COMMUNITIES FOR A
BETTER
ENVIRONMENT

VIA FAX 909-396-3324, EMAIL, AND U.S. PRIORITY MAIL

April 22, 2002

South Coast Air Quality Management District
Attn: Kathy Stevens
21865 E. Copley Drive
Diamond Bar, CA 91765-4182

RE: **Comments on Ultramar Wilmington Refinery Expansion for Phase III Clean Fuels**

Dear SCAQMD:

Communities for a Better Environment (CBE) submits the following comments on the Notice of Preparation of Draft Subsequent EIR (SEIR) for the Ultramar Wilmington Refinery Phase III Clean Fuels Project ("Project").

I. Summary of Comments

CBE is concerned that the project will increase air pollution in Wilmington, where many CBE member live, work, and attend school. Being next to the port, freeways, numerous polluting facilities and refineries has exposed the community of Wilmington to unacceptable levels of risks inflicting the low income people of color in this area with a variety of illnesses and discomforts resulting from pollution in the air. The SEIR contains an inadequate study of cumulative impacts, environmental justice, and alternatives. Ultramar must fully mitigate significant environmental impacts including air pollution and hazards. Because of the inadequacies discussed herein, CBE requests that the Draft SEIR be re-done and re-circulated for public comment. 7-1

II. Good Neighbor Agreement:

CBE urges the SEIR to consider the development of a Good Neighbor Agreement between the community and Ultramar regarding the implementation of the project and ongoing impacts from the refinery. CBE is willing to participate in this process and can draw on our experience in negotiating such agreements with other oil refineries. The issues discussed herein are some of the major terms that CBE would propose for inclusion in such an agreement. 7-2

III. This "New" Project Appears to be Based on the Loss of a Lease, Rather than CARB Phase III Mandates

The modifications and expansion of operations that have been proposed in the SEIR appear to fall outside of the required Phase III project. The project appears to be based on operational changes required by the loss of lease at Ultramar's marine terminal. The SEIR fails to explain clearly how each of the components of the project are required by the CARB Phase III mandate. From the description of the project, one can only conclude that this is a new project that aims to "increase in the amount of gasoline available for sale by Ultramar" (page 1-7). Moreover, Ultramar is increasing its storage capacity by 42% at the Olympic tank farm. 7-3

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Please describe how each element of the Project is necessary and integral to complying with CARB Phase III reformulated fuels requirements. CBE believes that some elements of the project are not necessary to comply with the CARB Phase III requirements, but are instead necessitated because of the lease agreements with the Port of Los Angeles. Elements of the project that are necessitated by the lease change are not required by CARB Phase III. 7-3 cont'd

IV. The SEIR Must Adequately Describe the Existing Setting, Including the Community Living Near the Refinery:

The SEIR must contain a complete description of sensitive receptors living near the refinery. The SEIR must analyze the existing distribution of pollution in the area to determine if there are any disproportionate impacts from environmental hazards or pollution on people of color and low income people. Such an analysis is essential for the SEIR to then study whether the project is likely to contribute to such disproportionately impacts. 7-4

A. Failure to Identify Sensitive Receptors

The SEIR fails to perform a comprehensive and through analysis of the effects of this project on sensitive receptors within the impact zone. The document only lists a few of the schools as the sensitive receptors and fails to list many other sensitive receptors such as day-care centers, parks, nursing homes and senior centers within the six mile impact zone of the new and modified tank farms, construction zone, transportation corridors and marine terminals. Additionally the document fails to analyze the case of potential accidents and what effects it might have on these sensitive receptors sites. Investigating the possibility of releases, accidents, and fires and how they might effect sensitive receptors and sensitive populations is absent from the analysis although the communities next to facilities experience these hazardous conditions often. 7-5

Considering that many children in Wilmington have Asthma, this document fails to analyze the impact of more pollution on children with asthma. It is now a matter of scientific certainty that pollution not only aggravates asthma but also can cause asthma in children. See Children's Health Study conducted by USC (Jan. 31, 2002). The SEIR does not analyze the effect of pollution due to this project during the construction project as well as during the operation phase on the children with existing respiratory conditions.

B. The SEIR Must Describe the Existing Health Care Providers.

Given the potential for accidental releases and the certainty of increased air emissions, both of which will have acute and chronic human health impacts, the availability of health care facilities is an important component of the environmental setting. An adequate description of the environmental setting should include the proximity of low-income health care providers and the time required to reach those providers by public transportation. The significance of health effects will be multiplied if appropriate medical care or health monitoring is effectively unavailable. 7-6

V. The SEIR Must Adequately Describe the Regional Setting and the Combined Effects of Numerous Polluters in and Around the Wilmington Area.

The SEIR must discuss the current regional distribution of pollution in the South Coast Air Basin, and must discuss existing disproportionate impacts from existing pollution sources. The health impacts from the cumulative impacts of pollution are significant and must be mitigated. The EIR should discuss any inconsistencies between the project and applicable general plans including, but not limited to, the applicable air quality attainment or maintenance plan (State Implementation Plan), area-wide waste treatment and water quality control plans, regional transportation plans, regional housing plans, and natural community conservation plans. 7-7

A. The SEIR Must Adequately Describe the Regional Setting

The South Coast Air Basin contains the most unhealthy air in the entire country. A recent House Government Reform Committee report found that the excess cancer risk in the South Coast Air Basin was 426 in a million – 426 times greater than the Clean Air Act's goal of 1 in a million.[1] Almost 7,500 cardiopulmonary deaths in the South Coast Air Basin annually are directly attributable to particulate pollution.[2] In comparison, approximately 2,100 people died from car accidents in this area in 1989.[3] 7-8

People of color bear a disproportionate amount of the impacts of air pollution and other environmental hazards within the Basin.[4] In 1993, a SCAQMD study found that "those who are relatively poorer or younger, black or Latino, are exposed to more pollution than those who are better off, older, and white or Asian.[5] A 1993 study from the University of California at

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1 Lisa Getter, *Cancer Risk from Air Pollution Still High, Study Says*, L.A. TIMES, Mar. 1, 1999 A1. A copy of the report can be obtained at: www.house.gov/waxman

2Debbie Sphrentz, BREATHTAKING: PREMATURE MORTALITY DUE TO PARTICULATE AIR POLLUTION IN 239 AMERICAN CITIES, Natural Resources Defense Council, 58-73 (May 1996); Marla Cone, *Particulates Blamed in 6,000 L.A. Deaths Yearly*, L.A. TIMES (May 9, 1996).

3Sphrentz, *ibid.* 59.

