

October 29, 2014

Ms. Caren Ray
San Luis Obispo County Supervisor

Reference: REIR for the Phillips Nipomo Mesa refinery rail project

Dear Ms. Ray,

We have lived on the Nipomo Mesa for more than three years. We own a home in a community which is a short distance east of the existing Phillips refinery. We are writing to provide comments on the REIR that was recently issued by Phillips for the referenced rail project (which we will refer to as “the project”). We add our voices to the many thoughtful, concerned citizens who are against the project because of its adverse environmental and safety impacts. We are active supporters of your county council re-election campaign and will vote for you on November 4.

Because of the known health issues as well significant public safety risk due to fire, explosion and oil spills, and major impacts to quality of life, we urge you and the county council to reject the REIR and not approve this project.

COJ-01

Others will provide comments on the REIR that go into detail. We want to let you know why these issues are important to us, while minimizing duplication of the details on each of these points that will come from other commenters.

1. Potential for oil spills, fires and explosions

This is the most serious and potentially catastrophic issue because of the very real threats to public safety, and the fact that spills, fires and explosions have occurred at various places around the country where oil, or oil products, are transported by rail. We must not expose our county and our citizens to this hazard.

COJ-02

2. Air pollution

The project will add to the already unacceptable and unlawful pollution coming from nearby Oceano Dunes state park. The strong prevailing N-NW winds will bring air pollution from the project (in the form of toxic and noxious fumes, smoke and dust) directly to the Nipomo Mesa nearly every day of the year, causing further exceedence of EPA levels and aggravating an ongoing acknowledged health hazard.

COJ-03

3. Noise and visual pollution

The daily movement of two large trains of 80 tanker cars, with related ongoing coupling/decoupling, positioning, and maintenance/repair of cars, will create unacceptable noise levels for nearby residents and will be an unsightly blight on a beautiful ocean overlook that is enjoyed by visitors, tourists, and local residents. The REIR proposes to mitigate the visual blight by building berms; however, the proposed berm height will not hide the area as intended when viewed from the crest of the mesa, for example Via Concha as it crests just east of Highway 1.

COJ-04

4. Light pollution

Night time operations will require lighting of a large area for loading/unloading the tanker cars and other activities related to the spur. The perimeter of the crude oil unloading area would have floodlights on 30-foot tall poles every 300 feet. The unloading area lights would be used during the unloading operations, which could be five times per week for about 10 to 12 hours per unloading (i.e., 50 - 60 hours per week). The closest area residents, as well as visitors and tourists driving along Highway 1,

COJ-05

would be approximately between one-half to one mile away, well within sight during evening hours. The earthen berms that the REIR mentions would be ten to twenty feet high. Yet the floodlights will be thirty feet high, ten feet higher than the berms. Therefore, the impact of the lights will be visible from the various elevated sites on the Mesa such as Louise Lane, Eucalyptus Road, and Tomas Court, and the crest of Via Concha just east of Highway 1. Although the new lights would point downward, they would illuminate the offloading facility and tank cars beneath them. Those surfaces will be lit up brightly to help employees go about their work. The result - residents would see the bright reflected light on the surface of everything that's lit up at the unloading facility ... including the tracks, tank cars and the pumping station. The result would resemble a brightly lit movie set, with all the machinery and characters in motion. This would be an unacceptable sight for residents, visitors and tourists.

COJ-05
cont

5. Year-long pollution and congestion accompanying construction is not addressed in the REIR

The proposed Rail Terminal construction will last approximately ten months. This will add an estimated 916 additional truck/worker trips to and from the construction site. Truck traffic will include heavy duty dump trucks, concrete trucks, water trucks, flatbed semi-trucks and various other construction equipment. The majority of these trips will be on Willow Road between the construction site and Highway 101, primarily during daylight hours. However, we have often witnessed construction or other heavy vehicles occasionally taking a "short cut" through our residential community, and there is no doubt this will be the case during construction of this project. This will add significant air, noise, visual pollution and congestion to this area that has many thousands of residents as well as numerous visitors and tourists. The REIR does not address the critical issue of project construction.

COJ-06

In conclusion, because of the unacceptable environmental impacts and risks outlined above without sufficient mitigation, we urge you and the county council to reject the REIR and disapprove the proposed rail spur project.

COJ-07

Sincerely,

(original signed by...)

