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EXECUTIVE OFFICER/APCO

January 14, 2014

Telma Moreira, Principal Planner
Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94533

Subject: Phillips 66 Company Propane Recovery Project FEIR

Dear Ms. Moreira,

Bay Area Air Quality Management District (Air District) staff has reviewed the County's Final Environmental Impact Report (FEIR) prepared for the Propane Recovery Project (Project) located at the Phillips 66 Refinery in Rodeo. The Project proposes constructing and operating new facilities to recover propane from refinery fuel gas and increase the volume of butane for sale off-site. Staff appreciates the County's responses to the issues raised by the Air District in its August 6, 2013 letter and has the following comments.

Health Risk Assessment

Air District staff reviewed the additional technical information provided in the FEIR. This included a Public Health Supplement that the Air District previously requested and received during the public comment period for the Draft EIR. However, the additional documents still do not provide the information that is necessary to verify emission estimates of toxic air contaminants (TACs) and results of the health risk assessment (HRA). Staff recommends the FEIR include:

- Attachment 1 of the Public Health Supplement that provides calculations of TAC emissions.
- Attachment 2 of the Public Health Supplement that provides output files for AERMOD & HARP modeling.
- All assumptions used to estimate the increase in health risks from the Project to the maximum exposed sensitive receptor.
- A cumulative analysis of health risks to the maximum exposed sensitive receptor that includes other sources of air pollution that contribute to health risks. Staff recommends including TAC emissions from rail activity, refinery modifications, Highway 80, and permitted stationary sources.

The Air District's comments on the Draft EIR dated August 6, 2013 have further recommendations on the evaluation of the Project's potential cumulative risk and hazard impacts. Additional guidance provided by the Air District on conducting an HRA is also available at <http://www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES/Tools-and-Methodology.aspx>.

Greenhouse Gas Analysis

Air District staff recommends the FEIR fully explain how the projected decrease in GHG emissions is real, permanent, quantifiable, and enforceable because an unknown quantity of sold butane and propane gas can reasonably be expected to be combusted. If the FEIR does not demonstrate a GHG decrease, fully explain how any GHG increases are less than significant or are mitigated.

Air District staff is available to assist the County in addressing these comments. If you have any questions, please do not hesitate to contact Ian Peterson, Environmental Planner II, at (415) 749-4783 or ipeterson@baaqmd.gov.

Sincerely,



Jean Roggenkamp
Deputy Air Pollution Control Officer

cc: BAAQMD Director John Gioia
BAAQMD Director David Hudson
BAAQMD Director Mary Piepho
BAAQMD Director Mark Ross

KAMALA D. HARRIS
Attorney General

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January 15, 2014

Via U.S. and Electronic Mail

Kristin V. Pollot
City of Pittsburg
Planning Department
65 Civic Avenue
Pittsburg, California 94565-3418
kpollot@ci.pittsburg.ca.us

RE: Recirculated Environmental Impact Report for the WesPac Pittsburg Energy Infrastructure Project (SCH # 2011072053)

Dear Ms. Pollot:

Attorney General Kamala D. Harris submits the following comments on the Recirculated Draft Environmental Impact Report (RDEIR) for the WesPac Pittsburg Energy Infrastructure Project (Project).¹ WesPac's proposed \$200 million, 134-acre Project will transform a long-inactive facility into a significant center for the storage, transfer, and transportation of crude oil by rail, pipeline, ship and barge and will bring new sources of crude to the Bay Area for refining. The Project's capacity is massive, with a maximum annual throughput of almost one-fifth of all oil currently processed each year in California.

As set forth below, our review of the RDEIR has revealed some significant legal problems under the California Environmental Quality Act (CEQA). As a threshold matter, the document fails to disclose the sources and analyze the environmental impacts of the new crude. There are a wide range of crudes with different chemical compositions currently available in commerce, and an increasing number of unconventional crudes, such as crudes produced from bitumen sands (so-called "oil sands" or "tar sands"). Different types of crude can have very

¹ The Attorney General submits these comments pursuant to her independent power and duty to protect the environment and natural resources of the State. (See Cal. Const., art. V, § 13; Gov. Code, §§ 12511, 12600-12612; *D'Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1, 14-15.) This letter is not intended, and should not be construed, as an exhaustive discussion of the RDEIR's compliance with the California Environmental Quality Act.

different types of impacts on such things as local air quality, greenhouse gas emissions, and the risks associated with accidental releases.

This fundamental defect affects the adequacy of the entire document. Because of this and other errors, the RDEIR fails to:

- Adequately disclose and analyze local air quality impacts to the already impacted community of Pittsburg;
- Consider the effects to other Bay Area communities of refining the new crudes;
- Propose and analyze feasible mitigation that could reduce local air quality impacts;
- Adequately disclose and address the risk of accidents that could result from transportation and storage of the new crudes;
- Fully disclose and consider mitigation for the Project's climate change-related impacts; and
- Consider a reasonable range of feasible alternatives that could reduce the Project's significant impacts.

We urge the City of Pittsburg to correct these deficiencies before certifying the RDEIR and approving the Project.

Summary of the Project

WesPac proposes to transform an existing oil storage and transfer facility that has been dormant for 15 years into a major facility with the capacity to receive, store, and transfer almost 20 percent of California's crude oil supply. The proposed Project is next to residential neighborhoods in the City of Pittsburg with no buffer zone and is located within a quarter-mile of a number of sensitive receptors including schools, an extended care facility, a head-start program, three parks, and several churches. The Office of Environmental Health Hazard Assessment has ranked central Pittsburg, the Project area, in the top ten percent of California communities that are already burdened by multiple sources of pollution and experiencing adverse public health effects.²

The Project will bring in large volumes of crude oil and partially refined crude oil³ from unidentified "distant sources"⁴ delivered daily by train (100-plus cars long), ocean-going ships, barges, and pipelines. The facility will store the crude in tanks and then transfer it by pipeline to nearby Bay Area facilities (and possibly elsewhere) for refining. Refineries that may receive the

² See <http://oehha.ca.gov/ej/ces11.html> (zip code 94565).

³ The total annual average throughput for the Project will be approximately 88.3 million barrels per year, with a maximum throughput of over 136 million barrels per year. To put these numbers in context, all the refineries in California currently process well over 700 million barrels of oil annually, with Bay Area refineries processing 276 million barrels annually.
<http://energyalmanac.ca.gov/petroleum/refineries.html>.

⁴ RDEIR at p. 1.0-9

crude include the Shell Martinez Refinery in Martinez; the Tesoro Golden Eagle Refinery in Martinez; the Conoco Phillips Refinery in Rodeo; and the Valero Benicia Refinery in Benicia.⁵ The Project will operate twenty-four hours per day, seven days per week.

Comments on RDEIR

The RDEIR fails to disclose and analyze the local air quality impacts to the already impacted community of Pittsburg.

CEQA mandates that an EIR identify and analyze all potentially significant adverse effects of a project, including, both direct and indirect impacts, short-term and long-term impacts, and growth-inducing impacts. (Pub. Resources Code, § 21100; Cal. Code Regs., tit. 14, §§ 15126, 15126.2.) The RDEIR's discussion of local air quality impacts is deficient in several respects, as set forth below.

The RDEIR understates local air quality impacts.

The Project's many ships, barges, tugboats, locomotives, process equipment and storage tanks will significantly increase the pollution in the surrounding community. According to the RDEIR, even after implementing the proposed mitigation measures, WesPac will exceed the Bay Area Air Quality Management District's (Air District's) recommended significance thresholds for nitrogen oxide (NOx) and organic compounds that contribute to smog and can exacerbate respiratory problems. The Project will also emit particulate matter, a pollutant that already accounts for more than 90 percent of premature mortality related to air pollution in the Bay Area.⁶ Because the Project's estimated particulate emissions are under the Air District's recommended thresholds, the RDEIR concludes that the impacts are less than significant and proposes no mitigation. Further, the RDEIR concludes that Project's incremental cancer risk from localized pollution is 9.5 – meaning that the Project is expected to cause 9.5 excess cases of cancer per one million people exposed in a lifetime due to the operation of the Project. This is just under the Air District's recommended threshold of ten excess cancers. No mitigation is proposed.

The RDEIR's disclosure and analysis of localized air impacts is deficient in at least two important respects. First, there is no discussion of the types of crude that will be transported to and distributed from the facility.⁷ Information on crude type, however, is critical to a full and fair analysis of potential impacts to local air quality. The amount and toxicity of air emissions and

⁵ RDEIR at p. 2.0-43, Table 2-6. It is not clear whether Chevron's Richmond refinery will receive oil from the Project.

⁶ <http://www.baaqmd.gov/Divisions/Planning-and-Research/Particulate-Matter.aspx>.

⁷ The rail and marine component of the Project will allow delivery of crude from almost anywhere in the world, including the oil sands of Alberta, Canada. See, e.g., BNSF, Crude-by-Rail presentation (Sept. 2013) at p. 10; available at <http://www.fra.dot.gov/Elib/Document/3436>.

potential releases associated with transporting and storing crude⁸ will vary based on the crude's chemical composition, including the contaminants it contains, its sulfur content, and whether it is blended with other chemicals such as diluent (used to make thick crudes like oil sands less viscous and easier to transport).⁹ The failure to base local air impacts analysis on the Project's projected crude types causes the RDEIR to "fail[] as an informational document[.]" (See *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 89 [holding EIR deficient where the "project description is inconsistent and obscure as to whether the Project enables the Refinery to process heavier crude."])

Second, the RDEIR's emissions estimates for localized air pollutants do not appear to include all aspects of the Project. The RDEIR fails to include all "fugitive" emissions (for example, from leaks in pressurized equipment, pipelines, seals, and valves) and all aspects of transportation that affect local air quality.¹⁰ Third, the RDEIR's pollution projections are based on hypothetical ship, barge, and rail fleets made up of new and efficient models, rather than real-world fleets made up in part of older, less efficient and higher polluting vehicles and vessels.¹¹ The RDEIR's reliance on hypothetical, cleaner fleets causes it to underestimate the Project's actual emissions.

Underestimating the Project's localized pollution emissions in this case is prejudicial, working against CEQA's informed decision making and public disclosure purposes. For example, even with the identified deficiencies, the RDEIR's estimated cancer risk is very close to the threshold of significance.¹² A relatively small increase in the estimated emissions may well place the Project over the threshold for cancer risk, requiring the City to consider mitigation for this impact, which it has not done in the RDEIR. Before approving the Project, the City must ensure that the environmental document accounts for crude types and includes all sources in estimating the Project's potential impacts to local air quality.

The RDEIR fails to analyze the significance of local air quality impacts on the already overburdened residents of Pittsburg.

In addition, the RDEIR fails to consider whether the Project's contribution to local air pollution is significant given central Pittsburg's existing pollution burdens. The significance of the Project's localized air emissions must be evaluated in context. (Cal. Code Regs., tit. 14, § 15064, subd. (b).) The context of an action or a specific impact may include the sensitivity of

⁸ E.g., releases and spills, fugitive emissions (discussed below), evaporative emissions, and emissions from storage tanks and thermal oxidizers. See Air District comment letter at p. 2.

⁹ See, e.g., Crude Oil Material Data Safety Sheets, Keystone XL Pipeline, available at <http://keystonepipeline-xl.state.gov/documents/organization/205570.pdf>. See also comment letter from Natural Resources Defense Council, September 13, 2013, at pp. 8-21.

¹⁰ The Air District noted that it was "unable to verify the potential health risks" from the Project because of defects in quantifying and modeling the Project's emissions. Air District comment letter at pp. 2-3.

¹¹ See Air District Letter at p. 3.

¹² RDEIR, 4.0-57, Table 4-21.

the environment or of the persons affected; some affected persons may be more vulnerable than the general population (such as children, the elderly, or persons whose health already is compromised). In addition, some of those affected may already be subject to higher pollution burdens and thus more sensitive to even seemingly small incremental increases in that burden. (See *Kings County Farm Bur. v. City of Hanford* (1990) 221 Cal.App.3d 692, 718.) Given that the residents of Pittsburg are already facing some of the highest pollution burdens in California, and, for example, are in the 98th percentile for emergency room visits for asthma,¹³ the environmental document for this Project must analyze whether adding additional pollution that can contribute to the community's existing public health problems is significant.

The RDEIR fails to consider the effects to other Bay Area communities of refining the new crudes.

One of the stated, central purposes of the Project is to replace California and Alaska crude stocks, whose volumes are declining, with new sources of crude oil. (RDEIR at pp. 1.0-2, 1.0-6, 1.0-9.) The RDEIR fails, however, to consider any impacts that may be experienced in the communities receiving and refining the new, high-volume deliveries of unidentified crude.

To comply with CEQA, the environmental document for this Project must evaluate whether there is the potential for new or increased impacts to the communities where the crude oil will be refined due to changes in delivered volume or in the composition of the crude. If, for example, the incoming crude oil requires more energy to refine it, or contains different or higher levels of contaminants than the current mix, there may be higher levels of emissions around the receiving refineries. Such impacts would constitute a "reasonably foreseeable indirect physical change in the environment which may be caused by the project." (See Cal. Code Regs., tit. 14, § 15064; *Muzzy Ranch Co. v. Solano County Airport Land Use Com.* (2007) 41 Cal. 4th 372, 387.) The fact that these indirect impacts will be experienced some distance from the Project's footprint is irrelevant. Indeed, "the purpose of CEQA would be undermined if the appropriate governmental agencies went forward without an awareness of the effects a project will have on areas outside of the boundaries of the project area." (*Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 369.)

The RDEIR fails to analyze feasible mitigation that could reduce local air quality impacts.

