

To: Murry Wilson, County Environmental Coordinator
San Luis Obispo County Department of Planning and Building

RE; Recirculated Draft Environmental Impact Report
Phillips 66 Company Rail Spur Extension Project (DRC-2012-00095)

The following constitute comments regarding the proposed rail spur recirculated DEIR. They primarily serve as a rebuttal to the many dismissive, subjective assumptions in the DEIR. The format is an introduction, followed by comments on individual EIR sections, followed by separate discussion of topics which span across sections.

Introduction

Phillips 66 is asking San Luis Obispo County to allow them to bring an entirely new use to the Santa Maria Refinery, that sat by itself in the middle of agricultural fields in 1955 when it was built, but is now surrounded on two sides by golf course residential developments and homes. In addition, Phillips 66 is asking millions of citizens of California to allow them to bring approximately 2,000,000 gallons per day (approximately 27,000 gallons per car [rounded] X 80 cars, rounded), or 500,000,000 gallons per year, rounded, past homes, businesses, and environmentally sensitive areas in outdated DOT-111 tank cars . The company is asking California citizens and Nipomo Mesa residents to put up with the increased air pollution, noise, odors and significantly increased possibility of fire and/or explosion so they can take advantage their new “Crude by Rail’ strategy of seeking more profitable oil sources throughout the United States, rather than relying only on local sources.

After huge public outcry, Phillips 66 was required to rewrite the original DEIR and the public was required to rewrite their comments. Many parts have been added, subtracted or moved around in the rDEIR, but it stays at least 80% the same.

DUP-01

It was extremely cumbersome and time-consuming to try to determine which sections were changed. It was impossible to tell which comments were applicable and how they impacted the recirculated DEIR. This was undoubtedly done on purpose but would keep many people from slogging through the document a second time. The forty-five day comment period was inadequate considering the difficulties noted above.

There will be no comment on the Vertical Coastal Access Project as that will require an entirely new EIR. Not all sections of the EIR have comments. Passages taken directly from the DEIR are noted in red.

Aesthetics and Visual Resources

The first statement in the Executive Summary (p. ES-8) states that t”here are no significant and unavoidable (Class I) impacts to aesthetics and visual resources associated with the Rail Spur Project.” It goes on to state that all impacts could be mitigated to Class II.

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This is an example of a dismissive, subjective assumption. The residents of Trilogy who will have their views impacted and everyone around who will be impacted by the increased lighting are dismissed and the photos seem to be deliberately constructed so as to minimize these impacts.

People live on the Nipomo Mesa for various reasons. Among the most important is the rural nature of the area, which includes dark night sky and the ability to see many stars and constellations, unavailable to people who live in more urban areas. The area is characterized by lack of street lights, except for Blacklake and Trilogy developments where the street lights are orange; stars are still visible. We see the light halo from Santa Maria in the distance, with small impact; Guadalupe can be seen off in the distance at Hwy. 1 and Via Concha. The light levels in the area vary, but nothing has the impact that the SMR has on the northwest Mesa. Depending on the elevation of the residence and the tree canopy near the residence, the current light impact from the SMR, both north and east of the refinery, is significant.

The project description states (2.3.9):

The security fence lighting would be on standards that are 15-foot high and spaced 500 feet apart. The unloading facility lighting would be on standards that are 25-foot high and spaced 150-feet apart. Each light would have a rating of 13,138 lumens.

Section 4.1 (and other areas of the document) of the individual EIR sections states: (p. 4.1-24)The perimeter of the unloading area would have floodlights on 30-foot tall poles every 300 feet on-center.

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, and no closer than 150 feet apart around the entire perimeter of the spur.

Which is it?

A search of the entire document reveals no additional information, except a chart in the appendix on A.1-24 which indicates a rough drawing of the perimeter lighting indicating that there would be 61 poles and 132 lights, each with a brightness of 13,138 lumens, or 1,734,216 lumens total(108,400 watts)on this section alone, referred to as “Fence Lighting” in the appendix. **There is no information on the amount of light which would emanate from the unloading area.**

It may very well be that, even with downward-facing lights, these lights will protrude above any structures to the east and expose Trilogy residents and others who are higher than Hwy. 1 to significant levels of nighttime light.

In addition, there is no mention of the light from locomotive headlights as they traverse the Rail Spur for 10-12 hours at night.

DUP-02
cont

DUP-03

The residential areas to the north are impacted currently by lighting from SMP. The preparers totally ignored the impact to this area. Keep in mind, this is a dark area and the increase in lighting proposed for this project will impact surrounding areas much more than if this were being added in an urban area.

The above section indicates that the county is going to allow Phillips 66 to wait until the project is done to determine the impact of the lighting on surrounding areas. It is certainly subjective to assume that impacts from lighting could be anything but Class I.

DUP-03
cont

If the preparer's guess about the impact of increased nighttime light is not accurate, the residents are stuck with a **Class I impact that cannot be mitigated. (AV.3)** The public needs a lighting plan sooner rather than later.

The section dealing with visual impacts glances over the problems residents in some areas of Trilogy would experience. There are no photos of areas higher in elevation in Trilogy and many homes and walking areas at the western edge higher than State Route 1 would experience the Rail Spur and its associated activities as a blight on the beautiful scenic vista. Again, for these residents, this is a **Class 1 impact that cannot be mitigated** if the Rail Spur is built. **(AV.1)**

DUP-04

Other comments:

- 4.1.3(p 4.1-4)

For the purpose of this study, short-term visual impacts were considered to be those changes that would be visible for duration of five years or less.

Five years is along time to put up with a "short-term" impact. This should be six months or less.

DUP-05

- 4.1.3.1 (p 4.1-5) referring to CEQA Guidelines

Substantially degrade the existing visual character or quality of the site and its surroundings. . . .The degree to which that change reflects documented community values and meets viewers' aesthetic expectations is the basis for determining levels of significance.

The significance of a visual impact is determined by viewers, not the applicant's representative.

DUP-06

- 4.1.3.2 (p. 4.1-6)

County of San Luis Obispo Initial Study Checklist

Will the project:

- a. Create an aesthetically incompatible site open to public view?
- b. Introduce a use within a scenic view open to public view?
- c. Change the visual character of an area?
- d. Create glare or night lighting which may affect surrounding areas?

Yes to all.

DUP-07

-(p4.1-6-7)

San Luis Obispo County Coastal Plan Policies

Chapter 4: Energy and Industrial Development Policy

1: New Facilities and Expansion of Existing SitesChapter

10: Visual and Scenic Resources The Coastal Zone Land Use Element references the California Coastal Act as follows:

30253. ... new development shall:

Policy 1: Protection of Visual and Scenic Resources Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved protected, and in visually degraded areas restored where feasible.

An earthen berm 20 feet high will only mitigate the impact for those on sections of Hwy. 1. Those residents at higher elevations will continue to have a significant impact. If the light poles within the Rail Spur are 25' to 30' high, they will be higher than the earthen berm.