4Eric Mann, LOS ANGELES' LETHAL AIR: NEW STRATEGIES FOR POLITICS, ORGANIZING, AND ACTION 31 (Labor/Community Strategy Center 1991)(asserting that in Los Angeles, 71% of African Americans and 50% of Latinos live in the areas with the worst air quality); Susan Moffat, *Minorities Found More Likely to Live Near Toxic Sites*, L.A. TIMES, Aug. 30, 1995 (people of color in Los Angeles County are three times more likely than whites to live within half a mile of hazardous waste treatment or dumping centers); Mann, *L.A.'s Smogbusters*, supra (noting that the Latino and Black communities in East Los Angeles, Huntington Park, and Watts are disproportionately impacted by industrial facilities and pollution).

5South Coast Air Quality Management District/California State University Fullerton Foundation, THE DISTRIBUTION OF CURRENT AND FUTURE EXPOSURE TO OZONE, FINE PARTICULATE MATTER,

Santa Cruz analyzing the 50 census tracts with the worst pollution in Los Angeles County found that thirty-one out of top fifty tracts had Latino and Black populations that exceed the County mean.[6] A 1993 study of the distribution of facilities in Los Angeles County that are required to report emission under the Toxic Release Inventory (TRI) per the Emergency Planning and Community Right to Know Act found that the majority of TRI facilities were in "Hispanic-dominated" census tracts.[7] A 1996 study found that,

> Given two neighborhoods of equal economic standing and with equal percentages of industrial activity, the community inhabited by a greater number of minorities will be more likely to have a [hazardous waste treatment, storage, and disposal facility ("TSDF")] in their midst. Overall, minorities are more than twice as likely as Anglos to be living in a census tract located within a one mile radius of at least one large capacity TSDF in Los Angeles County.[8]

7-8 cont'd

The SEIR must discuss the current regional distribution of pollution in the South Coast Air Basin, and must discuss how Latino communities, like those living near the refinery, are disproportionately impacted by environmental hazards.

B. Fails to Discuss Inconsistencies Between Project and General Plans

In addition to discussing the regional setting, the EIR "shall discuss any inconsistencies between the project and applicable general plans. Such regional plans shall include, but are not limited to, the applicable air quality attainment or maintenance plan (State Implementation Plan), area-wide waste treatment and water quality control plans, regional transportation plans, regional housing plans, and natural community conservation plans." CEQA Guidelines §15125(d).

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VI. Air Quality Impacts are Potentially Significant and Must be Adequately Described, including Cumulative Impacts, and Properly Mitigated

A. Any Increase in Criteria and Carcinogenic Chemicals Must be Considered a Significant Impact and Mitigated

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CARBON MONOXIDE, AND NITROGEN DIOXIDE AMONG DEMOGRAPHIC GROUPS IN THE SOUTH COAST AIR BASIN, FINAL REPORT, 5, April 1993.

6Andrew Szasz, et al. University of Santa Cruz, DEMOGRAPHICS OF PROXIMITY TO TOXIC RELEASES: THE CASE OF LOS ANGELES COUNTY 7 (1993)

7Lauretta M. Burke, ENVIRONMENTAL EQUITY IN LOS ANGELES, Technical Report 93-6 (Jul. 1993)

8Joel Thomas & Dr. James L. Saad, IN WHOSE BACK YARD? THE DEMOGRAPHY OF POPULATIONS PROXIMATE TO HARZARDOUS WASTE FACILITIES IN LOS ANGELES COUNTY, ENVIRONMENTAL LAW NEWS 1, 14 n.1 (Spring 1996)

SCAQMD MATES II data indicated that the excess cancer risk in Wilmington is 1537 in one million persons. Given the existing cancer risks for the nearby community, any increase in toxic pollution must be considered significant and must be mitigated fully. Kings County Farm Bureau v. City of Hanford, 221 Cal.App.3d 692, 717-18 (1990). Possible mitigation measures include, but are not limited to, hermetically sealed control valves, retrofitting the refinery with best available control technology including bellows valves and hermetically sealed control valves to offset new pollution, monthly health and safety inspections, and other pollution reduction measures. 7-10

Full compliance with Clean Air Act and SCAQMD New Source Review and Toxic Air Contaminant rules must be required in the mitigation measures portion of the SEIR. The air emissions from the marine terminal must be considered and mitigated.

2. Diesel Emissions Must be Analyzed and Mitigated

Resuming refinery operations will create diesel emissions at the refinery, at the marine terminal, and from trucks transporting products to and from the refinery. The State of California's Office of Environmental Health Hazards Assessment recently completed an extensive study on the effects of diesel emissions. Diesel is now regulated as Toxic Air Contaminant (TAC) under the State's Clean Air Act. The SEIR must quantify how many tons of diesel emissions will be produced by the operations, explain the associated environmental and health risks, and provide for mitigation which will reduce this impact to below significance. 7-11

3. Criteria Pollutant Increases Will Be Significant and Must be Fully Analyzed and Mitigated.

The project will increase emissions of nitrogen oxides (NOx), sulfur oxides (SOx), particulate matter (PM-10), and reactive organic compounds (ROCs or VOCs). Criteria pollutants present very serious health impacts for the air basin. SOx, NOx and VOCs form ozone, which is known to cause permanent lung scarring, asthma and emphysema, among other problems. The South Coast is categorized as the nation's only "extreme non-attainment zone" for ozone. VOCs are not only ozone-precursors, but many are also highly toxic chemicals in their own right, PM-10 has been labeled one of the most serious public health threats, causing respiratory illnesses such as asthma and emphysema, and can carry cancer-causing chemicals deep into the lungs. All increases in these criteria pollutants must be considered significant and must be mitigated. There should be no net increase in emission of these chemicals. 7-12

4. The SEIR must adequately analyze and mitigate the emissions from cleaning storage tanks at the refinery

The refinery includes many storage tanks that will require cleaning from time to time, involving emissions from degassing of the tanks, from evaporation during cleaning, and from displacement of vapors during roof refloating after cleaning. Tank cleaning is known to represent very significant emissions. These emissions sources have not been assessed for the proposed project. 7-13

According to the Rule Effectiveness Study: Storage Tanks for Organic Liquids (Regulation 8, Rule 5, Final Report, January 16, 1992, Bay Area Air Quality Management District (BAAQMD), page 28, tank cleaning, degassing and roof re-floating can emit 4,500 lbs. per tank cleaning for a 120 ft diameter tank. However, the Rule Effectiveness Study figures do not include an additional and potentially huge source of emissions from tank cleaning due to sludge at the bottom of tanks. According to refinery expert Dr. Phyllis Fox, one vendor who centrifuges tank sludge to reduce their volume prior to disposal estimates that emissions from a 200 foot diameter crude oil tank are as high as 50 tons/day. 7-13 cont'd

Many tank cleaning operations, separate from the tank itself, can cause emissions. Equipment used to remove and store tank sludge, including trucks and tanks onsite or offsite, can cause significant air emissions. Impacts from sludge disposal or reclamation, including air emissions and other impacts from associated hazardous wastes have not been assessed. The SEIR must analyze and mitigate emissions from tank cleanings.