Under CEQA, "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects...." (Pub. Resources Code, § 21002; *Mountain Lion Foundation v. Fish and Game Com.* (1997) 16 Cal.4th 105, 134.) By the RDEIR's own estimates,¹⁴ localized air emissions from both construction and direct operations will exceed the Air District's significance thresholds for nitrogen oxides and organic compounds that result in smog. But the RDEIR's proposed mitigation measures fall far short.

¹³ See CalEnviroScreen, <http://oehha.ca.gov/ej/ces11.html>.

¹⁴ As noted above, the RDEIR may substantially underestimate local air emissions.

The RDEIR proposes to "offset" certain aspects of the Project's local air pollution by buying or using credits previously earned for reducing emissions elsewhere (emissions reduction credits) rather than implementing on-site mitigation measures. While offsets might reduce air pollution in California or the general region (depending on where actual reductions take place), they will not reduce the localized air pollution impacts in the community where the Project is located. Stated simply, the mitigation does not match the impact. To address the specific local impacts identified, CEQA requires that the RDEIR analyze – and the Project should be required to achieve – all feasible emission reductions of localized air pollutant on-site first.

For instance, on-site mitigation could include requiring dock electrification (which can reduce emissions from marine vessels running their auxiliary engines), minimizing the idling time of diesel-powered construction equipment, prohibiting diesel generators where access to the electrical grid is available, and requiring all equipment meet at least the Tier II engine standard or be fitted with diesel particulate filters if Tier II engines are not available. Additional components of the Project, including the rail elements, could be electrified, and there may be additional process efficiencies that should be considered. The City should also consider whether creating a buffer around the Project, planting vegetation or creating other physical screens, or subsidizing the installation of air filters in the community could reduce air impacts. Further, the City should develop its suite of feasible mitigation measures in a process that is accessible to the public and the affected community. "Fundamentally, the development of mitigation measures, as envisioned by CEQA, is not meant to be a bilateral negotiation between a project proponent and the lead agency after project approval; but rather, an open process that also involves other interested agencies and the public." (*Communities for a Better Environment, supra*, 184 Cal.App.4th at p. 93.)

The RDEIR fails to adequately disclose and address the risk of accidents that could result from transportation, storage, and refining of the new crudes.

The RDEIR states that the Project's potential to "[c]reate a hazard to the public or environment through reasonably foreseeable upset or accident conditions involving the release of a hazardous material to the environment" is "[s]ignificant and unavoidable."¹⁵ This conclusion requires that the City discuss the risk in order to fashion appropriate mitigation measures to reduce the likelihood of accident in all phases of the operation, and increase the probability of an effective response should an accident occur. The RDEIR fails on both counts.

Because the RDEIR fails to identify the types of crude oil that will be handled at the facility, it necessarily also fails to identify the varied risks associated with transporting, storing, and refining these crudes. For instance, higher acid and/or sulfur content in a crude may increase the risk of corrosion to refinery equipment and pipes, which in turn can lead to leaks, explosion or fire.¹⁶ Further, crudes and crude mixtures with a lower flash point present a greater risk of

¹⁵ RDEIR 10.0-31.

¹⁶ Pipe corrosion contributed to the August 6, 2012 explosion and fire at Chevron's Richmond refinery. See <http://www.dir.ca.gov/DIRNews/2013/IR2013-06.html>. Further, the Federal Railroad Administration has expressed concern about an increasing number of severe corrosion incidents and has noted that "[a] possible cause is contamination of the crude oil by materials

(continued...)

explosion and fire¹⁷ And certain types of crudes can be more challenging to contain and clean up in the event of an accidental release.¹⁸ The National Oceanographic and Atmospheric Administration notes that "knowledge about the chemical properties and behavior of tar sands products during a marine spill is limited" and that "[t]hese gaps in information make effective spill planning and response more difficult"¹⁹

To ensure that the Project's risks are adequately disclosed and that there is sufficient information to design tailored mitigation and accident response plans, the EIR for this Project must provide additional, detailed information about the new sources of crude, their chemical compositions, and the risks associated with their transportation, storage, and refining.

In addition, as of the date of the RDEIR, it appears that the City had failed to engage key agencies that will have essential roles in the event of an accident or threat of release. For example, the RDEIR states that the facility will not require any extra fire services and that the Contra Costa County Fire Protection District ("Fire District") is fully capable of providing any required emergency services.²⁰ The Fire District, however, submitted a comment letter stating that it does not have an adequate number of personnel to properly respond to a fire incident at this facility or the necessary equipment/material such as industrial foam firefighting apparatus to handle a large-scale fire.²¹ Moreover, there is nothing in the RDEIR demonstrating that the Project applicant or the City has actively engaged the California Department of Fish and Wildlife's Office of Spill Prevention and Response (OSPR), the State's lead agency for marine and off-highway oil spill prevention, response, and natural resource restoration, to ensure that OSPR has all the information it requires and is prepared and able to respond in case of a spill related to the Project.

Before this Project is approved, to ensure a full disclosure of the Project's risks and an adequate analysis of specific, enforceable mitigation, the City and WesPac must work with all

(...continued)

used in the fracturing process that are corrosive to the [rail] tank car tank and service equipment." See <http://www.fra.dot.gov/eLib/details/L04717>.

¹⁷ See <http://www.tsb.gc.ca/eng/medias-media/communiques/rail/2013/r13d0054-20130911.asp> (Canadian Transportation Board analysis of July 6, 2013 derailment and explosion in Lac-Mégantic, Quebec).

¹⁸ A 2010 pipeline leak near Marshall, Michigan released an estimated at 843,000 gallons of tar sands oil. Substantial amounts of the oil remain on the river bottom to this day, and cleanup continues. See <http://www.epa.gov/enbridgespill/>.

¹⁹ <http://response.restoration.noaa.gov/about/media/what-are-increased-risks-transporting-tar-sands-oil.html>.

²⁰ RDEIR at pp. 10.0-62-63.

²¹ Troublingly, it appears that the RDEIR does not examine the adequacy of response to certain large-scale incidents that, while they may have a low probability, could have catastrophic consequences. For example, it does not consider the possibility of a major release with fire, a complete tank failure, or a rail spill that involves more than one rail car. RDEIR at pp. 10.0-41-42; 10.0-55-56; 10.0-61. Without explanation, it also fails to consider the possibility of derailment outside of Contra Costa County. RDEIR at p. 10.0-56.

relevant response agencies, including those listed above, to develop a detailed, enforceable, and fully funded response plan for its facility and other areas where crude could be released.

The RDEIR fails to fully disclose and consider mitigation for the Project's climate change-related impacts.

The RDEIR calculates the Project's greenhouse gas emissions at over 35,000 metric tons per year, concludes that the Project's climate change impacts are significant, and summarily asserts that *no* mitigation measures are available to reduce the GHG emissions from the Project. The RDEIR does not explain why no mitigation measures are available or even what mitigation measures were considered and rejected. There are a number of problems with the RDEIR's analysis.

The Project may substantially underestimate greenhouse gas emissions by not, for example, basing calculations on the expected crude mix²² and on the current and projected fleets for barges, ships, ground equipment and rail. In addition, it is unclear why the RDEIR considers greenhouse gas emissions for rail operations only within Contra Costa County, and considers only those emissions from marine tankers that occur within 54 nautical miles of the Project.²³ Unlike localized air emissions, greenhouse gases are global pollutants that have effects worldwide and in California regardless of where the emissions occur. If the Project is causing new rail and vessel traffic resulting in additional greenhouse gas emissions, this would appear to be a growth-inducing aspect of the Project that should at the very least be disclosed in the document.

The RDEIR also errs in jumping to the conclusion that the Project's impacts related to climate change are significant and unavoidable, without conducting the analysis of *why* this is the case. (*Keep Berkeley Jets Over the Bay Com. v. Board of Port Comrs.* (2001) 91 Cal.App.4th 1344, 1371 [holding that "simply labeling the impact 'significant' without accompanying analysis" violates "the environmental assessment requirements of CEQA."]) For this particular long-term infrastructure investment Project, the question of the Project's significance may turn less on the precise volume of greenhouse gases that will be emitted, and more on how the Project is or is not consistent with the State's energy and climate objectives.

The RDEIR states that the Project is needed to ensure reliable sources of transportation fuels for California, citing the California Energy Commission's 2009 Integrated Energy Policy Report, and asserts that demands for crude oil in California are increasing as a result of increasing vehicle miles traveled. (RDEIR at pp. 1.0-3, 1.0-6.) But the 2009 report, based on 2008 data, is significantly outdated. The California Energy Commission published a superseding 2011 Energy Policy Report and a 2012 update, and recently issued its final 2013 Integrated Energy Policy Report. These more recent documents show that conditions relating to traditional vehicle fuels have changed substantially in recent years, due in part to policies and laws designed

²² See Congressional Reporting Service, Canadian Oil Sands: Life-Cycle Assessments of Greenhouse Gas Emissions, Richard K. Lattanzio (March 15, 2013), Summary, available at www.fas.org/sgp/crs/misc/R42537.pdf.

²³ RDEIR at pp. 5.0-10; 4.0-36.

to improve vehicle efficiency, increase the development and use of alternative fuels, reduce air pollutants and GHG emissions from the transportation sector, and reduce vehicle miles traveled.²⁴

The RDEIR also fails to note and address the numerous state laws and policies specifically designed to reduce the need for conventional, high-carbon transportation fuels. These include California's Low Carbon Fuel Standard Program, its Zero Emission Vehicle Program, and the Sustainable Communities Strategies Act (SB 375), whose purpose is to reduce vehicle miles traveled. It is the State's goal to "transform[] personal transportation so that virtually all vehicles in the state are zero-emission by 2050, and ultimately reducing transportation sector greenhouse gas emissions by 80 percent below 1990 levels."²⁵ The revised EIR should include evidence and analysis addressing whether and how this Project meets any interim need as the State transitions to low- and zero-carbon transportation fuels and to renewable energy sources – changes that are essential to meeting of the State's objective to reduce California's greenhouse gas emissions to 80% below their 1990 levels by 2050 in order to reduce the risk of dangerous climate change.²⁶

In addition, it is simply not plausible that there are *no* feasible mitigation measures that could reduce the Project's greenhouse gas emissions. The CEQA Guidelines set out examples of potential measures, including off-site mitigation²⁷ and energy conservation. (Cal. Code Regs., tit. 14, § 15126.4, subd. (c); see also Appendix F to the CEQA Guidelines, addressing energy conservation.) In addition, the document should discuss the possibility of requiring minimum standards for the marine vessels and rail engines servicing the Project, dock electrification, and potential electrification of other aspects of the Project that could reduce the use of fuels with higher carbon intensities. The Final EIR must consider these and any other feasible mitigation measures that could apply to this Project.

The RDEIR fails to consider a reasonable range of feasible alternatives that could reduce the Project's significant impacts.

One of the "core" requirements of an EIR is an adequate consideration of alternatives. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.) Under CEQA, an EIR must "describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (Cal. Code Regs., tit. 14, § 15126.6, subd. (a).)

²⁴ 2013 Integrated Energy Policy Report - Final Lead Commissioner Report, available at http://www.energy.ca.gov/2013_energyreport/. See, e.g., *id.* at pp. 192 and 229.

²⁵ California Energy Commission, Integrated Energy Policy Report, 2012 Update, at p. 61, available at http://www.energy.ca.gov/2012_energyreport/index.html.

²⁶ This deficiency is also present in the RDEIR's statement of "Purpose and Need" beginning at p. 1.0-6.

²⁷ Off-site mitigation for greenhouse gas emissions may be appropriate where reductions outside the facility can reduce climate change impacts as effectively as on-site mitigation.

The RDEIR is fundamentally defective because it considered only *one* action alternative: a version of the Project that reduces storage capacity by 18%. (The reduced capacity alternative would create a slight buffer zone between single family residences adjacent to some of the storage tanks but is otherwise very similar to the proposed Project.) There are other feasible alternatives that the City could have considered. For example, the City summarily rejected an alternative that would utilize docks and storage tanks at existing refineries. It cited the 2009 California Energy Commission report, which the City believes supports its view that existing "facilities are currently at or near capacity, resulting in a need for additional marine terminal and storage capacity infrastructure."²⁸ Based on current trends, however, it is possible that there is sufficient infrastructure to meet the State's need for imported oil; if this is the case, then smaller, dispersed upgrades to existing facilities in the Bay Area and elsewhere could in fact be sufficient. Another alternative might be to remove the Project's rail terminal component (which was only recently added) and rely on an electrified marine terminal and pipelines. In a revised document, the City must consider a full range of alternatives that could meet most of the Project's objectives.

– continued –

²⁸ RDEIR at 2.0-138.

Kristin V. Pollot
January 15, 2014
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Conclusion

We urge the City of Pittsburg to substantially revise the environmental document for this Project so that it will fully inform the public and the City Council of the impacts of this Project to the residents of Pittsburg, to the other Bay Area communities that will refine the incoming crude, and to the State as we transition to a low-carbon economy and make long-term infrastructure investments.

We appreciate your consideration and would be happy to answer any question you might have about our comments.

