

Background Section of May 3, 2022 Staff Report regarding Appeal of the Martinez Refinery Renewable Fuels Project (County File# CDLP20-02046)

INTRODUCTION

This is a hearing on an appeal of the County Planning Commission's decision to approve a Land Use Permit to repurpose the Marathon Martinez Refinery for production of fuels from renewable sources rather than from crude oil.

PROJECT SUMMARY

The project includes a land use permit request to repurpose the Refinery for production of fuels from renewable sources rather than from crude oil. Some existing Refinery equipment would be altered or replaced, and additional new equipment units and tanks would be installed, to facilitate production of fuels from renewable feedstock. Crude oil processing equipment that cannot be repurposed for processing of renewable feedstock would be shut down and removed from the Refinery based on an event-based decommissioning plan. Upon completion of facility changes, the Refinery would process up to approximately 48,000 bpd of fresh renewable feeds and would produce renewable diesel fuel, renewable propane, renewable naphtha, and potentially, renewable aviation fuel. The 48,000-bpd throughput limit is both a physical limit based on the configuration of the facility and a legal limit based on permitting constraints that will be implemented by BAAQMD.

GENERAL INFORMATION

1. General Plan: The project site has Heavy Industry (HI), Water (WA), and Open Space (OS) General Plan land use designations.
2. Zoning: The project site is located in the Heavy Industrial (H-I) and Light Industrial (L-I) Zoning Districts, and Railroad Corridor (-X) Combining District.
3. California Environmental Quality Act (CEQA) Compliance: The Department of Conservation and Development, Community Development Division (CDD) determined that an EIR was required for the project and distributed a Notice of Preparation (NOP) on February 17, 2021.

An Environmental Impact Report (EIR) was then prepared and published for the project (State Clearinghouse #2021020289). The 60-day public review period for the Draft EIR started on October 18, 2021, and closed on December 17, 2021. The Draft EIR is included as an attachment. The County received 251 comment letters during the comment period on the Draft EIR for the proposed project. A Final EIR has been prepared that includes the comments received on the Draft EIR and the County's responses to those comments. The Final EIR also includes associated text changes relating to the comment responses. The Final EIR is included as an attachment to this report.

The EIR for the proposed Project identified significant impacts that cannot be fully mitigated to less-than-significant levels with implementation of identified mitigation measures. These significant and unavoidable impacts include marine biological resources, hazards, hydrology and water quality related to marine vessel accidents, and air quality related to rail and vessel emissions outside the San Francisco Bay Area Air Basin. The EIR also identifies potentially significant impacts related to: construction-related air emissions; odor;

marine and avian biological resources (non-spill related); cultural resources; seismicity; hazards; and tribal cultural resources. However, mitigation measures are identified for these impacts to reduce them to less-than-significant levels. The recommended mitigation measures are included within the Mitigation Monitoring and Reporting Plan, which describes the timing and responsible agency for monitoring compliance with all mitigation measures. The mitigation measures have also been incorporated into the recommended conditions of approval.

4. Tribal Cultural Resources: As required by CEQA and Assembly Bill 52, Contra Costa County submitted a request for formal consultation to the Wilton Rancheria on October 28, 2020. Mariah Mayberry of the Wilton Rancheria responded on November 20, 2020, stating that the tribe had identified cultural resources near the Project's footprint and that the tribe would like to have a monitor present during all ground disturbance activities. The tribal monitor would be required as a condition of project approval. The consultation and monitoring satisfy the consultation requirements under AB 52.

SITE/AREA DESCRIPTION

Surrounding Land Uses: The open waters of the Carquinez Strait and lower Suisun Bay are offshore to the north of the Project site. Onshore, undeveloped lands on and around the Project site include marsh habitats between open water and onshore facilities and ruderal/upland habitat onshore between the marsh habitat and developed lands. Developed lands in the immediate and general vicinity of the Project site include a variety of residential, commercial, industrial, and public uses.

Just east of the Refinery and Avon Marine Oil Terminal (Avon MOT) are several hundred acres of undeveloped marshlands. This area includes the Point Edith Wildlife Preserve, a 761-acre tidal area accessible to the public for wildlife viewing and hunting. The unincorporated residential community of Clyde is east of the Refinery's on-site marshlands, on the opposite side of Port Chicago Highway from the Refinery's eastern property line. The Contra Costa Water District's Mallard Reservoir, and multiple complexes of light industrial warehouse buildings are also located east of the Project site.

The Refinery property's southern boundary adjoins the city of Concord municipal limit at Solano Way. The property's western boundary is as close as 0.25 mile eastward of the city of Martinez municipal limit at the northern end of the Refinery property. Development south of the Project site includes a car dealership, retail and light industrial warehouses, a drive-in movie theater, the Buchanan Airfield, and residential neighborhoods including a community park (Hillcrest). The closest residence in these neighborhoods is approximately 700 feet south of the site's southern property line, in the Dalis Gardens Mobilehome Park. The Floyd I. Marchus school is the closest public school to the site, located approximately 2,900 feet south of the Refinery's southern property line.

Pacheco Creek adjoins the Project site's western property line. Other single-family residential neighborhoods in the city of Martinez are approximately 2,900 feet or further west of the Refinery property's western boundary. Much of the land between the Refinery property and these neighborhoods is undeveloped, though several parcels have industrial land uses including a rock quarry, a concrete batch plant, a waste transfer station, and the treatment plant of the Central Contra Costa Sanitation District. Similarly, lands immediately adjacent to the Amorco Marine Oil Terminal (Amorco MOT) are developed with industrial uses including warehouses and tanks and equipment of the Shell Refinery. The closest non-industrial developments to the Amorco MOT are the public Waterfront Park and single-family residences,

both of which are approximately 2,500 feet west and southwest, respectively, of the property line of the terminal.

State Route 4, an east-west freeway, extends through the Project area, south of the Project site and 500 feet south of the Refinery's southern boundary. Interstate 680 is a north-south freeway that extends through the Project area approximately 1.25 miles west of the Refinery's western property line. Both freeways provide regional access to and from the Refinery. On-ramps to and off-ramps from State Route 4 are just southeast of the Refinery's Solano Way entrance, and on-ramps to and off-ramps from Interstate 680 are on Waterfront Road approximately 2 miles west of the site.

Two railroad lines run through the Refinery property: the Union Pacific Railroad (UPRR) line, which runs in an east-west direction through the Refinery along Waterfront Road and the BNSF Railway line, which also runs in an east-west direction through the Refinery, roughly parallel to and north of Monsanto Way.

Site Description: The Marathon Martinez Refinery is located at 150 Solano Way, Martinez, California. The site is situated on the Carquinez Strait, approximately 3.25 miles east of downtown Martinez along Solano Way between Waterfront Road and Monsanto Way. Access to the Refinery is provided from the south via gated entrance on Solano Way and from the west via gated entrance on Waterfront Road.

The Refinery is situated east of Pacheco Creek, on the southern shore of Suisun Bay. The Refinery has marine access through two MOTs on Suisun Bay and the Carquinez Strait, namely the Avon MOT and Amorco MOT. Both MOTs are owned by Andeavor Logistics, LP, also a wholly owned subsidiary of Marathon. The Avon MOT is located on approximately 13.3 acres of leased sovereign land in the lower Suisun Bay, approximately 1.75 miles east of the Benicia-Martinez Bridge, in unincorporated Contra Costa County. The Amorco MOT is located on approximately 14.3 acres of leased sovereign land, approximately 0.6 miles west of the Benicia-Martinez Bridge in the city of Martinez.

The project area is approximately 2,000 acres owned by Marathon. Of these 2,000 acres, approximately 1,130 acres are currently developed for oil and gas refining operations, including ancillary support facilities such as administrative offices, internal roadways and parking lots. The remaining, approximately 870 acres includes undeveloped marshlands and grasslands. Mt. Diablo Creek and Seal Creek flow through the undeveloped areas on the eastern side of the site. Approximately 76 acres at the southern end of the Project site is developed with a complex of recreational baseball, softball and soccer fields that are used by local sports clubs and teams but are part of the property owned by Marathon.

The Amorco MOT is on Assessor's Parcel numbers 378-010-010 and 378-010-030 in the City of Martinez. The Refinery and Avon MOT encompass the following Assessor's Parcels located in unincorporated Contra Costa County: 159-010-005, 159-120-031, 159-130-031, 159-020-001, 159-120-036, 159-140-036, 159-040-048, 159-120-037, 159-260-012, 159-100-008, 159-120-038, 159-260-013, 159-100-028, 159-120-039, 159-260-014, 159-110-030, 159-120-040, 159-270-003, 159-120-001, 159-130-006, 159-270-005, 159-120-006, 159-130-017, 159-270-006, 159-120-007, 159-130-018, 159-280-010, 159-120-009, 159-130-024, 159-280-011, 159-120-016, 159-130-026, 159-280-012, 159-120-018, 159-130-027, 159-290-002, 159-120-019, 159-130-028, 159-120-023, 159-130-029.

PROJECT DESCRIPTION

The proposed Project would repurpose the Refinery for production of fuels from renewable sources rather than from crude oil. Some existing Refinery equipment would be altered or replaced, and additional new equipment units and tanks would be installed, to facilitate production of fuels from renewable feedstock. Crude oil processing equipment that cannot be repurposed for processing of renewable feedstock would be shut down and removed from the Refinery based on an event-based decommissioning plan.

Construction activities would take place within the existing Refinery property. New equipment for the Project would be installed among existing refining equipment in the industrially developed portion of the property. Installation of new equipment or decommissioning of existing equipment not needed for the Project would not require removal of trees or grading of hilly terrain or rock outcroppings because of the location of the equipment within the developed Refinery footprint.

