From: Jeff Edwards <jhedwardscompany@gmail.com>
To: "mwilson: co.slo.ca.us" <mwilson@co.slo.ca.us>
Date: 11/24/2014 09:54 AM
Subject: SMR comments

Hello Murry,

Please recycle my comment letter from January and add this concern:

The Union Pacific Railroad (UPRR) bridge that spans the Arroyo Grande Creek near the community of Oceano. The creek is subject to flooding and impacts the bridge, its age and condition; the limited creek flow capacity and its proximity to Oceano and the South County Sanitation wastewater treatment plant, the prime agricultural producing valley and Arroyo Grande Creek's special status and endangered species are of concern.

The creek has a 5 year flood level capacity. With the potential for an increase in shipment s of crude oil that will cross this bridge. It is important to consider that the SMR project will increase rail traffic by 5 unit trains per week, an annual maximum number of 250 trains per year. TAJ-01

The performance of the UPRR bridge over lower Arroyo Grande Creek during a severe inclement weather event and the passage of a crude oil train on its way to or from the SMR is a safety risk to the community of Oceano and the larger area of Grover Beach and Arroyo Grande since the South San Luis Obispo County Sanitation District wastewater treatment facility is in the very near proximity and could be impacted in the event of an accident or disaster related to the failure of the bridge.

Thanks,

Julie Tacker
Administrative Assistant

J.H. Edwards Company
P.O. Box 6070
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805.235.0873 - Jeff
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805-528-3569 - Office
(See attached file: Phillips 66_Julie's comments on DEIR.docx)

January 27, 2014

Murry Wilson
Environmental Resource Specialist
Department of Planning and Building
976 Osos Street ~ Room 200
San Luis Obispo, CA 93408

RE: Phillips 66 Rail Spur Project, DRC2012-00095

Dear Mr. Wilson,

Please accept these comments as they relate to the project mentioned above.

I object to the bifurcation that has taken place between the Throughput Increase and the Rail Spur projects. The impacts of the two projects are cumulative and should be analyzed as such. Additionally, I am also concerned with the "Fast Track" nature of such a large project whose CEQA process began during the holiday season, when families are distracted with real life and what's most important to them. TAJ-02

The No Project Alternative is the preferred project and I would wholeheartedly support that option. TAJ-03

The overarching concern I have is for public safety on and offsite as it relates to the health and wellbeing of the environment and citizenry all along the thousands of miles of rail from which 250 trains will come and go (500 trips) through this country and Canada. The recent rash of accidents associated with crude oil trains and the controversy surrounding substandard rail cars raises public safety to the highest level of concern. TAJ-04

Please consider the articles linked below:

http://www.commondreams.org/headline/2013/12/30-9

http://www.businessinsider.com/photos-from-the-investigation-into-the-quebec-train-crash-2013-7?op=1

http://bangordailynews.com/2013/08/07/business/railway-involved-in-quebec-crash-that-killed-47-files-for-bankruptcy/

The DEIR suggests few, if any; significant rail accidents have happened in this county, when in fact there have been significant derailments, as recently 1996 when as three men died:
http://www.trainwacko.com/ncmr/photos/prototype/special/derail/index.html

additionally, in 1986 much of Grover City was evacuated:
http://sloblogs.thetribunenews.com/slovault/2011/02/isobutane-tanker-cars-derail-grover-beach-evacuated/

And as long ago as the early 1900's
http://www.flickr.com/photos/photosfromthevault/2851964212/

The risks associated with this project outweigh the public benefit; Phillips 66 is a multimillion dollar private corporation that is the only beneficiary from said project.

Proposed Mitigation

The project is silent on the matter of solar energy, onsite mitigation measures that would contribute to improvements in the environment associated with the historic and ongoing operation of the refinery and its recent capacity increase should be considered at this time.

A simple measure of mitigation that could be added to the project would be to install solar panels on top of the canopy structure that is proposed for the crude oil offloading area. Solar energy could be used by the refinery in myriad ways, saving Phillips 66 money and benefit the planet by reducing greenhouse gases produced by generating electricity through traditional means. These panels may help in noise reduction as well. TAJ-05

Example:

Air Pollution

Phillips 66 has been a bad actor over the decades of its existence with regard to air pollution, having received multiple violations for emissions. While the refinery has overcome violations in the recent past, its emissions combined with those from the Oceano TAJ-06

Dunes should be considered as a cumulative impact and the Rail Spur Project mitigation should be aimed at reducing both sources of pollution. Phillips 66 is the owner of 600 acres of the OHV riding area and should partner with the State to overcome the impacts of both the riding area and the refinery. TAJ-06

Noise is air pollution; sound will carry via the westerly winds beyond the project area. There will be clanging and banging and the squeaking of brakes as the trains slow to enter and rev up to leave the site. No trains should be allowed to enter or depart the facility between the hours of 10pm and 7am. During the daytime hours the low rumble of train engines running for 10 or so hours during offloading will be a nearly daily nuisance. While we generally think of protecting people from noise nuisance, the grazing animals and wildlife can also be disturbed by exposure to noise. It is unclear how the project will mitigate, or if it can, the long duration of the persistent noise. TAJ-07

All aspects of air pollution impact the neighboring agricultural pieces; some of which are prime coastal ag and are to be protected under the Coastal Act.

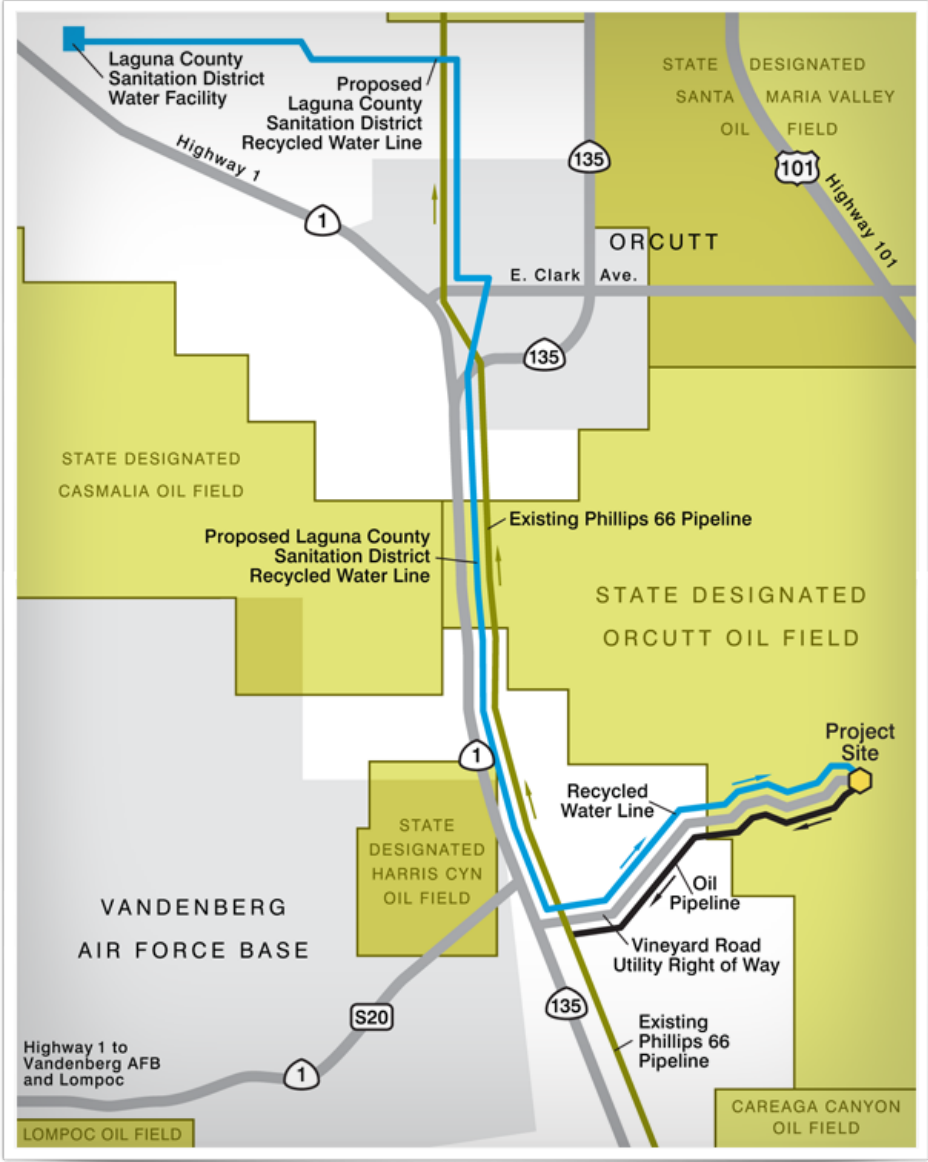
Water

The refinery has also been a bad actor over the decades of its existence with regard to groundwater pollution and high volumes of use in a compromised basin. The refinery's Coke byproduct has been handled poorly in the past and resulted in groundwater pollution and resulting fines by the RWQCB. While clean-up efforts are ongoing the refinery could do more to benefit the groundwater basin.

The refinery uses approximately 1,100 AFY of potable water each year and has an allocation approved in the recent Santa Maria Groundwater Litigation that exceeds 1,500 AFY. It occurs to me that the refinery does not need potable water for its refinery processes. Over the years it has been considered a very likely candidate for recycled/nonpotable water from the South San Luis Obispo County Sanitation District. The beneficial reuse of the recycled wastewater would help the groundwater basin overall health and nearly eliminate the SSLOCSD ocean outfall. TAJ-08

The Laguna County Sanitation District is current involved in a similar proposal wherein their relationship with Santa Maria Energy includes a project that constructs and installs an 8-mile, 16" underground recycled water pipeline that will be built at Santa Maria Energy expense but will be owned by LCSD. The objectives of this recycled water pipeline project include: expanding wastewater disposal capacity by providing additional infrastructure to deliver recycled water from the LCSD wastewater reclamation plant at 3500 Black Road to the Santa Maria Energy project site at 7980 East San Antonio Road; and reducing impacts to groundwater resources by providing recycled water as a substitute. This treated water will be used in generating steam for the EOR technique being employed by Santa Maria Energy to produce oil from the Sisquoc diatomite formation. This project is a win/win for the Laguna Sanitation customers and the basin as a whole. A similar relationship should be established between SSLOCSD and the Phillips 66 refinery.

Furthermore, the County of San Luis Obispo is currently under contract with Cannon engineers to develop a Regional Recycled Water Master Plan; in it the engineers will be looking at the feasibility of such a project for SSLOCSD and the refinery. The draft plan is due out in April of 2014. It would be appropriate to include recycled water use in the projects mitigation. TAJ-08



Example:

Cultural Resources and Public Access

On the eve of the American Revolution, Lt. Colonel Juan Bautista de Anza led more than 240 men, women, and children on an epic journey across the frontier of New Spain to establish a settlement at San Francisco Bay. Their legacy on the Juan Bautista de Anza National Historic Trail, connects culture, history, and outdoor recreation throughout Arizona, TAJ-09

California, and beyond. Special attention should be paid to the setting in which the project lies. The de Anza trail may indeed have crossed through the Phillips 66 property. Some parts of the 1600 acre property is as beautiful today as it was in 1776, the ability to allow public access through the property to the beach is an exciting concept and should seriously be considered. TAJ-09

By improving the maintenance road alignment seems the most logical and least impactful alternative for coastal access. Even beginning with docent led hikes, as the access becomes more accessible to the public, may lead to further expanding of the access in the future. An access at this point should be phased in. I request that this opportunity be embraced and left open for project development into the future.

