April 20, 2002

South Coast Air Quality
Management District
21865 E. Copley Drive
Diamond Bar, California 91765
909-396-3439
909-396-3324 Fax

Mr. Barry Wallerstein
Executive Officer

Ms. Kathy Stevens
CEQA-Planning Office

Reference: SCH No. 2000061113
Subject: Opposition to Issuance of Permit To ULTRAMAR, INC.

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I request that a Public Hearing be held in Wilmington immediately and more time be given for the public to respond. 11-7

Sincerely,

Yadira Murillo
611 N Gulf ave
Wilmington, Ca
90744

April 20, 2002

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Sincerely,

Salvador Martinez
1136 ½ Blinn Ave
Wilmington Ca 90744

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Sincerely,

Annie M. Romero - Festividades Chairman
1000 N. ~~Figueroa~~ Figueroa. Apt. 4
Wilm. Ca 90744
1-310-549-6361 - 549-6364

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Sincerely,

Frank Castro
1121 Pioneer Ave.
Wilmington, CA 90744

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944 Lakini Ave
Wilmington CA 90744

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Sincerely, Emilia R. Murillo
611 N. GULF AVE.
Wilmington CA 90744

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Sincerely,

611 N. Golf Ave
Wilmington Ca. 90744
Jane J Morillo

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Sincerely,

Alice Aldrete
1120 Pioneer Ave
Wilmington, Ca 90744

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Sincerely, Albert Castañon A. Castañon

1135 Dominguez ave Wilmington #90744
Telephone 1310 549 0756

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Orang Hernandez
1140 Eubank ave #"A"
wilmington

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Sincerely,

Skip Baldwin
632 N. Broad Av.
Wilmn., CA 90744

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Sincerely, Ernie J Scott

1312 McDONALD AVE
WILM CA 90744

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Sincerely,

Thomas Potter

Thomas Potter
4327 Sunfield Ave.
Long Beach, CA 90808

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Sincerely,

201 24th St.
Hermosa Beach, CA 90254

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Sincerely,

Lydia Roberts
Lydia Roberts
5947 Lidlee Ave
Lakewood Ca 90712

COMMENT LETTER NO. 11
LETTERS FROM LOCAL COMMUNITY

April 20, 2002

Fifteen letters from the public were submitted to the SCAQMD and are identical. The the comments in each letter are numbered and bracketed. The letters are the same and the following is the response to each comment.

Response 11-1

The Draft SEIR addressed the potential impacts of the proposed project on health and safety (See Draft SEIR, Chapter 4 – Section A, Air Quality and Section C – Hazards. The project impacts on a regional basis were considered significant for air quality because the project air emissions (primarily associated with transportation emissions) are expected to exceed threshold levels. Therefore, feasible mitigation measures were imposed. The project impacts related to toxic air contaminants were evaluated (see Final SEIR, Chapter 4 – Section A – Air Quality, and Volume II – Health Risk Assessment). The proposed project impacts on toxic air contaminants are not expected to exceed threshold levels and are considered to be less than significant.

Finally, the project impacts related to hazards were evaluated in the SEIR (see Final SEIR, Chapter 4 – Section C – Hazards). The project impacts were determined to be potentially significant because the hazard zones could potentially extend further into industrial areas. The hazard zones would not extend into residential areas so that no significant impacts on residential areas are expected.

It should also be noted that the proposed project is expected to result in environmental benefits. While the proposed project is expected to result in emission increases, the project also is expected to result in regional emission reductions (see Final SEIR, Table 5-3, page 5-20) associated with vehicles that use the reformulated fuels, including reductions in toxic air contaminants, thus providing an air quality benefit. The benefits of improved air quality were not included in the calculated emissions estimates because they occur over a wide area, not just in the vicinity of the proposed project. However, air quality benefits resulting from lower vehicle emissions will also accrue in the local area of the Refinery, tank farms and terminal. Also, the proposed project will eliminate the use of MTBE from gasoline, thus eliminating a potential source of ground water contamination.

Based on the above, the proposed project is not expected to have significant impacts to health and safety to residential areas near the Ultramar Refinery, terminal and tank farms.

Response 11-2

The comment that "Ultramar has never conducted a health impact study" is incorrect. The health impacts associated with the proposed project were addressed in the Final SEIR, Volume II – Health Risk Assessment, which is summarized in Volume I, Chapter 4, Section A – Air Quality (pages 4-

19 through 4-28). The Final SEIR included a Health Risk Assessment for the existing Ultramar facilities and a cumulative Health Risk Assessment for the Refinery, tank farms and terminal following all proposed modifications. The results of the Health Risk Assessment indicate that the proposed project's impact on toxic air contaminants (as well as the emissions from all other sources at the Refinery) are expected to be less than significant. The health impacts to the MEIR, MEIW, all sensitive populations, and all other populations are expected to be less than significant.

Response 11-3

The Final SEIR adequately described the local and regional existing air quality for the proposed project, as is required by CEQA. The regional air quality setting is described based on data from air monitoring completed by the SCAQMD and CARB for various monitoring stations around the South Coast Air Basin for both criteria and toxic air contaminants. The local air quality setting is described in the SEIR (see Final SEIR, Chapter 3 – Section A, Air Quality) using the following: (1) the existing refinery emissions based on annual emission fee data submitted for the last two years (see Table 3-3, page 3-6); (2) the criteria pollutant emissions data for the last five years of data from the closest monitoring station to the Ultramar facilities (see Table 3-2, page 3-5); (3) the existing toxic air contaminant emissions from the refinery (see Table 3-6, page 3-11); (4) air monitoring data for toxic air contaminants conducted by CARB at the air monitoring station located closest to the Ultramar facilities (see Final SEIR, Table 3-4, page 3-7) (note the closest monitoring station is in North Long Beach which is downwind from the Ultramar Refinery. Monitoring stations located west of the Refinery would not be downwind from Ultramar facilities); and (5) air monitoring data for toxic air contaminants completed by the SCAQMD as part of the MATES II study (see Final SEIR, page 3-8). Based on the above analyses, the SEIR adequately described the air quality setting for the proposed project.

Response 11-4

Feasible mitigation measures were identified for potential significant impacts. Feasible mitigation measures for air quality impacts are addressed in the Final SEIR (see pages 4-28 through 4-55). Mitigation measures were identified for air quality impacts during the construction phase (see pages 4-28 through 4-30). Most of the emissions due to operation of the proposed project are from indirect emission sources, including trucks, railcars, and marine vessels, primarily used to transport ethanol (trucks and railcars) and gasoline blending components (marine vessels). The NOx emissions from marine vessels, railcars and trucks are expected to be significant. The U.S. EPA and CARB have regulatory authority over emissions from railcars. Additional information has been added to the Final SEIR regarding the SCAQMD's authority to regulate mobile sources (see Final SEIR, Chapter 4, Section A – Air Quality, pages 4-31 through 4-55).

CEQA Guidelines §15040(b) states, "CEQA does not grant an agency new powers independent of the powers granted to the agency by other laws." Due to state and federal regulations, the SCAQMD has no authority to directly regulate emissions from marine vessels or locomotive engines. As a result, the SCAQMD has extremely limited authority to indirectly control emissions from these sources. Neither the SCAQMD nor Ultramar own and control off road marine or locomotive sources, the SCAQMD cannot require these sources be retrofitted or their engines replaced.

The SCAQMD must act within the constraints of the admiralty clause, and the supremacy clause of the United States Constitution. Under the supremacy clause, the SCAQMD could be prohibited from regulating ship emissions, if Congress has explicitly or implicitly foreclosed the regulation of ship emissions. As explained in the Final SEIR, the Ports and Waterways Safety Act ("PWSA") preempts the SCAQMD from regulating engine design, construction and operation of machinery to the extent that such regulation would interfere with vessel safety or protecting the marine environment. Similarly, on September 26, 1997, the United States approved Annex VI to MARPOL 73/78 regarding NOx emissions from marine diesel engines. Under the admiralty clause, the SCAQMD is prohibited from adopting and enforcing regulations, which interfere with the proper harmony and uniformity of maritime law.

The Clean Air Act does not preempt "in-use" mitigation measures. However, in-use measures do not mitigate air quality impacts or are infeasible since, as previously evaluated in the Mobil Draft EIR (SCAQMD, 1998) they have a tendency to increase emissions. The following "in-use" measures were considered and found to be infeasible or found to be ineffective as mitigation: limiting the hours of use or the number of engines used; prohibiting railcar visits during first or second stage smog alerts; imposing fuel specifications; and reducing rail speeds. It was determined that imposing these types of mitigation measures would not be expected to be effective in reducing emissions in the Basin since they would only apply to one company. Other companies would be able to transport the materials into the Basin without any such restrictions. Therefore, no real emission benefits would be expected.

There are some local marine vessels that have been voluntarily repowered. The SCAQMD has developed a protocol for obtaining NOx credits for repowering or retrofitting marine vessels (Rule 1631 – Pilot Credit Generation Program for Marine Vessels). Marine retrofit or repowering projects, however, are all voluntary projects to generate NOx credits applicable to the RECLAIM program. Based on exhaustive research conducted by the SCAQMD as part of the Mobil CARB Phase 2 reformulated gasoline EIR (SCAQMD, 1998), the SCAQMD does not have authority to directly regulate marine vessel emissions and the SCAQMD cannot require retrofitting, repowering or controlling emissions from marine vessels unrelated to stationary source equipment.

The U.S. EPA has established emission standards for NOx, VOCs, CO, particulate matter, and smoke for newly manufactured and remanufactured diesel-powered locomotives and locomotive engines which have been previously unregulated. Three separate sets of emission standards have been adopted, with applicability of the standards dependent on the date a locomotive is first manufactured. The first set of standards (Tier 0) apply to locomotives and locomotive engines manufactured from 1973 through 2001. The second set of standards (Tier 1) applies to locomotives and locomotive engines manufactured from 2002 through 2004. The final set of standards (Tier 2) apply to locomotives and locomotive engines manufactured in 2005 and later (U.S. EPA, 1997). With the new national emission standards for both newly manufactured and remanufactured locomotives originally built after 1972, future locomotive emission rates are projected to be much lower than the current emission rates. The U.S. EPA estimates that the NOx emissions will be reduced by about 62 percent from their current levels for locomotives manufactured after 2004 (U.S. EPA, 1997). This would reduce project-related NOx emissions from railcars from 84 lbs/day to about 32 lbs/day. The actual emission reductions are a function of the date that new locomotives

come into service and are used to transport materials to/from the terminals. Since the date at which this conversion actually happens is uncertain and not guaranteed, the NOx emissions from project-related railcars are expected to remain significant. These regulations preempt state and local authorities from establishing emission standards for new or rebuilt engines.

Emissions from trucks are regulated by the U.S. EPA and the CARB. The SCAQMD has limited authority over truck emissions. The U.S. EPA and the CARB have implemented regulations to control on-road diesel engines and emission benefits associated with these regulations are expected as these regulations come into effect.

Based on the above there are no other feasible mitigation measures to minimize or eliminate the significant emissions from mobile sources related to the proposed project.

Also, note that the proposed project is expected to result in air quality benefits associated with a decrease in emissions (both criteria and toxic air contaminants) from mobile sources that use the fuels. Therefore, the use of the CARB Phase 3 fuels is expected to provide air quality benefits to all portions of southern California, including the proposed project area.

Mitigation measures were also required for potentially significant adverse impacts associated with Hazards (see Final SEIR, pages 4-73 and 4-74).

No significant health impacts were identified in the SEIR for the proposed project, so that no mitigation measures are required for health impacts.

Response 11-5

Public notice of the proposed project was provided per the requirements of the California Environmental Quality Act (CEQA). CEQA does not require that representatives be sent to community meetings. The comment that no information was provided to the Wilmington community is incorrect. The Public Resources Code (PRC) §21092 requires that notice "shall be given to the last known name and address of all organizations and individuals who have previously requested notice and shall also be given by at least one of the following procedures:" (A) Publication in a newspaper of general circulation in the area affected by the proposed project. "If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas." (B) posting of the notice on- and off-site in the area where the project is to be located; and (C) direct mailing to the owners and occupants of contiguous property shown on the latest equalized assessment roll.

Public notice of the availability of the Draft SEIR was provided in several different ways. First, notice was given via direct mailing to the last known name and address of all organizations and individuals who have previously requested notice, including all individuals and agencies that previously provided comments on the previous Notice of Preparation and the previous Draft EIR (§21092(b)(3)). Second, notice was provided in the Los Angeles Times, the newspaper of largest circulation on March 8, 2002. These actions comply with the minimum CEQA requirements. In addition to these minimum requirements, additional noticing was provided as follows. Per PRC §21092(b)(3)(B), the notice was posted off-site at the Los Angeles County Clerk's Office (see also

CEQA Guidelines §15187(d)). The notice was provided via electronic mail to a number of interested entities including environmental groups, public agencies and interested individuals that have expressed interest in receiving SCAQMD environmental notices. Finally, the document itself was available online at the SCAQMD's website the first day of the public comment period and also hardcopies of the document were available the first day of the public comment period at the SCAQMD's headquarters located at 21865 E. Copley Drive, Diamond Bar, California.

Based on the above, public notice has been provided on the proposed project in a manner that meets and exceeds the CEQA requirements for public notice on the availability of an EIR.

Response 11-6

The SEIR discloses that the proposed project is expected to generate significant adverse regional air quality impacts. No localized air quality impacts, however, were identified for the proposed project. As a result, the SEIR fulfills the letter and intent of CEQA, i.e., to disclose information on potential adverse impacts to the public.

The health impacts associated with the proposed project were addressed in the Final SEIR, Volume II – Health Risk Assessment, which is summarized in Volume I, Chapter 4, Section A – Air Quality (pages 4-19 through 4-28). The results of the Health Risk Assessment indicate that the proposed project's impact on toxic air contaminants (as well as the emissions from all other sources at the Refinery) are expected to be less than significant. The carcinogenic health impacts to the MEIR, MEIW, all sensitive populations, and all other populations are expected to be less than 10 per million and, therefore, less than significant. The non-carcinogenic health impacts on all of the surrounding areas were also determined to be less than significant.

Response 11-7

CEQA does not require that a public hearing be held as part of the CEQA process for a proposed project. CEQA Guidelines §15202 states in part "CEQA does not require formal hearings at any stage of the environmental review process. Public comments may be restricted to written communication" (CEQA Guidelines §15202). At a meeting with Mr. Marquez on April 23, 2002 at the SCAQMD headquarters, the SCAQMD's Executive Officer agreed to hold a public meeting on the proposed project in the Wilmington community on June 20, 2002. The meeting focused on the Draft SEIR for the proposed project and SCAQMD responses to comments on the Draft SEIR. Further, a town hall meeting was held in Wilmington on July 31, 2002 to obtain additional input from the Wilmington community on air quality issues, including Ultramar's proposed project, and the proposed environmental justice enhancements.

The request for an extension of the public comment period was considered. Although Governor Davis has extended the date one-year for MTBE phase-out, the project has not changed since the Draft SEIR was released for public review, and it is still necessary to move forward with the proposed project as quickly as possible for a number of reasons. First, the currently proposed project is in response to unexpected contingencies faced by Ultramar that threatened to compromise its ability to meet the original phase-out deadline. Second, given the engineering complexities of the previously proposed project components of Ultramar's CARB Phase 3 project, as well as the

currently proposed components, Ultramar must still proceed expeditiously to comply with the new CARB Phase 3 requirements and deadlines. Third, it is anticipated that the petroleum industry will move forward with the MTBE phase-out ahead of the revised compliance schedule because of the environmental problems associated with MTBE. Because Ultramar relies on third party distribution systems, it will be necessary for Ultramar to comply with the industry imposed phase-out date which may be different from the state imposed phase-out date.

The Ultramar Draft Supplemental SEIR document has been available for immediate public review and download from the SCAQMD's web site since March 8, 2002 (www.aqmd.gove/ceqa/documents/2002/nonaqmd/ultramar/draft/ultDEIRhtml. Consequently, the public been afforded the opportunity to obtain and review the Draft SEIR for the full 45-days public review period provided under CEQA.

In light of the above information, extending the public review period for this document would not serve the public's interest to expeditiously provide cleaner-burning gasoline and phase-out the use of MTBE to eliminate the possibilities of future ground water contamination by this chemical. As a result, extending the public comment period will not be considered further. It should be noted that the SCAQMD responded to and considered all written comments on the Draft EIR, including those received after the close of the public comment period, and considered comments from the public made at the June 20, 2002 public meeting.

It should be noted, however, that if it can be determined that the SCAQMD has not complied with any substantive or procedural CEQA requirement during the public comment period for the proposed project that ended April 22, 2002, the problem will be corrected and the Draft SEIR will be recirculated for a second 45-day public comment period. To date, the SCAQMD has evaluated assertions of impropriety, but has not discovered any such problems and, therefore, will proceed with finalizing the CEQA document for the proposed project.