Project Alternative would be the environmentally superior alternative, and the next most environmentally superior alternative would be the Reduced Rail Delivery Alternative, which is the Applicant's subsequently amended project (to three trains per week from five).

The Reduced Rail Delivery Altemative, as opposed to the five-train per week Rail Spur Project would: reduce the probability of a train accident, reduce the exposure of sensitive receptors to train unloading noise, reduce GHG emissions, and reduce DPM and other criteria pollutant emissions. All of these reductions would result since fewer trains would be delivered to the SMR.

Therefore, the Reduced Rail Delivery Alternative (three trains per week) would be environmentally superior to the five-train per week Rail Spur Project as analyzed in the EIR. However, some impacts, including the hazard associated with train accidents would remain significant and unavoidable with the Reduced Rail Delivery Altemative.

13.0 MITIGATION MONITORING AND REPORTING PROGRAM

PRC §21081.6 requires the lead agency, when making the findings required by PRC §21081(1)(a), to adopt a reporting or monitoring program for the changes to the project that it has adopted, in order to ensure compliance during project implementation. A Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the project that requires the County to monitor mitigation measures designed to reduce or eliminate significant impacts, as well as those mitigation measures designed to further reduce environmental impacts that are less than significant.

The MMRP designates responsibility and anticipated timing for the implementation of project mitigation measures within the jurisdiction of the County. Implementation of the mitigation measures specified in the Final EIR and the MMRP will be accomplished through administrative controls over project planning and implementation. Monitoring and enforcement of these measures will be accomplished through verification in periodic Mitigation Monitoring Reports and periodic inspection by appropriate County personnel. The County reserves the right to make amendments to and/or substitutions of mitigation measures if, in the exercise of discretion of the County, it is determined that the amended or substituted mitigation measure will mitigate the identified significant environmental impact to at least the same degree of significance as the original mitigation measure it replaces, or would attain an adopted performance standard for mitigation, and where the amendment or substitution would not result in a new significant impact on the environment that cannot be mitigated.

Exhibit G

ATTACHMENT C TO LETTER OF AUGUST 15, 2016

STATEMENT OF OVERRIDING CONSIDERATIONS [DRAFT]

I. Legal Background and Project Impacts

A. Legal background

The California Environmental Quality Act ("CEQA") requires a public agency to balance the benefits of a proposed project against its significant, unavoidable adverse environmental impacts in determining whether to approve the project.

Section 15093 of the State CEQA Guidelines provides the following:

> *(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."*
>
> *(b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the Final Environmental Impact Report (Final EIR) but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.*
>
> *(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.*

B. Project significant impacts

The Santa Maria Refinery Rail Spur Extension Project (Project) will result in environmental effects that, although mitigated to the maximum extent feasible by the implementation of mitigation measures required for the Project, will remain significant and unavoidable, as discussed in the Final Environmental Impact Report (EIR) and CEQA Findings. The significant, unavoidable environmental effects of the Project are associated with mainline rail transportation of crude oil. These impacts are summarized in the CEQA Findings and constitute the impacts for which this Statement of Overriding Considerations is made. There are no significant, unavoidable adverse environmental impacts from project construction or operations on the refinery site, or from truck and passenger vehicle transportation associated with the Project.

II. Overriding Considerations

The Planning Commission finds and determines in approving the Project that the Final EIR has disclosed the significant effects of the Project, and identified means of avoiding or lessening those significant effects. The Planning Commission recognizes that, notwithstanding the incorporation of mitigation, significant and unavoidable impacts will result from implementation of the Project. However, the Project also offers numerous benefits. Having (1) adopted all feasible mitigation measures and environmental controls, (2) recognized all significant, unavoidable impacts, and (3) balanced the benefits of the Project against the Project's significant and unavoidable impacts, the Planning Commission finds that specific overriding economic, legal, social, technological, or other benefits of the Project outweigh the significant, unavoidable impacts associated with mainline transportation of crude oil and provide sufficient reasons for approving the Project.

The following benefits and considerations outweigh the significant and unavoidable adverse environmental impacts, and such benefits override, outweigh, and make "acceptable" any remaining environmental impacts of the project (CEQA Guidelines Section 15092(b)). All of these benefits and considerations are based on the facts set forth in the Findings, the Final EIR, and the record of proceedings for the Project. Each of these benefits and considerations is a separate and independent basis that justifies approval of the Project, so that if a court were to set aside the determination that any particular benefit or consideration will occur and justifies Project approval, this Planning Commission determines that it would stand by its determination that the remaining benefit(s) or consideration(s) is or are sufficient to warrant Project approval.