DUP-08

-(p.4.1-8)

23.04.320 - Outdoor Lights

b. Light directed onto lot: Light sources are to be designed and adjusted to direct light away from any road or street, and away from any dwelling outside the ownership of the applicant.

c. Minimization of light intensity: No light or glare shall be transmitted or reflected in such concentration or intensity as to be detrimental or harmful to persons, or to interfere with the use of surrounding properties or streets.

We don't know, since there is no lighting plan.

e. Height of light fixtures: Free-standing outdoor lighting fixtures are not to exceed the height of the tallest building on the site.

The tallest building on the site is the tower, so there are no limits.

DUP-09

-4.1.4 (p.4.1-11)

County planning documents and previous studies relevant to the project and surrounding area were referred to for gaining an understanding of community aesthetic values.

The 800+ comments from affected residents and others should have been the primary reference point as they give an outstanding understanding of community values.

DUP-10

The five KVAs listed in Table 4.1.1 were selected to represent the extent and quality of views to the project from the surrounding area.

Why wasn't there a key view inside Trilogy at a higher elevation? Every KVA was a ground level, thus skewing the results of this methodology.

DUP-11

-4.1.5.1(p.4.1-13)

Because of this viewing distance the proposed unloading area canopy and other structures would not be readily discernible among the other existing refinery and coke processing area development. The alignment of the proposed rail spur track extension would be oriented nearly perpendicular to State Route 1, and as a result views of the tracks and trains would generally be looking down the tracks rather than seeing them from the side. This viewing orientation would lessen the visible area of the project relative to the overall viewshed as seen from key viewpoints along State Route 1.

DUP-12

This is one of those comments that would be laughable under other circumstances. The entire refinery is a blight on the landscape in this beautiful scenic corridor and would not be permitted today, but residents put up with it because it was here first. Stating that this project is just adding another portion to the blight is a terrible excuse to add it. Also, the view looking perpendicular to the tracks from Highway 1 would include the canopy and the unloading area.

-4.1.6 9 (p.4.1-15)

Viewpoints from the East

From these viewpoints the existing refinery can also 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 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.

DUP-13

If the Rail Spur is built, intervening topography and distance will not overcome the new strong industrial visual identity. The view will be compromised.

- Figure 4.1-7(p.4.1-17)

Let's see the photo with rail yards, rail cars and locomotives in it.

It is interesting that the majority of the efforts to determine the project visibility were in uninhabited areas. The views most severely impacted were given two paragraphs! For the people most impacted, this is not the view they bought and if the Rail Spur Project is built, property values could be negatively affected.

DUP-14

- AV.3 Impact

-(p.4.1-25) 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.

Does the definition of "casual observer" mean those traveling along Highway 1 at 55 mph? It certainly does not mean those living around the refinery who would have nightly impacts.

DUP-15

Since lighting is one of the most significant impacts from this project, better public information is needed. Here is what is needed, at minimum:

- A non-professional discernible figure on the number of light poles around the perimeter fence and in the unloading facility.
- Some way to see what the addition of 3,000,000 lumens (over 200,000 watts) looks like, even with Dark Sky fixtures.

Otherwise, we have no idea of the impact of the lighting. This is not something that should be left until the Lighting Evaluation Report is issued after the project is built!!

DUP-16

4.1.7 (p.4.1-27) Cumulative Analysis

Although the Rail Spur Project would have an adverse effect on the open space scenic vista and character of the site, it would be part of an existing industrial facility, and would not be out of context with the existing visual character of the area. As a result, the cumulative visual impacts would be considered less than significant.

This is another of those statements that is dismissive of the significance of the impacts. This would be a **Class I impact that cannot be mitigated.**

DUP-17

Air Quality and Greenhouse Gasses

Impacts which may not be mitigated due to pre-emption by Federal Law are discussed in a different section.

San Luis Obispo County is in non-compliance for Federal and State air pollution standards for PM10.

p4.3-3 The federal PM10 were not exceeded in any of these years.(referring to 2010-2012)

Contrary to the above statement, the Federal PM10 standards have been exceeded 3 times in 2012 and 2013, and again in 2014 at the CDF site, which is closest to the SMR, thus making San Luis Obispo County in non-compliance for Federal standards. The area has been in noncompliance with State standards 95 times in 2013 and 91 times year-to-date in 2014. The primary source of PM10 pollution is from the State Vehicular Recreation Area to the west, not the refinery.

DUP-18

The EIR recognizes these cumulative risks:

(p.4.3-75):These additional project related emissions would be considered cumulatively significant and unavoidable since the area is in non-attainment with some of the federal and state air quality standards.

DUP-19

Therefore, it is of utmost importance to make sure these PM10 levels are not further exceeded by projects that cannot fully mitigate the effects onsite. For example:

AQ-1a.e (p4.3-38): *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;*

DUP-20

Additional examples of allowing off-site mitigation include AQ-1e (p.4.3-39); AQ-2a (p. 4.3-47); AQ-4 (p.4.3-62) because it requires implementation of AQ-2a; and AQ-8 (p. 4.3-74).

DUP-21

It is noted that several of the off-site mitigations from the first DEIR have been eliminated but, because of the existing noncompliance, no off-site mitigations should be allowed.

Other impacts can not be fully mitigated:

(p.4.3-76): However, with the OEHHA adjustments, as the trucking impacts to cancer risk are above the SBCAPCD thresholds associated with the current/baseline operations, the cumulative health risk impact would be significant and unavoidable.

DUP-22

Table 4.3.26 indicates that the following cumulative criteria pollutant and GHG emissions would exceed SLOCAPCD thresholds at the SMR (from Throughput Project EIR):

ROG+NOx Peak Day
Diesel PM10 Peak Day
ROG+NOx Annual
MTCO2E Annual

DUP-23

Several proposed Air Quality mitigations (e.g.: AQ-2, AQ-3, AQ-5, and AQ-6) would most likely be preempted by Federal law and would remain **Class i impacts that cannot be mitigated**. These will be discussed in another section.

The wind rose from the SLOCAPCD shown in Figure 4.3-1 (p.4.3-8) indicates that, although wind speeds are lower, winds from the East-Southeast occur 12% of the time and impact residents to the northwest of SMP. Prior to being required to reduce coke piles, fine black deposits from the SMR would routinely be deposited on hard surfaces in neighborhoods in these areas. When winds are blowing from the SSE, residents can detect petroleum odors, which may be insignificant to the average resident but present significant effects to those with asthma.

DUP-24

Other comments:

- AQ-1f.m: Regarding the monitor to oversee fugitive dust emissions:
 - How is the person chosen?
 - What skill sets are required?
 - How is the person trained?
 - What qualifies him/her for being responsible for monitoring fugitive dust?

DUP-25

-AQ-2b: regarding idling time at 15 consecutive minutes:

Comparing this mitigation and the information provided in 2.5.2(p.2-26) and Appendix B - Air Emissions (p. B-18) makes it hard to imagine that this mitigation can be effected. It appears from the Appendix that total idling time for all locomotives would be 6 to 7 hours. How is it possible that a locomotive can only idle for 15 minutes consecutively when it's idling 6 to 7 out of 10-12 hours? If this is a misinterpretation of the numbers, please advise.

