November 23, 2014

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Dear Mr. Wilson:

This letter is written to express opposition to the Recirculated Environmental Impact Report ("REIR") which was submitted in support of the Phillips 66 Rail Spur Extension Project ("Project"), located at Phillips Santa Maria Refinery ("SMR"). If the Project is approved, all of the citizens of SLO County will be subjected to serious health hazards and the potential for enormous risk and significant damage which cannot be satisfactorily mitigated. We urge you to deny the application/permit for the Project. However, assuming arguendo, there is some reason to approve the Project, it should, at a minimum, be delayed until further developments of safe rail transport of crude have been discovered and implemented, and to a date when Phillips can post bonds to cover the liability for a major catastrophic event. HEJ-01

While innocently described as a "Rail Spur Extension", the Project contemplates the rail transport of up to **Two Thousand Percent** (2000%) more crude oil being transported into the SMR. The number of trains will jump from 1 train/week carrying 18-20 cars to 5 trains per week with up to 80 cars carrying 2,190,000 gallons of crude oil per trainload. This amounts to an annual shipment into the SMR of up to **569 Billion gallons** of crude per year. Needless to say, this oil would pass through and jeopardize a sensitive and unique Coastal environment.

Not only is the amount of crude expected to jump precipitously, Phillips has not specifically designated the source and quality of the crude oil it seeks to transport. In the Project Objectives identified by Phillips in its Draft EIR Public Meeting, Phillips defined its first objective:

"(to) allow the refinery to obtain a full range of competitively priced crude oil by providing the capability to source raw material from North American sources that are served by rail." Thereafter, The Nipomo refinery's superintendent stated there is a good chance that the Rail Terminal Project will entail shipping "tar sands" crude oil from Alberta, Canada. HEJ-02

Tar sands, a "heavy" crude oil, contains <u>substantially higher concentrations</u> of sulfur, copper, nickel, nitrogen, lead and benzene than exist in <u>conventional</u> crude oil. Exposure to these elements can pose significant health risks to the citizens of San Luis Obispo County, especially those residents who are closest to the refinery and those with pre-existing respiratory and/or heart conditions. San Luis Obispo County, particularly those areas of the County closest to the Rail Spur project, is home to thousands of retired residents, in a senior age classification. Not only the neighborhoods of Trilogy, Cypress Ridge, Black Lake but also the thousands of trailer and motor homes which dot the central coastline, many of which lie parallel to the future oil trains, will be most vulnerable to the pollutants. Many of these senior residents have breathing

difficulties which will only be exacerbated by the additional elements in tar sands. Life for seniors who reside near the Phillips 66 facility and those who are downwind from the refinery will suffer immeasurably. Those same residents relied upon the planners and supervisors of San Luis Obispo County to protect them in the subdivision and land planning processes against health hazards. Why the County would now consider adding additional pollutants to the seniors' perilous health conditions by approving the expansion of the SMR is shortsighted and absurd. HEJ-02 cont

Given that this project lies in the heart of a region where the California 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 CEQA "significance"** criteria.

The original EIR recognized only two air quality impacts as "Class I" *(i.e., impacts that cannot be mitigated to less than significant levels)*. However, in the REIR, the number of Class I impacts has more than doubled to five, described therein as "significant and unavoidable" ... obviously proving 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 I:

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. HEJ-03

3. **(AQ.4):** Operational activities at the Refinery associated with the Rail Spur Project would generate toxic emissions that exceed SLOCAPCD thresholds.

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.

Although there is an attempt to provide mitigation measures in the REIR for all five Class I impacts, it is also exceedingly clear that mitigation is actually not feasible and the measures cannot be adequately enforced. The REIR solely relies on emissions increase thresholds as the criteria for the determination of significance under 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. 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**.