Joseph T. Cooledge
Cynthia P. Cooledge
1142 Tyler Court
Nipomo, CA 93444

November 17, 2014

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

Subject: Additional comments on REIR for the Phillips Nipomo Mesa refinery rail project
Reference: Letter from the Cooledges to Mr. Murry Wilson dated October 28, 2014

Dear Mr. Wilson,

We previously wrote to you (see referenced letter dated October 28) with our comments on the Phillips refinery rail spur REIR. At a recent community meeting that was attended by about 300 residents of the Nipomo Mesa, we were given additional information that we want to pass along to you and the Planning Commission as part of the public comment record.

The Phillips rail spur project is incompatible with long-term residential land use, planning and zoning decisions that have been intentionally and thoughtfully made for the area. Over the last two decades, SLO County planners have encouraged residential growth and master planned communities as desirable land use on the western Nipomo Mesa, near the Phillips refinery. These strategies encourage and enabled the building of communities with above-average tax bases per home that provide well-paying jobs for many county residents.

In response to this thoughtful planning for the mesa, more than 5,000 residents live on the West Mesa, and the population continues to grow.

These communities were built with a planning strategy that offers beautiful views, golf courses, a resort hotel, and a quiet, peaceful place to live and to visit.

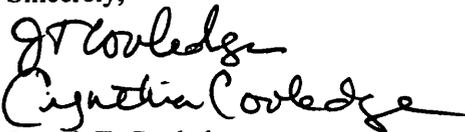
COJ-08

The rail spur and its related refinery activities would bring numerous adverse safety, health and aesthetic problems as detailed by other REIR commenters, so we will not repeat those here other than a quick summary:

- Potential for oil spills, fires and explosions
- Additional air pollution over the current illegal and unhealthful levels
- Noise pollution
- Visual unsightliness
- Light pollution
- Noise, traffic and additional pollution during the construction period

In conclusion, because of the incompatibility of the rail spur project with long-standing existing land use decisions and objectives, we urge the county planning commission to reject the REIR and disapprove the proposed rail spur project.

Sincerely,



Joseph T. Cooledge
Cynthia P. Cooledge
1142 Tyler Court
Nipomo, CA 93444

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COJ-01	<p>This comment does not identify a specific environmental analysis or CEQA issue relative to the EIR and compliance with CEQA. The commenter's concerns about adverse environmental impacts and safety are included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project.</p>
COJ-02	<p>The RDEIR contains a considerable amount of mitigation that may be within the jurisdiction of San Luis Obispo to require prior to project operations that address the potential for accidents, oil spills and emergency response. These include:</p> <p><u>Class I Impact HM.2</u> <i>The potential for a crude oil unit train derailment would increase the risk to the public in the vicinity of the UPRR right-of-way.</i></p> <ol style="list-style-type: none">1. <i>HM-2a Only rail cars designed to FRA, July 23, 2014 Proposed Rulemaking Option 1: PHMSA and FRA Designed Tank Car as listed in Table 4.7.8, shall be allowed to unload crude oil at the Santa Maria Refinery.</i>2. <i>HM-2b For crude oil shipments via rail to the SMR a rail transportation route analysis shall be conducted annually. The rail transportation route analysis shall be prepared following the requirements in 49 CFR 172.820. The route with the lowest level of safety and security risk shall be used to transport the crude oil to the Santa Maria Refinery.</i>3. <i>HM-2c The Applicant's contract with UPRR, shall include a provision to require that Positive Train Control (PTC) be in place for all mainline rail routes in California that could be used for transporting crude oil to the SMR.</i>4. <i>HM-2d The refinery shall not accept or unload at the rail unloading facility any crude oil or petroleum product with an API Gravity of 30° or greater.</i> <p><u>Class I Impact PS.4</u> <i>Operations of the crude oil train on the mainline UPRR tracks would increase demand for fire protection and emergency response services along the rail routes.</i></p> <ol style="list-style-type: none">1. <i>PS-4a As part of the Applicant's contract with UPRR, it shall require that quarterly hazardous commodity flow information documents are provided to all first response agencies along the mainline rail routes within California that could be used by trains carrying crude oil to the Santa Maria Refinery for the life of the project. Only first response agencies that are able to receive security sensitive information as identified pursuant to Section 15.5 of Part 15 of Title 49 of the Code of</i>

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Federal Regulations, shall be provided this information. This contract provision shall be in place and verified by the County Department of Planning and Building prior to delivery of crude by rail to the Santa Maria Refinery.