Sincerely,



JANILL L. RICHARDS
Supervising Deputy Attorney General
ROSE B. FUA
Deputy Attorney General

For KAMALA D. HARRIS
Attorney General

cc: Ken Alex, Director, Governor's Office of Planning and Research
Thomas Gibson, General Counsel, Department of Fish and Wildlife
Michael Levy, Chief Council, California Energy Commission

COMMUNITIES
FOR A
BETTER
ENVIRONMENT



January 21, 2014

Clerk of the Board
Contra Costa County Board of Supervisors 651 Pine Street, Room 106
Martinez, CA 94553

Attention: Tiffany Lennear (Tiffany.Lennear@cob.cccounty.us)

RE: Appeal of Environmental Impact Report and Land Use Permit Filed 2 Dec 2013:
Phillips 66 Company Propane Recovery Project, Environmental Impact Report
(EIR) and Land Use Permit, EIR SCH #2012072046, County File LP12-2073

Dear Clerk of the Board,

In support of our appeal, Communities for a Better Environment (“CBE”) submits the following analysis. For these reasons, and also those included in Exhibits 3a through 4e, Exhibit 11, and Supplemental Evidence-D submitted herewith, CBE respectfully requests the Board of Supervisors to reject the Planning Commission’s certification of the EIR for the above project.

- A. The EIR is wholly inadequate under CEQA; it is inaccurate, incomplete and renders the analysis of significant environmental impacts inherently unreliable.**

We highlight the following deficiencies:

- A-1 The EIR does not disclose a connection to the WesPac Pittsburg Energy Infrastructure Project.**

Supplemental Evidence-D includes the Attorney General’s letter that details this Project’s anticipated and foreseeable link to the WesPac project. WesPac Energy–Pittsburg LLC (“WesPac”) proposes to modernize and reactivate the existing oil storage and transfer facilities located at the NRG Energy, Inc.(formerly GenOn Delta, LLC) Pittsburg Generating Station. The proposed WesPac Energy–Pittsburg Terminal would be designed to receive crude oil and partially refined crude oil from trains, marine vessels, and pipelines, store oil in existing or new storage tanks, and then transfer oil to nearby refineries, *including Phillip 66’s Rodeo Refinery*.¹ The Rodeo refinery is listed as one of the refineries that may receive crude oil and/or deliver-crude oil to the Terminal.²

¹ WesPac RDEIR at 2.0-1.

² *Id.* at 2.0-2.

The EIR's failure to disclose this detail precludes any meaningful assessment of this impact.

A-2 The EIR Fails to Disclose Sufficient Data to Evaluate Baseline LPG Recovery

The EIR's determination of the baseline for propane and butane ("LPG") recovery is based on Phillips 66 measurements "of flow data and lab analysis of propane and butane content." Supplemental Evidence-C presents that this data is available, and analyzes the limited amount of this data available from review of the EIR. As estimated from this data, the EIR overestimates the project LPG baseline. In fact, the current baseline, calculated from reported data, shows that baseline refinery fuel gas from existing crude stocks would meet only about half of the project's goals, 54% of projected propane production and 49% of projected butane production. The Board should make the critical inquiry and question where this excess capacity may come from. Recall, Phillips 66's advantaged crude strategy that shifts the company's refining to a lower quality oil feedstock. A necessary component of that advantaged crude is the propane and butane rich diluted bitumen.

In addition, Phillips 66 submits Exhibit 7, a letter in response to this appeal. Exhibit 7 includes data that the project proponent alleges will solve this large discrepancy. This additional data is inconclusive and misleading. Nevertheless, that additional data, the entire contents of Exhibit 7, do not make up any part of the EIR. CEQA requires all relevant analyses of impacts and subsequent mitigation strategies to be within the four corners of the same document.³ If any data in Exhibit 7 satisfies the Board's concerns regarding the EIR, then Planning Staff must recirculate the EIR with that new additional data.

A-3 The Staff Response Fails to Cure the EIR's Errors Identified in regards to the Once Through Cooling Facility.

Supplemental Evidence-B highlights the impact of the Once Through Cooling (OTC) system, in particular, how the project will result in an increase OTC use by approximately 40 to 65%. The EIR on the other hand, determines that the increase would only be 25%. Supplemental Evidence -B calculated OTC flow with a multi-year average, comparing OTC use from 2005 to 2013. The EIR uses data from 2012.

The Staff Response does little to cure this discrepancy. Rather, the staff merely reiterate that the project proponent will maintain operations within Regional Water Quality Control Board permit limits. This is an illusory shield: under well-established

³ See *Berkeley Keep Jets Over the Bay Com. v. Board of Port Cmrs.* (2001) 91 Cal. App. 4th 1344, 1371; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal. App. 4th 645, 659.

case law, compliance with existing policies and regulations does not excuse an agency from describing project activities or from analyzing resulting impacts.⁴

Moreover, the Staff Response avoids commenting on Supplemental Evidence-B's conclusion that the EIR underestimates baseline OTC flow. Instead, the Staff Response draws its own conclusions regarding temperature of discharge. This discussion is irrelevant to the purpose of Supplemental Evidence-B, which identifies an incorrect baseline. Even if the discussion were relevant, as noted above, it should have been included in the EIR itself, not an accompanying staff letter written in contemplation of appeal of certification.

A-4 This Project is Illegally Piecemealed from Phillips 66's Overall Strategy to Develop Advantaged Crude.

Phillips 66 has publicly declared its intent to move to "advantaged crude" within the next two years.⁵ This could include tar sands crude.⁶ In order for Phillips 66 to implement this strategy for the San Francisco Refinery, it requires at least three core pieces: the Santa Maria Refinery Throughput Increase Project, the Rodeo Refinery Propane Fuel Recovery Project, and the Santa Maria Refinery Rail Spur Project. Imports of heavy Canadian tar sands required the Throughput Increase project. Components of the Rodeo Propane Fuel Recovery Project lock the Rodeo Refinery into processing a lower quality crude feedstock.⁷ That lower quality feedstock, gas oils and naptha, is produced at Santa Maria and sent to Rodeo by pipeline.⁸ Phillips 66 is currently proposing its rail spur project, required to unload any imported crude to initiate this piecemealed process and switch to refining tar sands crude.

At a minimum, the EIR should have included more information regarding this Project's dependence and anticipation of these projects concurrently permitted/in the permitting stage at the Santa Maria facility. The refining processes at Phillips 66's Santa Maria and Rodeo facilities are integrated to a capacity that neither can achieve alone.⁹ Further, Phillips 66 reports these two facilities as a single processing entity, the San Francisco Refinery, to industry and government monitors.¹⁰

⁴ See *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal. App. 4th 1099, 1108-09 (environmental effect may be significant despite compliance with such requirements).

⁵ See eg. September 12, 2013 Transcript, pdf 7: Available at: http://www.phillips66.com/EN/investor/presentations_ccalls/Documents/Barclays_091213_Final.pdf, last accessed January 17, 2014.

⁶ See Karras and Fox Rodeo Reports.

⁷ See Karras and Fox Rodeo Reports.

⁸ *Id.* and Santa Maria Rail Spur DEIR at 2-29.

⁹ See Karras Rodeo Report and *Oil & Gas Journal*, 2012; and EIA Ref. Cap. 2013. See also orders R2-2011-0027 and R3-2007-0002. Comparing the references shows "Rodeo" capacities reported to EIA include the Santa Maria facility.

¹⁰ *Id.*

We have submitted comments on other aspects of this larger project, including the WesPac Energy Infrastructure project in Pittsburg and the Marine Wharf Expansion in Rodeo. The Staff Response largely dismisses any suggestion of this project's link to a larger project as groundless¹¹; nevertheless, the majority of the "evidence" we have relied upon originates from the EIRs of these other connected projects. The Attorney General has asked the same question, as we also hope of the Board. Until there is clarification, the EIR is fatally flawed.

Continued in Part B, Next Page

¹¹ The FEIR includes additional comments in Master Response 2.2 addressing the link to the Santa Maria facility. However, that response barely skims the surface of this intimate and inextricable connection.

B. CBE Answers to Staff Report Claims Regarding New Evidence.

CBE received the Staff Report¹ for the 21 January appeals hearing on 17 January 2014, the Friday before a three-day holiday weekend. The Staff Report provides new evidence that it says is responsive to CBE's expert report filed on 5 September 2013² and CBE's supplemental evidence filed on 7 January 2014³ and 14 January 2014.⁴ Staff identifies this evidence as "flow data provided in the Phillips 66 Response to Appeals (Exhibit #7)" and a "more detailed response related to the Refinery's OTC system and how it will be affected by the proposed project [including] the response to CBE's supplemental letter [] (See Exhibit #6)."⁵

B-1 Insufficient LPG recoverable in the project baseline indicates that the project will lead to increased LPG production, requiring a change in oil feedstock processing.

The Staff Report relies on "flow data provided in the Phillips 66 Response to Appeals (Exhibit #7)" in its attempt to support the EIR's claim that sufficient propane and butane (collectively, LPG) is recoverable in the project baseline to implement the project goals.⁶ This reliance is misplaced.

The summary values Phillips reports include streams from which the project the EIR describes would not recover LPG and thus do not represent baseline conditions for analysis. For example, this "summary of those measurements" Phillips reports includes "[p]ropane and butane obtained from two refinery fuel gas streams: U233 and RFG-A."⁷ However, the project as described in the EIR does *not* include LPG recovery from the "RFG-A" stream. See DEIR Figure 3-6, reproduced in Chart S-2 below.

¹ *Hearing to Consider Two Appeals of the Phillips 66 Propane Recovery Project* (County File #LP12-2073; Dated 21 January 2014. Catherine Kutsuris, Conservation and Development Director. ("Staff Report").

² Expert Report of Greg Karras, Communities for a Better Environment (CBE), Regarding the Phillips 66 Company Propane Recovery Project Draft Environmental Impact Report released in June 2013. Opinion signed 4 September 2013. Filed 5 September 2013 with 74 attachments. ("Karras Report").

³ Communities for a Better Environment (CBE) Supplemental Evidence-B. Submitted 7 January 2014 with CBE Supp. Attachment 3. ("CBE Supp-B").

⁴ Communities for a Better Environment (CBE) Supplemental Evidence-C. Submitted 14 January 2014 with CBE Supp. attachments 4 and 5. ("CBE Supp-C").

⁵ Staff Report at 3, 6. Exhibit #6 attached to Staff Report is an undated 12-page document entitled: *Detailed Response to Appeal Points Raised by Shute Mihaly & Weinberger (SMW) and Communities for a Better Environment (CBE)*; Exhibit 7 is the: *Phillips 66 Propane Recovery Project-County File #LP12-2073-Phillips 66 Response to Appeals by the Rodeo Citizens Association and Communities for a Better Environment*; Mark E. Evans, Phillips 66 San Francisco Refinery Manager. Dated 6 January 2014, and including 3 attachments.

⁶ See Staff Report at 3, referencing Exhibit #7 at Phillips' Exhibit A-2.

⁷ Exhibit #7 at 4, referencing Phillips' Exhibit A-1. Further confirming the inclusion of both streams, Phillips' Exhibit A-1 reports volumes for propane and butane in each stream, as well as a volume of butane already recovered for sale, and shows the sum of these values labeled as "Total Propane + Butane."

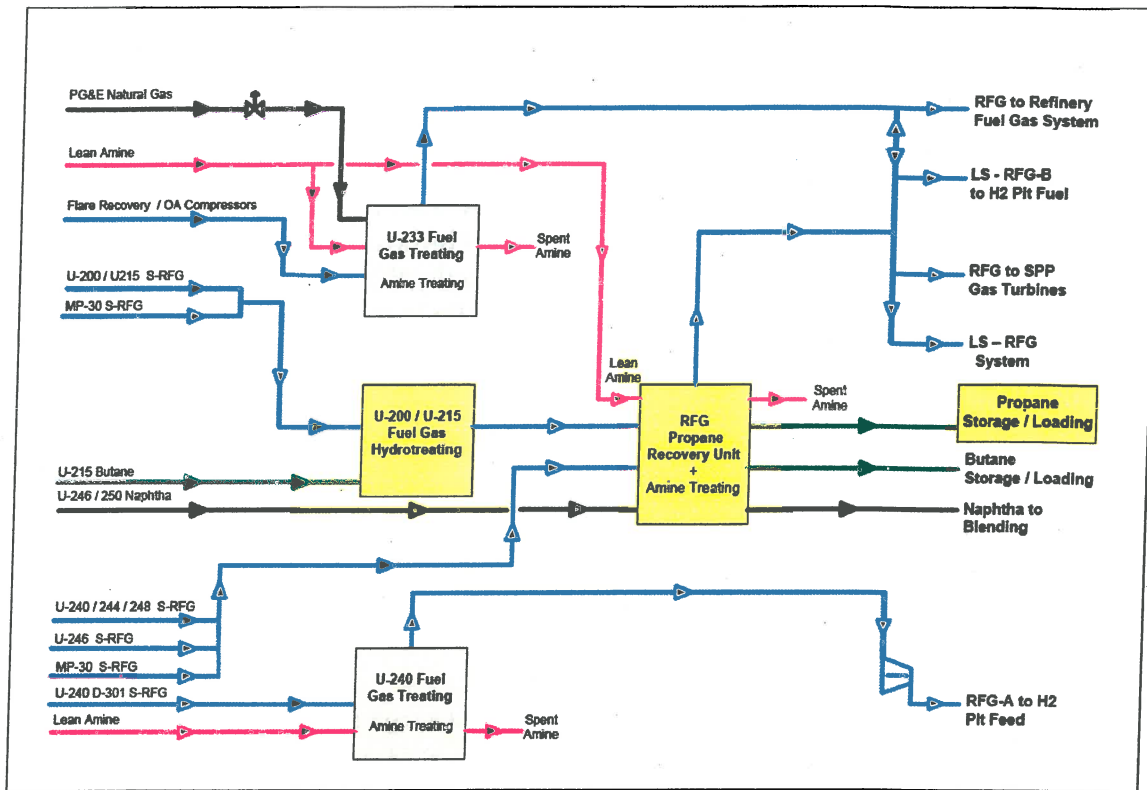


Chart S-2. Copy of DEIR Figure 3-6. "Proposed Refinery Fuel Gas Block Flow Diagram." Stream "RFG-A" (bottom right) bypasses LPG project components (yellow boxes).

