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San Luis Obispo, CA 93408

Mr. Murry Wilson
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Dear Supervisor Ray and Mr. Wilson:

Thank you for the opportunity to comment on the Phillips SMR Rail Project REIR issued October 2014. I am deeply concerned about the proposed expansion and the potentially serious significant impacts of this action. I'm concerned that some issues cannot be fixed with mitigation, and that Phillips seems to have no plans to address those that might be lessened by mitigation. Another concern is oversight of any mitigation. SLO County may not have the funds and/or personnel to make sure the mitigations do in fact, occur. I also believe the following issues deserve particular attention: DIS-01

Discrepancies and Unanswered Questions

1. Year-Long Environmental Pollution and Congestion Accompanying SMR Construction - Not Addressed:

The proposed Rail Terminal construction will last approximately 10 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 other construction-related equipment. DIS-02

The majority of these trips will be on Willow Road between the construction site and Highway 101, primarily during daylight hours. This will add significant air, noise, visual pollution and congestion to an area that has many thousands of existing residents. How will this year-long pollution and congestion be alleviated? DIS-02 cont

2. Discrepancy - Length of Trains versus Length of Tracks:

The inbound 80-car unit trains will consist of three locomotives, two buffer cars, and the 80 tank cars at 90 ft. each. This makes the total length of the train almost 8,000 feet, over a mile and a half long. Phillips 66 proposal states they will only be building 6,915 feet of new track. They do not give specific dimensions for the length of any spur. But they do state that each track will (supposedly) be long enough to hold an entire 8,000 foot train. DIS-03

The math does not even add up for one train. However, the REIR also states that the facility could hold a second train if needed. This discrepancy is not taken into account in the REIR. There must be a far greater understanding of exactly what Phillips is proposing ... track length and other dimensions that properly support statements in the REIR.

3. Noise Generated By Train Repairs - Not Addressed:

The REIR states (section 2.3.1) that existing track 765 will be repurposed as a "bad order" track. Bad order tracks are used to repair railcars that require repair before they can be moved again. Repairs of railcars can be very noisy and time consuming depending on the type of repair. There is no description of the type of repairs to be done on-site at Philips, when they will be done during the day (daytime or nighttime), the level of anticipated noise, nor whether and how that noise will be alleviated. DIS-04

Visual Impacts That Cannot Be Mitigated

1. A Misrepresentation Of What Will Be Visible:

Sections of the Rail Terminal Project would be seen from public roadways, walking paths and residences within the Trilogy community, looking west past Highway 1. This includes views from Via Concha Road, Louise Lane, etc. These views would include the unloading facility, railroad tracks and trains as they arrive and depart.

The "Known Viewing Area" (KVA) photos presented in the REIR were taken at the intersection of Via Concha and Highway 1. The elevation at that point is only about 197 feet above sea level. This is misleading by 50%! A more telling and accurate KVA would have been from the Trilogy homes adjacent to the second tee on the Monarch Dunes golf course. That elevation point is approximately 297 feet ... 100 feet (50%) higher! The view from that higher elevation, where the community actually resides, is far more encompassing of the Rail Terminal Project than specified in the REIR. DIS-05

2. Inserting A Rail Terminal That Blocks The "Scenic Vista":

According to the REIR -- the view looking west from Highway 1 is considered a scenic vista because of the panoramic composition of natural and agricultural land use patterns, sweeping views of the dunes and the coastline, and the Pacific Ocean beyond. The REIR indicates that the Rail Terminal and its associated trains would reduce views of the open space in the mid-ground -- which is an "important visual contributor" to the overall scenic vista. Therefore the REIR states, this would be a significant impact. DIS-05 cont

3. A Major Increase in Onsite Activity:

The REIR states (4.5.1.4) that *"between 1994 and 2011* (an 18 year period in which the Nipomo Mesa residential communities were built) *the only discernible activity is within the coke yard."* Therefore, building a rail terminal and unloading facility, plus the arrival and departure of 520 trains per year, each a 1.5 miles long, will result in a sea of change in the amount of activity to which local residents will be exposed. DIS-06

4. A Mitigation Solution That Will Not Work:

To alleviate the damage to the "scenic vista", the REIR suggests that an earthen berm be constructed around the eastern perimeter of the Rail Terminal. It theorizes that a berm 10 - 20 feet tall would block the views of the rail spur and trains. Given that homes in Trilogy are actually at an elevation some 100' higher than presented in the study, the earthen berm solution simply will not work. The visual destruction would remain unabated. DIS-07

Lighting Impacts That Cannot Be Mitigated

1. New Lighting Introduced For 50 - 60 Hours Per Week:

New outdoor lighting is proposed throughout the Rail Terminal Project. The unloading facility lights would introduce light into a new area. 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).

2. Residents Will Definitely See The New Lights: DIS-08

The closest area residents to the new rail facility would be approximately between one-half to one mile away from the newly lighted area, well within visual sight during evening hours. The earthen berms that the REIR theorizes might be a mitigation approach, is a counter-intuitive solution. The berms would be 10' - 20' high, yet the floodlights will be 30' high, 10' higher than the berms. Therefore, the impact of the lights will be visible from the elevated sites in the Trilogy community on Louise Lane, Eucalyptus Road, Tomas Court, etc.

3. Pointing the Lights Downward Is Not a Solution:

The REIR states that the new rail facility lights would be pointed downward. However, even though the lights would point downward, they would obviously be illuminating the offloading facility and tank cars beneath them. Those surfaces will be lit up brightly to help employees go about their complex work.

The result is that residents would see bright light being reflected off the surface of everything being illuminated in the unloading facility, including the tracks, tank cars and the pumping station. Before them would essentially be a brightly lit movie set, with all the machinery and characters in motion. And local residents would unfortunately have a front row seat.

DIS-08 cont

4. Incompatibility with Residential Zoning:

All of this light pollution is highly incompatible with San Luis Obispo County's having created and zoned the area next to the Phillips SMR as a residential community. To date, the community and refinery have lived harmoniously, with respect for the well-being of one another. The residents invested in their homes on the Mesa facing agricultural fields, dunes, the Pacific Ocean, and knowing that the relatively serene neighboring refinery would have its raw material was delivered only by existing pipeline.

If the rail terminal is approved, the entire nighttime environment of the local residential community would change due to the reflected bath of bright artificial lights. So no matter which direction Phillips promises to point their new lights, the Rail Project should not see the light of day.

DIS-09

Serious Environmental Threats - Five "Class 1" Damaging Impacts

The original DEIR recognized only two air quality impacts as "Class 1" *(i.e., impacts that cannot be mitigated to less than significant levels)*. However, in the REIR, the number of Class I impacts more than doubled to five impacts that are "significant and unavoidable", suggesting that the original analysis either purposely minimized these issues or was woefully inadequate in its observations.

In the new REIR, the following project impacts were classified as Class 1:

1. (AQ.2): Operational activities associated with the Rail Spur Project at the refinery would generate criteria pollutant emissions that exceed SLOCAPD thresholds.
2. (AQ.3): Operational activities of trains along the mainline rail route outside of SLO County associated with the Rail Spur Project would generate criteria pollutant emissions that exceed thresholds.
3. (AQ.4): Operational activities at the Refinery associated with the Rail Spur Project would generate toxic emissions that exceed SLOCAPCD thresholds.