- 2. PS-4b Only rail cars designed to FRA, July 23, 2014 Proposed Rulemaking Option 1: PHMSA and FRA Designed Tank Car shall be allowed to unload crude oil at the Santa Maria Refinery. PS-4c As part of the Applicant's contract with UPRR, it shall require annual funding for first response agencies along the mainline rail routes within California that could be used by the trains carrying crude oil to the Santa Maria Refinery to attend certified offsite training for emergency responders to railcar emergencies, such as the 40 hour course offered by Security and Emergency Response Training Center Railroad Incident Coordination and Safety (RICS) meeting Department of Homeland security, NIIMS, OSHA 29CFR 1910.120 compliance. The contract shall require funding of a minimum of 20 annual slots per year for the life of the project. This contract provision shall be in place and verified by the Cal Fire/County Fire prior to delivery of crude by rail to the Santa Maria Refinery.*
- 3. PS-4d As part of the Applicant's contract with UPRR, it shall require annual emergency responses scenario/field based training including Emergency Operations Center Training activations with local emergency response agencies along the mainline rail routes within California that could be used by the crude oil trains traveling to the Santa Maria Refinery for the life of the project. A total of four training sessions shall be conducted per year at various locations along the rail routes. This contract provision shall be in place and verified by the Cal Fire/County Fire prior to delivery of crude by rail to the Santa Maria Refinery.*
- 4. PS-4e As part of the Applicant's contract with UPRR, it shall require that all first response agencies along the mainline rail routes within California that could be used by trains carrying crude oil traveling to the Santa Maria Refinery be provided with a contact number that can provide realtime information in the event of an oil train derailment or accident. The information that would need to be provided would include, but not be limited to crude oil shipping papers that detail the type of crude oil, and information that can assist in the safe containment and removal of any crude oil spill. This contract provision shall be in place and verified by the Cal Fire/County Fire prior to delivery of crude by rail to the Santa Maria Refinery.*

Class II Impact PS.3

The Rail Spur Project would increase demand for fire protection and

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emergency response services at the SMR.

- 1. PS-3A Prior to issuance of construction permits, the Applicant shall submit to Cal Fire/County Fire for review and approval a final Fire Protection Plan for the Rail Spur Project that meets all the applicable requirements of API, NFPA, UFC, and Cal Fire/County Fire.*
- 2. PS-3b Prior to notice to proceed for the rail unloading facility, the Applicant shall update the SMR Emergency Response Plan to include the rail unloading facilities and operations.*
- 3. PS-3c Prior to notice to proceed for the rail unloading facility, the Applicant shall update the existing SMR Spill Prevention Control and countermeasure Plan to include the rail unloading facilities and operations.*
- 4. PS-3d Prior to notice to proceed for the rail unloading facilities, the Applicant shall assure that the existing SMR fire brigade meets all the requirements outlined in Occupational Safety and Health Administration 29 CFR 1910.156, and NFPA 600 & 1081.*
- 5. PS-3e Prior to issuance of grading permits, the Applicant shall have an executed operational Memorandum of Understanding (MOU) with Cal Fire/County Fire that includes fire brigade staffing/training requirements and Cal Fire/County Fire funding requirements. This MOU shall be reviewed and updated annually by Cal Fire and the Applicant.*
- 6. PS-3f Prior to issuance of grading permits, the Applicant shall have an agreement to reimburse Cal Fire/County Fire for time spent by a qualified fire inspector to conduct the annual fire inspections at the SMR including all structures, and support facilities consistent with Cal Fire/County Fire's authority and jurisdiction. The Applicant shall reimburse all costs associated with travel time, inspections, inspection training, and documentation completion. The reimbursement rate shall be according to the most recent fee schedule adopted by the San Luis County Board of Supervisors.*
- 7. PS-3g Prior to issuance of grading permits, the Applicant shall have an agreement to reimburse Cal Fire/County Fire for offsite training for emergency responders to railcar emergencies, such as the 40 hour course offered by Security and Emergency Response Training Center Railroad Incident Coordination and Safety (RICS) meeting Department of Homeland security, NIIMS, OSHA 29CFR 1910.120 compliance. Initial training shall be two members of the Interagency Hazardous materials Response Team, two members of the interagency Urban Search and Rescue Team, and two members annually from Cal*

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Fire/County Fire or fire districts in San Luis Obispo that have automatic aid agreements with Cal Fire/County Fire for a total of six slots per year for the life of the project.

