APPENDIX G
PUBLIC DRAFT COMMENTS AND RESPONSE TO COMMENTS MATRIX

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PXP DSEIR Comments
December 6, 2007

Let's build a world that is in true partnership with what surrounds us, not one where we can only minimize our damage.

Murray Wilson, Project Manager
County Planning and Building Department
976 Osos St., Room 300
San Luis Obispo, CA 93408-2040

Hello:

Thank you for providing an opportunity to comment on the Draft SEIR for the PXP Produced Water Reclamation Facility. Comments are organized by reference to pages in the document.

3-20: Pismo Creek Discharge Outfall
It is indicated that discharge rate would vary with operational scenarios and seasonal reuse demands similar to natural flow variations in the creek. While this is reasonable and understandable, particularly to maximize attraction flows for steelhead, is it also possible to time releases during low flow and not when raining to enhance low flow conditions? Releases during rains may contribute to downstream flooding.

The concept proposed for the outfall could be reconfigured to enhance and perhaps even remediate previous impacts to the area. I envision a scenario where the outfall mimics the behavior of seeps (since the discharge according to Entrix hydrology studies is purported to be relatively small). In addition, this scenario would be possible if the bank was reconstituted with bank slopes being laid back and revegetated with native plants. Bioengineered solutions to improve habitat could be instituted so that when the produced water project is no longer occurring, creek habitat in this reach is better than when the project went in. In essence this concept recreates a confluence morphologically as though the outfall was a tributary.

4-16 and 4-17: SLO County Ag and Open Space Element

- AGP26 supports the above concept of restoring riprap outfall to more natural state.
- Question--Does grazing occur on PXP property? If so, is there a grazing plan? If so, does livestock use creek? If so, provide off-stream watering source.
- Question--Have roads been assessed for sediment contribution? If not, do so or contract to assess and implement fish-friendly road system.
- Question--Is there any floodplain in the project area that could be reclaimed?

5.3-5: Setting
Document CDFG Stream Survey of Pismo Creek (CDFG, 2006) is considered draft, has yet to be vetted by the Pismo Creek/Edna Area Watershed group, and was not released by the group for use in the SEIR. It will be referred to in the upcoming Pismo Creek/Edna Area Watershed Management Plan.

5.3-27: South Central Coast California Steelhead
The description on this page of downstream land use conditions depicts a potentially good reason to support even a small addition of reclaimed water to benefit low flow conditions. If the supply were in perpetuity (mimicking a natural drainage/tributary) and hydrologically natural (hydrograph similar to

other natural drainages), then I might agree. Since that is not the case, I would suggest that the project does not support benefits to steelhead.

(4) It seems that the edge being played out in this project is to portend that the small temporary addition of produced water is a benefit but data was also generated to suggest that the small temporary addition is a relatively insignificant contribution so why deem it a benefit? For CEQA purposes it may; for actual habitat purposes, I do not think benefits are accrued.

(5) 5.3-33 second paragraph, last sentence remove "is" where is and was appear in the same sentence.

(2) 5.3-55: second paragraph indicates that 1.3 cfs could be the only flow….during prolonged drought periods. However, it is also indicated that Pismo is a perennial stream on page 5.3-8. This may be contradictory.

(7) 5.3-55 If current conditions for total suspended solids, dissolved oxygen, pH, hardness, manganese, iron, phosphorous, and zinc are already above or below required levels to support a healthy steelhead population, it seems illogical to further exacerbate those conditions with additional produced water of low quality.

(8) 5.3-57 mid-page last word in line is 'expect' needs to be changed to 'except,'

(9) 5.3-57 Question--bottom of page 'water that fails to meet water quality standards,' what happens to this water?

5.3-60 Steelhead Stranding Plan

(10) In the past, NMFS has not been supportive of suggested fish rescue in the upper watershed on West Corral de Piedra. A stranding plan might be more palatable to NMFS if it were conducted in a coordinated watershed-wide effort whereby relocation could be demonstrably more successful if stranded fish could be relocated from upstream reaches to PXP or from PXP to downstream reaches depending on location of sufficient pool habitat.

5.3-61 expected beneficial effects—second bullet

(11) The dam on West Corral de Piedra may have on-going impacts to stream flow. To say that "stream flow at mile 0.87 U/S from the ocean after a significant winter which produced above average rainfall for the area was less than 1.0 cfs in early June and 0.12 cfs by September" is citing isolated stream flow data without consideration of other factors impacting stream flow in the system. These flows in isolation would suggest a benefit to be gained by adding produced water. While not germane to this EIR, I would prefer to see NMFS and CDFG work on increasing releases from the dam according to current regulations so that the produced water would be even less consequential than the SEIR is purporting.

5.3-62/63 local case study

(12) Note that the mitigation project on Coon Creek is in an adjacent watershed and not a direct tributary of SLO Creek. Therefore, I would suggest that a similar scenario be considered for a Pismo Creek Habitat Mitigation Plan to include projects in waters not necessarily contiguous with Pismo Creek, such as Arroyo Grande Creek. Further, I would recommend that any existing migration barriers on PXP property receive remediation treatment as project mitigation and not during a decommissioning timeframe. I am aware of at least one such barrier. It has not yet been evaluated as to its severity as a passage barrier.

13 5.5-2 Hydrology

The HEC-RAS modeling conducted utilized Toro Creek as the comparison location rather than, say, Arroyo Grande Creek and then scaled the Toro Creek results to fit (presumably) the Pismo Creek Watershed. This led to very high projected flows. Obviously, there is an advantage in preferring these computer model numbers as the proposed added flow then seems relatively insignificant. I would prefer to see modeling conducted in an adjacent watershed that has a long period of record for its gauges and has very similar rainfall patterns as Pismo Creek. That would give a truer estimation of recurrent interval flows and subsequently a truer idea of the potential impacts of adding the produced water to the system.

14 5.5-4 Flooding

I disagree that Toro Creek is an analogous coastal watershed.

6-7 reduced project impacts

15 "However, this alternative has the potential to prolong operations at the oil field, since a reduced water reclamation facility would result in a lower oil production rate than the proposed project. This in turn, would *extend the duration of impacts* to biological resources caused by operations at the oil field."

I find this logic flawed as that once impacted, the duration of operations is immaterial unless and until remediation of impacts are conducted.

6-14 Environmentally Superior Alternative and Appendix C page 7

16 I am curious if a combination of alternatives was considered. Specifically, a reduced project, storing water in tanks to be used for displacement of existing groundwater may have eliminated the need to discharge into Pismo Creek.

Central Coast Salmon Enhancement appreciates PXP's participation in the process of building a watershed management plan that addresses current and anticipated future land uses in the watershed.

Sincerely,

Stephnie Wald

Stephnie Wald
Watershed Projects Manager

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PXP

December 7, 2007

VIA E-MAIL AND HARD COPY

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Environmental Resource Specialist
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Re: DRC2005-00252 - Plains Exploration & Production Company
Comments to Draft SEIR
Produced Water Reclamation Facility
1821 Price Canyon Road, San Luis Obispo

Dear Mr. Wilson:

This letter provides PXP's comments on the Draft Supplemental Environmental Impact Report (SEIR) for the Arroyo Grande Produced Water Reclamation Facility, dated October 2007. General comments are provided below while specific comments are presented in the attached tables.

General Comments

(1) Several mitigation measures in the SEIR appear overly detailed and prescriptive where recommended compliance plans, which are ultimately subject to County (and/or other agency) review and approval, will include the necessary details once all agency permits are issued and detailed engineering is complete. For instance, the proposed biological mitigation measures intended to protect steelhead are very specifically worded in the SEIR, although permit actions or pre-construction compliance plans are required which may vary from the SEIR prescriptions based on the requirements of the responsible agency. We believe that the mitigation measures should be worded in a manner that offers deference to, and avoids potential conflicts with, National Marine Fisheries Service's (NMFS) pending review under Section 7 of the Endangered Species Act consultation process. NMFS has primary jurisdiction over and expertise in the protection of steelhead and steelhead habitat. Mitigation measures in the SEIR should identify the issues to be addressed and goals to be achieved. Compliance plan details identified in the SEIR (i.e., Steelhead Stranding Plan) should be worded so as not to introduce unnecessary regulatory inconsistencies with responsible agencies' requirements.

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As a similar example, the proposed hydrology and water quality mitigation specifies the use of granular activated carbon as a polishing unit, presuming that this process step is required to comply with forthcoming discharge permit requirements. Detailed engineering by PXP will determine the appropriate treatment process required to

comply with the Regional Water Quality Control Board's (RWQCB) NPDES permit. Use of granular activated carbon may, or may not, be the most effective means for achieving the end goal.

Other examples are noted in the attached comments.

(2) The Reduced Project Alternative does not meet the project objectives, as defined in Section 3.3, and should be dropped from detailed analysis. A 10,000 bpd water treatment plant would not allow for the efficient recovery of oil reserves from the field in an economically feasible manner.

(3) PXP does not intend to dedicate an additional Open Space Easement for the purpose of oak replacement and Pismo clarkia plantings. Working with County staff, we propose to identify suitable areas on the property and designate them for such restoration efforts. There is ample space on the property to accommodate the required number of restorative plantings to mitigate for losses associated with the project.

(4) The timing of mitigation compliance varies throughout the document depending on the impact and goal of the measure (i.e., "prior to construction", "prior to start-up"). However, the phrase "prior to implementation", as used in several mitigation measures, is unclear and should be modified to address the specific activity in question.

We appreciate the time and effort put forth to review this Project and consider our comments. After the County has reviewed our comments, we would like to schedule a meeting with you to discuss and clarify our comments as needed.