The RFG-A stream is shown in blue at the bottom right, going to "H₂ Pit Feed," and the proposed project's LPG recovery is the central yellow box in DEIR Figure 3-6. The Figure shows RFG-A *bypassing* project recovery to become hydrogen plant feed. As described in the EIR, the project would not recover LPG from RFG-A.

Propane, butane, and flow volumes for each stream reported in Exhibit 1-A of Phillips' Response (Staff Report Exhibit #7) are reproduced in Table S-2 below. When RFG-A is excluded consistent with the EIR project description, the only stream that is not already recovered for sale is the U233 fuel gas stream. Phillips' Response reports this stream (U233) contains ≈2,388 barrels/day of propane and ≈2,839 b/d of butane. These

Table S-2. Refinery Propane and Butane Production – Design Basis August 2011 ^a						
Refinery Fuel Gas – U233			Refinery Fuel Gas RFG-A			Butane currently recovered & sold
Flow	Propane	Butane	Flow	Propane	Butane	
MMSCFD	barrels/day	barrels/day	MMSCFD	barrels/day	barrels/day	barrels/day
36.582	2,388	2,839	27.269	3,192	2,157	4,898

^a Volume values reproduced from Phillips 66 Response to Appeals Exhibit A-1 (Staff Report Exhibit #7).

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CBE Appeal for Environmental Impact Review
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values (2,388 b/d propane; 2,839 b/d butane) are much smaller than the 4,200 b/d of propane and 3,800 b/d of additional butane that the EIR states the project would be designed to recover.⁸ Thus, based on the evidence provided in Phillips' Response and project description in the EIR alone, one would be forced to conclude that LPG recoverable in the project baseline is *insufficient* to implement the project's stated goals.

Thus, the new evidence provided in Phillips 66 further supports⁹ the findings of independent experts, based on more comprehensive evidence and detailed data, that the project would require increased LPG production, requiring a change in oil feedstock.¹⁰ Therefore, the Staff Report's assertion that "flow data provided in the Phillips 66 Response" supports the EIR's claim that that the project will change the refinery's oil feedstock because sufficient LPG is already available for the project is incorrect.

B-2 Increased LPG recovery coupled with project baseline conditions indicates that the project will result in a change in oil feedstock processing.

The Staff Report's reliance on Phillips' also is misplaced because, by adding expanded LPG recovery objectives to the factors driving the specifications for replacement crude, the project would affect refinery oil feedstock.

This effect would be caused any time a refinery chooses new feedstock from available crudes that support a wide range of LPG production rates *and* its current LPG production is barely sufficient for its sales objectives. CBE and others have shown that the SFR is participating in a regional shift from currently declining sources to new sources of crude with widely variant chemical compositions—and that distilling and cracking the various, otherwise available, replacement oils yields significantly different amounts of LPG per barrel refined.¹¹ The EIR itself asserts that the project would result in the recovery of virtually all LPG available for recovery in the refinery.¹² Thus, the existing conditions have "loaded the gun," and the project would "pull the trigger." This project effect, which could occur whether or not currently available LPG is sufficient, is ignored completely by the Staff Report, perhaps in part because the EIR did.

⁸ DEIR at 3-23; see also DEIR at 3-21 (Table 3-2).

⁹ Asserting a project LPG stream that is inconsistent with its proposal in the EIR would not be the only error in Phillips' Response. For example, it asserts "there are no restrictions on the types of crude [the refinery] can process" (Exhibit #7 at 4). Condition 383 of its air permit limits the sulfur content of feed to its U267 crude unit (Karras Report Attachment "BAAQMD 2013" at 482). And Phillips' DEIR for its concurrent SFR crude import project in Santa Maria states "[m]ost likely sources [of new crude] would be the Bakken field in North Dakota or Canada" (Phillips SMR Rail Project EIR at 1-4), and this directly contradicts subject EIR's misinformation (FEIR at 2-4), but Phillips' Response is silent about the error.

¹⁰ See Karras Report; 15 November 2013 expert report by Phyllis Fox ("Fox Report"); CBE Supp-C.

¹¹ See CBE Supp-D; Karras Report; Fox Report.

¹² Compare DEIR Table 3-2 (total post-project LPG recovery ≈13,500 b/d) to FEIR at 3.2-130 (total current LPG production available for recovery ≈13,500 b/d); see also DEIR at 4.6-2 v. DEIR at 4.8-18 and Karras Report at 26 (EIR analysis based on additional LPG recovery comprising ≈69–72% of total energy content reported for all components of refinery fuel gas in 2011).

- B-3 The EIR's project description and baseline assertions are unsupported by any publicly verifiable data and are contradicted by such data as disclosed elsewhere.

Though both Phillips new evidence, based on undisclosed data, and the average calculated from data Phillips certified as representative of the project baseline for the same U233 stream as noted, the flow rates given for the same stream are significantly different.¹³ Similarly, it remains unknown whether the EIR or project proponent is correct about a material fact—will the project recover LPG from the RFG-A stream, resulting in an undisclosed change in refinery hydrogen plant feed? These questions can be answered objectively and reliably, but only by independently verifiable analysis of data the EIR has failed to disclose. This, together with the Staff Report's presentation of new evidence on baseline LPG based on Phillips' summary of data that remain hidden while the Staff Report at the same time dismisses the detailed data Phillips asserted to others as representative of the LPG baseline¹⁴ further supports an obvious conclusion. The EIR failed to base its analysis and conclusions on available and needed data for adequate environmental review.

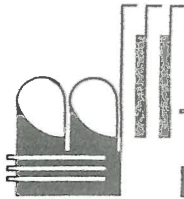
- B-4. The Staff Report's Exhibit #6 shows that available baseline cooling system data that were not disclosed in the EIR could have been analyzed and further supports the need for more robust disclosure and analysis in a recirculated EIR.

Whether as a matter of argument style or because of some other error, Staff Report Exhibit #6 at pages 11–12 completely ignores and fails to address any of the major points made by CBE Supp-B: (a) failure to account for year-to-year variability and analyze flow baseline conditions as a multi-year average; (b) substantial overestimation of project flow baseline when appropriate year-to-year variability analysis is included; (c) failure to address authoritative evidence of recently increasing cooling system use as a potentially related activity to the project; and (d) substantial underestimation of potential project cooling flow increase, thereby ignoring substantial potential impacts of the project on the San Francisco Bay.

Repeating these same errors instead of responding to them, Exhibit #6 compounds its error: It claims, erroneously, that the 45.4 MGD baseline value “compares well” with the data CBE provided in Supp-B (35–41 MGD depending on how point (c) evaluation of still-undisclosed relationships of the project to recent flow increases. In any case, its attempted use of these baseline data that were not included in the EIR further demonstrates the inadequacy of the EIR's baseline analysis.

¹³ Compare Phillips' Exhibit 1-A with CBE Supp-C.

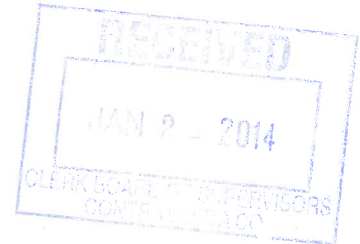
¹⁴ See CBE Supp-C.



**THE INDUSTRIAL ASSOCIATION, INC.
OF
CONTRA COSTA COUNTY**

Jan. 21, 2014

RE: Phillips 66 Project



The Industrial Association of Contra Costa County is an association of approximately 75 member companies doing business in Contra Costa County and Solano County. Phillips 66 is a long-standing member of the Industrial Association.

The Phillips 66 LPG project will perform several tasks that will help Contra Costa County maintain the Industrial Base of business in this area.

- Currently, propane and butane are natural by-products of the refining process. We all use these products in our work, our relaxation, and throughout our lives. This project will remove these products from the refining process and allow them to be packaged and used in our daily lives.
- The Phillips 66 LPG project will further clean the air we all breathe in the San Francisco Bay Area
- The Phillips 66 LPG project will create much needed living wage construction jobs and will generate new state and local tax revenue
- The Phillips 66 LPG project will allow older refinery equipment to be replaced by newer equipment which will help the refinery continue to produce the products we all need and use in the future

For these and other reasons we urge you to support Phillips in this project.

Sincerely,

Scott Anderson

Executive Director

January 21, 2014

Hand Delivered

tmore@cd.cccounty.us

Telma Moreira
Senior Planner
Contra Costa County Community
Development Department
30 Muir Road
Martinez, CA 94553

Re: **Phillips 66 Propane Recovery Project-Appeal
CBE, BAAQMD Letters dated January 14, 2014**

Dear Ms. Moreira:

I am representing Phillips 66 in the above matter and on behalf of Phillips 66 provide the following responses to the letter received by the County from Communities for a Better Environment ("CBE") dated January 14, 2014, and the letter from the Bay Area Air Quality Management District ("BAAQMD") also dated January 14, 2014.

CBE Letter

The appellant incorrectly claims that Phillips 66 refinery fuel gas ("RFG") information gathered from its Permit Application submitted to the BAAQMD indicates that the EIR overestimates the PRP LPG currently available for recovery. The appellant incorrectly assumes that the LPG (propane and butane) present in the Unit 233 RFG is the only source of the LPG that will be recovered by the project. In fact, the Unit 233 RFG only accounts for a portion of the LPG that will be recovered (4,200 to 4,900 barrels per day using data referenced by CBE). The appellant has not included two other sources of LPG that will be recovered by the Project; namely, the existing butane currently recovered at the refinery (approximately 5,500 BPD) and, LPG contained in the fuel gas stream known as RFG-A (approximately 5,000 BPD) (see DEIR p. 3-21).

All three of these sources make up the existing butane/propane available for recovery described in the DEIR and as confirmed and detailed in Exhibits A-1 and A-2 of the letter from Phillips 66 to the Contra Costa County Board of Supervisors ("Letter to BOS") dated January 6, 2014. The CBE analysis only references one of the three existing sources of LPG (i.e. U233); whereas, consistent with the information provided in the DEIR and FEIR and in the January 6, 2014 Letter to BOS, the three sources generate approximately 14,700 to 15,400 BPD.

BAAQMD Letter

The letter claims that the BAAQMD does not have all the information necessary to verify emission estimates of toxic air contaminants ("TACs") and results of the health risk assessment ("HRA"), and includes four bullets describing the additional information needed.

The information requested in the first three bullets has been previously supplied to the BAAQMD. It was first supplied in connection with the Phillips 66 application for authority to construct submitted to the BAAQMD by Phillips 66 electronically on February 6, 2013, sent by federal express on February 7, 2013, and received by the BAAQMD on February 8, 2013. The information is voluminous and technical and was supplied first in electronic format, followed by a hardcopy. Phillips 66 also notes that the County had provided and made available to the BAAQMD the same information (see final EIR dated November 2013 Section 3.1.6.). In responding to comments the District submitted regarding the DEIR, the FEIR states:

"As stated in the DEIR (see page 4.3-15) the details of data, calculations, and assumptions used to determine Project-related emissions and associated public health risks that would be associated with the Project are available for review at the County. Nonetheless, the following documents are provided in Appendix A:

- Appendix A.1: Air Quality Supplement;
- Appendix A.2: Greenhouse Gas (GHG) Supplement;
- Appendix A.3: Public Health Supplement;
- Appendix A.4: BAAQMD Authority to Construct and Significant Revision to Major Facility Review Permit Application; and
- Appendix A.5: B-401 Process Heater Annual Average Baseline Emissions."

The Public Health Supplement referenced in the response contains and references all of the information requested by the BAAQMD in the first three bullets of its January 14, 2014, letter. It is also noted that the District deemed the project application complete on August 8, 2013. The information was not only supplied to the BAAQMD, but also available to the public as evidenced by the fact that the appellants have cited the BAAQMD permit application in numerous places.

The HRA for this project was prepared by ERM, an international environmental consulting firm, that has prepared most of the refinery project HRAs (for almost all the local refinery projects) in the last 10 to 15 years. ERM works with the BAAQMD in preparation of HRAs and follows the most recently updated CEQA guidelines endorsed by the BAAQMD in

Telma Moreira
Senior Planner
Contra Costa County Community
Development Department
January 21, 2014
Page 3

preparing the HRAs. The HRA for the Project shows a cancer risk of 1.5 in one million. The BAAQMD's cancer risk significance threshold is 10 in one million. Clearly, the Project's TAC emissions are not significant.

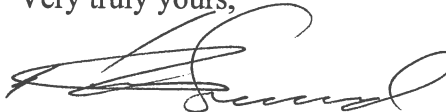
Despite having been previously supplied, the information it now requests, including the method used in the HRA analysis for the Project, the fourth bullet for the first time requests that a new methodology be used for a cumulative HRA different from the methodology set forth in the District's 1999 CEQA Guidelines (see Attachment # 1), and different from that deemed appropriate for the evaluation of other recent refinery projects. Attachment #2 describes methodology used by ERM for project HRAs.

A version of the new cumulative HRA methodology proposed by the BAAQMD in its January 14, 2014, letter first appeared in the District's 2010 Amendments to its CEQA guidelines. A court struck down those guidelines in March of 2012. That decision was reversed by an appellate court and is now on appeal to the State Supreme Court. Following the first court decision, the District has periodically placed CEQA Guideline Updates on its website--the most recent of which is dated January 16, 2014 (see Attachment # 3 to this letter). Each of the updates, including the January 16, 2014 update, includes the following language related to the 2010 amendments:

"...The Air District has been ordered to set aside its Thresholds and is no longer recommending that these Thresholds be used as a general measure of a project's significant air quality impacts. Lead Agencies may continue to rely on the Air District's 1999 thresholds of significance...." (underlining added).