8. *PS-3h Prior to issuance of grading permits, the Applicant shall have an agreement to reimburse Cal Fire/County Fire for Fire Chief Officer attendance such as the 40 hour course offered by Security and Emergency Response Training Center; Leadership & Management of Surface Transportation Incidents. Funding shall be for two Fire Chief Officers annually for the life of the project.*
9. *PS-3i Prior to issuance of grading permits, the Applicant shall have an agreement with Cal Fire/County Fire to conduct annual emergency response scenario/field based training including Emergency Operations Center Training activations with the Applicant, Cal Fire/County Fire, UPRR, and other San Luis Obispo County First response agencies that have mutual aid agreements with Cal Fire/County Fire. These annual emergency response drills shall occur for the life of the project.*

The methodology for estimating crude oil unit train accidents and spill probabilities is consistent with the methodology outlined by the American Institute of Chemical Engineers, Center for Chemical Process Safety (AIChE CCPS) document *Guidelines for Chemical Transportation Risk Analysis* (CCPS, 1995), which is the definitive reference on the methodology for estimating hazardous materials transportation risk.

The historical accidental data used in the RDEIR is not limited to trains shipping crude oil in recent years, but the long term historical train accident data for all freight. The use of data from all freight train movements nationwide provides a very robust database for estimating rail accidents and derailments.

Average U.S. train derailment rates over the 5-year period 2005 – 2009 have previously been estimated using data from the U.S. Department of Transportation, Federal Railroad Administration (FRA) Rail Equipment Accident (REA) database combined with traffic data from the rail industry (Liu et al, 2014). This dataset was used to develop detailed derailment rates as a function of three factors: FRA Track Class, traffic volume (which appears to be correlated with additional maintenance above basic federal requirements) and Method of Operation (i.e., signaled or non-signaled trackage). All three of these factors have a significant effect on freight train derailment rate. These factors were used to calculate segment-specific derailment rates thereby enabling a fine grained calculation of derailment probability for any particular route. As discussed below, the overall accident rate has declined since this data was recorded and analyzed, thereby resulting in an overestimate of the present-day risk, and future risk. For example the average accident rate for the five-year period 2010-2014 was 27% lower than the average for the five-year period from 2005-2009, and the preliminary estimate of the accident rate for 2014 was

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35% lower than the five-year period from 2010-2014.

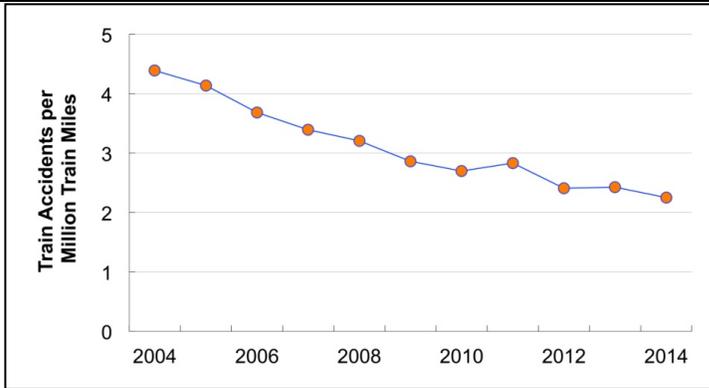
The reason data from 2005-2009 was used is because that dataset contained additional information that allowed for the estimate the effect of FRA Track Class, Traffic Density and Method of Operation (Signaled or Unsignaled) on derailment rate. This additional granularity is needed for more precise segment-specific accident rate used in the analysis.

The derailment rates calculated were based on 1,420 Class 1 railroad mainline derailments. Inclusion of a few more crude oil train derailments in recent years would have virtually no effect on the estimated rates. The suggestion that because these recent accidents were not included in our dataset somehow invalidates the results reflects a lack of understanding of the analytical technique and how it was used. The data needed for this analysis are less complete than for overall accident rate but all other things being equal, there is no reason to believe that crude oil trains derail at a rate different than other freight trains. Using what data are available and making certain assumptions, the EIR consultant conducted an analysis in 2014 and observed no significant difference in the derailment rate for crude oil trains then for other freight trains.