A. Economic Benefits

1. The existing refinery benefits the local and regional economy.

The Project consists of a modification of the existing Santa Maria Refinery. Accordingly, to understand the benefits of the Project, it is first necessary to identify the benefits of the existing refinery. The existing refinery is an important contributor to the economy of San Luis Obispo County, through direct employment, indirect and multiplier employment, local purchases and taxes, and other contributions. The project will enhance and sustain the refinery's ability to contribute in this manner.

The refinery currently employs approximately 200 workers. This number includes approximately 130 permanent, full-time workers directly employed by Phillips 66, and approximately 70 regular employees of Phillips 66's contractors. For 2013, the estimated local payroll associated with direct employment at the refinery totaled $44,299,000, consisting of approximately $17,879,000 paid to Phillips 66 employees (including benefits) and a contractor payroll of approximately $26,420,000. These employees live in the region and a substantial portion of the direct employment payroll is spent in the region as well.

In addition to direct employment, the existing refinery contributes to the local and regional economy through indirect employment. In an economic impact analysis conducted under contract to the Western States Petroleum Association, Purvin & Gertz Inc. evaluated the indirect effects of refinery employment using multipliers that are provided by the U.S. Census Bureau, categorized by NAICS code and region. For California, Purvin and Gertz found that the multiplier for employment at a refinery is 9.0343 and the multiplier for earnings is 3.4558. These multipliers are applied to the direct impacts provided by a given industry to estimate the total economic impact to the region. Thus, Purvin and Gertz found that each direct job in a California petroleum refinery actually results in nine jobs within the region: the direct employment from the refinery job, plus eight additional jobs in the surrounding community. (Purvin & Gertz Inc., *Assessment of Petroleum Industry Economic Impact to the State of California,* 2011.) Applying this benchmark to the Santa Maria Refinery, approximately 1,660 additional jobs in the community are supported by the refinery's continued operation, and approximately $108,789,000 of indirect earnings in the region are realized from the refinery's continued operation.

The existing refinery also results in substantial and ongoing tax payments to state and local governments. For example, in 2013, Phillips 66 paid approximately $2,236,000 per year in state and local taxes associated with the operation of the Santa Maria Refinery. Below is a summary to the taxes paid in 2013 related to the existing refinery:

- Property tax: $1,555,000
- Local sales tax: $80,000
- Sales tax paid to state of California: $518,000
- Miscellaneous $83,000

The 2013 contributions above are representative of the Santa Maria Refinery taxes paid by Phillips 66 on an annual basis.

The refinery also supports the local and regional economy through its purchasing demands. In 2013 alone, $29,712,000 worth of goods and services were purchased from vendors. These vendors are generally located within the state of California (including many within the region). By supporting these vendors, the refinery is increasing the economic vitality of the region and the state, which ultimately benefits the County.

The refinery and its employees also support important community and charitable services. The company also encourages its employees to be involved and supportive of community activities and to make charitable donations, some of which are matched by the company.

2. The Project will provide additional benefits to the County's economy.

The Project will benefit the local and regional economy in several ways: direct expenditures for project construction; increased employment opportunities; added tax revenue; increased stability and certainty of continued operation of the existing refinery.

a. Direct Expenditures for Project Construction.

The project involves a capital investment of approximately $40,000,000 – $60,000,000 dollars in the refinery in equipment and materials. This includes direct purchases of equipment and materials, and payments to construction contractors that cover equipment, materials, and other costs. This estimate does not include construction labor payroll.

b. Increased Employment

At its peak, construction of the project will create up to 200 prevailing wage jobs for construction workers. Given current employment patterns in the County, it is expected that a large majority (up to 90%) of the construction workers will come from the local work force. Accordingly, it is likely that a large portion of the construction payroll will be spent in the local economy.

Project operations will create 8 to 12 new permanent, full-time jobs. These new jobs would increase the payroll beyond the current level of approximately $44,299,000, with a corresponding increase in employee expenditures in the local economy. Applying the indirect employment multiplier factor developed by Purvin and Gertz, the 8 to 12 new, permanent jobs will result in an additional 64 to 96 jobs in the region.

c. Added Tax Revenue

Following completion of construction, the County will reassess the value of the refinery for property tax purposes. Following reassessment, it is expected that the refinery's annual property taxes will increase by approximately $400,000 to $600,000. Other state and local taxes likewise will increase. The additional construction and permanent employees are expected to live in the region, and so a portion of the additional payroll will be spent in the region, generating property taxes and sales taxes. The Project will also create additional economic opportunities for local vendors that will add significant sales and other tax revenue. A portion of the property, sales and other taxes paid directly by the refinery, as well as by employees and local businesses and vendors related to business generated by the refinery, will fund schools and other valuable community services.

d. The Project provides greater economic stability and certainty for future refinery operations.

