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Phillips 66 Company

# Coastal Access Feasibility Review

August 2013

# Coastal Access Feasibility Review

Prepared for:

Phillips 66 Company

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Date:

August 2013

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## 1. Introduction

ARCADIS U.S., Inc. (ARCADIS) has prepared this Coastal Access Feasibility Review to consider potential issues, opportunities, and constraints associated with public coastal access across the Phillips 66 Company (Phillips 66) Santa Maria Refinery (SMR) property, in San Luis Obispo County (the County), California (Figure 1). This assessment focuses specifically on the Phillips 66 property, but it is important to recognize that the western Phillips 66 property line is approximately 1.5 miles from the ocean. The property in between is the Oceano Dunes State Vehicular Recreation Area (Oceano Dunes SVRA). Access across this State Parks-managed area is only cursorily considered herein, but would require approvals, permitting, and management of sensitive species issues (e.g., seasonal closure areas for the endangered Western snowy plover occur in this area) as well as public safety issues as the proposed coastal access route evaluated in this review would outlet into the active off-road vehicle (ORV) riding area. The development of a coastal access route across the Phillips 66 property without coordinated planning and approval would facilitate unauthorized and uncontrolled access to the Oceano Dunes SVRA.

## 2. Regulatory Setting

The Phillips 66 SMR property occurs within the Coastal Zone and is subject to the California Coastal Act and the County's Coastal Zone Land Use Ordinance enacted to ensure compliance with the California Coastal Act. The land use ordinance comprises Section 23 of the County Code. Within the ordinance, Section 23.04.420 addresses the requirement for certain projects and project sites to provide public coastal access. The complete Section 23.04.420 is provided in Appendix 1. Relevant excerpts are provided below.

Subsection 23.04.420(c) addresses when new access is required, and specifies that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

1. Access would be inconsistent with public safety, military security needs or the protection of fragile coastal resources; or
2. The site already satisfies the provisions of subsection d of the section; or
3. Agriculture would be adversely affected; or
4. The proposed new development is any of the following:
    i. Replacement of any structure pursuant to the provisions of Section 30610(g) of the Coastal Act

ii. The demolition and reconstruction of a single family residence
iii. Improvements to any structure that do not change the intensity of its use, or increase either the floor area, height or bulk of the structure by more than 10 percent, which do not block or impede public access and do not result in additional seaward encroachment by the structure.
iv. The reconstruction or repair of any seawall
v. Any repair or maintenance activity excluded from obtaining a land use permit

Subsection d(1)(ii) specifies that vertical access (access between the first public road to the shore, or perpendicular to the shore) is required in rural areas where no dedicated or public access exists within one mile, or if the site has more than one mile of coastal frontage, an accessway shall be provided for each mile of frontage.

Subsection d(2) specifies that vertical access dedication shall be a minimum width of five feet in urban areas and 10 feet in rural areas.

A recently approved project at the SMR included a site-specific Condition of Approval addressing coastal access. Development Plan/Coastal Development Permit DRC2008-00146 (Throughput) includes the following condition of approval (COA#17):

> "Prior to issuance of the Notice to Proceed authorizing an increase in Refinery throughput, the applicant shall comply with Section 23.04.420 – Coastal Access Required. Construction of improvements associated with vertical public access (if required) shall occur within 10 years of the effective date of this permit (including any required Coastal Development Permit to authorize such construction) or at the time of any subsequent use permit approved at the project site, whichever occurs first. The approximate location of the vertical access required by this condition of approval shall be located within or immediately adjacent to the existing maintenance road as shown in Exhibit D – Project Graphic (Coastal Access Location Map 1 and 2)."

Phillips 66 has recently proposed a new project (Rail Project) that requires a use permit, the approval of which would trigger the timing requirements described in the second sentence of the above paragraph.

## 3. Current Coastal Access

Figure 2 shows current public access routes to the beach in the vicinity of the Phillips 66 SMR property. The nearest access is the Oso Flaco Lake Natural Area located approximately 0.73 miles south of the Phillips 66 SMR property. This area is part of the Oceano Dunes SVRA. There are at least four formal public coastal access points in the immediate SMR area listed below (in order of distance from the Phillips 66 property):

- Oso Flaco Lake Natural Area – Approximately 0.73 Miles (South)
- Pier Avenue – Approximately 3.5 Miles (North)
- Grand Avenue – Approximately 4.5 Miles (North)
- Rancho Guadalupe Dunes County Park – Approximately 5.5 Miles (South)

## 4. Coastal Access Route Alignment

The Coastal Land Use Ordinance requires "vertical" access, defined as access from the first public road to the shore, or perpendicular to the shore. The first public road is Highway 1. The Phillips 66 property extends west to the western property line shared with the California State Parks Oceano Dunes SVRA.

The access route alignment proposed by the County in the condition of approval for the Throughput project follows an existing refinery truck entrance road from Highway 1 to a service road that is used by Phillips 66 to maintain an outfall pipeline (Figure 3). The County condition of approval specifies that coastal access, if required, should be located within or immediately adjacent to the existing maintenance road. This is a practical alignment in that it follows the dune contours to provide a relatively gently sloping route, generally avoiding the steep unstable dune faces and the low-lying surface water features (e.g., Jack Lake, Lettuce Lake) and wetlands (dune slacks) throughout the area. This alignment would be approximately 2 miles in length from Highway 1 to the property line with State Parks. At the outlet of the route alignment, the public users would reach the Oceano Dunes SVRA and would be approximately 1.5 miles from the ocean assuming that users would continue to follow the existing maintenance road and not short-cut through the vegetated dune areas and the large dune wetland area immediately west of the Phillips 66 property (see Figure 3).

It should be noted that it is not feasible to combine refinery maintenance activities and public access on the same road. The public must be protected from potential safety issues associated with encountering maintenance equipment using the road (e.g., trucks, excavators, etc.) and the public must be prevented from having uncontrolled

access into the refinery as dictated by U.S. Homeland Security and Phillips 66 safety and security policy. As such, the alignment could parallel the existing service road, but public access and refinery maintenance cannot safely share the same road. Any coastal access would require a new disturbance/construction corridor.

There is no public parking available along Highway 1 near the Phillips 66 SMR. Public parking for coastal access would require additional new construction in the dunes.

## 5. Access Constraints

The potential coastal access faces several significant constraints as discussed below.

### 5.1 Public Safety

The Union Pacific Railroad Company (Union Pacific) mainline railroad tracks bisect the Phillips 66 property and generally parallel the coastline at this location. Any coastal access between the nearest public road (Highway 1) and the coast across the Phillips 66 property would require the public to cross the mainline tracks owned by Union Pacific. In a recent letter (Appendix 2), Union Pacific noted that both passenger and freight trains operate on this segment of tracks. Union Pacific described its work with the Federal Railroad Administration and the California Public Utilities Commission (CPUC) as well as with local communities to reduce safety risks. In the letter, Union Pacific addresses the County's Condition of Approval that requires Phillips 66 to potentially provide coastal access and states:

> "To do so, however, Phillips 66 would have to provide access over railroad tracks owned by Union Pacific. Union Pacific does not consent to use of its property for public access."

Union Pacific goes on to state that the CPUC has exclusive jurisdiction over railroad crossings in California and that a public crossing for coastal access would require that the County or Phillips 66 file an application with the CPUC. Union Pacific also states that if a crossing were approved by the CPUC, Union Pacific would require that the crossing be grade separated using a clear-span bridge over their 100-foot wide right-of-way.

In addition to the railroad crossing, safety concerns were raised by members of the public at the County's EIR scoping meeting (July 29, 2013) for the Rail Project as to the risks for pedestrians, equestrians, and vehicle users (depending on the coastal access

uses proposed/required by the County and the California Coastal Commission) as they exit the potential access road onto the active driving area of the Oceano Dunes SVRA.

