Appendix D

Analysis of Consistency with Applicable Plans and Policies

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1.0 Introduction

This appendix assesses the consistency of the proposed project and alternatives with the relevant goals, policies, and programs in San Luis Obispo (SLO) County. These plans and policies include:

The California Coastal Act (Public Resources Code Section 30000 et seq.).

The San Luis Obispo County General Plan and Local Coastal Program.

The San Luis Obispo Air Pollution Control District Clean Air Plan.

The Regional Water Quality Control Board (RWQCB), Central Coast Basin Plan.

Each of the topical sections in this SEIR discusses the proposed project's regulatory setting and consistency with plans and policies related to the issue area. This appendix concentrates on the overall consistency of the project and alternatives with the relevant provisions of the California Coastal Act, the SLO County General Plan/Local Coastal Program, the Clean Air Plan, and the RWQCB Basin Plan. Each policy/plan element is discussed briefly below, followed by a discussion of the proposed project and alternatives consistency with the specific policy/plan element.

2.0 Coastal Act Policies

The California Coastal Act of 1976 (Public Resources Code Section 30000 et seq.) sets forth policies for the use, management, and conservation of land and resources within the coastal zone. The Act includes policies to address specific issues including, but not limited to, shoreline access for the public, visitor-serving facilities, coastal-dependent industrial and energy-related facilities and activities, protection of sensitive habitats, and protection and preservation of visual and scenic resources.

In addition, the Coastal Act establishes a framework for prioritizing land uses. The Coastal Act places as its highest priority the preservation and protection of natural resources, including environmentally sensitive habitat areas and agricultural lands. Only uses that are dependent on such resources are allowed within habitat areas. For agricultural land, the Coastal Act specifically addresses protection of the maximum amount of prime agricultural land in production. On non-agricultural land, coastal-dependent development has the highest priority, with public recreation uses the next highest priority. Where land is not required for habitat preservation, agriculture, coastal-dependent uses, or public recreation, other development is permitted. However, the Coastal Act requires that visitor-serving commercial recreation development have priority over private residential, general industrial, and general commercial development.

The following sections set forth policies from the Coastal Act that are relevant to the project and alternatives.

Coastal Act Policy No. 30211 states that new development shall not interfere with the public's right of access to the sea.

Discussion: The proposed project and alternatives would not affect the public's access to the beach west of the site and would be consistent with this policy.

Coastal Act Policy No. 30220 states that coastal areas suited for water-oriented recreational activities that cannot be readily provided at inland water areas shall be protected for such uses.

Discussion: The proposed project and alternatives would not preclude public use of the beach west of the site and would not adversely affect the recreational experience of beach users. The project and alternatives would be consistent with this policy.

Coastal Act Policy No. 30230 states that marine resources shall be maintained, enhanced, and, where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreation, scientific, and educational purposes.

Discussion: The proposed project and alternatives would not affect marine resources and would be consistent with this policy.

Coastal Act Policy No. 30231 states that the biological productivity and quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained, and, where feasible, restored through, among other means, minimizing adverse effects of wastewater discharges and entrainment, controlling runoff, preventing depletion of ground water supplies, preventing substantial interference with surface water flow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

These policies encourage the protection of marine biological resources by limiting the amount of pollution from terrestrial and other sources that enter the marine environment.

Discussion: The proposed project and alternatives would not substantially affect biological resources at or near the site. Issues such as controlling run-off and protection of wetland habitats are addressed in mitigation and current permit conditions associated with the 1998 EIR. See Section 5.3, Onshore Biological Resources. The project and alternatives would be consistent with this policy.

Coastal Act Policy No. 30232 states that protection against spilling petroleum products shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills.

Discussion: The proposed project and alternatives entail various activities that have the potential to release petroleum products. Mitigation measures described in this SEIR, the 1998 EIR, and the permit conditions effectively mitigate this impact. The project and alternatives would be consistent with this policy.

Coastal Act Policy No. 30240 states that environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent significant degradation.