Upon completion of facility changes, the Refinery is anticipated to process up to approximately 48,000 bpd of fresh renewable feedstocks and would produce renewable diesel fuel, renewable propane, renewable naphtha, and, potentially, renewable aviation fuel. Initially, product from the Refinery would be distributed by truck to the Bay Area as well as Central and Northern California. Future regulatory changes may allow the facility to utilize existing petroleum-based product pipelines. Product would also be transported to destinations outside of the Bay Area by ship via the Avon MOT and Amorco MOT. Both terminals would undergo modifications to facilitate receipt of renewable feedstocks and distribution of renewable fuels associated with the proposed Project. Refined petroleum products would continue to be received, stored, and distributed through the Project Site but would not be further processed at the facility.

Marathon anticipates phasing in the project over a period of three years starting in 2022 with a maximum of 23,000 bpd and achieving full production capacity of 48,000 bpd of renewable feedstocks by the end of 2023. The Refinery would continue to operate 24 hours per day, seven days per week, and would be staffed by an estimated 110 workers per day on a rotating shift basis.

Clearing, grading, and other site preparation work would be completed prior to commencement of construction. Equipment to be used in site preparation and demolition for the Project would include lifts, air compressors, industrial saws, cranes, excavators, forklifts, tractors, loaders and welders, as well as light-duty vehicles (passenger cars and trucks) and heavy-duty vehicles (cement, dump and water trucks). Approximately 2.4 acres of grading would be necessary for the proposed Project, with grading limited to 48- to 60-inch-deep trenches to install utilities to new work units and foundations for new units and facilities.

ENVIRONMENTAL REVIEW

The County prepared an Environmental Impact Report (EIR) for the project (State Clearinghouse# 2021020289). The project EIR is composed of both a Draft EIR (Exhibit F) and Final EIR (Exhibit G). The Notice of Preparation (NOP) of the EIR was posted on February 17, 2021, and a public Scoping Meeting was held on March 15, 2021. Both written and oral comments were received during the NOP public comment period and the Scoping Meeting; the comments were responded to in the Draft EIR, which was

released for public review on October 14, 2021, with a Notice of Availability. A 60-day comment period for the Draft EIR extended from October 18, 2021, through December 17, 2021. During the comment period, the County received 251 comment letters on the Draft EIR for the proposed project. The comment topics included a wide breadth of concerns from local and state agencies as well as organizations and individuals. The major topics include Project Baseline, CEQA Alternatives, CEQA Cumulative Impacts, Land Use & Feedstock Impacts, and Public Safety. The County's Responses to the comments received are provided in the Final EIR that has been prepared for certification by the County Board of Supervisors.

The EIR for the proposed project identified six significant and unavoidable impacts related to air quality, biological resources, hazards, and water quality, including:

Air Quality

1. Nitrogen oxides (NO_x) emissions from rail traffic in Placer County and marine vessels in the SJVAPCD would exceed significance thresholds, resulting in significant and unavoidable impacts.
2. Though the Project would result in an overall reduction in air emissions from the Refinery, cumulative criteria pollutant health risk (i.e., emissions from the Project plus other development in the vicinity of the Project Site) would continue to exceed regional air quality thresholds of significance, and this impact would remain cumulatively significant and unavoidable.

Biological Resources

3. Adverse impacts to special status species, protected habitats, and migratory corridors and nursery sites for native species as a result of a major spill would remain significant and unavoidable.
4. Adverse impact to special status species, protected habitats, and migratory corridors and nursery sites for native species from introducing new nonindigenous aquatic species via ballast water and vessel biofouling to the San Francisco Bay Estuary waters remains significant and unavoidable.

Hazards and Hazardous Materials

5. Increased vessel calls would increase the potential for corresponding accidental releases of renewable fuel or feedstocks which would be significant and unavoidable.

Water Quality

6. A large spill could still occur and result in impacts on water quality that would be significant and unavoidable.

The County may approve the Project with significant adverse environmental impacts that are not mitigated if it finds that specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make imposition of mitigation measures or Project alternatives infeasible. (Public Resources Code Section 21081(a); CEQA Guidelines Section 15091(a)(3).) As noted above, prior to approving the Project with significant unavoidable adverse impacts, the County must also adopt a statement of overriding considerations that economic, legal, social, technological, or other benefits of the project outweigh the significant environmental effects of the project. (Public Resources Code Section 21081(b); CEQA Guidelines Section 15093.) The County can make the requisite findings and adopt the statement of overriding consideration that the potential benefits of the project do in fact outweigh the environmental impacts. The project's benefits include, providing jobs, improving air quality,

reducing the amount of hazardous materials in the area, reduction in greenhouse gas emissions, and decrease energy (electricity and natural gas) demand at the facility. The County's findings and statement of overriding consideration are attached to this staff report in the project's findings and proposed conditions of approval.

In addition, other potentially significant impacts were also identified, all of which can be mitigated to a less-than-significant level. These impacts affect the environmental topics of:

- Air Quality
- Biological Resources
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality

Environmental analysis contained in the EIR determined that measures were available to mitigate these potential adverse impacts to less-than-significant levels. (Public Resources Code Section 21081(a); CEQA Guidelines Section 15091(a)(1).)

As discussed previously, a Final EIR has been prepared that includes the written comments received on the Draft EIR and the County's responses to the comments received. The Final EIR also includes County-initiated updates and errata to the Draft EIR. These errata constitute minor text changes to the Draft EIR and occurred in Chapter 1 Introduction; Chapter 2 Project Description; Chapter 3 Environmental Impact Analysis, Methodology and Baseline, Section 3.3 Air Quality, Section 3.4 Biological Resources, Section 3.5 Cultural Resources, Section 3.8 Greenhouse Gas Emissions, Section 3.9 Hazards and Hazardous Materials, Section 3.10 Hydrology and Water Resources, Section 3.15 Utilities and Service Systems; and Chapter 4 Cumulative Impacts. All changes are identified in chapter 4 of the Final EIR. The changes were made primarily to correct grammatical and typographical errors, as well as to improve accuracy and readability of certain passages. The text changes are not the result of any new significant adverse environmental impact, and do not alter the effectiveness of any mitigation included in the pertinent section, and do not alter any findings in the Draft EIR. Pursuant to CEQA Guidelines Section 15088.5(a), recirculation of a Draft EIR is required only if:

“1) a new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented;

2) a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance;

3) a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it; or

4) the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.”

None of the text edits or changes to the Draft EIR meet any of the above conditions. Therefore, recirculation of any part of the Draft EIR is not required. The information presented in the project EIR support this determination by the County.

Pursuant to CEQA Guidelines Sections 15091 and 15097, a Mitigation Monitoring Program has been prepared, based on the identified significant impacts and mitigation measures in the project EIR. The Mitigation Monitoring Program is intended to ensure that the mitigation measures identified in the EIR are implemented. The Mitigation Monitoring Program is included in Exhibit G herein. All mitigation measures are included in the Conditions of Approval.

STAFF ANALYSIS

1. General Plan Consistency

The Refinery equipment and related structures and facilities are on lands designated by the County General Plan as Heavy Industry (HI). The Avon Terminal, operated under a permit issued by the State Lands Commission, has a County General Plan land use designation of Water (WA). The pipeline between the Avon MOT and the Refinery is within a narrow strip of land designated as Open Space (OS). The City of Martinez General Plan maps the lands at the Amorco Tank Farm adjacent to the Amorco MOT as Industrial. The County General Plan describes the HI, WA and OS land use designations as follows:

Heavy Industry (HI): This designation allows activities requiring large areas of land with convenient truck, ship, and/or rail access. These uses are typically not compatible with residential uses in close proximity and the operations conducted may be characterized by noise or other conditions requiring spatial separation. Uses may include metalworking, chemical or petroleum product processing and refining, heavy equipment operation and similar activities. Light industrial land uses will be allowed within lands designated Heavy Industrial and they can be developed according to light industrial definition and standards found in that designation.

Water (WA): This designation is applied to approximately 68 square miles of water in San Francisco-San Pablo Bay and the portion of the Sacramento-San Joaquin River estuary system which is within the county. The designation is also applied to all large inland bodies of water such as reservoirs. Uses allowed in areas designated Water include transport facilities associated with adjacent heavy industrial plants, such as ports and wharves, and water-oriented recreation uses such as boating and fishing. Construction of new residences or commercial uses and the subdivision of land are inconsistent with this General Plan designation.

Open Space (OS): This land use designation includes publicly-owned open space lands which are not designated as Public and Semi-Public, Watershed, or Parks and Recreation. Lands designated Open Space include, without limitation, wetlands and tidelands and other areas of significant ecological resources, or geologic hazards. The Open Space designation also includes privately-owned properties for which future development rights have been deeded to a public or private agency. For example, significant open space areas within planned unit developments identified as being owned and maintained by a homeowners association fall under this designation. Also included are the steep, unbuildable portions of approved subdivisions which may be deeded to agencies such as EBRPD, but which have not been developed as park

facilities. Other privately-owned lands have been designated as Open Space consistent with adopted city general plans.

The most appropriate uses in Open Space areas involve resource management, such as maintaining critical marsh and other endangered habitats or establishing "safety zones" around identified geologic hazards. Other appropriate uses are low-intensity, private recreation for nearby residents. Construction of permanent structures (excluding a single-family residence on an existing legally established lot), not oriented towards recreation or resource conservation, is inconsistent with this designation. One single-family residence on an existing legal lot is consistent with this designation.

Of the approximately 2,000 acres owned by Marathon, approximately 100 acres of undeveloped area east of the Refinery tanks, plus the undeveloped acreage outside and east of the Refinery, are designated Parks and Recreation (PR) and (OS). Approximately 93 acres of the on-site recreational fields is designated Light Industry (LI). No new development on these undeveloped or recreational areas of the property is proposed with the Project.