### 5.2 Fragile Coastal Resources

The approximately 630-acre natural dune area of the Phillips 66 property west of the Union Pacific railroad provides an important Buffer Zone between the public Off Road Vehicle (ORV) park and the refinery. Uncontrolled ORV and other use in the Buffer Zone area has historically had a significant impact on the area's sensitive ecological resources. Prior to 1997, an extensive trail network and associated erosion, dune destabilization, and weed dispersal was occurring in the vegetated dune areas on the property then owned by Unocal. Around 1998, the area was fenced to prevent uncontrolled access and has been managed through an agreement with State Parks to exclude general public use (See Section 5.4 below). Through the efforts of State Parks and the Land Conservancy of San Luis Obispo County with the support of Phillips 66, invasive plant species have been reduced in the Buffer Zone area, and native plant communities and native dune stabilization have been enhanced. In addition to the direct impacts discussed below, reopening of the area for public access would potentially result in broader disturbance and destabilization as ORV drivers or other users are likely to stray from the trail to get to other parts of the Oceano Dunes SVRA or other sensitive areas within the Buffer Zone such as Jack Lake.

The current ecological resources in the area are significant. The property is known to support numerous sensitive botanical and wildlife species including state and federally listed endangered species such as the endangered Nipomo Mesa lupine (*Lupinus nipomensis*). Other rare species known to occur in the access route area include the California red-legged frog (*Rana draytonii*) and silvery legless lizard (*Annelia pulchra pulchra*), among others. Figure 4 shows the mapped ecological resources in the area. Figure 5 shows the resources mapped by ARCADIS during 2013 surveys of the potential coastal access route.

Two potential routes to provide coastal access across the Phillips 66 SMR from Highway 1 to Oceano Dunes SVRA are shown in Figures 4 and 5. The area was surveyed on June 11, 2013 by Senior ARCADIS Ecologist Mary Carroll. The survey characterized the botanical resources through an approximately 300-foot wide corridor along the two routes. Both routes generally follow the existing dirt maintenance road used by Phillips 66 for outfall maintenance. Route A closely follows the road whereas Route B diverges from the road to avoid existing mapped populations of Nipomo Mesa lupine. Coastal Access Routes A and B support high quality native habitat and high

biodiversity including sensitive plant communities and sensitive botanical and wildlife species. Route A traverses central dune scrub habitat. The Route A vegetation is dominated by the Dune-Heather - Silver Dune Lupine Association, which has a sensitive plant ranking of S3 in the California Natural Diversity Database (CNDDB; CDFW 2013). Among the sensitive plant species observed along this access route are the state and federally listed endangered Nipomo Mesa lupine (FE / CE / CNPS 1B.1), Blochman's leafy daisy (*Erigeron blochmaniae*, CNPS 1B.2), crisp monardella (*Monardella undulata* subsp. *crispa*, CNPS 1B.2), Blochman's groundsel (*Senecio blochmaniae*, CNPS 4.2), and sand almond (*Prunus fasciculata* var. *punctata*, CNPS 4.3). Significant impacts to fragile coastal resources are anticipated from installation of Coastal Access Route A due to the presence of colonies of Nipomo Mesa lupine and other sensitive botanical and wildlife resources along this route.

Coastal Access Route B also supports high quality central dune scrub. A portion of Coastal Access Route B occurs immediately adjacent to the southern margins of Jack Lake within 100 feet of arroyo willow thickets (*Salix lasiolepis* Woodland Alliance) and a freshwater marsh dominated by slough sedge (*Carex obnupta*). Two federal- and state-listed endangered plant species have been reported historically from Jack Lake: marsh sandwort (*Arenaria paludicola*, FE/CE/1B.1) and La Graciosa thistle (*Cirsium scariosum* var. *loncholepis,* FE/CT/1B.1). Jack Lake is also known to support the federally-listed threatened California red-legged frog. Sensitive botanical species observed along this route include Blochman's leafy daisy, Blochman's groundsel, California spineflower (*Mucronea californica*, CNPS 4.2), and sand almond. This route also occurs immediately adjacent to a mapped colony of Nipomo Mesa lupine at its northeastern terminus. Both coastal access routes occur within designated critical habitat for La Graciosa Thistle (USFWS 2009), although neither route passes directly through suitable wetland habitat. Route B occurs immediately adjacent to suitable habitat but well within a 100-foot buffer around Jack Lake and its associated wetlands. Either route would result in significant impacts to biological resources.

Unintended direct and indirect impacts to the surrounding resources are likely to result from trespass from a designated route. Short-cuts to attractive areas such as steep dunes (desirable for "card-boarding" and "dune surfing"), the sensitive Jack Lake, and others are likely to attract unauthorized access. If such uncontrolled access were to occur, the likely ecological consequences would be significant and would include direct and indirect impacts to wildlife and vegetation, potentially destabilizing the dune structures and reducing the biodiversity of the area.

In addition to the sensitive resources occurring in and adjacent to the location of the potential access routes, both routes would outlet into an area that supports nesting Western snowy plovers (*Charadrius alexandrinus nivosus*) and that is subject to seasonal closures. This issue would need to be coordinated with State Parks for the access and to avoid take of a listed species and more generally to avoid impacts to fragile coastal resources.

The proposed routes would traverse an area that has been actively protected for conservation and safety purposes since at least 1997 and a new public coastal access would represent a significant increase in the intensity of use for this area. It is anticipated that a significant increase in the intensity of use would result in an equally significant increase in the direct and indirect impacts to the coastal ecosystem in the area.

### 5.3 Cultural Resources

There are areas within the coastal dunes complex with substantial cultural value including significant Native American resources and history as well as other cultural resources. At least one mapped resource area occurs near the access routes studied and others are reported in the area.

### 5.4 Buffer Zone

Both California State Parks and the refinery operators have recognized the value and importance of maintaining a buffer zone between the Oceano Dunes SVRA and the SMR. A formal Agreement and Grant of Development Rights was signed in 1998 between the then SMR owner TOSCO and the State of California. As a successor company, the original agreement is still in effect, however Phillips 66 is currently reviewing the agreement with the intent to change the SMR ownership name to Phillips 66 Company. The Buffer Zone is generally comprised of the approximately 630-acre portion of the Phillips 66 property west of the railroad tracks.

The agreement allows the State to use, operate, and maintain the Buffer Zone Area for the purpose of providing a buffer zone between other property of the State (the Oceano Dunes SVRA) and the refinery (SMR) for uses and operations limited to security patrol, emergency access, preservation of scenic values, natural interpretation through guided tours, preservation, maintenance, preventative maintenance, or rehabilitation of existing land conditions such as dunes, dune foliage, wetland, flora and fauna habitats, and such other uses consistent with the Buffer Zone concept. The

agreement dictates that the State shall not allow entry upon or occupancy of the Buffer Zone by the general public or by anyone for uses other than as described in the agreement. The State is also responsible to post and maintain appropriate signage to protect the Buffer Zone.

## 6. California State Parks Coastal Access Studies

Coastal access across or near the Phillips 66 SMR and in the immediate vicinity has been studied several times in the past. Two significant studies are briefly described below.

### 6.1 Condor Alternative Access Study

Condor Environmental Planning Services, Inc., under contract to California State Parks prepared an Alternative Access Study of the Oceano Dunes SVRA in November 2006. Six potential access corridors were evaluated. These included three at the north end of the park: Ocean Street, Creek Road, and Silver Spur Place. All three would take access from Highway 1, and all three would include widening and paving the north and/or south levees alongside Arroyo Grande Creek. Two options for construction of a bridge on the beach were also developed and considered.

Three alternatives were evaluated at the southern end of the park: ConocoPhillips (now Phillips 66), Little Oso Flaco Lake, and Oso Flaco Lake. All three would also take access from Highway 1. The ConocoPhillips Alternative followed the existing service road, considered an at-grade crossing of the railroad to the Oceano Dunes SVRA, and assumed that a paved road and a parking lot would be constructed in vegetated dunes on the Phillips 66 SMR property. The Condor study assumed that the parking lot would be built at the top of the dunes. All terrain vehicles or walking would be required to access the beach. The study assumed a road width of 28 feet and a parking lot size of approximately 25,000 square feet.

Botanical and wildlife surveys were conducted in support of the Condor study. The study included analysis of environmental impacts and recommended mitigation measures for biological and archaeological resources, water quality, traffic, air quality, noise and visual resources. A policy consistency analysis and sensitivity ranking for each alternative was also provided.