5. The SEIR Must adequately describe and mitigate emissions from venting of pressure relief devices

Storage tanks and most petrochemical equipment are outfitted with pressure relief devices, which are designed to open to the atmosphere when internal pressures increase, in order to prevent explosion of equipment. Pressure relief devices can cause significant emissions both from leaking seals and from valve openings when pressure is increased above the valve set point.

Pressure relief devices have been found leaking on refinery tanks. In one particular case, the tank emissions were controlled by vapor recovery. Had it not been controlled, the leak from this single source on the tank could have been greater than all the other emissions sources of the tank. Clearly pressure relief devices have the potential to emit large amounts of vapor, either on an ongoing basis due to continual leakage of seals or caused by valve re-seating problems, or during episodic releases where very large venting can release large quantities of gas at one time. Actual emissions depend on the number of valve venting, the size and duration, the number and severity of seal leaks, and other factors. These emissions must assessed in the SEIR. 7-14

6. The SEIR Must adequately describe and mitigate emissions from all tank fittings

Significant emissions are released due to tank fittings. The type of tank seal, the use of slotted guide poles (associated with very large emissions), gauge-float wells, rim vent closures, secondary seals, the use or absence of gasketted fittings, etc. all affect emissions. Many tank fittings, construction, and operations which cause emissions can be controlled. Use of unslotted guide poles, gasketted fittings, emissions control for tank cleaning, and others, must be discussed in the SEIR. 7-15

7. The SEIR Should Consider Vapor Recovery Equipment on Tanks to Mitigate Fugitive Emissions

Well-designed vapor recovery systems could almost completely eliminate storage tank emissions. The use of internal floating roof tanks would significantly reduce emissions from storage tanks. Emissions from tank cleaning could be mitigated by the use of emissions controls such as vapor recovery on tank cleaning operations, including tanks and collection and storage equipment including trucks. The impacts from potentially large amounts of hazardous sludge waste from tank cleaning must be described and mitigated in the SEIR. 7-16

8. The SEIR Should Consider Requiring Gas Recovery and other feasible controls for pressure relief devices which can greatly reduce or eliminate emissions

Storage tanks and most petrochemical equipment are outfitted with pressure relief devices, which are designed to open to the atmosphere when internal pressures increase, in order to prevent explosion of equipment. Pressure relief devices can cause significant emissions both from leaking seals and from valve openings when pressure is increased above the valve set point. Emissions from pressure relief devices can be controlled by venting relief valves to gas recovery systems, rather than allowing venting to the atmosphere. The use of rupture disks can minimize or eliminate gas leakage from valve seals, but not from venting. The use of tell-tale indicators on uncontrolled pressure relief devices can greatly increase the chance that venting will be detected. Detection of valve venting is important for evaluation of emissions, and to ensure that valves are properly re-seated, however control of these emissions using gas recovery systems is the real solution. The SEIR should analyzes these mitigation measures. 7-17

9. Increased inspection and maintenance programs could mitigate non-compliance problems

To mitigate sources of additional emissions which are likely to be present, monthly inspection programs have been shown to decrease emissions as compared to quarterly or yearly equipment inspections. Independent inspection and recordkeeping, and public announcement of non-compliance, as well as significant monetary penalties for non-compliance could help mitigate these sources of emissions. 7-18

10. All Feasible Emissions Reductions Should be Required

CBE disagrees that all aspects of the project are required in order to comply with CARB Phase III requirements. SCAQMD is improperly applying Rule 1304(c)(4) to exempt part of the project from offsets. The SEIR indicated that the project will increase an estimated 20,000 barrels per day of additional product and require 120 additional truck trips per day. This certainly appears to increase the capacity of the refinery and therefore the exemption in Rule 1304(c)(4) should not be applicable. 7-19

VII. The SEIR Should Study the Project's Adverse Impacts on Water Resources

The project will have a significant impact on water resources. Refinery operations require a tremendous amount of water. The SEIR must analyze the water resources that will be used by 7-20

the refinery. The SEIR must consider mitigation measures to reduce water use by the refinery. The refinery should be required to use reclaimed water wherever possible. 7-20 cont'd

A. The SEIR must Consider the Risks of Ethanol Releases Increasing the Severity Of Existing Petroleum Contamination

To assure that MTBE's replacement did not cause another environmental disaster, the Governor commissioned an investigation of the potential impacts of ethanol, the apparent replacement. This review, completed for the California Environmental Policy Council by the Lawrence Livermore National Laboratory ("LLNL"), comprehensively investigated the environmental impacts of ethanol-blended gasoline, which only contain about 6% by volume ethanol. (Ethanol Report: LLNL 12/99.[9])

The Ethanol Report, while concluding that ethanol-blended gasolines were on balance safe, identified a much greater concern, releases of pure ethanol at sites where ethanol is stored and blended with pre-existing petroleum soil and groundwater contamination.

In areas with existing hydrocarbon contamination, pure ethanol spills increase the concentration of toxic compounds such as benzene, toluene, ethylbenzene, and xylene ("BTEX"), increase the distance BTEX would travel, and increase the area of the plume, thus substantially increasing the difficulty of soil and groundwater cleanup and the impacted area. The Ethanol Report concluded that "when neat ethanol is spilled, the ethanol concentrations drop quickly in the subsurface via natural attenuation mechanisms. There is, however, a risk of elevated BTEX concentrations in groundwater following the release of bulk ethanol into soil previously contaminated with petroleum products." (p. 1-9.) Benzene concentrations 2 to 5 years after a 1994 net ethanol spill were more than an order of magnitude higher than 3 years before the spill. (p. 1-7. As a result of a March 1999 pure ethanol spill, BTEX concentrations in groundwater increased by a factor of two. (p. 1-8.) 7-21

The authors of the Ethanol Report published their results in the peer-reviewed literature concluding:

> These results suggest that it is unlikely that cosolvent-related increases in BTEX concentrations will be significant relative to other processes that affect field-scale concentrations following a spill of ethanol-blended gasoline. Spills of neat ethanol at a bulk terminal, however, could result in very high ethanol concentrations in a localized area and a much more significant -- possibly an order of magnitude -- increase in BTEX concentrations.[10]

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[9] Lawrence Livermore National Laboratory (LLNL), Health and Environmental Assessment of the Use of Ethanol as a Fuel Oxygenate. Report to the Governor of the State of California in Response to Executive Order D-5-99, December, 1999.