DIS-10

4. (AQ.5): Operational activities of trains along the mainline rail route associated with the Rail Spur Project would generate toxic emissions that exceed thresholds.
5. (AQ.6): Operational activities associated with the Rail Spur Project would generate GHG (greenhouse gas) emissions that exceed SLOCAPCD thresholds.

DIS-10 cont

The Key Issues Surrounding the Class 1 Impacts of the Rail Spur Project:

• **Heightened Recognition of Specific Threats to Citizens' Health -** This REIR recognizes the serious nature of the health risks raised by this project. Increased risks in important health categories such as cancer, heart disease, respiratory disease (especially in the very young and very old) and premature death are recognized and in some cases the risks are quantified.

• **Heightened Recognition Of A Threat To Global Climate Change -** The impact of this project on California's and SLO County's programs to reduce the threat of global climate change is also quantified in this REIR and the increase in greenhouse gas emissions of this project are found to exceed thresholds.

• **Impractical And Unenforceable Mitigation Measures -** Although there are mitigation measures discussed in this EIR for all five Class I impacts, the EIR's discussion of the measures, for the most part, makes it very clear they are not truly feasible or adequately enforceable.

DIS-11

• **Not Taking Into Account All The Criteria For Determining Compliance With Air Pollution Standards -** An issue of great concern with the REIR is its singular reliance on emissions increase thresholds as the sole criteria for the determination of significance under the California Environmental Quality Act (CEQA). The County has identified a list of criteria that can be used as a basis for determining "significance" under CEQA. An emissions increase threshold is only one of them.

Given that Phillips Rail Spur project lies in the heart of a region where the state health standard for particulate matter is violated over 70 times per year and where the federal health standard has been violated in each of the last three years, we believe that any increase in the emissions of particulate matter at this project site violates additional CEQA significance criteria.

Air Quality and Greenhouse Gases

The Refining of Tar Sands has been linked to a Host of Major Health Problems

1. The Arrival of "Tar Sands" In SLO County:

DIS-12

The Nipomo refinery's superintendent has told local residents that with the Rail Terminal Project, there's a good possibility (we think probability) they will ship in "tar sands" crude oil from Alberta, Canada. Tar sands produce a "heavy" crude which contains substantially higher concentrations of sulfur, copper, nickel, nitrogen, lead and benzene than are found in conventional crude.

2. Health Issue #1 - Higher Levels of Sulfur Dioxide:

The main danger to local communities is that facilities that refine tar sands can and do emit significantly higher amounts of sulfur dioxide. Inhalation of sulfur dioxide is very toxic and can cause death. Exposure can lead to chest tightness, asthma, reduced lung function, respiratory weakness and cardiovascular issues. Sulfur dioxide is especially dangerous for people who have preexisting heart and lung conditions.

3. Health Issue #2 - Increased Quantities of Petroleum Coke:

DIS-12 cont

It is widely known that the refining of tar sands also yields a significantly higher amount of petroleum coke, known as "petcoke." Phillips 66 Santa Maria refinery already produces petroleum coke, stored on the refinery site as widespread, open hills of black carbon granules and fine dust. As currently stored, the fine particles from this refinery by-product can easily be blown into nearby residential areas by onshore winds, exposing residents to potential respiratory issues. Increased production and storage of petcoke could significantly impact PM10 levels on the Nipomo Mesa already exceeding the state health standard for particulate matter over 70 times per year and where the federal health standard has been violated in each of the last three years.

Biological Resources

Rail Project Poses a Myriad of Impacts on Wildlife, Land, Tourism and Residents

1. Impact on Wildlife:

Wildlife will be impacted by fuel management, vegetation removal, night lighting and storm runoff off of pollutants. Aquatic resources on the adjacent property could be impacted by hazardous material spills. (sec. 4.4-22) The REIR doesn't address how the loss of wildlife would affect people living on the Nipomo Mesa and tourism. Spill cleanups could result in significant environmental disturbance, further damaging wildlife habitat.

DIS-13

2. Impact on The Monarch Butterfly Habitat:

Impacts from construction and operational activities on the Butterfly Habitat are unknown due to a lack of sufficient scientific information. A lack of information doesn't mean there won't be an impact. The Habitat is located in the Trilogy development. It's an area walkers, tourists and naturalists enjoy and are drawn to. It's been stated that the Monarchs often do not return when areas become polluted. Loss of the Habitat would cause a loss of tourists, and negatively affect local residents and SLO County overall. (4.4-43)

3. Impact on SLO County Tourism:

SLO County has a minimum of 76 streams and crossings along the UPRR mainline. To clean a hazardous oil spill would require the mobilization of emergency response units and equipment. This would harm our reputation as a vacation area. Oil contaminated areas would alienate people who now travel to here for camping, hiking and our area's natural beauty.

4. Overarching Impact on SLO County Residents:

DIS-13 cont

The Rail Terminal project will have a negative effect on our community. Damage to our unique plant species, animal species and waterways would harm our tourism economy. Residential growth (encouraged and approved by the SLO planning commission) would be negatively impacted. Homeowners are attracted to the area because of SLO County's willingness to put a protective emphasis on our natural environment, a significant attraction to people who want a quality of life with a protection of natural habitat and biological resources.

Geological Resources

REIR Lacks a Facility Inspection Plan to Counter Acts of Nature

The REIR* states that damage to structures from liquefaction** and ground accelerations from earthquakes "*could be severe*", are considered potentially significant, and could result in hazardous oil spills, risk of fire, and surface and groundwater contamination.

The REIR further states - *"As discovered* (from experience) *… existing building codes are often inadequate to completely protect engineered structures from hazards associated with large ground accelerations."* As is typical of large scale industrial facilities, there is no local permit oversight for the aging structures and equipment at the Santa Maria Refinery beyond initial construction permitting.

DIS-14

Given the severe potential consequences to nearby residences of a structural failure within the refinery operation should severe ground shaking or liquefaction occur, there should be a mechanism in place for periodic inspection and review of existing and newly constructed facilities to account for corrosion and stressing of components over time.

The potential for nearby residents to suffer harm from an incompatible and intensified industrial facility is inconsistent with the goals of the San Luis Obispo General Plan.

*Page 4.8-12, section 4.6.4, paragraphs 3 & 4
**Definition: saturated or partially saturated soil substantially loses strength and stiffness in response to an applied stress, usually earthquake shaking or other sudden change in stress condition, causing it to behave like a liquid

Hazards and Hazardous Materials

<u>Historical</u> Odds of Rail Accidents Versus What's <u>Actually</u> Occurring

Railroads and oil companies are shipping ever-larger amounts of crude by rail, attempting to calm citizens' fears about rail accidents by citing outdated, historical statistics. For example,

The Association of American Railroads proudly notes that in the past, 99.9% of rail shipments of hazardous materials, including oil, reached their destination without a spill.

Unfortunately, current data is far more sobering. In the last five years, the number of tankers of crude transported by train in the U.S. has grown from under 10,000 to about 400,000 -- that's a 40-fold increase. And over the next decade, rail oil shipments are forecast to increase from 1 million barrels a day to more than 4.5 million barrels every single day. Looking strictly at oil shipments by rail, spills are spiking. According to the Associated Press -- in 2009, before the tar sands oil boom, just one rail oil spill was reported. But now, with the recent flood of oil by rail, the landscape is far different. Through November 2013, crude oil releases were reported from 137 rail cars.