Oil companies are choosing to move substantially more crude by rail, and they are 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. But, current data is far less promising. Looking strictly at oil shipments, spills are spiking. According to the Associated Press, in 2009, before the oil drilling boom, there was only one rail oil spill reported. However, currently with the flood of new oil, the outcome is increasingly daunting. In the last five years, the number of tankers of crude transported by train in the U.S. has exploded, from under 10,000 to about 400,000, a 40-fold increase. Through November 2013, crude oil releases were reported from 137 rail cars versus just one car. And over the next ten years, rail oil shipments are forecast to increase from 1 million barrels each day to more than 4.5 million barrels every single day. Thus, the outdated "odds" of a calamity as cited by the oil and rail industries is not credible. Freight trains carrying crude oil, propane and other hazardous materials are going off their tracks at alarming rates because there are so many more trains hauling dangerous and explosive crude oil. Despite improvements in tank cars, far more crude oil shipped by rail will actually result in far more train derailments and far more disasters. HEJ-04

Notions of "competition" are not the real motivation for Phillips 66's plans to significantly expand. And possible connotations of U.S. energy independence are misleading. Instead, Phillips seeks to increase its crude production as a means of obtaining increased market share so as to boost sales and profit. In an article dated January 8, 2014, Bloomberg identified "a record amount (of crude) already riding the rails to California's fuel makers. Phillips is just another "company looking to ship even more…" Bloomberg added that U.S. oil companies are attempting to overturn a ban on exporting U.S. crude oil: "If the railway networks on the U.S. West Coast are completed, the regions refiners will be able to use domestic crude supplies to boost exports to meet rising needs in Asia, where demand for new cars, electricity and air conditioning is boosting energy consumption." [http:/ /www.bloomberg.com/news/2014-01-08/unforeseen u-s-oil-boom-upends-world-markets-as drilling-spreads.html] HEJ-05

And, just as the federal, state and local governments are coming to grips with the need to regulate crude oil transport, Phillips 66 is pushing to get approval for its very extensive project, perhaps skirting the requirements of the ever evolving regulatory framework. "Demand for replacement cars is likely to collide with the crude oil industry's growing need for additional cars. The backlog of orders for new tank cars was 52,589 at the end of the 2nd quarter, 2014. At current production rates, cars ordered today couldn't be delivered until 2016." [Wall Street Journal, August 13, 2014, "Proposal Puts Crude-by-Rail at Risk."] The County should be especially careful not to permit Phillips 66 to squeeze through the EIR process while proposals for regulation of the entire industry are in pending status. SLO County residents want the benefit of the evolving new regulations, to protect the health, environment and the enjoyment of their properties. HEJ-06

Phillips seeks your approval to burden the residents of SLO County with this Project and its potentially calamitous consequences so that it can take financial advantage of exporting opportunities. SLO County cannot afford to be a pawn in Phillips' corporate strategy. HEJ-07

The discussion of rail transport of crude oil is certainly germane, given the incidence of explosions in the past 3 months. However, there are also ever present dangers in the processing HEJ-08

of crude oil. Once trains bring in huge volumes of crude to the SMR, the contents of the railcars will then need to be pumped out of the train cars. The Project anticipates that new pumps will be installed for removal of the crude. Two sets of 80 car trains are expected to be pumped at all times. A mechanical problem with the pumping equipment process could potentially ignite the crude. A fiery explosion in one portion of the refinery with volatile crude could trigger a possibly worse scenario. Additionally, oil leaks and spills are problematic for humans, animals and the environment. As mentioned in the REIR, groundwater issues are significant and cannot be mitigated. HEJ-08 cont

In its draft EIR, Phillips made multiple references to the use of North Dakota, Bakken and other light crude oil. Phillips then attempts to minimize the use of the terminology as a "worst case," and now, in its REIR, urges that its facilities will handle "heavy," less volatile crude, such as the tar sands. Crude oil, whether light or heavy, is classified as a **hazardous substance**. Light crude has been the source of at least four major rail shipment crude explosions, in the past year, three of which transpired since the EIR was published (Alabama in November, North Dakota in December and New Brunswick in January, 2014). A runaway oil train killed 47 people in Quebec, Canada in July, 2013. The drafters of the EIR could not have considered all of these fiery explosions since they occurred following its submission to SLO County. HEJ-09