[10] S.E. Powers, D. Rice, B. Dooher, and P.J.J. Alvarez, Will Ethanol-Blended Gasoline Affect Groundwater Quality?, Environmental Science & Technology, v. 35, no. 1, pp. 24A - 30A,

This project involves new and/or modified pipelines, pumps, valves, and flanges, which are frequent sources of leaks. The impacts of ethanol leaking from these sources and exacerbating existing contamination must be analyzed and mitigated in the SEIR. 7-22 cont'd

VIII. Impacts from Transportation and Storage of Hazardous Materials and Explosive Chemicals

In light of terrorist attacks on September 11, 2001 and subsequent events the state and federal government have determined that there are significant risks of future terrorist attacks, including the possibility of such attacks targeting petrochemical facilities. Numerous recent articles in the Los Angeles Times and other publications have discussed the danger posed by potential attacks on Los Angeles area petrochemical facilities. The SEIR does not mention consider the possibility of terrorist attacks and does not discuss mitigations from possible attacks. 7-22

A. Risks Posed by Potential Terrorist Attacks on the New Petrochemical Storage Tanks

Ultramar proposes to build new storage tanks very close to residences. The SEIR fails to consider under risk of upset or hazard impacts the threat posed by a potential terrorist attack on these tanks. These risks must be analyzed and mitigated. 7-23

B. Risks Posed by Impacts from Increased tanker trucks going to and from the refinery

Any impacts from additional truck trips caused by the project must be analyzed and mitigated in the SEIR. This includes the potential risks from tanker trucks explosions and accidents. The SEIR fails to consider under risk of upset or hazard impacts the threat posed by a potential terrorist attack related to these tanker truck tanks. These risks must be analyzed and mitigated. 7-24

C. Risks posed by Increased Marine Vessel Trips

The SEIR fails to consider under risk of upset or hazard impacts the threat posed by a potential terrorist attack on the marine vessels that will be used by Ultramar. These risks must be analyzed and mitigated. 7-25

D. Project Will Increase Operations at the Refinery and therefore Increase Processing through the Alkylation Unit which Uses Hydrofluoric Acid

Alkylation is a refinery process using sulfuric acid or HF as a catalyst to produce a high-octane blending agent, called "alkylate," which is added to reformulated gasoline. Ultramar uses hydrofluoric acid (HF) in its alkylation unit. Ultramar is the only California refinery that uses pure hydrofluoric acid (HF). 7-26

Ingestion of 1.5 grams of HF can cause death; external contact with HF vapor may destroy the

2001.

eyes. Experts believe that HF "represents an unacceptable risk to public safety." HF is so dangerous that SCAQMD tried to ban its use by passing Rule 1410. There are alternatives to HF and most refinery's use sulfuric acid instead. One uses modified HF.

Since this project indicates that Ultramar will increase its production, it will increase the use of the alkylation process. It therefore appears that the refinery will increase its usage and transport of HF. SACQMD should require Ultramar to switch to less hazardous catalysts such as Sulfuric Acid for the alkylation process as an additional mitigation measure to protect the community from accidents and releases. 7-26 cont'd

IX. Land Use and Planning Impacts

The General Plan is the "constitution for all future development within the city or county" to which any local decision affecting land use must conform. Citizens of Goleta Valley v. Supervisors of the County of Santa Barbara, 52 Cal.3d 553, 570 (1990) (citation omitted). The heart of the State Planning and Zoning Law is the requirement of consistency among planning and development decisions. City of Santa Ana v. City of Garden Grove, 100 Cal.App.3d 521, 531-32 (1979); de Bottari v. City of Norco, 171 Cal.App.3d 1204 (1985); Camp v. Bd. of Supervisors (1981) 123 Cal.App.3d 334. Twain Harte Homeowners v. County of Tuolome (1982) 138 Cal.App.3d 664, 696. As discussed below, there are potentially significant land use and planning impacts which are illustrated by inconsistencies between the project and the City of Los Angeles General Plan and the County of Los Angeles' General Plan. 7-27

A. The Project is Inconsistent with the Los Angeles County General Plan

The Project clearly conflicts with several goals and policies of the County of Los Angeles General Plan ("L.A County General Plan").[11] The L.A. County General Plan contains the following elements which the project appears to be inconsistent with: 7-28

- Eradicate discrimination in housing, jobs, income, education, recreation, and other facets of living, and guarantee full and equal opportunity in order to promote individual and group development. (General Goals and Policies, D.1., page G-4)

- Review proposed development projects involving the use or storage of hazardous materials, and disapprove projects which cannot properly mitigate unacceptable threats to public health and safety (Safety Element, D.20, SE-9) 7-29

- Conserve the available supply of water and protect water quality. (General Goals and Policies, D.18, G-5) 7-30

- Protect groundwater recharge and watershed areas, conserve storm and reclaimed water, and promote water conservation programs. (Conservation, Open Space, and 7-31

[11]County of Los Angeles Streamlined General Plan, current to January 1993.

Recreation, D.4, OS-9) 7-31 cont'd

- Protect public health and prevent pollution of groundwater through use of whatever alternative is necessary (Public Facilities, D.21, PF-10) 7-32
- Restore and protect air quality through control of industrial emissions (Id. D.19, G-5) 7-33
- Actively support strict air quality regulations and continued research to improve air quality(Conservation, Open Space, and Recreation, D.1, OS-8) 7-34
- Support the conservation of energy and encourage the development and utilization of new energy sources including geothermal, thermal waste, solar, wind and ocean-related sources (Conservation, Open Space, and Recreation, D.2, OS-9) 7-35
- Provide for safe movement of hazardous materials (Circulation, C-8) 7-36
- Promote vanpooling, carpooling, and improved public transportation (Conservation, Open Space, and Recreation, D.1, OS-8) 7-37
- Oppose discriminatory acts related to housing, including acts that have the effect of discrimination, and affirmatively promote equal opportunity in housing and community development programs, countywide, public or private (Housing Element, Policy 21, HE-12) 7-38

The SEIR should review these and other goals and policies of the General Plan to determine if the project is consistent and to implement necessary mitigation measures.

B. The project is Inconsistent with the City of Los Angeles Transportation Improvement and Mitigation Program for the Wilmington-Harbor City Community Plan

The City of Los Angeles objective under the City of Los Angeles Transportation Improvement and Mitigation Program for the Wilmington-Harbor City Community Plan is that the traffic LOS not exceed LOS E. The SEIR states that the a.m. and p.m. peak hour LOS at Wilmington Avenue/223rd Street would go from LOS E to LOS F because of the cumulative impacts of the project. SEIR 5-45. This is inconsistent with the objectives of the City Transportation Plan. 7-39

C. The SEIR Should Study the Potential of the Refinery to Worsen Urban Blight and Decrease the Quality of Life.

CEQA requires the project proponent to discuss the project's economic and social impacts where "[a]n EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic and social changes." CEQA Guidelines §15131(a) and 7-40

15064(f); Citizens Assoc. for Sensible Dev. of Bishop Area v. County of Inyo, ("Bishop Area") 172 Cal.App.3d 151, 170-171 (1985). In other words, if the project may have economic impacts which will cause physical environmental effects, then the EIR must discuss these economic and environmental impacts. In Bishop Area, supra, the court held that a project's potential to add to urban blight in a downtown area was an environmental impact that had to be considered and mitigated under CEQA. *See also* Citizens for Quality Growth v. City of Mt. Shasta (1988) 198 Cal.App.3d 433, 445 (because rezoning 35-acre parcel for commercial and manufacturing uses could cause loss of business and resulting physical changes deterioration of existing areas, it must be analyzed in an EIR)

7-40 cont'd

The SEIR must adequately the project's potential to compound urban deterioration in the Wilmington area. Such impacts potentially include decreased property values, residential flight from the City, economic disinvestment as businesses leave for healthier areas, increased population of homeless persons, decline in the quality of education provided at local schools, increased burden on health care providers, decline in health care facilities, and other factors historically and predictably associated with heavy industrialization. Wilmington is well-known as an industrial communities which are home to numerous dangerous industries, and that reputation has adversely affected the community.