DIS-15

Therefore, you can toss the industry's outdated "odds" out the window. All you need do is read the news to learn the real facts. Freight trains carrying crude oil, propane and other hazardous materials are going off their tracks at alarming rates. Why? Because more trains are carrying that material.

The reality of what's actually happening and what will continue to happen, flies in the face of the outdated, 99.9% odds and statistics handed out by railroads and oil companies. Simply put -- regardless of improvements in tank cars, far more crude oil shipped by rail equals far more trains derailing and far more disasters. It's all in the new numbers.

Phillips' "New" Rail Cars - They're Not as Safe as They Claim

Early this year (Feb. '14) in a flyer to residents, Phillips stated it is *"committed to the safety of everyone in the communities where we operate. (Our) crude railcar fleet is one of the newest and are all DOT-111 cars ... including 2,000 that meet or exceed the Association of American Railroads safety standards*. We are committed to our crude-by-rail strategy."*

However, they fail to mention that it's the DOT-111 tank cars that have been involved in most or all of the previous derailments, explosions, fires and oil spills. While those cars may be state-of-the-art, the state-of-the-art has proven beyond doubt that it's not good enough.

DIS-16

- A May, 2013 Phillips press release reported on their new cars - *"During the first quarter (of 2013), the company took delivery of 400 railcars, which will transport crude to its refineries on the East and West Coasts."*

- Yet, two months later, U.S. Senator Charles Schumer warned - *"DOT-111 tank cars are tragically flawed, causing potential damage & catastrophic loss of hazardous materials during*

derailments." He called for the *"Feds to require a phase-out plan of DOT-111 cars carrying oil. The DOT-111 tank car has proven particularly prone to spills, tears and fires in the event of a derailment, and it's simply unacceptable."*

- A February '14 AP article quoted Ed Hamberger, the president and CEO of the Association of American Railroads, who said the industry has strongly urged the government to set new tank car standards. He said - "*We believe there needs to be a safer tank car.*"

So despite Phillips' desire for SLO County residents and officials to believe their new DOT-111 cars are a non-issue; they are and remain a state-of-the art safety risk. At the local level, Phillips may be committed to the safety of our communities. But it appears that at the corporate level they're far more committed to their "crude-by-rail strategy."

*As of October 22, 2014, the company had bought or ordered 3,200 railcars, and planned to boost its fleet to 3,700. http://www.reuters.com/article/2014/10/23/crude-freight-unloading-idUSL2N0SI03D20141023

Phillips' New DOT-111 Rail Cars - the REIR Bans Them from the Santa Maria Refinery

DIS-16 cont

In recent years, Phillips 66 rushed to take advantage of low cost crude and low cost transportation of that crude by purchasing thousands of their own rail tank cars. Each of these cars is the model DOT-111. This model has been involved in many derailments, during which the cars puncture or break open, spill crude oil, catch on fire and sometimes explode.

Yet this is the rail tank car Phillips continued to purchase. Their February, 2014, flyer to SLO citizens stated - *"Our fleet includes 2,000 newly acquired cars ... and all are DOT 111 cars."**

But on July 23, 2014, U.S. Federal regulators determined that oil companies and railroads were wrong in their huge escalation of crude-by-rail, using outmoded DOT-111 tank cars. The Department of Transportation decided it would now require shippers to use different cars.

- The serious deficiencies of the DOT-111 are well known and therefore taken into account in the REIR. It states (4.7-69; page 489) -- *"Only rail cars in Table 4.7.6 (on page 447), shall be allowed to unload crude oil at the Santa Maria Refinery."* And that table requires shippers to use a new model car that's yet to be produced -- the DOT-117.

Therefore, the tankers Phillips intends to use to ship its crude oil to SLO County, will be outdated DOT-111 tankers that have proven to be failure-prone.

*As of October 22, 2014, the company had bought or ordered 3,200 railcars, and planned to boost its fleet to 3,700. http://www.reuters.com/article/2014/10/23/crude-freight-unloading-idUSL2N0SI03D20141023

The Danger of Transporting Crude Oil Down The Cuesta Grade

Under the Phillips 66 proposal, five trains each with 80 fully-loaded oil tankers would arrive at the Santa Maria Refinery each week. This means that each year 20,800 crude oil loaded tank cars would be entering SLO County headed to the Nipomo Mesa.
A great many of these trains will come from the north and have to pass up, over and then down the Cuesta Grade ... a very mountainous area north of SLO with an extremely steep pass (7% grade).

If you've ever driven south down the grade on Highway 101, you know how hair-raising and potentially dangerous that area is. Regardless of the precautions one takes, it offers the perfect scenario for "runaway" cars, trucks and trains. And under the Phillips plan, their fully loaded tank cars would make their way, precariously down the Cuesta Grade. And on their return north, the same tankers would navigate the Cuesta Grade yet again.

We estimate that each train will weigh approximately 11,632 tons coming down Cuesta Grade. When an almost twelve-thousand ton object carrying volatile crude oil attempts to come down the Cuesta Grade numerous times a year, somewhere in our future is a disaster.

Indeed, the REIR states (4.11-25) "*In San Luis Obispo County, the Cuesta Grade represents an area where a runaway train could occur. A runaway train coming down the Cuesta Grade could result in spills of crude oil and associated fires.*" DIS-17

The Widespread Evacuation Required By a Major Rail Accident

If we've learned at one thing from the crude oil train accidents that have already occurred in the United States, it's that the immediate impact is not limited to the accident site alone. For example, let's take the Casselton, ND, accident where 18 tank cars exploded, toxic fumes were released, and 400,000 gallons of crude oil spilled. What happened immediately after the accident?

- All 2,300 Casselton residents were asked to evacuate their town. In fact, there was a 5-mile evacuation zone enacted. Shelters were then set up outside the evacuation zone, where local townspeople were forced to wait out the evacuation period.

Heaven forbid, but if such an accident occurred in SLO County, there would be one major difference between us and the Casselton disaster. Instead of having 2,300 residents, SLO County has 274,000 residents. It's highly likely that far more people would be included in a similar 5-mile evacuation zone.

Let's take the city of San Luis Obispo for example, with a population of 45,000, not to mention the additional 18,000 students on the campus at Cal Poly. The oil trains would come right past the campus into downtown SLO. If downtown SLO were ground zero, and we drew a 5-mile evacuation circle around downtown, how many men, women, children and students would be encircled? We don't know that answer and don't wish to find out. And we don't wish to find

out how long they'd be homeless. We need to learn from what other communities have experienced. We need to recognize that although these accidents may happen in a single spot, the damage impact has potential to mushroom out across huge swaths of communities. DIS-17 cont

Land Use

A Crude Oil Rail Yard and Terminal is a Vastly Intensified Use of the Refinery, Incompatible with Adjacent Residential Zoning

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 Santa Maria Refinery. More specifically, their intended strategies triggered the building of communities with above-average tax bases per home. In response to the planners' blessing, far more than 5,000 residents have already decided to live on the West Mesa, and the population continues to grow. Indeed, the County encourages expansion of existing communities and the construction of entirely new ones. The growth of these communities was obviously applauded by past SLO County planning commissioners. The communities were purposely licensed, to be built with the expectations of beautiful views, golf courses, a resort hotel, and a serene way of life. The area was to become and has become, a divine place to visit and play, and a prime place to live and retire. DIS-18

However, an oil-terminal rail yard will generate far greater intense activity than the historic, benign delivery of crude by pipeline. The greatly enhanced intensity and danger of what Phillips proposes, changes the entire game for Mesa residents and for the citizens of SLO County. In effect, it pulls the rug out from what was originally intended by the planners. The delivery of crude oil by rail conflicts dramatically with the existing delivery of crude via pipeline. There is no comparison it's an entirely new method of operating.