Currently, Phillips 66 faces three challenges with respect to crude supply for the refinery. First, local crude oil production is declining. Second, the company does not itself produce crude oil for the refinery. Third, more recently, the pipeline through the refinery received crude oil produced offshore in or adjacent to Santa Barbara County was shut down, and the pipeline operator has not established a date for a return to operation. Loss of this pipeline severed the refinery from crude oil produced offshore in or adjacent to Santa Barbara County, exacerbating the crude supply challenges. The Project enhances the competitiveness and vitality of the refinery by increasing the refinery's access to crude markets across North America that are available by rail. By enhancing the refinery's

competitiveness, the Project sustains the significant economic benefits that the refinery contributes to the local economy.

When the refinery was built, it was owned by Union Oil Company of California. Most of the local crude production also was owned by Union Oil, so a single pipeline system was sufficient to deliver all of the crude oil needed to feed the refinery. However, Phillips 66 (the current refinery owner) does not produce crude oil and must purchase crude oil for the refinery from others. This change in relationship between the refinery and the sources of crude oil limits Phillips 66's ability to source competitively-priced crude oil. (EIR at 2-37 to 2-38.)

In addition, local production is declining. Where there are limited – and declining – sources of local crude, as there are here, the ability of the refinery to receive more distant crude by a variety of modes of transportation is an important factor in being able to negotiate long-term contracts at competitive prices.

Refiners typically prefer to negotiate long-term supply contracts for at least a portion of their crude oil supply. The resulting stability allows the refinery's engineers and operations personnel to better optimize the operation of the refinery. A relatively isolated refinery such as the Santa Maria Refinery faces challenges in establishing long-term contracts for crude oil at competitive prices, which can cause swings in refining margins. These swings in the refinery's profitability can affect employment, local purchases, taxes paid, charitable contributions and other direct and indirect payments and contributions to the County and the community. The County will benefit by greater stability in refinery operations. The Project will improve the future prospects for stability at the refinery by enabling it to access competitively-priced crude oil produced across North America that is available by rail.

In this respect, the project will also further the Goals and Policies of the San Luis Obispo County General Plan (General Plan). Appendix G of the Revised Draft EIR summarizes the Project's consistency with a wide range of goals, objectives and policies in the General Plan and its elements. Beyond consistency, the Project also is beneficial to the County because it furthers the goals and objectives of the Economic Element of the General Plan. The Economic Element states that economic vitality is as important as environmental and social factors in contributing to the County's quality of life. Goal EE 1 is to promote a strong and viable economy by pursing policies that balance economic, environmental and social needs of the County. Goal EE 2 is to retain and enhance a diverse economy. The Project will further these goals through constructing additional infrastructure and facilities that will enhance the vitality of an existing business in the County, within the confines of the existing industrial site.

B. Environmental benefits

The significant, unavoidable environmental effects of the Project are associated with mainline rail transportation of crude oil. There are no significant, unavoidable adverse environmental impacts from project construction or operations on the refinery site, or from truck and passenger vehicle transportation associated with the Project. In the immediate

vicinity of the refinery, the Final EIR concluded that the Project would result in two environmental benefits.

1. The Project will increase the quantity and improve the quality of native habitat on the Phillips 66 site.

The construction of facilities at the refinery will impact approximately 20.88 acres of grazed land supporting a plant community considered sensitive by the California Department of Fish and Wildlife (CDFW). (EIR at 4.4-31.) However, with the implementation of mitigation measure BIO-5a, Phillips 66 will be required to compensate for the loss of habitat by creating new native habitat through on-site restoration at an acreage ratio of 2:1 (restored:impacted). The existing habitat that will be affected by the Project is highly disturbed from decades of cattle grazing and is largely dominated by non-native invasive species such as veldt grass. The performance standards that the new habitat must meet will ensure that the new habitat is of higher quality than the habitat lost due to the Project. 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.

The impacts to approximately 20.88 acres of disturbed and degraded land which, in theory, could support healthy central dune scrub under certain future circumstances (e.g., if cattle grazing were eliminated and/or if the site was actively restored), will be offset through the creation of 41.76 acres of high quality central dune scrub habitat that will support not only the central dune scrub, but also other known rare plant species known to occur on the Philips 66 property and in the region. Mitigation Measure BIO-5a requires the applicant to prepare a Dune Habitat Restoration Plan (DHRP) for review and approval by the County in consultation with CDFW and the United States Fish and Wildlife Service. The DHRP shall focus on restoring and enhancing sensitive plant associations, and supporting sensitive plant species by removing invasive species (iceplant, veldt grass, and other invasive species) and planting appropriate native species, including but not limited to: mock heather, purple nightshade, Blochman's ragwort, Blochman's leafy daisy, California spineflower, sand almond and suffrutescent wallflower. The restoration area(s) will be located within the Phillips 66 property boundary and protected from grazing activity and protected in perpetuity by easement.