Sincerely,

Candace L. Salway

EH&S Manager, CA Onshore
Plains Exploration & Production

Substantive Comments on Draft SEIR

Page/Location	Comment (Note – All comments on mitigation measures also apply to Table 2-1 Summary Table)
Summary of Environmental Effects	
Page 2-2, Section 2.4; Page 6-5, Section 6.2.2	Alternative 2 (Reduced Project Alternative) would not meet the project economic and schedule objectives. PXP could not implement this project as written. Therefore, this Alternative should be removed from detailed discussion.
Project Description	
Page 3-1, 10th bullet AND page 3-19 Section 3.4.2.3 AND MMBIO-2C AND page 5.3-50 MM BIO-6C and 6D	BIO-2C: The quality of the water that will be routed to the pond is the same quality that will be discharged to the creek. Therefore, if anything, the proposed use of the tempering pond would enhance the usefulness of the wetland habitat for wildlife purposes. The suggested mitigation for netting seems to remove the pond value as habitat. We believe the need for netting over the pond should be revisited. If the existing pond is found to be of sufficiently low permeability as is, then BIO-6C mitigation would not apply.
Noise	
Page 5.1-7, MM NOI-1	The SEIR identifies no impact for which MM NOI-1 is to mitigate. As written, the mitigation is unjustifiably restrictive. This mitigation measure should be deleted unless a legitimate impact is clearly identified. If there truly is a potentially significant impact, the measure should be modified as follows: "No use of heavy equipment ~~or vehicles shall~~ occur between the hours of 7 p.m. and 7 a.m., *to the extent feasible.*" PXP currently has a 24-hour operation – rigs run around the clock during drilling operations, oil is shipped out at night – all in compliance with relevant ordinances and the CUP. There have been no noise complaints at the facility over the last 10 years of operation.
Air Quality	
Page 5.2-9, last paragraph and Table 5.2-3	Please note that the worst-case construction equipment scenario described in the SEIR does not necessarily correspond to the way that PXP would stage the work and may overestimate emissions. The Nitrogen Oxide Emissions Reduction and Monitoring Plan, to be submitted prior to construction, will identify the precise construction schedule and calculate more precisely project emissions.
Pages 5.2-9 and 5.2-10 Note 1 to Table 5.2-3	There appears to be an inconsistency in use of a quarter (as in "tons per quarter"), and how many quarters the proposed project construction would take place. Please make the following changes: Change sentence on page 5.2-9, 2nd paragraph from the bottom: "The construction period is expected to last approximately **3 quarters, or** 180 **work** days, with 30 **work** days for site preparation and 150 **work** days of construction. Change Note 1 after Table 5.2-3: "Total number of construction days, including site preparation, will last approximately 180 **work** days (i.e., ~~2~~ **3** quarters)."
Page 5.2-15	Impact AQ-5 is not significant because the proposed water reclamation facility would not result in TACs emissions above the APCD CEQA thresholds of 10 in a million for cancer risk, and 1.0 for the non-cancer indices, as was demonstrated in the HRA included in Appendix D. Please change the Class of the impact to Class 3, and remove the requirement for "carbon canisters or toxics scrubbers". Also, Part B of Mitigation Measure AQ-5 should be changed as follows: "PXP shall conduct a formal facility-wide Health Risk Assessment (HRA) that would include air strippers as well as other facility emission sources. If the results of the HRA exceed the

Page/Location	Comment (Note – All comments on mitigation measures also apply to Table 2-1 Summary Table)
	cancer and non-cancer factors thresholds (10 in a million for cancer and 1.0 for non-cancer), then TBACT shall be applied to the air strippers to the satisfaction of the APCD."
Biological Resources	
Page 5.3-36, MM BIO-2	The impact statement for the tempering pond erroneously says "...waterfowl and other bird species...could be impacted due to contact with untreated water...", but no untreated water would be sent to the tempering ponds. At most, the pond would be used for minor temperature reduction and possible aeration prior to creek discharge. The water temperatures that could be released to the ponds would not have adverse affects on birds. As such, the impact attributed to the tempering pond in the SEIR could not occur. Therefore, MM BIO 2C is not warranted and should be deleted. Furthermore, the potential adverse affects of trapping birds in a net over water, and then handling them to release them, appear to be greater than any potential concern with birds coming into contact with highly-treated water that meets strict discharge standards. If, after further review, it is determined that netting of the pond is necessary, then the SEIR should clearly state the basis for this conclusion. Additionally, the effectiveness of Part C of this measure is questionable as written. Instead of monthly monitoring of the netted pond by a qualified biologist to ensure no birds are trapped or entangled, we recommend monitoring of the pond by operations personnel during routine rounds. If a bird or animal becomes trapped in the net, the operations personnel will promptly notify a qualified biologist so that the bird or animal can be rescued. The mitigation should also be reworded to read "...a Tempering Pond Maintenance and Monitoring Plan shall be prepared to ensure that the netted area is maintained ~~in perpetuity with the facility~~ *for the life of the Produced Water Reclamation Facility*".
Page 5.3-41, MM BIO-3.F, BIO-6	As noted in the General Comments, PXP does not intend to dedicate another Open Space Easement for planting oak replacements and Pismo clarkia. Rather, suitable areas on the property will be identified for vegetation restoration. The text should be revised accordingly.
Page 5.3-47, Impact BIO-5	As noted in the General Comments, the SEIR does not need to specify all details of the various compliance plans. The proposed oak tree mitigation measures appear overly specific for this stage of the project planning. A Tree Protection and Supplemental Habitat Enhancement Plan, to be prepared and submitted prior to construction, will detail the appropriate protection and enhancement strategies.
Page 5.3-50, Impact BIO-6	The last paragraph recognizes that impacts to these wetland features [and all other habitat types mentioned in BIO 6] could be avoided through project design". It is PXPs intent to optimize design and construction to minimize loss of these habitat types. As such, the preamble to MM BIO-6 should emphasize that the mitigation specified is for ACTUAL loss, not the worst-case loss estimated in the SEIR. The mitigation is feasible in the event that the worst case does occur, but PXP believes the actual losses will be much less than those estimated in the SEIR.
Page 5.3-54, MM BIO-7	Any Compensatory Mitigation, if required, would be up to the ACOE as part of their review. The SEIR wording should reflect this. Also, the last line of this mitigation should be reworded to state that the Plan "shall be submitted to the County *prior to construction of the outfall.*"

Page 5.3-58, MM BIO-8	As noted in the General Comments, NMFS has primary jurisdictional authority and expertise over steelhead issues, as does USFWS over California red-legged frog and tidewater goby. The mitigation measures should be reworded to ensure there will not be a conflict between overly prescriptive SEIR mitigation language and pending Section 7 Consultation determinations. (See detailed comments below).
Page 5.3-58, MMBIO 8A	Add "if required by NMFS" after "Fishery Conservation and Management Act". NMFS has not completed their review of the project, and this analysis may be inconsistent with their findings. If NMFS determines that the EFH is required, then it will be prepared. Also, the last sentence should be changed to read "prior to ~~implementation~~ start-up."
Page 5.3-58, MMBIO 8D	This mitigation measure should be simplified to state that PXP shall submit a Stream Monitoring Plan to the County and RWQCB for review and approval describing how they will meet the requirements of the RWQCB-issued NPDES Permit. The statement "discharge temperature not to exceed 20 °C (68°F)" can lead to inconsistency with RWQCB Basin Plan requirements not to **change** the temperature of **receiving waters** by more than 5°C, and would require PXP to **improve** the existing conditions. This is another example of a mitigation measure that poses high potential to conflict with more detailed and focused permit conditions issued by another agency. Specifically, when the natural stream temperature is greater than 74°F, then to maintain 68°F as required by this measure would violate RWQCB Basin Plan requirements because it would change creek temperature by 6°F or more. This permit condition should be restated to read "PXP shall be required to comply with RWQCB and NMFS water temperature requirements." This will alleviate conflicting requirements between the SEIR permit conditions and other agency requirements.
Page 5.3-58, MMBIO 8E	The Steelhead Stranding Plan will identify circumstances that could lead to potential stranding of steelhead and protocols for dealing with such circumstances, in accordance with NMFS requirements. The bullet items listed under Part E are overly specific and may not be in keeping with the needs and requirements of NMFS. As described in the impact discussion, stranding could occur if there is no natural flow in Pismo Creek. Pismo Creek has not been observed to go dry, based on operator's observations, although it could theoretically occur based on comparison to other streams in similar settings. Accordingly, this mitigation measure should state in its preamble, after "adjacent landowners", the following " in the event that the discharge from the reclamation facility is the only flow in Pismo Creek."
Page 5.3-58, MMBIO 8E second bullet	This bullet is unnecessary and not tied to the potential impact described. Stranding, the subject of this measure, is only an issue in the extremely unlikely event that the discharge is the only flow to the creek, and there is a reduction in discharge flow such that stranding could actually occur. Any monitoring associated with the stranding concern is covered in the 5th bullet, since only the fish actually stranded are of concern. "Real time" estimates of steelhead populations goes well beyond what is reasonable to mitigate the potential impact and should be deleted.
Page 5.3-60, MMBIO 8E sixth bullet	Similar to the comment above, the suggested identification of all factors affecting steelhead stranding potential need to include a trigger, such as: that stranding and/or mortality has actually occurred. As stated, the mitigation is for the potential to strand, something that will likely never occur. The project cannot be required to mitigate something that is not an adverse impact.
Page 5.3-60, MMBIO 8E	In general, we believe it will be rare that discharge from the Water Treatment Facility is the only flow in Pismo Creek (see comments above). However, in such drought conditions, PXP would like to have options for possible avoidance of steelhead stranding

	be encountered at the Arroyo Grande facility. The requirements of this order include: • Oil-impacted soil may be beneficially reused to pave dirt lease roads, construct secondary containment berms, pave well locations, backfill pipeline road crossings, or pave parking areas. • Representative sampling of the oil-impacted soil will be conducted to confirm that it is non-hazardous based on California and Federal regulations. • Beneficial reuse material shall not be used on sensitive habitats, historical / archaeological / paleontological sites, areas prone to landslides, or as foundation material for permanent buildings/structures. An annual report shall be submitted to the RWQCB that documents volumes & source locations for each occurrence of oil-impacted soil, results of periodic visual monitoring of oily dirt stockpiles, best management practices implemented to minimize oil runoff during storm events, and other preparedness measures.

Clarification Comments on Draft SEIR

	Page/Location	Comment (Note – All comments on mitigation measures also apply to Table 2-1 Summary Table)
	Introduction	
33	Page 1-1, Section1.1	Project should be consistently referred to as "Produced Water Reclamation Facility"
	Air Quality	
34	Table 5.2-3 and Appendix D, second unnumbered Table under "Construction Emissions"	There appears to be an inconsistency in the average speed of an on-road vehicle: Assumptions to the last table in Appendix D state 35 mph, and Note to Table 5.2-3 states 40 mph. Please make the speeds consistent, and review the estimated emissions, if applicable.
35	Page 5.2-11, Mitigation Measure AQ-1, Part A	Please clarify that Rule 204 BACT requirement applies to operations emissions and not construction emissions.
36	Page 5.2-12, MM AQ-1, Part B	Bullet 3: Please modify to read "Stockpiled earth material shall be sprayed or covered as needed to minimize dust generation."
37	Page 5.2-12, MM AQ-1, Part B	Bullet 5: In the spirit of conserving water resources and minimizing construction traffic on the disturbed footprint, please revise text "reworked at dates more than one month after initial grading" to be "six months".
38	Page 5.2-15, MM AQ-5 Part A	As a point of clarification, the statement contained in Part A of MM AQ-5 is not a mitigation measure under CEQA, because it does not require any actions on the part of PXP; it is merely a statement that the APCD will have a requirement for the project to be in compliance with the APCD rules. The project will have to be in compliance with the APCD rules regardless of the CEQA process. Thus, Part A of MM AQ-5 should be deleted as a statement that does not qualify as a CEQA mitigation measure.

