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San Luis Obispo County Department of Planning and Building
976 Osos St., Room 200
San Luis Obispo, CA 93408
Attention: Murry Wilson

**RE: Phillips 66 Company Rail Spur Extension Project Public Recirculated Draft
Environmental Impact Report and Vertical Access Project Assessment
SCH #2013071028
Development Plan/Coastal Development Permit ED12-201 (DRC2012-00095)**

November 24, 2014

Dear Mr. Wilson,

Please consider the following comments as they relate to the consideration of the potential vertical public access for multiple uses in connection with the subject proposal. The RDEIR completed a programmatic analysis of the relevant issues in Chapter 9 of the document entitled Vertical Access Project Assessment.

Also, please include by reference those comments made in correspondence dated January 27, 2014 in connection with the DEIR. The majority of Chapter 9 remains unchanged; however there are a number of additions. Some noteworthy changes include:

JHEC-01

“As discussed above, the purpose of this analysis is to assist the County in determining whether coastal access is appropriate for the SMR site consistent with the standards of Section 23.04.420 of the Coastal Zone Land Use Ordinance, and if so, then what intensity and type of coastal access is appropriate at the SMR site. The purpose of this section is not to determine the appropriate location for a permanent ODSVRA access point. Existing or future ODSVRA access points are an issue for the California Department of Parks and Recreation (CDPR) and are specifically addressed in their Coastal Development Permit (CDP) issued by the California Coastal Commission (CCC) in 1982. *As such, there is no connection between CDPR's CDP and the coastal access requirements associated with this project; therefore, this section only addresses the impacts associated with various options for coastal access from the SMR property.* The assessment does not address any of the environmental impacts or benefits that might be associated with a separate governmental agency

JHEC-02

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(CDPR) relocating the existing ODSVRA access point (under yet a separate land use permit (i.e., the 1982 CDP)) to the SMR property or to some other location at some point in the future.”

The idea that there is no connection between the subject application and the ODSVRA which is operated by CDPR is oversimplified. For example, the 630 acres of the project area that lies westerly of the Union Pacific Railroad is already included in the ODSVRA. Please see Figures 2 (Project Site) and 3 (Land Ownership and Management) of the 2006 Condor Environmental Alternative Access Study. This land is administered by CDPR under a 1998 Agreement and Grant of Development Rights. Fully two-thirds, or approximately, one-mile of a future coastal access alignment would occur in the existing ODSVRA. Figure 9-15, on page 9-61 in the RDEIR appears incorrect in that the 630 acres is not shown in the OHV area.

JHEC-02
cont

“The option of vehicle access may also require an amend[sic] to the South County Coastal Area Plan, which limits traffic on the current access road to only authorized vehicles use for maintenance purposes, except for special off-road, which may be permitted if the lease between State Parks and Phillips 66 is renegotiated.”

The idea that General Plan consistency is a function of the existence of an agreement referenced in the above paragraph is unsubstantiated. This concept also reflects poorly on the entirety of the Conceptual Coastal Access Project Policy Consistency Analysis in Table 9.4 .

The decision related to the provision and type of vertical public coastal access by necessity requires the consideration of a much larger project area. A project area that extends north to Grand Avenue in Grover Beach. Between Grover Beach and the SMR is the community of Oceano. The community of Oceano and Pier Avenue is the subject of CDP #4-82-300 and specifically, Special Condition 1. B. regarding, “A permanent staging area site.” The community of Oceano is also considered disadvantaged.

The RDEIR fails to address the issue of Environmental Justice as it relates to the community of Oceano.

JHEC-03

An area is considered to meet the Low and Moderate-Income Area (LMA) benefit test of being low- and moderate-income (LMI) if there is a sufficiently large percentage (51 percent or greater) of LMI persons residing in the service area as determined by the U.S. Census/American Community Survey/Section 8 income limits as collected by the Census Bureau; or current survey of the residents of the service area.

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As boundaries of the community of Oceano are generally the same as Census Tract 122, the County will use two Census data sources to justify the income characteristics of the area served. First, for the low and moderate-income data the toe County will use the HUD low/mod income data provided via the 2006-2010 American Community Survey (ACS) data to determine predominately low and moderate-income areas in the County, and second the County will use the 2010 Census data for the racial characteristics of Oceano.

According to the ACS data, Oceano has a population of 7,360 of which 4,845, or 65.8%, are low- and moderate-income. As shown in Table 1, this demographic data obtained from HUD to determine LMA areas, is well above the required 51% to meet the LMA area benefit test.