Therefore, approving the project is inconsistent with the historical decisions made by planning commissioners for the Nipomo Mesa. It would be incompatible with the long-term residential land use, planning and zoning decisions previously and consciously made for the area. The specific promise to residents of a safe, peaceful and pollution-free environment must be kept.

Noise and Vibration

Unacceptable Noise Levels from The New Rail Terminal

1. The Results of What Phillips 66 Proposes:

The REIR indicates that *"The noise model produced similar noise increases with the project as the November, 2013 DEIR"* ... and that *"The exceedances of the noise thresholds at noise-sensitive receptors are a potentially significant impact."* (see 4.9-25 of REIR). The REIR further indicates (4.9-24) that *"There are a number of uncertainties associated with estimating noise impacts. Meteorological conditions can strongly affect noise propagation and impacts, as most people have had experiences of hearing noisy activities a long distance from the source when the conditions are right. In addition, characterizing noise sources is challenging, as there are a number of potential activities, including hooking up rail cars, potential emergency annunciators* DIS-19

and the low frequency locomotive noises that can travel long distances. The models capture many of these issues, but there is not extensive data available on some issues, such as good octave band analyses of different locomotive arrangements, for example, that bring in a range of potential errors into the analysis."

Furthermore, Phillips's noise testing could be unreliable on its face. For example, let's look at the test it conducted to measure the noise level of moving railcars. (Noise Modeling Appendix D.1-4). This test lasted less than 30 minutes and consisted of moving full and empty rail cars around the spur. A total of 34 rail cars (not 80) and 2 locomotives (not 3) were used in this supposed exhaustive noise test. The conclusion drawn by Phillips was that the highest noise levels measured for the locomotive engines and rail cars at the spur *"is more than 10 dBA below the daytime ambient noise levels, which indicate that activity on the existing rail spur ... is inaudible."* The public should not assume that "all is well" based upon this very limited and unrealistic noise test.

2. How Noise Will Be Generated:

A close look at what we'd be hearing from the Phillips refinery all year long -

Noise will come from blaring train whistles, as 260 fully-loaded, 1.5-mile-long trains enter SLO County each year.

Noise will come from blaring train whistles, as another 260 empty, mile-long trains leave SLO County each year. Even more noise will come from the same 260 empty trains leaving the County, because empty cars have a tendency to shake, rattle and roll with even greater intensity than fully-loaded cars. DIS-19 cont

Rail track noise will be generated by the 520 trains coming and going each year, the seemingly, never-ending, "clickety-clack" sound produced by the wheels of trains moving over the rails.

Engine and vibration noise will be heard as 200-ton locomotives are forced to idle at crossings, in virtually every town in SLO County.

On the Nipomo Mesa, here's what residents would be hearing from the new Rail Terminal -

Engine and vibration noise will be heard as locomotives idle at the Nipomo refinery.

Onsite, ongoing mechanical, operational noise will be heard on the Mesa from the new crude oil offloading facility, new pumping systems, HVAC equipment, and air compressors.

Onsite, sharp clatter will be generated as locomotives disengage and then connect again with their tank cars - 520 trains and 41,600 tankers a year. Also onsite, noise will be heard from additional vehicles, as cars, trucks and other construction and transport vehicles work to service the new rail operations.

It is a given that trains would be moving about the spur at all hours of the night. However, the REIR leaves many details of their management plan to be developed in the future. Therefore, we have no way of knowing or assessing what mitigation measures Phillips would take. **The bottom line** - we cannot, nor should we accept on blind faith that Phillips has in fact properly monitored noise levels in the past. Likewise, we should not accept that Phillips would monitor noise levels properly in the future. DIS-19 cont

EMERGENCY RESPONSE SERVICES

Underfunded, Undertrained, Underequipped, Unprepared, Preempted

The REIR states:

a. Fire Protection Services:

(4.11.1.3) *The SMR is within a High Fire Hazard Zone. Cal Fire can request assistance from other departments. There are 5 Hazardous Materials Emergency Response teams between Paso Robles and Santa Barbara. The one in Santa Barbara is a Level 1 certified team (highest level). The others are non-certified.*

b. Emergency Response:

(4.11.2.2) *Many state agencies bear responsibilities* (for emergency response). *They are beginning to prepare for the heightened risks posed by oil by rail. Senate Bill 861 Oil Spill Prevention and Response provides funding for preparedness, spill response ... the law also imposes a tax on each barrel of crude to cover the cost of expanded spill response programs.* **(UPDATE: As of 10/8/14, Union Pacific, BNSF and the Association of American Railroads sued California over its proposed law SB 861 requiring them to come up with an oil spill prevention and response plan. They contend that federal laws are safe enough and that the laws prohibit California from imposing safety rules on trains carrying crude oil.)** DIS-20 cont

c. Fire Protection and Emergency Response at SMR:

(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.*

d. Fire Protection and Emergency Response Along the UPRR Rail Routes:

(4.11-23) *The California Public Utilities Commission (CPUC) has identified a number of Local Safety Hazard Sites (LSHS) within California, including the Cuesta Grade. Over the past 5 years*

there have been 58 derailments at or near LSHS sites. The Cuesta Grade represents an area where a runaway train could occur.

OES (Office of Emergency Services) analysis revealed that numerous local emergency response offices lack adequate resources to respond to oil by rail accidents. Rural areas have little or no funding for firefighters and rely on volunteer firefighters. They lack the capacity to support a HAZMAT team and lack capacity to purchase or maintain necessary specialized vehicles and equipment, or to obtain training. Their response time could be hours.

Emergency responders lack adequate training in the specialized areas of oil rail safety and flammable liquid, lack critical information needed to help plan for and respond to oil by rail incidents, and how they would respond to potential worst-case scenarios. DIS-20 cont

e. Residual Impact:

Oil spill impacts to fire protection and emergency response services along the UPRR mainline tracks would be significant and unavoidable (Class 1).

f. Preemption:

The County may be preempted by federal law from implementing (mitigation) *measures because they might improperly impact interstate commerce or the Interstate Commerce Commission Termination Act (ICCTA) which preempts state laws.* DIS-21

g. Cumulative Analysis:

The Rail Spur Project combined with the proposed expansion of the Arroyo Grande Oil Field and the proposed Phillips 66 crude oil pipeline would increase the demand for specialized rescue services. The Nipomo Mesa has thousands of homes in the initial response area of the Mesa fire Station 22. Specialized rapid and adequately staffed response is crucial. It is necessary to provide additional prevention and operational staffing to aggressively plan and train for effective mitigation of incidents. DIS-22

As discussed in impact PS.4, an analysis by OES clearly indicates that fire and emergency responders lack resources, training and information in order to adequately respond to a crude oil train incident.