In developing the conclusions, the study compared the various alternatives pursuant to a number of criteria. Of the eight alternatives studied, the Phillips 66 property was

assigned the highest level of biological sensitivity with a score of 5 of 5 (with 5 being the most sensitive and 1 being the least sensitive in the ranking system). The study concluded that continued use of the Grand Avenue and Pier Avenue is the environmentally preferred approach to provide access to the Oceano Dunes SVRA.

### 6.2 CA State Park and Recreation Commission – General Plan Amendment EIR

The California State Park and Recreation Commission initiated an alternative access study in 1991 and commissioned an Environmental Impact Report (EIR) that was approved in 1994. The EIR studied five options to provide access to the Oceano Dunes SVRA and to ensure that the least environmentally damaging access routes were utilized. This study included an access corridor from Callender Road just north of the entrance to the Phillips 66 SMR. The Callender Road access route studied is located across the northern portion of the Phillips 66 SMR property north of the access route currently being studied. The Callender Road route studied in the EIR would be accessed from a turn lane from Highway 1 approximately 0.25 miles south of Callender Road. From Highway 1, users would enter an approximately 15 – 20 acre campground and staging area with an administrative building, a kiosk to collect fees and control vehicle access, restrooms, water and electrical service, fire pits/barbecues, signage, and other infrastructure. The route to the Oceano Dunes SVRA would include a new entrance road running west for approximately one mile to the Oceano Dunes SVRA boundary. The other routes studied were similar to those studied in the Condor study including Grand Avenue, Pier Avenue, Railroad Avenue, and Silver Spur Place.

The EIR determined that the Callender Road alternative was the most environmentally damaging alternative studied and would have unavoidable significant impacts on biological resources, visual resources, and on land use (policy inconsistency). In assessing policy consistency, the EIR noted that "…development of the Callender Road corridor would be in direct conflict with one of the primary objectives of the California Coastal Act, which is the preservation and protection of natural resources such as dune and wetland habitat areas. This is because the Callender Road access corridor west of the Southern Pacific railroad tracks is in a natural, undeveloped state, and is used as a buffer zone between the SVRA and other development." The EIR also noted that [the] "Development of the Callender Road corridor would be in direct conflict with a planning standard in the Local Coastal Plan for the South County Planning area. The applicable standard states that the area west of the Southern Pacific railroad tracks should continue to be maintained as a buffer zone with only minor vehicle traffic allowed." Due to these policy conflicts,

the EIR found that the Callender Road alternative would have a significant effect on land uses.

The report also noted the potential for encountering subsurface archaeological artifacts during construction and that traffic engineering would be required to address the intersection at Highway 1.

The EIR also discussed the Buffer Zone, noting that the land is managed by the Department of Parks and Recreation to ensure that off-road vehicle activity does not occur on the Buffer Zone land.

### 6.3 San Luis Obispo County Coastal Plan Policies, Appendix F

In addition to the Condor Environmental Report and the EIR for the General Plan Amendment, the County of San Luis Obispo has analyzed access across the Phillips 66 property as an alternative access to the Oceano Dunes SRVA in Section 3 of its Coastal Plan Policies (adopted March 1, 1998, certified by The California Coastal Commission on February 25, 1988, and as revised April 2007), and specifically in Appendix F thereto. Like the other environmental documents discussed above, this document recognizes the challenges with all of the proposed access alternatives, but specifically identifies the following disadvantages to access through the Phillips 66 property (referred to as the "Union Oil" property in the document):

1. Construction of a major new access into the dune would result in potential for dune destabilization.
2. Would require construction of railroad overpass (estimated cost $1 million+) or realignment of railroad holding zone.
3. Support services not immediately available (4+ miles).
4. Surrounding vegetated areas could be impacted.
5. Incompatible with industrial development on Union Oil [now Phillips 66] property. Removes visual and wind pattern air quality buffer.
6. Loss of rare and endangered plant habitat.
7. Traffic capacity and site distance conflicts with existing alignment of Highway 1.
8. Property owner strongly objects to use property for staging area.
9. Difficult to construct facilities within dune habitat.

These identified disadvantages are consistent with the constraints identified in this and the prior reports.

## 7. Summary and Conclusions

The Phillips 66 property is located within the Coastal Zone and is subject to the County's Coastal Zone Land Use Ordinance and compliance with the Coastal Act, including provisions addressing new coastal access. The ordinance specifies that the provision of coastal access is not required if such access is inconsistent with public safety, military security needs or the protection of fragile coastal resources. The development of coastal access across the Phillips 66 property would result in significant impacts to fragile coastal resources including direct and indirect impacts to state and federally listed threatened and endangered species, impacts to other sensitive ecological resources (e.g., CA Species of Special Concern, California Native Plant Society ranked species), encroachment on sensitive habitats, destabilization of dune structure, and potential impacts to surrounding areas associated with unauthorized "short cuts" by the public and other use of the area surrounding the potential access route.

The proposed coastal access route would potentially impact sensitive cultural resources including Northern Chumash sites and others.

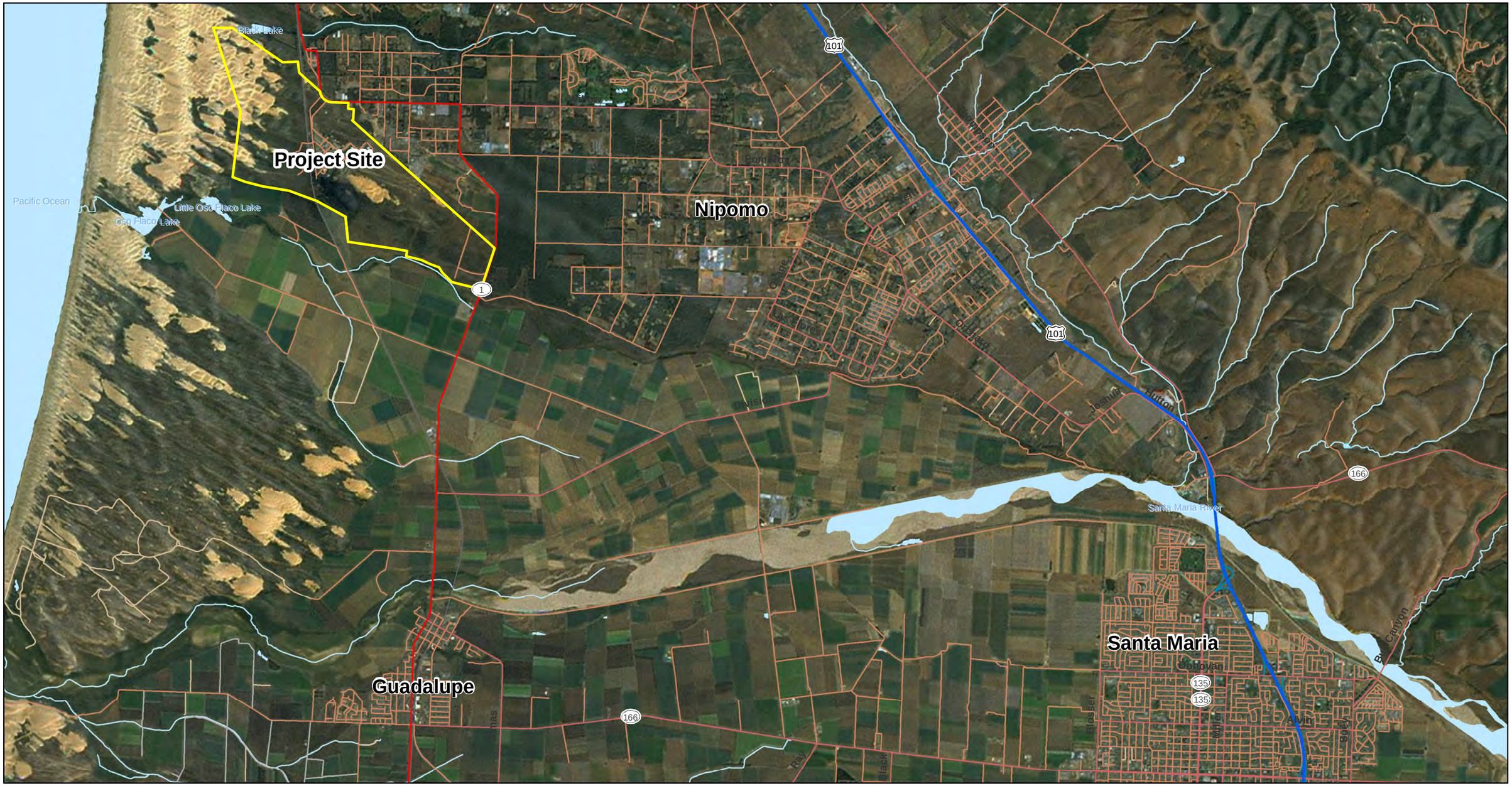
The development of coastal access across the Phillips 66 property would be inconsistent with public safety due to the requirement of a public crossing of the mainline Union Pacific Railroad tracks; risks associated with local pedestrian, ORV, and/or equestrian users crossing Highway 1 as well as the Phillips 66 truck entrance road from the surrounding neighborhoods to access the new coastal access road; and the interaction of a remote trail that outlets into an active vehicular use area.