The California State Department of Justice provides, "Environmental Justice" is the fair treatment of people of all races, cultures, and income with respect to the development, adoption, implementation, and enforcement laws, regulations, and policies.

The State Attorney General is particularly concerned that local governments, in permitting new projects, consider potentially significant environmental impacts on communities already burdened with pollution, as required by the California Environmental Quality Act.

The State Attorney General considers environmental justice in all of her actions and issues the legal tools available to ensure that all Californians enjoy the benefits of a healthy, safe environment.

The United States Environmental Protection Agency definition of "Environmental Justice" also provides "It will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn and work."

Impacts from the OHV activity and their adverse effect on the community of Oceano are well documented. Noise, traffic congestion, track out, litter, and dust generation are a few of the detrimental impacts. These impacts have been escalating over the last 30 years, since the 1982 Coastal Development Permit allowing the use of the beach for OHV activities.

An Economic Impact Analysis report was prepared by SMG for 2010-11 to assess the benefits of the ODSVRA. The overall economic impact, including direct, indirect and induced spending was estimated at over \$160 million from the overnight visitors. The study looked at several sectors including lodging, food and beverage, transportation, retail and recreation. Given, Oceano has limited room availability,

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one gas station, a few restaurants and a handful of ATV rental outlets, there are few opportunities to benefit. Suffice it to say, Oceano's "slice of the \$160 million economic pie" is miniscule.

In the event, another staging and access were provided to the ODSVRA at the SMR it would allow Pier Avenue to remain open for day use only, similar to Grand Avenue. This would have the effect of eliminating many of the adverse impacts that continue to plague the community of Oceano. Without these impacts, the community could attract private investment, which when combined with other programs in place, such as the Oceano Revitalization, the community would have an opportunity to become more competitive economically with Grover Beach, Arroyo Grande and Pismo Beach with a higher quality of life.

JHEC-03
cont

In 2011, the San Luis Obispo County Air Pollution Control District, in recognition of particulate matter emission from the ODSVRA, established Rule 1001 that requires the preparation of a Particulate Matter Reduction Plan (PMRP). CDPR has spent over \$2 million attempting to comply with Rule 1001. Notwithstanding great expense, State and Federal air quality exceedances continue. A significant amount of particulate matter is generated from traffic along the "Sand Highway" which is the primary alignment that vehicles travel from Pier Avenue to the ODSVRA. By establishing a staging and access for the ODSVRA at the SMR would have the effect of reducing the number of vehicle trips and miles traveled substantially. This new access would also have the effect of eliminating all creek crossings at Arroyo Grande Creek. In a time of anticipated sea level rise and the need for "planned retreat" an alternative access at the SMR would be a step in the right direction.

JHEC-04

In the 2006 Condor Environmental Alternative Access Study it is made clear that CDPR will not use the power of "eminent domain" to secure land necessary for an alternative access. With available land, and funds needed to address the particulate matter issue this would be an ideal combination to develop a new coastal access to the ODSVRA at the SMR.

The California Coastal Commission, at its February 11-13, 2015 meeting will consider condition compliance issues relative to the 1982 CDP. First and foremost will be the consideration of Special Condition 1.B.

JHEC-05

The DEIR identifies other points of Vertical Coastal Access in the vicinity. However, the DEIR fails to adequately evaluate the cumulative effects of changes in ODSVRA access and operations. The DEIR focuses on impacts to the immediate project area

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while the implications of whether; or not, to provide vertical access, extend well beyond the project area. For example, air quality and biological impacts are considered in the immediate project vicinity but do not account for other such impacts being incurred nearby, which may be substantially reduced if vertical public access was created at the SMR location. The DEIR includes a fairly extensive discussion about the sensitive plant species in the area yet there is an absence of discussion regarding invasive plant species in the vicinity of the vertical access alignment. In the 2006 Condor Environmental Alternative Access Study on page 80 it is reported that Purple Veldt Grass (*Ehrharta calycina*) was observed and “was particularly prevalent in the Conoco/Phillips corridor”. The control of veldt grass in the area could be accomplished with mitigation measures attached to the vertical access improvements. Another example of a highly sensitive newly constructed public access road is in Montana de Oro State Park in Los Osos. The CDP for this project is #4-91-61. This is an example of how mitigation can be successfully implemented to address sensitive coastal resources and at the same time expand public access. On a related note, ground disturbance induces veldt grass expansion. Having a paved vertical access road to the beach, which would also serve as the Phillips 66 outfall maintenance road, no ongoing grading of the maintenance road would be required. Also, the DEIR fails to analyze the benefits to Arroyo Grande Creek and the Federal Endangered Species present i.e. Tidewater Goby and Steelhead Trout, by providing a permanent alternative access at Phillips 66. This would reduce the vehicle creek crossings by hundreds of thousands over the course of a year.

