

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 02/03/2015 by the following vote:

AYE:	<input checked="" type="checkbox"/>	Candace Andersen Mary N. Piepho Karen Mitchoff Federal D. Glover
NO:	<input type="checkbox"/>	John Gioia
ABSENT:	<input type="checkbox"/>	
ABSTAIN:	<input type="checkbox"/>	
RECUSE:	<input type="checkbox"/>	



Resolution No. 2015/37

Phillips 66 Company, Propane Recovery Project Land Use Permit Application, County File #LP12-2073 Rodeo Area, District V

WHEREAS, PHILLIPS 66 COMPANY (Applicant & Owner) propose to recover for sale propane and additional butane from refinery fuel gas (RFG) and other process streams; and to decrease sulfur dioxide emissions from the refinery combustions sources as a result of removing sulfur compounds from RFG, which is a necessary part of the process to recover propane that is sold commercially. The proposal would be phased and would add, modify, and remove processing equipment such as, but not limited to, new storage tanks and treatment facilities, removal of two 265-foot heater stacks and the addition of two new rail spurs on approximately 3 acres located at the Rodeo Refinery in the community of Rodeo of Contra Costa County, for which an application was received by the Department of Conservation and Development, Community Development Division on June 22, 2012; and

WHEREAS, for purposes of compliance with the provisions of the California Environmental Quality Act (CEQA) and State and County CEQA Guidelines, a Draft Environmental Impact Report ("Draft EIR") dated June 2013, and a recirculated Draft EIR dated October 2014, was prepared for the Project; and

WHEREAS, a Notice of Preparation of an Environmental Impact Report was distributed on July 24, 2012, and a scoping session held on August 20, 2012, on the Project in Martinez, CA; and

WHEREAS, the Draft EIR identified potentially significant impacts related to Air Quality, Cultural Resources, Noise, Traffic and Transportation and the Draft EIR recommended mitigation measures which would reduce each impact to a less-than-significant level, the Draft EIR recommended mitigation measures which would reduce each impact to a less-than-significant level, with no Significant and Unavoidable impacts identified with the Project; and

WHEREAS, on June 10, 2012, a Notice of Completion and Availability with copies of the Draft EIR were distributed and circulated for a noticed 60-day public comment period to end on July 25, 2013, and

WHEREAS, the County Zoning Administrator held a public hearing on July 15, 2013, to provide further opportunity for public comments on the Draft EIR; and

WHEREAS, on July 23, 2013, the public review period for the Draft EIR was extended 15 days to allow additional time for public review with a new end date of August 9, 2013; and

WHEREAS, following the close of public comment on the Draft EIR, the County prepared written responses to the comments received and in November 2013, the County as required by CEQA, State, and County CEQA Guidelines, published the Response to Comments known as the Final Environmental Impact Report ("Final EIR") which incorporates the Draft EIR and provides master responses and reasoned responses to all the comments received during the comment period including minor changes or additions to the Draft EIR; and

WHEREAS, at a public meeting on, Monday, November 18, 2013, the County Zoning Administrator recommended certification of the 2013 Final

EIR finding it to be adequate and complete; and

WHEREAS, after notice having been fully given, a public hearing was scheduled before the County Planning Commission on, Tuesday, November 19, 2013, for the 2013 Final EIR, during which the Commission fully reviewed, considered, and evaluated all the testimony and evidence submitted in this matter, including the Environmental Impact Report, approved the project as contained in its Resolution No. 19-2013; and

WHEREAS, on November 25 and December 2 of 2013, the Department of Conservation and Development, Community Development Division received two appeals citing numerous objections to the Final EIR's analysis and conclusions; and

WHEREAS, after notice have been lawfully given, a public hearing was scheduled before the Board of Supervisors on Tuesday, January 21, 2014. The Board continued this item to April 1, 2014, June 3, 2014, September 23, 2014, and December 16, 2014, with direction to work with the Air District and recirculate portions of the environmental document, and