DUP-26

-AQ-4 (p.4.3-66): With implementation of all mitigation or just the limits on locomotive idling time, the highest cancer risk at a residential or sensitive receptor with the OEHHA adjustments would be *significant and unavoidable (Class I)*. This speaks for itself.

DUP-27

This section makes it clear that there are serious health risks to residents surrounding the project that cannot be fully mitigated. Since CEQA guidelines require that all significant impacts be reduced to insignificant, this alone makes the Rail Spur project untenable.

Geological Resources

Only one comment: the description of historical earthquakes in the region (p.4.6-3) should include the 2003 San Simeon earthquake which was strongly felt in the area of the SMR.

DUP-28

Hazards and Hazardous Materials

The summary of crude rail accidents on pp. 4.7-20 and 21, are good examples of why the proposed DOT-111 tank cars that make up the newest additions to Phillips 66 fleet cannot be allowed at the SMR, let alone through the State of California.

The Department of Transportation agrees:

On July 23, 2014 the DOT issued a notice of proposed rulemaking covering enhanced tank car standards and operational controls for high-hazard flammable trains, which include crude oil trains. As part of the proposed DOT rulemaking, the PHMSA, in coordination with the Federal Railroad Administration (FRA), is proposing: (1) new operational requirements for certain trains transporting a large volume of Class 3 flammable liquids³; (2) improvements in tank car standards; and (3) revision of the general requirements for offerors to ensure proper classification and characterization of mined gases and liquids. These proposed requirements are designed to lessen the frequency and consequences of train accidents/incidents (train accidents) involving certain trains transporting a large volume of flammable liquids.

DUP-29

³ A flammable liquid having a flash point of not more than 141°F, or any material in a liquid phase with a flash point at or above 100°F, and would include crude oil.

The actions and new requirements by the DOT underscore the importance of disallowing the DOT-111 rail cars for use in the SMR. The County may be precluded on the mainline track until the DOT effects the new rules, but it can certainly control what goes on at SMR.

p.4.7-25: If the crude oil to be transported into the SMR could be Packing Group I: if the DOT specifies that DOT-111 tank cars are not authorized after 10/1/2017 for High-Hazard Flammable Trains, then the hazards that will be disallowed in 2017 should not be allowed in 2015 on a new project.

DUP-30

On p.4.7-63, the Residual Impacts section states:

Implementation of HM-2a would reduce the probability of a release from a rail car by about 74 percent over the rail car design that is currently proposed by the Applicant.

DUP-31

H2-a requires the DOT-117 rail cars.

So the idea that the chance of an oil spill at the SMR being a Class III impact is ludicrous! This is a **Class I impact that cannot be mitigated,(HM.2)**, but with the DOT-117 cars, the hazard can at least be reduced.

DUP-31
cont

(p.4.7-42): Discussing that the most likely spill related event at the SMR would be at the pipeline connecting the unloading facility to the storage tanks, how is the total amount of containment is 273,000 gallons when there are only three containment tanks with 60,000 gallons total capacity?.

DUP-32

The estimate of a worst-case spill is 90,800 gallons of crude oil. Since the containment system is only built to handle 60,000 gallons, there would be 30,800 gallons of crude laying around waiting to be cleaned up; and could result in a pool fire, or worse.

DUP-33

The next section on thermal radiation states that no sensitive receptors would be impacted. This does not take into account an explosion at the SMR, which would significantly impact many of the “sensitive receptors” near the facility. How can we accept that an explosion caused by 30,800 gallons of crude on the ground would have insignificant impact?

DUP-34

It is convenient that this is considered a Class III impact with no mitigation required but the potential of an explosion makes this a **Class I impact that cannot be mitigated (HM.1)**.

DUP-35

Mitigation HM-2 will be preempted by Federal law so will be discussed in another section. It is interesting, however, to note that one of the mitigations discussed is to require DOT-117 rail cars for the mainline. Phillips 66 got out of that requirement above by considering the possibility of a spill/explosion to be a Class III impact.

DUP-36

Other comments:

-4.7.1.2 (p.4.7-15): Why are we required to look up the 2012 Throughput Increase EIR when the information cited is pertinent to this project. The portion detailing existing refinery operation, existing hazards at the SMR should have been included in the body of the EIR.

DUP-37

-2.6 (Project Description) (p.2-33):

*In addition, the refinery often blends crudes from multiple sources prior to processing. As the data in Table 2.6 shows, the SMR historically has processed and currently processes primarily heavy, sour crudes, although these are sometimes **blended with other lighter, sweeter crudes in small amounts.** (emphasis added)*

They hoped we wouldn't notice! Common sense dictates that different classes of crude oils are not mixed within a rail car. So within the train will be cars with light sweet crude oil. Bakken oil is a light sweet crude and is the source of most of the rail explosions the last year or so. Allowing **any** light sweet crude into the refinery increases the chances for a major explosion substantially, because the flash point is 73 degrees and the boiling

DUP-38

point is near 99.6 degrees F. so it is very volatile. (northdakotaoilcan.com). None of this was taken into account in any of the EIR sections.

DUP-38
cont

We cannot allow **any** light,sweet crude into the refinery, no matter how profitable. If it is allowed, this would become a **ClassI impact that cannot be mitigated. (HM.3)**.

DUP-39

In addition, in the Project Description (2.6, p.2-31), it states:

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.

DUP-40

Is this tar sands oil from Canada? This is the dirtiest oil on the planet. Why are we allowing **any** of this in our county?

Land Use and Recreation

For the last several years, San Luis Obispo County Planners have designated the areas surrounding the SMP as desirable residential land use. As a result several golf course developments and other above-average tax base developments have increased by double-digit percentages, allowing an additional 5000 people to live on the northwest Nipomo Mesa.

The SMR was already here, was disclosed in our closing documents, and we knew we needed to live with it. And we did.

DUP-41

But now we are told that it is within the Land Use designations to allow a wholly new land use which will have significant impacts to our way of life and property values.

In the South County Coastal Area Plan - Chapter 6 (Rural Area Land Use - Industrial Buffer Area around the SMR): (pp.4.8-17and 18)

The policy recognizes the potential for additional oil and gas processing facilities at this location in the future and identifies this location as potentially appropriate for such uses.

But it never anticipated that this oil would come by rail or in such volumes.

The buffer area, which is currently used to mitigate noise and pollution impacts will be reduced on Route 1 and residential areas from 1.4 miles away to .6.

Locomotives would operate in the buffer area at the SMP, which was originally designated to keep pollutants and noise within the facility. However,

The diesel particulate matter would represent a potential health hazards to the surrounding residential areas. A health risk assessment conducted as part of the air quality analysis determined that the health risk associated with the existing SMR was above the thresholds established by the SLOAPCD based upon the adjusted California Office of Environmental Health Hazard Assessment (OEHHA) methodology. With the addition of the Rail Spur Project the health risk would be above the thresholds established by the SLOAPCD.