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Professor Raquel Pinderhughes has concluded that people experience not only serious physical health impacts, but also profound psychological effects as a result of toxic exposure and the threat of exposure to toxics, including depression, despair, fear of future health problems, and substance abuse.[12] Recent studies reveal that toxic chemical accidents have serious long-term psychological impacts, which can threaten both mental and physical health.[13]

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The refinery's potential to add to the toxic and industrial burden on the surrounding communities has a very real potential to add to the deterioration of many urban areas. The fact that the project will result in dirtier air in and around the project site, may well contribute to urban blight as people and businesses leave for healthier areas. As in the Bishop Area case, supra, a SEIR must "trace the chain of cause and effect" 172 Cal.App.3d at 171, from the proposed project, to the real physical effects that this proposal will have on affected communities. CEQA gives the affected public a right to know about the future of their neighborhoods and livelihoods, and requires decision-makers to take this information into account in deciding whether to proceed with the project.

[12]Prof. Raquel Pinderhughes, Social and Psychological Impacts of Toxic Exposure (San Francisco State University, Dept. of Psychology, Jan. 1993); see also, Health Effects Study of the Richmond Sulfuric Acid Spill, Rosemarie Bowler, Ph.D., M.P.H. (San Francisco State Univ. Dept of Psychology, Feb. 28, 1994).

[13]See, A. Baum and I. Flemming, "Implications of Psychological Research on Stress and Technological Accidents," American Psychologist (June 1993); L. Palinkas, et al., "Community Patterns of Psychiatric Disorders After the Exxon Valdez Oil Spill," American Journal of Psychiatry 150:10 (Oct. 1993).

The SEIR must analyze the possibility of such effects and study ways to mitigate these significant effects. Possible mitigation measures would include a community development fund to fund programs designed to revitalize the community and promote environmentally sustainable economic development, a school mentoring program, funding of local low-income health care providers, a job training program so that residents of the surrounding community can secure long-term jobs at the refinery, a guarantee that a substantial portion of project construction jobs will go to local residents, an environmental fund to improve the environment of local communities, and other programs to ensure that nearby residents enjoy some of the benefits of the refinery along with the burdens that they will be forced to bear. 7-43

X. Noise Impacts

Under CEQA, an increase in noise can have a significant effect the environment. Oro Fino Gold Mining Corp. v. County of El Dorado, 225 Cal.App.3d 872, 881-882 (1990) (project noise levels significant even if consistent with general plan standards for zone in question). 7-44

1. The SEIR Contains an Inadequate Existing Setting Because Noise is Unknown

The SEIR indicates that existing noise levels in the vicinity of the Marine Thank Farm "has not been measured." SEIR 3-50. The SEIR also indicates that noise levels in the vicinity of the Marine Terminal has not been measured. SEIR, 3-50. The noise must be measured at both locations in order to provide for an adequate existing setting for the project. Without a measured baseline, there can be no reliable determination on whether the noise will increase because of this Project. 7-45

2. The project is inconsistent with the City of Los Angeles Noise Ordinance

The project will crease significant noise impacts during both construction and operation that will exceed the noise allowed by the City Noise Ordinance. The tank farms are extremely close to residential areas and noise impacts must be mitigated. 7-46

XI. The SEIR Must Fully Analyze and Mitigate Potentially Significant Impacts

The SEIR must identify and focus on the possible significant environmental impacts of a proposed project. CEQA Guidelines section 15126(a); CEQA §21000(a). CEQA requires that an EIR must not only identify the impacts, but must also provide "information about how adverse the impacts will be." Santiago County Water Dist. v. County of Orange, 118 Cal.App.3d 818, 831 (1981). The lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding. Kings County Farm Bureau v. City of Hanford, 221 Cal.App.3d 692 (1990). 7-47

CEQA contains substantive provisions with which agencies must comply. The most important of these is the provision requiring public agencies to deny approval of a project with significant adverse effects when feasible alternatives and mitigation measures can substantially lessen such effects. Sierra Club v. Gilroy City Council, 222 Cal.App.3d 30, 41 (1990). Public Resources Code § 21002 requires agencies to adopt feasible mitigation measures in order to substantially 7-48

lessen or avoid otherwise significant adverse environmental impacts of a proposed project. See also, CEQA §21081(a); CEQA Guidelines §15370. To effectuate this requirement, EIRs must set forth mitigation measures that decisionmakers can adopt at the findings stage of the process. CEQA Guidelines §15126(c). For each significant effect, the EIR must identify specific mitigation measures. Where several potential mitigation measures are available, each should be discussed separately and the reasons for choosing one over the other should be stated. CEQA Guidelines §15126(c). Mitigation measures should be capable of "avoiding the impact altogether," "minimizing impacts," "rectifying the impact," or "reducing the impact." CEQA Guidelines §15370. Several mitigation measures should be implemented to lessen or eliminate the impacts of the refinery restart. 7-48 cont'd

A. Use of Ultra Low-Sulfur Diesel

While CARB Phase 3 reformulated fuels program requires that diesel fuel used in on-road engines meet a sulfur limit of 15 ppm by December 31, 2002, some refineries already comply and could supply 15 ppm diesel for Project construction. The California Energy Commission ("CEC") has required the use of ultra low sulfur fuel where available, including in the recently decided cases of Three Mountain Power[14] and Huntington Beach (exclusive use of 15 ppm S fuel).[15] This fuel could be adopted here to further reduce construction exhaust emissions, especially significant PM10 emissions. 7-49

B. Use of PuriNOx

PuriNOx™ is an alternative diesel formulation that was introduced to the global market in 1999[16] and was verified by CARB on January 31, 2001[17] as achieving a 14% reduction in NOx and a 63% reduction in PM_{10} compared to CARB diesel. PuriNOx can be used in any direct-injection heavy-duty compression ignition engine and is compatible with existing engines and existing storage, distribution, and vehicle fueling facilities. Operational experience indicates little or no difference in performance and startup time, no discernable operational differences, no increased engine noise, and significantly reduced visible smoke.[18] 7-50

This fuel has been successfully used in heavy-duty off-road and on-road equipment, including by the County of Sacramento at the Keifer Landfill and North Transfer station, in off-road

[14] California Energy Commission, Commission Decision, Three Mountain Power Plant Project, May 2001, Condition AQ-26, p. 142.