The Wall Street Journal on January 15, 2014 noted that: "…while the liquid cargo is labeled as crude, it is exploding like jet fuel…" The St. Louis Fire Chief stated that "the North Dakota crude has a tremendous amount (of) volatility and puts out a lot of heat…My biggest concern is that this crude is coming through the area and we really don't know what it is." ["Transport of Oil By Train Spurs New Fears in Cities, WSJ, 1/15/14]. Another WSJ article on January 9, 2014 entitled "Fiery Oil-Train Accidents Raise Railroad Insurance Worries," cited a cleanup estimate of $200 million in Quebec due to the railroad's crude inferno. The railroad's liability insurance policy is $25 million, and has since filed for bankruptcy. The article quoted James Beardsley, global rail practice leader for Marsh Inc. Insurance, "There is not currently enough available coverage in the commercial insurance market anywhere in the world to cover the worst-case scenario." HEJ-10

How much insurance does Union Pacific carry for a train disaster in SLO County? Has anyone asked Phillips to describe how it would handle the worst-case scenario? Nowhere is the subject of liability insurance mentioned in the REIR, yet the planners and the Supervisors, as well as the residents, of SLO County cannot overlook this safeguard. It would be extremely irresponsible for the County of SLO to approve this serious project unless it requires Phillips to insure against a cataclysmic event and/or post a bond sufficient to cover the "worst case" scenario, should it occur in SLO County. HEJ-11

As noted in a Wall Street Journal article on November 13, 2014 [Battle Brews Over Crude Rail Rules], both American and Canadian regulators are attempting to decide on new crude-by-rail shipping rules. Oil executives cite the conclusions of the North Dakota Petroleum Council, urging that Bakken crude is no more volatile than any other light crude. Regulators are discovering that there may an inherent problem in the methodology which could have allowed flammable gas, or light ends, to escape in the process of collecting and handling crude samples. Thus, the very tests used in determining how explosive crude is within a tank car may be HEJ-12

significantly underestimating the risk of combustion. Canadian regulators will require new testing methodology, using newer methods designed to prevent light ends from escaping. "Testing crude after the light ends have escaped is like popping open a bottle of soda to determine how fizzy it was in the bottle…If your goal is to measure the amount of carbon dioxide in a can of soda pop, clearly you can't pour it into an open beaker because the very thing you want to test for will be gone," said Mr. Falkiner, an engineer at Exxon Mobil's Canadian subsidiary. Canadian regulators will test how crude reacts in a sealed cylinder to better understand how it reacts during transport in a tank car. HEJ-12 cont

On September 25, 2014, the American Petroleum Institute favored the use of pressurized containers. On November 14, 2014, North Dakota, in an attempt to address the role of gaseous, volatile crude in rail accidents, will require all operators to run crude oil through equipment that heats up the crude and forces out gases from the liquid. This would prohibit blending condensate back into crude and would require disclosure to the State if crude exceeds the vapor pressure limits. [WSJ, November 14, 2014, "State Sets Limits on Crude Oil Trains.] It is clear that North American regulation of crude oil transport is evolving on a weekly basis. "New regulation on tank cars in the U.S. and Canada to increase puncture resistance will require new tank car production, with Canada setting a 3 year deadline to replace or retrofit 65,000 tank cars that transport flammable materials and the U.S. expected to adopt tougher standards. [Wall Street Journal, May 30, 2014, "The Oil Driller's Pain is the Railcar Owner's Gain."] The Phillips 66 project at SMR should not be rammed through the County, and ultimately rubber stamped as approved while regulation of the industries is in its infancy. The more necessary conservative approach would require that the project be delayed unless/until there is a far more safe means of transporting the hazardous substance, to protect the residents, wildlife and property of San Luis Obispo County.