Discussion: Habitats on the project site would be affected by the proposed project and alternatives. Mitigation measures addressing these impacts are provided in Section 5.3, Onshore Biological Resources, and in the 1998 EIR Section 5.5, Marine Biological Resources. These measures effectively mitigate this impact. The project and alternatives would be consistent with this policy.

Coastal Act Policy No. 30241 states that the maximum amount of agricultural land shall be preserved by:

Establishing stable urban/rural boundaries and buffer areas to minimize conflicts;

Limiting the conversion of agricultural lands around the periphery of urban areas;

Developing lands less suited for agricultural uses first;

Providing the assurance that the expansion of public services and facilities and other non-agricultural development does not impair agricultural viability; and

Providing the assurance that all divisions of prime agricultural lands and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

Discussion: The proposed project and alternatives would not substantially affect agricultural lands (see Section 5.10, Agricultural Resources). Some loss of agricultural land may occur as part of the truck staging areas, but the short-term nature of the project allows it to be consistent with this policy.

Coastal Act Policy No. 30244 states that where development would adversely impact archaeological or paleontological resources, reasonable mitigation measures shall be required.

Discussion: The proposed project and alternatives would not affect archaeological or paleontological resources (see Section 5.9, Cultural Resources). Although some grading of areas and excavations would occur, these are mostly in areas that have been previously disturbed or areas where cultural artifacts have a low likelihood of being encountered. The project and alternatives are consistent with this policy.

Coastal Act Policy No. 30251 states that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance.

Discussion: The proposed project and alternatives activities would have minimal negative effects on visual resources. While the greatest impacts would be short-term construction effects, long-term visual impacts would not be associated with the operational phase of the project. See Section 5.4, Visual Resources. The project and alternatives would be consistent with this policy.

Coastal Act Policy No. 30253(3) states that new development shall be consistent with the requirements imposed by the air pollution control district. The proposed project must comply with the permitting requirements of the San Luis Obispo County Air Pollution Control District (APCD) and is considered consistent with this policy.

Discussion: The proposed project and alternatives would comply with all requirements of the SLO County APCD. See Section 5.5, Air Quality, for a discussion of the APCD rules and regulations applicable to this project.

3.0 Land Use Element and Local Coastal Plan Policies

Every city and county in California is required by the Government Code to adopt a General Plan to govern land use decisions within its jurisdiction. State law prescribes seven mandatory elements for every General Plan. They are: Land Use, Circulation, Housing, Conservation, Open Space, Safety, and Noise.

In addition, the Government Code provides for the adoption of additional elements to address specific topics of concern to a particular jurisdiction. For example, under the San Luis Obispo County General Plan, the Open Space element has been combined with an Agriculture element, in recognition of the important roll agriculture plays in the County's economy.

The Land Use Element of the County General Plan has been organized into four sub-components to address the combined requirements of the Coastal Act (for areas within the coastal zone) and the State Planning and Zoning Law (Government Code Section 65000 et seq.).

I. Framework for Planning. The Framework for Planning describes the overall structure for land use management within the unincorporated County. The Framework describes the relationships among land use, circulation, and public services, as well as programs for implementing and administering relevant land use policies. The Framework for Planning also defines the various land use categories applied to the unincorporated areas of the County, and provides a table (Table "O") that describes the range of allowable land uses for each land use category.

II. The Area Plans. In SLO County, the individual General Plan elements provide broad policy guidance for land use decisions throughout the unincorporated County. To provide policies and programs for specific geographic sub-areas, the County has adopted 15 *Area Plans,* which serve as the General Plan for the given planning area. The Guadalupe Field is governed by the Land Use Element and Local Coastal Plan for the South County Planning Area, which assigns land use categories, combining designations, specific development standards, and recommended programs.

III. Official Maps. The official maps illustrate the boundaries of the various land use categories as they are applied to the unincorporated areas of the County.