DUP-42

Implementation of the identified mitigation measures would not reduce the health risk to below the thresholds established by the SLOAPCD based upon the adjusted California Office of Environmental Health Hazard Assessment (OEHHA) methodology. Therefore, this impact could potentially be inconsistent with this policy.

DUP-43

Any impacts would be enhanced by wind direction and velocity.

Although “no known expansions to the existing operations were foreseen at the time the Plan (above) was adopted”:

This proposed modification is within the reasonable range of potential modifications or expansions of the refinery referred to in the policy language. Therefore, the Rail Spur Project would likely be consistent with the intent of the policy, and any remaining inconsistencies would not result in adverse physical effects on the environment due to the compatibility of the proposed use with existing uses and surrounding areas and the limited nature of the changes proposed to existing operations.

DUP-44

WOW! Another dismissive, subjective assumption. Especially in light of the sentence that follows:

Due to the significant and unavoidable health risk impact, the Rail Spur Project could be inconsistent with this policy. Therefore, from a land use perspective the impacts would be significant and unavoidable.

Therefore a **Class I impact that cannot be mitigated (AV.2)**.

Another incredulous statement (p. 4.8-21):

Therefore, while not introducing a new use at this location, the proposed expansion would ...

Most people would agree that this is a new use because it

- allows 400 rail cars of crude oil to be brought to the SMR where nothing was brought above ground before;
- allows unloading of rail cars for 40-50 hours per week, at night;
- allows associate unmitigated noise, pollution, light and significant hazards where none or few were before.

DUP-45

Another WOW(p.4.8-23):

While visual impacts may be disliked by adjacent land uses, they pose no real risk of harm other than annoyance and disturbance caused by the perceived negative visual and aesthetic effect and any resulting economic effect.

DUP-46

Noise

We live in a relatively quiet area. Noises include train horns (1/2 mile away) and the trains as they cross the trestle at Black Lake Canyon (several times a day); trucks and motorcycles on Hwy. 1 (occasionally); airplanes passing overhead (distant and occasional); fire engines (significant, occasional); trash trucks on Friday; neighbors' cars driving in and out; the horns from the SMR (significant, daily); and the off-highway vehicles from the Oceano Dunes 1 1/2 miles away- by far the loudest and most obtrusive, usually on weekends and holidays.

DUP-47

We also hear birds, including hawks, coyotes, frogs, dogs barking and other nature sounds, all part of the rural lifestyle.

At night it is blissfully quiet. It is most amazing to walk outside at 2 AM to see the sky full of stars and maybe waves crashing on the surf 1 1/2 miles away. This is one of the main reason we decided to live here.

DUP-47
cont

We live north of Monadella and were not included in this study, in spite of the fact that we are impacted by noise.

We live where there are trees and shrubs, but not dense nor several hundred feet deep (p.4.9-3). There are no fences or other large structures to attenuate the noise.

DUP-48

It is fair to say that noise carries great distances here. When the atmospheric conditions are right, we can hear the arrival of the 7:15AM Pacific Surfliner at the Grover Beach train station at Grand Avenue and Hwy. 1, several miles away. So Figure 4.9-3 is questionable since the noise impact would span a greater area than depicted.

DUP-49

Noise level impacts depend on the receptor, as stated. But they also depend on the residence location. Residents in urban areas would accept higher levels of noise. Those in quiet rural areas would not.

DUP-50

So the residents of Knollwood, right across the street from the refinery, would be significantly impacted by construction noise and the nighttime rail car unloading noise.

Table 4.9.9: This gives us operational source noise levels at fifty feet. It is unimaginable that we wouldn't be able to hear 20 pumps with a 50' dBA of 81. An idling locomotive at 75 dBA would surely be heard . . .all night, five nights a week.

DUP-51

Based on living in this location for several years and the fact that not all significantly impacted receptor areas were tested, it's hard to assume these noise tests are accurate. Unfortunately, we would not know until after the completion of the Rail Spur Project and the resulting noise would probably be impossible to mitigate.

DUP-52

It is helpful that construction operations have time limits, but regular operations do not. The assumption that these impacts are Class II is really subjective and should very easily be a **Class I impact that cannot be mitigated (N.2)**.

DUP-53

Other comments:

There are significant inconsistencies in how different mitigations regarding locomotives will work together:

- AQ-2b says that locomotives are not to idle for more than 15 consecutive minutes;
- N-2a says all locomotives operating to the east of the unloading rack area between the hours of 10PM and 7AM shall be limited to a total of 100 locomotive minutes;

DUP-54

2.5.2 The Train Unloading Sequence described makes it hard to determine if either of the two mitigations above could be followed;

Appendix B: Air Emissions Locomotive Timing Calculations shows that there is no way mitigations can be effected. Total idling time for *each* of two engines is 3.08 hours; total idling time for the third engine is 1.08 hours. Are the locomotives going to be shut down every fifteen minutes and then turned right back on again? Not feasible! Total switching time for *each* of two engines is 2.58; total switching time for the third engine is 1.08 hours. That's a total idling and switching time of 13.09. One hundred locomotive minutes means 50 minutes for each of two engines. The Appendix table shows a total of 785 total locomotive minutes for each train, not counting a second train that might arrive while the first is being unloaded.

DUP-54
cont

This may very likely end up a **Class I impact that cannot be mitigated (N.2)**.

N-2c (p.7-23): Monitoring should include the nearest noise-sensitive receptor outside the industrial area located northeast of the SMP.

DUP-55

There is no mention of the noise generated by train repairs on Track 765 (2.3.1 p.2.10,11)

DUP-56

Population

4.10: While this new use will not cause a need for new housing, it is disconcerting that the residential areas northwest of the SMR were not included in the population study.

DUP-57

Public Services and Utilities

Nothing we can do as a county can avoid or minimize the impact of a fire or explosion at the SMR or on the mainline tracks in the county. If we allow any light sweet crude into the facility, the chances of a major mishap increase exponentially. None of the goals of the Safety Element of the General Plan mean anything if this project is approved because our resources will be overwhelmed by the magnitude of an explosive event.

DUP-58

PS-3 (p.4.11-23): *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.*

4.11.1.3: Our county Hazmat team is not certified. The nearest emergency response firm resource is at least 45 minutes away in Santa Ynez and the next closest is Ventura, 1 1/2 hours away.(4.4-45)

DUP-59

SB 861 brings significant improvement to the training of local first responders. But that does not change the fact that local first responders will unable to meet the challenge of an explosion/fire at the refinery or on the mainline.

DUP-60

We are told that Cuesta Grade represents the county's local safety hazard site (LSHS) 4.11-24); and that for the last five years there have been no train derailments in SLO County. See the section on train derailments below.

DUP-61

Any train coming from the north would have to execute the hazardous horseshoe curve which takes the tracks out to the California Men’s Colony; then the Stenner Creek Tressle (built in 1894), through the middle of Cal Poly San Luis Obispo, then right into downtown San Luis Obispo. A fire or explosion anywhere along this portion of the track would affect the largest populations in the county.

DUP-62

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.