The provision of a new coastal access route across the Phillips 66 property is also inconsistent with the intent of the Buffer Zone between the public park and the refinery that has been formally created and managed by State Parks and Phillips 66, and that has been recognized in the County's Land Use Ordinance and in all of the prior studies considering coastal access in this area.

Coastal access across the Phillips 66 property is technically feasible, but is inconsistent with the protection of fragile coastal resources and the assurance of public safety. Additionally, there are practical challenges associated with crossing of the Union Pacific Railroad tracks where Union Pacific has stated that it will not consent to the use of its property for public access due to safety concerns. There are also practical challenges associated with crossing the neighboring property between the Phillips 66 property and the ocean (the Oceano Dunes SVRA). The Oceano

Dunes SVRA supports active off-road vehicle use in the area of the trail outlet, manages nesting Western snowy plover breeding areas in the area of the trail outlet, and controls vehicle, equestrian, and pedestrian access through the area.

Currently, there are four public access routes to the coast surrounding the Phillips 66 SMR. The closest (Oso Flaco Natural Area) is approximately 0.73 miles south from the Phillips 66 property and the farthest (Rancho Guadalupe Dunes County Park), is approximately 5.5 miles south from the Phillips 66 property. The other access routes (Pier Avenue and Grand Avenue) are both within 4.5 miles north from the Phillips 66 property and provide full access to the coast including equestrian and ORV access.




**Legend**

Property Boundary

NOTES:
1. Imagery accessed through ESRI World Imagery via ArcGIS Online Layer Packages by ESRI (12/1/2010) (c) 2010 Microsoft Corporation and its data suppliers accessed on 03/08/2013 through ArcGIS 10.

N

0 5,000 10,000

SCALE IN FEET

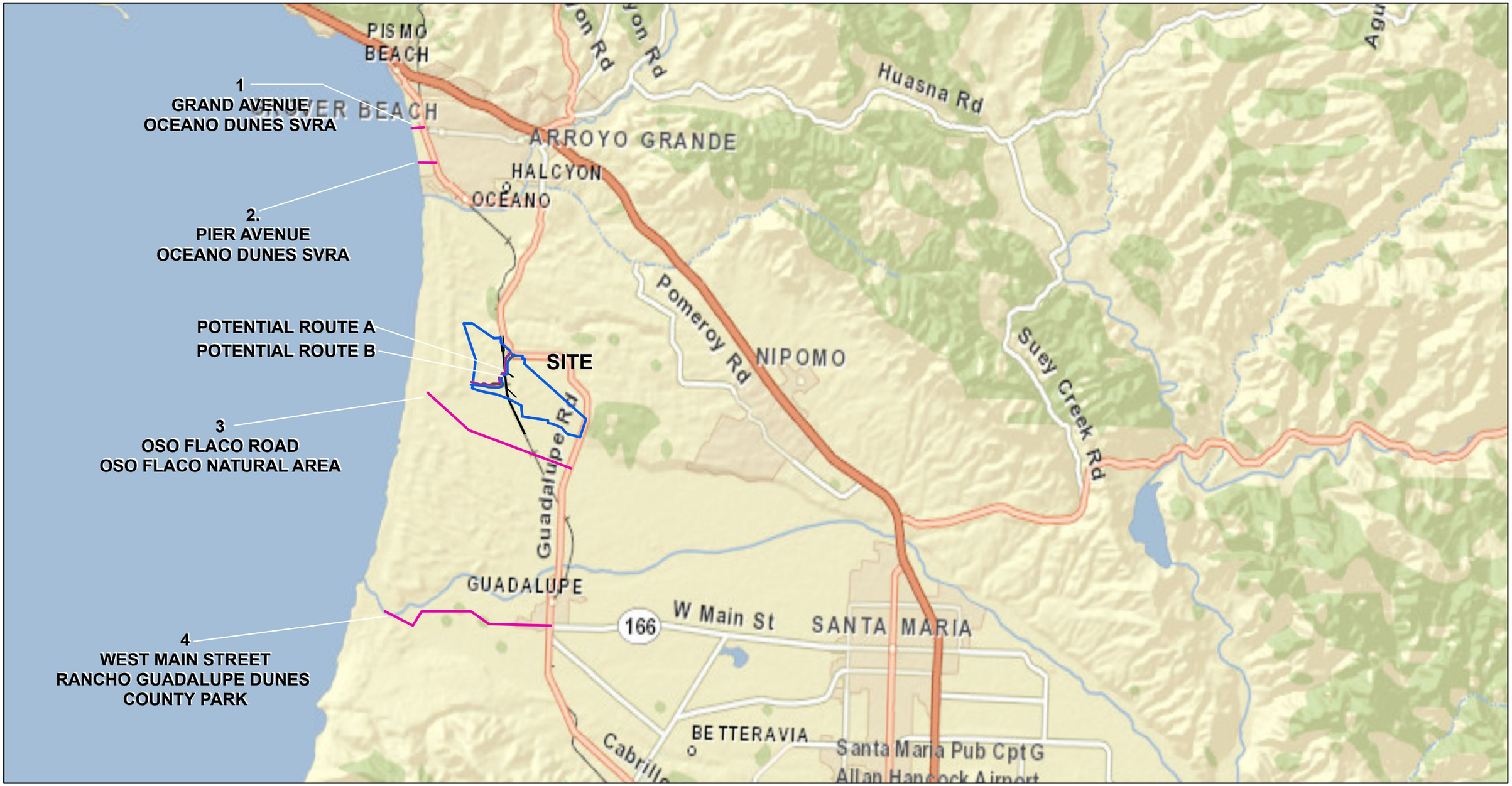
Phillips 66
Santa Maria Refinery Rail Project

**PROJECT AREA**

ARCADIS

FIGURE
**1**

I:\BCG_Misc\Phillips\GIS\Projects\060613\Fig 1 ProjectArea.mxd 6/14/2013 BGriffith
Coordinate System: NAD 1983 StatePlane California V FIPS 0405 Feet




LEGEND

- EXISTING
- POTENTAIL ROUTE A
- POTENTIAL ROUTE B
- PROPERTY BOUNDARY

0 1 2 3 4 5
Miles

N

NOTE:
1. Imagery accessed through ESRI NationalGeographic via ArcGIS Online Layer Packages by ESRI (12/1/2010) (c) 2010 Microsoft Corporation and its data suppliers accessed on 03/08/2013 through ArcGIS 10.