Minor Corrections/Changes on Draft SEIR

	Page/Location	Comment (Note – All comments on mitigation measures also apply to Table 2-1 Summary Table)
	Introduction	
	Summary of Environmental Effects	
39	Page 2-5 to 2-34, Table 2-1	Please note that the Impact Category After Mitigation and Cumulative Impact numbers for several of the mitigation measures are missing.
	Project Description	
40	Page 3-1; 6th bullet	The height of each proposed air stripper will be 30 feet. Please correct on this page and throughout the document.
	Paleontology	
41	Page 5.1-5, MM PAL-1	The first line should be modified to "Prior to ~~approval of the project~~ *construction*…" to be consistent with the rest of the measure.
	Air Quality	
42	Page 5.2-3	Last sentence in the last paragraph right before the Table: It appears that the reference should be to Table 5.2-1, not 5.4-1. Please correct.
43	Page 5.2-4; 1st paragraph in Section 5.2.1.5; AND page 5.2-6, last paragraph	The 8-hr State ozone standard is 0.070 ppm, not 0.007 ppm. Please correct throughout the document.
44	Page 5.2-5, first paragraph	Last sentence: It appears that the reference should be to Table 5.2-2, not to 5.1-2. Please correct.
45	Page 5.2-8, Section 5.3.1.1	Operational Impacts Thresholds for CO are 550 lbs/day in the San Luis Obispo County APCD CEQA Air Quality Handbook, 2003 edition. Please correct 50 to 550 lbs/day throughout the section.
46	Page 5.2-11, note 2 to Table 5.2-3	Reference to Appendix 12.2 appears to be erroneous. Please refer to a correct data source.
	Biological Resources	
47	Page 5.3-36. MM BIO-2	The introductory sentence should remain broad and state the goal of the mitigation measure since there are options presented for feasibility. Recommend rewording the opening statement to read as follows: "Construction operations shall be conducted ~~prior to the initiation of nesting, or after the completion of nesting~~ to avoid any potential impact to migratory birds…"
48	Page 5.3-41, MM BIO-3.D	For the sake of worker safety, Part D should be modified to read: "If nighttime construction activities are warranted, all equipment lighting shall be shielded away from adjacent wildlife habitat areas and sky, to the extent possible while still providing safe working conditions for construction personnel, to minimize lighting/glare impacts on of wildlife."
49	Page 5.3-42, MM BIO-3.G	It is PXPs intent to avoid all Well's Manzanita. However, if it cannot be avoided, we propose to follow MM BIO-6B (bullet 2 for Well's Manzanita) of the Phase IV EIR (to which this document is a Supplement).

Page/Location	Comment (Note – All comments on mitigation measures also apply to Table 2-1 Summary Table)
Page 5.3-45, Impact BIO-4.E	The first sentence of Part E should be modified to read, "All construction activities within a 100-foot buffer of Pismo Creek shall be monitored by a qualified biologist ~~on a full-time basis~~ on a frequency deemed appropriate by the biologist based on the nature of the activities." In some instances, spot-checking may be sufficient.
Page 5.3-58, MMBIO 8B and C	See comments to HYD 4A and 4B.
Page 5.3-64 MM BIO 9	The SEIR should note that steelhead may be delisted by the time the facility is ready to be decommissioned, and therefore these mitigation measures would no longer be necessary.
Hydrology and Water Quality	
Page 5.5-9 MM HYD 1A, 3rd bullet	Please change this vegetative final erosion control measures from 30 days to *60* days after completion of grading, *weather permitting*. Thirty (30) days is too short a period of time and may unnecessarily require reseeding of the same area in the event of unforeseen delays in the construction schedule.

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December 7, 2007

Mr. Murry Wilson
Environmental Resource Specialist
Department of Planning and Building
County Government Center, Room 310
San Luis Obispo, California 93408

Re: Comments on Draft SEIR (DRC2005-00252)
Plains Exploration & Production Company (PXP)
Produced Water Reclamation Facility

Prepared by Peter L. Candy of Hollister & Brace, Attorneys to Plains Exploration & Production Company

Dear Mr. Wilson:

Thank you for the opportunity to provide comments on the Draft Subsequent Environmental Impact Report (Draft SEIR) prepared for Plains Exploration & Production Company's Produced Water Treatment Facility. As legal counsel to PXP, the comments below are intended to assist the County and SEIR preparer identify areas where the Draft SEIR could be improved. Incorporation of the following suggestions into the SEIR should help clarify areas of possible confusion and strengthen the overall legal adequacy of the environmental document.

1. Mitigation of Potentially Significant Impacts to Steelhead in Pismo Creek

The primary thrust of these comments and recommendations focus on the SEIR's overly restrictive handling of certain proposed mitigation measures intended to protect steelhead populations occurring in Pismo Creek. Mitigation Measures BIO-8 D and E set forth specific and detailed requirements mandating that PXP develop and implement a Stream Monitoring Plan and a Steelhead Stranding Plan. The Stream Monitoring Plan is intended to mitigate impacts due to increased water temperatures in Pismo Creek, and the Steelhead Stranding Plan is intended to mitigate impacts to steelhead due to stranding during periodic maintenance events at the treatment plant.

The County and SEIR preparer developed these mitigation requirements independently from the detailed environmental analysis and mitigation measures that will be developed by NMFS, USFWS and the RWQCB, pursuant to the permitting authority vested in these agencies under the Federal Endangered Species Act (FESA), Clean Water Act (CWA), and Porter-Cologne Act. The result is the imposition of potentially conflicting, overly restrictive and perhaps even unnecessary regulatory requirements. A better approach, one that is fully supported by the CEQA authorities, would be for the SEIR to back away from the imposition of mandatory requirements, and instead identify the County's proposed Stream Monitoring and Steelhead Stranding Plans as alternatives for consideration, analysis, and possible incorporation into the agencies' steelhead and water quality permitting requirements. 1

As framed, the Stream Monitoring and Steelhead Stranding Plans impose mandatory requirements on PXP regardless of whether a more efficacious approach to accomplishing the same objectives can be developed and implemented through the agencies' permitting process. Questions arise regarding the County's intended approach to the mitigation, specifically whether the measures mandate permitting requirements PXP must pursue as part of the approvals from NMFS, USFWS and RWQCB, or alternatively, whether the County intends for its proposed mitigation plans to supplement responsible agency permit requirements. To the extent the County seeks to impose its own requirements on the agencies' permitting process, the County's mitigation measures improperly exceed the scope of the County's authority as the lead agency. 2

CEQA does not confer on local agencies any special powers they do not otherwise have by statute. The CEQA authorities are clear that when "mitigating or avoiding a significant effect of a project on the environment, a public agency may exercise only those express or implied powers provided by law other than this division [CEQA]." (Public Resources Code section 21004.) The County clearly has the authority, pursuant its police powers and general planning laws, to protect biological resources within its jurisdiction. Importantly, however, the County lacks the authority to specify permit requirements under the FESA, CWA and the Porter-Cologne Act. None of these statutes confer any express or implied powers on the County enabling it to dictate specific measures that must be included in the permits issued pursuant to these statutes. Determinations regarding permit requirements under these statutes are within the exclusive purview of NMFS, USFWS and the RWQCB. 3

To the extent the County intends the Stream Monitoring Plan and a Steelhead Stranding Plan to supplement the detailed mitigation to be developed by NMFS, USFWS and RWQCB, the SEIR should adopt a more deferential approach, one that promotes flexibility, regulatory efficiency and avoidance of regulatory inconsistencies in determining mitigation requirements. In this regard, the SEIR should identify the issues to be addressed and the goals to be achieved, without mandating specific requirements to be imposed on PXP in advance of permitting requirements. 4

Over the last several years, the courts have developed legal principles regarding the extent to which an agency, in concluding that a significant impact will be fully mitigated, can rely on a mitigation measure that defers some amount of environmental problem solving until after project approval. The evolving consensus seems to be that such deferral is permissible where the adopted mitigation measure both:

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- Commits the agency to a realistic performance standard or criterion that will ensure the mitigation of the significant effect; and

- Disallows the occurrence of physical changes to the environment unless the performance standard is or will be satisfied. (*See* CEQA Guidelines, § 15126.4, subd.(a)(1)(B).)

In *Riverwatch v. County of San Diego* (4th Dist. 1999) 76 Cal App 4th 1428, for example, petitioners challenged the adequacy of the EIR prepared for development of a rock quarry and widening of a state route to accommodate increased traffic from the quarry. Petitioners argued, and the trial court agreed, that the EIR "was defective because it deferred preparation of some environmental analyses until Caltrans ha[d] [conducted a study as part of the required] permit to encroach on the San Luis Rey River floodplain." *Id.* at p. 1445. The Court of appeal reversed.

The EIR concluded that the widening of State Route 76 would impact the San Luis Rey River floodplain, but that impact could be mitigated by measures and design elements incorporated into the project. *Id.* at p. 1446. The specific mitigation required, however, was largely dependent on the study to be conducted by Caltrans as part of an encroachment permit necessary for the multistate project to proceed. *Id.* at p. 1447. Petitioners asserted that the county violated CEQA because the final EIR deferred a more detailed analysis of the realignment of State Route 76 until after Caltrans had completed its study. *Id.* at p. 1448. The court disagreed, reasoning that "the fact the entire extent and precise detail of the mitigation that may be required is not known does not undermine the final EIR's conclusion that the impact can in fact be successfully mitigated." *Id.* at p. 1447.

Endangered Habitats League v. County of Orange (2005) 131 Cal App 4th 777, 793-795 addressed similar arguments that an EIR improperly deferred mitigation of project impacts arising in the context of a housing development project. There the court found that, even in the absence of performance criteria per se, "[d]eferral of the specifics of mitigation is permissible where the local entity commits itself to mitigation and lists the alternatives to be considered, analyzed and possibly incorporated in the mitigation plan." Id. at p. 793.

Consistent with the holding in *Endangered Habitats League*, Mitigation Measures BIO-8 A and B commit the County to mitigation. They require PXP to obtain permits from NMFS, USFWS

6 and the RWQCB prior to any discharge of treated produced water to Pismo Creek. As such, the detailed provisions set forth in the County's Stream Monitoring and Steelhead Stranding Plans need not be mandatory. CEQA allows them to be identified as mitigation alternatives, to be considered, analyzed and possibly incorporated into the responsible agencies' permitting requirements. PXP recommends the Final SEIR adopt such an approach.

2. The Reduced Project Alternative

CEQA requires the consideration of alternatives in an EIR to assist the public and decision-makers in considering the environmental consequences of a proposed project. The range of alternatives to be considered is governed by a rule of reason that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. CEQA Guidelines, Section 15126.6(a) states: "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives."