Why was this mitigation **not** included in mitigation measures for PS-3? It makes less sense when applied to mainline activities and, if implemented as a mitigation for impact PS-3, would prohibit the use of the dangerous DOT-111 rail cars at the SMR.

DUP-63

Phillips 66 has been purchasing a fleet of DOT-111 rail cars (advertised in its publications to residents), which do not comply with this mitigation. Since the DOT-117 complaint cars are not to start production until 2015, how is this significant mitigation to be fulfilled? Also, since this will probably be preempted, this impact becomes a **Class I mitigation which cannot be mitigated (PS.3,PS.4)**.

DUP-64

p.4.11-31:Specialized, rapid and adequately staffed response is crucial to keep incidents small and minimize the impact on citizens and environmental health. Due to the unique hazards associated with the Rail Spur Project and the other oil and gas cumulative projects, and the response time for specialized teams to arrive at these facilities; it is necessary to provide additional prevention and operational staffing to aggressively plan and train for effective mitigation of incidents. There is just no way to have localized, adequate staffing if a Casselton, ND type explosion occurred, causing 2.300 residents to be evacuated in a five-mile evacuation zone.

DUP-65

Transportation and Circulation

TR.1 impact: For four months during construction, there would be 412 non-construction equipment trips per day and 1369 construction vehicle trips per day, at the peak.

p.4.12-24:The addition of peak hour construction trips would temporarily worsen traffic operations at the Willow Road/State Route 1 intersection. The westbound left turn movement (to southbound State Route 1) currently experiences high delay during the PM peak hour. . . . This is a potentially significant impact.

DUP-66

Class I.

TR.3 impact(p.4.12-26): The DEIR notes that at-grade crossings (e.g. Grand Ave. and Hwy. 1 near the Grover Beach train station) would be less than significantly impacted during AM and PM peak hours, which include three hours in the morning and three at night, for six hours per day. Nowhere does it take into account the amount of traffic generated from the Oceano Dunes State Vehicular Recreation Area on this intersection on holidays, which usually include a weekday or two. Although it is only one train each peak time, the length of the train could cause major back-up issues.

DUP-67

Additionally, in the Project Description (p.2-15) it is noted that there will be a steam heating system to allow SMP to heat rail cars where the oil has become too cold from delays en route (or from coming over the Sierra Nevada). This process takes 21 hours and would stop unloading while the heating occurs. Phillips 66 states that this process would be used once a year. This is an impossible prediction to make. If it occurs one time, it will back up the daily process for a day. If it occurs again the next day or day after that, then what?

DUP-68

TR.4 impact: The major concern on the impact to mainlines is the impact on the Mesa outside the SMP, going north. It is stated that the unit train is 5,190 feet long (p.12-25). Yet in the Project Description, 2.5 (p.2-22) it states that each tank car would be about 90 feet long. Tank cars alone would be 7200 feet. Add three locomotives and two buffer cars would add 6X however long they are (say 6X 90); this adds an additional 450 feet for almost 7700 feet total for each unit train, not counting the space between each car. That is almost 1 1/2 miles long! Not the one mile they would like us to believe! Conclusions in the document relating to train length are all based on this erroneous information. Thus the concern about passing trains on the Mesa:

- Is the siding at the refinery long enough to handle a 1 1/2 mile (approximately 7700 foot) train?(2.3.2, p.2-11)
- Is the length of the new Rail Spur track (described on p.2-5 as 6,915 feet) adequate to handle one entire unit train of tank cars (7,200 feet), plus a potential second train of 80 tank cars at 7,200 feet?
- Is there a siding outside the SMP to the north which can allow the unit train, once outside the SMP, to allow Amtrak trains to pass?
- In the event a second train arrives while the first train is still at the SMP, the unloaded unit train will leave the SMP shortly after the loaded train arrives. There are currently six Amtrak trains per day passing the refinery, starting at 7:15 AM and ending about 8PM, assuming they are on time. It is hard to believe the unit trains will not impact the Amtrak trains.
- On p.4.12-31 there is a description of the mainline sidings that would not be long enough for the unit train, currently stated as six out of eighteen from SMR to Moorpark. Considering the erroneous information noted above, what impact would a 7,700 foot train have on the on time performance of Amtrak trains between the SMP and Moorpark? The size of the train alone would have a significant impact.
- No mitigations were required since this impact would be deemed less than significant. With the corrected train length, could this make the impact significant?

DUP-69

p.4.12-35: If the 40-mph for all areas rule is implemented, it has the potential to impact OTP for the passenger trains that travel through long stretches of urban areas, such as portions of the Coast Line in Santa Barbara, San Luis Obispo, etc. However, this speed restriction would only apply to crude oil trains with tank cars that would not meet the enhanced tank car specifications proposed by the rule. As such, the extent that this speed limit would apply is speculative, and the extent of the potential impact, if any, is unknown.

DUP-70

The tank cars referenced are the ones Phillips 66 wants to use for the project, so the unit trains' speeds would be restricted to 40 mph with a significant impact on passenger trains.

If implemented and PS4.b is not, this would become a **Class I impact which cannot be mitigated**(TR.4).

DUP-70
cont

And, p.4.12-41: **The multiple siding extensions appear to be needed to accommodate the UPRR operating plan for longer future freight trains (9,000 feet)...**

DUP-71

As if we didn't have enough problems!

As noted above, any train coming from or going north from the SMR has to pass over the Stenner Creek Trestle and many other bridges. Contra Costa Times, 9/12/14 states:

DUP-72

'... neither the state nor federal government has a list of railroad bridges for California,,,"The safety of California's thousands of railroad bridges --key conduits that carry people and hazardous materials over environmentally sensitive ecosystems and near urban areas -- is left up to rail-line owners and a single federal inspector who splits his time among 11 states."

Water Resources

p. 4.13-23: **...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 loading facility and associated pipeline.**

DUP-73

The mitigation calls for SMR to upgrade its spill response plan. Since the most likely spill related event would be at the pipeline, as discussed before, 30,800 gallons of crude would not be contained by the system in a worst case scenario and would be available to contaminate groundwater. (See Hazardous Material above.) In addition, if sweet light crude is allowed on the property, it increases the possibility for a catastrophic explosion. This may become a **Class I impact that cannot be mitigated (WR.2)**.

Alternatives Analysis

Not all alternatives are discussed.

DUP-74

5.1.1 No Project Alternative

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 26,000 barrels per day, which is the current permitted Santa Barbara County APCD limit.

DUP-75

While this is not as much as the average 37,142 bbls/day that would be received at SMR, it would alleviate a whole host of environmental impacts to residential areas and continue to allow crude to be sent to the SMR via pipeline.

5.1.2.1 Truck Transportation

There is no question that rail is more economical and efficient than truck as a means of delivering most anything, including oil. The idea of trucking crude via truck directly to the SMR is untenable, in part because Willow Road passes exclusively through agricultural and residential areas on its way to the SMP and the idea of 195 added trips per day in

DUP-76

and 195 trips per day with the associated air pollution, noise, traffic congestion boggles the mind. (Also see 5.2.2)

DUP-76
cont

Additionally, continuing the use of the Santa Maria Pump Station is the only one that makes sense. All others have significant reasons why they can not be expanded.