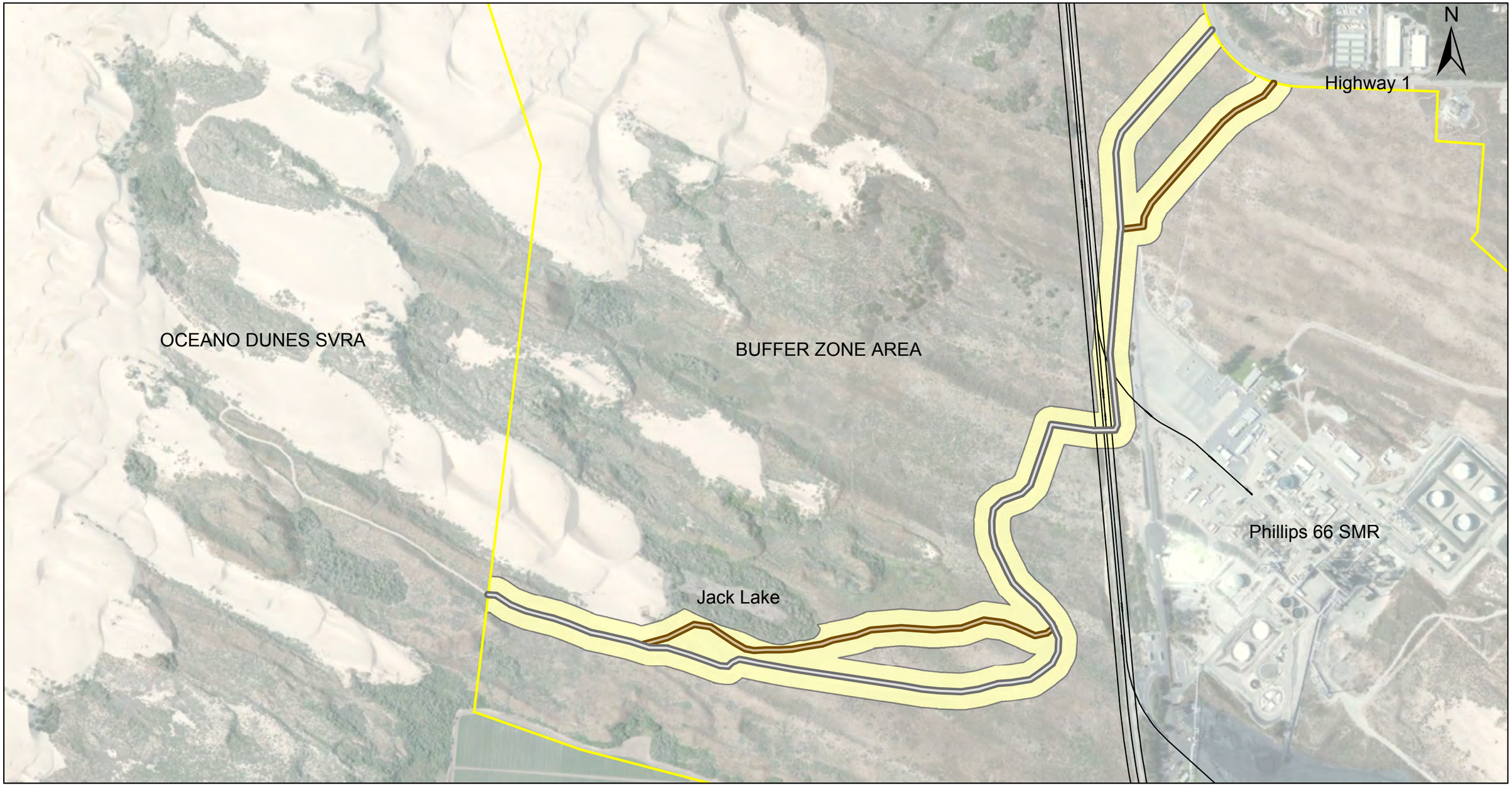
Phillips 66
Santa Maria Refinery Rail Project.

**EXISTING COASTAL ACCESS**

ARCADIS

FIGURE
**2**

H:\GISPROJECTS_ENV\Phillips66\GIS\Projects\060613\Fig 2 EXISTINGCoastalAccessRoutes.mxd 8/15/2013 DFischer
Coordinate System: NAD 1983 StatePlane California V FIPS 0405 Feet




**LEGEND**

- Property Boundary
- Existing Rail Line
- Potential Coastal Access Route A
- Potential Coastal Access Route B

0 600 1,200

SCALE IN FEET

NOTE:
1. Imagery accessed through BING Maps Aerial via ArcGIS Online Layer Packages by ESRI (12/1/2010) (c) 2010 Microsoft Corporation and its data suppliers accessed on 03/08/2013 through ArcGIS 10.

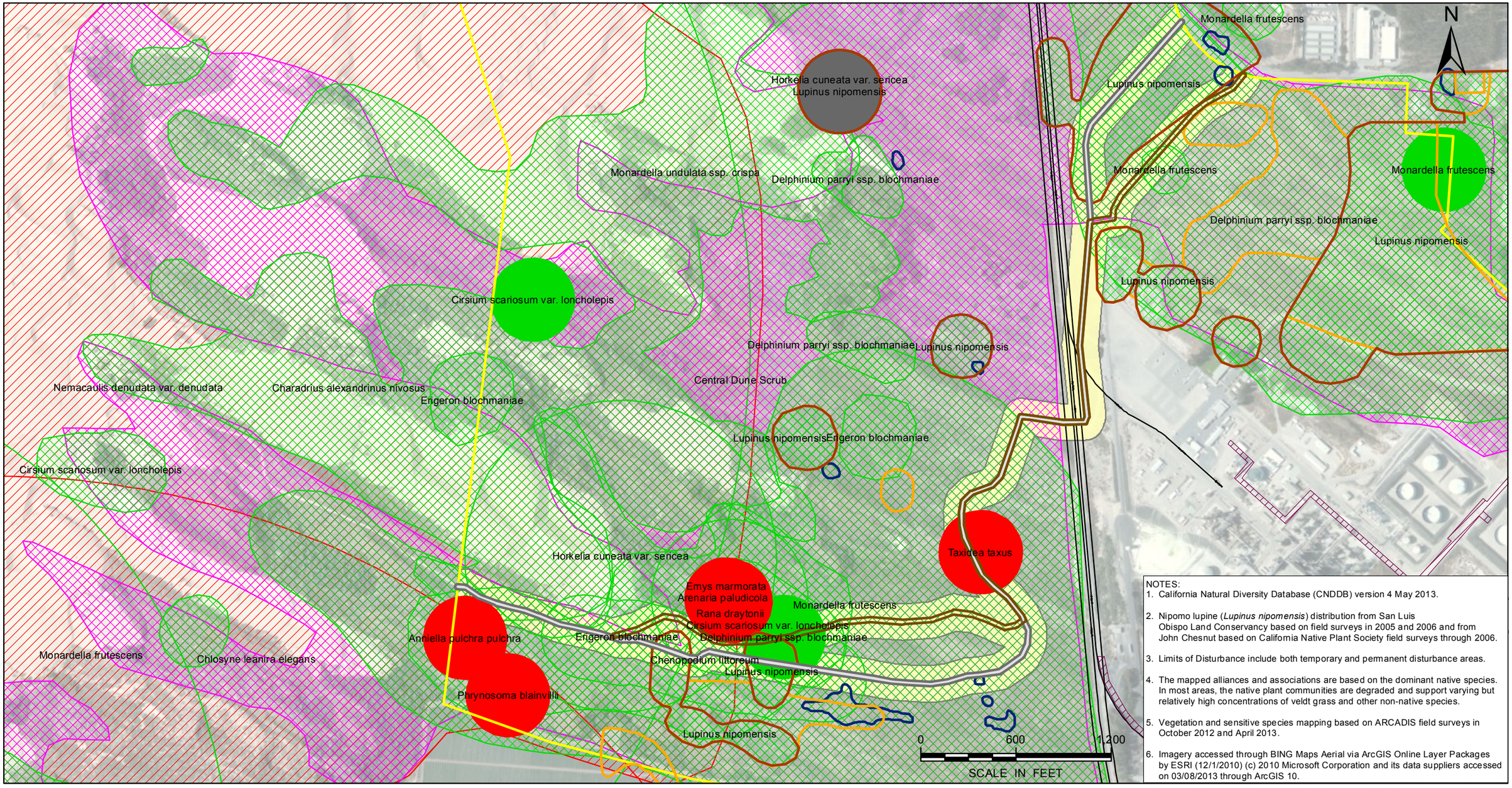
Phillips 66
Santa Maria Refinery Rail Project.