CONCLUSIONS: The Rail Terminal Project brings a full spectrum of never-before-seen dangers to all of SLO County including the very real potential for toxic fires, smoke, explosions and oil spills. The REIR clearly states that local emergency services are currently underfunded, undertrained, underequipped and unprepared to deal with these dangers. Certainly, if the emergency services were built completely different and every single suggested mitigation DIS-23

measure correctly implemented, then possibly those dangers could be eliminated. But reality tells us that there is no practical way to make that happen. Of course, then there's the federal preemption issue, which makes the implementation of all proper mitigation measures impossible.

Additionally, all of these measures are in response to disasters, not methods to prevent such occurrences. It's almost as if the REIR assumes that we must accept these calamities as a "new normal", and try to deal with them the best we can. Our opinion is that we simply need to say "no" to Phillips ... that we will not allow this kind of new normal to take hold in SLO County. DIS-23 cont

Lastly, there's the issue of who would pay for the huge spectrum of mitigation measures necessary to handle the catastrophes. SLO County Supervisor Caren Ray remarked on the Phillips proposal (10/10/14) -- *"We have emergency preparation we have to deal with including funding for decision making that we don't make here in the County. We have to make sure that our local tax payers don't get stuck with the bill for the rail."*

Jobs At The Phillips Facility - Is SLO County Willing To Accept "Jobs At Any Cost"?

I have no issue with the way Phillips currently operates, bringing in crude via pipeline. In fact, they've said that even if the rail terminal is approved, they'll continue bringing in crude by pipeline ... so pipeline delivery will remain part of their strategy. I also welcome the fact that their pipeline approach creates local jobs ... and we hope those jobs will be secure long into the future. Unfortunately, their rail plan comes with unacceptable risks to the citizens of SLO County. Most prominently, there's the risk of disastrous accidents, as happening and will continue to happen throughout the U.S. These rail incidents all involved jobs, jobs at refineries and jobs on the railroads. But the citizens have rights as well. They have the right to remain free from fear, free from bodily harm, free from having their property destroyed, and free from their environment being polluted.

Looking at the other side of the coin, if a major rail accident occurred in SLO County, hundreds or thousands of County jobs could be lost. Residential and commercial construction jobs could be lost. Agricultural jobs could be lost. Leisure and hospitality jobs could be lost. Proposed office parks and hotels might not be built. Those looking to invest in new restaurants, shops, and professional businesses would look elsewhere. DIS-24

SLO County has approximately 275,000 men, women, children, parents and grandparents living here ... with 36,000 now living in South County alone. An additional 31,000 college students live in the county. There are an estimated 81,000 non-farm workers employed at 7,700 non-farm businesses. That's what's at risk with the Rail Terminal Project. "Jobs at any cost" is simply unacceptable. I respect the 140 people who work at the Nipomo refinery. They have

families ... so do we. We hope Phillips, with their vast resources and many alternatives for crude oil, will see fit to keep those people employed. But a job at any cost, if it causes intolerable risk for the citizens of SLO County, is far too costly. DIS-24 cont

The Contributions of Nipomo Mesa Communities to Job Growth in SLO County

A meaningful discussion of jobs at the Nipomo refinery must also include a discussion of jobs in the communities directly adjacent to that facility. SLO County gave its blessing to build multiple residential communities in that area ... houses paying higher-than-average taxes to the County. They're communities like Cypress Ridge (375 homes), Black Lake (554), Trilogy (1,320 at build-out), and others under construction or planned. Those three communities alone represent 2,249 homes ... roughly 4,500 adults.

What does that have to do with jobs? Quite simply, those residents generate jobs - lots of them. Let's take just one community ... Trilogy.

• Let's start with long-term construction jobs. This means work for dozens of local, skilled businesses with head of household jobs. We estimate 40 small-to-mid-size companies are involved - carpenters, HVAC contractors, electricians, landscapers, painters, decorators, cabinet people, flooring professionals, and others. If each firm employs just five people, that's 200 jobs.

DIS-25

• Then there are the existing homes. Residents employ services such as landscapers, plumbers, electricians, painters, flooring people, etc. Let's say Trilogy's 600 existing homes already account for 75 permanent service jobs.

• Of course, those residents also shop throughout Nipomo and Arroyo Grande, accounting for hundreds of retail jobs.

• Then there's Trilogy's Monarch Club. Best estimate is 40 permanent jobs in leisure, hospitality, maintenance and management.

• There's the Monarch Dunes Golf Course. Estimate another 25 year-round jobs.

• There's community landscaping, maintenance and repair, about another 20 permanent jobs.

• There's the planned Trilogy Business Park - a conservative estimate is the potential for 250 permanent jobs.

• There's a planned 500-room, resort-style hotel - perhaps another 250 permanent jobs.

• Trilogy plans a Village Center with retail shops and services - potentially another 100 permanent jobs.

That's about 1,000 jobs in total from Trilogy alone. Add in Cypress Ridge and Black Lake and we're talking about 2,000 or more jobs. And that doesn't include other planned developments in the area.

What does this have to do with the Phillips Rail Terminal project? It provides perspective about the 140 jobs Phillips implies will be lost if the project is denied. As a County, we need all the jobs that are created on the Mesa ... including both the Phillips jobs as well as those generated by the adjacent communities.

However, it also tells us that if a rail terminal were built there with all of its dangers, disruptions and pollution, countless jobs would be at risk. Why? The communities mentioned would all be far less desirable places to live and visit. Who would want to invest in a home or vacation next to a busy, polluting, dangerous oil rail terminal?

Very likely, fewer homes would be built. Construction jobs would be lost. Home values could suffer, along with declining taxes. Fewer services would be required. It's less likely that a resort hotel would be built. The Village Center retail shops would be less likely. Other shopping at downtown retail stores would be in jeopardy. DIS-25 cont

And what would happen to jobs if there were a major accident at or near the rail terminal? Not only would the communities' reputations be tarnished, but part of the communities might be physically destroyed or dangerously polluted. And we don't have to go into detail how that would affect jobs ... from leisure/hospitality jobs to tradesmen to retail and other service jobs.

So, any time you hear that the Phillips 66 Rail Terminal Project will have an impact on jobs, please broaden your thinking. Thousands of existing and future jobs are at stake ... throughout the Nipomo Mesa, and throughout SLO County.

Supervisor Ray and Mr. Wilson -- I truly appreciate your being advocates for the citizens of SLO County. Thank you for taking these extremely serious issues into consideration.