WHEREAS, on October of 21, 2014, the Recirculated Notice of Completion and Availability was distributed and circulated for a 45-day public comment period ending on December 5, 2014; and

WHEREAS, the County Zoning Administrator held a public hearing for the Recirculated Draft EIR on November 17, 2014, to provide further opportunity for public comments on the Recirculated Draft EIR; and

WHEREAS, the public review period for the Recirculated Draft EIR ended on December 5, 2014, with no extension granted; and

WHEREAS, following the close of public comment on the Recirculated Draft EIR, the County prepared written responses to the comments received and in January 2015, the County as required by CEQA, State, and County CEQA Guidelines, published the Response to Comments known as the Recirculated Final Environmental Impact Report ("Recirculated Final EIR") which incorporates the Recirculated Draft EIR and provides master responses and reasoned responses to all the comments received during the comment period including minor changes or additions to the Recirculated Draft EIR; and

WHEREAS, at a public meeting on, Monday, February 2, 2015, the County Zoning Administrator recommended certification of the 2015 Recirculated Final EIR finding it to be adequate and complete; and

WHEREAS, the public hearing before the Board of Supervisors will be given on Tuesday, February 3, 2015, whereas all interested persons therein might appear and be heard.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors ("the Board") takes the following actions:

1. ACCEPTS the County Zoning Administrator's recommendation to certify the 2013 Draft and Final EIR, including the entire Recirculated Environmental Impact Report (REIR), consisting of the Recirculated Draft EIR (RDEIR) dated October 2014, and the Recirculated Final EIR (RFEIR) dated January 2015;
2. ACCEPTS the County Planning Commission's recommendations as outlined in County Planning Commission Resolution No. 19-2013.
3. CERTIFIES the 2013 Draft and Final EIR, including the entire Recirculated Environmental Impact Report (REIR), consisting of the Recirculated Draft EIR (RDEIR) dated October 2014, and the Recirculated Final EIR (RFEIR) dated January 2015; and CERTIFIES that the Board has reviewed and considered its contents, that it is adequate and complete, that it has been prepared in compliance with the California Environmental Quality Act (CEQA) and the State and County CEQA guidelines, and that it reflects the County's independent judgment and analysis. The Department of Conservation and Development, Community Development Division, located at 30 Muir Road, Martinez, CA, is the custodian of the documents and other material that constitute the record of proceedings upon which this decision is based.
4. DENIES the appeals from Communities for a Better Environment and Rodeo Citizens Association, and UHOLDS the County Planning Commission's decision to approve the Land Use Permit (County File #LP12-2073) with the added conditions of approval.
5. ADOPTS the findings contained in the County Planning Commission Resolution No. 19-2013, which includes the CEQA findings, Growth Management Standards, and the Land Use permit findings, as the basis for the Board's action.
6. ADOPTS the attached Mitigation monitoring and Reporting Program.
7. DIRECTS the Community Development Division to post a Notice of Determination with the County Clerk.

BE IT FURTHER RESOLVED that the reasons for these recommendations are as follows:

PROJECT FINDINGS

A. CEQA Findings

1. Introduction: The Contra Costa County Board of Supervisors adopts the following findings for certification of the 2013 Environmental Impact Report and 2015 Recirculated Environmental Impact Report (EIR) and approval of the Propane Recovery Project pursuant to the California Environmental Quality Act, California Public Resources Code, Sections 21000, et seq. the Guidelines for Implementation of CEQA, Title 14 of the California Code of Regulations, Sections 15000, et seq. (CEQA Guidelines) and the County's CEQA Guidelines.

Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15091, no public agency shall approve and carry out a project where an EIR has been certified, which identifies one or more significant impacts on the environment that would occur if the project is approved, unless the public agency makes one or more findings for each of those significant impacts, accompanied by a brief explanation of the rationale for each finding. The possible findings, which must be supported by substantial evidence in the record, are:

a. Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant impact on the environment. b. Changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency. c. Specific economic, legal, social, technological or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR.