IV. Local Coastal Program Policy Document. In addition to the mandatory elements prescribed by State law, city's and counties must prepare a *Local Coastal Program* to govern land use decisions for all portions of their jurisdiction located within the coastal zone as defined by Public Resources Code section 30000 et seq. (the Coastal Act). The Local Coastal Program Policy Document describes specific policies and programs to implement the Coastal Act in SLO County, covering such diverse topics as shoreline access, energy and industrial development, commercial fishing and recreational boating, environmental resources and sensitive habitats, agriculture, public works, coastal watersheds, visual resources, coastal hazards, archeological resources, and air quality. The Local Coastal Program Policy Document together with the Coastal Zone Land Use Ordinance (CZLUO) contain the land use development standards and policy guidance for land use decisions within the coastal zone.

The Local Coastal Program (LCP)/Coastal Plan Policies were certified by the Coastal Commission in 1988. Coastal Act policies are implemented through the LCP, which are discussed below. The County has coastal development permit issuance authority over most

development in the coastal zone. A project that lies on tidelands, submerged lands, or public trust lands is under the jurisdiction of the Coastal Commission.

3.1 Local Coastal Program Policies

Shoreline Access Policy #1 states that development shall not interfere with the public's right of access to the sea where acquired through historic use or legislative authorization.

Discussion: The proposed project and alternatives would not interfere with the public's access to coastal areas to the west of the project site and would be consistent with this policy.

Recreation and Visitor-Serving Facilities. As stated in the Coastal Plan, one of the primary purposes of the Coastal Act is to maximize public recreational opportunities within the coastal zone consistent with sound resource conservation practices and principles, and the constitutionally protected rights of private property owners. To achieve these goals, Coastal Plan policies encourage the preservation of existing recreational opportunities and the expansion of such opportunities. Visitor-serving recreational facilities are given a priority over non-coastal dependent uses.

Discussion: The proposed project and alternatives would not impact the recreational opportunities in the area, such as the Guadalupe Dunes County Park or the recreational fishing areas along the beach west of the project site. Although the project activities would be visible from these areas, the impacts would be less than significant and would be consistent with the Coastal Policies.

Energy and Industrial Development Policy #3 states that upon completion or abandonment, all above-ground oil production and process facilities shall be removed from the site, and the area in which they were located shall be restored by appropriate contouring, reseeding, and planting to conform with surrounding topography and vegetation.

Discussion: The proposed project and the transportation alternative would remove the existing NHIS storage at the site and would return the site to its previous state. The proposed project and transportation alternative are therefore consistent with this policy. The TMLF alternative would place materials at the site that are treated to a level acceptable to the RWQCB as re-use, would contour and re-vegetate the site, and would therefore not be in conflict with this policy. The ECU alternative, however, would construct at the site a dune structure that is composed of NHIS and would require long-term liquids extraction and monitoring. The ECU alternative would not be consistent with the land use policies. See Section 5.8, Land Use and Recreation.

Environmentally Sensitive Habitat Policies #1 and #2 state that new development within or adjacent to locations of environmentally sensitive habitats shall not significantly disrupt the resources as a condition of such development.

Discussion: The proposed project and alternatives would adversely affect habitats at the project site. These areas are related to road widening, truck hauling of NHIS, and construction of the TMLF/ECU. Mitigation measures addressing these impacts are provided in Section 5.3, Onshore Biological Resources, and would effectively mitigate this impact. The project and alternatives would be consistent with these policies.

Environmentally Sensitive Habitat Policy #9 states that the Regional Water Quality Control Board shall administer programs identified through the "208" nonpoint source studies to ensure that coastal wetlands and water quality are protected.

Discussion: The proposed project and alternatives would address the cleanup activities established by the RWQCB and the 1998 EIR that would help to ensure protection of the wetlands and water quality. The project is in compliance with all RWQCB directives and policies and would be consistent with this policy.

Environmentally Sensitive Habitat Policy #10 states that the U.S. Department of Fish and Game shall review all applications for development in or adjacent to coastal wetlands.

Discussion: The U.S. Department of Fish and Game has participated in the development of the preliminary remediation goals associated with the project and will review the proposed project or alternative actions. The project and alternatives would be consistent with this policy.