Accordingly, the County's use of the approach for cumulative HRA consistent with the 1999 CEQA Guidelines is reasonable and appropriate.

Very truly yours,



Keith Howard

KH/bh
Enclosures

BAAQMD CEQA GUIDELINES
Assessing the Air Quality Impacts
of Projects and Plans

Prepared by the Planning and Research Division of the
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

December, 1999

This document is intended to serve as a guide for those who prepare or evaluate air quality impact analyses for projects and plans in the San Francisco Bay Area. The GUIDELINES include information on legal requirements, BAAQMD rules, plans and procedures, methods of analyzing air quality impacts, thresholds of significance, mitigation measures, and background air quality information. Copies and updates are available from the BAAQMD Public Information Office at (415) 749-4900. Questions on content may be addressed to the BAAQMD's Planning and Transportation Section at (415) 749-4995.

Ellen Garvey - Air Pollution Control Officer
Peter Hess - Deputy Air Pollution Control Officer
Thomas Perardi - Director, Planning & Research Division
Jean Roggenkamp - Manager, Planning and Transportation Section

The District recommends, at a minimum, that the Lead Agency, in consultation with the administering agency of the RMPP, find that any project resulting in receptors being within the Emergency Response Planning Guidelines (ERPG) exposure level 2 for a facility has a significant air quality impact. ERPG exposure level 2 is defined as "the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to one hour without experiencing or developing irreversible or other serious health effects or symptoms which could impair an individual's ability to take protective action".⁷

6. **Cumulative Impacts.** Any proposed project that would individually have a significant air quality impact (see Thresholds of Significance for Impacts from Project Operations, above) would also be considered to have a significant cumulative air quality impact.

For any project that does not individually have significant operational air quality impacts, the determination of significant cumulative impact should be based on an evaluation of the consistency of the project with the local general plan *and* of the general plan with the regional air quality plan. (The appropriate regional air quality plan for the Bay Area is the most recently adopted Clean Air Plan.) See Thresholds of Significance for Plan Impacts, below, for guidance on evaluating the consistency of a local general plan with the Clean Air Plan. Figure 2 provides a flow chart depicting the process for evaluating cumulative impacts.

Projects in Jurisdictions with Local Plans Consistent with the Clean Air Plan

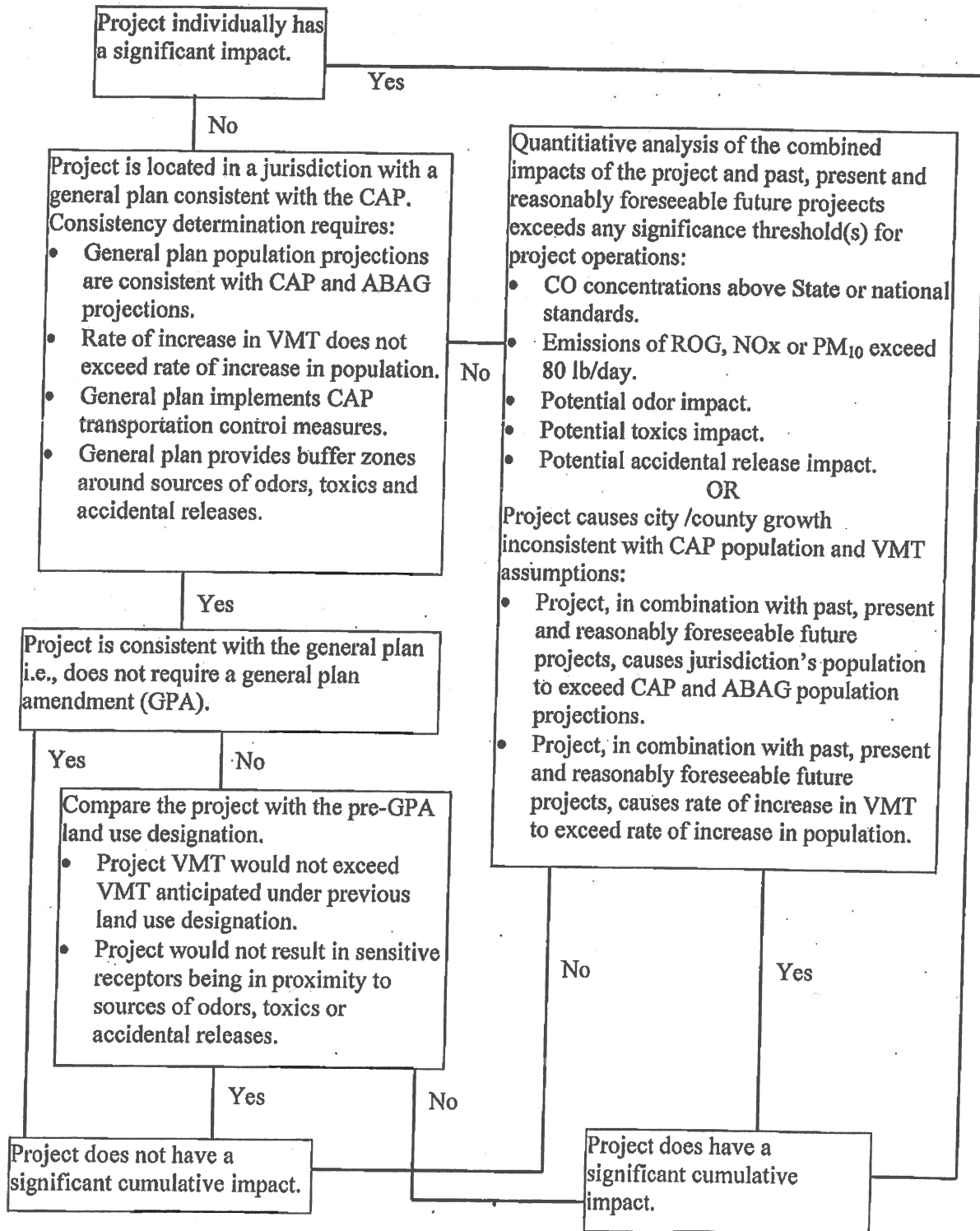
If a project is proposed in a city or county with a general plan that is consistent with the Clean Air Plan (see below) *and* the project is consistent with that general plan (i.e., it does not require a general plan amendment), then the project will not have a significant cumulative impact (provided, of course, the project does not individually have any significant impacts). No further analysis regarding cumulative impacts is necessary.

In a jurisdiction with a general plan consistent with the Clean Air Plan, a project may be proposed that is not consistent with that general plan because it requires a general plan amendment (GPA). In such instances, the cumulative impact analysis should consider the difference(s) between the project and the original (pre-GPA) land use designation for the site with respect to motor vehicle use and potential land use conflicts. A project would not have a significant cumulative impact if: VMT from the project would not be greater than the VMT that would be anticipated under the original land use designation, and 2) the project would not result in sensitive receptors being in close proximity to sources of objectionable odors, toxics or accidental releases of hazardous materials.

⁷ State of California Guidance for the Preparation of a Risk Management and Prevention Program, California Office of Emergency Services, November 1989, pg. D-2.

FIGURE 2

EVALUATING CUMULATIVE IMPACTS



Lead Agencies should note that demonstrating general plan consistency with the CAP (and project consistency with the general plan) is the minimum that must be done to support a finding of no significant cumulative impact. Depending on the specific type of project and its setting, there may be additional measures - such as additional measures to reduce auto use, scrappage of high emitting vehicles, conversion to alternative fuels, etc. - that could be implemented to reduce emissions. Even in jurisdictions with a general plan consistent with the CAP, Lead Agencies are encouraged to pursue all feasible measures to minimize cumulative air quality impacts.

Projects in Jurisdictions with Local Plans Not Consistent with the Clean Air Plan

For a project in a city or county with a general plan that is not consistent with the Clean Air Plan, the cumulative impact analysis should consider the combined impacts of the proposed project and past, present and reasonably anticipated future projects. ("Reasonably anticipated future projects" should include, at a minimum, projects of which the Lead Agency is aware based on applications for permits and other land use entitlements, environmental documents, and discussions with probable future developers.) A project would have a significant cumulative impact if these combined impacts would exceed any of the thresholds established above for project operations. A quantitative analysis of past, present and future projects would be required as part of this determination. The analysis should also address how the project and past, present and future projects would influence population and vehicle use projections (see Thresholds of Significance for Plan Impacts, Determining Consistency with Clean Air Plan Population and VMT Assumptions, below).

Thresholds of Significance for Plan Impacts

Regarding plans, the State CEQA Guidelines, Section 15125(b), states that an EIR shall discuss "any inconsistencies between a proposed project and applicable general plans and regional plans. Such regional plans include, but are not limited to, the applicable Air Quality Management Plan (or State Implementation Plan)..." General Plans of cities and counties must show consistency with regional plans and policies affecting air quality to claim a less than significant impact on air quality. General plan amendments, redevelopment plans, specific area plans, annexations of lands and services, and similar planning activities should receive the same scrutiny as general plans with respect to consistency with regional air quality plans.

For a local plan to be consistent with the regional air quality plan it must be consistent with the most recently adopted Clean Air Plan (CAP). (At the time of this writing, December 1999, the most recently adopted CAP is the *Bay Area '97 Clean Air Plan*.) The goal of the CAP is to reduce ground-level ozone and satisfy other California Clean Air Act (CCAA) requirements (e.g., performance objectives related to motor vehicle use). *All of the following criteria must be satisfied for a local plan to be determined to be consistent with the CAP.* Local plans found to be consistent with the CAP would have a less than significant impact on air quality.

*Attorney-Client Privileged and Confidential***Evolution of Methodologies Used for Project Health Risk Assessments**

ERM has conducted numerous health risk assessment based on the OEHHA Air Toxics Hot Spots Program methodology (August 2003). Prior to 2010, the health risk assessments ERM performed in the Bay Area evaluated significance of impacts using thresholds of significance from the 1999 BAAQMD CEQA Guidelines. The health risk assessment thresholds from the 1999 Guidelines did not specify a numeric threshold for cumulative risk, but stated that the cumulative impact would be considered significant if the project's impacts individually would be significant. Therefore, if the project-only impact was less than significant (i.e., less than 10 in one million), no cumulative health risk assessment modeling was conducted.

After the 2010 BAAQMD CEQA Guidelines were published, ERM conducted health risk assessments using the OEHHA Air Toxics Hot Spots Program methodology, but with thresholds and additional analysis as directed by the new 2010 Guidelines. The BAAQMD 2010 CEQA Guidelines state, page 5-15, Section 5.3.1: "The BAAQMD recommends that cumulative impacts of new sources and new receptors be evaluated as described in Section 5.2, and include the impacts of all individual sources (stationary and on-road mobile) within the 1,000 foot radius." It was unclear to ERM staff whether this meant 1,000 feet from the project sources, if they are within a large property, or if it meant non-applicant sources 1,000 feet outside the property boundary. During the development of the HRA for the Shell Crude Tank Replacement Project ("CTRP"), ERM inquired with BAAQMD planning staff for clarification and was advised that the 1,000 foot radius should extend from the project sources within the property boundary.

As the 1,000 foot radius from Shell project sources did not extend beyond the property boundary, ERM did not perform a cumulative health risk assessment. The health risk assessment did not include any additional analysis beyond the project impacts, which resulted in cancer risk well below 10 in one million and were not considered cumulatively considerable. This approach was acceptable to the Contra Costa County (lead agency) reviewed by the BAAQMD as a responsible agency. Neither the BAAQMD, nor any other agency, group, or person, objected to or even commented on this approach when or on any other aspects of the health risk assessment during or after the Draft Environmental Impact Report comment period and the FEIR was certified based on this approach. The 2010 Guidelines and updated CEQA thresholds were in effect (before they were vacated by the court) during this time period.

The health risk assessment for the PRP was performed in December 2012. The 2010 CEQA Guidelines were vacated in March 2012, leaving lead agencies with decisions to make regarding what thresholds and approaches to take. Nevertheless, Contra Costa County (lead agency) used updated 2010 thresholds, including in Section 4.3.3 of the DEIR, with clarification for health risk assessment cumulative impacts stating: "Regarding the County's approach to assessing

cumulative impacts, a project's contribution to cumulative impacts to regional air quality should be considered significant if the project's impact individually would be significant (i.e., exceeds the BAAQMD's quantitative thresholds). “

The Phillips 66 Marine Terminal Initial Study, also prepared in December 2012, did not include a cumulative health risk assessment for similar reasons. This document was prepared by ERM with the District serving as the lead agency. Thus, two recent project health risk assessments prepared with involvement by the District considered this health risk assessment methodology acceptable.

Thus, for the development of the PRP health risk assessment, an approach similar to the Shell project was applied. A 1000-foot radius was drawn around the PRP project sources. The radius did not extend as far as the property boundary and did not approach any sensitive receptors. In addition, no cumulative projects were identified within the 1,000 foot radius. Thus, once the project-only health risk impact was shown to be less than significant, the cumulative health risk was deemed to be less than significant, and the cumulative health risk assessment was considered not to be necessary.

CEQA Guidelines

1/16/2014

UPDATE: January 16, 2014: On June 2, 2010, the Bay Area Air Quality Management District's Board of Directors unanimously adopted thresholds of significance to assist in the review of projects under the California Environmental Quality Act. These Thresholds are designed to establish the level at which the District believed air pollution emissions would cause significant environmental impacts under CEQA and were posted on the Air District's website and included in the Air District's updated CEQA Guidelines (updated May 2012).