The SEIR discusses three possible alternatives to PXP's Produced Water Reclamation Facility, the No Project Alternative (Alternative 1), the Reduced Project Alternative (Alternative 2), and the Fully Mitigated Alternative (Alternative 3). The focus of these comments is on the Reduced Project Alternative, which describes a 10,000 barrel per day facility, as opposed to the 20,000 barrel per day facility PXP proposes. In essence, the Reduced Project Alternative is the proposed project as intended for implementation, but reduced in overall size and scope with the intention of reducing project related impacts. In concept, the Reduced Project Alternative would minimize the footprint of disturbance and overall daily output of treated water to Pismo Creek by 50%.

7 A careful reading of the SEIR shows that the Reduced Project Alternative fails to meet the criteria for adequacy set forth in CEQA Guidelines, Section 15126.6(a). Specifically, the Reduced Project Alternative (1) fails to attain the basic objectives of the project by failing to attain the primary objective of the project; (2) fails to avoid or substantially lessen any of the significant effects of the project; and (3) fails to meet the standard for economic feasibility established by case law. For these reasons, the Reduced Project Alternative is not a viable alternative to the proposed project for CEQA purposes, and must be removed from consideration by the County for possible adoption.

(a) The Reduced Project Alternative Fails to Attain the Primary Project Objective. The primary purpose of PXP's Water Reclamation Facility, as articulated in the Project Description, is to enhance the recovery of oil reserves via treatment and reuse of excess produced water. Inherent to this enhanced recovery is dewatering the oil-bearing formation by reducing return water flows from the existing oil-water separation process. Implementation of the proposed

water reclamation facility is intended to increase the ratio of oil to water produced at individual wells, thereby allowing for the increased rates of production permitted under the Phase IV expansion.

CEQA Guidelines, Section 15126.6(c) states that "The range of potential alternatives to the project shall include those that could feasibly accomplish most of the basic objectives of the proposed project . . . ." The Reduced Project Alternative cannot meet this standard if it cannot accomplish, at the very least, the primary objective of the project. PXP cannot effectively enhance the recovery of its oil reserves with the implementation of a 10,000 barrel per day water treatment plant. Reduction of the overall daily output of treated water to Pismo Creek by 50% means an equivalent or greater reduction in PXP's ability to dewater the oil-bearing formation. The SEIR acknowledges a 50% reduction in treatment plant capacity would lower oil production rates and prolong operations at the oil field. The reduction would effectively impede PXP's ability to increase production to the level permitted under the Phase IV expansion. A project alternative that cannot accomplish the project's primary objective fails the viability test for project alternatives set forth in CEQA Guidelines, Section 15126.6. 8

(b) <u>The Reduced Project Alternative Fails to Avoid or Substantially Lessen Any of the Significant Effects of the Project</u>. The Reduced Project Alternative represents only a marginal improvement over the proposed project in terms of minimizing impacts. The Reduced Project Alternative purportedly lessens but does not avoid any of the significant effects of the project. CEQA Guideline, Section 15126.6(c) requires project alternatives that do not avoid significant effects, to at least "substantially" lessen the effects, as compared to the proposed project. In all but one impact category described in the SEIR, the reduction in impacts associated with the Reduced Project Alternative were not considered "substantial." 9

The SEIR characterizes the reduction in impacts to steelhead due to "stranding" as "substantial." However, the SEIR also notes that the Reduced Project Alternative has the potential to prolong operations in the oil field, since a reduced water reclamation facility would result in a lower oil production rate than the proposed project. This in turn, would extend the duration of impacts to biological resources caused by operations in the field, thereby negating any reduction in impacts associated with a smaller water reclamation project. The end result is that the Reduced Project Alternative would neither avoid nor substantially lessen any of the significant effects of the project. As such, the alternative fails to meet the standard for viability set forth in CEQA Guidelines, Section 15126.6. 10

(c) <u>The Reduced Project Alternative is not Economically Viable and Cannot be Considered Feasible</u>. A 10,000 barrel per day water treatment plant would provide only marginal benefits in terms of enhanced recovery of oil reserves from the field. Most of the capital and operational costs of the project would remain, despite a 50% reduction in reclamation

11 facility output, and an even greater reduction in PXP's ability to increase oil production via the project. In this regard, the Reduced Project Alternative renders the project more expensive and less profitable. It also raises questions concerning the financial practicality of the project and whether it makes sense to proceed.

12 The economic viability of a project alternative is one of several factors that may be taken into account when addressing the feasibility of alternatives. (CEQA Guidelines, Section 15126.6(f)(1).) Where substantial evidence in the record supports a conclusion that the additional costs or lost profitability associated with a project alternative are sufficiently severe to render it impractical to proceed with the project, the alternative is considered infeasible. *Citizens of Goleta Valley v. Board of Supervisors* (1988) 197 Cal App 3d 1167, 1181. From PXP's vantage point, the costs of the Reduced Project Alternative cannot be justified in light of the marginal oil recovery benefits it would provide. As such, the alternative fails to meet the standard for viability set forth in CEQA Guidelines, Section 15126.6.

13 In summary, the SEIR should clarify that the Reduced Project Alternative, while it might be useful for purposes of public participation and informed government decision-making, does not accomplish the most basic project objective, it does not avoid or substantially lessen any significant environmental effects, and it cannot be considered economically feasible. For these reasons, the Reduced Project Alternative is not a viable project alternative under the CEQA Guidelines, and therefore cannot be considered by the lead agency for adoption.

On behalf of PXP, Hollister & Brace appreciates the opportunity to provide these comments. If you have questions or would like to discuss any of the suggestions set forth herein, please do not hesitate to contact me directly.

Very truly yours,

HOLLISTER & BRACE
A Professional Corporation

By _____
Peter L. Candy

California Regional Water Quality Control Board
Central Coast Region

895 Aerovista Place, Suite 101, San Luis Obispo, California 93401-7906
(805) 549-3147 • Fax (805) 543-0397
http://www.waterboards.ca.gov/centralcoast

Linda S. Adams,
Secretary for Environmental Protection

Arnold Schwarzenegger
Governor

November 30, 2007

Ms. Candice Salway
Plains Exploration and Production
5640 South Fairfax Avenue
Los Angeles, CA 90056

Dear Ms. Salway:

DRAFT PROPOSED NPDES PERMIT FOR PXP'S ARROYO GRANDE PRODUCED WATER RECLAMATION FACILITY IN SAN LUIS OBISPO COUNTY

This letter is to notify you of the availability of draft Order No. R3-2008-0004, which staff intends to present to the Central Coast Water Board for consideration at its meeting scheduled for February 8, 2008, in San Luis Obispo. Enclosed for your review and comment are:

1. Draft Waste Discharge Requirements Order No. R3-2008-0004 (NPDES Permit No. CA0050628) for Plains Exploration and Production, Arroyo Grande Produced Water Reclamation Facility, including Standard Provisions, Monitoring and Reporting Program, and Fact Sheet.

2. Notice of Public Hearing. Please post and publish the public notice by December 5, 2007, according to the instructions provided.

Hard copies of the draft Order and associated attachments may be downloaded from our website at: http://www.waterboards.ca.gov/centralcoast/Permits/Index.htm. The Central Coast Water Board will consider adoption of Order No. R3-2008-0004 at its regularly scheduled public meeting in San Luis Obispo on February 8, 2008. Please submit your written comments and recommendations regarding the proposed requirements no later than January 4, 2008. Comments received by this date will be considered in preparation of staff recommendation to the Central Coast Water Board.

If you have any questions, please call Sorrel Marks at 805/549-3695 or Harvey Packard at 805/542-4639.

Sincerely,

Roger W. Briggs
Executive Officer

Attachments: Draft WDR (with Standard Provisions, MRP & Fact Sheet)
Notice of Public Hearing with Instructions

S:/npdes/npdes facilities/san luis obispo co/PXP Price Cyn/08-0004 draft.ltr
File: PXP Price Canyon
Task: 102-01

cs: (without attachments)

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Entrix, Inc.
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Ventura, CA 93003

Terry Flemming
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Dennis Detzeit
City of Pismo Beach
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Pismo Beach, CA 93449

Stephanie Wald
Central Coast Salmon Enhancement
P. O. Box 277
Avila Beach, CA 93424

Scott Keen, Tetra Tech (via email)

California Regional Water Quality Control Board
Central Coast Region

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(805) 549-3147 • Fax (805) 543-0397
http://www.waterboards.ca.gov/centralcoast

Linda S. Adams
Secretary for Environmental Protection

Arnold Schwarzenegger
Governor

RECEIVED
DEC - 3 2007
SLO CO PLAN & BLDG DEPT

November 29, 2007

Mr. Murry Wilson, Environmental Resource Specialist
County of San Luis Obispo
976 Osos Street
San Luis Obispo, CA 93408

Dear Mr. Wilson:

DRAFT SUBSEQUENT EIR FOR PXP ARROYO GRANDE PRODUCED WATER RECLAMATION FACILITY, SAN LUIS OBISPO COUNTY

Thank you for the opportunity to comment on the draft Subsequent Environmental Impact Report (SEIR) for the Plains Exploration and Production (PXP) water reclamation facility, proposed to be located in Price Canyon. We have the following comments regarding the SEIR.

1. PXP submitted a report of waste discharge (application) to the Water Board in September 2006, with additional information submitted in March 2007, for authorization to discharge treated produced water to Pismo Creek. We are proceeding with the process of drafting a National Pollutant Discharge Elimination System (NPDES) permit and associated fact sheet to be circulated for public comment and presented to the Central Coast Water Board for its consideration. We will send you a copy of the proposed permit and associated fact sheet as soon as it is available. We anticipate the discharge permit will be considered by the Central Coast Water Board at its February 8, 2008 meeting.

2. PXP proposes to discharge treated produced water (water produced from extraction wells) to Pismo Creek. The discharge will be created by expanding the existing oil production facility in Price Canyon. Federal regulations (Title 40 Code of Federal Regulations, Part 435) prohibit the discharge of produced water to surface waters unless such discharge is used for agriculture or wildlife propagation. In this case, PXP has submitted information demonstrating that the discharge will be used for such purposes. The Central Coast Water Board will consider the adequacy of PXP's proposal for meeting the conditions for exception to the discharge prohibition at its February meeting in conjunction with NPDES permit issuance.