Environmentally Sensitive Habitat Policy #34 states that disturbance or destruction of any dune vegetation shall be limited to those projects which are dependent upon such resources where no feasible alternative exist and then shall be limited to the smallest area possible.

Discussion: Dune vegetation would be adversely affected by the proposed project and alternative activities associated with road widening, truck hauling of NHIS, and construction of the TMLF/ECU. Mitigation measures are described in Section 5.3, Onshore Biological Resources. These measures would effectively mitigate this impact. The project and alternatives would be consistent with this policy.

Agriculture. The Coastal Plan encourages the preservation of viable agricultural lands within the coastal zone. The agricultural policies guide agricultural land preservation and identify actions to protect the land and standards to guide development in agricultural areas.

Discussion: The proposed project and alternatives would affect some agricultural lands along Thornberry Road due to truck staging. However, this would be temporary in nature, and mitigation measures would reduce the impact (See Section 5.10, Agricultural Resources). The project and alternatives would be consistent with this policy.

Coastal Watersheds Policy #1 states that the long-term integrity of ground water basins within the coastal zone shall be protected.

Discussion: The proposed project and alternatives would achieve the cleanup levels as established by the RWQCB and would be consistent with this policy.

Visual and Scenic Resources Policies #1 and #2 state that unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas, and sensitive habitats are to be preserved and protected and, in visually degraded areas, restored when feasible. Permitted development shall be sited to protect views to and along the ocean and scenic coastal areas.

Discussion: The Nipomo Dunes Complex is a National Natural Landmark and a nationally significant scenic resource. The proposed project and alternatives would not substantially affect this resource and would be consistent with these policies. See Section 5.4, Visual Resources.

Visual and Scenic Resources Policy #10 prohibits new development on open sandy beaches, except those required for public health and safety.

Discussion: The proposed project and alternatives would be consistent with this policy.

Hazards. These policies provide guidance for the protection of lives and property from natural and human-made hazards within the coastal zone, including floods, unstable geologic formations, erosion, fire, and bluff-top retreat.

Discussion: The proposed project and alternatives would be consistent with this policy.

Archeology. The coastal zone contains numerous important archeological sites, and potentially significant sites. The Coastal Plan contains policies relating to the identification and preservation of such resources.

Discussion: The proposed project and alternatives would be consistent with this policy. While some areas of the site will be graded and excavated, none of these areas is anticipated to have archeological resources. See Section 5.9, Cultural Resources.

Air Quality. This section of the Coastal Plan encourages the preservation and enhancement of air quality through implementation of the policies and programs of the Clean Air Plan.

Discussion: The proposed project and alternatives would be coordinated with the SLO County APCD and would be consistent with the Clean Air Plan.

3.2 General Plan Policies

Land Use. Land Use Standards are mandatory requirements for development. They are designed to handle special problems in a particular rural area or to respond to a special concern in an individual community. Planning area standards can range from establishing special setbacks in one neighborhood to limiting the kinds of land uses normally allowed by the General Plan because of specific community conditions. These requirements apply to proposed projects in addition to the provisions of the Land Use Ordinance and Coastal Zone Land Use Ordinance.

The following standards apply to project area lands in the Energy and Extractive and Sensitive Resource Area combining designations.

Any new oil field operation, modification, or expansion of the existing Guadalupe Oil Field beyond that allowed by current Coastal Commission permits requires Development Plan approval. Coastal permit conditions (Permit 409-24) for expansion of the Guadalupe Oil Field shall be met. Any new development shall be subject to the standards and conditions set forth in the Energy Facility Siting Management Plan for the Guadalupe Dunes System, Volume II Guadalupe Dune Unit (October 22, 1980), in addition to applicable provisions of the Land Use Element, Local Coastal Program, and Coastal Zone Land Use Ordinance. In the event of any conflicts between the standards, the most restrictive shall prevail.

Development of ultimate recreation uses is to include a program for dune stabilization to prevent dune migration into the Santa Maria Valley farmland.

In accordance with the coastal development permit (409-24), Union Oil shall record an irrevocable offer-to-dedicate to a public agency or private association an easement primarily for

habitat protection/preservation or open space, and secondarily for public access consistent with preserving the habitat value of this area.