As discussed in the EIR, no impacts to the endangered Nipomo Mesa lupine are expected to occur as the species is not known to occur in the project construction area. The applicant is required by BIO-1 to conduct a survey for the presence or absence of this plant at the appropriate season prior to construction, and mitigation is included in the unlikely event that the species is discovered in the work area at any point prior to or during construction of the project.

The Planning Commission has confidence that the restoration goals identified by BIO-5a will be achieved in light of the applicant's track record of conducting successful restoration elsewhere on its property. Restored portion of Phillips 66's property to the west of the Union Pacific Railroad tracks (EIR at 4.4-31) is now considered a mapped Environmentally

Sensitive Habitat Area containing high quality habitat and supporting numerous special-status species.

2. The Project provides air quality benefits.

The Project will provide marked air quality benefits to the surrounding community compared to existing (baseline) conditions. Specifically, the Project will result in reduced localized health risks within the community.

Currently, trucks transport solid petroleum coke and recovered sulfur away from the refinery. (EIR at 2-5.) Upon exiting the refinery, these trucks travel east along Willow Road to Highway 101. Diesel truck exhaust includes diesel particulate matter, which is considered a toxic air contaminant. The San Luis Obispo County Air Pollution Control District's (SLOAPCD) health risk threshold for toxic air contaminants is 10 in one million. The potential carcinogenic impacts associated with the refinery's existing stationary source emissions together with the existing refinery-related vehicular emissions along Willow Road were modeled, and the results included in the Final EIR. The modeling estimated that the cancer risk associated with the existing refinery and associated traffic would exceed the SLOAPCD's health risk threshold at the nearest sensitive receptor, and this risk results primarily from trucks entering and leaving the refinery. (Final EIR at 4.3-23.) For the existing refinery and associated traffic, carcinogenic impacts exceed 10 in one million in a corridor that extends for more than two miles from the refinery along and on either side of Willow Road. (See Final EIR, Figure 4.3-4 and pages 4.3-23 to 4.3-24.)

The Project will reduce the health impacts of the existing refinery on the nearby community. It will achieve this through the implementation of Mitigation Measure AQ-4b, which requires the trucks used to move coke and sulfur to meet NOx and PM emission standards established by EPA for 2010 model year trucks; a higher standard than is currently required for the trucks. The measure also requires that, to the extent feasible, transportation of coke shall be accomplished by rail rather than truck. In addition, Mitigation Measure AQ-4c limits the time of day during which crude oil train unloading and switching activities may occur (unless Tier 4 engines are used), to reduce emissions during periods of calm meteorological conditions. The result is that under the Project, the most serious health risks – those that exceed the 10 in one million threshold – no longer impact the community neighboring the refinery. With the Project, the area of carcinogenic risk exceeding 10 in one million is largely confined to the refinery property itself, and away from sensitive receptors. Compare Figure 4.3-4 (Final EIR p. 4.3-24) to Figure 5-7 (Final EIR p. 5-57).

This improvement to local air quality due to the Project will have real and long-lasting positive impacts on the community. The County has no means to achieve this improvement if there is no discretionary project approval to which the County can add enforceable conditions.

C. The Environmental Effects of the Project Are Preferred To The Future Environmental Effects Expected If The Project Is Not Approved.

The Planning Commission also has considered the adverse impacts of the project as compared with the most likely future crude delivery scenario if the project is not approved. While it requires weighing of trade-offs and the exercise of judgement to compare the different risks and impacts presented by different crude delivery modes, the Planning Commission has determined that the environmental impacts of future crude delivery to the refinery will be less if the Project is implemented than if it is disapproved. The significant, unavoidable impacts associated with the Project result from transportation of crude oil by rail. Disapproval of the Project would not avoid the impacts of mainline rail transportation, but simply divert some of them outside of San Luis Obispo County to other locations within California. In addition, within the County, there would be an increase in truck trips transporting crude oil, with related environmental impacts. No discretionary approval would be required from the County under this scenario, and so the County would not have authority or opportunity to impose and enforce conditions of approval in order to mitigate the environmental effects of the increased trucking.

Recently, 2-7% of the refinery's crude oil has been transported from Canada to California by train to a crude unloading facility near Bakersfield, California where it is transferred onto trucks. The trucks travel approximately 110 miles one-way (220 round trip miles) via State Highways 166 and 101 to the Santa Maria Pump Station for delivery into the dedicated pipeline that carries crude oil the last leg to the refinery. Crude deliveries via this route can increase substantially. Crude oil shipments via truck to the Santa Maria Pump Station have averaged about 6,800 barrels per day, but this could increase to 26,000 barrels per day, which is the volume currently allowed by the pump station permit issued by the Santa Barbara County Air Pollution Control District. An increase of 19,200 barrels per day could add about 100 truck trips per day of crude travelling between rail offloading facilities in the San Joaquin Valley and the Santa Maria Pump Station. (EIR at 5-4.) This transportation mode is not restricted to crude from Canada, and could be used to deliver crude oil originating from other parts of North America that are connected to the national rail network.

The significant, unavoidable environmental impacts associated with mainline rail operations and rail transportation of crude oil would occur regardless whether the Project is approved or disapproved. The rail route would follow the same path from the point of origin of the crude to the main rail yards in Roseville and Colton, California, resulting in nearly identical impacts for this portion of the transportation route, including air emissions, GHG emissions, and risk of accident and release that could affect human health or agricultural, biological, cultural or water resources. Under the no-project-approval scenario, from the Roseville or Colton rail yards, the trains would travel through the Central Valley rather than along coastal routes, but the mileage (and thus emissions, risk and other impacts) would be only slightly less. Given the 26,000 barrels per day limit on throughput at the Santa Maria Pump Station, under this scenario there would be only an average of 2.5 unit trains per week delivering crude oil, rather than three unit trains per week under the proposed project. This would translate into a small reduction in mainline rail-related

impacts if the project is denied, although a portion of the impacts would occur at a different location. Also, the risk of rail accident and release affecting agricultural resources would be greater if the project is disapproved and the route to the San Joaquin Valley unloading facility is used.

In addition, the no-project-approval scenario would rely on increased use of trucks to move the crude oil from the Bakersfield area to the Santa Maria Pump Station, introducing a new source of impacts that are not present in the proposed Project. Trucks have a higher likelihood of accident and release per mile than trains. Thus, it is more likely that there would be transportation accidents and releases of crude oil within San Luis Obispo County if the Project is disapproved, although the volume of any single crude oil spill would likely be less. With the addition of vapors emitted during truck loading and unloading, as well as the tailpipe emissions from 100 truck trips per day between Bakersfield and Santa Maria, the peak daily air emissions would be greater if the Project is disapproved.

Additionally, under the Project, the County has the ability to require feasible measures to mitigate Project impacts. As discussed in Section B.2, above, Mitigation Measure AQ-4b will result in a reduction of health risk related to toxic air contaminants from existing refinery-related activities in the event the Project is approved. This benefit will not occur if the Project is disapproved, and instead the existing air quality impacts near the refinery from refinery-related truck traffic will continue. Similarly and even more importantly, the County would have no authority to impose and enforce conditions regarding the type of trucks used to transport crude oil between the Bakersfield area and the Santa Maria Pump Station. If the Project is disapproved, the additional 100 trucks trips per day would emit increased amounts of diesel particulate emissions while traveling between Bakersfield and the Santa Maria Pump Station, and this increase in truck traffic could result in a significant and unavoidable health impact to sensitive receptors in close proximity to the truck route. Unlike with the approval of the Project, the County would not be able to require that trucks meet EPA model year 2010 standards for NOx and PM emissions.

Similarly, the benefits of Mitigation Measure BIO 5a would not occur if the Project is disapproved.

The Planning Commission has carefully considered impacts when evaluating the Project against the likely future crude delivery scenario if the Project is disapproved. The mainline rail impacts would be very similar, although a portion of the route (and associated impacts) would shift locations from the coastal route and San Luis Obispo County (under the Project) to the Central Valley and rail unloading facilities near Bakersfield (if the Project is disapproved). These are analyzed at length in the EIR (p. at 5-39 through 5-46) and summarized in Table 5.11 of the EIR.[1] In addition, Project disapproval would likely result

[1] In fact, Table 5.11 actually overstates project impacts from mainline rail relative to the no project alternative because at the time the table was created, the proposed project anticipated 5 trains per week (250 per year), rather than the project we are now considering, which anticipates 3 trains per week (150 per year). Nonetheless, even when comparing the

in an increase in trucks transporting crude oil to and within San Luis Obispo County, with associated impacts.

On balance, the County finds that the Project's distinct 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.

larger projects impacts with the no project alternative, the impacts from mainline rail are similar.