The railroad accident rate has been steadily trending downward for over a decade. The accident rates in the past few years were the lowest since the FRA started recording the data in the mid-1970s. In the period from 2004 to 2014 the rate declined by 49% (almost half) (see Figure 1 below). Most derailments receive little or no attention from the public or media. Railroads are required by regulation to report all accidents that exceed a certain monetary threshold in damage to track, signals and rolling stock (currently \$9,600). Proper estimation of train accident rates involves analysis of all accidents, divided by the total amount of traffic. The reason that some perceive an increase in the railroad petroleum crude oil accident rate is because of the more than 50-fold increase in this traffic since 2009. Estimates are that 233,698 tank cars of crude oil were moved by rail in 2012. This increased to over 435,000 tank cars moved by rail in 2013 (the full year of data is not yet available for 2014). With this increase in crude by rail traffic, the derailment and spill probability data would suggest that multiple crude by rail accidents would happen each year.

Figure 1. Railroad Accident Rate 2004 – 2014

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Data Source: US DOT Federal Railroad Administration
<http://safetydata.fra.dot.gov/officeofsafety/publicsite/summary.aspx>
 (Data for 2014 include January through November)

Using the accident and spill probability data from the RDEIR the DEIR would have estimated that between 2012 and 2013 there would have been two to five derailments that had spills of 100 gallons or more in the U.S. Based upon the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) incident data base, there were three crude oil train derailments with spills of 100 gallons or more.

This does not contain the accident and spills that have occurred in Canada over this period since the accident and spill probability data is for mainline rails within the United States only.

The RDEIR analysis is also in full agreement with this comment regarding the probability of future oil spills that would be associated with increased crude oil rail shipments. The RDEIR found that the risk of a crude oil train accident and spill was a significant and unavoidable (Class I) impact.

COJ-03

A study performed by the SLOCAPCD, the South County Phase 2 Particulate Study, evaluated whether impacts from off-road vehicle activities at the Oceano Dunes State Vehicle Recreational Area (ODSVRA), the Phillips Refinery coke piles, and adjacent agricultural fields were contributing to the particulate problems on the Nipomo Mesa (SLOC APCD 2010). The Phase 2 portion of the study concluded that off-road vehicle activity in the ODSVRA is a major contributing factor to the PM concentrations observed on the Nipomo Mesa and that neither the petroleum coke piles at the Phillips facility nor agricultural fields or activities in and around the area are a significant source of ambient PM on the Nipomo Mesa. The composition of the particulates is predominately natural crustal particles. The proposed Project is not anticipated to increase coke handling or contribute to dust particulate levels in the area. Air quality violations on the mesa a primarily associated with natural crustal particulates. As per the SLOCAPCD Annual Report in 2013, the days which cause impacts from the dunes are associated with strong winds out of the northwest, with the strong winds generating high levels of dune dust and causing PM impacts.

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	<p>These periods would produce substantial dispersion of the diesel PM emissions from the project site and would not correlate with the same meteorological conditions that would be associated with maximum impacts from the rail spur operations. Therefore, rail spur operations are not anticipated to contribute to additional exceedances of the PM standard.</p>
COJ-04 and COJ-05	<p>The project proposes to construct the unloading facility and rail spur tracks adjacent to the southern slopes of a natural landform ridge. This adjacent landform rises to elevations ranging from approximately 120 to 145 feet above sea level. The proposed rail spur tracks are proposed at an elevation of approximately 94 feet above sea level, which would be as much as 55 feet lower than the landform to the north. As a result, views of the unloading facility and railroad spur from the north and the northeast would be substantially blocked. In addition, the eastern segment of the rail spur tracks, closest to Highway 1, are proposed to be constructed in an excavated area maintaining the approximately 94-foot elevation while the adjacent ground rises up eastward, resulting in the easternmost end of the tracks being approximately 20 feet below the surrounding natural terrain. This elevation difference, along with the required 10 to 20-foot tall mitigation berm, would combine for an approximately 30 to 40-foot tall earthen visual screen around the eastern end of the railroad spur. This berm height in combination with the natural ridge to the north will be sufficient to reduce visibility of the project to a less than significant level for viewpoints from the east, including elevated viewpoints on Via Concha, Louise Lane, Eucalyptus Road, Thomas Court, and other viewing areas.</p> <p>The RDEIR acknowledges visibility of new night lights from the surrounding areas and identifies substantial mitigation measures to minimize any potentially adverse effects. At the unloading facility all lights would be mounted under the proposed canopy. Forty of these canopy lights would be placed 60-feet apart, and 30 of them would be 20-feet apart. Lighting for the rail spur would only be for perimeter fencing security purposes and would be placed on 15-foot tall poles, 500 feet apart. The lighting associated with the unloading facility would be viewed at a distance of approximately 1.5 miles or more from viewpoints east of Highway 1, and would be seen in the context of the Santa Maria Refinery immediately to the north. In addition the unloading facility proposes a covered canopy over the majority of the area, which would decrease light-trespass. Similar to the lack of visibility of the existing Santa Maria Refinery's illuminated ground-plane, intervening topography would block views of the illuminated ground-plane of the unloading facility as seen from Highway 1 and the residential areas to the east. Although the project would introduce light into a new area, the required berm in combination with the natural ridge to the north will help reduce visibility of night lighting for viewpoints from the east, including elevated viewpoints in the Trilogy development and other public viewpoints. With applied mitigation measures new lighting would not appear out of place given the relatively close proximity to the existing Santa Maria Refinery and coke processing facility, which emits high levels of industrial</p>