For those significant impacts that cannot be mitigated to below a level of significance, the public agency is required to find that specific overriding economic, legal, social, technological or other benefits of the project outweigh the significant impacts of the project. The Propane Recovery Project did not present any significant impacts that cannot be mitigated below or to a less-than-significant impact level.

2. Project and EIR: The project proposes refinery processing equipment improvements to recover for sale additional amounts of propane and butane from refinery fuel gas (RFG) and other process streams; and to decrease sulfur dioxide (SO₂) emissions from the refinery as a result of removing sulfur compounds from RFG streams. The proposed project would add and modify processing and ancillary equipment within the Phillips 66 Rodeo refinery in Contra Costa County.

The proposed project would add: 1) a hydrotreater, 2) new fractionation columns to recover propane and butane, 3) six propane storage vessels and treatment facilities, 4) two new rail spurs, and 5) the removal of two 265-foot heater stacks. To provide the steam required by the project, either a new 140 million BTU/hr steam boiler would be added or more steam would be provided by the existing steam power plant if the new boiler were not built. There would also be minor modifications to existing process units and utility systems for the purpose of tie-ins and to address any changes in operating pressure or temperature at the tie-in points. The project also would require hydrotreating a portion of the RFG, a process that would reduce the amount of sulfur in the fuel gas, and because fuel gas is now burned to produce heat for refinery processes, it would ultimately reduce the refinery's SO₂ emissions within the atmosphere.

The project would be built in two phases. The first phase (Phase I) would include all project components except propane storage and the additional rail loading rack and spurs. During the second phase (Phase II), the facilities to store and ship propane would be added along with the piping and other ancillary equipment necessary to get the propane from the Propane/Butane Recovery Unit to the storage vessels and loading racks.

The Department of Conservation and Development determined that an EIR was required for the project. Accordingly, the County, as lead agency for this Project, distributed a Notice of Preparation on July 24, 2012. The Draft Environmental Impact Report ("Draft EIR"), State Clearinghouse Number 2012072046, was released for public review on June 10, 2013, and on October 21, 2014, for the recirculated Draft EIR. The initial public comment period was scheduled for 45 days and was extended an additional 15 days, ending on August 9, 2013. The public comment period for the recirculation Draft EIR was scheduled for 45-days ending on December 5, 2014. A public hearing before the Zoning Administrator to receive comments on the 2013 Draft EIR was held on July 15, 2013, and on November 17, 2014, for the recirculated Draft EIR. The Final Environmental Impact Report ("Final EIR") was published and distributed in November 2013, and in January of 2015, for the recirculated Final EIR. The Zoning Administrator held a hearing on November 18, 2013, and February 2, 2015, and recommended certification of both the 2013 EIR and 2015 recirculated EIR.

The 2013 EIR, as referenced in these findings, includes the Draft EIR (and its appendices) as supplemented and revised by the Final EIR, and the Final EIR (and its appendices). The Final EIR contains EIR Text Revisions (Chapter 4) that restates and revises some text, figures and tables of the Draft EIR. When these findings refer to sections, tables, figures or text of the EIR, and unless the context clearly indicates otherwise, reference is being made to the 2015 recirculated Draft and Final EIR which includes updates to several EIR sections as identified within Chapter 1 of the recirculated Draft EIR.

The 2013 EIR and the 2015 recirculated EIR identify potentially significant environmental impacts that would occur if the project were implemented, and feasible mitigation measures would reduce all of the potentially significant impacts to less-than-significant levels. The EIRs provide a comprehensive analysis of the project's impacts, and cumulative impacts to which the project would contribute. The EIRs include responses to all written and oral comments received during the comment period, and provide adequate, good faith, and reasoned responses to all comments raising significant environmental issues. The EIRs also address a reasonable range of alternatives. Evidence regarding the range of alternatives, and the evidence indicating that off-site and reduced development alternatives were not studied in detail, because they would not achieve most of the project

objectives, are in the EIRs and in the record. The Board adopts the analysis and conclusions of the EIRs and bases its decision upon the evidence referenced in the EIRs and their appendices.