**POTENTIAL COASTAL ACCESS ROUTES**

ARCADIS

FIGURE
3

H:\GISPROJECTS_ENV\Phillips66\GIS\Projects\060613\Fig 2 PotentialCoastalAccessRoutes.mxd 8/15/2013 DFischer
Coordinate System: NAD 1983 StatePlane California V FIPS 0405 Feet




NOTES:

1. California Natural Diversity Database (CNDDB) version 4 May 2013.
2. Nipomo lupine (*Lupinus nipomensis*) distribution from San Luis Obispo Land Conservancy based on field surveys in 2005 and 2006 and from John Chesnut based on California Native Plant Society field surveys through 2006.
3. Limits of Disturbance include both temporary and permanent disturbance areas.
4. The mapped alliances and associations are based on the dominant native species. In most areas, the native plant communities are degraded and support varying but relatively high concentrations of veldt grass and other non-native species.
5. Vegetation and sensitive species mapping based on ARCADIS field surveys in October 2012 and April 2013.
6. Imagery accessed through BING Maps Aerial via ArcGIS Online Layer Packages by ESRI (12/1/2010) (c) 2010 Microsoft Corporation and its data suppliers accessed on 03/08/2013 through ArcGIS 10.

Property Boundary
Existing Rail Line
Limits of Disturbance
Potential Coastal Access Route A
Potential Coastal Access Route B
Mapped Nipomo Lupine from CNDDB
Mapped Nipomo Lupine from SLO Land Conservancy
Mapped Nipomo Lupine from John Chesnut

CNDDB Distributions
Plant (80m)
Plant (specific)
Plant (non-specific)
Plant (circular)
Animal (80m)
Animal (specific)
Animal (non-specific)
Animal (circular)

Terrestrial Comm. (80m)
Terrestrial Comm. (specific)
Terrestrial Comm. (non-specific)
Terrestrial Comm. (circular)
Aquatic Comm. (80m)
Aquatic Comm. (specific)
Aquatic Comm. (non-specific)
Aquatic Comm. (circular)
Multiple (80m)
Multiple (specific)
Multiple (non-specific)
Multiple (circular)

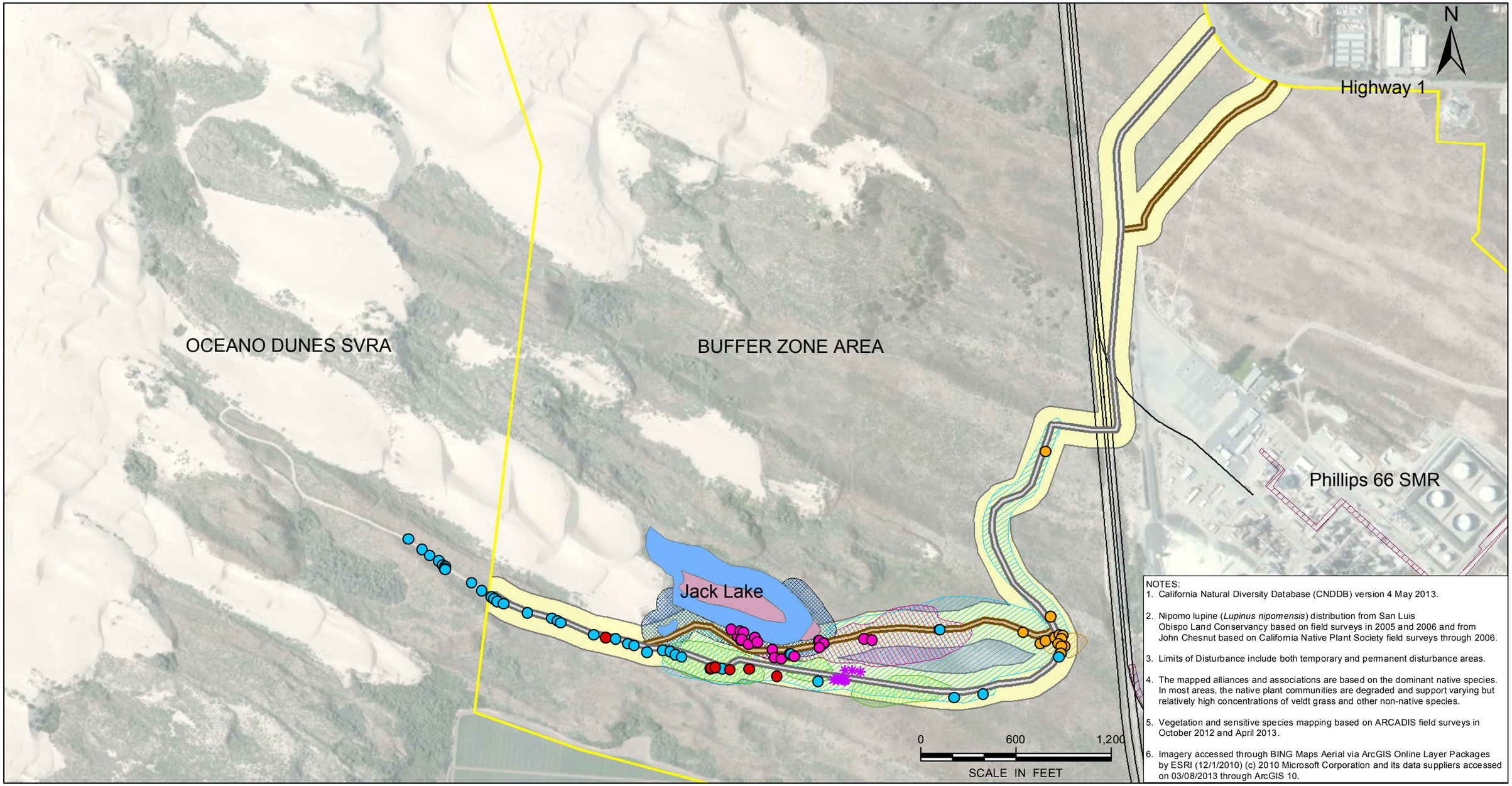
Phillips 66
Santa Maria Refinery Rail Project.

**POTENTIAL COASTAL ACCESS ROUTES PRIOR BIOLOGICAL SURVEYS**

ARCADIS

FIGURE
4

H:\GISPROJECTS_ENV\Phillips66\GIS\Projects\060613\Fig 9 PotentialCoastalAccess.mxd 6/18/2013 DFischer
Coordinate System: NAD 1983 StatePlane California V FIPS 0405 Feet

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4. The mapped alliances and associations are based on the dominant native species. In most areas, the native plant communities are degraded and support varying but relatively high concentrations of veldt grass and other non-native species.
5. Vegetation and sensitive species mapping based on ARCADIS field surveys in October 2012 and April 2013.
6. Imagery accessed through BING Maps Aerial via ArcGIS Online Layer Packages by ESRI (12/1/2010) (c) 2010 Microsoft Corporation and its data suppliers accessed on 03/08/2013 through ArcGIS 10.

Property Boundary
Existing Rail Line
Limits of Disturbance
Potential Coastal Access Route A
Potential Coastal Access Route B

**Sensitive Species Observed in June 2013**
California Spineflower *(Mucronea californica)*
Sand almond *(Prunus fasciculata* var. *punctata)*
Blochman's Groundsel *(Senecio blochmaniae)*
Blochman's leafy daisy *(Erigeron blochmaniae)*
California Spineflower *(Mucronea californica)*
Sand almond*(Prunus fasciculata* var. *punctata)*
Blochman's Groundsel *(Senecio blochmaniae)*
Blochman's leafy daisy *(Erigeron blochmaniae)*
Crisp monardella *(Monardella undulata* ssp. *crispa)*
Nipomo Mesa Lupine *(Lupinus nipomoensis)*

**Sensitive Habitats (2013)**
Central Dune Scrub Dune-Heather and Silver Bush Lupine Association
Arroyo Willow Scrub (Wetland)
Freshwater Marsh - Coast Carex Herbaceous Alliance
100-ft Riparian Buffer

Phillips 66
Santa Maria Refinery Rail Project.