DUP-77

5.2.3 Marine Transportation

The California Coastal Commission would never allow a crude oil unloading pier adjacent to the State Park.

DUP-78

Since the Trucking to the SMPS Alternative seems to have the least net impact, the Alternative Screening Tables 5.1 and 5.2 need to be revisited as they don't compare the impacts of the alternatives for the area surrounding the SMP to the impacts at the offsite locations:

-Aesthetics and Visual: Since the SMPS is surrounded by agricultural operations and is not near any scenic roads., the impact to the area around the SMPS would be minimal and the impact around the SMP would be 0.

-Air Quality: While net air quality would be negatively impacted, this alternative would switch the impacts from an area that is already in noncompliance for State and Federal air quality standards to a sparsely populated area with no such noncompliance. The affected sensitive receptors would be significantly reduced.

-Biological Resources: While oil spills for truck accidents could potentially occur more frequently, there is no comparison to the damage that could be done by an 80 tank car unit train.

-Hazards and Hazardous Materials: If the impacts of a spill from a single truck, traveling through mostly sparsely populated areas (except, of course the last few miles on Hwy. 101 through Santa Maria if coming from Hwy. 166) are significant, they are infinitesimally smaller than the impact from trains traveling through major population centers and for almost the length of California. This is not meant to dismiss the discussion of cancer risks associated with truck on the freeway in Santa Maria (p.5.28).

DUP-79

-Noise and Vibration: The SMPS is not near any major concentrations of sensitive receptors so there would be few noise impacts. The major impact would be an increase in freeway noise through Santa Maria. The impact to sensitive receptors around the SMP would be significantly less.

-Public Services and Utilities: The chances for a train derailment and/or major fire or explosion would be substantially reduced at the SMR and throughout California. While any resulting fire/explosion from a truck accident is not insignificant, the impact would not strain our police, fire and Hazmat resources nearly to the extent if the Rail Spur Project were approved.

-Transportation and Circulation: This alternative would add a 390 one-way truck trips per day (assuming seven days per week) to the local roads in the city of Santa Maria. This would likely have a significant impact to a number of intersections particularly during peak hours. This description would have us believe that there would be major impacts to many local roads in the town. While it would certainly impact the freeway offramp intersections at

either Stowell Road or Betteravia, the rest of the town roads would not be impacted by the truck deliveries.

-Water Resources: Here again, the wording is misrepresenting the situation. There is an increased chance of trucks having accidents over trains derailing. But the impact one train derailment or spill is so much greater than any number of truck accidents. So the impact is significantly less with trucks.

DUP-80

With this alternative, almost all impacts would be reduced to Class III.

5.3.3 Reduced Rail Deliveries

For all the charts and verbiage, the impact on most issue areas would be reduced by 40% if rail deliveries were confined to three days a week. For some, such as impacts on at-ground rail crossing, it would be reduced further. The chance of two trains being an site at once is almost 0.

DUP-81

Table 5.2 regarding the impacts of reduced rail deliveries is disingenuous at best. Almost every column should read -, because if there are fewer trains there are fewer impacts. Even Aesthetics and Visual would be less because the number of times trains would be active and lights would be on is 40% less. The one exception would be the construction period, which would be the same whether trains came three days a week or five.

DUP-82

Topics That Span Across issues

In the process of writing this rebuttal, it became apparent that there were several topics that would be better handled separately, since they apply to several different issues discussed in this DEIR.

Area Train Derailments

The number 1/126 was used frequently to determine the probability of a train accident occurring. A review of the internet and other noted publications tells us the following:

The first railroad was completed in 1876 when San Luis Obispo was joined to San Luis Obispo Bay. Although Southern Pacific Railroad came into San Luis Obispo in 1894, the line from the south which would join the southern part of California to the north was not completed until 1901. (Rice and Echeverria "Rails of California's Central Coast",2008, p. 69).

- There was a train derailment on the grade coming down from the Mesa to the Arroyo Grande Valley at the turn of the twentieth century. There is no citing on this.

- October 2, 1915: The Lark passenger train derailed on the Cuesta Grade killing 1 and injuring 8. (The San Luis Obispo Daily Telegram, October 2. 2015)

- May 10-11, 1959: The northbound and southbound Lark passenger trains collided on the Cuesta Grade, derailing both trains, ripping out 700 feet of track. There were five injuries and no deaths. (Telegram-Tribune. May 11, 1959)

DUP-83

- September 25, 1969: A derailment in Tunnel 7 on the Cuesta Grade caused 5 deaths. (<http://www.trainwacko.com>)

- August 10, 1986: A train carrying isobutane derailed in Grover City (now Grover Beach). One-third of the residents of Grover City had to be evacuated to Arroyo Grande High School. A fireman at the scene told the reporter to stay away: 'If the flames did not kill you, the blast wave, radiant heat, and oxygen starvation would.'" (Telegram-Tribune, August 11, 1986)

- 1996: A Southern Pacific train derailed on the Cuesta Grade. It was considered a "string line" derailment. (<http://www.trainwacko.com>)

- September 10, 2007: A train carrying auto parts and beer derailed in Guadalupe. Nearby residents were evacuated, train traffic was cancelled both directions, and the Highway 166 rail crossing in Guadalupe was blocked for a few hours. (Santa Maria Times, September 11, 2007)

Class i impacts That Cannot Be Mitigated

The recirculated DEIR lists 11 impacts that remain significant and unavoidable if the Rail Spur Project is built:

- Ⓢ AR.5 Agricultural impacts in case of derailment.
- AQ.2 Operations at the SMP generate pollutant emissions that exceed SLOCAPCD thresholds.
- Ⓢ AQ.3 Mainline operations generate pollutant emissions that exceed thresholds along the mainline.
- AQ.4 Operations at the SMP generate toxic emissions that exceed SLOCAPCD thresholds.
- Ⓢ AQ.5 Mainline operations generate toxic emissions that exceed thresholds.
- AQ.6 Operations at the SMP would generate greenhouse gas emissions.
- Ⓢ BIO.11 Mainline operations result in an oil spill that impacts sensitive plant and wildlife species and wetlands.
- Ⓢ R.6 Mainline operations result in derailment and/or spill which disturbs cultural resources.
- Ⓢ HM.2 Train derailment would result in oil spill that impacts public.
- Ⓢ PS.4 Mainline operations increase demand for fire protection and emergency response.
- Ⓢ WR.3 Rupture or leak from rail car on mainline degrades surface and groundwater quality.

In addition, this analysis shows many other Class I impacts would or could occur if other assumptions are made:

- AV.1 Rail Spur Project reduces scenic views from residences and public spaces.
- AV.2 Rail Spur Project is inconsistent with SLO Land Use visibility goals.
- AV.3 Substantial new source of light and glare.
- HM.1 Increased risk of fires/explosions at SMR
- HM.3 Changing types of crude oil processed would increase risk.*
- N.2 SMR operations increase in noise levels would impact nearby residents.