[15] California Energy Commission, Commission Decision, Huntington Beach Generating Station Retool Project, May 2001, Condition AQ-C2, p. 30.

[16] Lubrizol, PuriNOx Performance Systems, June 1999.

[17] Letter from Dean C. Simeroth, Chief, Criteria Pollutants Branch, to Thomas J. Sheahan, Lubrizol, January 31, 2001. altdsl/altdsl.htm.

[18] Personal communication, Phyllis Fox with Hep Hepner, Ramos Oil Co. (916-371-3289, ext. 242) and Bill Hagstrand, Lubrizol (440-347-6592), March 19-21, 2001.

construction equipment at very large residential construction projects in Sacramento, in truck fleets operated by Pacific Cement in San Francisco and Ramos Oil in Dixon, in yard hostlers at the Port of Long Beach, and in off-road equipment operated by Hanson Aggregate in San Francisco.

7-50 cont'd

PuriNOx was jointly developed by Caterpillar and Lubrizol, a large Canadian chemical company, in 1999. As distributed in California, PuriNOx is a blend of diesel and 20% water plus a special additive package. The fuel can be either manufactured on site (depending on fuel usage volume) in a leased blending unit or purchased from a distributor and stored in on-site portable tankage or wet-hosed into construction equipment. The SEIR should consider this feasible mitigation measure.

C. Use of CNG and/or CARB-Certified Construction Equipment

The SEIR should explore requiring the use of compressed natural gas (CNG)-powered trucks instead of diesel engines for construction equipment.

The SEIR should consider the mitigation measure of requiring the use of CARB-certified off-road engines in the mix of construction equipment operating on-site. This measure has been required by the Sacramento Metropolitan Air Quality Management District ("SMAQMD") to mitigate construction emissions.[19] A similar measure has been adopted by the Texas Natural Resource Conservation Commission ("TNRCC") for the Dallas/Fort Worth and Houston-Galveston areas. The Arizona Department of Environmental Quality ("ADEQ") has also recommended this measure to address the air quality problems in the Phoenix area. (ADEQ 11/9/00, pp. 19-24.)

CARB-certified off-road engines are engines that are 3 years old or less at the time of use. Large construction companies and equipment rental firms rotate their equipment every 2 to 3 years, selling their used equipment to smaller firms. The SMAQMD surveyed construction firms in the Sacramento area and concluded that as of model year 2000, greater than 25% of Sacramento's mobile off-road inventory contained CARB-certified engines.[20] In December 1999, the Sacramento County Transportation Division surveyed ten contractors who provide paving and general construction services in the Sacramento area. This survey concluded that 32% of the equipment in fleets operated by eight out of ten contractors contains CARB-certified engines.[21] Recent surveys that we have completed likewise demonstrate that most construction firms and equipment rental firms could readily comply with this requirement without any surcharges or fees for new equipment because enough CARB-certified equipment is currently in the inventory to supply demand.

7-51

[19] Personal Communications, Peter Christensen, SMAQMD, March 2001.

[20] Personal Communications, Peter Christensen and Ron Mertz, SMAQMD, March 1 - 5, 2001.

[21] Sacramento County, Transportation Division, Construction Equipment Survey, December 1999. Contact: Mike Penrose, Design Services Manager.

Further, new equipment is more efficient and reliable than older equipment. Newer equipment achieves better fuel economy, requires less maintenance, and experiences fewer breakdowns than older equipment. The construction contractor takes care of any required record keeping and reporting requirements.

7-51 cont'd

Therefore, the SEIR should be required to investigates the availability of CARB-certified diesel engines in the construction fleet that would serve the Project and the mitigation measures updated to include a fixed percentage of these low-emission engines in the fleet.

D. Post-Combustion Controls

The SEIR should consider requiring use of post-combustion controls to reduce emissions. Post-combustion controls are devices that are installed downstream of the engine on the tailpipe to treat the exhaust. Particulate traps and oxidation catalysts are widely used on construction equipment and are capable of removing over 90% of the PM10, CO, and VOCs from engine exhaust, depending on the fuel and specific engine. The most common and widely used post-combustion control devices are particulate traps (i.e., soot filters), oxidation catalysts, and combinations thereof. The many variants of these devices have recently been identified, evaluated, and comprehensively reviewed by CARB[22] and others.[23] The California Energy Commission requires the use of oxidizing particulate traps on equipment used to construct power plants. The Sunrise project was recently constructed using this equipment.[24] No problems were encountered. Several 500+MW power plants are currently under construction that are also successfully using these controls, including High Desert,[25] Elk Hills,[26] Pastoria,[27] Midway-Sunset[28], Three Mountain,[29] and Contra Costa.[30] All of these decisions are posted at

7-52

[22] California Air Resources Board (CARB), Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles, October 2000; CARB, Risk Management Guidance for the Permitting of New Stationary Diesel-Fueled Engines, October 2000.

[23] Manufacturers of Emission Controls Association, Demonstration of Advanced Emission Control Technologies Enabling Diesel-Powered Heavy-Duty Engines to Achieve Low Emission Levels, Final Report, June 1999.

[24] California Energy Commission, Commission Decision, Sunrise Power Project, December 2000, Condition AQ-C3, p. 120.

[25] California Energy Commission, Commission Decision, High Desert Power Project, May 2000, Condition AQ-3(o), p. 107.

[26] California Energy Commission, Commission Decision, Elk Hills Power Project, December 2000, Condition AQ-C2(3), p. 123.

[27] California Energy Commission, Commission Decision, Pastoria Energy Facility, December 2000, Condition AQ-C3, p. 108.

[28] California Energy Commission, Commission Decision, Western Midway Sunset Power Project, March 2001, Condition AQ-C2, p. 114.

[29] California Energy Commission, Commission Decision, Three Mountain Power Plant Project,

www.energy.ca.gov under the name of the individual facility. 7-52 cont'd

1. The SEIR should Require Installation of Controls to Reduce NOx

Using low NOx burners and controls such as SCONOx and SCR catalyst devices are additional feasible mitigation measures that can reduce the emissions of NOx into the environment. These reductions should be required because the project will have unavoidable significant impacts and will increase emissions of NOx. Ultramar should have to reduce emissions elsewhere at its facility to offset these increases. 7-53

E. Increased inspection and maintenance programs could mitigate non-compliance problems

To mitigate the unassessed source of additional emissions which are likely to be present from a lack of 100% compliance with SCAQMD regulations, monthly inspection programs have been shown to decrease emissions as compared to quarterly or yearly equipment inspections. Independent inspection and recordkeeping, and public announcement of non-compliance, as well as significant monetary penalties for non-compliance could help mitigate these sources of emissions. 7-54

F. Air Monitoring

Air pollution monitoring equipment for identifying emissions of both ongoing emissions and accidental releases from the tank farm. Use of Optical Remote Sensing can provide 24-hour, real-time results on dozens of toxics. Other innovative monitoring techniques are also available, including providing community members with "buckets," – low-tech, inexpensive monitoring devices which could measure pollution levels right in the neighborhoods and provide protection through identifying harmful levels. 7-55

G. Reducing Emissions from Marine Vessels

Emissions from marine vessels could be reduced by requiring use of fuel cells as the source of energy for powering marine vessels while in port (which is clearly feasible, since the District has approved this as a voluntary method for generating pollution credits). 7-56

The SEIR should require use of vapor recovery for all marine loads regardless of the material loaded.