In addition to the mapped land use designation, County General Plan land use-related policies that are applicable to the proposed Project include the following:

Noise Polices

Policy 11-1 establishes the acceptability of proposed new land uses within existing noise-impacted areas in accordance with the State of California General Plan Guidelines. The maximum exterior noise level considered to be "normally acceptable" for single-family residential uses is 60-dBA Ldn, and noise levels of up to 70-dBA Ldn are considered to be "conditionally acceptable." The maximum exterior noise level considered to be "normally acceptable," without condition, for industrial uses is 70-dBA Ldn. This policy does not apply to temporary noise levels, such as from construction. The project is not expected to create noises that would exceed thresholds within surrounding properties.

Policy 11-8 states that construction activities shall be concentrated during the hours of the day that are not noise-sensitive for adjacent land uses and should be commissioned to occur during normal work hours of the day to provide relative quiet during the more sensitive evening and early morning periods. These limitations would be included as conditions of approval.

2. Zoning Consistency

Zoning regulations for the County are adopted into Title 8, Zoning, of the Ordinance Code of Contra Costa County, which provides regulations for development of land in the unincorporated areas and includes by reference in County Code Section 84-2.002 a Zoning Map that assigns a zoning classification to each parcel within the County's jurisdiction. The Zoning Map classifies the lands on which the Refinery's equipment and tanks are located as H-I (Heavy Industrial) District. In the H-I District, heavy manufacturing, including but not limited to manufacturing or processing of petroleum, chemicals, lumber, and steel, are permitted uses of land. There are no minimum lot area, maximum height, or minimum setback regulations with which development in the H-I District must comply (County Code Sections 84-62.402 and 84-62.602).

Although fuel production facilities are permitted uses of land in the H-I District, the County Ordinance Code requires land use permits for specified development projects involving hazardous waste or hazardous material as specified in the County's Industrial Safety Ordinance (County Ordinance No. 98-48).

County Code Chapter 84-63 (Development Projects Involving Hazardous Waste or Hazardous Materials) requires a land use permit for specified development projects involving hazardous waste or hazardous material, based on a “hazard score.” The “hazard score” is determined based on specified factors, including if the development project will result in a new process unit, unless the process unit is otherwise exempt. Other input factors for determining the hazard score include the hazardous material being stored or handled, distance between the facility and the nearest sensitive receptor, size of the facility and transportation risk. As the Project includes the installation of new foundations and equipment units (e.g., pretreatment unit, hydrodeoxygenation units), a land use permit is required.

3. Traffic and Circulation

Normal Project operations would not interfere or conflict with existing transit, roadway, bicycle, or pedestrian activities. Transportation impacts during Project operation would be minimal. During construction, the proposed Project would have the potential to disrupt normal traffic and circulation on roadways and bicycle or pedestrian activities. Designated areas of aboveground construction for the proposed Project are zoned for industrial uses and operate at low traffic volumes and a high level of service under existing conditions. As discussed in Chapter 2, Project Description, of the Draft EIR, initial construction activities for the proposed Project are expected to begin in the second quarter of 2022, and are expected to be completed by 2024. Fuel processing would begin within the first year of construction. The construction activities for most of the components of the proposed Project would be expected to overlap during the Project’s peak construction period. Construction work shifts are expected to last about 10 hours per day during most portions of the construction schedule. During normal construction periods, one work shift per day is expected. During Refinery turnaround periods (when some of the Refinery Units would be shut down), two work shifts are expected and work may be conducted 24 hours per day.

Transportation conditions during construction were analyzed assuming the maximum number of construction trips. The traffic analysis in Section 3.14, Transportation, is based on a construction schedule that presumes a total of 1,400 workers, most working day shifts. During construction, the number of truck trips would be estimated at between 60 and 310 trips per day, depending on timing and phasing. A number of trips would be used for deliveries and distribution of petroleum coke and products manufactured at the Refinery.

Project truck trips would be scheduled to avoid peak travel times along major highways, and full road closures would not be expected. Caltrans began a major construction project in 2019 to modify the Interstate 680 and State Route (SR) 4 interchange configuration, which includes widening approximately four miles of SR 4 in both directions between Morello Avenue in Martinez and SR 242 by adding a third lane in both directions to improve on- and off-ramp merging. It is anticipated that the Caltrans project would be near completion by the initial phases of Project construction and would not overlap with peak Project construction conditions.

Due to the number of employees expected during Project construction, a short-term increase in vehicle trips and construction traffic would last for the duration of construction. The transportation impacts during Project construction would be less than significant. The Project would not require an increase in the number of workers required to operate the Refinery, and no long-term operational traffic impacts would be expected.

Refinery operations would not result in noticeable changes to emergency access or emergency response conditions. Project construction may have the potential to cause temporary traffic disruption and may require the use of alternate traffic routes. Emergency response providers in the vicinity of construction areas would be given advance notice of construction schedules and locations, road closures and possible alternate routes.

4. Drainage and Stormwater Management and Discharge Control

Proposed Project construction activities would be located within the existing Project Site, and Project activities are not expected to result in the construction of additional impervious surfaces that would substantially alter existing drainage patterns. There are no streams, rivers or other natural drainages within the Project Site that would be impacted by the construction of new units or equipment. Stormwater and surface runoff within the Project Site are already treated within the existing wastewater treatment plant and managed under a National Pollutant Discharge Elimination System (NPDES) permit. When Project operations commence, it is expected that the existing NPDES permit would be modified to include the new wastewater treatment equipment and reflect the new characteristics of the wastewater stream. The NPDES permit establishes limits for various contaminants (including oil and grease, biological oxygen demand, pH, whole effluent toxicity and other contaminants such as heavy metals). Wastewater would be required to be discharged in compliance with the NPDES permit. The Refinery wastewater streams from the previous refining operations and most of the stormwater runoff is collected and managed in the existing wastewater treatment system that is regulated by the San Francisco RWQCB under a NPDES discharge permit (Order No. R2-2015- 0033). The existing permit expired in 2020 but has been temporarily extended until an updated permit can be issued that reflects the new operations.

APPEAL OF THE COUNTY PLANNING COMMISSION'S DECISION

A Land Use Permit for the applicant's project was approved by the County Planning Commission on March 23, 2022. Public testimony was taken for and against the project. Commenters raised a number of concerns including adequacy of the project description, accuracy of the baseline evaluation, adequacy of the hazard analysis related to hydrogen, adequacy of food-system-impact review, job creation impacts, emissions impacts, and other issues, both positive and negative, regarding the project implementation. After the close of the hearing, the Planning Commission voted 6-0 to certify the Project environmental impact report and approve the land use permit application.

On March 28, 2022, Asian Pacific Environmental Network, Biofuel Watch, Center for Biological Diversity, Communities for a Better Environment, Richmond City Councilmembers Claudia Jimenez, Eduardo Martinez and Gayle McLaughlin, Friends of the Earth, Interfaith Climate Action Network of Contra Costa County, Natural Resources Defense Council, Rodeo Citizens Association, San Francisco Baykeeper, The Climate Center, Sunflower Alliance, and 350 Contra Costa County (Appellants) filed a joint appeal with the Department of Conservation and Development, Community Development Division, over the decision of the County Planning Commission to certify the Project environmental impact report and approve the land use permit. The Appeal presents five general issues:

- The Final Environmental Impact Report (FEIR) fails to disclose information on issues critical to assessing the Project and fails to define and consider appropriate mitigation for significant impacts;
- The FEIR fails to comply with the California Environmental Quality Act (CEQA) requirement to respond to public comments;

- The County Has Made No Findings Concerning Choice of Alternatives and Throughput Volumes;
- The FEIR presents critical information describing the Project for the first time; and
- The Statement of Overriding Considerations unlawfully purports to override significant impacts that could have been feasibly mitigated.

The Appeal then notes specific comments on the content of the FEIR, with reference to the general issues above regarding impact assessment, mitigation measures, responses to comments, Project information, and the Statement of Overriding Considerations. Staff has prepared the following response to the Appeal to addresses those specific comments, as listed in the Appeal under the headings quoted below (for clarity, specific comments under the Appeal headings are enumerated).

I. Appellants contend: “The Decision to Certify the FEIR is Contrary to Law and Not Supported by Substantial Evidence”

(a) Project description

The Appeal states that the Project Description does not identify “hydroprocessed esters and fatty acids” (HEFA) as the technology that will be utilized by the proposed Project during refining of renewable feedstocks. This appeal point is without merit because the project description does identify the proposed processes in sufficient detail and adequate under CEQA Guidelines 15124(c).

CEQA Guidelines Section 15124(c) states that a Project Description should provide “a general description of the project’s technical, economic, and environmental characteristics...” Information regarding refinery operations was included in the DEIR in Section 2.5, Project Operations and Table 2-1: Refinery Equipment Modifications, which includes a description of how refinery equipment would be used during operations. As provided, the key components of the proposed renewable fuels processing – the use of hydrotreaters, the use of hydrogen, and the use of vegetable oils or animal fats – are described. This information provided the basis for the impact analysis conducted in the DEIR. In response to comments from the public on the DEIR regarding safety concerns, in particular air quality impacts from flaring, Master Response 5: Public Safety (pages 3-37 to 3-43 of the FEIR) provides additional details to clarify the information provided in the DEIR on refinery operations. The response clarifies that “HEFA” is the technical name of the refining process for renewable feedstocks that is described in Section 2.5 and Table 2-1.