The comprehensive analysis within the EIRs provides the Board with the necessary information required by the California Environmental Quality Act (CEQA) to properly analyze and evaluate any and all of the potential environmental impacts of the Project.

Certification of EIR

The Board finds that both EIRs have been completed in compliance with CEQA; that the Board reviewed and considered the information contained in the EIRs prior to approving the project; and the EIRs reflect the County's independent judgment and analysis.

Recirculation

CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR but before certification of the Final EIR. New information added to an EIR is not significant unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project proponent declines to implement. The Guidelines provide examples of significant new information under this standard, which involve evidence of a new or more severe significant impact, all as more specifically set forth in the EIR.

On June 3, 2014, the Board provided direction to the staff of the Department of Conservation and Development to work with the Air District and recirculate portions of the 2013 Draft EIR given the issues raised by the request to prepare a community health risk assessment and provide meaningful opportunity for public review.

The Board recognizes that the 2015 recirculated Final EIR incorporates information obtained since the 2013 Draft EIR was completed, and contains additions, clarifications, modifications, and other changes. Various minor changes and edits have been made to the mitigation measures, text, tables and figures of the recirculated Draft EIR, as described in the recirculated Final EIR. Information that confirms the conclusions of the recirculated Draft EIR has been provided in response to comments, and mitigation measures have been edited for clarity, feasibility, and to strengthen them. With respect to this information, the Board adopts the conclusions and analysis of the recirculated EIR based upon the evidence to which the EIR refers. This information confirms and provides additional support for the conclusions of the 2013 Draft EIR and the recirculated Draft EIR, and further confirms that impacts will remain less-than-significant.

Based on the foregoing, and having reviewed the information contained in the EIRs and in the documents comprising the administrative record, the Board finds that no additional significant new information has been added since public notice was given of the availability of the 2014 recirculated Draft EIR that would require another recirculation.

Differences of Opinion Regarding Environmental Analysis

In making its determination to certify the 2013 Final EIR and the 2015 recirculated Final EIR and to approve the project, the Board recognizes that the project involves controversial environmental issues and that a range of technical and scientific opinion exists with respect to those issues. The Board has acquired an understanding of the range of this technical and scientific opinion by its review of the 2013 Draft EIR and 2015 recirculated Draft EIR, the comments received on both the 2013 and 2015 recirculated Draft EIR and the responses to those comments in the Final EIRs, as well as other testimony, letters, and reports submitted for the record. The Board recognizes that some of the comments submitted on the EIRs, and at the hearing, disagree with the conclusions, analysis, methodology and factual bases stated in the EIRs. The EIRs were prepared by experts, and that some of these comments were from experts, thus creating a disagreement among experts. In turn, this understanding has enabled the Board to make its decisions after weighing and considering the various viewpoints on these important issues.

Impact Conclusions and Mitigation Measures

The summary of impacts, mitigation measures, and resulting levels of significance within the recirculated EIR is a part of Appendix D to these findings and incorporated herein by reference. The mitigation monitoring and reporting program provides a summary description of each impact, describes the applicable mitigation measures identified in the recirculated EIR and adopted by the Board, and states the Board's findings on the significance of each impact after imposition of the adopted mitigation measures. A full explanation of these environmental findings and conclusions can be found in the recirculated Draft EIR. The Board adopts, and incorporates the analysis and explanation in the recirculated EIR, adopts in these findings the determinations and conclusions of the recirculated EIR relating to environmental impacts and mitigation measures. These findings are based upon the evidence contained in and referenced in the 2013 Draft EIR, recirculated Draft EIR, in staff reports, in the submittals from the

applicant, and on the record as a whole.