May 2001, Condition AQ-26, p. 142.

[30] California Energy Commission, Commission Decision, Contra Costa Unit 8 Power Project, May 2001, Condition AQC-2, p. 12.

H. The SEIR Must Consider and Mitigate Marine Terminal Risks

The SEIR must study the impact of marine terminal operations on air quality, water quality, transportation, and hazardous accidents, including risks of an oil spill from oil tanker loading, and oil spill response plans to comply with the Oil Pollution Act of 1990. Alternative locations and alternative equipment and systems must be considered in the SEIR.

Risks from oil spills from tankers are potentially significant and must be analyzed and mitigated in the SEIR. Risks from oil tanker explosions are potentially significant and must be analyzed and mitigated in the SEIR. The transportation impacts on marine vessel traffic in the harbor from the increased ship traffic must be analyzed and mitigated in the SEIR. 7-57

I. Solid Waste Impacts

The refinery will generate a significant amount of solid waste which must be disposed of in a landfill. The SEIR must analyze the type and amount of solid waste and discuss mitigation measures and alternatives to reduce the generation of solid waste. The disposal of the hazardous waste from the refinery poses a potentially significant risks that must be studied and analyzed.

The disposal of the hazardous waste from the refinery is a necessary part of refinery operations and must be considered in the SEIR. The amount and type of waste must be considered, as well as alternative disposal locations. The SEIR must consider any and all permits required regarding solid waste disposal. 7-58

J. Transportation Impacts

The project will increase traffic, parking, circulation, and other transportation impacts during both normal operation and construction. These impacts must be analyzed by and mitigation measures must be considered in the SEIR. *See* Laurel Heights I, 47 Cal.3d at 447-48. The SEIR should discuss how the project is consistent with the County of Los Angeles' Congestion Management Plan, and Master Plan of Highways, and the Los Angeles/San Diego Corridor Commuter Rail Plan. 7-59

1. Impacts from oil tanker traffic in harbor area

The project will increase marine vessel traffic. Oil tankers are often guided by tugboats when in a harbor. All increased ship traffic must be analyzed and mitigated in the SEIR. 7-60

K. SCAQMD Has the Authority and Responsibility to Mitigate Emissions from Trucks, Railcars, marine vessels and railcars.

SCAQMD claims that it "has no authority to directly regulate emissions from marine vessels or locomotive engines" and thus has no authority to require a mitigation measure to control emissions from these sources. SEIR 4-31-32. SCAQMD's reliance on the Mobil Final EIR is improper. SCAQMD should not artificially limit its authority. SCAQMD has passed rules regulating emissions from marine vessels, including Rule 1142. CBE requests that SCAQMD 7-61

seek an opinion memo from its District Counsel on this issue. CBE requests that the SEIR include a copy of the District Counsel's opinion on this issue. 7-61 cont'd

XI. Geologic Impacts and Soil Contamination

The SEIR should analyze and mitigate potential impacts from the project on existing soil contamination at the refinery. The SEIR improperly defers consideration of soil contamination until the construction phase of the project. Studies should be conducted during the SEIR process to identify any contamination. 7-62

XII. The SEIR Fails to Mitigate the Significant Risks of the Project as Required by CEQA § 21002.

Public Resources Code § 21002 requires agencies to adopt feasible mitigation measures in order to substantially lessen or avoid otherwise significant adverse environmental impacts of a proposed project. See also, CEQA §21081(a); CEQA Guidelines §15370. To effectuate this requirement, EIRs must set forth mitigation measures that decisionmakers can adopt at the findings stage of the process. CEQA Guidelines §15126(c). For each significant effect, the EIR must identify specific mitigation measures. Where several potential mitigation measures are available, each should be discussed separately. 7-63

Investigation and mitigation is required prior to approval of the FEIR and project. *Quail Botanical Gardens Foundation, Inc. v. City Encinitas* (1994) 29 Cal.App.4th 1597, 1605, fn. 4. ("City cannot rely on post approval mitigation measures adopted during the subsequent design review process . . . there cannot be meaningful scrutiny of a [CEQA document] when the mitigation measures are not set forth at the time of project approval.")

A. DEIR Improperly Defers and Fails to Adequately Analyze Mitigation Measures

In *Sundstrom v. County of Mendocino*, 202 Cal.App.3d 296 (1988), the court held that an agency must identify and analyze mitigation measures in the CEQA document so that the public and governmental decision-makers can review and comment on the measures. See also *Gentry v. City of Murrietta* (1995) 36 Cal.App.4th 1359, 1396 (requiring applicant to comply with recommendations in report that had yet to be performed violated CEQA; *Quail Botanical Gardens Foundation, Inc. v. City Encinitas* (1994) 29 Cal.App.4th 1597, 1605, fn. 4. ("City cannot rely on post approval mitigation measures adopted during the subsequent design review process. . . . there cannot be meaningful scrutiny of a [CEQA document] when the mitigation measures are not set forth at the time of project approval.") 7-64

Mitigation Measure A-7, SEIR, 4-29 improperly defers consideration and application of this mitigation measure to an unknown time in the future.

Many other mitigation measures are improperly deferred until after the SEIR and he project is approved. 7-65

B. The SEIR fails to Consider the location of the plugged and abandoned wells.

The SEIR indicated that there are plugged and abandoned wells within the refinery boundaries. 4-37. However, the SEIR indicate that sufficient data are not available to locate the wells. This data should be found or created and the location of the wells specified the SEIR. 7-66

C. Cumulative Impacts Must Be Mitigated

The SEIR indicates that the cumulative impact of various CARB Phase III projects and other other projects will greatly exceed the significance criteria for criteria pollutants NOx, SOx, VOCs, and CO. SEIR 5-18. Emissions of these chemicals must be mitigated to the maximum extent feasible. 7-67

D. More Must be Done to Mitigate Fugitive Emissions from the Tank Farm

The largest part of the cancer risk from the project is fugitive emission from the tank farm. SEIR 5-22 and 5-24. These fugitive emissions must be mitigated to the fullest extent possible. 7-68