Sincerely,

Scott DiSalvo

DIS-01	Mitigation measure EM-1 (see Section 4.0, Environmental Analysis) requires that Phillips 66 fund all the County monitoring activities associated with the Rail Spur Project. The County would likely hire additional staff or consultants to handle the work load that would be associated with permit compliance monitoring and enforcement for the Rail Spur Project. The remaining portions of this comment do not identify a specific environmental analysis or CEQA issue relative to the EIR and compliance with CEQA. The commenter's concerns about significant environmental impacts are included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project.
DIS-02	The RDEIR addressed the impacts of construction of the Rail Spur Project. Impact AQ.1 (see Section 4.3, Air Quality and Greenhouse Gases) discusses the air emissions associated with construction of the rail spur. Mitigation measures AQ-1a through AQ-1i provide detail measures to reduce the air emissions associated with construction. Appendix B of the RDEIR (Air Emission Calculations) includes the offsite vehicle emissions associated with construction. The traffic impacts of construction are discussed in Impact TR.1 (see Section 4.12, Traffic and Circulation). The highest intensity of construction traffic would occur during the construction of the unloading area and pipelines which would generate up to 595 daily one-way passenger car equivalent (PCE) trips. This overlaps with the portions of the grading, soil transport, and rail construction phases. The worst case of this overlap would be simultaneous grading with construction of the rail line, the pipeline, and the unloading area. These activities occurring simultaneously would result in up to 1,369 daily PCE trips. State Route 1 and Willow Road near the SMR have a capacity of between 12,000 – 16,000 daily vehicles. Per Table 4.12-3 in the RDEIR, less than 50 percent of the capacity of both roads is currently utilized. The addition of 1,369 trips would not result in an unacceptable LOS given the excess capacity along these roads. Therefore, congestion would not be a significant impact. 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. Mitigation measure TR-1 in the RDEIR would reduce the level of traffic impacts to the Willow Road/State Route 1 intersection and to Willow Road to less than significant levels. Impact N.1 (see Section 4.9, Noise and Vibration) discusses the noise impacts associated with construction. The County Code exempts construction activities from the noise standards between the hours of 7:00 a.m. and 9:00 p.m., Monday through Friday, and between 8:00 a.m. and 5:00 p.m. Saturdays and Sundays.

	Mitigation measure N-1 limits construction hours to these periods so impacts would be considered less than significant. As shown in Table 4.12-3 of the RDEIR the average annual daily traffic along Willow Road is between 3,817 and 4,304. The addition of the project's construction traffic which would not be expected to increase the California Noise Equivalent Levels (CNELs) along Willow Road. Willow Road is designed to carry motor vehicles and truck, and the current truck traffic from the SMR uses Willow Road. The increase traffic from the construction activities for the Rail Spur Project would not result in visual impacts since the vehicles would be similar to the types of vehicles currently using the road. 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. While the project would not add to the westbound traffic turning left onto the southbound State Route 1, it would add conflicting volumes reducing the availability of gaps in traffic for turning traffic. Mitigation measure TR-1 would require a traffic management plan that would among other things limit project traffic to and from the SMR during the peak AM and PM hours. The mitigation measure also requires the use of rail for delivery of materials to the extent feasible. Implementation of this mitigation measure would reduce traffic impacts along Willow Road and Highway 1 to less than significant levels. Mitigation measure AQ-1a (see Section 4.3, Air Quality) requires the use CARB 2010 or cleaner certified on-road heavy-duty diesel trucks to the extent feasible and that trucks comply with state On-Road Regulations. With this and the other air quality mitigation measures (AQ-1a through AQ-1i) would reduce the construction air impacts to less than significant levels. The County Code exempts construction activities from the noise standards between the hours of 7:00 a.m. and 9:00 p.m., Monday through Friday, and between 8:00 a.m. and 5:00 p.m. Saturdays and Sundays. Mitigation measure N-1 (see Section 4.9, Noise and Vibration) would limit construction activities, include vehicles associated with construction, to these hours. Therefore, the impact of construction noise would be less than significant with the proposed mitigation.
DIS-03	As shown in Appendix A of the RDEIR each of the 80 tank cars and two buffer cars would be 60 feet long, and the three locomotives would be 90 feet long. This would make the total train length 5,190 feet (82*60+90*3=5,190). Text has been added to Section 2.5 of the FEIR that provides additional information on the length of a unit train. Appendix A of the RDEIR contains detailed track drawings that provide the length of each of the tracks. Figure 2-4 of the FEIR

	has been modified to provide the length of each of the tracks.
DIS-04	The main purpose of the "bad order track" is to hold tank cars that have crude oil that does not meet the require specifications. With regard to rail car and locomotive repairs, the SMR facilities do not have the equipment or operations to conduct major repairs to rail cars and locomotives. If a rail care or locomotive broke down and needed repair UPRR would have to move them to one of its rail yard facilities. Mitigation has been added to the FEIR to ensure that any minor car or locomotive repairs occur only during daylight hours (refer to mitigation measure N-2a), when background noise levels are higher and noise from rail spur activities has less of an impact. Note also that UPRR may do minor car and locomotive repairs along the existing siding near the SMR for any trains currently being transported by UPRR, so a degree of repairs are already a part of the baseline noise environment.
DIS-05	The RDEIR Aesthetics section considers all public viewpoints surrounding the project, and specifically addresses viewpoints associated with the developments and recreation east of Highway 1. The project location was directly viewed and analyzed from each of these potential viewpoints. The analysis, potential impacts and mitigation measures identified in the RDEIR Aesthetic section include and specifically address views from the residential and recreational developments east of Highway 1. Key Viewing Areas (KVAs) along Highway 1 provide a fair representation of how the majority of the public will experience the project. Highway 1 has the greatest traffic volume, is the closest public roadway and is a primary regional and local transportation route. KVAs along Highway 1 were positioned at major entrances to the Trilogy and other east side development to further increase their representative value. KVA-2, at the intersection of Highway 1 and Via Concha is at an elevation of approximately 200 feet above sea level. The closest residential street (and golf course) east of the project is at an elevation of approximately 235 feet above sea level. Potential viewpoints along Louise Lane and Eucalyptus Road rise to approximately 250 feet above sea level. Although the 35 to 50-foot viewpoint elevation difference between Highway 1 and the viewpoints to the east is not substantial when applied to the 0.5 to 1.5 mile viewing distance, field analysis showed that some public viewpoints would have slightly increased visual exposure to the project compared to views from Highway 1. This increased visual exposure would mostly occur through the 600-foot gap in the existing approximately one-mile long windrow of mature eucalyptus trees paralleling the east side of Highway 1. The RDEIR analyzed views from these elevated viewpoints, and includes mitigation measures which would minimize visual impacts from these areas. In addition, field review showed that this somewhat increased exposure also includes greater visibility of the existing Santa Maria Refinery, coke processing

	facility, railroad tracks and other development. As seen from these elevated locations the project would not block views of the Pacific Ocean, coastline, dunes, riparian corridors, or agricultural field patterns. Direct observation showed that from the vast majority of potential public viewpoints within the developed and recreation areas east of Highway 1, views of the project would be substantially or completely blocked by some combination of intervening vegetation, landform, distance or existing residential and recreational development.
DIS-06	As shown in Appendix A of the RDEIR each of the 80 tank cars and two buffer cars would be 60 feet long, and the three locomotives would be 90 feet long. This would make the total train length 5,190 feet (82*60+90*3=5,190), not 1.5 miles as stated in the comment. The remaining portions of this comment do not identify a specific environmental analysis or CEQA issue relative to the EIR and compliance with CEQA. The commenter's concerns about onsite activity at the SMR are included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project.
DIS-07	The project proposes to the 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 in residential and recreational areas.
DIS-08	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 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 help reduce visibility of night lighting for viewpoints from the east, including elevated viewpoints in the Trilogy development and other public viewpoints. 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 unloading facility lights would introduce light into a new area, with applied mitigation measures they would not appear out of place given the relatively close proximity to the existing refinery and coke processing facility, which emits high levels of industrial lighting throughout the night, every night of the year. 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. Mitigation measures include that the lighting plan be based on a photometric study prepared by a qualified engineer who is an active member of the Illuminating Engineering Society of North America (IESNA), using guidance and best practices endorsed by the International Dark Sky Association. Mitigation measures preclude illumination of adjacent slopes, prohibit placement of perimeter lights (which as previously described would be 15-feet 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.