In 2013-2014, railroad derailments were caused by mechanical failure, brake malfunction, broken rails, improper design and the impact of other derailing trains. In April, 2014, an oil train travelling at 24 mph, well below the "new" speed limit of 40 mph set by the railroads, derailed in Lynchburg, VA, resulting in at least 13 of its 105 tank cars falling off the rails at the edge of the downtown area. Three of its cars plunged into the St. James River, while flames shot 100 feet in the air, and many residents were forced to evacuate. [Wall Street Journal, May 2, 2014, Oil Train's Speed Was Below New Limit.] Any of these issues could occur with the transport of crude, regardless of the safety measures implemented by Phillips at its SMR. While safety of the railroads is a matter of federal purview, arguably beyond the scope of Phillips' Project, it is folly to rely on preemption as a means of skirting the dangers implicit in crude transport by rail. At an absolute minimum, SLO County should levy a fee on every oil-filled railcar passing through the County, with the aggregate sum to be applied in the event of an oil fire or explosion. HEJ-13

The REIR acknowledges that crude oil will be transferred into the County exclusively by rail. Rail transport of crude in SLO County would be particularly dangerous over the steep and mountainous Cuesta Grade. The train would pass virtually through the Cal Poly campus, jeopardizing tens of thousands of young men and women. In the event of a crude oil disaster either at Phillips or during rail transport through SLO County, every aspect of life in SLO County would be compromised, including housing, employment, tourism and education. How

would we attract much needed commercial and industrial businesses to SLO County in the future? Would anyone want to live in, or conduct business, in SLO County in the aftermath of a disaster? HEJ-13 cont

SLO County is home to its famous vehicle-accessible sand dunes, where ATVs and dune buggies constantly stir up particulates, detrimentally affecting our community. Phillips' monitoring of particulates has merely documented the existence of such particulates. Nothing has been done to actually solve the problem. Allowing a huge construction project in the same sandy soil will only exacerbate the problem. Seniors downwind from the dust plume, thousands in mobile home parks and in the expanding neighborhoods of Trilogy and Cypress Ridge, are most vulnerable. As set forth in the DEIR, air quality contamination issues are Class I, incapable of mitigation. HEJ-14

In addition to all of the construction vehicles for The Project, Willow Road has been designated as a new public access for the dunes in Oceano. Residents of Nipomo and Arroyo Grande, while pleased to enjoy the new Highway 101 off-ramp at Willow Road, will be negatively impacted with constant traffic and congestion by out-of-county adventurers. There is no justification to open another access point to the dunes; Grand Avenue already serves the dune tourists. And there is no apparent reason why this topic was attached to the Phillips Project. From what we understand, Phillips does not want public access through its property, and there is no good reason to expose ATVers to dangers at the SMR. The access issue should be bifurcated from the Phillips project and presented, if at all, to the community on its own merits. At a minimum, a discreet EIR should be required for the additional access. HEJ-15

In the event that SLO County is inclined to grant approval to the Project, it should require that Phillips employ each and every mitigation measure mentioned in the draft EIR. Due to the proximity of residences and businesses to the Project and all of the perils associated with crude oil, it is incumbent upon you, our elected representatives, to protect our health and properties. HEJ-16

County Planners and Supervisors should represent parochial interests in SLO County, rather than to promote the profits and interests of Phillips 66.

Sincerely,

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HEJ-01	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 hazards are included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project.
HEJ-02	Currently, crude oil is only transported into the SMR via pipeline. Rail traffic is associated with coke transport only. The increased levels of nickel, vanadium, lead and copper do not affect air emissions as none of the crude oil is combusted and none of the metals are carried over in the fuel gas. The metals would remain in the coke. Sulfur production would increase producing potentially more sulfur trucks trips, as discussed in Section 4.3.4.2 (see Section 4.3 Air Quality and Greenhouse Gases). Section 4.0 presents the environmental analysis for the CEQA mandated issue areas; air quality impacts are discussed in Section 4.3 (Air Quality and Greenhouse Gases). 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. However, the EIR does determine that increases in diesel particulate emissions could cause significant increases in health risk. See Appendix B.2.
HEJ-03	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.
HEJ-04	The RDEIR only cited specific train incidents that involved crude oil tank cars. 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**

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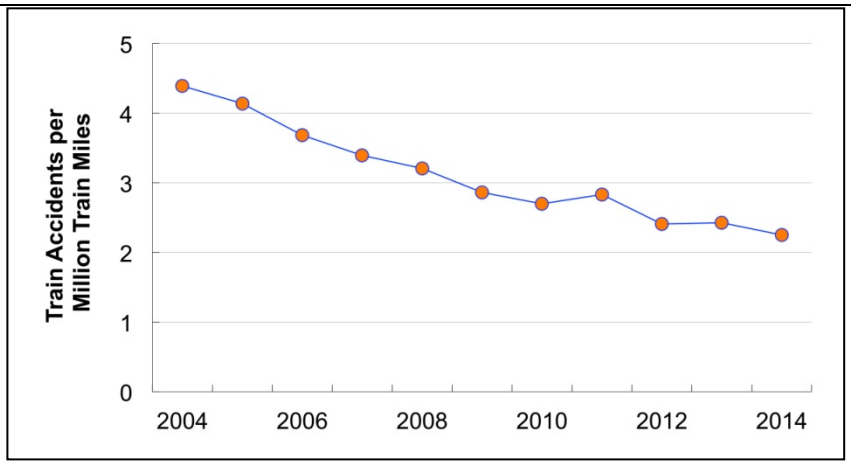

Data Source: US DOT Federal Railroad Administration
http://safetydata.fra.dot.gov/officeofsafety/publicsite/summary.aspx
(Data for 2014 include January through November)

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 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.

As noted in the RDEIR, the potential risk associated with project-related crude oil rail transport is considered Significant and Unmitigable (Class I).
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The comment does not identify a specific environmental analysis or CEQA issue relative to the EIR and compliance with CEQA. The commenter's statements about crude exports are included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project.

It should also be noted that the Rail Spur Project is not designed to handle the movement of crude oil from the SMR. As discussed in the Project Description (Chapter 2.0), no crude oil would be shipped out of the refinery as part of this project except for any off-spec crude that is delivered by rail. Off-spec crude
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	would be crude that does not meet specifications established for the crude by Phillips 66, or would not comply with the mitigation measures associated with the rail spur project.
HEJ-06	The RDEIR discusses the ongoing regulatory process at both the Federal and state level with regard to crude by rail (see Section 4.7, Hazards and Hazardous Materials). Whatever the final outcome of the regulatory process, Phillips 66 would have to comply with the new regulations. If approved, the Rail Spur Project would not be expected to be in operation till May 2017 at the earliest. 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 approval of the project prior to the finalization of the ongoing regulatory process regarding crude by rail are included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project.
HEJ-07	See Response HEJ-05.
HEJ-08	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 the safety and environmental impacts of the project are included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project.
HEJ-09	The RDEIR has evaluated all of the recent crude oil unit train accidents and have included the accident information in the RDEIR. As noted in the RDEIR Project Description in Section 2.0, no Bakken crude oil will be delivered to the refinery vial rail. In order to clarify what type of crude oil can be delivered to the refinery as part of the proposed project, additional mitigation has been added to limit crude oil deliveries via rail to those crude types and petroleum products with an API Gravity of 30° or less. This will effectively prevent the refinery from receiving crude oil derived from fracking operations via rail transport.
HEJ-10	Please see Response to HEJ-09.
HEJ-11	CEQA does not require the issue of liability for spills to be addressed in an EIR. Under both Federal and state law UPRR is responsible for the costs associated damages and the costs associated with cleaning up any spill that occurs along the mainline rail routes. Recently passed legislation in California (SB 861) requires railroads to provide proof of adequate financial responsibility to cover the costs associated with clean up of a spill. OSPR is currently in the process of implementing the requirements of SB 861, which will require railroads to have detailed oil spill response plans and to conduct oil spill response drills. Oil Spill Contingency Plans are due January 1, 2016. However, the timing of when the plans will have to be in place and the drill would start is