**POTENTIAL COASTAL ACCESS ROUTES SURVEYED SENSITIVE RESOURCES**

ARCADIS

FIGURE
5

H:\GISPROJECTS_ENV\Phillips66\GIS\Projects\060613\Fig 8B PotentialCoastalAccess.mxd 6/18/2013 DFischer
Coordinate System: NAD 1983 StatePlane California V FIPS 0405 Feet

**Appendix 1**

San Luis Obispo County
Coastal Land Use Ordinance
Section 23.04.420

**23.04.420 - Coastal Access Required.**

Development within the Coastal Zone between the first public road and the tidelands shall protect and/or provide coastal access as required by this section. The intent of these standards is to assure public rights of access to the coast are protected as guaranteed by the California Constitution. Coastal access standards are also established by this section to satisfy the intent of the California Coastal Act.

**a. Access defined:**

**(1) Lateral access:** Provides for public access and use along the shoreline.

**(2) Vertical access:** Provides access from the first public road to the shore, or perpendicular to the shore.

**(3) Pass and repass:** The right of the public to move on foot along the shoreline.

**b. Protection of existing coastal access.** Development shall not interfere with public rights of access to the sea where such rights were acquired through use or legislative authorization. Public access rights may include but are not limited to the use of dry sand and rocky beaches to the first line of terrestrial vegetation.

**c. When new access is required.** Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

**(1)** Access would be inconsistent with public safety, military security needs or the protection of fragile coastal resources; or

**(2)** The site already satisfies the provisions of subsection d of this section; or

**(3)** Agriculture would be adversely affected; or

**(4)** The proposed new development is any of the following:

**(i)** Replacement of any structure pursuant to the provisions of Section 30610(g) of the California Coastal Act.

**(ii)** The demolition and reconstruction of a single-family residence; provided that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure. As used in this subsection, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

**(iii)** Improvements to any structure that do not change the intensity of its use, or increase either the floor area, height or bulk of the structure by more than 10 percent, which do not block or impede public access and do not result in additional seaward

encroachment by the structure. As used in this subsection, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

**(iv)** The reconstruction or repair of any seawall; provided that the reconstructed or repaired seawall is not seaward of the location of the former structure.

**(v)** Any repair or maintenance activity excluded from obtaining a land use permit by this title, except where the Planning Director determines that the use or activity will have an adverse effect on lateral public access along the beach.

**(vi)** Nothing in this subsection shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

**d. Type of access required:**

**(1) Vertical Access:**

**(i) Within urban and village areas:** Within an urban or village area where no dedicated or public access exists within one-quarter mile of the site, or if the site has more than one-quarter mile of coastal frontage, an accessway shall be provided for each quarter mile of frontage.

**(ii) In rural areas:** In rural areas where no dedicated or public access exists within one mile, or if the site has more than one mile of coastal frontage, an accessway shall be provided for each mile of frontage.

**(iii) Prescriptive rights:** An accessway shall be provided on any site where prescriptive rights of public access have been determined by a court to exist.

**(iv) Additional accessways:** The applicable approval body may require accessways in addition to those required by this section where the approval body finds that a proposed development would, at the time of approval or at a future date, increase pedestrian use of any adjacent accessway beyond its capacity.

**(2) Vertical access dedication.** Accessways shall be a minimum width of five feet in urban areas and 10 feet in rural areas.

**(3) Lateral access dedication:** All new development shall provide a lateral access dedication of 25 feet of dry sandy beach available at all times during the year. Where topography limits the dry sandy beach to less than 25 feet, lateral access shall extend from the mean high tide to the toe of the bluff. Where the area between the mean high tide line (MHTL) and the toe of the bluff is constrained by rocky shoreline or other limitations, the County shall evaluate the safety and other constraints and whether alterative siting of accessways is appropriate. This consideration would help maximize public access consistent with the LCP and the California Coastal Act.

**e.** **Timing of access requirements.** The type and extent of access to be dedicated, and/or constructed and maintained, as well as the method by which its continuing availability for public use is to be guaranteed, shall be established at the time of land use permit approval, as provided by this section.

**(1)** **Dedication:** Shall occur before issuance of construction permits or the start of any construction activity not requiring a permit.

**(2)** **Construction of improvements:** Shall occur at the same time as construction of the approved development, unless another time is established through conditions of land use permit approval.

**(3)** **Opening access for public use.** No new coastal access required by this section shall be opened or otherwise made available for public use until a public agency or private association approved by the county agrees to accept responsibility for maintenance of the accessway and any liability resulting from public use of the accessway.

**(4)** **Interference with public use prohibited.** Following an offer to dedicate public access pursuant to subsection e(1) of this section, the property owner shall not interfere with use by the public of the areas subject to the offer before acceptance by the responsible entity.

**f.** **Permit requirement.** Except as otherwise provided by this subsection, Minor Use Permit approval is required before issuance of any construction permit for an accessway, or the start of any access construction not requiring a permit, unless the details of the required access are approved as part of another Minor Use Permit or Development Plan for the principal use. The permit requirement of this subsection applies to the construction of a new accessway, or alteration, major restoration, transfer of maintenance responsibility or abandonment of an existing accessway. No land use permit is required for:

**(1)** The offer of dedication, grant of easement or other conveyance of title for future accessway construction where no public use exists or is proposed at the time of conveyance; or

**(2)** Normal maintenance or minor improvements, where the total valuation of work does not exceed $1500 as determined by the County Fee Ordinance.

**g.** **Access title and guarantee:** Where public coastal accessways are required by this section, approval of a land division, or land use permit for new development shall require guarantee of such access through deed restriction, or dedication of right-of-way or easement. Before approval of a land use permit or land division, the method and form of such access guarantee shall be approved by County Counsel, and shall be recorded in the office of the County Recorder, identifying the precise location and area to be set aside for public access. The recorded document shall include the mapped location of the access area prepared by a licensed professional, as well as legal descriptions of the access area and the affected properties. The method of access guarantee shall be chosen according to the following criteria:

**(1)** **Deed restriction.** Shall be used only where an owner, association or corporation agrees to assume responsibility for maintenance of and liability for the public access area, subject to approval by the Planning Director.

**(2)** **Grant of fee interest or easement:** Shall be used when a public agency or private organization approved by the Planning Director is willing to assume ownership, maintenance and liability for the access.

**(3)** **Offer of dedication:** Shall be used when no public agency, private organization or individual is willing to accept fee interest or easement for accessway maintenance and liability. Such offers shall not be accepted until maintenance responsibility and liability is established.

**(4)** **Procedures for open space easements and public access documents.** Pursuant to Section 13574 of Title 14 of the California Administrative Code, all land use permits and tentative subdivision maps subject to conditions of approval pertaining to public access, open space, agricultural or conservation easements shall be subject to the following procedures:

**(i)** All legal documents shall be forwarded to the executive director of the Coastal Commission for review and approval as to the legal adequacy and consistency with the requirements of potential accepting agencies;

**(ii)** The executive director of the Coastal Commission shall have 15 working days from the receipt of the documents in which to complete the review and to notify the applicant and the county of recommended revisions, if any;

**(iii)** If the executive director of the Coastal Commission has recommended revisions to the applicant, the land use permit shall not become effective pursuant to Section 23.02.034d of this title until the deficiencies have been resolved to the satisfaction of the executive director;

**(iv)** The land use permit may become effective (Section 23.02.034d) upon expiration of the 15 working day period if the Coastal Commission has not notified the applicant and the county that the documents are not acceptable.

**h.** **Requirements for access improvements and support facilities.** Coastal accessways required by this section or by planning area standards of the Land Use Element shall be physically improved as provided by this subsection. The need for improvements to any accessway shall be considered as part of land use permit approval, and responsibility for constructing the improvement shall be borne by the developer or consenting public agency. After construction, maintenance and repair may be accomplished by a public agency or by a private entity approved by the applicable review body taking action on the project land use permit.

**(1)** **Typical improvements that may be required.** The extent and type of improvements and support facilities that may be required may include but are not limited to drainage and erosion control measures, planting, surfacing, structures such as steps, stairways, handrails, barriers, fences or walls, benches, tables, lighting, parking spaces for the disabled, safety vehicles or general public use, as well as structures such as restrooms or overlooks.