3. The draft SEIR describes potential reuse options (page 3-20) stating that the water will not be treated to drinking water standards and therefore would not be available for residential reuse. Please note that for some constituents, water quality requirements for discharge to Pismo Creek are more stringent than those required

for landscape irrigation (residential or otherwise). Also, the draft SEIR states there is currently no demand for reclaimed water. However, the lack of demand is (as discussed in this document and several others provided by PXP) qualified by a statement indicating the lack of demand is linked to unwillingness of users to treat the water to usable quality and pay for conveyance piping. Reclaimed water treatment and distribution expenses are typically paid by the producer (PXP in this case) and we believe it is unreasonable to expect the user to cover such expenses. However, we concur with statements indicating irrigation or dust control reuse options would be limited to dry weather periods. (1)

4. The draft SEIR describes pilot testing of the treatment processes. We are not aware of actual test data from the treatment processes proposed for use at the Price Canyon facility. Our records include water quality data provided by PXP for produced water (influent to the treatment processes) and some data for Pismo Creek water. If you have treatment process pilot testing data, please provide us a copy or identify its location. (2)

5. The SEIR contains no detailed plans for the outfall structure. We suggest that when those plans are developed further, that you consider requiring a naturally stabilized structure such as a vegetated filter strip downslope from the outfall pipes, rather than gunite, to provide sheet flow of discharge water to Pismo Creek. Please address the need to achieve sheet flow and discuss alternatively, the potential value of achieving aeration of outfall water through a roughened surface. The discussion of the "splash pad" effect of the gunite surface (p. 5.3-57) indicates your intent to aerate the outfall water, yet the goal of achieving sheet flow seems counter to this. (3)

6. Impact BIO-7 indicates that impacts to four unnamed tributaries to Pismo Creek would be avoided during project implementation through project design and avoidance. However, Figure 5.3-2 indicates the proposed pipeline would cross these four tributaries. Please reconcile this inconsistency and provide detailed discussion of any impacts associated with construction of the pipeline (Neither Impact BIO-7, nor BIO-4, address these potential impacts adequately). Please evaluate horizontal directional drilling as an avoidance measure for impacts to these tributaries. (4)

7. Please include the Water Board among agencies to which you will submit for review and approval the Compensatory Mitigation Plan for Pismo Creek (Mitigation Measures BIO-6E, BIO-7). (5)

8. The Water Board seeks compensation of permanent impacts to all waters of the state, including those designated by the California Department of Fish and Game. The proposed loss of 0.62 acres of state wetlands should be compensated for through creation of wetlands, comparable in function and value, at a ratio of 3:1. In-lieu fees for impacts to wetlands are not consistent with the State of California's "no net loss" policy and the Water Board does not accept in-lieu fees as mitigation (Mitigation Measure BIO-6 B). (6)

If you have questions regarding the issues above or would like to discuss the status of PXP's application for an NPDES permit, please contact **Sorrel Marks at 805/549-3695** or Harvey Packard at 805/542-4639.

Sincerely,

For Roger W. Briggs
Executive Officer

S:\NPDES\NPDES Facilities\San Luis Obispo Co\PXP Price Cyn\DEIR comments [2] ltr.doc
File: PXP Price Canyon

cc:
Ms. Candice Salway,
PXP
5640 So. Fairfax Ave.
Los Angeles, CA 90056

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AIR POLLUTION CONTROL DISTRICT

Post-it® Fax Note 7671	Date 12-7-07	# of pages ▸ 7
To Murry Wilson	From M Guise	
Co./Dept. SLO Plan/Build	Co. APCD	
Phone #	Phone #	
Fax #	Fax #	

December 7, 2007

Murry Wilson, EIR Manager
San Luis Obispo County Department of Planning and Building
County Government Center, Room 310
San Luis Obispo, CA 93408

SUBJECT: APCD Comments Regarding the Plains Exploration Produced Water Treatment Facility

Dear Wilson,

Thank you for including the San Luis Obispo County Air Pollution Control District (APCD) in the environmental review process. We have completed our review of the proposed project located on Price Canyon Road in San Luis Obispo. The project as proposed is to enhance the recovery of oil reserves via treatment of excess produced waters. The proposed project includes the following components: construction of a 20,000 barrel per day reclamation facility utilizing primarily reverse osmosis treatment technology, two 210,000 gallon filtered water tanks, a 420,000 gallon Recovery Water Tank and two 420,000 gallon day tanks would be designed to contain 12 hours of treated water, three air stripping towers, two heat exchangers and various other tanks and silos. The treated water would be reused at the oil field, discharged to Pismo Creek. The reject water from the reverse osmosis treatment will be processed via existing injection wells We have the following comments regarding this project.

GENERAL COMMENTS

As a commenting agency in the California Environmental Quality Act (CEQA) review process for a project, the APCD assesses air pollution impacts from both the construction and operational phases of a project, with separate significant thresholds for each.

SPECIFIC COMMENTS

(1) 1. ***Page 5.2-3 Table 5.2-1*** - Please note the following changes should be made to the Ambient Air Quality Standard listed in table 5.2-1.

- In February 2007, the Air Resources Board established a new annual average NO2 standard of 0.030 ppm and lowered the one-hour NO2 standard to 0.18 ppm.

(2) 2. ***Page 5.2-7*** - A discussion of climate change is included on page 5.2-7. This summary basically recaps the regulatory environment at the present states, that due to the lack of regulatory guidance, "*further analysis of this project's impacts is considered speculative given there is no empirical evidence available at the present to evaluate this issue further under CEQA for individual or cumulative impacts*". While the District acknowledges

3433 Roberto Court • San Luis Obispo, CA 93401 • 805-781-5912 • FAX: 805-781-1007
info@slocleanair.org ✧ www.slocleanair.org

there is currently no guidance document available for quantifying greenhouse gases, this does not relieve the applicant from thoroughly evaluating the potential impact from the project on air quality including greenhouse gas emissions. Despite the lack of a GHG threshold, **the District recommends that this SEIR be modified to include a full discussion of anticipated GHG emissions during both the construction and operation phases of the project.** This recommendation is consistent with comments made by the previous and current California Attorney Generals on Land Use projects undergoing CEQA review. Models are already available to estimate GHG emissions from projects. In addition to the evaluation of the greenhouse gas impacts from this project, **specific mitigation for GHG emissions need to be identified.**

Page 3.7 The statement is made that the gas plant processes about 1.5 million standard cubic feet per day of gas that contains in excess of 50% CO2 and 40,000 ppm of H2S. The SEIR should detail if any of this CO2 could end up in the process water being treated and if there are other sources of greenhouse gas emissions through out the process. **An analysis of any greenhouse gases emitted as part of this project should be conducted and specific measures to mitigate these impacts included.**

(3) 3. ***Page 5.2-11 and page 2-9 – AQ-1*** addresses the short term air quality impacts associated with construction activities related to the project. However on page 5.2-11, under this section, there is a discussion of District Rule 204. District Rule 204 only applies to stationary sources, not construction equipment. **This reference is incorrect and should be removed. It should also be noted that under Rule 402 the BACT threshold hold is 25 lbs/day not 25 ton/year as cited.**

The emissions that are generated from this construction activity should be included as a separate line item in the Emission Reduction Monitoring Plan that Plains currently submits to the APCD.

Mitigation Measure AQ-1 states that all portable equipment shall be registered under the Statewide Portable Equipment Registration Program. **It should be noted that if a piece of equipment, 50 horsepower (hp) or greater is not registered under the ARB state program, it will need an APCD permit.**

(4) 4. ***Page 5.2-11, AQ-1.B*** addresses dust control measures. The following measures or modification should be made to the list included on page 5.2-11 and 5.2-12.

- **Bullet #2, this measure should be modified to state that watering frequency may need to be increased whenever wind speeds exceed 15 mph.**
- The last bullet item states all roadways associated with construction activities should be paved as efficiently as possible. It is unclear what this means. **All roadways associated with construction activities should be paved or some other technique utilized to control dust (i.e. water or APCD approved soil stabilizer).**

- **The following measure should be added to this list of dust control measures. The contractor or builder should designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD prior to land use clearance for map recordation and finished grading of the area.**

(5) 5. ***Page 5.2-12, AQ-1C*** - The title of this section is misleading. Instead of Emission Offset, it should be entitled **CEQA Off-site Mitigation**. Offsets generally relate only to stationary sources whereas off-site mitigation includes mobile sources like construction equipment. **As previously stated the emissions from this project should be included in Plains Emission Reduction Monitoring Plan.**

(6) 6. ***Page 5.2-13*** - AQ-3 states fugitive dust generated by construction activity may contain asbestos and result in exposure of the public to this toxic air contaminant. The SEIR indicates that no mitigation is required. This statement is incorrect.

The project site is located in a candidate area for Naturally Occurring Asbestos (NOA) which has been identified as a toxic air contaminant by the California Air Resources Board (ARB). Under the ARB Air Toxics Control Measure (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations, **prior to any grading activities at the site, the project proponent shall ensure that a geologic evaluation is conducted to determine if NOA is present within the area that will be disturbed. If NOA is not present, an exemption request must be filed with the District (see Attachment 1). If NOA is found at the site the applicant must comply with all requirements outlined in the Asbestos ATCM.** This may include development of an Asbestos Dust Mitigation Plan and an Asbestos Health and Safety Program for approval by the APCD. Please refer to the APCD web page at *http://www.slocleanair.org/business/asbestos.asp* for more information or contact Tim Fuhs of our Enforcement Division at 781-5912.

(7) 7. ***Page 5.2-14, Health Risk Assessment (HRA)*** – The project description on page 3-18, indicates there will be three air strippers, 14 feet in diameter and 70 feet in height However, the HRA modeled two scenarios, the first used six (6) stacks, 12 feet in diameter and 30 feet high and the second scenario used one (1) stack, 15 feet in diameter and 30 feet high. **The modeled scenarios are inconsistent with the project description and thus are not considered complete or accurate for this proposed project. A revised HRA should be conducted that models the project as described.**

The data presented in Appendix D for the HRA shows two very different exhaust gas flow rates with the two different scenarios, however the hourly and annual emissions are the exact same for both scenarios. **There appears to be an error in the HRA results and re-evaluated; or if the annual emissions are identical for either scenarios.**

further explanation should be provided to explain how this can occur. In addition all modeling data including assumption should be included with the HRA.

The modeling results as presented show that ammonia will be approximately 139.2 lbs/day. Ammonia is a toxic air contaminate and an affected pollution as defined in District Rule 105.A. **Therefore the air strippers will be subject District Rule 204 and Best Available Control Technology (BACT) will be required to control ammonia.**

Plains Exploration is currently in the process of conducting a HRA for the entire oil field site. This proposed water treatment facility should be included in that analysis along with the HRA modifications stated in the above referenced comments.

(8) 8. ***Page 5.2-15*** – On page 5.2-15 a reference is made to District Rule 429, it should be noted that this rule only applies to power plants. **This reference should be removed.**

(9) 9. ***Page 5.2-16*** - The discussion of cumulative impacts is confusing and hard to follow

The statement is made "*All other ROGs includes those estimated in Table 5.4-4 of the Phase IV EIR, plus the constituents listed in Table 5.4-4 of this SEIR which are not listed below*" (referencing Table 5.2-5) It is not clear what is included in Table 5.2-5. **Please clarify.**

(10) 10. ***Page 5.6-7 HAZ-2.B*** - The following text should be added to mitigation measures HAZ-2.B

> **The notification and permitting determination requirements shall be directed to Karen Brooks of the APCD Enforcement Division at 781-5912.**

(11) 11. ***Page 3-28*** – In the project description on Page 3-28 indicates that some pipeline will be relocated and/or removed. The following text should be included as a mitigation measures.

- The Relocation of existing pipelines (page 3-2) and/or demolition activities can have potential negative air quality impacts, including issues surrounding proper handling, demolition, and disposal of asbestos containing material (ACM). Asbestos containing materials could be encountered during demolition or remodeling of existing buildings. Asbestos can also be found in utility pipes/pipelines (transite pipes or insulation on pipes). **If utility pipelines are scheduled for removal or relocation; or building(s) are removed or renovated this project may be subject to various regulatory jurisdictions, including the requirements stipulated in the National Emission Standard for Hazardous Air Pollutants (40CFR61, Subpart M - asbestos NESHAP).** These requirements include but are not limited to: 1) notification requirements to the District, 2) asbestos survey conducted by a Certified Asbestos Inspector, and, 3) applicable removal and disposal requirements of identified ACM. **Please** contact Tim Fuhs of the Enforcement Division at 781-5912 for further information.

(12) 12. ***Demolition Activity*** - The following measures should be included to address lead during demolition activities. Demolition of structures coated with lead based paint is a concern for the APCD. Improper demolition can result in the release of lead containing particles from the site. Sandblasting or removal of paint by heating with a heat gun can result in significant emissions of lead. Therefore, proper abatement of lead before demolition of these structures must be performed in order to prevent the release of lead from the site. Depending on removal method, an APCD permit may be required Contact Gary Willey from the APCD's Engineering Division at 781-5912 for more information. Approval of a lead work plan by the District is required and must be submitted ten days prior to the start of the demolition. Contact Tim Fuhs from the District's Enforcement Division at 781-5912 for more information. For additional information regarding lead removal, please contact Cal-OSHA at 654-4581.

Again, thank you for the opportunity to comment on this proposal. If you have any questions or comments, feel free to contact me at 781-5912.

Sincerely,

for

Melissa Guise
Air Quality Specialist

MAG/sll

cc: Karen Brooks, Enforcement Division, APCD
Tim Fuhs, Enforcement Division, APCD
Gary Willey, Engineering Division, APCD

Attachments: 1. Naturally Occurring Asbestos – Construction & Grading Project Exemption Request Form, Construction & Grading Project Form

[illegible]

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Naturally Occurring Asbestos – Construction & Grading Project Exemption Request Form

Send To:

San Luis Obispo County
Air Pollution Control District
3433 Roberto Court
San Luis Obispo, CA 93401

Phone: (805) 781-5912
Fax: (805) 781-1002

Applicant Information/ Property Owner		**Project Name**	
Address		**Project Address and /or Assessors Parcel Number**	
City, State, Zip		**City, State, Zip**	
Email Address		**Email Address**	
Phone Number	**Date Submitted**	**Agent**	**Phone Number**

The District may provide an exemption from Section 93105 of the California Code of Regulations - Asbestos Airborne Toxic Control Measure For Construction, Grading, Quarrying, And Surface Mining Operations for any property that has any portion of the area to be disturbed located in a geographic ultramafic rock unit; if a registered geologist has conducted a geologic evaluation of the property and determined that no serpentine or ultramafic rock is likely to be found in the area to be disturbed. Before an exemption can be granted, the owner/operator must provide a copy of a report detailing the geologic evaluation to the District for consideration. The District will approve or deny the exemption within 90 days. An outline of the required geological evaluation is provided in the District handout **"ASBESTOS AIRBORNE TOXIC CONTROL MEASURES FOR CONSTRUCTION, GRADING, QUARRYING, AND SURFACE MINING OPERATIONS – Geological Evaluation Requirements."**

NOTE: A basic exemption evaluation fee of $100.00 will be charged.

APPLICANT MUST SIGN BELOW

I request the San Luis Obispo County Air Pollution Control District grant this project exemption from the requirements of the ATCM based on the attached geological evaluation.

Legal Declaration/Authorized Signature:

Date:

OFFICE USE ONLY – APCD Required Element – Geological Evaluation

Intake Date:	APCD Staff:	OIS Site #:	OIS Project #
Date Reviewed:	APCD Staff:	Approved	Not Approved

Comments:

Naturally Occurring Asbestos - Construction & Grading Project Form

Send To:
San Luis Obispo County Air Pollution Control District
3433 Roberto Court
San Luis Obispo, CA 93401
805-781-5912

Applicant Information/Property Owner		**Project Name**	
Address		**Project Address and/or Assessors Parcel Number**	
City, State, Zip		**City, State, Zip**	
Email:		**Email:**	
Phone Number	**Date Submitted**	**Agent**	**Phone Number**

Check Where Applicable	ITEM	APCD REQUIRED ELEMENT 1	APCD REQUIRED ELEMENT 2
	Project IS NOT Subject to NOA Requirements	Mapped Location Attached	
	Project IS Subject to NOA Requirements but NOT Disturbing NOA	Geological Evaluation Attached	Exemption Request Form Attached
	Project IS Subject to NOA Requirements and Project is Disturbing NOA - More than One Acre	Geological Evaluation Attached	Dust Control Measure Plan Attached
	Project IS Subject to NOA Requirements and Project is Disturbing NOA - One Acre or Less	Geological Evaluation Attached	Mini-Dust Control Measure Plan Attached

APPLICANT MUST SIGN BELOW

Legal Declaration/Authorized Signature: Date:

OFFICE USE ONLY - APCD Required Elements

Geological Evaluation		Exemption Request Form		Dust Control Measure Plan		Monitoring, Health & Safety Plan
Approved		Approved		Approved		Approved
Not Approved		Not Approved		Not Approved		Not Approved
Comments		Comments.		Comments:		

APCD Staff:	Intake Date:	Date Reviewed:	OIS Site #	OIS Proj #
INVOICE No.	Basic Fee:	Additional Fees:	Billable Hrs:	Total Fees

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Comment #/Page	Responses
Central Coast Salmon Enhancement	
1) p. 3-20	The releases from the proposed Pismo Creek Discharge Outfall would occur during both high stream flow and low stream flow periods. Based upon the hydrologic analysis provided as part of the application package, the estimated releases would only be a small percentage of wet season stream flow, and as such would not be considered a significant source of potential downstream flooding. A revised outfall structure detail has been completed as part of the current U.S. Army Corps of Engineers (Corps) review and permitting process with PXP. This revised detail has been provided as Figure 3.7 (see Section 3.0, page 3-21) and indicates that the outfall structure has been designed to promote aeration during discharge, followed by sheet flow along the creek bank to minimize the potential for erosion. A naturally stabilized bank structure was considered by PXP during the original design process, but not selected because the existing bank was previously armored with rip-rap protection and was well suited as a discharge location without significant modification to existing site conditions. The removal of the existing riprap to accommodate a more natural design feature could potentially lead to long-term bank instability issues and potential undermining of the outfall structure. Further, Mitigation Measure 6E provides for enhancement of the riparian zone of Pismo Creek as a result of the proposed outfall installation by replacing willow habitat impacted at a 3:1 ratio (see Section 5.3, page 5.3-52).
2) p. 4-16, 17	The current outfall structure design and location would be consistent with AGP26b) 1-5 by locating the structure within a previously disturbed area and minimizing impacts to existing riparian habitat features to the extent feasible. Any impacts to existing willow woodland habitat will be mitigated at a 3:1 ratio within adjacent areas of the riparian buffer. Additionally, an Erosion Control Plan and Spill Contingency Plan will be prepared and implemented as part of the project. The other bulleted comments are not specific to the Project under review in this SEIR and as such have not been addressed.
3) p. 5.3-5	Comment noted.
4) p. 5.3-27	Except for potential adjacent landowner reuse options, the project is anticipated to provide dry season flow to Pismo Creek. This dry-season flow would enhance the riparian corridor, and provide greater habitat for aquatic biota. Additional water in the system, even if limited in overall rates/volumes and temporal design would have the potential to benefit aquatic resources, including providing steelhead additional instream habitat. Consequently, Mitigation Measure BIO 9B provides that, if the Project does provide for aquatic resources benefit and steelhead population enhancement that is subsequently removed at project cessation; then compensatory mitigation will be required.
5) 5.3-33	SEIR text has been revised as suggested.
6) 5.3-55	Pismo Creek is a perennial stream. Although it has not been known to go dry in the Project area, comparison to other perennial coastal streams, such as Toro Creek, indicate that under conditions of prolonged drought the creek could go dry temporarily.
7) 5.3-55	Water quality data referenced in the SEIR indicates that water quality in Pismo Creek is of moderate quality. The produced

	water, after treatment, is expected to be of high quality and would not lead to water quality degradation of Pismo Creek.
8) 5.3-57	SEIR text has been revised as suggested.
9) 5.3-57	SEIR text has been revised as suggested. The treatment facility will include controls that prevent the discharge of untreated water to Pismo Creek. Per Mitigation Measure HYD-5 (page 5.5-14) the facility will be constructed with a holding capacity for unprocessed water which will be sent through the treatment system again until it meets appropriate standards.
10) 5.3-60	The required Stranding Plan will emphasize the implementation of appropriate measures to avoid steelhead stranding to the extent feasible. This would include identification of ramping rates which would allow steelhead sufficient time to relocate to deeper perennial areas of Pismo Creek instead of physical capture and relocation efforts to prevent mortality. As such, any relocation efforts would only be in the unlikely event of prolonged equipment failure coinciding with a prolonged drought after which the discharge has operated for sufficient duration to attract steelhead. Based on the above, the need for steelhead relocation through the life of the project would be considered unlikely and/or an infrequent event which would not justify a coordinated, watershed-wide relocation plan.
11) p. 5.3-61	The comment regarding increased releases from the dam on West Corral de Piedra is not specific to the Project under review, and as such has not been addressed.
12) p. 5.3-62/63	Mitigation Measure BIO-9 has been modified to prefer on-site, in-kind restoration but also allow for in-kind restoration activity in similar adjacent watersheds (i.e., Arroyo Grande Creek).
13) p. 5.5-2	The SEIR impact analysis considered the potential for impacts at base flow periods, which were directly measured and provided in the Application material from PXP. The use of Toro Creek as a comparison indicated that the natural base flow could lower to zero after multiple drought years, and the impacts of this potential were analyzed and mitigation provided. For impacts of the discharge during the wet season, the comparison to Toro Creek indicated bank-full flows (2-year recurrence interval flows primarily responsible for channel form) expected in Pismo Creek were in the range directly measured by the applicant's representative (ENTRIX) during 2006 storm events. The impact analysis indicated that the discharge during these flows would be an insignificant percentage of total flow and therefore not lead to adverse impacts. Consideration of stream flows greater than the 2-year recurrence interval flow would lead to lesser impacts than those analyzed. Although the comparison to Toro Creek did yield very high flows for the long recurrence interval storms (i.e., 100-year storm event), these extreme flows were not necessary for impact analysis because use of the 2-year recurrence interval flow already indicated a less than significant impact during wet-season flows.
14) p. 5.5-4	Although not considered ideal, the Toro Creek comparative analysis provided adequate information to determine an approximate baseline condition to complete the subject impact analysis in SEIR. Also see comment to page 5.5-2 comment, above.
15) p. 6-7	Impact analysis requires consideration of the potential impact location, intensity, and duration. All of these parameters can influence the significance of an impact and required mitigation to reduce the impact to a less than significant level. In this SEIR, the actual duration of discharge was considered a long-term effect to Pismo Creek, not just a one-time impact. Appropriate mitigation has been provided for all significant impacts identified during the environmental impact analysis.
16) p. 6-14	Onsite storage was originally considered by PXP and subsequently eliminated due to the large volume of tankage, and

	associated area of disturbance (i.e., tank installation) required in order to eliminate the need for discharge to Pismo Creek. The alternative would not feasibly reduce or eliminate a significant impact of the Project, and as such was not considered viable alternative for further analysis in the SEIR. The alternatives analyzed meet the requirements of CEQA, including a consideration of a reasonable range of alternatives to inform decision-makers for discretionary permits.
Plains Exploration and Production Company (PXP)	
General Comments	
1)	To be considered adequate, mitigation measures should be specific, feasible actions that will actually improve potentially adverse environmental conditions. Additionally, mitigation measures must contain sufficient detail to determine overall effectiveness in reducing the identified impact. Measures consisting of further studies, or consultation with regulatory agencies that are not tied to a specific action plan, may not be adequate and should therefore be avoided (CEQA Guidelines sec. 15126.4). The purpose of this SEIR is to provide an independent analysis of the potential impacts associated with the proposed Project. Potential long-term impacts to steelhead identified as part of the operational phase of the facility represent the potential worst-case impact scenario as required under CEQA. Mitigation measures developed and incorporated into the SEIR (i.e., provisions of the Steelhead Stranding Plan) are consistent with similar case study requirements and preliminary discussions with the National Marine Fisheries Service (NMFS). Some revisions have been made to BIO-8E to provide more flexibility in the final content of the Steelhead Stranding Plan. However, the mitigation requirement cannot be modified in a manner that offers deference to the NMFS as suggested by the commentor.
2)	No specific information has been provided by PXP demonstrating that the Reduced Project Alternative is truly economically infeasible. As such, the alternative cannot be eliminated from the SEIR as requested by the commentor.
3)	If there is not adequate space within the existing dedicated Open Space Easement for required mitigation plantings, then PXP shall be required to provide assurances to the County that the additionally selected restoration areas within the PXP Arroyo Grande Oilfield will be protected in perpetuity and not subject to future expansion activities and/or periodic disturbance from oilfield operations.
4)	Comment noted. As necessary, consistency of timing phrasing within mitigation measures have been revised in SEIR.
Substantive Comments/ Page #	
5) p. 2-2, 6-5	Comment noted. See response 2 above.
6) p. 3-1, 3-19, MM BIO-2C,	Water quality comment noted; see edit to text above BIO-2C. Please also note the need for protective netting was also eliminated from BIO-2C due to a lack of hazard from untreated water. However, please also note modifications to BIO-2C which

p. 5.3-50, MM BIO-6C and 6D: BIO-2C	would require implementation of a periodic maintenance and monitoring program to ensure that the tempering pond is free of vegetation and debris that could provide nesting bird habitat to avoid potential conflicts with the Migratory Bird Treaty Act.
7) p. 5.1-7, MM NOI-1	The mitigation measure has been revised to reflect that the use of construction equipment and vehicles solely related to construction would be limited to the hours of 7 a.m. to 7 p.m. to the extent feasible.
8) P. 5.2-9 last paragraph and Table 5.2-3.	Comment noted.
9) p. 5.2-9, 10 and Note 1 to table 5.2-3	SEIR text has been revised.
10) p. 5.2-15	Mitigation Measure AQ-5 has been removed from the Final SEIR. The HRA does not identify ammonia as being a significant issue requiring mitigation; therefore, no applicable CEQA threshold can be identified. However, the Odor Monitoring and Complaint Response Plan implemented as part of the Phase IV EIR (see Impact AQ-6 and Mitigation Measure AQ-6), as approved by the APCD, may require carbon canisters or scrubbers to be implemented if ammonia odor complaints become an issue. PXP would have the operational flexibility to implement these measures only when the APCD requires them as part of the Authority to Construct/Permit to Operate.
11) p. 5.3-36. MM BIO-2	Comments noted. See discussion under PXP Substantive Comments item 6 above. Also see revised Mitigation Measure BIO-2C.
12) p. 5.3-41, MM BIO-3F, BIO-6	See response under PXP General Comment 3 above. If the existing Open Space Easement is determined to be inadequate in size, then an additional Open Space Easement shall be dedicated by PXP for the purposes of site restoration. Mitigation Measure BIO-3F has been revised accordingly to reflect this requirement.
13) p. 5.3-47, Impact BIO-5	The oak tree mitigation measures outlined as part of BIO-5 are currently being implemented as part of the Phase IV operations and have been incorporated into the SEIR to ensure consistency with site restoration plans and ensure long-term survival of the all oak tree plantings on-site.
14) p. 5.3-50, Impact BIO-6	SEIR text has been revised as suggested.
15) p. 5.3-54. MM BIO-7	Compensatory mitigation for impacts to the riparian resources of Pismo Creek is being required per the County Agriculture and Open Space Element policies. If the Army Corps of Engineers (Corps) and/or California Department of Fish and Game (CDFG) deem a higher mitigation ratio is necessary as part of the permitting process, then the higher ratio shall be adhered to within the final Compensatory Mitigation Plan. Lastly, the final Compensatory Mitigation Plan as well as all other project-specific plans

	required as mitigation within the SEIR shall be provided to the County for review and approval prior to permit issuance, not prior to construction of the outfall as suggested by commentor.
16) p. 5.3-58, MM BIO-8	Comment noted. See response under PXP General Comment 1 above.
17) p. 5.3-58, MM BIO-8A	SEIR text has been revised; see revised Mitigation Measure BIO-8A. Also, see PXP Substantive Comments, response 15 above (last sentence) for information regarding timing of submittals relative to permit issuance.
18) p. 5.3-58, MM BIO 8-D	SEIR text has been revised; see revised Mitigation Measure BIO-8D.
19) p. 5-3-58, MM BI- 8E	Mitigation measures developed and incorporated into the SEIR including provisions of the Steelhead Stranding Plan are consistent with similar case study requirements and preliminary discussions with the NMFS. Please note that the Steelhead Stranding Plan is not intended to solely looking at a de-watered creek condition, but shall identify appropriate ramping rates to prevent fish from being stranded in off channel areas where they could become trapped and killed, which would constitute a take of a listed species (i.e., avoidance measures). As such, the suggested change to the preamble of BIO-8E cannot be modified as suggested by commentor.
20) p. 5.3-58, MM BIO 8E, 2nd bullet	There are no current population estimates for steelhead trout in the Pismo Creek watershed to act as baseline, as such baseline surveys should be completed to document the impact to steelhead resources (including beneficial impacts). Final provisions and/or requirements of steelhead monitoring in the Steelhead Stranding Plan would be determined by NMFS through the permitting process (i.e., type, frequency, location, etc). Steelhead population data would also be utilized to properly assess the impacts to steelhead once the produced water project is to be decommissioned and appropriate mitigation can be assigned for those impacts from the respective agencies. SEIR text has been revised. See edits to BIO-8E (2nd bullet).
21) p. 5.3-60, MM BIO-8E, 6th bullet	The Steelhead Stranding Plan should have provisions in place to address potential worst case steelhead impact scenarios as required under CEQA, which would include the need to relocate stranded fish during an extended emergency shut-down, etc.
22) P. 5.3-60, MM BIO-8E	SEIR text has been revised. See edits to BIO-8E regarding avoidance measures. Further, the avoidance measures outlined in this comment should be incorporated into the draft Steelhead Stranding Plan for consideration by NMFS and County staff. Additionally, as outlined above, the Steelhead Stranding Plan should contain back-up provisions to account for potential steelhead stranding and/or relocations in the event they should occur.
23) p. 5.3-60, MM BIO-8E, last bullet	SEIR text has been revised. See edits to BIO-8E (6th bullet).
24) p. 5.3-60,	SEIR text has been revised as suggested. See edit to BIO-8E (5th bullet).

MM BIO-8: Part E, 5th bullet item	
25) p. 5.3-63. MM BIO-9A	SEIR text has been revised as suggested. See edit to BIO-9A.
26) p. 5.3-64, MM BIO 9A	See response under PXP Substantive Comment 20 above.
27) p. 5.3-64, MM BIO 9B	First comment noted; see revised BIO-9B to reflect steelhead surveys for baseline determination and periodically thereafter as determined by NMFS. Habitat restoration projects and/or barrier removal projects to open more useable habitat for the expected increased steelhead population numbers downstream of the facility are deemed appropriate and widely-accepted measures the respective regulatory agencies would be seeking as mitigation for such an impact. As such, this requirement cannot be removed as suggested by the commentor. However, the measure has been modified to allow flexibility in the timing that such mitigation can be implemented. See edits to BIO-9B.
28) p. 5.5-10, MM HYD-1A, 4th bullet	This measure is intended to protect sensitive resources, including steelhead and other aquatic organisms, from impact from grading activities associated with the proposed project. Therefore, the mitigation measure cannot be modified as suggested by the commentor.
29) P. 5.5-13, MM HYD-4B	Mitigation measure HYD-4B has been revised to reflect the current status of laboratory analytical method limitations and require reporting of phenol concentrations indicated above the method detection limit but less than quantitation limits.
30) p. 5.5-13, MM HYD-4B	The RWQCB's regulatory limit is currently 1 ug/l per the Basin Plan, but analytical methods cannot quantity phenol concentrations less than 5 ug/l. A revised mitigation measure HYD-4B has been included in the EIR to reflect this situation.
31) p. 5.6-6, MM HAZ-2A	Mitigation measure HAZ-2A has been modified to specify that corrective actions shall not be required for naturally-occurring petroleum hydrocarbon-containing soil other than crude oil containing soil excavated during the course of project construction activities.
32) p. 5.6-7, MM HAZ-2B	Mitigation measure HAZ-2B has been modified to reflect the permissibility of use of crude oil containing soil for on-site beneficial uses in accordance with the RWQCB's Order No. R3-2005-005.
Clarification Comments	
33) p. 1-1, Section 1.1	The SEIR has been revised as suggested.