	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.
DIS-09	Incompatibility with residential zoning is a land use issue that is discussed in Section 4.8, Land Use and Recreation, of the RDEIR. Also see Responses to DIS-05, DIS-07 and DIS-08.
DIS-10	The original EIR addressed only emissions within SLO County. The revised EIR broke this Class I impact into two parts, emissions within SLO County (both onsite and offsite) and emissions along the mainline outside of SLO County to Roseville or Colton. The criteria for impacts related to health risk were also revised based on the fact that the state agency, OEHHA, is revising their criteria for health risks and this impact was also divided into SMR site and mainline. The GHG scope was revised to address GHG emissions along the entire route as well (to Roseville or Colton), thereby increasing GHG emissions. In combination with the preemption issue, these changes produced additional Class I impacts. Note also that some revisions to rail car handling onsite also changed the onsite emissions levels somewhat. Note that the emissions and modeling related to health risks did not change for the revised EIR, only the criteria for determining cancer impacts were revised based on revisions that were being finalized by OEHHA (although the most recent OEHHA model was used for the Final EIR. The HARP2 model was released by OEHHA after the RDEIR was released.). Chronic and acute impacts did not change, but were updated in the FEIR based upon the new HARP2 model. See Appendix B.2.GHG emissions within SLO County are the same as the original draft, but GHG emissions along the mainline outside of SLOC have been included. Mitigation measures are, by definition, technically feasible, such as the use of Tier 4 locomotives, which are being made within the U.S. However, the ability to require these mitigation measures is uncertain due to the potential for preemption. The mitigation measure to limit idling is feasible, from both a technical and a monitoring basis. UPRR has voluntary agreements with CARB to limit diesel idling in rail yards. Locomotive are equipped with the ability to monitoring idling. Inspections by County staff would ensure that idling limits are complied

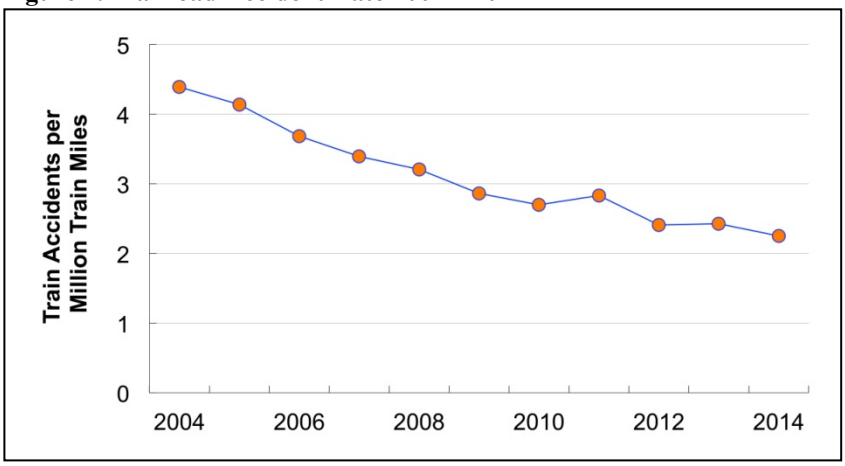
	with. The use of SLOCAPCD thresholds is supported by the SLOCAPCD in their review of the EIRs for this project. As determined by APCD studies, violations of area PM levels are due to the sand particulates from the recreation area and not from SMR operations. Health effects of diesel exhaust are quantified in the EIR using the models and methods defined by CARB, OEHHA and the SLOCAPCD.
DIS-11	See Response to DIS-10.
DIS-12	Section 4.3 (Air Quality and Greenhouse Gases) of the RDEIR provides information of the potential emissions from the various types of crude oil proposed to be transported to and processed at the SMR. Specifically, Section 4.3.4.2, Operational Air Emissions, provides discussion on the chemical components and physical properties of the current and proposed types of crude oil including sulfur concentration. Table 4.3.13, in the RDEIR, lists the API gravity (or weight) of the existing crude oil processed at the SMR as between 12.2 to 21.0 and the proposed crude oil as between 20.4 to 22.8; sulfur concentration ranges from 2.1% to 5.2 % for existing crude and 4.0% to 5.0% for proposed crude oil. Both the existing and proposed crude oil sources are classified as medium to heavy API gravity oils and sulfur concentrations in the same range. The EIR examined the increases in sulfur production and the changes to fugitive emissions from an increase in BTEX. The changes in metals concentrations would not affect air quality issues.
DIS-13	The comment regarding loss of wildlife does not identify a specific environmental analysis or CEQA issue relative to the EIR and compliance with CEQA. The commenters concern regarding how the loss of wildlife would affect residents of the Nipomo Mesa and local tourism is included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project. The comment regarding the impact to monarch butterfly habitat is inconsistent with what is included in the RDEIR. The commenter states that "a lack of information doesn't mean there won't be an impact." However, the RDEIR states that "it is reasonable to assume that long-term impacts from pollutants cannot be discounted, although the affects are unknown." The RDEIR concludes that the potential impacts are less than significant. No changes to this determination are justified as a result of this comment. The comment regarding loss of tourism due to potential impacts to stream crossings along the UPRR mainline does not identify a specific environmental analysis or CEQA issue relative to the EIR and compliance with CEQA. The commenters concern regarding how the potential impacts to stream crossings along the UPRR mainline would tourism is included in the FEIR for the

	decision-makers' consideration as part of the County's deliberations on the proposed project.
DIS-14	Additional mitigation has been added in response to the comment. See mitigation measure GR-1i (Section 4.6) that requires annual inspections of project related facilities and pipelines. Appendix G contains a preliminary policy consistency analysis for the project. This analysis addresses consistency with the applicable County General Plan policies.
DIS-15	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 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 estimated 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