JHEC-05
cont

A central question associated with off highway vehicle access at this location is the emergency exit in the event of an emergency. The obvious answer that the vehicles would exit the way they used to come in at Pier and Grand Avenues. This would provide two ways in and two ways out in contrast to the current access which is limited. The recent completion of the Willow Road interchange with US HWY 101 should be included in the discussion. The circulation improvements provide a direct access from US 101 to the Phillips 66 entrance at HWY 1. The distance is approximately 5 miles.

JHEC-06

With regard to motor vehicle access that an “access road could result in significant biological impact to sensitive species....semi aquatic wildlife species, and wetlands.” This conclusion fails to take into consideration the benefits that may likely outweigh the temporary impacts. The removal of invasive veldt grass and the creation of a permanent outfall maintenance road would improve biological health overall.

JHEC-07

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Additionally, beneficial impacts to endangered species would result from reduce creek crossings at Arroyo Grande Creek. Finally, significant overall reductions in particulate matter emissions in the area may result from reduced vehicle miles traveled if vertical motor access were available at the SMR. The idea of regional cumulative beneficial impacts for air quality, biology, public safety, etc. should be included in the RDEIR.

JHEC-07
cont

In conclusion, it is imperative that the CCC ODSVRA briefing in February 2015 guide future decision making regarding the prospects of developing a new southerly coastal access and staging area for the ODSVRA. Finally, I request that the points raised in this letter and the prior comment letter be fully discussed in the responses to comments for inclusion in the Recirculated Final Environmental Impact Report.

JHEC-08

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

Jeff Edwards
Jeff Edwards

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Attention: Murry Wilson

**RE: Phillips 66 Company Rail Spur Extension Project Public Draft
Environmental Impact Report and Vertical Access Project Assessment
SCH #2013071028**

Development Plan/Coastal Development Permit ED12-201 (DRC2012-00095)

January 27, 2014

Dear Mr. Wilson,

Please consider the following comments as they relate to the consideration of the potential vertical public access for potential multiple uses in connection with the subject proposal. The DEIR completed a programmatic analysis of the relevant issues in Chapter 9 of the document entitled Vertical Access Project Assessment.

The subject development gives rise to additional public access requirements. In other words, a "second bite at the apple" is now available. The County of San Luis Obispo may impose additional requirements for the Rail Spur Project relative to the provision of public access at this location beyond what the Throughput Increase project is required to provide. Benefits to Phillips 66 will be realized with each project. Also, impacts from each project will result, giving rise to a further nexus to impose conditions. The DEIR references several potential widths for a vertical access. Given possible multiple uses at such an access, a wider land dedication should be considered (eg. 80-100 feet.) Also, the DEIR considers multiple uses of an access at the subject location including off-highway vehicles, bicycle/pedestrian and should also include equestrian as a potential use.

Section 9.2 Existing Coastal Access in the Vicinity

The DEIR identifies other points of Vertical Coastal Access in the vicinity. However, the DEIR fails to adequately evaluate the cumulative effects of changes in ODSVRA access and operations. The DEIR focuses on impacts to the immediate project area while the implications of whether; or not, to provide vertical access, extend well beyond the project area. For example, air quality and biological impacts are

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considered in the immediate project vicinity but do not account for other such impacts being incurred nearby, which may be substantially reduced if vertical public access was created at the Phillips 66 location.

Section 9.3 Coastal Access Project Description

This section should also evaluate the inclusion of regional equestrian staging and access at the Phillips 66 location. This use is not discussed in the DEIR. Later in section 9.3 the DEIR discusses the existing private “at-grade” crossing at Phillips 66, however fails to mention that many of the vehicles presently accessing the ODSVRA use an “at-grade” crossing (public) at Grand Ave. and HWY 1 in Grover Beach. A related issue is the ownership operation and maintenance of the access. It is understood that if a government agency or an entity other than Phillips 66 served this function, then reclassification of the crossing to public by the CPUC would be likely. It is this authors intent that the vertical access provision by Phillips 66 would include land dedication, facility design and permitting and possible construction, while California Department of Parks and Recreation (CDPR) would own operate and maintain the facilities. This is similar to the existing relationship (long term lease) Phillips 66 has with CDPR and the 630 acres that is currently part of the ODSVRA adjacent to the refinery.

Section 9.3.2 Motor Vehicle, Bicycle and Pedestrian Access

The DEIR suggests that the “ODSVRA may be resolved in the relatively near future.” Furthermore, there is reference to California State Parks and Recreation Coastal Development Permit 4-82-300. Reference to the APCD Dust Rule 1001 is also made.