The Mitigation, Monitoring Reporting Program [MMRP] within the recirculated Draft EIR as Appendix D is hereby adopted by the Board, and is incorporated into these findings. The mitigation measures will reduce or avoid the potentially significant and significant impacts of the project to less-than-significant levels, and will reduce some less-than-significant impacts as well. In adopting these mitigation measures, the Board intends to adopt each of the mitigation measures identified by the recirculated EIR. Accordingly, in the event a mitigation measure recommended in the recirculated EIR has inadvertently been omitted, such mitigation measure is hereby adopted and incorporated in these findings by reference. In addition, in the event the language describing a mitigation measure set forth fails to accurately reflect the substance of the mitigation measures in the recirculated EIR due to a clerical error, the language of the mitigation measure as set forth in the recirculated EIR shall control, unless the language of the mitigation measure has been specifically and expressly modified by these findings. Some language has been modified to reflect County practices and procedures regarding department approval processes, and to reflect technical details of the project that do not substantively affect the mitigation of impacts.

The Board finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects on the environment. As shown in the MMRP Appendix D of the recirculated Draft EIR, primary responsibility for implementation, monitoring and enforcement of all mitigation measures lies with the County. Other agencies may play a role in approving the project. For example, there may be consultation with the Regional Water Quality Control Board regarding storm water plans and other water quality aspects of the project, and resource agencies may become involved should any resource issues need their input as a result of the project.

Some of the EIR's mitigation measures were modified in response to such comments. Other comments requested minor modifications in mitigation measures identified in the recirculated Draft EIR, requested mitigation measures for impacts that were less-than-significant, or requested additional mitigation measures for impacts as to which the recirculated Draft EIR identified mitigation measures that would reduce the identified impact to a less-than-significant level; these requests are declined as unnecessary. The alternative and additional mitigation measures are not necessary to reduce impacts to a less-than-significant level, and some purported to address an impact that was not potentially significant. With respect to the additional measures suggested by commenters that were not added to the recirculated EIR, the Board adopts the reasons set forth in the responses to comments contained in the EIRs as its grounds for not including the adoption of these mitigation measures.

3. The various documents and other materials constitute the record upon which the Board bases these findings and the approvals contained herein. These findings cite specific pieces of evidence, but none of the Board's findings are based solely on those pieces of evidence. These findings are adopted based upon the entire record, and the Board intends to rely upon all supporting evidence in the record for each of its findings.

B. Growth Management Performance Standards

1. **Traffic:** A traffic impact analysis was prepared for the Propane Recovery Project which suggested mitigation measures that, if implemented, would reduce any potential impacts on traffic during construction of the project to less-than-significant levels. The project was also reviewed by the Public Works Department and Caltrans for impacts on traffic and circulation, and is subject to compliance with their conditions of approval and the mitigation measures required and identified within the 2013 Final Environmental Impact Report. Therefore, the proposed project will not have an adverse impact on traffic in the area.

2. **Water:** The refinery currently receives approximately 3,000 gallons per minute of fresh water from the East Bay Municipal Utility District (EBMUD). Implementation of the project would require an increase in fresh water by approximately 20 gallons per minute. The additional fresh water required for the proposed project would be available from EBMUD's existing entitlements. The additional water supply required during project construction would be only a small, temporary increment as compared to existing and proposed water usage.

3. **Sewage Disposal:** Although the refinery lies within the Rodeo Sanitary District's service area, the refinery collects, treats, and discharges all wastewater and storm water to its own on-site wastewater treatment system. Since the refinery does not discharge to the public wastewater treatment facilities, the capacity of the Rodeo Sanitary District's wastewater treatment facility would be unaffected by the project. The refinery currently discharges approximately 2.8 million gallons per day of wastewater to the on-site treatment plant, but it has the ability to treat up to 10 million gallons per day. The project would increase wastewater flows to the refinery's treatment plant by 0.03 million gallons per day, well below the plant's 10-million-gallon maximum treatment capacity. Thus, the refinery has the capacity to treat the additional wastewater flow.