CEQA Guidelines Section 15140 state that “EIRs shall be written in plain language ... so that decision makers and the public can rapidly understand the documents.” The term “HEFA” is technical and non-descriptive— not ‘plain language.’ Its use in Master Response 5 of the FEIR was in response to its use by the Appellant in their comments on the DEIR. It was unnecessary to use the term in the Project Description of the DEIR; as acknowledged by the Appellant in their DEIR Comment at O12-24, which states "it can be discerned nonetheless that HEFA is, in fact, the proposed technology, based on the Project’s sole reliance upon repurposed refinery hydrotreaters and hydrocrackers for feed conversion to fuels, and upon repurposed refinery hydrogen plants to produce and supply hydrogen for that hydro-conversion processing." Therefore, the information provided in Section 2.5, Project Operations and Table 2-1: Refinery Equipment Modification of the DEIR was of sufficient detail for Appellants to identify the processing technology by name as HEFA.

No new or additional potentially significant environmental impacts arise from identifying the refining process as “HEFA” in the FEIR, nor does it change either the type of environmental impacts arising from the project or their severity. All materials and processes for the refining of renewable feedstocks were evaluated in as much detail as necessary to discern the potential impacts of the project. Therefore, the Project Description is adequate under CEQA Guidelines 15124(c).

(b) Baseline

The Appeal states that the FEIR did not respond to evidence that Refinery closure since April 2020 is permanent and is related to Marathon’s consolidation of operations and to market conditions. The Appeal states that Marathon’s maintenance of various permits for Refinery operation is related to the Avon and Amorco marine oil terminals (MOTs) which would continue operations to serve Project feedstock shipments. The Appeal restates the comments on the DEIR, that the CEQA baseline should be non-operation of the Refinery, and that this would require analysis of Project impacts against that baseline. This appeal point is without merit because the FEIR provides a thorough description of the selected baseline, including the basis for its selection and that selection’s compliance with CEQA Guidelines Section 15125, and relevant case law.

FEIR Chapter 3, Section 3.1.1, Master Response 1: CEQA Baseline, addresses those issues. The section titled “Petroleum Processing at the Refinery,” pages 3-4 to 3-10, acknowledges the market trends in the comments on the DEIR, but concludes that “[w]hile the data in the comments indicate recent trends, the conclusion that Marathon would not re-start petroleum processing at this specific site is speculative” (page 3-5); Master Response 1 continues and presents specific data on crude, diesel, jet fuel, and gasoline consumption in California that supports continued petroleum refining. The FEIR concludes, on page 3-9, that:

“Upon review of the data from the CEC and U.S. EIA, the demand for petroleum-based products appears to support the continued operation of the Refinery should the Project not be implemented. Furthermore, Marathon has continued to comply with all regulatory requirements and maintain all permits necessary for crude oil refining, providing a path for continued operations if the Project is not implemented. Therefore, as presented in this Master Response, the Draft EIR definition of the baseline condition is accurate, and Marathon maintains a feasible option to re-start petroleum process at the Refinery.”

The FEIR further supports the conclusion of continued crude feedstock processing by describing the maintenance of permits. Master Response 1: CEQA Baseline, FEIR page 3-4 states:

“Though Refinery operations are currently suspended, Marathon has the option of restarting petroleum processing at the Refinery. Marathon has continued to comply with all regulatory requirements and maintain all permits necessary for crude oil refining. For example, the Refinery has maintained and updated all air permits for operation as an oil refinery and has maintained its Standard Industrial Classification (SIC) code as an oil refinery, which triggers regulatory requirements with which the Refinery continues to comply. Table 3-1, Current Permits to Operate Martinez Refinery lists those permits. Based on this

information, there is no basis for expecting that operations would cease indefinitely, and the use of the 5-year baseline correctly captures fluctuations (even zero production) in the product manufacturing facility.”

As stated by the Appellants, the permits listed in Table 3-1 do, in part, relate to operation of the Avon and Amorco MOTs, and this permit maintenance is necessary for the future use of the facility for renewable feedstocks, and current petroleum storage and transfer operations. But maintenance of these MOT-related permits would also be required for resumed petroleum refining operations, and supports the conclusion that the refinery could continue to process crude feedstocks because the terminals and associated vessel call limits are adequate and necessary for the importation of crude for petroleum refining. Furthermore, these are not the only permits listed in Table 3-1. Marathon's current BAAQMD permits are valid through December 31, 2022, and authorize petroleum-processing facilities at the Refinery. This permit information is part of the public record. Marathon has submitted an additional memorandum, dated April 14, 2022, further supporting the permit maintenance to date related to petroleum refining. This additional information supports the analysis and conclusions of the environmental impact report, and is not significant new information.

Master Response 1, pages 3-1 to 3-10, explains in detail that the DEIR baseline methodology is consistent with CEQA Guidelines Section 15125(a), Environmental Setting, and direction on the environmental baseline. Master Response page 3-2, states:

“Draft EIR Chapter 3, under Assessment Methodology – CEQA Requires a Baseline for Impact Analysis, pp. 3-1 to 3-7, presents further detail on the Project baseline, including a review of baseline requirements, review of historical operational data, and rationale for selection of the Project baseline for the EIR analysis.”

The Master Response, page 3-3, continues:

“Draft EIR Chapter 3, under Project Operational Data Informing Selection of Baseline, presents historic petroleum processing throughput at the Refinery over a 5-year period, and annual vehicle and vessel traffic over a 5-year period. Draft EIR p. 3-6 then states, “The two primary factors for baseline selection were representativeness and conservativeness. Based on the 5-year turnaround, reduced pandemic production, and interest in a conservative baseline, the County has selected the 5-year average as the baseline.””

The DEIR, as cited in the Master Response, details that the 5-year average from October 1, 2015 to September 30, 2020 as a CEQA baseline captures the period from April 2020 to September 2020. The current non-operation of petroleum processing at the Refinery is incorporated as part of the overall 5-year average baseline case. The FEIR appropriately documents the selection of the 5-year average as the baseline, using detailed information on operations at the Refinery.

That approach is consistent with CEQA Guidelines Section 15125, and relevant case law cited in the Master Response. Non-operation of the Refinery would therefore not be the appropriate baseline for the environmental setting for the Project analysis.

(c) Operational upsets

The Appeal states the HEFA biofuel processing can lead to increased process upsets, including corrosion of equipment as potential contributors to process upsets and that flare operations at the Refinery would have pollution risks that should be disclosed and mitigated. This appeal point is without merit because the FEIR fully reviewed the process hazards related the project, based on the proposed hydrotreating process.

FEIR Chapter 3, Section 3.1.5, Master Response 5: Public Safety, pages 3-37 to 3-43 presents a complete response to process safety and flaring operations raised in comments on the Draft EIR and in the Appeal. In summary, renewable fuel processing with the Project would result in similar or reduced process hazards compared to petroleum operations, and flaring conditions would be reduced.

Master Response page 3-38, discussed process upsets with the Project:

“All hydrogen processing units, regardless of feedstock, must be evaluated for process safety risks. A principal purpose of process safety is to reduce the magnitude of incidents, thereby reducing the harm to people and environment. All refinery design changes undergo review by cross disciplinary teams to ensure the proposed design meets the process safety management (PSM) requirements and acceptable level of risk. As part of the engineering and planning process, Marathon has conducted facility siting analyses, process hazard analyses (PHAs), damage mechanism reviews, and management of changes. The facility siting analysis and PHA are described below.”

Discussing the siting analysis, Master Response page 3-38, continues:

“In petroleum refining, there are many worst-case releases, including failure of butane storage, alkylation unit, cat cracker, sulfur plant, ammonia plant, or hydrogen. With HEFA technology, there are only two such scenarios: hydrogen and propane release. The worst-case scenario for a hydrogen release is based on the maximum amount of hydrogen produced, which would be the same both pre- and post-Project conditions. Because the controlling scenarios would exist both pre- and post-Project, there would be no increased process safety risk from renewable feedstock refining. There would be an overall decrease in worst-case releases because most of the potential toxic releases noted above would be eliminated with the transition from petroleum to renewable feedstock refining.

“The causal events for upset conditions in hydrotreating would be the same for HEFA and petroleum. Those events include loss of cooling, loss of power, loss of feed, and loss of hydrogen. Since there is no change to the feed supply, cooling source, feed pumps, and hydrogen plants between hydrotreating petroleum and hydrotreating HEFA, the risk of a causal event that would result in a process upset would be the same for HEFA and petroleum. Therefore, the transition from petroleum processing to HEFA would not result in more or additional process upsets.”

Master Response pages 3-42 to 3-43 documents that renewable fuel processing temperatures would be lower than petroleum processing temperatures, and thus would lower the process safety risk:

“Process safety risk reduction measures are evidenced in the number of finite elements that are required for temperature and pressure control during the refining process. The more elements a process has, the higher

the probability of a failure. Hydrotreating depends on temperature and pressure control. Temperature is controlled by flow, furnaces, and heat exchangers. In the repurposed 3HDS unit there were 17 shell and tube exchangers; in the new 3HDO unit there would be 10 shell and tube exchangers. As a Refinery, the site has maintained 1,276 shell and tube heat exchangers controlling temperature and reactions as high as 900+°F. In summary, the new process would have less equipment to monitor and maintain than a traditional HDS unit.

“Although more heat is produced when a hydrogen molecule reacts with an oxygen molecule during HEFA processing than when hydrogen reacts with sulfur during petroleum processing, in HEFA the reaction occurs at a much lower operating temperature. Most chemical reactions require heat to promote the reaction. Due to the amount of aromatics in the petroleum feed that need to be hydrotreated to meet the CARB Diesel specification, the reactor operated at approximately 650° F. In the proposed processing, the HEFA reactor temperature would be approximately 535°F. Since a lower temperature is needed and the reaction is more exothermic, less heat is added from external sources. For example, during petroleum processing in the 3HDS unit, two gas fired furnaces ran with all seven burners lit. In the HEFA 3HDO reaction, only one gas fired furnace would run with only four burners lit. Overall, the heat balance is the same whether the heat comes from the reaction or an external source like a furnace. This leads to not only a process safety risk reduction but also an environmental improvement.”