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

Pier Avenue was intended to be a temporary interim access location. It appears operation of the ODSVRA is out of compliance with the CDP. A briefing on this and other ODSVRA issues before the CCC is necessary before any action is taken on the subject proposal. The DEIR fails to include special Condition 1B or any discussion thereof as it relates to the 1982 CDP. CDP 4-82-300 should be analyzed in the DEIR.

Also, the 2006 Alternative Access Study was prepared by Condor Environmental Planning Services Inc includes an analysis of a vertical access at the subject location. This location was the highest ranking of all unimproved candidates that were

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analyzed. Please see Table 11 Comparative ranking of Corridor Sensitivity. The DEIR makes no reference to this ranking or discusses the relevant aspects.

Section 9.4.1 Aesthetic and Visual Resources

With a backdrop of the towering Phillips 66 refinery it is hard to believe any vertical access project would have adverse visual impacts by comparison.

Section 9.4.3 Air Quality

The discussion of air quality impacts is overly limited; the section references the SLOC APCD 2010 study and the problems associated with particulate matter concentrations, resulting in part from off highway vehicle activity. No analysis has been made of the vehicle trips made from Pier Avenue to the ODSVRA, principally along the "Sand Highway" and the air quality impacts. For instance, the distance traveled per vehicle is anywhere from 5-8 miles one way, a two-way trip would be 10-16 miles. If on one day, 3,000 vehicles access the ODSVRA that would result in 30,000-48,000 vehicle miles traveled. On a day like Huckfest where the capacity would be reached, i.e. over 4,000 vehicles, the vehicle miles would be substantially greater. An proper analysis of the potential reduction in such vehicle miles traveled may have substantial positive impacts with regard to the particulate matter issue and the APCD Rule 1001.

Section 9.4.4 Biological Resources

The DEIR includes a fairly extensive discussion about the sensitive plant species in the area yet there is an absence of discussion regarding invasive plant species in the vicinity of the vertical access alignment. In the 2006 Condor Environmental Alternative Access Study on page 80 it is reported that Purple Veldt Grass (*Ehrharta calycina*) was observed and "was particularly prevalent in the Conoco/Phillips corridor". The control of veldt grass in the area could be accomplished with mitigation measures attached to the vertical access improvements. On a related note, ground disturbance induces veldt grass expansion. Having a paved vertical access road to the beach, which would also serve as the Phillips 66 outfall maintenance road, no ongoing grading of the maintenance road would be required. Also, the DEIR fails to analyze the benefits to Arroyo Grande Creek and the Federal Endangered Species present i.e. Tidewater Goby and Steelhead Trout, by providing a permanent alternative access at Phillips 66. This would reduce the vehicle creek crossings by hundreds of thousands over the course of a year.

Section 9.4.5 Cultural Resources

It is acknowledged the “proposed access route alternatives avoid all but one” sensitive Native American cultural site.

Section 9.4.6 Hazards and Hazardous Materials

The central question associated with off highway vehicle access at this location is the emergency exit in the event of an emergency. The obvious answer that the vehicles would exit the way they used to come in at Pier and Grand Avenues.

Section 9.4.7.2 Coastal Access Impacts

A general plan consistency analysis for any vertical access option is premature. Until a precise project description is developed it is impossible to adequately perform a consistency determination.

Section 9.4.9 Transportation and Circulation

The recent completion of the Willow Road interchange with US HWY 101 should be included in the discussion. The circulation improvements provide a direct access from US 101 to the Phillips 66 entrance at HWY 1. The distance is approximately 5 miles.

Section 9.5 Comparison of Coastal Access Options

This section concludes, with regard to motor vehicle access that an “access road could result in significant biological impact to sensitive species....semi aquatic wildlife species, and wetlands.” This conclusion fails to take into consideration the benefits that may likely outweigh the temporary impacts. The removal of invasive veldt grass and the creation of a permanent outfall maintenance road would improve biological health overall. Additionally, beneficial impacts to endangered species would result from reduce creek crossings at Arroyo Grande Creek. Finally, significant overall reductions in particulate matter in the area could result from reduced vehicle miles traveled if vertical motor access were available at Phillips 66.

In conclusion it is imperative that the CCC conduct a briefing to evaluate all of the competing issues in this very important south County location. Please see the attached information packet prepared for the CCC (August 2013). Finally, I request that all of the points raised in this letter are fully discussed in the responses to comments for inclusion in the Final Environmental Impact Report.

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

Jeff Edwards

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Attachment