On March 5, 2012 the Alameda County Superior Court issued a judgment finding that the Air District had failed to comply with CEQA when it adopted the Thresholds. The court did not determine whether the Thresholds were valid on the merits, but found that the adoption of the Thresholds was a project under CEQA. The court issued a writ of mandate ordering the District to set aside the Thresholds and cease dissemination of them until the Air District had complied with CEQA. The Air District has appealed the Alameda County Superior Court's decision. The Court of Appeal of the State of California, First Appellate District, reversed the trial court's decision. The Court of Appeal's decision was appealed to the California Supreme Court, which granted limited review, and the matter is currently pending there.

In view of the trial court's order which remains in place pending final resolution of the case, the Air District is no longer recommending that the Thresholds be used as a generally applicable measure of a project's significant air quality impacts. Lead agencies will need to determine appropriate air quality thresholds of significance based on substantial evidence in the record. Although lead agencies may rely on the Air District's updated CEQA Guidelines (updated May 2012) for assistance in calculating air pollution emissions, obtaining information regarding the health impacts of air pollutants, and identifying potential mitigation measures, the Air District has been ordered to set aside the Thresholds and is no longer recommending that these Thresholds be used as a general measure of project's significant air quality impacts. Lead agencies may continue to rely on the Air District's 1999 Thresholds of Significance and they may continue to make determinations regarding the significance of an individual project's air quality impacts based on the substantial evidence in the record for that project.

Various tools and resources are available on this website to assist local jurisdictions in applying the Air District's CEQA Guidelines.

For more information, please contact Sigalle Michael, Senior Environmental Planner at smichael@baaqmd.gov or 415-749-4683.

Learn more about the [updated CEQA Guidelines](#).

View the District's [1999 CEQA Guidelines](#).

To view the State CEQA Guidelines and related materials visit the [California Resources Agency](#).

California Air Districts Launch Greenhouse Gas Exchange

Update: January 2, 2014

The California Air Pollution Control Officers Association (CAPCOA), representing California's 35 local air districts, has launched the CAPCOA *Greenhouse Gas Exchange*. The *Exchange* provides a reliable, low-cost, secure platform to encourage locally generated, high quality GHG emission reduction credits that can be used to meet CEQA or other compliance requirements.

CalEEMod Release

Update: August 5, 2013

On July 31, 2013, the California Air Pollution Control Officers Association (CAPCOA) released CalEEMod 2013.2. This land use model can be downloaded from www.caleemod.com. From this point forward, the BAAQMD will no longer support the use of Urbemis. Please perform all future analyses using CalEEMod. For more information or to ask questions, please contact Alison Kirk, Senior Environmental Planner at akirk@baaqmd.gov or 415-749-5169.

Carmen Gray

January 17, 2014

Members of the Contra Costa County Board of Supervisors
On Planning Matters in the Rodeo Area

All kinds of light have been shed over this EIR and yet the officials of the different departments of the County in charge of the approval of this project have decided to ignore and dismiss it.

The latest was a very interesting study provided by the firm Darwin Myers Associates in response to a request by the County's Department of Conservation and Development, which states that the location for the Propane/Butane loading racks is in an area denominated as artificial fill. These kinds of terrains don't do well during earthquakes because they tend to liquefy.

The study also points out, and I quote: "based on our previous experience with projects on the Phillips 66 Refinery, there is an unknown but potentially significant risk of the following hazards: a) contaminated soils, b) expansive soils, c) undocumented fill that is inadequate for the support of planned improvements, d) compressible soils and e) liquefaction. There may be also shallow groundwater within some of the areas where propane-related facilities are proposed. A site specific geotechnical report is needed prior to deeming the application complete."

Did anybody read this report? And if so why was it dismissed so quickly? Don't you think these are very serious facts that should be dealt with before a green light is giving to Phillips 66 or is it just all about the money? The rich getting richer and the town of Rodeo getting screwed.

Carmen Gray
212 Sharon Ave
Rodeo, CA 94572

Nancy Rieser

The Carquinez Straight refineries will use the proposed Wes Pac delivery system to deliver Canadian Tar Sands and other North American crude for their expansion projects. Phillips 66 omitted its own dependence on Wes Pac in its EIR and neglected to acknowledge the cumulative impacts of other upstream refinery expansions. These deliberate omissions are in violation of CEQA. As we prepare for public hearings in our own communities, we stand in solidarity with the people of Rodeo and Crockett as they prepare for theirs.

X Arcon Reaven Print Arcon Reaven
Address 480 36th St Town Oakland Date 1/11/14

X Liana Monterrey Print LYANA MONTERREY
Address 346 Avalon Cir Town Pittsburg Date 1/11/14

X George D. Monterrey Print GEORGE D. MONTERREY
Address 835 CARPETA CIR Town PITTSBURG Date 1/11/14

X Dave Kaellecek Print Dave Kaellecek
Address 3666 DeSoto Ave Town Santa Clara Date 1/11/14

X Luis Arroyo Print Luis Arroyo
Address 4363 Hillview D Town Pittsburg Date 1/11/14

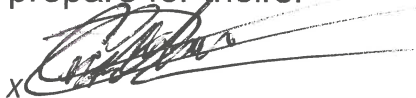



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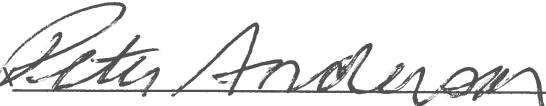
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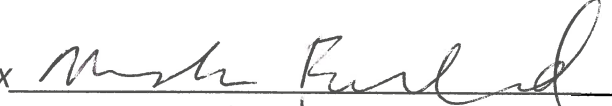
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X  Print Cecilia Lopez
Address W 11th St # Town Pittsburg CA Date 1/11/14

X  Print CHARLES DAVIDSON
Address 2108 DRAKE LANE Town HEROULES Date 1/11/2013

X  Print PETER ANDERSON
Address 19 CLAY DRIVE Town FAIRFAX Date 1/11/14

X  Print Marsha Feinland
Address 2217 1/2 McGehee Ave Town Berkeley Date 1/11/14

X  Print Rick Freeman
Address 55 Kensington Town Berkeley Date 1/11/14



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X RS Print Rosemary S. Arroyo
Address 4363 Hillview Dr. Town Pittsburg Ca Date 1/11/14

X Stephano Thomas Print Stephanie Thomas
Address 1824 San Lorenzo Ave Town Berkeley Date 1/11/14

X Jarvis Prange Print Jarvis Prange
Address 7354 Elm Ave Town St Date 1/11/14

X Jan Cox Golovich Print Jan Cox Golovich
Address 179 Harbor Vista Ct Town Benicia Date 1/11/14

X Charles Woodcock Print CHARLES WOODCOCK
Address 2355 VIRGINIA ST. Town BERKELEY Date 1/11/14



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X Judith Williams Print JUDITH WILLIAMS
Address 1510 Spruce St. Town Berkeley Date 1/11/2014

X Susan Harman Print Susan Harman
Address 4114 39th Ave Town Oakland Date 1/11/14

X Eloise Hamann Print Eloise Hamann
Address 7065 Inclined Pl Town Dublin Date 1/11/14

X Laurence Abbott Print Laurence Abbott
Address 433 Haring St. #307 Town San Leandro Date 1/11/14

X Gordon Miller Print Gordon Miller
Address 13408 Las Juntas Way Town Walnut Creek, 94597 Date 1/11/14



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X Laurie Baumgarten Print Laurie Baumgarten
Address 2702 Fulton St. Town Berkeley Date 1/11/14

X Rohit Upadhyaya Print Rohit Upadhyaya
Address 2428 Ellsworth St. Town Berkeley Date 1/11/14

X Shoshanna Howard Print Shoshanna Howard
Address 661 15th St Town Oakland Date 1/11/14

X Victoria Fernandez Print Victoria Fernandez
Address 3035 Alameda Town Menlo Park Date 1/11/14

X Nick Despotis Print Nick Despotis
Address 633 Kern St. Town Richmond CA Date 1/11/14



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X Ellis Goldberg Print Ellis Goldberg
Address 237 Aptos Pl Town DANVILLE Date 1/11/2014

X Wildy Kerby Print Wildy Kerby
Address 202 Pelican Loop Town Pittsburg Date 1/11/2014

X Bonnie McWobb Print _____
Address 148 Pelican loop Town Pittsburg CA 94565 Date 1/11/2014

X Steve Lustig Print STEVE LUSTIG
Address 2223 McGee Ave Town Berkeley CA Date 1/11/2014

X Linda Lustig Print Linda Lustig
Address 2223 McGee Ave Town Berkeley CA Date 1/11/2014



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X Garry Tanner Print Garry Tanner
Address 2800 Laguna Cir # F Town Concord CA Date 1/11/14

X Ruth Baxley Print Ruth Baxley
Address 716 Preservation St. Town Pittsburg Date 1/11/14

X Helen Baxley Sartz Print Helen Baxley Sartz
Address 365 McAllister Town Berkeley Date 1/11/14

X Carissa Brands Print CARISSA BRANDS
Address PO Box 1475 Town PT REYES STA, CA Date 1/11/14

X Christopher Lish Print Christopher Lish
Address PO Box 113 Town Olema, CA Date 1/11/14



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X Angela Carmoche Print Angela Carmoche
Address 3483 Crestview Dr Town Pittsburg Date 1/11/14

X David Solnt Print DAVID SOLNT
Address 69 Maine St Town Richmond, CA Date 1/11/14

X Latoya Williams Print Latoya Williams
Address 226 West 9th Street Town Pittsburg CA Date 1/1/14

X Willie Mims Print Willie Mims
Address 954 Newcastle Way Town Pittsburg Date 1/11/14

X Charles D Smith Print Charles D Smith
Address 3033 Pepperhill Cir Town Pitts' 94565 Date / /



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X Amaris Lujano Print AMARIS LUJANO
Address 45 W. 10th St. #7 Town Pittsburg 94565 Date 1/11/14

X Anna Lujano Print ANNA LUJANO
Address 53 Locust Drive Town Pittsburg 94565 Date 1/11/14

X Dr. Henry Clark Print Dr. Henry Clark
Address 305 Chelsey Town Richmond Date 1/11/14

X Michael Banglow Print Michael Banglow
Address m.banglow@gmail.com Town Berkeley Date 1/11/14

X Mary McIlroy Print Mary McIlroy
Address 1422-5th St. Town Berkeley Date 1/11/14





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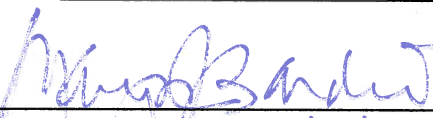
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X  Print Sherill Berg
Address 2242 Yukon St Town Concord Date 1/11/14

X  Print Luis Arroyo Jr
Address 232 Pueblo Dr Town Pittsburg CA Date 1/11/14

X  Print THOMAS R. WOODARD
Address 2354 18th Ave Town San Francisco, CA Date 1/11/14

X  Print Marilyn J Bandot
Address 333 East R St Town Benicia Date 1/11/14

X  Print JAMES MCFADDEN
Address 2430 McGee Ave Town Berkeley Date 1/11/14



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X [Signature] Print Seal Holtzman
 Address 847 Scott St Town San Francisco Date 1/11/14

X [Signature] Print _____
 Address 117 Tewksbury Ave Town Richmond Date 1/11/14

32 X [Signature] Print Ethan Buckner
 Address 1822 Berkeley Way Town Berkeley, CA Date 1/11/14

X Humberto Razo Print Humberto Razo
 Address 139 Banyon dr Town Pittsburg CA Date 1/12/14

X [Signature] Print Jessica Kilgore
 Address 139 Banyon dr Town Pittsburg Ca Date 1/12/14



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X [Signature] Print Chifton Pruitt
 Address 1721 5th Town Richmond Date 01/11/2014

X Marilyn Monroe Wall Print Marilyn M. Walker
 Address 204 Fowles Ave Town Pittsburg Date 01/11/2014

X Jean Tepperman Print Jean Tepperman
 Address 1701 Channing way Town Berkeley Date 1/11/14

X [Signature] Print Roger Stoll
 Address 231 Laurel Place #6 Town San Rafael Date 1/11/14

X Jessica Dorvin-Ackerman Print [Signature]
 Address 438 49th Street Town Oakland Date 1/11/14



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x Joanna Grundmann Print Joanna Grundmann
 Address 55 Standley Ct Town Pittsburg Date 1/11/14

x [Signature] Print Thomas Parkin
 Address 3165 16th St Town SF, 94103 Date 1/11/14

x William Neace Print William Neace
 Address 640 Herb White Way Town Pittsburg Date 1/11/14

x Dominic Cruz Print Dominic Cruz
 Address 640 Herb White Way Town Pittsburg Date 1/11/14

x [Signature] Print Stephanie Hervey
 Address 23 Maine Ave Town Pittsburg Date 1/4/14



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x George R. Montgomery Print [Signature]
Address 346 AVALON Circle Town PITTSBURG Date 1/11/14

x Nancy Davis Print _____
Address 1022 Power Av #149 Town Pittsburg Date 1/11/14

x KATY POLONY Print _____
Address 1773 10th St Town OAKLAND Date / /

x BRIAN CLASPER Print Brian Clasper
Address 29 SUNSET DR. APT B Town ANTIOCH Cal 94509 Date 1/11/14

x Kalli Graham Print [Signature]
Address P.O. Box 1313 Town Pittsburg Date 1/11/14