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 methodology for estimating crude oil unit train accidents and spill probabilities is also 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 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.
DIS-16	As noted in the RDEIR, the current DOT-111 tank cars have serious safety deficiencies that can lead to an unacceptable spill rate in the event of a train derailment. As a result, the RDEIR specifically included mitigation measure HM-2a, which requires only rail cars designed to Option 1: PHMSA and FRA Designed Tank Car as listed in Table 4.7.6, shall be allowed to unload crude oil at the Santa Maria Refinery. Even with the improved rail cars, the RDEIR found that the risk of a crude oil train accident and spill was considered a Significant and Unavoidable (Class I) impact.
DIS-17	In San Luis Obispo County, the Cuesta Grade represents an area where a runaway train could occur. A runaway train coming down the Cuesta Grade could result in spills of crude oil and associated fires. The Rail Spur Project would use two additional locomotives (for a total of five locomotives) on the crude oil unit train for crossing the Cuesta Grade. These two additional locomotives would be added to the train at Santa Margarita and removed from the train in the City of San Luis Obispo once the train had crossed the Cuesta Grade. These additional locomotives would help to assure that the train can safely traverse the Cuesta Grade. A 5-mile evacuation zone would be excessive for a crude oil train carrying heavy tar sands crude oil. However, the potential impacts of a train derailment, oil spill and potential fires and explosions would be substantial. Therefore, the RDEIR found that the risk of a crude oil train accident and spill was considered a Significant and Unavoidable (Class I) impact. The potential consequences of a potential accident also need to be taken into account; specifically the distance from the rail line where adverse impacts would be possible. The worst-case thermal hazard zone associated with the catastrophic tank car failure and fire was approximately 500 meters. Within this distance, there is the possibility that individuals could experience thermal injuries. Beyond 500 meters, potential injuries would not likely occur. Likewise, the potential for fatalities is limited to 300 meters from the rail line. Beyond this distance, aside from the potential that the “excitement” could result

	in adverse health impacts such as a heart attack, fatalities would not occur.
DIS-18	The RDEIR addresses impact to land use (See Section 4.8 Land Use and Recreation) and the potential compatibility of the proposed project with the surrounding land uses. This includes discussion of compatibility with the *South County Coastal Area Plan* and *South County Inland Area Plan.* In addition, Appendix G contains a preliminary consistency analysis with the applicable San Luis Obispo County Policies. This analysis did identify a number of areas where the Rail Spur Project may be inconsistent with various polices regarding land use compatibility.
DIS-19	Appendix D provides the results of noise monitoring during train activities on the SMR site. In addition to this testing, the EIR utilized extensive testing and modeling as conducted by the Federal Transportation Administration (FTA) in order to assess the potential noise impacts of the project. The monitoring listed in Appendix D was conducted in order to assess the accuracy of the FTA models for this facility and arrangement. Models are often used to assess potential impacts, as they are used extensively to assess air quality impacts as well as noise impacts. The EIR provides the estimated impacts and provides for mitigation to ensure that the noise levels will remain below the thresholds for significance, including monitoring of the activities during the day and night. Note that these results do not indicate that the activities will not be heard, only that they will remain below the thresholds. The noise monitoring was conducted by the EIR consultant under contract to the County, not the Applicant. The noise levels measured were "scaled" to the level of activity expected with the project, not used directly. For example, 2 locomotives would have 2/3 of the noise energy of 3 locomotives. By measuring the noise energy from the 2 locomotives, the noise levels that 3 locomotives would generate can be calculated. This approach was used to assess the project activities. The primary issue associated with the rail management plan is the amount of time that locomotives are allowed to be on the east end of the spur, which is substantially closer to the receptors that other areas. This is the limit placed on the activities during the night in mitigation measure N-2a, along with limits on horns, etc. This is sufficient detail to assess the noise impacts and determine that the noise levels would be below the thresholds. Noise estimation models, like any models, have uncertainties, and these are discussed in the EIR. However, the EIR presents the results as per CEQA requirements, and estimates that, with extensive mitigation, that the noise impacts would be less than the thresholds.
DIS-20	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:

Class I Impact HM.2

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.

1. *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.*
2. *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.*
3. *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.*
4. *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.*

Class I Impact PS.4

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.

1. *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 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.* **<u>Class II Impact PS.3</u>** *The Rail Spur Project would increase demand for fire protection and 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 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. Phillips 66 has proposed a state-of-the-art fire protection system for the rail spur unloading rack. This fire protection system would be reviewed and approved by Cal Fire prior to commencing operations at the new unloading facility. The RDEIR contains numerous mitigation measures in Section 4.11, Public Service and Utilities, to ensure that the SMR Fire Brigade and the Cal Fire resources are sufficient before the project proceeds. These mitigation measures would be funded by Phillips 66 for the SMR requirements, and Phillips 66 and others for improvements along the mainline track, most likely as part of a "fair share" type arrangement. The mitigation measures at the SMR include 1) an updated Fire Protection Plan for the Rail Spur Project that meets all the applicable requirements of API, NFPA, UFC, and Cal Fire/County Fire; 2) an updated Emergency Response Plan to include the rail unloading facilities and operations; 3) an updated Spill Prevention Control and Countermeasure Plan to include the rail unloading facilities and operations; 4) requirements that the SMR fire brigade meets all the requirements outlined in Occupational Safety and Health Administration 29 CFR 1910.156, and NFPA 600 & 1081; 5) updated fire brigade staffing/training requirements and Cal Fire/County Fire funding requirements; 6) funding of a qualified Cal Fire inspector to conduct the annual fire inspections at the SMR; 7) funding of training for Cal Fire personnel, including field training, as per the Security and Emergency Response Training Center Railroad Incident Coordination and Safety (RICS) meeting Department of Homeland security, NIIMS, OSHA 29CFR 1910.120 compliance.
DIS-21	It is unclear whether the County is preempted from imposing mitigation measures to reduce the potential for significant impacts along UPRR's mainline. The RDEIR takes a conservative approach to the evaluation of impacts by recognizing that Federal law may preempt the County from imposing conditions of approval that would mitigate these impacts, potentially resulting in unmitigated significant impacts. This satisfies the information disclosure requirements of CEQA and will allow the County decision makers to evaluate the full spectrum of potential environmental impacts as well as potential mitigation measures.
DIS-22	The RDEIR included the Arroyo Grande Oil Field and Phillips 66 pipeline in the cumulative impacts assessment. The Arroyo Grande Oil Field is an existing facility and the project will add additional wells, but not major infrastructure, which would serve to limit the increase in demand for emergency services. The Phillips 66 pipeline is a below ground structure that would not be expected to add much demand to emergency services. The cumulative increase of anticipated emergency response requirements, which brings additional inherent hazards, additional employees, and associated vehicle traffic, requires adequate staffing to respond to incidents at these facilities. With the Fire Services

	mitigation measures identified for the Rail Spur Project at the SMR, project's contribution to cumulative fire fighting and emergency response staffing and training levels would be less than significant. The cumulative impacts to Fire Services for the mainline rail routes was found to be significant and unavoidable.
DIS-23	In regards to prevention as opposed to response, some of the mitigation measures, for example, the requirement to use Option 1 tank car design (PS-4b), would reduce the frequency of spills given an accident occurs, and would therefore reduce the potential for catastrophic accidents. Section 4.7, Hazards and Hazardous Materials also proposes mitigation measures, such as ensuring that the routes follow the lowest risk routes possible (mitigation measure HM-2b) since there are a number of different routes that could be taken by a train, and the use of positive train control (mitigation measure HM-2c) on all routes, would also reduce the frequency of train accidents and resulting consequences. The EIR clearly states in Section 4.11 that the fire response impacts would be significant and unavoidable (Class I) along the mainline rail routes, and that the impacts due to hazards (in Section 4.7) would also be significant and unavoidable (Class I). Both of these are conclusions based on analysis and an extensive listing of mitigation measures. The remaining portions of the comment do not identify a specific environmental analysis or CEQA issue relative to the EIR and compliance with CEQA. The commenter's concerns safety and cost for dealing with a potential rail accident are included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project.
DIS-24 and DIS-25	These comments do not identify a specific environmental analysis or CEQA issue relative to the EIR and compliance with CEQA. The commenter's concerns about jobs are included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project.