DUP-83
cont

DUP-84

PS.3 Increased demand for fire protections and emergency service response at SMR.

Ⓟ TR.4 Unit trains could impact performance of Amtrak.**

WR.2 Rupture or leak from SMR operations degrades groundwater quality.

DUP-84
cont

Ⓟ refers to the mitigation being preempted by Federal law.

* if Phillips 66 is allowed to bring sweet light crudes to SMP.

** Using the revised train length of 7700 feet.

Off-site Mitigations

While off-site mitigations are a useful tool for some impacts, the impacts from the Rail Spur Project mostly affect localized populations, whether it is the residents around the SMP, or denser areas adjacent to the mainlines. Thus, off-site impacts should not be allowed for the Rail Spur Project because to do so would put these populations at greater risk. That is not the goal of most planners in most jurisdictions.

DUP-85

Following is a partial list of impacts that list off-site mitigations as a way or the only way to mitigate the impact; or the mitigations is not clear:

AQ-1a.e

AQ-1d (if “other measures” includes off-site mitigations [osm])

AQ-1f.c (If SLOCAPCD-approved alternative method includes osm)

AQ-2a, AQ-4

AQ-3, AQ-5 (if emission reductions include osm)

AQ-8

DUP-86

It is interesting to note that the off-site mitigations above all deal with Air Quality. In an area that is already in non-compliance with Federal and State air quality standards, using the off-site mitigation process to allow full mitigation is unconscionable. If the Rail Spur Project cannot mitigate all the air quality impacts on-site, it cannot be built!

Preemption

While the subject of Federal law preemption was discussed in the previous DEIR, there are many more references to it in the recirculated DEIR. It becomes obvious that any mitigation which would lessen an impact on the mainline tracks or on trains on the mainline tracks would be preempted by Federal law. This means the County and State can do nothing to lessen the impact, except to prepare for it. This increases the significant impacts considerably.

DUP-87

Policy Consistency Analysis

This is a section that can be skipped if the reader is not interested in general plans/land use issues. But the analysis is so flawed that this section had to be added. The SMR would not be an allowed land use if it were proposed today, not just because of County policies, but because the California Coastal Commission would never approve it. Many of the comments that say something like “since industrial development is allowed here, we can add to it” have to be ignored.

DUP-88

4.8.1.2 The Project Site is within a Coastal Appealable Zone, which means the project can be appealed to the California Coastal Commission.

DUP-89

4.8.2.2(p.4.8-11) **Coastal Zone Land Use Ordinance**

The CZLUO, Title 23 of the County Code, regulates land use in a manner that seeks to encourage and support the orderly development and beneficial use of lands within the county, minimize the effects on the public from such development, and protect and enhance the significant natural, historic, archaeological and scenic resources within the county.

DUP-90

This project does none of these things.

(p.4.8-13)**Land Use Ordinance**

The County LUO, Title 22 of the County Code, ...ordinance regulations are in place to minimize adverse effects on the public resulting from land use and development, as well as to protect and enhance the significant natural, historic, archeological, and scenic resources within the county as identified by the County General Plan.

DUP-91

Same as above.

Appendix G

The following attempts to analyze whether the Rail Spur Project is consistent with San Luis Obispo County General Plan policies from residents' perspective. This follows Table G-1 starting on p.G-2. Abbreviations are used: PC for Potentially Consistent; PI for Potentially Inconsistent. Not all Goals are noted and only differences in analysis are noted for the most part.

San Luis Obispo General Plan

Strategic Growth Goal 1:

Preserve open space, scenic natural beauty and natural resources. Conserve energy resources.

Protect agricultural land and resources.

DEIR - PC. The Rail Spur Project presents a new use for an area that to now has received crude oil only by pipeline. It is also an incompatible use for an area that has become primarily upscale residential. This is not a modification of an existing industrial use, but a new use that would cause air pollution, noise, odors, obstruct scenic vistas and substantially increase the potential for oil spills, fire/explosion. In addition, the project endangers agricultural lands and resources adjacent to the mainline. The probability of rail accidents in SLO County is listed as 1/126. See section on Train Derailments to see the actual rail derailments in the county since 1901. This project is inconsistent with this Goal. PI

DUP-92

Strategic Growth Goal 2:

Strengthen and direct development toward existing and strategically planned communities.

DEIR - PC. Over the years the county planners have encouraged upscale residential development near the SMP, which are considered existing planned communities. PI

DUP-93

Chapter 8: Public Works Policy 1: Availability of Service Capacity b. The proposed development reflects that it is an environmentally preferable alternative.
DEIR- PC. There are other more environmentally preferable alternatives, such as the No Project Alternative or the Trucking to SMPC. PI

DUP-94

Chapter 10: Visual and Scenic Resources Policy 1: Protection of Visual and Scenic Resources
Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved protected, and in visually degraded areas restored where feasible.
DEIR-PC. A 200 foot berm as mitigation will not help those who are at higher elevations than Hwy. 1. PI

DUP-95

Conservation and Open Space Element Chapter 5: Energy Implementation Strategy E 7.1.1 Non-Renewable Energy facility design, siting, and operation standards.23) Encourage existing and proposed energy facilities to prevent oil, gas, and other toxic releases into the environment by: (1) taking measures to prevent releases and spills, (2) preparing for responding to a spill or release, and (3) providing for the protection of sensitive resources. A review of facilities spill response plans or reports from other agencies should be completed to monitor compliance.
DEIR-PC. The entire DEIR significantly underestimates the potential for spill/fire/explosion. If sweet light crudes in any amount are allowed, the potential for disaster is magnified exponentially. PI

DUP-96

Chapter 9: Visual Resources Goal VR 1: The natural and agricultural landscape will continue to be the dominant view in rural parts of the county. Goal VR 2: The natural and historical character and identity of rural areas will be protected.
DEIR-PC. A 200 foot berm used as a mitigation measure will not mitigate the view for those living at higher elevations than Hwy. 1. In addition, tank cars and locomotives will significantly impact the character and identity of the area. PI.

DUP-97

(Goal VR 4: Protect visual resources within visual sensitive resource areas (SRAs) for scenic corridors.
Could the county work to make this area and Hwy. 1 through this area a Sensitive Resource Area?)

DUP-98

Goal VR 7: Views of the night sky and its constellations of stars with be maintained.
DEIR-PC. The additional lighting we know little about would significantly increase nighttime light pollution. PI!

DUP-99

Noise Element Goal 1. To protect the residents of San Luis Obispo County from the harmful and annoying effects of exposure to excessive noise. **Goal 3.** To preserve the tranquility of residential areas by preventing the encroachment of noise-producing uses.
DEIR-PC. The noise analysis failed to take into account various areas north of the SMP, as well as the distance noise travels, especially at night, in this rural area. Sound carries

DUP-100

long distances on the Nipomo Mesa because there are few structures or plants to attenuate it. PI.

DUP-100
cont

Goal 5.