No oil field discharge shall be allowed into the Santa Maria River wetland.

Grazing activities shall be confined to areas that do not impact the Santa Maria River wetland habitat.

Oil field tailings and debris shall not be located within 100 feet of the Santa Maria River wetland. Existing tailings and debris shall be removed.

The following standard applies to the Rural Lands category on the Guadalupe Oil Field.

Uses allowed are limited to agricultural accessory structures, aquaculture, crop production and grazing, coastal access ways, fisheries and game preserves, water wells and impoundments, petroleum extraction, accessory storage, pipelines, and power transmission.

The following standards apply to lands within the Recreation land use category in the dune areas south of Oso Flaco Lake Road.

Access to the recreation area is not to be across lands designated in the Agriculture land use category.

Development of recreational uses is to include a program for dune stabilization to prevent sand migration into the adjacent farmland of the Oso Flaco Valley.

Allowable uses are limited to fisheries and game preserves, pipelines and power transmission, crop production and grazing, coastal access ways, and water wells and impoundments. No off-highway vehicular use is permitted other than for management of the natural areas or to service allowable uses.

Discussion: The proposed project and transportation alternative would be consistent with this policy. The TMLF alternative would place materials at the site that are treated to a level acceptable to the RWQCB as re-use, would contour and re-vegetate the site, and would therefore not be in conflict with this policy. The ECU alternative would develop NHIS storage at the Guadalupe Field and would be inconsistent with this policy. The policy requires removal of debris and tailings and limits use to specific activities not including storage of NHIS. See Section 5.8, Land Use and Recreation.

Noise Element Policy # 3.3.5 states that noise-sensitive land uses (which includes residences and recreational areas) shall not be exposed to noise levels from new or expanded stationary sources that exceed 50 decibels hourly between the hours of 7:00 a.m. and 10:00 p.m. and 45 decibels between 10:00 p.m. and 7:00 a.m. The maximum allowable level at the property line of the receiving property is 70 decibels during the day and 65 decibels during the night, for a maximum day/night weighted level of 60 decibels for outdoor activity areas and 45 decibels for interior noise levels. Policy 4.5 states that if mitigation is infeasible, the review authority may waiver or modify the standards.

Exceptions to the noise standards are provided, however, for noise sources associated with construction, provided such activities do not take place before 7:00 a.m. or after 9:00 p.m. weekdays and before 8:00 a.m. or after 5:00 p.m. on weekends.

Discussion: The proposed project and alternatives would be consistent with this policy.

Energy Element Policy #65 states that in the event of a petroleum or hydrocarbon release, implement the following policies:

- Emergency response and initial clean up of the spill shall be completed as soon as possible. An emergency permit shall be granted as appropriate. A state of emergency as defined in the general plan must exist for a permit to be granted.

- Environmental impacts caused by response and cleanup activities shall be minimized. Environmental monitor(s) shall be onsite to reduce impacts.

- A post-spill environmental assessment of the site shall be performed to evaluate and quantify the damage to resources.

- Remediation and restoration of the site to pre-spill conditions shall be completed. These activities are subject to the land use permit/environmental review process.

- If the site cannot be restored to its pre-spill condition, the responsible party shall contribute to an environmental enhancement fund to be used for on- or off-site mitigation projects.

Discussion: The proposed project and transportation alternative would be consistent with this policy because the project would return the land to its "pre-spill conditions" and transport the NHIS to offsite storage locations. The TMLF alternative would place materials at the site that are treated to a level acceptable to the RWQCB as re-use, would contour and re-vegetate the site, and would therefore not be in conflict with this policy. The ECU alternative, however, would not remove the NHIS and would create long-term storage of the un-treated NHIS at the Guadalupe Field. This alternative would therefore be inconsistent with the energy policy. See Section 5.8, Land Use and Recreation.

Geologic and Seismic Hazards. This section of the Safety Element provides policies and programs aimed at protecting life and property from geologic hazards, which include seismic events, liquefaction, slope instability and landslides, and coastal bluff erosion.