4. **Fire Protection:** The refinery is licensed by the State Fire Marshal to provide its own fire protection. The refinery is part of a Mutual Aid Organization, which is composed of more than half a dozen refineries that agree to provide one another with emergency response resourced in the event of a major emergency. The Rodeo-Hercules Fire District could also provide emergency services to the refinery; however, the Rodeo-Hercules Fire District would be supported by the Pinole Fire Department, the Crockett-Carquinez Fire District, and the Contra Costa County Fire Protection District in the event that major assistance was needed at the refinery. Implementation of the Propane Recovery Project is not expected to require additional support from public fire protection agencies.

5. Public Protection: The Growth Management Element standard is 155 square feet of Sheriff's facility/station area and support facilities for every 1,000 member of the population. The Small population increase associated with this project is not considered significant, because the project would create temporary new jobs and only two permanent jobs. Any population growth resulting from the new permanent job positions would be insignificant and positive to the economy and would not impact the County's ability to achieve the performance standard.

6. Parks and Recreation: The implementation of the project could possibly induce population growth and ancillary use by employees of nearby facilities due to the increase in employment opportunities. However, any population growth induced will not have a major cumulative effect on the demand for park and recreation facilities and is not subject to payment of park dedication fees.

7. Flood Control and Drainage: The proposed project elements would all be constructed within the previously-developed areas, where storm water and runoff is controlled and treated on-site before discharge. Therefore, drainage patterns would not be altered by the proposed project.

C. Land Use Permit Findings

1. That the proposed conditional land use shall not be detrimental to the health, safety, and general welfare of the county.

Project Finding: All significant environmental impacts of the Propane Recovery Project as identified in the 2013 Final EIR and the 2015 recirculated Final EIR, including Air Quality and emissions associated with construction and operational activities will be reduced to less-than-significant levels after the implementation of mitigation measures. Further, the reduction of sulfur dioxide (SO₂) is an environmental benefit. Therefore, based on the forgoing, the Propane Recovery Project will not be detrimental to health, safety, and general welfare of the County.

2. That the proposed conditional land use shall not adversely affect the orderly development of property within the county.

Project Finding: The refinery is approximately 1,100 acres in size and is located in the unincorporated area of Rodeo in Contra Costa County. Interstate Highway 80 (I-80) bisects the refinery in a northeast to southwest direction. All elements of the Propane Recovery Project would be located on about one acre within the existing boundaries of the 495-acre portion of refinery property already developed for refining operations. All elements of the project will be within the portion of the lands designated for Heavy Industry use by the County General Plan and zoned Heavy Industrial ("H-I") under the Contra Costa County Ordinance Code. Pursuant to these designations, oil refining and other manufacturing operations are allowed and are permitted uses, respectively. Based on the foregoing, the Propane Recovery Project will not adversely affect the orderly development of property with the County.

3. That the proposed conditional land use shall not adversely affect the preservation of property values and the protection of the tax base within the county.

Project Finding: The refinery has been in operation at its current location since 1896. The proposed project will be situated on approximately one acre located throughout the 495-acre portion of the refinery property already developed for refining operations. The proposal will not change the refinery's current land use, nor will it be inconsistent with the present industrial uses in the vicinity of the refinery, including those conducted at the PG&E substation, the Shore Terminal (formerly NuStar) facility, and the Rodeo Sanitary District. The refinery also consists of approximately 600 acres of undeveloped land, a portion of which is used by the refinery as a buffer zone to limit potential impact of the refining operations on non-industrial land uses located in the refinery's general vicinity.

The construction and operation of the proposal will result in the hiring of temporary and permanent employees at the refinery. Further, implementation of the Propane Recovery Project would increase the assessed value of the refinery property, which would expand the County's tax base. The proposal will not adversely affect the preservation of property values and the protection of the tax base within the County.