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	<p>lighting every night of the year.</p> <p>In addition to the applicant-proposed lighting features such as downward-directed lights with fully shielded lenses, the RDEIR requires substantial mitigation measures that will minimize lighting impacts through expertise and photometric-based design and technology, based on established dark-sky principles. Mitigation measures preclude illumination of adjacent slopes, prohibit placement of perimeter lights (which as previously described would be 15-foot tall) east of the screening berm (which as previously described would be 10 to 20- feet tall), and require the use of motion detectors rather than being continuously on.</p> <p>Importantly, following project completion the RDEIR requires the preparation of a Lighting Evaluation Report for review and approval by the County Department of Planning and Building prepared by a qualified lighting engineer not involved in the design of the original lighting plan. The Lighting Evaluation Report will conduct a comprehensive evaluation of in-place lighting, under all expected circumstances, and will require correction of any unexpected or residual lighting impacts based on direct observation of the completed project. The air quality mitigation that would limit rail car unloading from between 7 A.M. and 7 P.M. would also serve to reduce the nighttime lighting impacts to less than significant.</p>
COJ-06	<p>The FEIR is section 4.3 Air Quality and 4.12 Transportation and Circulation, address the potential impact of construction traffic on area congestion and air pollution. Congestion levels from the proposed construction traffic were found to be less than significant even during the peak periods of construction. Note that peak impacts from construction are based on the number of trucks utilizing the intersections during the peak hour. This level of additional traffic would not be significant relative to the amount of traffic currently using the roadways and intersections. In addition, truck traffic air pollution emissions were quantified in the air quality analysis and found to be less than significant with mitigation, including the use of clean trucks. Vehicle traffic utilizing residential areas instead of Willow Road most likely would not occur due to the direct nature of the Willow Road route for access to Highway 101, where a Highway 101 access has recently been completed.</p>
COJ-07	<p>This comment is a concluding statement. The commenter's concerns about unacceptable environmental impacts and risk are included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project.</p>
COJ-08	<p>Potential impacts associated with land use incompatibilities are discussed in Section 4.8 of the RDEIR. As explained in that section, an incompatibility would not necessarily result in a significant land use impact, particularly if the impact is based on the same environmental effects identified in other sections of the RDEIR (i.e., Aesthetics and Visual Resources, Hazards and Hazardous</p>

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	<p>Substances, Noise). To result in a significant effect on land use, the incompatibility would need to result in some additional adverse effect, such as health risks, public safety issues, or the inability to sleep, relax, or enjoy the full use of one's property. Using this approach, a significant and unavoidable land use impact was identified based on the increased health risk that would result from increased diesel particulate matter emissions from the Project. Other potential incompatibilities, such as increased air emissions, noise, odor, and hazards, were also considered.</p> <p>Applicable zoning and land use standards associated with the Project Site and surrounding area, and the Rail Spur Project's potential consistency with applicable standards and policies are addressed in Appendix G of the RDEIR. While the RDEIR discusses potential inconsistencies with applicable planning documents, the decision of whether a proposed project is consistent with a particular plan or policy must ultimately be made by the local decision-making body. The comment has been included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project.</p>
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