Discussion: The proposed project and transportation alternative would be consistent with this policy. The TMLF and ECU alternatives could introduce potential slope instability issues. Mitigation proposed would reduce this impact to less than significant (See Section 5.1, Geology and Coastal Resources).

Other Safety Issues. This section of the Safety Element provides policies and programs aimed at protecting life and property from other safety-related issues, such as aircraft overflight, radiation, hazardous materials, electromagnetic fields, falling trees, and unreinforced masonry buildings.

Discussion: The proposed project and alternatives would be consistent with this policy.

Agriculture and Open Space. The County has adopted this element, but the coastal portion is still pending review by the Coastal Commission. The element provides policy guidance for the preservation and enhancement of the County's open space and agricultural resources.

Discussion: The proposed project and alternatives would be consistent with this policy.

3.3 The Land Use Ordinance

The Land Use Ordinance establishes operational performance standards for new or expanded development, primarily to ensure that residences are protected from the adverse effects of noise, air pollution, vibration, and other effects generated by nearby land uses, activities, or processes. Section 23.06.044 re-states the noise standards contained in the Noise Element, as described above, and also establishes a standard for vibrations. Standards are also established for the review of permit applications by the APCD, the RWQCB, and the County Health Department.

Discussion: The proposed project and alternatives would be consistent with this policy.

3.4 South County Rural Area Standards

The planning area standards are contained in the Land Use Element and Local Coastal Plan for the South County Planning Area. The standards are grouped by land use category and by specific area where the standard must be satisfied. The Energy and Extractive and Sensitive Resource Area Combining Designation standards for the Guadalupe Field refer to new operations, modification, or expansion of the oil field and to limited coastal-dependent and resource-dependent development outside of the LeRoy Lease.

Limitation On Use states that the uses allowed on the Rural Lands land use category within the LeRoy Lease are limited to: agricultural accessory structures, aquaculture, crop production and grazing, coastal access ways, fisheries and game preserves, water wells and impoundments, petroleum extraction, accessory storage, pipelines, and power transmission. Allowable uses on the Recreation land use category are limited to: fisheries and game preserves, pipelines and power transmissions, crop production and grazing, coastal access ways, and water wells and impoundments. No off-road vehicular use is permitted other than for management of the natural areas or to service allowable uses.

Discussion: The proposed project and the offsite transportation and TMLF alternatives would be consistent with this policy. The ECU would be inconsistent with this policy, as discussed above.

4.0 Clean Air Plan

The SLO County APCD has prepared a Clean Air Plan (CAP) to comply with Federal and State clean air laws. The Plan contains standards and thresholds of significance for both stationary and mobile sources of air pollution.

Discussion: The proposed project and alternatives would require review and approval by the APCD for consistency with the CAP and local guidelines for the implementation of CEQA. Consistency with these standards is discussed in Section 5.5, Air Quality.

5.0 Regional Water Quality Control Board

The Regional Water Quality Control Board regulates waste discharges into receiving waters in the project area. Waste streams generated by the project are discharged under an existing NPDES permit.

- *Water Quality Control Plan (Basin Plan)*. The objective of the RWQCB Basin Plan is to indicate how the quality of the surface and ground water in the Central Coast Region should be managed to provide the highest water quality reasonably possible. The Basin Plan lists the various water uses, including recreational uses, and describes the water quality that must be maintained to allow those uses. While sections of the Basin Plan contain mandatory requirements, any section can be mandatory through the issuance of a RWQCB order.
- *NPDES Construction Permits*. A permit is required to comply with the requirements of the NPDES storm water regulations, including development of storm water pollution prevention plans and implementation of erosion and sedimentation controls. The key condition of the regulations is the development and implementation of a construction storm water pollution prevention plan (SWPPP). Other requirements of the permit include conducting regular inspections and reporting releases of reportable quantities of hazardous substances.

Discussion: The proposed project and alternatives would be consistent with this policy. Existing, applicable permit conditions require the development of storm water and discharge plans as part of RWQCB requirements.