4. That the proposed conditional land use shall not adversely affect the policy and goals as set by the general plan.

Project Finding: The proposed project is consistent with the overall goals and policies of the General Plan. The Land Use Element supports petroleum processing and refining within the Heavy Industrial Districts. The project meets the Growth Management Performance Standards section of the General Plan, and all potentially significant impacts on Air Quality, Cultural Resources, Noise, and Transportation & Traffic will be mitigated to less-than-significant levels. The mitigations as set forth in the 2015 recirculated Final Environmental Impact Report will protect the health, safety, and general welfare of the public.

5. That the proposed conditional land use shall not create a nuisance and/or enforcement problem within the neighborhood or community.

Project Finding: The proposal to be constructed will be located on land designated Heavy Industry by the General Plan and zoned H-I by the County Ordinance Code. Industrial operations have occurred throughout the refinery property for many years. The residential development of Bayo Vista and

the community of Rodeo are located south of the refinery. The refinery maintains an open space buffer zone between the oil processing areas and the closest sensitive receptors. The Shore Terminal is located directly to the north of the refinery, with the community of Tormey and Crockett as the closest neighborhoods in this direction; however, topographically these communities are physically separated from the refinery by rolling hills. The refinery abuts the San Pablo Bay to the west, with land designated by the General Plan as Open space (OS) to the east.

Airborne emissions of certain gasses do have the ability to produce odors, which can result in public nuisances and complaints from residential communities. As discussed within the 2013 Final Environmental Impact Report (FEIR) in Chapter 2—Master Responses on page 2-10, the refinery and the communities continue to work on a fence line 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 fence line monitoring system.

The Noise Element of the General Plan does contain land use compatibility standards for noise which are intended to limit the noise impacts. Noise from operation of the Propane Recovery Project was determined to be 44 decibels from 2,300 feet (the distance to the closest residential receptors), which would be less than the County exterior day-night noise level threshold of 60 decibels. As set forth in the Final EIR, any noise impacts from construction will be mitigated to less-than-significant levels.

Temporary traffic impacts for the construction of the proposed project would be the most likely potential source of project-related nuisances in the vicinity of the refinery. These traffic impacts will be mitigated to less-than-significant levels by the implementation of Mitigation Measures, which include the requirement of traffic control plans and prescribed construction-traffic routes. Therefore, the proposal will not create a nuisance and/or enforcement problem within the neighborhood or community.

6. That the proposed conditional land use shall not encourage marginal development within the neighborhood.

Project Finding: The Propane Recovery Project will be located in areas zoned H-I under the County Ordinance Code and designated Heavy Industry in the County General Plan. Most of the undeveloped land adjacent to the 495-acre developed portion of the refinery is maintained by Phillips 66 as open space to serve as a buffer between refining operations and the adjacent non-industrial land uses. The areas to the north and southwest are already developed for industrial use. The refinery will not alter its use of the buffer zone. The proposal is intended to recover and sell the excess propane, which is a byproduct that is already produced at the refinery during the refining process and but not sold, but is rather burned as processing fuel in the refinery fuel gas. This project will maintain the existing land use in a manner that will ensure its continued ability to meet future demands. The proposal will not encourage marginal development within the neighborhood.

7. That special conditions or unique characteristics of the subject property and its location or surroundings are established.

Project Finding: The Phillips 66 Rodeo refinery has existed in its present location for more than 100 years and is one of the few areas in the County suitable for the proposed project. The project areas are zoned Heavy Industrial District (H-I) by the County Ordinance Code. This designation allows a permitted use of oil refining and other manufacturing operations. The project will not result in any changes in the existing use of the refinery in that propane and butane are both already produced at the facility.

The location and custodian of the documents and materials that comprise the record is Contra Costa County, Department of Conservation and Development, 30 Muir Road, Martinez, CA, 94553, telephone (925) 674-7205.

Contact: Lashun Cross 925 674-7786

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 3, 2015

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy