September 2004 SCH No. 20040011095

# CONOCOPHILLIPS
# LOS ANGELES REFINERY

# ULTRA LOW SULFUR DIESEL PROJECT

# ADDENDUM TO THE FINAL NEGATIVE DECLARATION

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## ATTACHMENTS

# 1.0 INTRODUCTION

This document, prepared pursuant to the California Environmental Quality Act (CEQA), Public Resources Code 21000 et seq., constitutes an Addendum to the June 2004 Final Environmental Negative Declaration for the ConocoPhillips Ultra Low Sulfur Diesel (ULSD) Project, SCH No. 20040011095, certified on June 18, 2004.

Since the certification of the Final Negative Declaration, ConocoPhillips has proceeded with detailed engineering design for the ULSD Project. In the course of this detailed engineering, the company has updated the fugitive component (e.g., valves, flanges, pumps, etc.) counts for the Project. To account for the changes resulting from the revised number of fugitive components, an Addendum to the Final Negative Declaration has been prepared. An Addendum is the appropriate document to present the updated fugitive component counts because there are no project changes or changes to the Final Negative Declaration that would trigger any conditions identified in CEQA Guidelines §15162, as explained in more detail in Section 2.0. Pursuant to CEQA Guidelines §15164(c), an Addendum need not be circulated for public review, but can be included in or attached to the Final Negative Declaration.

In addition, following the certification of the Negative Declaration, the Governing Board of the South Coast Air Quality Management District (SCAQMD) received two petitions requesting hearings pursuant to SCAQMD Regulation XII. These petitions were received after the close of the public comment period on the Negative Declaration. Further, on August 6, 2004, the SCAQMD Governing Board denied the request for a Regulation XII hearing. Accordingly, the SCAQMD is under no legal requirement to respond to the assertions made in the petitions or the materials submitted as exhibits to the petitions. Nonetheless, because SCAQMD is preparing an Addendum to address modifications to the ULSD project description (i.e., the updated fugitive component counts), it has elected to include clarifications and updates to issues raised in the Regulation XII petitions and supporting materials. The clarifications and updates of issues raised in the Regulation XII petition do not identify significant new impacts or make existing impacts substantially worse. As a result, these additions do not alter the SCAQMD's decision to prepare an Addendum.

## 1.1 Background – Ultra Low Sulfur Diesel

On January 18, 2001, United States Environmental Protection Agency's (U.S. EPA) 40 CFR §§ 80, 500 published a final rule on diesel fuel standards. As of June 1, 2006, refiners must begin selling highway diesel fuel that meets a maximum sulfur standard of 15 ppmw. The 2006 deadline was issued to ensure that adequate supplies of ULSD would be available to meet the demand in 2007, when according to the U.S. EPA, all on-road, diesel-fueled vehicles (new and current) must be equipped to run on ULSD fuel. In Los Angeles, heavy-duty trucks and buses contribute more than a quarter of the nitrogen oxide (NOx) pollution and 14 percent of the particulate matter less than 2.5 microns in diameter (PM 2.5) pollution from mobile sources. Pollution-control devices for heavy-duty engines are sensitive to sulfur and will not work unless the amount of sulfur in the fuel is reduced (U.S. EPA, 2003).

The SCAQMD's Rule 431.2 – (Sulfur Content Of Liquid Fuels, amended on September 15, 2000) contains a sulfur limit requirement consistent with the one later adopted by U.S. EPA. The current sulfur limit for diesel fuel sold for use in California is 500 ppmw, which was approved by CARB in 1988 (Section 22 of Title 13, CCR). Rule 431.2 requires a reduction in the sulfur content of diesel to 15 ppmw starting mid-2006. Most California diesel fuel currently in use contains an average of 140 ppmw of sulfur. The SCAQMD is expecting a reduction of 130 ppmw in sulfur due to the new limit (CARB, 2003). ConocoPhillips' proposed ULSD Project has been developed to comply with the federal, state and SCAQMD regulations that limit the sulfur content of diesel fuels.

## 1.2 Background – CEQA

CEQA requires evaluation of proposed projects that have the potential to generate significant adverse environmental impacts. The SCAQMD was designated the lead agency under the CEQA review process because it is the agency with primary discretionary approval authority over the proposed refinery modifications to produce ULSD. An analysis of potential adverse impacts that could result from the proposed refinery modifications required to produce ULSD was conducted and presented in a Final Negative Declaration. This document can be obtained by contacting the SCAQMD's Public Information Center at 909-396-2039 or downloaded from the following internet address: http://www.aqmd.gov/ceqa/nonaqmd.html.

Draft Negative Declaration (SCAQMD, January 2004): A Draft Negative Declaration was released for a 30-day public review and comment period on January 22, 2004. At the request of a commentator this comment period was extended an additional 10 days, ending March 3, 2003. The Draft Negative Declaration included a project description, project location, an environmental checklist, and a discussion of potential adverse environmental impacts. The Draft Negative Declaration determined that the proposed project would not result in any significant adverse environmental impacts. Further, it was noted in the Draft Negative Declaration that production of ULSD is an environmentally beneficial project because it results in lower NOx, sulfur oxide (SOx), particulate matter and toxic air contaminant exhaust emissions from engines that use ULSD as a combustion fuel. No emission reduction credit, however, was attributed to the proposed project as part of the air quality analysis. Two comment letters were received during the public comment period and one additional letter was received after the close of the public comment period.

Final Negative Declaration (SCAQMD, June 2004): The Final Negative Declaration was prepared by revising the Draft Negative Declaration to incorporate applicable updated information and to respond to comments received on the Draft Negative Declaration. The Final Negative Declaration contained three comment letters and responses to the comments received on the Draft Negative Declaration, even though CEQA does not require responding to comments received on a negative declaration. The changes included in the Final Negative Declaration did not constitute significant new information relating to the environmental analysis or mitigation measures and, therefore, pursuant to CEQA Guidelines §15073.5(c)(2), recirculation is not necessary since the information provided does not result in new avoidable significant effects. The Final Negative Declaration was certified on June 18, 2004.

## 2.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT

Since the certification of the Final Negative Declaration, ConocoPhillips has proceeded with detailed engineering for the ULSD Project. In the course of refining the engineering, the company has updated the fugitive component counts. Fugitive components refer to components such as valves, fittings and other connectors that may experience leaks of fugitive emissions of volatile organic compounds (VOCs) during operations. Changes to the fugitive component counts affect the estimates of VOC emissions from the ULSD Project.

CEQA Guidelines (§15164(a)) allow a lead agency to prepare an Addendum to a Negative Declaration if all of the following conditions pursuant to §15162 are met:

- Changes to the project do not require major revisions to the previously prepared Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

- Changes with respect to the circumstances under which the project is undertaken do not require major revisions to the previous Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

- No new information becomes available which shows new significant effects, significant effects substantially more severe than previously discussed, or additional or modified mitigation measures;

- Only minor technical changes or additions are necessary to make the Negative Declaration under consideration adequate under CEQA; and,

- The changes to the Negative Declaration made by the Addendum do not raise important new issues about the significant effects on the environment.

An Addendum to the Final Negative Declaration is considered the appropriate CEQA document for project changes described in Section 3.0 – Project Description because: (1) changes to the project do not require major revisions to the previously prepared Final Negative Declaration or substantially increase the severity of previously identified significant effects; (2) only minor technical and clarifying changes have been made by the Addendum; and (3) the changes to the Final Negative Declaration made by the Addendum do not raise important new issues about the significant effects on the environment. The impacts of the currently proposed modifications associated with the ConocoPhillips ULSD Project are evaluated herein. The environmental analyses rely on the analyses completed in the previous Final Negative Declaration (SCAQMD, 2004) and directly reference the Final Negative Declaration where appropriate. These minor project changes are presented in Section 3 of this Addendum, and the revisions to the air quality analysis are described in Section 5 of this Addendum.

The SCAQMD's Executive Officer will consider this Addendum prior to making any discretionary decision on the project pursuant to CEQA Guidelines §15164(d).

## 3.0 PROJECT DESCRIPTION

### 3.1 June 2004 Final Negative Declaration

The June 2004 Final Negative Declaration described the proposed project comprising of the ConocoPhillips ULSD Project. As described in the Final Negative Declaration, the ULSD Project has two major components: (1) revamp the Mid-barrel Hydrotreater Unit 90 to decrease the hydrotreating reaction space velocity to meet the required diesel sulfur level; and (2) modify the mid-barrel handling and logistics to segregate diesel from higher sulfur jet fuel. The ULSD Project will also improve hydrogen distribution at the Wilmington Plant; and improve control of the Crude Unit heavy gas oil distillation cutpoint at the Carson Plant. This proposed project does not increase diesel production, affect the Refinery's existing ability to produce CARB Diesel at the Carson Plant Gas Oil Hydrotreater or increase crude throughput. The following refinery units and processes will be affected by the proposed project:

- Mid-Barrel Hydrotreater U-90
- Mid-Barrel Handling and Shipping Modifications
- Hydrogen System
- Tank 331
- Crude Unit DU-5 at the Carson Plant

The Final Negative Declaration describes in further detail the specific modifications proposed for each of these units and processes. Chapter 1, Project Description, of the Final Negative Declaration is Attachment 1 to this Addendum.

### 3.2 Minor Project Changes

ConocoPhillips has not changed the project description presented in the Final Negative Declaration. The project description in Section 1.5 of the Final Negative Declaration remains accurate. However, as ConocoPhillips has proceeded with detailed design, it has updated the fugitive component counts for the Project. The original component counts used in the Negative Declaration were based on a preliminary engineering design of the proposed project. Therefore, the emission estimates for the proposed project in the Negative Declaration were based on these preliminary engineering estimates. The SCAQMD staff reviewing the permit applications recently asked for additional information regarding the fugitive component estimates. ConocoPhillips reviewed the information requested by the SCAQMD and decided that it would be appropriate to review all of the fugitive component estimates as the engineering design for the proposed project has further progressed since the initial permit applications were submitted. ConocoPhillips has developed more complete and accurate piping and instrumentation diagrams (P&IDs) for the proposed project. Based on this review, SCAQMD staff and ConocoPhillips concluded that the fugitive component count and the related project emissions should be revised. Based on the more detailed design, the company now estimates increases in both the number of components removed

as well as the number of components added as a result of the Project. Table A in Appendix A of the Final Negative Declaration presented the fugitive component estimates available at the time the document was prepared. The up-dated component count is presented in Attachment 4 to this Addendum. Attachment 4 replaces Table A in Appendix A of the Final Negative Declaration. In addition, it has been determined that the dump truck originally anticipated during the peak construction period is no longer necessary. Construction emissions from the dump truck, along with other minor clarifications due to vehicle classification, have been revised and are summarized in Table 3 and detailed in Attachment 2. As noted in Table 3, the emission impacts will remain less than significant and, thus, the minor changes do not alter the conclusions made in the Negative Declaration. No other modifications are being proposed to the ULSD project.

## 4.0 EXISTING ENVIRONMENTAL SETTING

ConocoPhillips Los Angeles Refinery operates at two different sites in the South Coast Air Basin which is a subarea of the SCAQMD's area of jurisdiction. One of the sites is located in the City of Carson (Carson Plant) and the other site is in the City of Los Angeles in the Wilmington community (Wilmington Plant). The ULSD Project includes physical modifications primarily to process facilities at the Wilmington Plant and only minor control system improvements at the Carson Plant. The ConocoPhillips Wilmington Plant consists of approximately 400 acres and is located in Los Angeles County at 1660 West Anaheim Street, Wilmington, California (see Figures 1 and 2 in Attachment 1). The eastern part of the Wilmington Plant borders a residential area, a roofing materials plant, and a portion of the Harbor 110 Freeway. The northern portion of the site borders Ken Malloy Harbor Regional Park, Harbor College, Harbor Golf Course, and a small residential area. The western part of the site borders Gaffey Street including a firing range, vacant fields, recreational fields, and a U.S. Navy fuel storage facility. Finally, the southern portion of the site shares a border with a warehouse facility.

The area within and surrounding the Refinery Wilmington Plant is an urban environment characterized by industrial, commercial, and transportation-related land uses. The environmental setting for the Wilmington/Carson area is described in Chapter 2 of the June 2004 Final Negative Declaration. All equipment described in this Addendum will be located within existing industrial facilities, and within the Project sites described previously in the Final Negative Declaration.

## 5.0 ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES

The June 2004 Negative Declaration (SCAQMD, 2004) for the ConocoPhillips ULSD Project analyzed the environmental resources identified in the CEQA checklist to determine if any environmental resources could be adversely affected by the proposed project. The Final Negative Declaration concluded that the ULSD Project would not generate significant adverse effects on the environment. The following section presents additional analysis of potential environmental effects due to the project changes.

## 5.1 Construction Impacts - Fugitive Component Count Update

The proposed modification to the ULSD project, i.e., revised fugitive component counts, will not affect construction impacts in any way. In spite of the revised component counts, the ULSD project will require the same number of construction workers, construction equipment, construction equipment hours of operations, etc., as analyzed in the Negative Declaration.

## 5.2 Operation Impacts - Fugitive Component Count Update

ConocoPhillips has prepared more detailed engineering design of the ULSD proposed project than was available when the Negative Declaration was prepared. Based on the more detailed design information, ConocoPhillips has updated the fugitive component counts for the proposed new equipment and the equipment proposed to be removed. Revising the fugitive component counts only affects operational fugitive VOC emissions from the ULSD project. The proposed modifications do not affect delivery truck trips so no changes to pollutant impacts other than VOC emission impacts will occur. Based on the more detailed engineering design, the total VOC emissions from fugitive components is estimated to be 16.1 pounds per day (see Attachment 4). Table 3 in the Final Negative Declaration shows the project estimated emission increases and decreases. Table 1 below replaces Table 3 in the Final Negative Declaration and has been revised to show the effect of the proposed modifications on operational VOC emissions. As shown in Table 1, revised VOC emissions for the proposed project emissions are still expected to be less than significant. Therefore, based on a review of the proposed project modifications and review of the potential environmental impacts, the changes in the proposed project do not trigger any of the requirements of CEQA Guidelines §15162 and no subsequent Negative Declaration or Environmental Impact Report (EIR) is required.

## 5.3 Operational Emissions - Toxic Exposure to Workers and Neighborhood

The modifications to the operational emissions require that the project impacts on toxic air contaminants be updated as well. As was completed in the Final Negative Declaration, the revised health risks from exposures to toxic air contaminants were estimated using VOC speciation data for the Mid-Barrel Hydrotreater Unit 90 from the most recent Air Toxics Inventory Report. The VOC speciation for the Hydrotreater Unit 90 is the appropriate data to estimate toxic air contaminant emissions because most of the new valves/flanges will be within Unit 90. The stream in Unit 90 with the highest speciation for each chemical was assumed to apply to all portions of the proposed modification, which is a conservative assumption. The emission estimates for toxic air contaminants are shown in Table 2. (Note: Table 2 herein replaces Table 4 in the Final Negative Declaration.)

The emission estimates were modeled using the ISCST model. The ground level concentrations from the ISCST model were used as input to the ACE2588 model in order to determine the potential health risks associated with the toxic air contaminants from the proposed project.

## TABLE 1

## OPERATIONAL EMISSIONS INCREASES AND DECREASES

| | **EMISSIONS** (lbs/day, 24 hr/day) | | | | |
|---|---|---|---|---|---|
| | CO | PM10 | VOC | $NO_X$ | $SO_X$ |
| **N E W E Q U I P M E N T** | | | | | |
| *Pumps* | - | - | *0.6* ~~*1.1*~~ | - | - |
| Valves | - | - | *11.5* ~~*7.0*~~ | - | - |
| Flanges | - | - | *3.2* ~~*2.2*~~ | - | - |
| Process Drains | - | - | *1.3* | - | - |
| Modified Storage Tank | - | - | 0.2 | - | - |
| **TOTAL EMISSIONS** | **-** | **-** | **16.8** ~~**11.8**~~ | **-** | **-** |
| **R E M O V E D E Q U I P M E N T** | | | | | |
| Valves | - | - | 0.1 ~~0.3~~ | - | - |
| Flanges | - | - | 0.4 ~~0.1~~ | - | - |
| **TOTAL EMISSIONS** | **-** | **-** | **0.5** | **-** | **-** |
| *Delivery Trucks* | *6.9* | *0.2* | *0.9* | *8.9* | *0.1* |
| **Total Project Emissions** | *6.9* | *0.2* | *17.2* ~~*12.3*~~ | *8.9* | *0.1* |
| SCAQMD Threshold(1) | 550 | 150 | 55 | 55 | 150 |
| Significant? | NO | NO | NO | NO | NO |

(1) The RECLAIM program does not apply to VOC emissions, and the fugitive components are not RECLAIM sources. Also, mobile sources such as the delivery trucks are not RECLAIM sources. As such, the discussion in Section 6.3 of this Addendum regarding implementation of the CEQA significance thresholds for RECLAIM sources at RECLAIM facilities is not applicable here.

Based on the air quality modeling and related assumptions, the maximum incremental cancer risk associated with the proposed project at the Refinery was calculated to be $0.37 \times 10^{-6}$, which is slightly higher than the original cancer risk estimate, but still substantially less than one in a million, assuming a 70-year exposure. This result does not exceed the cancer risk significance threshold of 10 per million. See Attachment 5 for input parameters.

The highest acute hazard index for the proposed project is estimated to be 0.0003. The acute health effects are based on maximum hourly emissions of TACs that have acute target endpoints (see Table 2). The acute hazard index for the proposed project does not exceed the relevant significance threshold of 1.0.

The highest chronic hazard index for the proposed project is estimated to be 0.0003. The chronic health effects are based on maximum annual emissions of toxic air contaminants that have chronic target endpoints. This result does not exceed the chronic hazard index significance threshold of

1.0. Therefore, based on the results of air quality modeling, no significant carcinogenic or chronic health impacts are expected.

Similar to the cancer estimates, both the chronic and acute hazard index results for the modified project are slightly higher than originally estimated for the ULSD project, but still substantially less than the hazard index significance threshold of 1.0.

**TABLE 2**

**ESTIMATED EMISSIONS OF TOXIC AIR CONTAMINANTS ASSOCIATED WITH THE PROPOSED PROJECT**

| Chemical | Weight % | Estimated Emissions (pounds per hour) | Estimated Emissions (pounds per year) |
|---|---|---|---|
| 1,3-Butadiene | 0.01381 | 9.67E-05 | 0.85 |
| Benzene | 0.34 | 2.37E-03 | 20.85 |
| Chrysene | 0.01 | 7.00E-05 | 0.61 |
| Ethylbenzene | 0.513 | 3.59E-03 | 31.46 |
| Hexane | 14.28 | 9.99E-02 | 875.34 |
| Hydrogen sulfide | 0.0452 | 3.16E-04 | 2.77 |
| Indeno[1,2,3-cd]pyrene | 0.05 | 3.50E-04 | 3.07 |
| m-Cresol | 0.01 | 7.00E-05 | 0.61 |
| Naphthalene | 0.36 | 2.52E-03 | 22.08 |
| o-Cresol | 0.01 | 7.00E-05 | 0.61 |
| p-Cresol | 0.01 | 7.00E-05 | 0.61 |
| Phenol | 0.01 | 7.00E-05 | 0.61 |
| Propylene | 0.014 | 9.80E-05 | 0.86 |
| Styrene | 0.05 | 3.50E-04 | 3.07 |
| Toluene | 1.65 | 1.16E-02 | 101.18 |
| Xylenes | 2.786 | 1.95E-02 | 170.84 |

The Project toxic air contaminant emissions remain less than significant with this revision. The new information does not change any conclusions regarding the significance of impacts, constitutes merely insignificant modifications to the Negative Declaration and, therefore, supports the SCAQMD's decision to prepare an Addendum.

In addition, the use of ULSD is expected to result in emission reductions from mobile sources that utilize the fuel, providing an emission benefit. These emission benefits will be the highest in areas where there are a large number of diesel trucks such as port areas, terminals, and areas near transportation corridors. Therefore, the Project will help provide direct air emission benefits to the Wilmington area. It should be noted, however, that the SCAQMD did not take credit for mobile source emission reductions resulting from the Project.

## 5-4 Impacts from Other Environmental Topics

The June 2004 Final Negative Declaration included an evaluation of all the environmental resources on the CEQA checklist. Therefore, in order to provide a complete environmental analysis of the project modifications, the potential impacts for all the environmental resources in the CEQA checklist are addressed herein. The analysis in the June 2004 Final Negative Declaration concluded that the proposed ULSD project would not result in significant adverse impacts to any of the environmental resources.

To ensure that the currently proposed project does not create significant new adverse impacts or make existing significant adverse impacts substantially worse, it is evaluated for potential adverse impacts relative to the environmental topics found on an environmental checklist form. The following sections summarize the effects of the modified project on each of the environmental topics identified on the environmental checklist.

### Aesthetics

Aesthetics were discussed in the June 2004 Final Negative Declaration, Chapter 2, Cultural Resources (page 2-4). The proposed project modifications will not change the aesthetic resource analysis from the June 2004 Final Negative Declaration. The change in the number of fugitive components does not impact the aesthetic analysis in any way. The site is located in an industrial area. The primary aesthetic impacts of the proposed project are related to the new reactor in Unit 90. The proposed project modifications that are the subject of this Addendum only affect the fugitive components related to Unit 90. The components are small in comparison to the Unit itself and are not visible to areas outside of the refinery. Therefore, the proposed project modifications will not be visible and will not result in significant adverse visual impacts to areas outside of the Refinery.

### Agricultural Resources

Agricultural resources were discussed in the June 2004 Final Negative Declaration, Chapter 2, Agricultural Resources (page 2-6). The proposed project modifications will not change the agricultural resources analysis from the June 2004 Final Negative Declaration. The change in the number of fugitive components does not impact agricultural resources in any way. The Wilmington Plant is located within and is surrounded by industrial land uses. No agricultural resources are located within the proposed project area or within the general surrounding area. Land uses in the Wilmington area are dominated by industrial and port-related land uses. Therefore, the proposed project would not convert or result in the conversion of any farmland to non-agricultural uses, or conflict with existing zoning for agricultural uses or Williamson contracts. Therefore, no significant impacts to agricultural resources are expected from the construction and operation of the proposed project.

## Biological Resources

Biological resources were discussed in the June 2004 Final Negative Declaration, Chapter 2, Biological Resources (page 2-15). The proposed project modifications will not change the biological resources analysis from the June 2004 Final Negative Declaration. There is no change in the biological resources analysis from the June 2004 Final Negative Declaration to the current document, i.e., all construction will occur within the confines of an existing industrial area where native vegetation has been removed. The project impacts on biological resources were considered less than significant and will remain less than significant.

## Cultural Resources

Cultural resources were discussed in the June 2004 Final Negative Declaration, Chapter 2, Cultural Resources (page 2-17). There is no change in the cultural resources analysis from the June 2004 Final Negative Declaration to the current project. The change in the number of fugitive components does not impact the cultural resources analysis in any way. The project impacts on cultural resources were considered less than significant and the proposed project modifications would not change this conclusion. There are no prehistoric or historic structures or objects within the Wilmington Plant or adjacent areas. No existing structures at the Wilmington Plant are considered architecturally or historically significant. The entire Wilmington Plant site has been previously graded and developed. No known human remains or burial sites have been identified at the Wilmington Plant during previous construction activities so the proposed project is not expected to disturb any human remains. No significant adverse impacts on cultural resources are expected.

## Energy

The energy impacts associated with the construction and operation of the proposed project were discussed in the June 2004 Final Negative Declaration, Chapter 2, Energy, (page 2-18). There is no change in the energy impact analysis from the June 2004 Final Negative Declaration and the proposed project modifications changing the number of fugitive components does not impact the demand for energy in the form of natural gas or electricity. The project impacts on energy resources were considered less than significant in the Final Negative Declaration, and this conclusion has not changed.

## Geology and Soils

Geology and soils resources at the Wilmington Plant were discussed in the June 2004 Final Negative Declaration, Chapter 2, Geology and Soils (pages 2-20). There is no change in the geology and soils analysis from the June 2004 Final Negative Declaration associated with the proposed project modifications. The change in the number of fugitive components does not require any new grading/trenching or foundation construction. The proposed project impacts on geology/soils were considered to be less than significant since all new structures would need to comply with the Uniform Building code Zone 4 earthquake requirements.

## Hazards and Hazardous Materials

Hazards and hazardous material impacts associated with the ULSD project were discussed in June 2004 Final Negative Declaration, Chapter 2, (page 2-27). There is no change in the hazard analysis from the June 2004 Final Negative Declaration due to the proposed project modifications. The change in the number of fugitive components does not impact the hazard analysis in any way. The hazards associated with the proposed project are limited to emergency releases from the new reactor and the proposed modifications do not make any changes to the size or operation of the new reactor. The hazard impacts of the ULSD project were considered to be less than significant as any hazard impacts are expected to remain on-site. The impacts associated with the ULSD project were determined to be less than significant.

## Hydrology and Water Quality

Hydrology and water quality resources at the Wilmington Plant were discussed in the June 2004 Final Negative Declaration, Chapter 2, Hydrology and Water Quality (page 2-32). There is no change in the hydrology/water quality analysis from the June 2004 Final Negative Declaration associated with the change in the number of fugitive components.

The proposed project will result in an estimated increase in water demand and wastewater discharged of about 72,000 gallons per day or about 50 gallons per minute (about three percent of the existing discharge) during maximum operating conditions, primarily from boiler blowdown and steam condensate. The proposed project modifications will not impact the estimated increase in water demand or wastewater generated and the proposed project impacts will remain less than significant.

The proposed project modifications are not expected to increase the stormwater runoff from the Wilmington Plant. The Wilmington Plant modifications will occur within the existing refinery units and no increase in paved area is expected. Therefore, the proposed project impacts on hydrology and water quality are expected to remain less than significant.

## Land Use and Planning

The land use at the Wilmington Plant was discussed in the June 2004 Final Negative Declaration, Chapter 2, Land Use (pages 2-36). There is no change in the land use analysis from the June 2004 Final Negative Declaration due to the proposed project modifications. The change in the number of fugitive components does not impact the land use analysis in any way. The proposed project would be consistent with the zoning for the site (M3 – Heavy Industrial Zoning) and with the City of Los Angeles General Plan. The facility is compatible with the land use of the site and the surrounding land uses. The proposed project would not disrupt or divide an established community. Therefore, significant adverse impacts on land use are not expected.

## Mineral Resources

Mineral resources were discussed in the June 2004 Final Negative Declaration, Chapter 2, Mineral Resources (page 2-37). There is no change in the mineral resources analysis from the June 2004 Final Negative Declaration due to the proposed project modifications. The change in the number of fugitive components does not impact the analysis of mineral resources in any way. The project impacts on mineral resources were considered less than significant and the proposed project modifications would not change this conclusion. There are no known mineral resources within the Wilmington Plant or adjacent areas. Therefore, no significant adverse impacts on mineral resources are expected.

## Noise

Noise impacts at the Wilmington Plant were discussed in the June 2004 Final Negative Declaration, Chapter 2, Noise (page 2-38). There is no change in the noise analysis from the June 2004 Final Negative Declaration due to the proposed project modifications. The change in the number of fugitive components does not adversely affect the noise impacts. The proposed project impacts were considered to be less than significant for the construction phase and the proposed project modifications will not alter construction activities at the site. Therefore, noise impacts are expected to remain less than significant since construction activities will be limited to daytime hours and occur within an industrial area. The operation of the proposed project is not expected to create noticeable noise impacts due to the industrial nature of the area surrounding the site.

## Population and Housing

Population and housing impacts at the Wilmington Plant were discussed in the June 2004 Final Negative Declaration, Chapter 2, Population and Housing (pages 2-41). There is no change in the population and housing impacts from the June 2004 Final Negative Declaration due to the proposed project modifications. The change in the number of fugitive components does not impact the analysis of population and housing impacts any way. The proposed project would require modifications to the existing Wilmington Plant and will not involve an increase, decrease or relocation of population. Labor (an estimated 150 employees) for construction is expected to come from the existing labor pool in Southern California. Modification of the proposed project is not expected to require any new permanent employees at the Wilmington Plant. Therefore, construction and operation of the proposed project are not expected to have significant adverse impacts on population or housing, induce substantial population growth, or exceed the growth projections contained in any adopted plans.

## Public Services

Public service impacts associated with the proposed ULSD project were discussed in the June 2004 Final Negative Declaration, Chapter 2, Public Services (pages 2-42). There is no change in the impacts on public services from the June 2004 Final Negative Declaration due to the proposed project modifications. The change in the number of fugitive components does not impact the analysis on public services impacts in any way. The proposed project will not increase the requirements for additional or altered fire protection or police protection. Further, no increase in

the number of permanent workers is expected at the Wilmington Plant, therefore, there will be no increase in the local population and thus no impacts are expected to schools, parks, or other public facilities. Therefore, no significant adverse impacts on public services are expected.

**Recreation**

Recreation impacts associated with the proposed ULSD project were discussed in the June 2004 Final Negative Declaration, Chapter 2, Recreation (pages 2-44) and no change in the analysis of recreation impacts is required due to the proposed project modifications. The change in the number of fugitive components does not impact the analysis on recreational impacts in any way. The existing labor pool in southern California is sufficient to fulfill the labor requirements for the construction of the proposed project. The operation of the proposed project will not require additional workers. Therefore, there would be no significant changes in population densities resulting from the proposed project and thus no increase in the use of existing neighborhood and regional parks or other recreational facilities. No significant adverse impacts to recreational facilities are expected.

**Solid/Hazardous Waste**

Solid/Hazardous waste impacts at the Wilmington Plant were discussed in the June 2004 Final Negative Declaration, Chapter 2, Solid/Hazardous Waste (pages 2-45). There is no change in the solid/hazardous waste analysis from the June 2004 Final Negative Declaration due to the proposed project modifications. The change in the number of fugitive components does not impact the solid/hazardous waste analysis in any way. Typically, valves that are removed from service are repaired and stored for future re-use within the refinery. Metal from piping, flanges and valves that are beyond repair is taken by a scrap metal recycler.

Sufficient landfill capacity currently exists to handle the anticipated generation of construction waste on a one-time basis. The proposed project is expected to result in an increase in spent catalyst of approximately 400,000 pounds per year due to the increased size of the reactors in the Unit 90 Hydrotreater. The catalysts have a life expectancy ranging from about two to three years, depending on the type of catalyst and reaction rate. Spent catalysts are expected to be removed and regenerated by a catalyst company, or recycled offsite. Therefore, no significant adverse impacts to solid or hazardous waste disposal facilities are expected due to the operation of the proposed project.

**Transportation and Traffic**

Transportation impacts for the proposed ULSD project were discussed in the June 2004 Final Negative Declaration, Chapter 2, Transportation and Traffic (pages 2-47). There is no change in the transportation analysis from the June 2004 Final Negative Declaration due to the proposed project modification. The change in the number of fugitive components does not impact the transportation and traffic analysis in any way. There will be no change in the expected traffic during the construction phase (an estimated 150 workers) and the traffic impacts during project construction were considered to be less than significant. The operation of the proposed project will not result in

an increase in permanent workers. Truck traffic will increase by two to three trucks per day during catalyst change-out at the Wilmington Plant. Catalyst change-out occurs over a two-week period, once every two to three years depending on the type of catalyst. Based on the above analysis, the additional truck trips would not result in significant traffic impacts. The proposed project impacts on traffic during the operational phase would be considered less than significant.

## 6.0 ISSUES RAISED IN THE REGULATION XII HEARING PETITION

In July 2004, following certification of the Final Negative Declaration, the SCAQMD Governing Board received two petitions requesting that the Board convene Regulation XII hearings. SCAQMD Regulation XII and California Health and Safety Code § 40509 give the SCAQMD Governing Board the discretion to hold a hearing on a permit application. One petition was filed on behalf of Communities for a Better Environment (CBE). The second petition was filed on behalf of Carlos Valdez, Southern California Pipe Trades District Council 16 and United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local 250 (Unions). Both CBE and the Unions had previously submitted comments on the Draft Negative Declaration, and the Final Negative Declaration included responses to those comments. The petitions seeking Regulation XII hearings raised many of the same issues that had been raised in comments on the Draft Negative Declaration and responded to in the Final Negative Declaration. However the petitions also raised new issues based on SCAQMD responses to comments and presented additional materials regarding issues previously addressed. On August 6, 2004, the Governing Board denied the petitions for a Regulation XII hearing. CEQA does not require the SCAQMD to respond to matters raised in the Regulation XII petitions. However, in this case, the SCAQMD has elected to provide additional explanation and analysis in response to matters raised in or submitted with the petitions. Because many of the issues raised in the Regulation XII petitions reiterated comments previously received and addressed through responses in the Final Negative Declaration, only new issues or issues where further clarification is warranted are discussed below. Further, the clarification of issues raised in the Regulation XII petition also provides new information regarding the issue of soil contamination at the project site (see subsection 6.7).

### 6.1 Construction Emissions

The Regulation XII petitions claimed that construction emissions from the ULSD Project will be significant. In particular, the petition claimed that the Final Negative Declaration underestimated emissions from construction equipment because it used incorrect horsepower ratings for the dump trucks and flatbed trucks ("dumper/tendors") expected to be used in Project construction, used incorrect emission factors for the dump trucks and flatbed trucks, and used incorrect load factors. These claims are not correct as explained below.

The equipment and workers needed for the proposed project were developed in conjunction with a construction contractor that ConocoPhillips typically uses for this type of construction work. In order to address the concerns raised in the petition, the same contractor was consulted to specifically address the petitioner's assertions regarding the construction equipment.

As stated in the response to comment 1-28 in the Final Negative Declaration, the dump trucks and flatbed trucks associated with the project will be on-road trucks. The Unions' Regulation XII petition and supporting comments from Phyllis Fox repeated that the Negative Declaration should use emission factors for off-road vehicles, which generally are much higher. However, the dump trucks and flat-bed trucks used for the Project must be on-road vehicles because they need to travel on the public roads to perform their necessary functions for the Project. The dump trucks must be on-road vehicles because they could be used to transport materials from the construction site to off-site facilities. Similarly, the flatbed trucks used for construction must also be on-road vehicles because they will be used to transport equipment to the site. The appropriate emission factors for on-road trucks are those developed by CARB in the EMFAC2002 model which results in a NOx emission factor of 0.029607 pound per mile (see Final Negative Declaration, Appendix A, page A-3). In using the emission factors for off-road vehicles, the Draft Negative Declaration (page A-3) over-estimated emissions from the dump trucks and flatbed trucks associated with the Project. This was not changed in the Final Negative Declaration because the over-estimate simply resulted in a more conservative analysis. However, the Unions' Regulation XII petition reveals that questions remain regarding the classification of the dump trucks and flatbed trucks to be used in the ULSD Project. To make it abundantly clear that the trucks in question are on-road and not off-road trucks, the emissions have been re-calculated as part of the Addendum, and are presented in Attachment 2.

As ConocoPhillips proceeds with final project planning, equipment and labor estimates and projections are being refined. The construction contractor has indicated that a dump truck will no longer be needed during the peak construction period because of the change in the project schedule. As a result, the emissions associated with the dump trucks will be removed from the peak daily construction emission estimate altogether. (It should be noted that removing the dump truck from the peak construction period does not cause the peak construction period to shift to a different phase of construction.)

The Union's petition asserted that the load factor for on-road equipment is typically assumed to be 100 percent. While this is correct, the emission factors for on-road vehicles are those developed by CARB through the EMFAC2002 model, which already assume a 100 percent load factor. Because the emission factors for on-road vehicles are much lower than for off-road vehicles to use the off-road factors would artificially inflate the emission results. The emission calculations for the delivery trucks in Appendix A of the Final Negative Declaration include the use of the emission factors for on-road trucks developed by CARB in the EMFAC2002 model, assume 100 percent load, and are correct factors to use for the trucks in question.

The comments of Phyllis Fox attached to the Unions' petition also asserted that a water truck would need to be used for dust control, but that the construction calculations did not include a water truck. The comment is incorrect. The “Heavy Diesel Truck” on Appendix A, page A-3 of the Final Negative Declaration is the water truck. It is assumed that the truck will remain on-site and travel four miles per day. The fugitive dust emissions on page A-5 show emissions from this truck on unpaved roads. While the emission estimates assume that the water truck will travel on unpaved roads, the water truck used by the contractor that is expected to construct the ULSD Project is a licensed on-road truck, and not an off-road truck as indicated in comments by Phyllis Fox. The truck can be used in many different applications, and on some jobs it may have to pick up water at

one location and drive to the construction site where the water is used (for the proposed project, water is available onsite so the water truck can remain onsite for the project). For this reason, the contractor uses an on-road vehicle. The emissions from the water truck were included in the Final Negative Declaration. The revised construction emissions in Attachment 2 herein clarify that the one "heavy duty truck" is actually a water truck.

Based on the emissions calculations presented in Attachment 2, Table 3 below shows the changes in estimated construction emissions discussed in this Addendum. These revised calculations show that there are only minor differences in the emission estimates, and that the significance conclusions remain the same. The changes in the emission estimates do not reveal any new significant impacts associated with air quality during construction or make existing impacts substantially worse.

**TABLE 3**

**SUMMARY OF PEAK DAILY CONSTRUCTION EMISSIONS**

| Construction Emissions | CO | VOC | NOx | SOx | PM10 |
|---|---|---|---|---|---|
| Final Negative Declaration Estimated Construction Emissions | 344.6 | 25.1 | 74.1 | 5.3 | 57.1 |
| Currently Revised Construction Emissions(1) | 348.6 | 25.5 | 77.8 | 5.3 | 61.3 |
| Significance Threshold | 550 | 75 | 100 | 150 | 150 |
| Significant? | NO | NO | NO | NO | NO |

(1) The calculations underlying the data in the table are based on eliminating the dump trucks from the peak period; eliminating the flatbed trucks as off-road vehicles, and adding two additional trucks (e.g., the flatbeds) to the on-road vehicle category.

## 6.2 Determining the Significance of Air Quality Impacts

The Regulation XII petitions assert that the SCAQMD illegally adopted a new CEQA significance threshold for operations in the Final Negative Declaration for the ConocoPhillips ULSD Project. This assertion is not correct. The SCAQMD consistently applies the CEQA significance thresholds for operations that are presented in its CEQA Air Quality Handbook (SCAQMD, 1993), which were adopted by the SCAQMD Governing Board in February 1993. For this project, a 55 pound per day threshold for operational NOx emissions, and a 100 pound per day threshold for construction NOx emissions was utilized. However, commentators on the Draft Negative Declaration asserted that emissions from existing boilers should have been counted as emissions from the proposed project. In response to comments in the Final Negative Declaration, the SCAQMD reiterated that emissions from the existing boilers are not part of the project; nonetheless, to answer the question raised by the commentator, SCAQMD included in its response an explanation of how the significance threshold applies to RECLAIM facilities. Since the issue was again raised in the Regulation XII hearing petitions, SCAQMD will again explain the applicability of the significance threshold to RECLAIM facilities.

Subsequent to the adoption of the SCAQMD CEQA Air Quality Handbook, the SCAQMD adopted the RECLAIM program, fundamentally changing the framework of air quality rules and permits that apply to the largest sources within the air district. The RECLAIM program is a pollution credit trading program for large sources of NOx and SOx emissions within the jurisdiction of the SCAQMD. Companies within the program are given a number of credits that reflect historical usage, but that decline yearly to reduce total emissions from the program. Facilities are allowed to buy and sell credits, reflecting the facilities emissions for the year. The emissions from the universe of RECLAIM sources were capped in 1994. The emissions cap declined each year from 1995 through 2003, and is now fixed at a level of approximately 78 percent below the initial levels. As implementation of the RECLAIM program proceeded, the SCAQMD realized that it needed to examine how to apply the CEQA significance thresholds to RECLAIM facilities, recognizing that CEQA case law directs that the existing environmental setting includes permits and approvals that entitle operators to conduct or continue certain activities. The SCAQMD determined that the baseline should be the RECLAIM initial allocations, and that a project would be considered significant if the proposed project would cause the facility's emissions to exceed the baseline plus the adopted significance threshold.

Under the RECLAIM program, the SCAQMD issues facility-wide permits to sources. The facility permits specify an initial allocation and annual emission allocations for NOx and SOx. The initial allocations were based on historical, reported emissions for the years immediately prior to implementation of the RECLAIM program. Annual allocations represent the number of RECLAIM Trading Credits or RTCs the facilities begin with each year. The allocations generally declined each year from 1994 through 2003. Operators of RECLAIM sources must not emit more than the total number of RECLAIM credits they posses, which include the annual allocation plus any credits bought and minus any credits sold. Some facilities reduce emissions through a variety of ways including curtailing production, and installing pollution control equipment, to remain below annual allocations. Facilities in the program can generate credits to sell by reducing their emissions beyond their annual allocation.

The 1994 annual emission allocation (reflected in the RECLAIM permit) for the ConocoPhillips facility reflects the historical emissions reported for that facility in the years prior to 1994. Although the allocations for the facility have declined each year since 1994, the maximum annual emissions of NOx and SOx permitted from the ConocoPhillips facility remains at the 1994 limits – so long as that facility acquires additional allocations ("trading credits") from another RECLAIM facility that has reduced its emissions below its current-year allocation. In this way, the RECLAIM permit process operates to reduce on an annual basis the overall emissions of NOx and SOx in the Basin while providing flexibility at individual facilities to vary emissions up to the levels of the actual emissions as determined in 1994.

If the appropriate baseline for an underutilized facility is the impacts corresponding to the maximum production allowed under the permit (as in *Fairview Neighbors*), this baseline also must apply to a facility such as the ConocoPhillips Refinery that has completed construction and operated under its permits for many years. In the case of the proposed project, the SCAQMD staff has previously reviewed and approved construction and operation of the complex of equipment that

exists at the Refinery. At various times over the years, the SCAQMD has issued permits to construct and operate the individual pieces of equipment.

The *Fairview Neighbors* case involved the proposed expansion of an existing mine. The conditional use permit (CUP) for the mine had expired and the company sought to renew the CUP and expand the mining operation. At the time of the EIR review for the expansion, mining activities had declined. Nonetheless, the traffic analysis in the EIR assumed a baseline average daily truck traffic that corresponded to the maximum rock production levels allowed in the CUP. The court accepted this baseline stating: "The . . . EIR appropriately assumes the existing traffic impact level to be the traffic generated when the mine operates at full capacity pursuant to the entitlement previously permitted by the CUP . . ." Indeed, the court thought that any other baseline would be misleading because traffic flow for the operation "fluctuates considerably based on need, capacity and other factors."

The RECLAIM permit program provides flexibility to operators to determine the most efficient manner for their facilities to reduce emissions, yet assures that there cannot be a net increase in NOx or SOx emissions from the universe of RECLAIM sources. Indeed, the effect of the RECLAIM permit process since 1994 has been to ensure a net annual *decrease* in permitted emissions from the universe of RECLAIM sources.

The Regulation XII petitions argue that the SCAQMD should not use the facility's maximum permitted pre-project emissions level as the "baseline", and suggest that the permitted levels are based on "hypothetical" rather than "actual" pre-project emissions at the facility. However, that is incorrect. The NOx and SOx emissions from each facility permitted under the RECLAIM permit process are capped at the historical emissions as actually existed in 1994. The RECLAIM permit process that was established in 1994, and which the agencies and regulated industries have relied upon since, has anticipated that NOx and SOx emissions at any given facility could reach levels as high as the actual historic levels in 1994, so long as the facility acquired tradable emission "credits" from other facilities that had successfully reduced emissions below the declining annual "allocations." There are important consequences to the RECLAIM permit process if the baseline for environmental review were to reflect only the most recent emission levels from specific facilities, rather than the historic levels determined in 1994. Principal among the consequences would be a disincentive for facilities to invest in early emissions reduction equipment and techniques to reduce emissions from year to year below the allocation levels, thus, undermining the overall emissions reductions incentives underlying the RECLAIM process. The incentives created by tradable credits provide additional motivation to RECLAIM facilities to reduce emissions before they are required to do so, and that the universe of these facilities is better able to achieve emissions reductions and meet reduced annual allocations as a result of those incentives. Further, this policy preserves the intent of the RECLAIM program by providing flexibility for the RECLAIM operators to reduce emissions using a variety of control options, including process changes or purchase of RTCs, that provide the most cost effective approach for reducing emissions.

Since the permitted limit on NOx and SOx emissions is based on the actual emissions when the permits were issued in 1994, and since ConocoPhillips has the right pursuant to that permit to return to that level of emissions without amendment of its RECLAIM permit upon purchase of any needed tradable emissions credits, SCAQMD has concluded that the correct "baseline" applicable

to this project reflects the permitted emissions allowed under the existing RECLAIM permit. Thus, the SCAQMD determined that it is appropriate under CEQA to evaluate a project's significance by determining whether the facility's emissions following implementation of the proposed project will be greater than the baseline plus the standard CEQA significance thresholds for NOx and SOx.

The Final Negative Declaration clearly demonstrated that the standard CEQA significance thresholds were used to determine whether the ULSD Project may be significant. The Final Negative Declaration explained that the air quality impacts for a RECLAIM facility are considered to be significant if the incremental mass daily emissions of NOx or SOx from sources regulated under the RECLAIM permit, when added to the allocation for the year in which the project will commence operations, will be greater than the facility's initial 1994 allocation (including non-tradable credits) plus the increase established in the SCAQMD Air Quality Handbook for that pollutant (55 pounds per day (lbs/day) for NOx and 150 lbs/day for SOx). In order to make this calculation, annual allocations as well as the project's incremental annual emissions are converted to a daily average by dividing by 365. Thus, a proposed project is considered significant if:

$(A_1/365) + I < (P + A_2)/365$

Where:

P = the annual emissions increase associated with the proposed project.

$A_1$ = 1994 initial annual allocation (including non-tradable credits).

$A_2$ = Annual allocation in the year the proposed project will commence operations.

I = Incremental emissions established as significant in the SCAQMD Air Quality Handbook (55 lbs/day NOx or 150 lbs/day SOx).

This analysis sometimes has been referred to as the CEQA significance threshold for RECLAIM facilities. The term is not complete. In fact, it is a way of applying the standard CEQA significance thresholds to the facilities that have CEQA baselines that are determined by the unique permitting program of RECLAIM. The analysis ensures that the CEQA significance criteria are applied properly and fairly, taking into account the unique aspects of the RECLAIM permit program.

Contrary to the assertions in the Regulation XII petitions, the analysis does not mean that ConocoPhillips may increase emissions by more than 8,000 pounds per day without preparation of an EIR. Rather, it recognizes that there has been a steady and substantial decline in emissions from RECLAIM facilities. Due to the decline, and the program's assurances that there will be no net increase in NOx or SOx emissions from RECLAIM sources, an EIR would not be triggered if the on-going emissions from the existing Refinery operations subject to RECLAIM, plus the new emissions associated with the proposed project, do not exceed the historical operations reflected in the facility's initial allocation.

This analysis is not new to the Final Negative Declaration for the ConocoPhillips ULSD Project. The SCAQMD has consistently taken this approach when it has been the lead agency under CEQA responsible for preparing environmental documents. Attachment 3 lists CEQA documents for which the SCAQMD has been lead agency over the past approximately seven years. The

Attachment shows the environmental documents that have relied upon or discussed this implementation approach. In some cases the approach was not discussed. However, in each of these cases, the project either was not proposed by a RECLAIM facility, did not involve NOx and SOx sources subject to the RECLAIM program, or relied on earlier analyses that did use RECLAIM analysis for baseline and significance. For example, in June 2004, the SCAQMD issued an Addendum to a Final Subsequent EIR for the Ultramar Wilmington Refinery CARB Phase 3 Project (SCH No. 200061113). The addendum did not discuss CEQA baseline and significance for RECLAIM facilities, but relied on a prior Final Subsequent EIR certified August 2002 (SCH No. 200061113), which did. The April 2004 Addendum to the Final Environmental Impact Report for Equilon Enterprises CARB Phase 3 Project (SCH No. 2000091086) involved only increases in VOC emissions, and VOCs are not RECLAIM pollutants. The July 2003 Final Negative Declaration for Chevron Products Company's Hydrogen Plant Project (SCH No. 2003051116) projected an emission reduction rather than an increase; therefore, any discussion of CEQA significance thresholds was irrelevant to the SCAQMD's decision.

The Draft Negative Declaration for the ULSD Project did not discuss the application of the CEQA significance thresholds to RECLAIM facilities because it was not - and still is not - relevant to the ULSD Project. The emissions resulting from the Project are not part of the RECLAIM program because they are either emissions of non-RECLAIM pollutants (e.g., VOC emissions), or they are emitted by non-RECLAIM sources (e.g., mobile sources such as trucks).

The comments from the Unions and CBE on the Draft Negative Declaration challenged the emission estimates included in the Draft Negative Declaration. The comments argued that emission increases resulting from increased utilization of existing, permitted equipment must be attributed to the proposed project. The SCAQMD disagrees with these comments as described in detail in subsections 6.3 and 6.5. However, in the interest of full disclosure, the SCAQMD provided information in the response to comments concerning the existing equipment, operations and lawful emissions, including sources subject to RECLAIM. The Final Negative Declaration explained that the purpose of the response to comment was to demonstrate that even if emissions were calculated in the manner requested by the Unions and CBE, the Project would not result in a significant adverse impact, when evaluated pursuant to the proper CEQA baseline and significance thresholds.

## 6.3 Operational Emissions - Additional Truck Traffic

The Regulation XII petitions claimed that the project would increase emissions from increased truck traffic during catalyst change-outs and import of chemicals to support the project, and asserted that "these vehicular emissions were also not included in the emission inventory." This comment is incorrect.

As explained in Response 1-47 (Appendix C, Final Negative Declaration) the Wilmington Plant currently generates several truck trips a day during catalyst changing in the reactors. The proposed project will generate an additional two to three trucks per day during catalyst changing, which will occur once every two to three years. Therefore, on a daily or yearly average, no increase in emissions from trucks is expected. On a "worst-case" day (once every two to three years), truck traffic could increase by up to three trucks on a single day. Therefore, the project emissions were

revised in the Final Negative Declaration to include the emissions from three additional trucks per day, which were calculated to be seven lbs/day of CO, one lb/day of VOC, nine lbs/day of NOx, and less than one pound per day of SOx and PM10. The Final Negative Declaration was revised to include additional truck traffic as suggested in the comment letter from the Unions. Appendix A was revised to include operational vehicle emissions which include emissions from three trucks per day (see page A-7). The truck emissions were also included in Table 3 of the Final Negative Declaration (see page 2-10), which includes all project-related emission increases, under "Delivery Trucks." Therefore these vehicular emissions were included in the emission inventory.

The Project emissions remained less than significant even after this adjustment adding the emissions from three additional delivery truck trips per day. The revised information does not change any conclusions regarding the significance of impacts, constitutes merely insignificant modifications to the Negative Declaration, and, therefore, does not require recirculation of the Draft Negative Declaration pursuant to CEQA Guidelines §15073.5.

## 6.4 Operational Emissions – Steam Generation

The petitioners insist that steam generation activity at the project site, which is currently permitted under the facility's existing permit conditions, should be included in the air quality analysis. A refinery is made up of many different sources or potential sources of air pollution. The Facility Permit for the refinery lists hundreds of pieces of equipment that emit or have the potential to emit or control air contaminants, ranging from storage tanks to heaters and more. In addition, within these approved sources, there are tens of thousands of additional components such as pumps, valves, flanges and other connectors, drains, etc. Even operating within existing permit conditions, emissions from each of these devices may vary over time, and emissions from each device are affected by a unique set of factors. Some of the relevant factors include variations in process temperatures and pressures, the sources and characteristics of the crude oil, the product slate being produced, seasonal variations in ambient temperature, seasonal variations in product demand, production rate, etc. The historical emissions from the refinery are a composite of the hundreds of thousands of emission points from thousands of pieces of equipment and other components. Given the very large number of existing emission points at the Refinery and the number of variables affecting each of those sources, emissions consistent with existing permit conditions in future years may be higher or lower due to reasons totally unrelated to the proposed project. There is even greater variability in hourly, daily or monthly emissions. The utilization rates, production rates or emission rates for the various pieces of equipment may achieve their peaks at different times, and sustain the peaks for different intervals of time. For many emission points, the data are not recorded or are retained for short time intervals, yet reliance on annual emission data would dampen the variability and mask what level of utilization, production or emissions has in fact been achieved.

As explained in the Final Negative Declaration, steam is required to operate the major refinery units on a continuous, 24-hour basis. Therefore, in order to provide safe operating conditions, the steam system at ConocoPhillips Wilmington Plant is sized such that sufficient steam to operate all refinery units can be supplied to all units even when one boiler is shut down for maintenance or repair. Each boiler has operated at a level near its maximum allowable firing rate. Most often this

occurs when one boiler is shut down for maintenance, and the other boilers must assume a share of the required load. The steam boilers have not usually all operated at maximum conditions at the same time in the past and nor are they anticipated to in the future. Rather, the refinery will continue to adjust the load between the four boilers based on the immediate steam demand of the refinery and the complement of steam generating equipment in operation at that time.

The boilers that will generate the steam for the proposed project do not require modifications to the existing permit conditions and the increase in steam generation may occur even without the proposed project. The SCAQMD does not agree that increased utilization of the existing permitted steam generation equipment should be included as part of the project, but instead is part of the baseline, which is consistent with the Fairview Neighbors case (see discussion in subsection 6.3).

In response to a comment from the petitioners, the SCAQMD calculated potential operational emissions from steam generation (between 237 to 456 lbs/day of NOx) to demonstrate that even if emissions from existing boilers were added to the operational emissions resulting from the proposed project, the air quality operational impacts would still be not significant and, thus, the conclusion in the Draft Negative Declaration would not change. It should be noted that the refinery operators can emit NOx at these levels from the boilers under consideration at any time without requiring permit modifications.

## 6.5 Cumulative Air Quality Impacts

As indicated in Section 5.3, total NOx emissions from the proposed ULSD project were calculated to be 8.9 pounds per day. As concluded in the Final Negative Declaration, significant adverse air quality impacts are not expected from the proposed project, either individually or cumulatively.

The Regulation XII petitions assert that the cumulative impacts from the proposed project will be significant. The petitions judge whether a project is cumulatively significant by applying the 55 pounds per day NOx significance threshold for determining the *individual* significance of a proposed project. The petitions also assert that *any* increase in NOx, CO and PM10 emissions must be considered significant. The petitions cite to *Kings County Farm Bureau v. City of Hanford*, 221 Cal App. 3d 692 (1990) to support their positions.

But the *Kings County Farm Bureau* case does not announce such a rule. After ruling that the EIR at issue impermissibly trivialized the project's impacts, the court stated:

> "The point is not that, in terms of ozone levels, the proposed Hanford project will result in the ultimate collapse of the environment into which it will be placed. The significance of an activity depends upon the setting. (Guidelines, §15064. Subd.(b).) The relevant question to be addressed in the EIR is not the relative amount of precursors emitted by the project when compared with pre-existing emissions, but whether any additional amount of precursor emissions should be considered significant in light of the serious nature of the ozone problems in this air basin." (Id. at p. 718, emphasis added.)

The court did not hold that, in all nonattainment areas throughout California, the approval of a project with any emissions of ozone precursors will per se cause a significant cumulative impact.

Rather, the court simply directed the respondent agency, in preparing a new EIR to address the question of whether any such emissions "should be considered significant. In some situations, an agency might reasonably conclude, without prejudicially abusing its discretion, that more than very tiny amounts of emissions in a nonattainment area are required before air quality impacts rises to the level of being "individually limited but cumulatively considerable." (Remy et al., Guide to the California Environmental Quality Act (1999), p. 477). Operational NOx emissions from the proposed project of 8.9 pounds per day do not rise to the level of being "cumulatively considerable."

The CEQA guidelines provides further guidance for the cumulative impact analysis. CEQA Guidelines §15064(h)(3) states the following:

> "A lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program which provides specific requirements that will avoid or substantially lessen the cumulative problem (e.g., water quality control plan, air quality plan, integrated waste management plan) within the geographic area in which the project is located. Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency."

The proposed project will comply with the Air Quality Management Plan (AQMP). The AQMP identifies control measures necessary to lessen the cumulative air quality problem in the South Coast Air Basin and lead the Basin into compliance with the state and federal ambient air quality standards. Low sulfur diesel standards are specifically in a control measure in the 2003 AQMP (FUEL-2). The 2003 AQMP has been adopted by the SCAQMD and the California Air Resources Board. The proposed project will allow ConocoPhillips to comply with the state and federal ULSD requirements. The diesel sulfur limit of 15 ppmw will help generate significant air quality benefits by enabling the effective performance of advanced diesel exhaust emissions control technologies that reduce emissions of ozone precursors (NOx and VOCs) and diesel particulate matter. CARB estimates that the NOx emissions reductions in California are expected to range from about 100 tons per year in 2005 to about 35 tons per year in 2020. CARB estimates that the particulate matter emissions reductions in California are expected to range from about 16 tons per year in 2005 to about seven tons per year in 2020. Reductions in emissions of diesel particulate matter mean reduced ambient levels of toxic air contaminants found in diesel exhaust and reduced public exposure to those contaminants (CARB, 2003). In evaluating whether the ULSD project is individually significant, the SCAQMD did not take any emission reduction credit for mobile source emission reductions resulting from the use of ULSD. However, in evaluating cumulative significance, the large decrease in emissions can be compared to the expected very small increase in emissions from the proposed project. Therefore, the proposed ULSD project will provide an overall air quality and, thus, public health benefit, consistent with the AQMP.

A recently completed CEQA document for an independent Selective Catalytic Reduction (SCR) project at the ConocoPhillips Carson Plant is also not expected to contribute to cumulative impacts

at the Wilmington Plant because the SCR is expected to result in a NOx emission reduction benefit, the distance between the two facilities is about three miles and the peak construction impacts will occur at different times for each facility (9/04 for the SCR project and mid-2005 for the ULSD project). In addition, the SCR project and ULSD project do not rely on each other in any way and one project can be constructed without the other.

The petitioners assert that the same projects identified in the cumulative impact analysis prepared for the Paramount Refinery Clean Fuels EIR should be used as part of the cumulative impact analysis for the ConocoPhillips ULSD project. However, that approach is inappropriate for the reasons outlined below.

The Paramount Refinery is located about 13 miles northeast of the ConocoPhillips Wilmington Plant, which is a sufficient distance to preclude cumulative impacts between the refineries. The SCAQMD does not typically consider in a cumulative impacts analysis projects that are more than approximately one mile from the project under consideration, because it is very unlikely that impacts from projects at this distance would overlap. Further, some of the projects identified in the Paramount Refinery Clean Fuels EIR located in the Paramount area are also located within a sufficient distance to avoid cumulative impacts. In fact, it was determined that of the approximately 17 projects identified in the cumulative impacts discussion only four of the local Paramount projects would result in cumulative impacts with the Paramount Refinery project.

Six of the approximately 17 projects identified in the Paramount Refinery Clean Fuels EIR were refinery projects to produce CARB Phase 3 reformulated gasoline. All of the refineries were required to produce gasoline in compliance with CARB Phase 3 requirements as of December 31, 2003. Thus, the construction of all of the CARB Phase 3 projects is essentially complete and, therefore, cannot produce cumulative impacts in conjunction with the proposed project. Further, almost half of the projects listed by the commentator have been operational for at least six months, while many have been operational for over a year, so that any environmental impacts associated with these projects would properly be considered as part of the existing environmental setting. The RFG Phase 3 projects all are consistent with the AQMP, are needed to accomplish overall reductions in emissions in the Basin by reducing emissions from mobile sources and thus provide overall beneficial contributions to the cumulative picture.

The possible existence of cumulative effects from other projects is not a cumulative impact of this project unless this project contributes to that cumulative effect and the contribution is cumulatively considerable as defined by CEQA Guidelines §15065(c). SCAQMD policy defines cumulatively considerable air quality impacts as impacts that exceed project-specific significance thresholds. Indeed, it is for this reason the SCAQMD's air quality significance thresholds apply to both project-specific and cumulative impacts. Therefore, since NOx emissions of 8.9 pounds do not exceed the NOx significance threshold of 55 pounds per day, they are not considered to be cumulatively considerable. As a result, the proposed ULSD project is not expected to create significant adverse NOx air quality impacts, as suggested by the commentator, or any other cumulative environmental impacts.

## 6.6 Soil Contamination and Worker Exposure

The Regulation XII petitions and supporting materials claim that the project could cause a significant impact to worker safety, due to construction in areas of contaminated soil and ground water. While there are areas within the Refinery that have been impacted by petroleum hydrocarbons, the petitions and supporting materials vastly overstate the risk and magnitude of potential exposure. Excavation in impacted areas is heavily regulated, and ConocoPhillips has developed detailed procedures to manage these activities.

In December, 2003, prior to the initiation of the environmental review process for this project, geotechnical core samples were taken at the two locations where it was expected that construction associated with the proposed project would take place (i.e., blocks 43 and 24). The samples did not detect soil contamination in these locations. It is for this reason the Negative Declaration for the ULSD project did not identify contaminated soil as a project-specific impact. However, the Final Negative Declaration disclosed the potential for soil contamination at the Refinery and that the discovery of such contamination would require compliance with SCAQMD Rule 1166 requirements.

In the event that contaminated soil is discovered onsite, the Refinery has a soil mitigation plan for impacted soils pursuant to SCAQMD Rule 1166 (the "Rule 1166 Plan"). This plan was reviewed and approved by the SCAQMD. A copy of the plan is on file with the SCAQMD. Pursuant to the Rule 1166 Plan, when the Refinery encounters soil that is impacted by petroleum hydrocarbons, it must have the soil analyzed by a State-certified laboratory to determine the concentration and type of contamination. During excavation, the impacted soils area is subject to periodic organic vapor analyzer sampling of impacted soils. Covers and odor suppressants must be used as appropriate.

The ConocoPhillips Refinery also is subject to Occupational Safety and Health Agency (OSHA) regulations in its construction projects and operations, including in connection with the ULSD Project.

In addition to the numerous requirements imposed by regulations, ConocoPhillips has implemented institutional controls in the form of a Policy & Procedures Manual that governs soil excavation, spill clean-up, trenching, and earthwork. The Soil Excavation Policy further defines the procedures to be followed for assurance that soils excavation, including soil removal due to spills, is carried out in conformance with applicable regulations. Among other things, the Soils Excavation Policy addresses advance notice relating to potentially impacted soil, training for those responsible for defining and overseeing soils excavation work, and air monitoring procedures and equipment. The Soils Excavation Policy also requires the contractor performing excavation to immediately stop excavating if VOC concentrations measured in soils exceed 50 ppm.

During excavation activities that began in June 2004 for relocation of the cooling tower (an activity that is exempt from the requirement to obtain a permit under SCAQMD rules as long as the cooling tower is not used for evaporative cooling of process water in which no chromium compounds are contained), ConocoPhillips discovered some contaminated soil in the area of the cooling tower in Block 24. In accordance with SCAQMD's rules, whenever soil excavation activities take place in

areas of potential contamination, readings must be taken as a precaution to determine whether contamination exists. ConocoPhillips followed this procedure and, thus, discovered this contamination. Excavation at the site of the new cooling tower involved approximately 2600 cubic yards of soil. Of this total, only approximately 10 percent (250 cubic yards) required removal due to contamination, ConocoPhillips, in accordance with its Rule 1166 Plan, properly notified SCAQMD, and implemented its Rule 1166 mitigation plan. In addition, the Refinery's Soils Excavation Policy was implemented which addresses training for those responsible for defining and overseeing soils excavation work, and air monitoring procedures and equipment. This Policy proved effective in that no workers were injured or adversely impacted during the soil excavation activities.

SCAQMD inspected the location in July and confirmed that contaminated soil was removed to covered bins on the site. While some recordkeeping and other violations were discovered, ConocoPhillips had properly notified SCAQMD, taken soil readings, in accordance with Rule 1166 and removed the soil to covered bins. About 250 cubic yards of soil were placed in sealed bins and hauled off-site within the 30-day compliance requirement of the SCAQMD Rule 1166 Plan. The refinery was in compliance with all provisions of the rule and mitigation plan at the last inspection by the SCAQMD in August 2004.

Comments from the petitioners indicated that the SCAQMD focused only on MW-47 in block 43 in preparing its responses to comments on the Negative Declaration. This is because comments raised by the petitioners on the Draft Negative Declaration focused on Block 43 (see Final Negative Declaration, Appendix C, Comment 1-31). Further, the letter submitted by Matthew Hagemann to Richard Drury dated February 27, 2004 and included as Attachment B to Richard Drury's comments on the Draft Negative Declaration dated March 2, 2004 focused on contamination in Block 43; therefore, the SCAQMD responded to these comments.

As indicated in the Response to Comments (see Final Negative Declaration, Appendix C, Response 1-31), the primary location for construction activities associated with the proposed project is near the mid-barrel hydrotreater Unit 90, located in Block 34. No physical modifications are required to any of the units in Block 43 due to the proposed project. Therefore, the potential presence of hydrocarbon contamination at this site (Block 43) will not be impacted by the proposed project, nor will project construction personnel be working in Block 43. Figure 3 of the Final Negative Declaration indicates that construction would take place in Block 43 which is not correct. Therefore, Attachment 6 contains revised Figure 3 to correctly reflect where project-related construction activities will occur.

In Response 1-32 (Appendix C of the Final Negative Declaration), the source of the data from MW-47 was indicated at the beginning of the comment as "the Groundwater Monitoring Report dated July 30, 2003 that is included in Attachment B to the comment letter." As noted MW-47 was replaced by MW-47A which is located closer to Unit 90.

Light non-aqueous phase liquids (LNAPL) were not detected in MW-47 or MW47-A in Block 34 where the major portion of the construction activities will take place. The Unions contend that "the absence of benzene and other contaminants in groundwater does not mean that they are also absent in the soil gas and overlying soils." While this statement is true, the absence of LNAPL, which is

pure product, indicates that the concentration of benzene and other contaminants is much less than would occur if LNAPL was found. Since the concentration of benzene and other contaminants in the ground water would be less, the concentration of contaminants in the soil would also be less, reducing the potential for volatilization and movement through the soil. Further the concentrations of benzene, toluene, ethyl benzene and xylenes in ground water samples have been below detection limits since October 2000. The borings taken from the site support this conclusion, i.e., that the location of major construction activities is not significantly contaminated.

The only monitoring well in block 24 is MW-43. MW-47A is located closer to the construction activities associated with the cooling tower than MW-43. Further, as noted above, contamination near the location of the cooling tower in Block 24 has already been removed.

Additional information responding to the petitioners' issues regarding soil and groundwater contamination is summarized in the following bullet points.

- The petitioner asserts the presence of NAPL and petroleum-contaminated soils beneath Block 43 likely indicates a leak from one of the above-ground storage tanks. In fact, NAPL is not currently known to exist beneath Block 43. In 1993, contaminated soil was removed to a depth of five feet in the western portion of Unit 67 and to a depth of ten feet in the eastern portion. The excavation was then backfilled with 1,200 cubic yards of clean soil.
- The petitioner asserts benzene has been found at high levels at the precise location where the Project is to be built. In fact, groundwater is present at approximately 100 feet below ground surface at the project location. Dissolved-phase benzene has been detected in groundwater in samples obtained from MW-47A, located directly southeast of the project location, at concentrations of 40 ug/l (October 2003) and 44 ug/l (April 2004). This is equivalent to 40 and 44 parts per billion. Near-surface construction activities would not be impaired by these low levels of dissolved benzene in the groundwater.
- The petitioner asserts the construction will take place in blocks 24, 34, and 43 and that there is a well in each of the blocks that shows contamination. However, there is no well in Block 24 (MW-43 is located in Block 14). There is no well in Block 43 (MW-46 is located in Block 53. According to the Refinery's Sampling and Analysis Plan, as approved by the Regional Water Quality Control Board, Los Angeles Region, sampling of MW-43 and MW-46 is not performed. As specified in the Plan, monitoring for these two wells consists only of gauging the groundwater elevation.
- MW-47 was abandoned in 2003 and replaced by MW-47A. However, analytical data for groundwater samples obtained from MW-47A is only available for two sampling events (October 2003 and April 2004). Analytical data is available for MW-47 from April 1996 to April 2003. Since MW-47A is located within 100 feet of MW-47 and is screened in the same groundwater zone, the data is representative of local groundwater conditions. Therefore, it is appropriate to use historical data from MW-47 to characterize the local groundwater quality.
- The petitioner assert the absence of benzene and other contaminants in groundwater does not mean that they are also absent in the soil gas and overlying soils. The water table

moves up and down in response to precipitation and tidal fluctuations. This tends to smear contamination in and/or on the water table, into the soil. Further, volatile compounds dissolved in the groundwater or present in the nonaqueous phase liquid ("NAPL") layer floating on the water table would evaporate and become part of the soil gas. In fact, no known NAPL has been detected in any of the blocks of concern. The groundwater elevation in the vicinity of the Block 34 has steadily risen over time, from an elevation of 5.23 feet above mean sea level (msl) in 1995 to 7.58 feet above msl in 2002. Any dissolved-phase constituents in the groundwater and accompanying "smear zone" should have remained in solution and not been in contact with unsaturated soil; thus, evaporation from the "smear zone" is unlikely.

- The petitioner asserts there are wells located in blocks 24 and 43, which would be disturbed by project construction. The wells in these blocks are MW-43 and MW-46. In fact MW-43 is located in Block 14. MW-46 is located in Block 53.
- The petitioner asserts that Figure 5-2 in the Spring 2003 Groundwater Monitoring Report shows the dissolved phase benzene contour map for Spring 2003. The petitioner believes the map shows that the process units that would be disturbed in Blocks 53 (Unit 6) and 34 (Unit 90) are between the 100 ppb and 1000 ppb benzene contours, clearly indicating that contaminated groundwater is present beneath the units where construction would take place. The reality is Figure 3 of the Negative Declaration indicates that the process units that would be disturbed are in Blocks 43 and 34. Figure 5-2 of the Spring 2004 Groundwater Monitoring Report, which contains the most recent available data, shows that Blocks 43 and 34 are between the 100 ppb benzene and the ND (not detected) contour. This indicates that groundwater data from MW-34 and MW-47A has been extrapolated to estimate that dissolved-phase benzene in the groundwater beneath Block 43 may be present at concentrations ranging from 100 ppb to less than laboratory detection limits. Therefore, it has not been demonstrated that contaminated groundwater is present beneath the units.
- The petitioner asserts that in areas with groundwater contamination, the more volatile components of the plume, such as benzene, toluene, ethylbenzene and xylenes, evaporate from the NAPL and/or aquifers with dissolved-phase plumes and migrate through the overlying soils. However, as stated in the Negative Declaration, groundwater is much deeper, approximately 100 feet below ground, than the proposed depth of excavation (40 feet). Therefore, if the dissolved-phase benzene in the groundwater volatilized and migrated 60 feet upward to the bottom of the excavation, the benzene concentration in the soil gas, if detectable, would be insignificant.

## 6.7 EIRs Prepared for Other ULSD Projects

Petitioners have stated that all other ULSD projects in California have required preparation of an EIR, however, changes to refinery equipment and processes to comply with ULSD reformulation requirements vary for each refinery. Some refineries will require more extensive changes while others will require minimal to no changes. As a result, the adverse environmental impacts from these changes to comply with the ULSD reformulation requirements will vary for each refinery. Some refineries will be able to comply without modifying their existing permits. Others will have to install new pieces of equipment and alter existing permit conditions. Each project needs to be

analyzed for the specific proposed changes and resulting potential adverse environmental impacts. For example, operators of a refinery in northern California proposed modifications to their equipment to comply with the ULSD reformulation requirements and the changes analyzed generated significant adverse impacts and, thus, warranted the preparation of an EIR. Operators of other refineries in southern California proposed modifications to comply with the ULSD reformulation requirements, but these were part of larger refinery modification projects and the analysis warranted the preparation of EIRs. These cases, however, do not create a blanket judgment over all changes to refineries that are making modifications to comply with the ULSD reformulation requirements require the preparation of an EIR. Each proposed project should be analyzed individually and the appropriate CEQA document should be prepared in accordance with the conclusions from the analysis. As noted previously, with regards to air quality impacts, if the environmental impacts exceed applicable significance thresholds, an EIR would be prepared, and if the environmental impacts do not exceed applicable significance thresholds, a negative declaration is prepared.

## 7.0 CONCLUSIONS

An Addendum is the appropriate CEQA document for the proposed modified project pursuant to CEQA Guidelines §15164(b) because only minor technical changes or additions to the proposed project are necessary, and there are no project changes or changes to the Final Negative Declaration that would trigger any conditions identified in CEQA Guidelines §15162, which would require a subsequent Negative Declaration or EIR. In addition, the currently proposed modifications will not alter or make substantially worse the conclusions regarding adverse environmental impacts contained in the June 2004 Final Negative Declaration, nor will they result in any new significant adverse impacts. The currently proposed modifications presented in this Addendum will not require new mitigation measures nor will they require modification of existing mitigation measures. Therefore, this addendum has appropriately disclosed the potential impacts from the currently proposed modifications to the project and will be included as part of the CEQA record for the ConocoPhillips ULSD Project.

In addition to the analysis of potential adverse impacts from the proposed modifications evaluated herein, the SCAQMD has provided further clarification to issues raised as part of the petition for a Regulation XII hearing. The following bullet points summarize the issues raised in the petitions for Regulation XII hearings:

- The Executive Officer acted well within the scope of his established legal authority to approve a negative declaration associated with a project for which the District is the lead agency under CEQA. The Executive Officer is clearly vested under the law with authority to issue air quality permits on behalf of the District. (Section 6.1)
- Construction flatbed, dump and water trucks in question are on-road vehicles requiring use of CARB's EMFAC2002 emission factors to determine emissions. Updated construction emissions are still less than significant and, thus, the conclusion in the Final Negative Declaration does not change. (Section 6.2)

- The proper established SCAQMD Board-approved significance thresholds were used to evaluate potential air quality impacts during the construction and operational phases of the proposed project. (Section 6.3)
- The number of operational truck trips required for the proposed project has been updated, however, the project emissions remain less than significant with this adjustment and do not change the overall conclusion made in the Final Negative Declaration that the air quality impacts are not significant. (Section 6.4)
- Potential air quality impacts related to the increase in steam generation were not evaluated as part of the project since the steam generation necessary for the project does not require modification to the existing permits and can be done regardless of the proposed project. Whether or not steam generation is included in the air quality analysis, the emission impacts will be less than significant and, thus, the conclusion in Final Negative Declaration does not change. (Section 6.5)
- No significant adverse environmental impacts are expected from the proposed project, either individually or cumulatively. The possible existence of cumulative effects from other projects is not a cumulative impact of this project unless this project contributes to that cumulative effect and the contribution is cumulatively considerable as defined by CEQA Guidelines §15065(c). Therefore, no further discussion of cumulative impacts is necessary and the conclusions in the Final Negative Declaration are unchanged. (Section 6.6)
- Core samples taken at the site did not detect soil contamination in the location of construction. It is for this reason the Final Negative Declaration for the ULSD project did not identify contaminated soil as a project-specific impact. However, the Final Negative Declaration disclosed the potential for soil contamination at the Refinery and that the discovery of such contamination would require compliance with SCAQMD Rule 1166 requirements. The facility discovered some soil contamination during excavation and implemented the Rule 1166 compliance plan and ConocoPhillips' Soil Excavation Policy, therefore impacts and the conclusions in the Negative Declaration remain unchanged. (Section 6.7)
- In accordance with the tenets of the CEQA Guidelines, each proposed project is analyzed individually and the appropriate CEQA document is prepared in accordance with the conclusions from the analysis. With regards to environmental impacts, if the environmental impacts exceed the applicable significance thresholds, an EIR would be prepared, and if the environmental impacts do not exceed the applicable significance thresholds, a negative declaration is prepared. This process was followed when evaluating the proposed project and a CEQA determination was made independent of the impacts evaluated from seemingly similar projects. (Section 6.8)

The clarifications of the issues raised in the Regulation XII petitions, as presented in this Addendum clearly refute the assertion that a "fair argument" has been made which would require the preparation of an EIR. Preparing an EIR for the project will not change the conclusions that the environmental impacts are not significant, made in the Final Negative Declaration, nor would any further mitigation measures be required. Finally, the continuing delay of this environmentally

beneficial project will interfere with the ultimate goal of the proposed project which is to produce ultra low sulfur diesel to comply with upcoming federal, state and local deadlines.

## 8.0 REFERENCES

South Coast Air Quality Management District, 1993. CEQA Air Quality Handbook, SCAQMD, May 1993.

South Coast Air Quality Management District, 2004. Final Negative Declaration for ConocoPhillips Los Angeles Refinery Ultra Low Sulfur Diesel Project, June 2004, SCH No. 20040011095.