Contrarily, the Arcadis report regarding Vertical Access suggests if there were an accident at the refinery that would put the public in danger. Phillips 66 can't have it both ways; the Hazard and Hazardous Materials section of the DEIR suggests there is little to no possibility of an accident at the plant. Either the public is in danger from the facility or they are not. TAJ-10

Thank you for the opportunity to comment,

Sincerely,

Julie Tacker

Julie Tacker

PO Box 6070
Los Osos, CA 93412
805.528.3569

TAJ-01	Potential worst-case water quality impacts related to a rail accident have been addressed in Impact WR.3 in Section 4.13 of the RDEIR. Individual waterways that could be affected are shown on Figures 4.13-4 through 4.13-9 and in Tables 4.13.1 and 4.13.2. Arroyo Grande Creek is shown in Figure 4.13-7 and listed in Table 4.3.1. Based upon the analysis in the EIR, a spill of oil into Arroyo Grande Creek due to a train accident would be considered significant and unavoidable (Class I).
TAJ-02	Phillips 66 applied to San Luis Obispo County in 2010 for a permit to increase throughput at the Santa Maria Refinery from 44,500 barrels per day to 48,950 barrels per day. No physical changes were proposed to the refinery as part of the Throughput Increase Project. An EIR was prepared for the Throughput Increase Project, and the project was approved by the San Luis Obispo County Planning Commission approved the proposed project on December 13, 2012 subject to multiple conditions. The Planning Commission's approval was appealed to the County's Board of Supervisors by Jeff Edwards. The Board of Supervisors held a public hearing to consider the appeal on February 26, 2013. At that time, the Board denied the appeal and upheld the Planning Commission's original approval. The County of San Luis Obispo issued a final notice to proceed for the Throughput Increase Project on March 27, 2015. The County of San Luis Obispo received the application from Phillips 66 for the Rail Spur Project in April of 2013, which was after the Board of Supervisors had approved the Throughput Increase Project. The Throughput Increase Project was evaluated as a cumulative project in the Rail Spur EIR since the project had not been implemented at the time the Notice of Preparation (NOP) was issued. A number of comments received on the RDEIR for the Rail Spur Project stated that the Throughput Increase Project was dependent upon the Rail Spur Project, and therefore, the County should have evaluated the two projects in one EIR. Most of these comments try to build the case that without the Rail Spur Project at the Santa Maria Refinery, the amount of crude processed at the refinery would decline over time. This is all based upon the assumption that without the proposed Rail Spur Project the Santa Maria Refinery could not obtain adequate crude supplies. As shown in Table 2.7 of the RDEIR, the 2013 average throughput of the refinery was 41,635 barrels per day. The Santa Maria Refinery has the requisite permits and ability to unload crude oil from trucks at the Santa Maria Pump Station (SMPS) where it is then moved via pipeline to the refinery. The current permitted limit on crude truck unloading at the SMPS is 26,000 barrels per day. As discussed in Section 5.1.1 (No Project Alternative), the current truck unloading rate at the SMPS is about 6,800 barrels per day. Therefore, an additional 19,200 barrels per day (26,000-6,800) could be shipped via truck to the SMPS for unloading and then moved via pipeline to the Santa Maria Refinery. This additional 19,200 barrels of oil would increase the 2013 average

	daily throughput at the Santa Maria Refinery to over 60,000 barrels per day, which is greater than the current permitted capacity of the refinery or the capacity of the refinery that would be allowed even under the Throughput Increase Project. Additional oil could be brought in by truck to the SMPS from other sources such as the San Ardo field, fields in the San Joaquin Valley, as well as additional crude by rail via Kern County. Also, the 2012 crude production from northern onshore Santa Barbara and OCS was approximately 67,100 barrels per day. All of these sources of crude could be available to the Santa Maria Refinery for processing. Whether or not Phillips 66 is willing to pay the needed price to obtain these crudes is unknown and not a CEQA issue. CEQA does not require that the EIR identify all possible sources of crude for the Santa Maria Refinery, but rather to demonstrate that adequate infrastructure existing to deliver crude to the refinery. The determination of crude source and method of delivery would be based upon economics and market forces. There are also other potential sources of local crude that could be available in the future to the Santa Maria Refinery. As discussed in Section 2.7 of the RDEIR, there are a number of onshore oil development projects in northern Santa Barbara County that are being proposed that if approved could replace some of this lost production. In addition, the Arroyo Grande Oil Field (AGOF) has applied to the County of San Luis Obispo to increase production to 10,000 barrels per day. If this project is approved it would increase the production from the AGOF by about 8,000 barrels. The County recently approved a project that would allow the oil from the AGOF to be moved via pipeline to the Santa Maria Refinery (the oil production from the AGOF currently is trucked to the SMPS for delivery via pipeline to the Santa Maria Refinery). There are a number of other oil development projects currently proposed in northern Santa Barbara County that could add an additional 23,000 barrels per day of oil production that could be transported to the Santa Maria Refinery. These include projects such as Santa Maria Energy, which could move 3,000 barrels per day via pipeline to the Santa Maria Refinery, Pacific Coast Energy, which could move 3,600 barrels per day to the Santa Maria Refinery via pipeline, ERG Cat Canyon, which could move 5,000 barrels per day via pipeline to the Santa Maria Refinery, the PetroRock development, which could move 1,600 barrels per day, and the Aera Energy Cat Canyon Project that could add 10,000 barrels per day. A listing from Santa Barbra County shows a total of 943 oil production wells in various phases of development, all of which could provide oil to the Santa Maria Refinery. While some of these projects state that the oil will move to the Santa Maria Refinery, some do not. For example the Aera Energy Project will truck oil to various customers. Under CEQA, a “project” subject to environmental review must be the “whole of an action.” (CEQA Guidelines Section 15378(a).) This CEQA rule of analysis serves to assure that a large project is not chopped up into many

	smaller ones, resulting in piecemealing or segmenting of environmental review and masking the full scope of project impacts. Put another way, "a narrow view of a project could result in…overlooking its cumulative impact by separately focusing on isolated parts of the whole." (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal. App.4th 713, 714.) Courts have determined that an EIR must include analysis of the environmental effects of a future action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects. This standard involves determining whether the EIR has left out of the environmental analysis a "crucial element" or "integral part" of the project, without which the project cannot go forward. (*National Parks & Conservation Ass'n v. County of Riverside* (1996) 42 Cal.App.4th 1505, 1519.) Where an action is not a crucial element of the project, but merely contributes to the same pool of cumulative impacts, the action may be included in the EIR's analysis of cumulative impacts instead. Using this definition of piecemealing, the Throughput Increase Project is not dependent upon the Rail Spur Project since there is adequate crude supply for the Santa Maria Refinery even without the rail project. The project has "independent utility" under CEQA since the ability of the Santa Maria Refinery to operate at the maximum approved throughput level is based on the existing infrastructure and current available crude supply; it is not dependent on the Rail Spur Project. The point that Phillips 66 commissioned a number of studies for the Rail Spur Project prior to certification of the Throughput Project EIR is irrelevant. None of these studies were known by the County prior to submission of the Rail Spur Application, which occurred after the certification of the Throughput Increase EIR. The County determined as part of the Throughput Increase EIR that the project had "independent utility" base upon the discussion provided above.
TAJ-03	This comment does not identify a specific environmental analysis or CEQA issue relative to the EIR and compliance with CEQA. The commenter's support of the No Project Alternative is included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project.
TAJ-04	This comment does not identify a specific environmental analysis or CEQA issue relative to the EIR and compliance with CEQA. The commenter's statements about the risks of the project out weighing the benefits are included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project.

TAJ-05	The use of solar panels on the roof of the unloading area was not view as feasible since the unloading area would be an area where code would require intrinsically safe electrical systems. Use of solar panel in an active operating area of a refinery raises a number of safety concerns. For this reason it was not include as mitigation in the EIR.
TAJ-06	A study performed by the SLOCAPCD, the South County Phase 2 Particulate Study, evaluated whether impacts from off-road vehicle activities at the Oceano Dunes State Vehicle Recreational Area (SVRA), the Phillips Refinery coke piles, and adjacent agricultural fields were contributing to the particulate problems on the Nipomo Mesa (SLOC APCD 2010). The Phase 2 portion of the study concluded that off-road vehicle activity in the SVRA is a major contributing factor to the PM concentrations observed on the Nipomo Mesa and that neither the petroleum coke piles at the Phillips facility nor agricultural fields or activities in and around the area are a significant source of ambient PM on the Nipomo Mesa. The composition of the particulates is predominately natural crustal particles. The SLOCAPCD has determined that the dune complex along the coast of the Five Cities area is the source of the high particulate matter levels measured at the South Coast stations (SLOCAPCD Annual Emissions Report, 2013). The SMR has a coke dust plan to reduce coke dust and it does involve watering. However, the proposed Project is not anticipated to increase coke handling or contribute to dust particulate levels in the area. Air quality violations on the mesa a primarily associated with natural crustal particulates. As per the SLOCAPCD Annual Report in 2013, the days which cause impacts from the dunes are associated with strong winds out of the northwest, with the strong winds generating high levels of dune dust and causing PM impacts. These periods would produce substantial dispersion of the diesel PM emissions from the project site and would not correlate with the same meteorological conditions that would be associated with maximum impacts from the rail spur operations. Therefore, rail spur operations are not anticipated to contribute to additional exceedances of the PM standard. Note that the area of the dunes owned by the SMR does not include off-road vehicle activities.
TAJ-07	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 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, 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. A new air quality mitigation measure has been added to the FEIR that would limit unloading operations to the hours between 7 A.M. and 7 P.M. Consistency with the SLOC Local Coastal Plan is discussed in Appendix G.
TAJ-08	As discussed in Water Resources (see Section 4.13) the water use at the SMR refinery would increase by about 250 gallons per day with the Proposed Project, which is less than the amount of water required by a single family home. An average single-family dwelling on the Nipomo Mesa would use approximately 460 gallons per day (0.51 AFY) (Water Systems Consulting 2011). The related water supply and demand has been addressed in Impact WR.6 (see Section 4.13). The water use number cited in the comment is for the existing SMR, which is part of the baseline. A Water Supply Assessment was completed in 2012 in association with increased throughput at the SMR. The Water Supply Assessment concluded that the total water supplies available during normal, single-dry, and multiple-dry water years, within a 20-year projection, will meet the projected water demand for the Increased Throughput project, based on the Phillips 66 groundwater rights in the Nipomo Mesa Management Area (NMMA), as defined in the Stipulation for the Santa Maria Groundwater Litigation (the Stipulation). In the next 20 years, if a Severe Water Shortage Condition occurs, per the Stipulation, Phillips 66 would have rights to 110 percent of the highest amount of prior groundwater use, or 1,550 AFY. The County of San Luis Obispo and other major water purveyors in the NMMA are bound by the Superior Court of the County of Santa Clara, under the Stipulation to uphold the Phillips 66 SMR rights to use water. With the Increased Throughput

	Project water demand at the SMR would be up to 1,111 AFY. The proposed Rail Spur Project would increase water demand by 250 gallons per day, or 0.3 AFY. With the Rail Spur and Throughput Increase Projects water demand at the SMR would be 1,111.3 AFY, which would be less than the 1,550 AFY of water available for SMR use under the Stipulation. Given the low water demand for the Rail Spur Project there was no nexus for requiring the use of recycled water at the SMR as mitigation.
TAJ-09	This comment does not identify a specific environmental analysis or CEQA issue relative to the EIR and compliance with CEQA. The commenter's statements about the de Anza Trail and the scenic beauty of the property are included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project. As discussed in Section 4.8 Land Use and Recreation, the Juan Batista de Anza National Historic Trail follows State Route 1 through the project area. This portion of the trail has already been fixed in the area of the SMR.
TAJ-10	The vertical coastal access report that is included with the EIR was prepared by the County and not Arcadis. The Hazards and Hazardous Materials section (Section 4.7) of the EIR focus on the hazards associated with the Rail Spur Project and not the existing refinery operations. The is nothing in the EIR baseline discussion that would suggest that there is little or no possibility of an accident at the SMR. The baseline discussion in Section 4.7 on the existing refinery states that thermal radiation impacts from crude oil tank fires could cause injury 220 feet away. The closest population to the crude oil tanks at the Refinery is industrial area 425 feet northeast of the crude oil storage facilities. The closest residence to the crude oil tanks, which is located within the industrial area, is 1,200 feet northeast of the tank storage area. The gas processing equipment and piping are within the Refinery, at least 1,700 feet from the Refinery fence line and the closest receptor on industrial property. Given the limited population and significant distance between these receptors and the Refinery, there would not be a significant risk level. Placing an access trail at the refinery would bring people within the hazard zone distances listed above.