Regarding potential process risks from equipment corrosion, Draft EIR Chapter 3.9, Hazards and Hazardous Materials, 3.9.1 Environmental Setting, 3.9.1.1 Regulatory and Policy Context, pages 3,9-1 to 3,9- 8 presents federal, state, regional, and local safety requirements with which Project refinery and pipeline operations would comply.

Section 3.9.3, Impacts and Mitigation Measures, pages 3.9-17 and 3.9-18 identifies Impact HAZ-2: Create a hazard to workers, the public, and/or the environment through exposure to existing hazardous materials at the site, as a less than significant impact.

The impact discussion notes that “(h)owever, the total amount of crude oil processed would be decreased; thereby decreasing the amount of hazardous materials used in the processing as well a reduction in air toxics such as hydrogen sulfide and benzene handled at the facility. In addition, lower quantities of crude oil would be stored on the Site, and the shutdown of petroleum refining units would result in the operation of fewer units, boilers, vessels, towers, columns, fugitive emissions and other similar equipment, generally reducing the overall hazards associated with the Project.”

The impact analysis cites Cal/OSHA regulations that apply to the use, handling, storage and disposal of hazardous materials, requiring “business emergency response plans to assist local administering agencies in the emergency release or threatened release of a hazardous material. The facility’s plan would be updated to reflect the changes in operations associated with the proposed Project.”

The analysis notes that “(up)date of the facility’s current Safety Plan (Injury and Illness Prevention Program [Marathon 2020]) to reflect changed conditions and continued implementation of the Plan would assist in reducing hazards of explosive or otherwise hazardous materials. Continued compliance with these and other federal, state and local regulations and proper operation and maintenance of equipment would minimize

the potential impacts of hazardous materials, and therefore, potential for exposure to existing hazardous materials would be less than significant.”

Regarding flaring, as described in Master Response 5, Public Safety, the use of flares is often planned during maintenance activities, including startup and shutdown, as scheduled maintenance activities can result in higher-than-normal flow of material to the flare. During equipment maintenance, the equipment and associated piping must be cleared of hydrocarbon before opening, based on both safety and environmental considerations, including compliance with BAAQMD Regulation 8 Rule 10 (Process Vessel Depressurization). Typical procedures include multiple steps of depressurization and purging with nitrogen or steam to the flare header. Other planned uses include startup of hydrogen plants, as off-spec hydrogen with excessive carbon monoxide can poison catalyst, induce hydrogen imbalances, fuel gas imbalances, Gas Plant shutdowns, and flare gas recovery compressor shutdowns. Unplanned uses of flares include compressor trips due to vibration from earthquakes, power outages, instrument malfunctions, and unit upsets. There would be no change to the planned and unplanned use of flares with implementation of the Project, and the pre- and post-project flare emissions are detailed in the FEIR.

Therefore, compared to petroleum refining operations, the Project would have similar or reduced risks from corrosion hazards or other equipment failures.

Master Response page 3-39, regarding flare operations with the Project states:

“The method for flare use would not change between pre- and post-Project conditions; however, the Project would reduce the number of flare units from nine to six and therefore fewer flaring events would be expected. The Refinery uses nine open stack gas flares for petroleum processing and has two flare gas recovery compressors, of which normally one is in operation; the second compressor is started up during turnaround to capture and recover more gases. With implementation of the Project, the number of gas flares would be reduced to six. There would be no change to the flare gas recovery compressors number or use.”

FEIR Table 3-2. Pre- and Post-Project Refinery Flare Emissions (Tons per Year), Master Response pages 3-39 to 3-43, presents flare emissions estimates for 40 potential pollutants; in each case, post-Project emissions would be reduced compared to pre-Project conditions.

With regard to flare operations monitoring or mitigation, Master Response page 3-42 notes that “[t]he Refinery’s permitting flare limits and monitoring requirements are specified by regulatory limits and BAAQMD permits,” and lists three specific permit and three specific reporting requirements that would continue to apply with Project operations.

The DEIR Introduction, Section 1.5, Use of this EIR by Responsible Agencies, page 1-3, notes that BAAQMD is a responsible agency that would consider the EIR in reviewing and approving permits for the Project. BAAQMD permits could include an updated flaring plan:

“In addition to land use permit approval by the County, the Project requires permits from other federal, state and local agencies including the United States Army Corps of Engineers, Bay Area Air Quality Management District, San Francisco Bay Conservation and Development Commission, San Francisco Bay Regional Water Quality Control Board and California State Lands Commission. California state and regional agencies are considered to be responsible agencies under CEQA and must comply with CEQA by considering the environmental impact report prepared by the lead agency. However, responsible agencies

must each reach their own conclusions on whether or how to approve their respective permits for the Project (CEQA Guidelines Section 15096).”

Therefore, Project process hazards and flaring operations impacts would be similar to, or reduced, compared to petroleum processing operations.

(d) Food system oil consumption

The Appeal includes statements essentially repeating comments submitted on the DEIR regarding potential land use impacts from soybean oil and corn oil consumption for renewable fuel feedstocks; criticism of the reliance on the California Air Resources Board (CARB) Low Carbon Fuel Standard (LCFS) review of indirect land use impacts; and requests that Marathon specify the source of renewable fuel feedstocks for the Project. This appeal point is without merit because the food-system related issues were fully addressed in the FEIR at a level of detail that was consistent with CEQA Guidelines Sections 15064(d) and 15358(a)(2).

The Appeal, in discussing potential deforestation effects related to increased renewable fuels production, cites a document, “Animal, vegetable or mineral (oil)? Exploring the potential impacts of new renewable diesel capacity on oil and fat markets in the United States,” published in January 2022. The document was not submitted during the DEIR public comment period and is therefore not addressed in the response to comments in the FEIR. Staff has since reviewed the document and finds that its contents do not alter the conclusions found in Master Response 4 of the FEIR.

FEIR Chapter 3, Section 3.1.4, Master Response 4: Land Use & Feedstocks, pages 3-21 to 3-37, addresses DEIR comments on the LCFS program, indirect land use impacts, and feedstock source and mixes.

Master Response pages 3-21 to 3-26 reviews the applicability of the LCFS program to evaluating impacts from the Project. The DEIR and the Master Response acknowledge that the LCFS program is a state-wide, long-term effort, and concludes on Master Response page 3-26 that “[t]herefore, the Project’s production of biofuels would be consistent with the State’s Low Carbon-Intensity Liquid Fuels goals.

Master Response page 3-27 introduces a detailed discussion of indirect land use issues:

“Regarding the potential for indirect land use changes associated with the Project’s feedstock supply, including deforestation, the Draft EIR appropriately assesses the land use impacts associated with the Project’s use of crop-based feedstock.

“CEQA requires that indirect physical changes resulting from a project be addressed only to the extent they are ‘reasonably foreseeable,’ pursuant to CEQA Guidelines Sections 15064(d) and 15358(a)(2), and those indirect impacts can be addressed in more general terms than direct impacts ‘where it would be difficult to predict them with any accuracy.’ Further, CEQA does not require evaluation of speculative impacts, pursuant to CEQA Guidelines Sections 15064(d)(3) and 15145. While potential upstream land use changes are difficult to predict with accuracy, the Draft EIR does address indirect land use effects related to biofuel feedstocks.”

Master Response pages 3-27 to 3-31 then details the LCFS program’s disincentives to use of feedstocks with high carbon intensity; page 3-29 cites the DEIR conclusions:

“The Draft EIR, Chapter 3.8, p. 3.8-15, also explains how the credit and deficit system at the heart of the LCFS framework operates as a disincentive to the production of fuels from feedstocks that result in upstream land use changes:

‘[B]iofuels produced from feedstock with a high land use change score will be disadvantaged; that is, they would produce greater deficits or fewer credits, relative to those produced from a feedstock that causes less land use change. This creates an economic incentive for producers to utilize the lowest CI feedstock available, as the product’s value is inextricably linked to the number of credits it can produce.’”

Master Response pages 3-30 to 3-31 discusses the uncertainty on the links between biofuel development and deforestation and the complications quantifying them:

“The difficulty in accurately predicting the upstream land use impacts of crop-based biofuels is further exacerbated when, as is the case here, a mix of feedstocks is used. Commenters themselves acknowledge this uncertainty, noting that ‘the environmental and climate impacts’ of different biofuel feedstocks “may vary.’ (Comment O12-41). Among this feedstock mix, Commenters pay special attention to the Project’s anticipated use of soybean oil (“SBO”). Specifically, Commenters argue that the Project’s potential to create a demand shock for SBO will lead to increased demand for other crops worldwide, including palm oil, and will ultimately result in deforestation in the Brazilian Amazon and Indonesia (see for example comments O12-62, O12-63, and I1-8).

“There are reasons to doubt this conclusion, which itself depends on complex variables, such as the relative price-elasticities of crop-based cooking oils and consumers’ willingness to substitute them. As a threshold matter, Marathon has said it would not use palm oil as part of the Project, and the comment’s market-based argument is necessarily indirect by nature.”

Master Response pages 3-31 to 3-32 further addresses feedstock sources:

“The comments raise the concern that the Project would rely on non-waste food system oils and the Draft EIR did not describe the specific blend of feedstocks. The comments argue that the EIR must ‘specify the exact amount of each feedstock that will be used in the Project year to year’ or otherwise the County must evaluate a reasonable array of feedstock scenarios, including a ‘reasonable worst-case scenario’ for feedstock consumption and its impacts.

“Draft EIR Chapter 2, Project Description, p. 2-36, notes that the Project is ‘expected to include’ three identified feedstocks: (1) distillers corn oil (DCO), soybean oil (SBO), and tallow or previously rendered fats. Processing facilities for these feedstocks ‘are usually in the region of the initial agricultural suppliers, such as the Midwest’ and ‘as technology evolves, other biological fuel sources such as used cooking oils, and plant and animal processing by-products, may also be used as feedstock using substantially the same equipment and processes as those proposed under the proposed Project.

“The Draft EIR specified presently contemplated project feedstock, and CEQA does not require speculation about future fuel sources that might materialize. CEQA Guidelines Sections 15124(c) and (d) require a general description—avoiding ‘extensive detail’—of the project’s technical, economic, and engineering characteristics.”

(e) Odor mitigation plan

The Appellants contend that by allowing an Odor Management Plan to be developed during the construction phase of the Project, the County improperly deferred mitigation for odor impacts. This appeal point is without merit because the FEIR provides adequate detail of the Odor Management Plan and the plan would not be deferred, it would be implemented as a mitigation with the project prior to operations.

Mitigation Measure AQ-2 requires the Applicant to prepare and implement an Odor Management Plan to address odor issues facility-wide prior to operations. CEQA allows an agency to defer the specific details of a mitigation measure when it is impractical or infeasible to include these details during the project's environmental review provided that the agency (i) commits itself to the mitigation, (ii) adopts specific performance standards that the mitigation will achieve, and (iii) identifies the type(s) of potential action(s) that can feasibly achieve those performance standards [CEQA Guidelines Section 15126.4(a)(1)(B)]. Mitigation Measure AQ-2 meets those criteria: the measure requires the County to confirm that the Applicant has prepared and implemented an Odor Management Plan prior to operations; adopts specific, objective, and measurable performance standards, in this case regarding the number of odor complaints; and directs the Applicant to identify equipment and procedures to use to address odor issues, including operating procedures to inspect and evaluate the effectiveness of odor control equipment and operation of the wastewater treatment plant, and specifies remedial actions in the event that the performance criteria are not met.

Proper deferment requires the agency to ensure that the mitigation will be in place prior to implementation of the project component that triggers the need for mitigation. In this case, the potential for objectionable offsite odors arises from project operations and not construction. Because the Odor Control Plan would be implemented prior to project operations, its timing is not improperly deferred.

Furthermore, the FEIR details many of the specific technologies that would be implemented with the project. Impact AQ-5 analysis states, "Odor management controls including, but not limited to, carbon sorption, incineration, biofilter use, and chemical scrubbing, all in conjunction with a vapor recovery system and nitrogen blanketing of storage tanks are being evaluated to determine the most effective and practicable method to reduce odors from the storage tanks and loading and unloading activities. These options are the most utilized odor control methods for biofuel production. The chosen method will be reviewed with the BAAQMD and County prior to implementation." This detailed list of implemented technologies provides thorough information about the details of the OMP. These mitigations are further strengthened by the requirement that the chosen method be reviewed with the BAAQMD and County prior to implementation of the project.

(f) Cumulative impacts

The Appeal states that the FEIR does not adequately account for cumulative impacts of the Project and the nearby Phillips 66 Rodeo Renewed project, with respect to food crop markets and related land use impacts. This appeal point is without merit because the FEIR adequately addressed cumulative impacts associated with the project pursuant to CEQA guidelines.

The Appeal, in discussing potential deforestation effects related to increased renewable fuels production, cites a document, "Animal, vegetable or mineral (oil)? Exploring the potential impacts of new renewable diesel capacity on oil and fat markets in the United States," published in January 2022. The document was not submitted during the DEIR public comment period and is therefore not addressed in the response to

comments in the FEIR. Staff has since reviewed the document and finds that its contents do not alter the conclusions found in Master Responses 3 and 4 of the FEIR, which address concerns related to cumulative impacts and feedstock-based-demand land use changes.

FEIR Chapter 3, Section 3.1.3, Master Response 3: CEQA Cumulative Impacts, pages 3-17 to 3-21 addresses the DEIR analysis of cumulative impacts of the Project and the Phillips 66 Rodeo Renewed project (“Phillips 66 project”). Master Response page 3-18 notes that the analysis of cumulative impacts to air quality, biological resources, energy, and greenhouse gases (GHG) specifically included the Phillips 66 project.

Regarding cumulative indirect land use impacts, Master Response 3 references Master Response 4: Land Use & Feedstocks, which states:

“Some comments assert that the Draft EIR’s discussion of cumulative impacts from the Project and other similar projects is inadequate.

“The Draft EIR, Chapter 4, Cumulative Impacts, Section 4.2, Related Projects Considered in the Cumulative Impact Analysis, identifies related projects, including other refiners of renewable fuels. Section 4.3, Cumulative Impacts to Environmental Resources, pp. 4-7 to 4-16, explicitly addresses the potential for cumulative direct environmental impacts from those similar projects. While such direct impacts can be understood and assessed with greater clarity, the comments characterize land use emissions associated with these feedstocks as ‘difficult-to-predict’ (see for example O12-88). For cumulative indirect impacts as suggested in the comments, there are again limits to how accurately they can be predicted in the Draft EIR. As such, the Draft EIR discusses those upstream impacts at an appropriate level of generality. Since this generality is appropriate for the Project alone, it is likewise appropriate when considering the cumulative upstream impacts from the Project and other similar projects, each with their own blend of feedstock types and sources. In sum, the Draft EIR identification of an extensive list of similar projects, together with an appropriate discussion of upstream land use changes, is adequate under CEQA.

“In addition, CEQA case law makes clear that the Draft EIR’s discussion of these cumulative impacts is sufficient. The discussion of cumulative impacts need not provide as great detail as is provided for the effects attributable to the project alone and should be guided by the standards of practicality and reasonableness.”

As discussed above, the Appeal references a January 2022 study, in addition to others cited in comments on the DEIR, that addresses potential deforestation effects resulting from increased renewable fuel production on a world-wide basis. The Master Response 4 conclusions noted above, regarding the appropriate level analysis of such cumulative impacts, would continue to apply.

(g) California climate pathways

The Appeal states that the County did not consider the Appellants' DEIR comments related to how the Project would produce an oversupply of renewable diesel that exceeds the supply anticipated in analysis of California's climate pathways and that the Project would therefore be inconsistent with California's climate

pathways. This appeal point is without merit because the FEIR provided a detailed analysis of the project's consistency with Senate Bill 32 and the 2017 Climate Change Scoping Plan Update.

The appeal references pages 44 through 58 and 72 through 75 of the Appellants' comment response to the DEIR. These sections of the comment letter are related to the adequacy to disclose and address project greenhouse gas and climate impacts related to biofuel oversupply (p. 44-58) and the cumulative impacts analysis consideration of biofuel production on the State's Climate Goals (p. 72-75). Each individual comment within these pages was identified and responded to as detailed in FEIR Chapter 3, Response to Comments. These comments are responded to in Master Response 3, Cumulative Impacts, Master Response 4, Land Use & Feedstocks, Response O12-90 Response O12-94, and Response O12-95.

The climate pathways analysis referred to is a series of technical studies prepared by Energy and Environmental Economics, Inc. to help inform considerations for the initial development of the Assembly Bill 32 2022 Scoping Plan Update by the California Air Resources Board. When complete, the 2022 Scoping Plan Update will assess progress towards achieving the Senate Bill (SB) 32 2030 target of statewide greenhouse gas emissions reduced to 40% below the 1990 level by 2030, and lay out a path for the State of California to achieve carbon neutrality no later than 2045. The 2022 Scoping Plan Update and associated pathways, however, are still in workshop phase; they are under development and have not gone through the Rulemaking process and have not been adopted; they are therefore not applicable to the proposed Project, thus, the project is not inconsistent with them. Furthermore, the analysis referenced in the Appeal summarizing California climate pathways body of research was acknowledged for the record and provided as part of the FEIR to the decision-making bodies for their consideration in reviewing the Project.

The Project was analyzed for consistency with SB 32 and the 2017 Climate Change Scoping Plan Update, which is in place and therefore applicable to the proposed Project at the time the DEIR was published. The 2017 Scoping Plan was described in the DEIR on pages 3.8-11 and 3.8-12 of Section 3.8.2, Greenhouse Gas Emissions. Consistency with the applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions was analyzed in Impact GHG-2 on DEIR page 3.8-22 and found to be less than significant.

As stated in the previous section, the FEIR addresses the cumulative impacts at an appropriate level of analyses, as explained in Master Response 3 and Master Response 4. The analysis is also adequate when considering consistency with SB 32.

“The Draft EIR, Chapter 4, Cumulative Impacts, Section 4.2, Related Projects Considered in the Cumulative Impact Analysis, identifies related projects, including other refiners of renewable fuels. Section 4.3, Cumulative Impacts to Environmental Resources, pp. 4-7 to 4-16, explicitly addresses the potential for cumulative direct environmental impacts from those similar projects. While such direct impacts can be understood and assessed with greater clarity, the comments characterize land use emissions associated with these feedstocks as ‘difficult-to-predict’ (see for example O12-88). For cumulative indirect impacts as suggested in the comments, there are again limits to how accurately they can be predicted in the Draft EIR. As such, the Draft EIR discusses those upstream impacts at an appropriate level of generality. Since this generality is appropriate for the Project alone, it is likewise appropriate when considering the cumulative

upstream impacts from the Project and other similar projects, each with their own blend of feedstock types and sources. In sum, the Draft EIR identification of an extensive list of similar projects, together with an appropriate discussion of upstream land use changes, is adequate under CEQA.

“In addition, CEQA case law makes clear that the Draft EIR’s discussion of these cumulative impacts is sufficient. The discussion of cumulative impacts need not provide as great detail as is provided for the effects attributable to the project alone and should be guided by the standards of practicality and reasonableness.”

The cumulative impact analysis is sufficient as required by CEQA, thus, evaluating the consistency of all renewable fuels projects is not necessary to determine the project's consistency with SB 32 and California's Climate Change Scoping Plan.

(h) Transportation risk impacts

The Appeal states that the FEIR does not adequately analyze the potential effects of spills of non-petroleum oils on the marine environment, what the cleanup of such spills would entail, and the Project’s responsibilities for cleanup of potential spills. This appeal point is without merit because fully analyzed these impacts and appropriate mitigation.

DEIR Chapter 3.4, Biological Resources, Chapter 3.9, Hazards and Hazardous Materials, and Chapter 3.10, Hydrology and Water Resources analyzed potential impacts of spills, and document that impacts of spills of vegetable oil or animal fat feedstocks would differ from that of petroleum oil spills. However, such Project impacts would still be a significant and unavoidable effect. DEIR Chapter 3.4, page 3.4-4 as revised by the FEIR, page 4-8 states:

“Renewable feedstocks – vegetable oils and animal fats – would be transported via barge to the Refinery terminals. Vegetable oils and animal fats share common physical properties with petroleum oils and produce similar environmental effects when spilled (EPA 2020). Like crude oil, vegetable oils and animal fats may sink and form tar balls or coat the benthic floor. These oils tend not to evaporate, but instead leave a thick, viscous residue on the surface of receiving waters. Vegetable oils and animal fats can:

- Coat animals and plants with oil and suffocate them;
- Be toxic and form toxic products;
- Destroy and degrade habitat by fouling shorelines, the water column and the benthic substrate;
- Produce rancid odors; and
- Linger in the environment for many years.”

“Research and previous spills have shown that release of animal fats and vegetable oils into water or overland kills or injure[s] wildlife. Wildlife, including waterbirds and fish, that become coated with animal fats or vegetable oils are unable to keep themselves warm, may suffer from dehydration, diarrhea, or starvation. Aquatic life can suffocate because of depletion of oxygen caused by spilled animal fats and vegetable oils in water.

“Marathon would be required to update the Refinery’s FRP [Facility Response Plan] and Spill Prevention, Control, and Countermeasure Plan (SPCC) to demonstrate preparedness to respond to vegetable oil and animal fat spills. However, there are limitations to thorough containment and cleanup of a major oil spill. As was determined in the Avon and Amorco EIRs, even with specific procedures to protect sensitive biological resources in the Project vicinity, adverse impacts to special status species, protected habitats, and migratory corridors and nursery sites for native species as a result of a major spill would remain significant and unavoidable.”

The DEIR acknowledges that the Project would eliminate the transport of materials like ammonia or sulfuric acid to the Refinery, while renewable feedstocks would be delivered to the Refinery. DEIR Chapter 3.9, page 3.9-16 states:

“The principal change associated with the proposed Project is that crude oil, the major portion of which is delivered to the Martinez Facility via marine vessel, would no longer be used as a feedstock. Instead, renewable feedstocks would be delivered to the Martinez Facility via marine vessel and rail. As a result of the Project, some commodities such as ammonia and sulfuric acid would no longer be transported, while commodities such as renewable feedstock, which includes vegetable oils (e.g., soybean oil and corn oil), rendered fats and other miscellaneous renewable feedstocks, would increase via rail transport.”

The FEIR includes several comments and responses on marine transportation risks and potential impacts of feedstock spills and mitigation.

The San Francisco Bay Conservation and Development Commission (letter A5) raised several points regarding marine risks. FEIR Response A5-9, pages 3-61 to 3-62 notes that:

“Potential environmental impacts and hazards to habitat areas caused by renewable fuels and feedstocks are discussed in the Draft EIR in Section 3.4, Biological Resources, on pp 3.4-40 to 3.4-41 and Section 3.9, Hazards and Hazardous Materials, on page 3.9-15. Additional details regarding environmental impacts and hazards from renewable feedstocks and renewable fuels are provided in Master Response 4: Public Safety and in responses to California State Lands Commission comments, particularly Response A6-31.

“Consistency with the San Francisco Bay Plan is analyzed in Draft EIR Section 3.4 Biological Resources on page 3.4-33. Safety plans, training, and incident planning required for Refinery operations and transfer of hazardous materials over water are discussed in Draft EIR Section 3.9, Hazards and Hazardous Materials.”

The DEIR and FEIR acknowledge that spill hazards and release of contaminants would be a potentially significant impact. FEIR Response A5-10, page 3-62 states:

“Response A5-10: Operational impact HWQ-1 discusses the protocols in place to minimize the potential for accidental releases. However, as stated in the Draft EIR, adherence to these protocols and spill response measures will not guarantee that contaminants will never be released. The probability of a serious spill would be minimized to the extent feasible with implementation of the SLC lease conditions, but the risk

cannot be eliminated. Because a large spill could still occur and result in impacts on water quality that would be significant and unavoidable, this impact is listed as ‘potentially significant.’”

The California State Lands Commission (letter A6) also presented comments on marine spills and agency or private-party responsibilities, in relation to the operation of the marine oil terminals (MOTs) that would serve the Project. FEIR Response A6-5, pages 3-63 to 3-65, presents the existing agency oversight and mitigation requirements for the Amorco and Avon MOTs. In particular, Response A6-5 cited Mitigation Measure HAZ-1 on DEIR pages 3.9-16 to 3.9-17 in Section 3.9, Hazards and Hazardous Materials, provides that oversight of transport of non-petroleum oils would be ensured, with the following clarification:

“If terminal operations do not allow for regular compliance and inspection of LKS [Lempert-Keene-Seastrand Oil Spill Prevention and Response Act] and MOTEMS [Marine Oil Terminal Engineering and Maintenance Standards] requirements by the CSLC [California State Lands Commission] and/or OSPR [Office of Spill Prevention and Response], Marathon shall employ a CSLC-approved qualified third-party to provide oversight as needed to ensure the same level of compliance as for a petroleum-handling MOT facility, and to ensure maximum protection of the environment from potential spills and resulting impacts.”

Thus, the FEIR appropriately evaluates the marine transportation risks associated with renewable fuel feedstocks.

II. Appellants contend: “The FEIR Fails to Comply with the CEQA Requirement to Respond to Public Comments”

The Appeal states that the FEIR does not respond to a range of comments and technical studies submitted as part of public comments on the DEIR. Therefore, the Appeal asserts, the FEIR does not meet CEQA Guidelines Section 15008, that requires responses based on reasoned analysis, with detail corresponding to the level of detail in the comments.

The Appeal notes general points about the organization of the FEIR, Master Responses, and other responses, and how individual responses reference the Master Responses. The Appeal then presents three specific topics as inadequately addressed in FEIR: the problem of runaway reactions and corrosion of equipment as potential contributors to process upsets; the completeness of the cumulative analysis; and renewable fuel oversupply as it concerns California’s climate goals. Those three topics are addressed in detail in the FEIR as described herein:

- Response I(c) above addresses Appeal comments on process hazards.
- Response I(e) above addresses Appeal comments on cumulative impacts.
- Response I(g) above addresses renewable fuel oversupply issues as it concerns California’s climate paths.

III. Appellants contend: “The County Has Made No Findings Concerning Choice of Alternatives and Throughput Volumes”

Findings for Alternatives

The Appeal notes that the FEIR reviews the green hydrogen alternative and the reduced feedstock alternative; the latter is identified as the “environmentally superior” alternative but the Appeal states that the FEIR does not identify the “preferred alternative” and that identification of the “preferred alternative” should be supported by findings based on evidence in the record.

DEIR Chapter 5, Alternatives, pursuant to CEQA Guidelines 15126.6, Consideration and Discussion of Alternatives to the Proposed Project, analyzed the No Project Alternative, the Reduced Renewable Feedstock Throughput Alternative, and the Green Hydrogen Alternative. The chapter reviews impacts of each alternative for each environmental topic, noting the level of significance of the impact compared to the impacts of the Project. Section 5.4, Environmentally Superior Alternative, pages 5-11 to 5-13, cites CEQA Guidelines Section 15126.6(e)(2):

“The ‘no project’ analysis shall discuss the existing conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services. If the environmentally superior alternative is the ‘No Project’ Alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.”

Section 5.4, Table 5-1, Comparison of Proposed Project with Project Alternatives summarizes the alternatives analysis. The Project would have unavoidable significant environmental impacts, even considering implementation of feasible mitigation measures, related to air quality, biological resources, hazards and hazardous materials, and hydrology. Table 5-1 shows that the Reduced Throughput Alternative would have the same significant unavoidable impacts for the four topics above, although the degree of effect would be reduced for air quality and energy. Section 5.4 page 5-13 concludes, pursuant to CEQA Guidelines 15126.6(e)(2):

“Because it would not result in any impacts that would be greater than the proposed Project, and in many cases would result in reduced impacts compared to the proposed Project, the Reduced Renewable Feedstock Throughput Alternative is the environmentally superior alternative. The Reduced Renewable Feedstock Throughput Alternative, however, would generate fewer jobs and result in a lower volume of renewable fuels being brought to the market to support the State’s low-carbon fuel goals, and would not achieve Project objectives as well as the proposed Project.”

CEQA Guidelines do not require identification of, or findings for, a “preferred alternative.” The FEIR reviews alternatives to the Project and identifies for the record the conclusions for the Environmentally Superior Alternative.

Nevertheless, staff has prepared additional findings to supplement the findings made by the County Planning Commission under Public Resources Code section 21081(a) and CEQA Guidelines section 15091(a), including specific findings related to the alternatives analyzed in the environmental impact report. The additional findings are included in the attached CEQA Findings.

Project Throughput Limits

The Appeal states that the FEIR does not discuss conditions of Project approval that would limit Refinery throughput to 48,000 barrels per day (bpd) of feedstock. The Appeal states that FEIR analyzed the impact of 48,000 bpd, “yet nothing constrains the Project from processing more feedstock than that, with attendant greater impacts.” The Appeal requests that the County make throughput volume a condition of approval.

As analyzed in the FEIR, the Project would propose to process up to 48,000 barrels per day (bpd) of renewable feedstock. DEIR Chapter 2, Project Description, under Section 2.1 Refinery History and Proposed Project Summary, page 2-1 states:

“Marathon anticipates that operations under the proposed Project would begin in 2022 with an estimated production of 23,000 bpd, ramping up to full production of 48,000 bpd expected to be achieved by the end of 2023. The repurposed Refinery would operate 24 hours per day, seven days per week.”

Section 2.5.4.1 Project Modifications at Refinery, page 2-16 then states:

“Conversion of the Refinery to a facility for processing of renewable feedstocks would require installation of new equipment and modification of some existing units currently used for processing of crude oil. Other units that cannot be converted for production of renewable fuels would be taken out of operation and demolished. Once all equipment modifications have been completed, and due to limitations in the production of the on-site hydrogen plant, the Refinery would have capacity to receive and process up to 48,000 bpd of fresh renewable feedstock.”

The 48,000-bpd throughput limit is both a physical limit based on the configuration of the facility and a legal limit based on permitting constraints that will be implemented by BAAQMD. The 48,000-bpd throughput would be limited, as noted above, by on-site operating conditions. Further, the EIR discusses that Project throughput would be subject to Bay Area Air Quality Management District (BAAQMD) regulations and permitting. DEIR Introduction, 1.5.1, Use of this EIR by Responsible Agencies, cited above under the topic “Failure to account for potentially increased operational upsets,” notes that the Project requires permits from other federal, state, and local agencies including among others, the BAAQMD.

DEIR Chapter 3.3, Air Quality, explains that the Project would require an Authority to Construct (ATC) from the BAAQMD. That ATC permit would be based on the proposed 48,000 bpd throughput. Chapter 3.3, page 3.3-1, notes that the Project Applicant’s Authority to Construct permit application has been submitted to the BAAQMD. Page 3.3-1 continues:

“The Marathon Martinez Refinery (the Refinery) is currently permitted to process approximately 161,000 barrels per day (bpd) of crude oil. After completion of the project, the facility’s capacity would be approximately 48,000 bpd of renewable feedstocks.”

Therefore, Project throughput, with an approved BAAQMD ATC, would be limited to 48,000 bpd. Any proposed increase in that throughput would require BAAQMD review and approval, including, as appropriate, CEQA review. Further CEQA review, therefore, would be required for modifications to the 48,000 bpd limit in the ATC permit. If Marathon were to desire to increase throughput limits, that change

to the project would require a modified BAAQMD permit. If there is a substantial change to the project because of a proposed increase in the throughput limit, the substantial change would trigger subsequent environmental review under CEQA (CEQA Guidelines, § 15162).

IV. Appellants contend: “New Information Describing the Project Provided in the Response must be Recirculated to Allow for Public Comment”

The Appeal states that the identification of HEFA as the refining technology in Master Response 5 of the FEIR constitutes new information that requires recirculation of the DEIR.

Section 15088.5(a) of the CEQA Guidelines states “New information added to an EIR is not ‘significant’ unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project ...” Information regarding refinery operations was included in DEIR Section 2.5, Project Operations and Table 2-1: Refinery Equipment Modifications, which includes a description of how refinery equipment would be used during operations. This information provided the basis for the impact analysis in the DEIR. Environmental impacts with potential to occur as a result of the refining process were analyzed in the DEIR in Section 3.3, Air Quality, Section 3.8, Greenhouse Gas Emissions, and Section 3.9, Hazards and Hazardous Materials, and Section 3.10, Hydrology and Water Resources.

Response I(a) above also addresses Appeal comments on HEFA as the technology that would be utilized by the proposed Project during refining of renewable feedstocks. No new or additional potentially significant environmental impacts arise from identifying the refining process as “HEFA” in the FEIR, nor does it change either the type of environmental impacts arising from the project or their severity. Therefore, the identification of “HEFA” as the processing technology in the FEIR is not significant new information that requires recirculation of the EIR for public comment.

V. Appellants contend: “The Statement of Overriding Considerations is Inadequate”

The Appeal contends that the Statement of Overriding Considerations is intended to “replace” required implementation of feasible mitigation measures to address significant impacts identified in the CEQA review, and that significant impacts associated with process safety and land use are neither identified, nor addressed. The Appellants cite case law suggesting that there are “feasible” mitigation measures which could be applied to reduce identified significant impacts below significance levels.

As the lead agency under CEQA for preparation, review, and certification of the FEIR, the County is responsible for determining the potential environmental impacts of the proposed project, which of these impacts would be significant, and which impacts can be mitigated through implementation of feasible mitigation measures to avoid or minimize such impacts to a level of “less than significant”.

CEQA requires the lead agency to balance the benefits of a proposed project against its significant and unavoidable adverse impacts when determining whether to approve the project. In particular, Public Resources Code Section 21081(a) provides that no public agency may approve or carry out a project for

which an environmental impact report has been certified that identifies one or more significant effects on the environment that would occur if the project is approved or carried out, unless the public agency makes one or more of three findings with respect to each significant effect.

Public Resources Code Section 21081(b) requires that where a public agency finds that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR and thereby leave significant unavoidable effects, the lead agency must also find that overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects of the project.

When the lead agency approves a project which would result in the occurrence of significant effects identified in the FEIR, but would not be avoided or substantially lessened, the agency must state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record. The County's CEQA findings and Statement of Overriding Considerations (Statement), attached as Exhibit B, meet that requirement.

The County's Statement discusses the rationale for approving the Project based on the infeasibility of implementing mitigation measures to sufficiently reduce identified impacts and the project's outweighing benefits. As noted in the Statement, the Project benefits, individually and collectively, outweigh potential significant unavoidable adverse impacts.

Key findings in the Statement are summarized below, and, where appropriate, the FEIR topic is noted that provides the information on the record to support the finding:

1. Repurposing of existing refinery: The Project would preserve high quality jobs in the Martinez area, while minimizing construction activities and related land use impacts; the repurposed refinery would involve production of renewable fuels in compliance with the state's Low Carbon Fuel Standard (LCFS).
2. Reduction of hazards associated with refining of crude oil: Replacement of crude oil feedstocks with renewable feeds will significantly reduce the use and handling of hazardous materials; similarly, the reduction in the refinery's operating units as part of the project will further reduce potential hazards associated with the refining processes. (FEIR Chapter 3.9 Hazards and Hazardous Materials)
3. Emissions Reductions: Significant emissions reductions are envisioned as part of the project, including those of criteria pollutants, toxic air contaminants and greenhouse gases (GHG), thereby providing both a local and regional benefit to the residents of Martinez and the Bay Area. These reductions will help to achieve the goals of the Bay Area Air Quality Management District's (BAAQMD) 2017 Clean Air Plan, California Air Resources Board Update to the Climate Change Scoping Plan (CARB 2017), Governor Newsom's Executive Order N-79-20 regarding the desired goal of replacing fossil fuels with renewable fuels, as well as other initiatives promulgated to achieve carbon neutrality no later than 2045. These emissions reductions will apply to both stationary and mobile sources and will have

benefits both locally and throughout California (or wherever renewable fuels are used). (DEIR Chapter 3.3 Air Quality)

4. Energy Use: The project will utilize significantly less energy by decreasing the use of electricity and natural gas in the refining process at the Martinez facility. This will help to meet the state's Renewable Portfolio Standard. (DEIR Chapter 3.6 Energy)
5. Transportation Benefits: Consistent with CEQA Guidelines section 15064.3(b), the proposed project will result in a reduction of vehicle miles traveled (VMT) by both refinery employees and truck trips. (DEIR Chapter 3.14 Transportation)
6. Diversion of Waste Streams: Recycling of organic wastes and associated by-products (e.g., used cooking oils, rendering fats/oils/greases, etc.) will help to reduce demand on landfill space while generating a secondary revenue stream for recycling of these wastes. (DEIR Chapter 3.13, Public Services)

The Appellants assert that certain impacts are inadequately addressed in the Statement of Overriding Considerations. Specifically, Appellants are concerned with safety and land use issues. These issues were evaluated in the DEIR and the FEIR. The FEIR Master Response 4: Land Use & Feedstocks, Master Response 5: Public Safety, and Master Response 2: CEQA Alternatives. As presented above, this response further addresses safety, land use, and alternatives topics. Odor management issues were evaluated in the DEIR, in responses to comments from the BAAQMD in the FEIR Section 3.2.4, and above in this Response. For all those topics, the FEIR and the Response herein continue to conclude that the Project would not have unavoidable significant adverse impacts. None of these topics raised in the Appeal identify a "new" significant impact which has not been evaluated in the DEIR or FEIR. Therefore, impacts related to safety or land use would not require findings of overriding considerations. As noted above, the CEQA findings and the Statement reflect content in the FEIR and are supported by substantial evidence in the public record.

CONCLUSION

The proposed Martinez Refinery Renewable Fuels Project, with the attached Conditions of Approval, is consistent with the General Plan and the Heavy Industrial zoning designation for the site; all environmental impacts would be mitigated to less-than-significant levels or overriding considerations exist; the health, safety, and general welfare of the public would be preserved; and there would be economic benefits as a result of the project. The project's benefits include providing jobs, improving air quality, reducing the amount of hazardous materials in the area, reduction in greenhouse gas emissions, and decrease energy (electricity and natural gas) demand at the facility.

Staff recommends approval of the project.