To avoid or reduce noise impacts through site planning and project design, giving second preference to the use of noise barriers and/or structural modifications to buildings containing noise-sensitive land uses. **Policy 3.3.1**

DUP-101

The noise standards in this chapter represent maximum acceptable noise levels. New development should minimize noise exposure and noise generation.

DEIR-PC. These analyses use the same flawed methods as above. PI

23.04.210 - Visual Resources

e. **General Visual Standards for Coastal Development.** Notwithstanding subsections (a)-(d) above, all development requiring a coastal development permit must be consistent with the requirements of Coastal Plan Visual and Scenic Resource Policies 1-11 as applicable.

DUP-102

DEIR-PC. As stated before in the Aesthetics and Visual Section, this project would interfere with views from Hwy. 1 and residences at higher elevation than Hwy. PI

23.04.320 - Outdoor Lights:
b **Light directed onto lot:** Light sources are to be designed and adjusted to direct light away from any road or street, and away from any dwelling outside the ownership of the applicant. c. **Minimization of light intensity:** No light or glare shall be transmitted or reflected in such concentration or intensity as to be detrimental or harmful to persons, or to interfere with the use of surrounding properties or streets.

DUP-103

DEIR-PC. There is no lighting plan but from the little that is known from the DEIR, the lighting will glare off trains and hard surfaces and be inconsistent with the dark sky nature of the area. PI

23.05.086 - Fire Safety Standards.

In areas where fire protection is provided by the San Luis Obispo County Fire Department/ California Department of Forestry and Fire Protection, new uses shall comply with applicable provisions of the Uniform Fire Code, 1988 Edition, or such later edition as adopted by an ordinance of San Luis Obispo County. In areas where fire protection is provided by another official agency (e.g., a community services district, etc.), new uses shall comply with such fire safety standards as required by the fire protection agency.

DUP-104

DEIR-PC. While the project may meet standards, there is no way these standards are set for a major fire/explosion/oil spill. PI

23.06.044 - Exterior Noise Level Standards:
a. No person shall create any noise or allow the creation of any noise at any location within the unincorporated areas of the county on property owned, leased, occupied or otherwise controlled by such person which causes the exterior noise level when measured at any of the preceding noise-sensitive land uses situated in either the incorporated or unincorporated areas to exceed the noise level standards in the following table.

DUP-105

DEIR: PC. The noise testing did not include several areas where sensitive receptors dwell, nor did it adequately make allowances for the way noise carries in the area due to lack of attenuating elements. PI

DUP-105
cont

23.06.084 - Odors:

Any non-agricultural land use conducted in, or within one-half mile of an urban or village reserve line is to be so operated as not to emit matter causing noxious odors which are perceptible at the points of determination...

DEIR-PC. We already smell petroleum odors depending on wind direction. It is not going to get better with this project. PI

DUP-106

Chapter 6: Land Use A. Rural Area Land Use Industrial The large industrial area west and south of Highway 1 is currently occupied by the Santa Maria Oil Refinery (operated by Union Oil Company of California) and the Santa Maria Chemical Plant operated by the Union Chemical Division, Carbon Group. These uses occupy only a portion of the total area, and the large vacant areas provide a desirable buffer from adjacent uses and an area where wind-carried pollutants can be deposited on-site, thereby not affecting neighboring properties. This is particularly important to the agricultural uses in the Santa Maria Valley. Any proposed modification or expansion of the refinery and coke ovens should be subject to Development Plan approval covering the entire property to designate buildable and open space areas. **No major expansion or alterations to these operations are envisioned at this time.** (Emphasis added)

DEIR-PI

DUP-107

Chapter 8: Planning Area Standards A. South County Rural Area Standards INDUSTRIAL: Union Oil

The following standards apply to the large industrial area west and south of Highway 1 currently occupied by the Santa Maria Oil Refinery and the Santa Maria chemical plant. (LCP) **2.**

Limitation on Use. All uses are prohibited except petroleum refining and related industries (including partial oil and gas processing and related industries); coastal accessways; water wells and impoundments; and pipelines and power transmissions.

DEIR-PC. Nowhere does it say that a rail yard use is included. PI
and

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

DEIR.PC. It doesn't. PI

DUP-108

Jobs

I have met some of the people who work at Phillips 66 SMP. They are dedicated neighbors who work hard at what they do. They take pride in their community and do extensive volunteer work. But the employees are not the corporation. Phillips 66 has a right to run their business the way they see fit, until it starts causing major impacts to the surrounding community. There are other ways to increase production at the SMP and take advantage of more-profitable crude than to build a railroad station in our back yard!

DUP-109

While the creation of jobs is very important in any area, it has in some cases become a catchword for justification of the item being proposed. We cannot allow the need for jobs at SMR to override the needs of the surrounding community.

DUP-109
cont

Refinery Throughput

In 2013, then Conoco Phillips requested and received a 10% increase in throughput. The total throughput was 13,724,829 in 2012; in 2013 it was 15,196,669, an 11% increase over the prior year. The Project Description notes (p.2-31) that 2-7% of the increase is Canadian crude oil (tar sands oil?).

The Rail Spur Project proposes that 49,670-53,532 barrels per day (bpd) of crude oil be delivered, 5 days per week. Averaging out over 7 days per week brings the average bpd down to 35,478-38,237 bbl, which they note is less than permitted capacity. But what about all that oil that is currently being processed? Is it more expensive, so will be sent somewhere else? It seems that from environmental and safety standpoints, the tradeoff is not justifiable.

DUP-110

Summary

In this recirculated DEIR, Phillips 66 is trying to fit a square peg into a round hole. They have tried to smooth out the sharp edges, tried to make it seem like it fits when it does not. It is not good for the environment or the communities surrounding it. It is not good for the communities alongside the mainline track. It just will not work!

They are trying to put a rail yard smack in the middle of an area that is primarily residential, agricultural and recreational. The industrial portions of the area are there by virtue of the fact that they preceded the planning process. It is an egregious violation of the planning process to attempt to place a new industrial use there now.

There are 11 Class I impacts that cannot be mitigated, according to the DEIR. There are 9 additional impacts that should or could be Class I which cannot be mitigated, depending on which analysis and assumptions are used. Nine of the 20 impacts are preempted by Federal law.

DUP-111

Whether a project is potentially consistent or inconsistent with County Ordinances, goals, policies, implementation strategies or standards seems to be subject to interpretation (and maybe who is paying the bill). The DEIR finds that this project is inconsistent with 3 goals, 5 policies, and 4 implementation strategies. This interpretation has the project inconsistent with 2 ordinances, 7 goals, 4 policies, 1 implementation strategy, and 7 standards, in addition to what was disclosed in the DEIR.

The entire EIR process is mandated by the California Environmental Quality Act. CEQA guidelines require that all significant environmental impacts (Class I) be reduced to an acceptable level. The Rail Spur Project fails this criteria.

The only people who can avert this disaster are our County Planning Commissioners and our elected County Supervisors. The best interest of county residents would be served by recognizing that there are better alternatives to accomplish what the DEIR requests. Please put county residents first!

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