**(2)** **Type and extent of improvements - required findings.** The improvements described in subsection h(1) of this section shall be required to an extent where such improvements:

**(i)** Are necessary to either assure reasonable public access, protect the health and safety of access users, assure and provide for proper long-term maintenance of the accessway, or protect the privacy of adjacent residents.

**(ii)** Are adequate to accommodate the expected level and intensity of public use that may occur;

**(iii)** Can be properly maintained by the approved maintenance entity;

**(iv)** Incorporate adequate measures to protect the privacy and property rights of adjoining property owners and residents.

**i.** **Accessway signing.** Where required through land use permit or tentative subdivision map approval, signs installed in conjunction with accessways shall conform to the following standards:

**(1)** **Sign design.** Accessway signs shall use white letters on a brown background. The number and dimensions of signs are to be determined through land use permit review.

**(2)** **Identification Signs:** Shall contain the words "COASTAL ACCESS" in three-inch letters at the top of the sign, as well as the name of the accessway, if any, and indicate if there are any hazards or rare or endangered species.

**(3)** **No Trespass Signs:** Shall contain the words "RESPECT PRIVATE PROPERTY - NO TRESPASSING".

**(4)** **Hazard Signs:** Shall be located at the tops of bluffs or cliffs.

**(5)** **Parking area signing:** Each parking area shall be posted in a location visible from the public road with a sign that is between two and four square feet in area, stating: "PARKING FOR PUBLIC COASTAL ACCESS". Lettering shall be a minimum of two inches high and clearly legible.

**j.** **Restoration of degraded access areas.** Existing coastal access areas that have been degraded through intense use shall be restored along with construction of new development on the site to the maximum extent feasible. Restoration techniques shall be established through landscaping plan review and approval, and may include trail consolidation and revegetation using native plant species, as well as controlling public access. Restoration shall be required as a condition of land use permit approval, subject to the criteria of this subsection. Restoration of an accessway by a public agency shall require Minor Use Permit approval. The following standards shall apply in addition to any other access improvements required as part of Minor Use Permit review:

**(1)** Areas of the site where native vegetation has been destroyed, that are not proposed to be improved with structures, paved areas or landscaping, shall be revegetated with indigenous plants. Prior to revegetation, a landscape plan shall be prepared, reviewed and approved pursuant to Section 23.04.180 et seq. (Landscape) for the areas of revegetation.

**(2)** The use of motor vehicles on the accessway, other than maintenance, emergency and agricultural vehicles, shall be prevented by physical barriers for areas other than designated parking.

**(3)** Installation of a physical barrier may be required through Minor Use Permit or Development Plan approval to restrict access to degraded areas.

**(4)** Public access may be restricted if it is determined that the area is extremely degraded and time is needed to allow recovery of vegetation. Access may be restricted by temporary barriers such as fencing, with signs explaining the restriction. The degree of access and restrictions will be determined by the Planning Director after consultation with the property owner and affected public agencies. At the time of such restriction a date shall be set for removal of such barriers and signs. On or before that date, the Planning Director shall review the progress of recovery and may extend the restriction.

**k.** **Sighting criteria for coastal accessway.** In reviewing a proposed accessway, the applicable review body shall consider the effects that a public accessway may have on adjoining land uses in the location and design of the accessway. When new development is proposed, it shall be located so as not to restrict access or to create possible privacy problems. Where feasible, the following general criteria shall be used in reviewing new access locations, or the location of new development where coastal access considerations are involved:

**(1)** Accessway locations and routes should avoid agricultural areas, sensitive habitats and existing or proposed residential areas by locating near the edge of project sites;

**(2)** The size and location of vertical accessways should be based upon the level and intensity of existing and proposed access;

**(3)** Review of the accessway shall consider: safety hazards, adequate parking provisions, privacy needs of adjacent residences, adequate signing, and levels of improvements necessary to provide for access;

**(4)** Limiting access to pass and repass should be considered where there are nearby residences, where topographic constraints make the use of the beach dangerous, where there are habitat values that can be disturbed by active use.

[Amended 1995, Ord. 2715; 2004, Ord. 2999]

**23.04.430 - Availability of Water Supply and Sewage Disposal Services.**

A land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is adequate water and sewage disposal capacity available to serve the proposed development, as provided by this section. Subsections a. and b. of this section give priority to infilling development within the urban service line over development proposed between the USL and URL. In communities with limited water and sewage disposal service capacities as defined by Resource Management System alert levels II or III:

**a.** A land use permit for development to be located between an urban services line and urban reserve line shall not be approved unless the approval body first finds that the capacities of available water supply and sewage disposal services are sufficient to accommodate both existing development, and allowed development on presently-vacant parcels within the urban services line.

**b.** Development outside the urban services line shall be approved only if it can be served by adequate on-site water and sewage disposal systems, except that development of a single-family dwelling on an existing parcel may connect to a community water system if such service exists adjacent to the subject parcel and lateral connection can be accomplished without trunk line extension.

**Appendix 2**

Union Pacific Railroad Letter
August 6, 2013

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August 6, 2013

**Sent Via U.S. Mail and Facsimile**
Phillips 66 Company
c/o James Anderson, Superintendent-Maintenance
2555 Willow Road
Arroyo Grande, CA 93420

Re: Phillips 66 Land Use Permit Application, Santa Maria Refinery Rail Project

Dear Mr. Anderson:

Thank you for contacting Union Pacific Railroad Company ("Union Pacific") regarding San Luis Obispo County's ("County") conditions for approval of Phillips 66's Land Use Permit for the Santa Maria Refinery Rail Project. This letter specifically addresses Union Pacific's position on the County's requirement for coastal access as a condition for permit approval.

Union Pacific owns and operates mainline railroad tracks that bisect the Phillips 66 parcel. Both passenger and freight trains operate on this segment of tracks; the maximum train speed for passenger trains is 70 m.p.h. and 60 m.p.h. for freight trains.

For many years, Union Pacific has collaborated with the Federal Railroad Administration ("FRA"), California Public Utilities Commission ("CPUC"), and local communities to reduce safety risks relating to railroad operations. These efforts have become increasingly important in coastal communities, where there is a demand for public access over railroad tracks.

Union Pacific understands that the County has conditioned the approval of its Land Use Permit on the requirement that Phillips 66 provide public coastal access over its parcel. To do so, however, Phillips 66 would have to provide access over railroad tracks owned by Union Pacific. Union Pacific does not consent to use of its property for public access.

The CPUC has exclusive jurisdiction over railroad crossings in California. *See* Pub. Util. Code §§1201-1202. Therefore, should the County or Phillips 66 wish to pursue a public crossing for coastal access, it must file an application with the

CPUC. As a matter of policy, a new crossing must be grade-separated. *See In re Pasadena Metro Blue Line Construction Authority*, D.02-05-047, pg. 13 (Cal. P.U.C. Oct. 3, 2002); P.U.C. R. Prac. & Proc. 3.7(c) (1)-(3). Union Pacific would require any grade-separated structure to clear-span its right-of-way, which is 100 feet in width in this area. Finally, Union Pacific acknowledges that a private railroad crossing currently exists at Phillips 66's parcel, but does not consent to use of the private crossing for public purposes.

Union Pacific is committed to working with Phillips 66 and the County to enhance public safety. Please do not hesitate to contact my office should you have any questions or concerns.

Sincerely,

RANDOLPH CREGGER & CHALFANT, LLP

Melissa Greenidge
Attorneys for Union Pacific Railroad Company

cc: Liisa Stark, UPRR
David Pickett, UPRR
Kenneth Tom, UPRR

**Appendix 3**

Site Photographs

**Photograph 1157** **6/11/13**

Dune-heather alliance along coastal access routes (both A and B at west end). Note that the access routes would not include the existing road and would occur in the adjacent area.

**Photograph 1164** **6/11/13**

Arroyo willow thickets around Jack Lake (near Coastal Access routes) with freshwater marsh in foreground, dominated by slough sedge.