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x Louise Hirschman Print Louise Hirschman
Address 271 Shoreline Town Pittsburg Date 1/11/14

x Lisa Graham Print Lisa Graham
Address 267 Pebble Beach Loop Town Pittsburg Date 1/11/14

x Diane Bailey Print Diane Bailey
Address 501 Middlesex Rd Town Belmont Date 1/11/14

x Pamela Aranz Print Pamela Aranz
Address 3501 Bellflower Dr Town Antioch Date 1/11/14

x Ray Berglow Print Ray Berglow
Address 1138 Keith Ave. Town Berkeley CA Date 1/11/14





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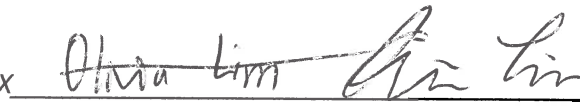
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X  _____ Print Andres Soto
Address 300 E. H St #99 Town BENICIA Date 1/11/14

X  _____ Print Bill Pinkham
Address 5637 Parana Ave. Town Richmond Date 1/11/14

X  _____ Print James Kreidler
Address 3009 Solito St Town Dan3 Date 1/11/14

X  _____ Print Olivia Lim
Address _____ Town Davis Date 1/11/14

X  _____ Print MacGarrett
Address 25 Van Tassel Ln. Town Orinda Date 1/11/14



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X Eva S. Lujano Print Eva S. Lujano
Address 58 Locust Dr. Town Pittsburg, CA Date 1/11/14

X Rosario Lujano Print Rosario Lujano
Address 45 West 10th Street #7 Town Pittsburg Date 1/11/14

X Carla West Print Carla West
Address 220 Caldecott Ln #214 Town Oakland Date 1/11/14

X Eduardo Martinez Print Eduardo MARTINEZ
Address 2030 Santa Clara St Town Richmond Date 1/11/14

X Craig Bonzo Bonater Print Craig Bo
Address 720 Z A E.C. 94530 Town Date 1/11/14



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X Annemarie Q. Donjacour Print Annemarie Donjacour
 Address 41 Eastwood Dr Town SF Date 1/11/14

X [Signature] Print Abbie Dzy
 Address 850 East 2nd Rd #37 Town Pittsburg Cal Date 1/11/14

X _____ Print _____
 Address _____ Town _____ Date ____/____/____

X _____ Print _____
 Address _____ Town _____ Date ____/____/____

X _____ Print _____
 Address _____ Town _____ Date ____/____/____



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X N. G. Peyracain Print N. G. Peyracain
Address 105 Siwa Ct Town Martinez Date 1/11/13

X _____ Print _____
Address _____ Town _____ Date ____/____/____

X _____ Print _____
Address _____ Town _____ Date ____/____/____

X _____ Print _____
Address _____ Town _____ Date ____/____/____

X _____ Print _____
Address _____ Town _____ Date ____/____/____



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George Smith

November 18, 2013

Contra Costa Planning Commission
30 Muir Road
Martinez, CA 94553



**EAST BAY LEADERSHIP COUNCIL LETTER OF SUPPORT
MANUFACTURING MODERNIZATION IN EAST BAY
PHILLIPS 66 RODEO REFINERY LPG RECOVERY PROJECT**

Chair of the Board

Terry Bowen
Principal, Gray/Bowen

Chair Elect

Keith Archuleta
Principal, Emerald HPC International, LLC

Vice President – Finance

Ron Wetter
Community and Government Relations, Kaiser Foundation Health Plan, Inc.

Vice President - Events

Bielle Moore
Richmond Sanitary Inc./Republic Services

Vice President – Task Forces

Andrew Sabey
Partner, Cox, Castle & Nicholson, LLP

Vice President – Task Forces

Steve Van Wart
Principal, Tunbridge Associates

Vice President – Communications

Peggy White
Executive Director, Diablo Regional Arts Association

Vice President – Member Services

James Brandt
First Vice President-Wealth Mgt. Morgan Stanley Smith Barney

Chief Legal Counsel

Peter McGaw
Shareholder, Archer Norris

Immediate Past Chair

Bob Brown
Public Affairs Director, AAA Northern CA, NV & UT

President and CEO

Tom Terrill

The East Bay Leadership Council is a private sector, public policy organization that advocates on issues affecting economic vitality and quality of life. Our membership includes leaders from business, industry, health care, education, local government, labor, and the nonprofit community.

The East Bay Leadership Council supports modernization of existing manufacturing facilities, which creates new jobs, a safer working environment, and results in lower emissions and cleaner air. Consistent with these goals, the East Bay Leadership Council supports the proposed Phillips 66 LPG Recovery Facility at the Rodeo Refinery.

The LPG project is expected to reduce sulfur dioxide emissions by at least 50 percent, removing about 180 tons from the air annually. It will also reduce refinery greenhouse gas emissions and further reduce the likelihood of flaring.

The modernization project will create about 200 high-wage construction jobs during the construction period of about 18 months. The proposed project will be constructed on existing refinery property already zoned for heavy industrial use. New process equipment will be installed, and some existing equipment will be reused to recover butane and propane, and remove contaminants from these gases. Older equipment will be deactivated and removed, and additional propane storage and loading facilities will be constructed.

Contra Costa County's independent environmental review process has fully evaluated this project and any concerns voiced by the community. According to the Environmental Impact Report, the project, as mitigated, will not have a significant adverse effect on the environment. We fully support the Phillips 66 LPG Recovery project, which fits within our mission to promote economic vitality and quality of life in the East Bay.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Terrill".

Tom Terrill
President and CEO

Tannenbaum

Comments to the Contra Costa County Board of Supervisors 1/21/14

Ed Tannenbaum, PO Box 398 Crockett, CA 94525

et@et-arts.com CRGNA.org

Dear Board,

Before you is a recommendation from the planning commission to accept the FEIR on the P66 propane recovery project. If you were to hear the planning commissioners' final comments at the hearing on this matter before they unanimously approved it, you would know that they simply did not have an understanding of the facts of this case. They have accepted the claims made by the refinery, denying all allegations made by independent experts, even though those allegations are backed up by provable facts. It was clearly a case of minds made up... don't confuse them with the facts.

I have been working with the refinery for the past 13 years to try to make a working Fenceline monitoring system that the community can count on. I have witnessed their reluctance to make obvious improvements to the system. In spite of the fact that the refinery has failed to meet the county mandated uptime of the system, they refuse to compromise by putting instruments already in place on-line to improve monitoring capabilities. They refuse to purchase additional equipment that would backup equipment that is continually failing. They continue to delay because the county is OK with them being out of compliance with their land use permit. If they felt threatened, they would act. If it affected their bottom line, deficiencies would certainly be addressed. But this refinery has close friends in the government, so why bother?

We asked for improved monitoring due to the added elements and dangers associated with this project... a reasonable request. The response would be laughable if this were a farce. I quote from your "experts" response:

"As discussed within the Final Environmental Impact Report (FEIR) in Chapter 2-Master Responses on page 2-10, the refinery and the communities continue to work on a fenceline monitoring system, as required as part of a previous land use permit. The Propane Recovery Project appears unlikely to result in an increase of odorous emissions, as certain equipment and technology are anticipated to be installed and/ or used as part of the fenceline monitoring system."

On multiple levels, that statement makes no sense. It implies that the existing system is good enough (which it clearly is not), suggests improvements to it are included in the project (while none are proposed), and those improvements if they existed will mitigate any increase in odors (which is clearly IMPOSSIBLE). In what universe is that explanation acceptable? Yet it, and all other arguments against the actual facts were summarily accepted by the commissioners, and they would like you to sign on.

You have been presented with additional information that has come to light since the planning commission hearing to further support the claims made by CBE and the lawyers representing Rodeo. The EIR has clearly been shown to have serious flaws under CEQA by omitting key factual elements and remedies for environmental consequences.

I remind you that it is your responsibility to represent the residents of this county as well as the industry that pays for your political campaigns. You must reject this seriously flawed document. The voters are watching.

Very important page of Eng. document

A large drop in fuel heat content can affect the combustion efficiency of all combustion sources, including heaters, boilers, and turbines. A related concern is a concomitant drop in flame temperature. The Project basically involves replacing propane and butane that are currently part of the Refinery Fuel Gas (RFG) with natural gas. Propane and butane burn with a hotter flame than natural gas.²⁶ These two effects, a large drop in heat content and a lower flame temperature, would result in an increase in the emission of products of incomplete combustion, including hazardous air pollutants, carbon monoxide, and reactive organic gases from all fuel gas fired combustion sources. None of these pollutants are routinely monitored, e.g., with continuous emission monitoring systems, and some are not monitored at all (HAPs). Thus, the increases would not even be detected until after the fact. The DEIR and FEIR did not disclose the flame temperature issue. Further, only 19 process heaters would receive upgraded burners. The FEIR is silent on the impacts that would result from the lower heat content fuel and lower resulting flame temperature at other combustion sources that will not be upgraded.

Physics for Engineer report

The DEIR should be revised to include a complete description of the Project and an analysis of all of the environmental effects of these changes.

IV. PROJECT EMISSIONS ARE UNDERESTIMATED AND SIGNIFICANT

The DEIR underestimated the increase in greenhouse gas (GHG) emissions and criteria pollutant emissions (NO_x, ROG, PM_{2.5}/PM₁₀) that would result from the Project. If the EIR had accurately estimated the Project's emissions, it would have determined that the Project will result in significant unmitigated air quality impacts from emissions of GHGs, NO_x, and ROG. The DEIR also failed to estimate the increase in carbon monoxide emissions that would result from the Project.

IV.A. Greenhouse Gas Emissions (GHG) Are Underestimated

Janet Pye George Rodeo Citizens Association

The DEIR estimated that the Project would decrease GHG emissions by 325,978 metric tons per year (MT/yr). DEIR, Table 4.8-3. The increases in GHG emissions from a new boiler (67,133 MT/yr), additional natural gas combustion (592,761 MT/yr), and other miscellaneous sources (7,372 MT/yr) are assumed to be offset by removing 14,500 BPD of butane and propane from the fuel gas system and replacing it with natural gas, which emits less GHG (-759,244 MT/yr) and the shutdown of Plant 4 Hydrogen Plant and B-401 Process Heater (-234,000 MT/yr). These reductions are not supported and are incorrect. When the errors discussed below are corrected, GHG emissions exceed the significance threshold of 10,000 MT/yr for stationary sources and 1,100 MT/yr for other types of projects (DEIR, p. 4.8-13). Thus, they are a significant unmitigated impact of the Project.

²⁶ Flame Temperatures of Some Common Gases, Available at: http://www.engineeringtoolbox.com/flame-temperatures-gases-d_422.html.

Madelyn Morten



Earthquakes

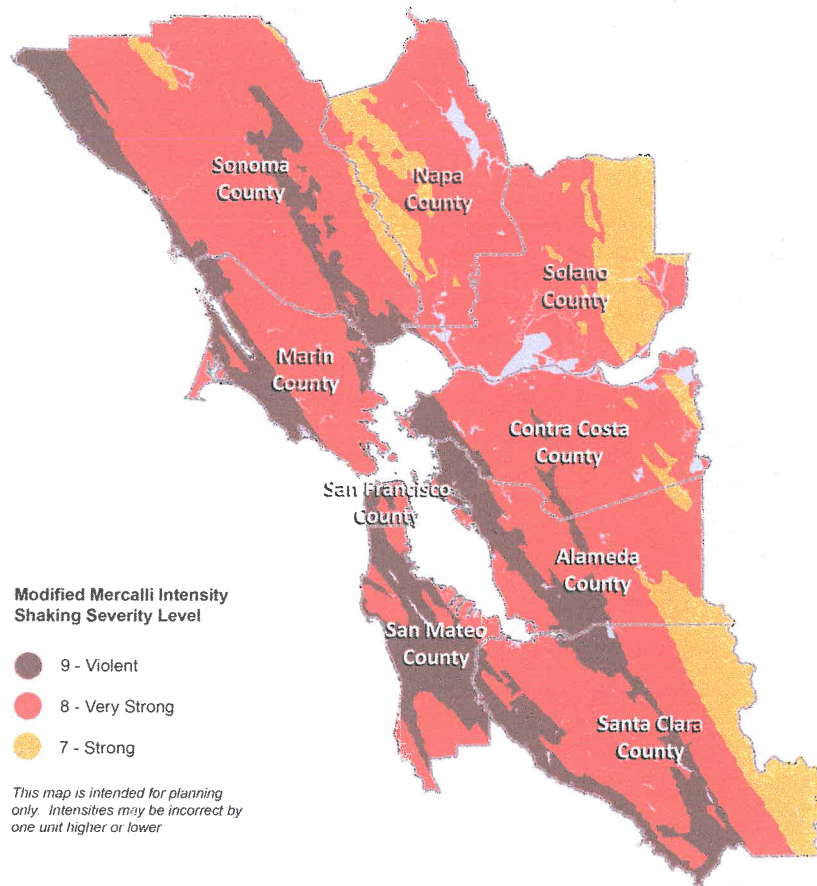
Earthquakes in the San Francisco Bay Region result from accumulation of energy as the Pacific Plate slides past the North American Plate. The fact that a devastating earthquake occurred in 1906 — the San Francisco earthquake — is common knowledge. Larger earthquakes generally affect larger areas; the 1906 earthquake caused extensive damage in San Francisco, Oakland, San Jose and Santa Rosa. More recently, the 1989 Loma Prieta earthquake caused extensive damage in the Santa Cruz Mountains, as well as in Oakland and San Francisco tens of miles away. But many moderate to great earthquakes (over magnitude 6.0) have affected the Bay Area; 22 such events have occurred in the last 160 years — for an average of one every seven years, and future large earthquakes are a certainty. [Learn more.](#)

(<http://earthquake.usgs.gov/regional/hca/ucert/>)

Jump to information about: [Liquefaction](#) | [Faults](#) | [Landslides](#)

Shaking

Shaking Hazard Map



This map shows the composite shaking hazard across the Bay Area based on all earthquake scenarios and likelihood information using the Modified Mercalli Intensity (MMI) scale.