34) Table 5.2-3 and Appendix D, second unnumbered Table under "Construction Emissions"	The SEIR has been revised as suggested to be consistent.
35) p. 5.2-11. MM AQ-1A	The reference to Rule 204 has been deleted as it was incorrectly applied to stationary equipment.
36) p. 5-2-12, MM AQ-1B, 3rd bullet	The SEIR has been revised as suggested.
37) p. 5.2-12, MM AQ-1B, 5th bullet	This measure is taken from the APCD's CEQA Air Quality Handbook and is considered a standard measure.
38) p. 5.2-15, MM AQ-5A	Mitigation Measure AQ-5A has been moved to the discussion section, with AQ-5B remaining as the sole mitigation associated with this impact.
Minor Corrections and Changes	
39) p. 2-5 to 2-34, Table 2-1	The suggested changes have been made to the SEIR.
40) p. 3-1, 6th bullet	Based on recent correspondence, the air stripper stack height would be 70 feet total.
41) p. 5.1-5, MM PAL-1	The SEIR has been revised as suggested.
42) p. 5.2-3	The SEIR has been revised as suggested.
43) p. 5.2-4. 1st paragraph	The SEIR has been revised as suggested.

in Section 5.2.1.5; AND p. 5.2-6, last paragraph	
44) p. 5.2-5, 1st paragraph	The SEIR has been revised as suggested.
45) p. 5.2-8, Section 5.2.1.1	The SEIR has been revised as suggested.
46) p. 5.2-11, note 2 to Table 5.2-3	The SEIR has been revised as suggested.
47) p. 5.3-36. MM BIO-2	The text suggested for deletion is needed to describe the intent of the mitigation measure. No changes have been made to the SEIR to address this comment.
48) p. 5.3-41, MM BIO-3D	The SEIR has been revised as suggested.
49) p. 5.3-42, MM BIO-3G	The SEIR has been revised as suggested.
50) p. 5.3-45, Impact BIO-4E	Due to the nature of proposed activities, including placement of gunite along the creek banks and potential for spill hazards, etc., BIO-4E as currently written is deemed necessary and cannot be modified as suggested by commentor.
51) p. 5.3-58, MM BIO-8B and C	See response under PXP Substantive Comments 28-30 above.
52) p. 5.3-64 MM BIO-9	The potential delisting of steelhead is speculative and irrelevant. The SEIR must address the current regulatory situation.
53) p. 5.5-9 MM HYD-1A, 3rd bullet	This measure is taken from the APCD's CEQA Air Quality Handbook and is considered a standard measure.

Hollister & Brace Law Corporation	
1)	Please note that mitigation measures developed and incorporated into the SEIR, including the provisions of the Steelhead Stranding Plan are consistent with similar local case study requirements (i.e., City of San Luis Obispo Wastewater Treatment Facility) and preliminary discussions with the NMFS. Some revisions have been made to BIO-8E to provide more flexibility in the final content of the Steelhead Stranding Plan as a result of the permitting process. However, the mitigation requirement cannot be modified in a manner that offers deference to the NMFS as suggested by the commentor. Also, see response under PXP General Comment 1 above
2)	The purpose of this SEIR is to provide an independent analysis of the potential impacts associated with the proposed Project. Potential long-term impacts to steelhead identified as part of the operational phase of the facility represent the potential worst-case impact scenario as required under CEQA. As stated above, mitigation measures developed and incorporated into the SEIR including the provisions of the Steelhead Stranding Plan are consistent with the preliminary discussions and planned permitting requirements of NMFS. Therefore, the intent of the mitigation is to <u>specify</u> the necessary measures to mitigate potential long-term impacts to steelhead to a less than significant level, without deference to the Section 7 permitting process. In this context, the County is not exceeding their authority as the CEQA lead agency.
3)	The measures contained in the SEIR are not intended to and will not dictate the result of the permitting process between the applicant and any of the regulatory permitting agencies with permit authority over the Project. Conversely, the mitigation measures are intended to mitigate identified impacts to less than significant levels without deference. Any additional permit conditions required by the respective regulatory agencies would be implemented in conjunction with County conditions of approval. Also, see response 2 above.
4)	See response Hollister & Brace 1 above.
5)	See response Hollister & Brace 1 above.
6)	Again, mitigation measures developed and incorporated into the SEIR, including the provisions of the Steelhead Stranding Plan are consistent with the requirements imposed on the City of San Luis Obispo Wastewater Treatment Facility and preliminary discussions with the NMFS regarding the proposed Project. As such, there is no specific need to modify the existing measures as mitigation alternatives to be considered at a later date. Thus, this measure(s) cannot be revised/modified as suggested by commentor.
7)	Comment noted. Alternative 2 - Reduced Project Alternative was developed and included for analysis in this SEIR because of its potential to reduce the overall area of disturbance and total output of treated water into Pismo Creek and *"still feasibly accomplish most of the basic objectives of the project"* only over an extended period because of reduction in overall capacity. This approach is considered consistent with CEQA Guidelines 151269(a); therefore, Alternative 2 cannot be removed from consideration in the SEIR as suggested by the commentor. Further, no specific information has been provided by PXP

	demonstrating that the Reduced Project Alternative is truly economically infeasible; therefore, the alternative cannot be eliminated from the SEIR as requested by the commentor. However, as concluded in Section 6.3, Alternative 2 was not selected as the Environmentally Superior Alternative, because of its inability to meet all of the project objectives, including most importantly consistency with the Arroyo Grande Oil Field (see Section 6.3 of the SEIR).
8)	See response Hollister & Brace 7 above.
9)	The Reduced Project Alternative has the potential to avoid significant impacts to various terrestrial biological resources including the federally endangered Pismo clarkia and wetland habitat areas through a reduced disturbance area. Further, the expected reduced flows to Pismo Creek would be deemed insignificant and would thus substantially reduce the long-term dependence of steelhead on discharge flows during drought years and potentially avoid steelhead stranding issues during emergency shut-downs. Based upon this premise, the Reduced Project Alternative is considered consistent with CEQA Guidelines. Also, see response under 7 above.
10)	Substantially reducing and/or avoiding direct impacts to a federally-threatened species such as steelhead (considered a Class 1 Impact under CEQA and "take" under the Endangered Species Act) while extending periodic impacts to general wildlife and botanical resources from dust, lighting and periodic maintenance activities of oilfield operations is not considered a negation of impacts. Therefore, Alternative 2 would meet the standard for viability set forth in CEQA Guidelines Section 15126.6.
11)	Comment noted. See response Hollister & Brace 7 above.
12)	Comment noted. See response Hollister & Brace 7 above.
13)	Based on the discussions above, the Reduced Project Alternative is currently deemed useful for public participation and informed government decision-making, would meet the most basis objectives of the project, has the potential to substantially lessen environmental effects, and is deemed economically feasible because no information has been provided by PXP to indicate otherwise. For these reasons, the Reduced Project Alternative will remain in the SEIR alternatives analysis for adoption by the County.
Regional Water Quality Control Board	
1) p. 3-20	Comment noted.
2)	Summary tables presenting the chemical analytical results for pilot tests completed by PXP are included as Appendix F of the EIR. The County can provide a copy of the original data to the RWQCB under a separate cover at request.
3) p. 5.3-57	A revised outfall structure detail has been completed as part of the current U.S. Army Corps of Engineers (Corps) review and permitting process with PXP. This revised detail has been provided as Figure 3.7 (see Section 3.0, page 3-21) and indicates that the outfall structure has been designed to promote aeration during discharge, followed by sheet flow along the creek bank to minimize the potential for erosion. A naturally stabilized bank structure was considered by PXP during the original design process, but not selected because the existing bank was previously armored with rip-rap protection and was well suited as a

	discharge location without significant modification to existing site conditions. The removal of the existing riprap to accommodate a more natural design feature could potentially lead to long-term bank instability issues and potential undermining of the outfall structure. Further, Mitigation Measure BIO-6E provides for enhancement of the riparian zone of Pismo Creek as a result of the proposed outfall installation by replacing willow habitat impacted at a 3:1 ratio.
4) Impact BIO-4, BIO-7, Figure 5.3-2	The proposed pipeline crossings of the unnamed tributaries would be located along existing roads and associated pipe racks intersecting the subject tributaries. However, to ensure that no impacts occur to the subject tributaries during subsurface pipeline installation that would require removal and/or modification of existing culverts, a jack-and-bore technique would be required (see revised Mitigation Measure BIO-7). Therefore, no impacts would occur to the tributaries due to project implementation, and as such no mitigation or alternative crossing techniques are required as mitigation.
5) MM BIO-6E, BIO-7	The RWQCB has been added to the list of agencies to receive the Compensatory Mitigation Plan for Pismo Creek (see Mitigation Measure BIO-6E and BIO-7).
6) MM BIO-6B	Mitigation Measure BIO 6C requires either on-site mitigation for loss of wetland habitat (in-kind replacement) or payment into a designated wetland restoration fund. At the direction of the County, the wetland restoration fund will be for creation or enhancement of wetlands, and as such will support the states “no net loss” policy.
Air Pollution Control District	
1) P. 5.2-3, Table 5.2-1	The SEIR has been revised as suggested.
2) p. 5.2-7	However, the significance of GHG emissions cannot be determined without further regional guidance, and mitigation of construction-related GHG is not feasible. Note that lime softening of the produced water would prevent operational CO2 emissions. A GHG emissions inventory has been provided and incorporated into the text. Please see Appendix D for data tables.
3) P. 5.2-11, p. 5.2-9, AQ-1	The SEIR has been revised as suggested.
4) p. 5.2-11, AQ-1B	The SEIR has been revised as suggested.
5) p. 5.2-12, AQ-1C	The SEIR has been revised as suggested.
6) p. 5.2-13, AQ-3	Based on geological findings for the Phase IV EIR, the site is located in the Pismo Formation, which is a sedimentary unit and is not expected to contain NOA. This remains a less than significant impact, and the text cannot be modified as suggested.
7) p. 5.2-14, Health Risk	The revised HRA was prepared to address the baseline and proposed operations of the current facility and the proposed addition of 95 new producing wells and steam generators, as well as the produced water reclamation facility. The HRA assessed the gas

Assessment	plant emissions (i.e. fugitive ROGs and other Hazardous Air Pollutants). The treatment plant component is designed to remove residual organic compounds and ammonia from the treated water. Cancer and non-cancer (acute and chronic) health impacts were estimated using risk assessment guidelines developed by the Office of Environmental Health Hazard Assessment. Results show that the health risk factors are below respective significance thresholds for cancer risk and chronic and acute hazard indices. Based on Rule 219 and the findings of the HRA, BACT would not be required. See the revised Impact AQ-5 for details.
8) p. 5.2-15	The SEIR has been revised as suggested.
9) p. 5.2-16	“All other ROGs” refers to compounds listed in the Phase IV EIR which were not included in the updated HRA.
10) p. 5.6-7, HAZ-2B	The SEIR has been revised as suggested. Text added.
11) p. 3-28	The SEIR has been revised as suggested. Text added to Impact AQ-3 and Mitigation Measure AQ-3.
12) demolition activities (e.g. Table 3.2)	The SEIR has been revised as suggested. Text added to Impact AQ-3 and Mitigation Measure AQ-3.