	not yet know. Portions of this legislation as it relates to railroads have been subject to litigation, and it is likely that further litigation by the railroads will occur, since the railroad claim the State is preempted by federal law. The commenter's concerns about the County requiring Phillips 66 to insure against an accident are included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project.
HEJ-12	As noted in the RDEIR Project Description in Section 2.0, no Bakken crude oil will be delivered to the refinery vial rail. In order to clarify what type of crude oil can be delivered to the refinery as part of the proposed project, additional mitigation has been added to limit crude oil deliveries via rail to those crude types and petroleum products with an API Gravity of 30° or less. This will effectively prevent the refinery from receiving crude oil derived from fracking operations via rail transport. The additional mitigation will also preclude the shipment of crude oil that contains a high volume of light end hydrocarbons that would vaporize upon release.
HEJ-13	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 the safety and environmental impacts of the project are included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project.
HEJ-14	Emissions of particulate matter from construction would not exceed the SLOCAPCD thresholds after mitigation and would be less than significant. Particulate matter from construction is managed through the use of watering, soil binders and limits on activities during windy periods. None of these methods are used in the recreation area. Impacts of particulates in the area are determined to be from the recreational areas on the beach, not from the SMR.
HEJ-15	As discussed during the Planning Commission Hearing on December 13, 2012, the steps for implementing the coastal access conditions (Condition 17) would involve Phillips 66 submitting an offer to dedicate prior to notice to proceed for the Throughput Increase Project (Phillips 66 did submit a offer to dedicate prior to receiving their notice to proceed for the Throughput Increase Project on March 27, 2015). In addition, Phillips 66 could submit documentation demonstrating that coastal access at the SMR was inconsistent with the requirements of Section 23.04.420 of the Coastal Zone Land Use Ordinance. Phillips 66 submitted to the County a report that claimed coastal access at the SMR site was inconsistent with the requirements of Section 23.04.420 of the Coastal Zone Land Use Ordinance as part of their application for the Rail Spur Project. The County is in the process of determining if access at this site would comply with the requirements of Section 23.04.420 of the Coastal Zone Land Use Ordinance. The County determined that a programmatic assessment of various

	access options was the best way to provide information that would assist in making the determination if coastal access at the SMR site is consistent with the provision of Section 23.04.420 of the Coastal Zone Land Use Ordinance. As stated in Section 9.0 (Vertical Coastal Access Assessment) the assessment will be used by the County to assist in determining: 1. Whether coastal access is appropriate for the SMR site consistent with the standards of Section 23.04.420 of the Coastal Zone Land Use Ordinance; and 2. What intensity and type of coastal access is appropriate at the SMR site. By including this analysis in the Rail Spur Project RDEIR, it allows for public review and input on any decision about coastal access at this site. If the County finds that coastal access for this location is consistent with the requirements of Section 23.04.420 of the Coastal Zone Land Use Ordinance, then a formal application would need to be submitted that details the type and design of the proposed access. This application would be subject to additional environmental review and an appropriate environmental determination would be required prior to final approval. An additional Coastal Development Permit would also be required based on the location of coastal access and resources found in the vicinity of the final proposed alignment.
HEJ-16	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 assuring all mitigation in the RDEIR is include if the project is approved are included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project.