What is MMI?

(<http://quake.abag.ca.gov/shaking/mmipopup>)

What does this map mean?

(<http://quake.abag.ca.gov/shaking/psha>)

To view additional earthquake hazard information, including interactive maps, select a county by clicking on the map or on one of the links below:

[Alameda County](#)

[Contra Costa County](#)

[Marin County](#)

[Napa County](#)

[San Francisco](#)

[San Mateo County](#)

[Santa Clara County](#)

[Solano County](#)

[Sonoma County](#)

Statewide Earthquake Information

(http://www.conservation.ca.gov/cgs/geologic_hazards/earthquakes/F)
(California Geological Survey)

Recent earthquakes worldwide

(<http://earthquake.usgs.gov/earthquakes/map/>)

Source: USGS 2013

Future Earthquake Shaking Scenarios

REQUEST TO SPEAK FORM (2 Minute Limit)

Complete this form and place it in the upright box near the speaker's podium, and wait to be called by the Chair.

Personal information is optional. This speaker's card will be incorporated into the public record of this meeting.

Name (PRINT): Nadine Peyruean
To ensure your name is announced correctly, you may want to include its phonetic spelling

Address: 105 Silva Court

City: Martinez, CA 94553

Phone: RS 228-4514

I am speaking for: ☒ Myself

☐ Organization: _____

I wish to speak on Agenda Item #: _____

Date: 1/21/14

My comments will be: ☐ General
☒ For appeal of
☐ Against Decision

~~I wish to speak on the subject of:~~

→ Rail cars/tankers traveling
and parked throughout
the community carrying
propane & butane. →

~~I do not want to speak but would like to
leave comments for the Board to consider
(Use the back of this form)~~

Information for Speakers:

1. Deposit this form into the upright box next to the speaker's podium before the Board's consideration of your item
2. Wait to be called by the chair. Please speak into the microphone at the podium.
3. Begin by stating your name and your city or area of residence, and whether you are speaking for yourself or on behalf of an organization.
4. If you have handout materials, give them to the Clerk.
5. Avoid repeating comments made by previous speakers.
6. The Chair may limit the time allocated to speakers so that all may be heard.

In lieu of speaking, I wish to submit these comments:

44 1st meeting in Worcester said they'd be parked in Martinez.
No one has addressed my concerns.
1. Note the # of people in this meeting from Phillips 76. I am willing to bet they are all being paid to be here. Note the number of people from the community - we are not being paid - for the most part, those few who are, were hired to speak for us. We too are the working families but we are not working for Phillips 76.

I have → Concerns on the EIR information submitted. No I don't trust corporations. I am concerned about water in the bay. I am concerned in creating a system that empowers fracking in other communities. I am concerned about our Air.

We are all connected - please re-evaluate the EIR, please do it right, get all of the information.

We are counting on you to protect us from the petroleum industry. They have a history of destroying communities - if their current plan is everything they say it is, then there is no harm in just taking a little more time to ensure that ~~the EIR~~ ^{it} really does everything Phillips 76 says it will.

Non speaker

REQUEST TO SPEAK FORM (2 Minute Limit)

Complete this form and place it in the upright box near the speaker's podium, and wait to be called by the Chair.

Personal information is optional. This speaker's card will be incorporated into the public record of this meeting.

Name (PRINT): DAVE NEWGARD
To ensure your name is announced correctly, you may want to include its phonetic spelling

Address: 218 CARQUINEZ

City: Martinez

Phone: 925-642-8158

I am speaking for: ☐ Myself

☒ Organization: Boilermakers

UNION 549

I wish to speak on Agenda Item #: 01

Date: _____

My comments will be: ☐ General

☒ For

☐ Against

☐ I wish to speak on the subject of:

☒ I do not want to speak but would like to leave comments for the Board to consider
(Use the back of this form)

Information for Speakers:

1. Deposit this form into the upright box next to the speaker's podium before the Board's consideration of your item
2. Wait to be called by the chair. Please speak into the microphone at the podium.
3. Begin by stating your name and your city or area of residence, and whether you are speaking for yourself or on behalf of an organization.
4. If you have handout materials, give them to the Clerk.
5. Avoid repeating comments made by previous speakers.
6. The Chair may limit the time allocated to speakers so that all may be heard.

In lieu of speaking, I wish to submit these comments:

549 Boilermakers Union
I am For D1. This is Good
For all concerned.

Nonspeaker

REQUEST TO SPEAK FORM (2 Minute Limit)

Complete this form and place it in the upright box near the speaker's podium, and wait to be called by the Chair.

Personal information is optional. This speaker's card will be incorporated into the public record of this meeting.

Name (PRINT): Steven NADEL
To ensure your name is announced correctly, you may want to include its phonetic spelling

Address: _____

City: _____

Phone: _____

I am speaking for: ☒ Myself

☐ Organization: _____

I wish to speak on Agenda Item #: _____

Date: _____

My comments will be: ☐ General

☐ For

☐ Against

☒ I wish to speak on the subject of:

☒ I do not want to speak but would like to leave comments for the Board to consider
(Use the back of this form)

Information for Speakers:

1. Deposit this form into the upright box next to the speaker's podium before the Board's consideration of your item
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4. If you have handout materials, give them to the Clerk.
5. Avoid repeating comments made by previous speakers.
6. The Chair may limit the time allocated to speakers so that all may be heard.

In lieu of speaking, I wish to submit these comments:

The Radical expansion of
Contra Costa county transport
and refining of dirty crude
is being conducted without proper
consideration of safety. No new
projects should be completed or
permitted until the Chemical Safety Board
review of the Chevron explosions are
complete and the CSB safety recommendations
are implemented.

The Phillips 66 Propane Recovery Project would result in significant unmitigated air quality and public health impacts. The DEIR and FEIR significantly underestimate the amount of pollutants and greenhouse gas emissions that would be emitted by the Project.

The DEIR's Project description is incomplete. It fails to disclose the baseline crude slate, which determines the CEQA baseline emissions from all processing units within the Refinery. Second, it fails to disclose other directly related projects at the Phillips 66 Santa Maria Facility, linked by pipeline to the Rodeo Refinery. These directly related projects result in significant cumulative impacts that were not evaluated. Third, it fails to disclose cumulative impacts in the region that would result from the proposed Chevron "Modernization" Project, the Valero Crude-by-Rail project in Benicia and the WesPac mega oil terminal in Pittsburg.

I strongly urge you **not** to approve this project, and not to reconsider this project until these severe deficiencies in the DEIR and FEIR have been corrected.

Ghoshana Wechsler
Kensington, CA

REQUEST TO SPEAK FORM (2 Minute Limit)

Complete this form and place it in the upright box near the speaker's podium, and wait to be called by the Chair.

Personal information is optional. This speaker's card will be incorporated into the public record of this meeting.

Name (PRINT): Tanice Stockon ^{no second}
To ensure your name is announced correctly, you may want to include its phonetic spelling

Address: 3314 Via Verde Terrace

City: Davis, CA 95618

Phone: 510-719-1244

I am speaking for: ☒ Myself
☐ Organization: _____

I wish to speak on Agenda Item #: _____

Date: 1-21-2014

My comments will be: ☐ General

☒ For

☐ Against

☐ I wish to speak on the subject of: _____

☒ I do not want to speak but would like to leave comments for the Board to consider
(Use the back of this form)

FOR APPROVAL
OF P66 PERMIT

Information for Speakers:

1. Deposit this form into the upright box next to the speaker's podium before the Board's consideration of your item
2. Wait to be called by the chair. Please speak into the microphone at the podium.
3. Begin by stating your name and your city or area of residence, and whether you are speaking for yourself or on behalf of an organization.
4. If you have handout materials, give them to the Clerk.
5. Avoid repeating comments made by previous speakers.
6. The Chair may limit the time allocated to speakers so that all may be heard.

In lieu of speaking, I wish to submit these comments:

The Phillips 66 permit
to construct a new unit
to capture & produce LPG
should be approved.
Our area needs the jobs
this would bring &
based on our research
would be safely built
& safely operated.

REQUEST TO SPEAK FORM (2 Minute Limit)

Complete this form and place it in the upright box near the speaker's podium, and wait to be called by the Chair.

Personal information is optional. This speaker's card will be incorporated into the public record of this meeting.

Name (PRINT): GUY COOPER
To ensure your name is announced correctly, you may want to include its phonetic spelling

Address: _____

City: MARTINEZ

Phone: _____

I am speaking for: ☒ Myself

☐ Organization: _____

didn't appear

I wish to speak on Agenda Item #: D.1

Date: 1/21/14

My comments will be: ☐ General

☐ For

☐ Against

☐ I wish to speak on the subject of:

PHILLIPS 66 LPG

RECOVERY PROPOSAL:

ENVIRO PUBLIC SAFETY,

ECONOMIC IMPACTS

☒ I do not want to speak but would like to leave comments for the Board to consider
(Use the back of this form)

Information for Speakers:

1. Deposit this form into the upright box next to the speaker's podium before the Board's consideration of your item
2. Wait to be called by the chair. Please speak into the microphone at the podium.
3. Begin by stating your name and your city or area of residence, and whether you are speaking for yourself or on behalf of an organization.
4. If you have handout materials, give them to the Clerk.
5. Avoid repeating comments made by previous speakers.
6. The Chair may limit the time allocated to speakers so that all may be heard.

In lieu of speaking, I wish to submit these comments:

WHAT IS PHILLIPS 66 PROPOSING

TO CONTRIBUTE TOWARDS ENHANCED

EMERGENCY RESPONSE AND FIRE

SUPPRESSION ASSETS ALONG THE

RELEVANT RAIL CORRIDORS? ADD

FIRE SUPPRESSION MECHANISMS TO

TANK CARS? FUND INCREASED STAFFING,

EDUCATION & TRAINING OF EMERGENCY
RESPONSE & FIRE DEPT.

June McHuen

From: Tiffany Lennear
Sent: Wednesday, January 22, 2014 8:44 AM
To: Candace Andersen; Federal Glover; John Gioia; Karen Mitchoff; Mary Piepho
Cc: Aruna Bhat; Catherine Kutsuris; June McHuen
Subject: FW: My revised comments--->RE: Appeal of EIR and LUP filed 2 Dec 2013: Phillips 66 Company Propane Recovery Project, EIR and LUP, EIR SCH #2012072046, County File LP12-2073
Attachments: Revised Letter to supes public hearing january 21 2014.docx

Good morning,

Please see the revised comments attached from Bill Concannon.

TIFFANY LENNEAR

Chief Assistant Clerk of the Board
Contra Costa County
Administration Building
651 Pine Street, Rm. 106
Martinez, CA 94553

From: Bill Concannon [<mailto:billconcannon@gmail.com>]
Sent: Tuesday, January 21, 2014 5:06 PM
To: Tiffany Lennear
Subject: My revised comments--->RE: Appeal of EIR and LUP filed 2 Dec 2013: Phillips 66 Company Propane Recovery Project, EIR and LUP, EIR SCH #2012072046, County File LP12-2073

Dear Tiffany,

Here are the revised comments that I delivered at today's hearing, I would appreciate if you would enter these into the record and forward them to the Supervisors.

Thank you,

Bill Concannon

Revised 1/21/2014 • By email (please confirm receipt to billconcannon@gmail.com)

RE: Appeal of EIR and LUP filed 2 Dec 2013:

Phillips 66 Company Propane Recovery Project, EIR and LUP, EIR SCH #2012072046, County File LP12-2073

January 21, 2014

Clerk of the Board

Contra Costa County Board of Supervisors

651 Pine Street, Room 106

Martinez, CA 94553

Attention: Tiffany Lennear (Tiffany.Lennear@cob.cccounty.us)

Dear Esteemed County Supervisors:

I support CBE's challenges to the EIR and to this project.

The Propane Recovery Project is misnamed and unnecessary as the propane in question is currently not being lost but is used as fuel in the refining process. The proposed project puts the people of Rodeo, Tormey, and Crockett at risk of catastrophic explosion and increased local pollution so Phillips 66 Corporation can make more money. The rail loading facility is particularly susceptible to potential disaster from seismic activity, and the increased rail traffic of pressurized tank cars of propane and butane puts our local communities at risk as well as communities all along the route of these tank cars.

If you, our elected leaders, deny the challenges to this project and effectively rubber stamp it, you will continue the process started with the Northern Waterfront Initiative of hitching the County's wagon to the falling star of the fossil fuel business. The oil business is troubled business start to finish from the environmental and social misery of the "advantaged crude" oilfields to the explosive problems of the "pipeline on wheels" delivery systems to the depressed state of refinery communities made poorer both environmentally and economically by their presence to environmental damage done by the lawful and proper use of their product. If the \$1B P66 refinery was as valuable to the local economy as the refinery contends, then Rodeo would look more like Walnut Creek and Parker Avenue would look more like Rodeo Drive.

As a county we need to be forward-looking and not stuck in the past. We need to support economic initiatives that favor new cutting edge energy technologies to replace the cutting edge technologies of the nineteenth century; after all it's 2014, not 1914.

Sincerely,

Bill Concannon, 1644 Lillian St., Crockett, CA 94525