XIII. Miscellaneous Comments and Questions

1. The SEIR must be changed to indicated that the state ban on MTBE has been delayed by the Governor and it is no longer accurate that MTBE is prohibited after Deccember 31, 2002. (SEIR, 2-3). 7-69
2. Will the construction schedule be changed as a result of the delay of the MTBE ban?
3. Is the timing of the project going to change because of the delay of the MTBE ban? 7-70
4. Does the dealy of the MTBE ban impact the timing of the Phase III projects at other refineries that are discussed at SEIR 5-1–5-8?
5. Will the refinery have any increase in barrels per day of crude oil processed as a result of the project? 7-71
6. What will be the maximum capacity of barrels per day of crude oil that the refinery will be able to process after this project?
7. Will the refinery have an increase in processing of distillates after this project? 7-72
8. What will be the maximum capacity of the refinery to process distillates after this project? 7-73
9. At page 2-18 it is estimated that the project will require an additional 120 trucks (240 truck trips). Is that figure a per day, per week, or per year increase? 7-74

10. When will the RMP discussed at page 2-23 be prepared? That RMP should be required as part of this SEIR process and should be included in the Final SEIR. What is the timeline for that process? 7-75

11. When will the Emergency Response Plan, Fire Prevention Plan, and Process Hazards Safety Review be completed that are discussed at SEIR, 2-23? These plans and review should be incorporated into this review process and should be completed and circulated for public review prior to approval of the SEIR. What is the timeline for that process? 7-76

12. What is Ultramar's current status in the SCAQMD's Title V permitting process? What is the timeline for that process? Is this SEIR going to be used as the environmental review document for that process? That permit process should be coordinated with the SEIR process. 7-77

13. Is Proposition 65 notification required for any aspect of the project? If so, how will that notification be provided? 7-78

14. Has Ultramar applied to Caltrans for transportation permits as discussed on Rule 2-24? What is the timeline for that process? That permit process should be coordinated with the SEIR process. Is this SEIR going to be used as the environmental review document for that process? 7-79

15. Has Ultramar applied to the California Coastal Commission for a Coastal Development Permit for the project? What is the timeline for that process? Is this SEIR going to be used as the environmental review document for that process? That permit process should be coordinated with the SEIR process. 7-80

16. Has Ultramar applied to the Port of Los Angeles for a building permit? What is the timeline for that process? Is this SEIR going to be used as the environmental review document for that process? That permit process should be coordinated with the SEIR process. 7-81

17. Has Ultramar applied to the Port of Los Angeles for a grading permit? What is the timeline for that process? Is this SEIR going to be used as the environmental review document for that process? That permit process should be coordinated with the SEIR process. 7-82

18. Has Ultramar applied to the Port of Los Angeles for a Franchise permit? What is the timeline for that process? Is this SEIR going to be used as the environmental review document for that process? That permit process should be coordinated with the SEIR process. 7-83

19. Has Ultramar applied to the Port of Los Angeles for a plumbing and electrical permit? What is the timeline for that process? Is this SEIR going to be used as the environmental review document for that process? That permit process should be coordinated with the 7-84

7-85 cont'd

SEIR process.

20. Has Ultramar applied to the Port of Los Angeles for a hazardous material s business plan? What is the timeline for that process? Is this SEIR going to be used as the environmental review document for that process? That permit process should be coordinated with the SEIR process. 7-85

21. Has Ultramar applied to the CalOSHA for construction related permits for this project? What is the timeline for that process? Is this SEIR going to be used as the environmental review document for that process? 7-86

22. Has Ultramar applied to the County Sanitation District of Los Angeles for Industrial Wastewater discharge permits? What is the timeline for that process? Is this SEIR going to be used as the environmental review document for that process? That permit process should be coordinated with the SEIR process. 7-87

23. Who owned the Olympic Tank Farm in 1999? In 2000? In 2001?

24. Who owned the Marine Tank Farm in 1999? In 2000? In 2001? 7-88

25. Who operated equipment at the Olympic Tank Farm in 1999? In 2000? In 2001?

26. Who operated equipment at the Marine Tank Farm in 1999? In 2000? In 2001?

27. On what date did Ultramar acquire ownership over the Olympic Tank Farm? 7-89

28. On what date did Ultramar acquire ownership over the Marine Tank Farm?

29. What are the terms of the lease between Ultramar and the Port of Los Angeles? When does the lease expire? 7-90

30. Please describe in detail the ground water sampling conducted at the Marine and Olympic tank farms mentioned at 3-35. 7-91

31. How much money will this Project cost Ultramar? 7-92

32. Is the project consistent with the California State Implementation Plan? 7-93

33. Is the project consistent with the City of Los Angeles General Plan? 7-94

34. Is the project consistent with the Air Quality Management Plan? 7-95

35. Did Ultramar consider alternative locations for the tanks that are part of the project? 7-96

36. Is there a way that the project could be altered such that the tank farm would be located farther away from residences? 7-97

37. Was an alternative considered that would have placed the new and replace tanks farther away from residences? 7-98

38. What CEQA document is being prepared for the dismantling and remediating of the Ultramar Marine Terminal by the Port of Los Angeles? 7-99

39. What is the time-line for the Port's dismantling and remediating of the Ultramar Marine Terminal by the Port of LA? 7-100

40. The Port of LA and SCAQMD are improperly peicemealing the project of the dismantling and reuse of the marine terminal and this project. 7-101

41. Why was the two-year period of emissions for July 1999 through June 2001 used for the baseline? (SEIR 3-6) 7-102

42. Is the project consistent with the requirements of the Department of Conservation Division of Oil, Gas and Geothermal Resources for plugged and abandoned wells? 7-103

XIV. Approval of the Project would Violate CEQA § 21002.1(c) because the Project does not Comply with all other laws and regulations

CEQA § 21002.1(c) provides that a project may only be approved if it is otherwise permissible under applicable laws and regulations. As discussed herein, this project fails to comply with local, state, and federal laws and regulations. 7-104

XV. The SEIR Must Consider Environmental Justice Issues:

The SEIR must consider the project's potential individual and cumulative impacts on people of color and low income people. In other words, the SEIR must assess the project's potential to cumulatively exacerbate environmental racism or prevent achievement of environmental justice. Several local, state, and federal agencies, regulations, and laws provide for consideration of environmental justice. 7-105

CBE is concerned that the environmental justice impacts of the Project have not been considered. The location of the Project is directly in the predominantly I atino community of Wilmington. According to the 2000 Census, the Wilmington portion of Los Angeles is 86.74 percent Latino and nearly 92 percent people of color. Available at: www.losangelesalmanac.com/topics/Population/po24la.htm

These communities are already over-burdened by pollution and environmental hazards. A recent SCAQMD air quality study shows that the residents of the San Pedro-Wilmington area already

suffer from some of the highest cancer risks in the South Coast from breathing polluted air.[31]

Government Code § 11135 provides that

> No person in the State of California shall, on the basis of ethnic group identification, religion, age, sex, color, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.

Cal. Govt. Code § 11135. According to the statute, "The Secretary of the Health and Welfare Agency . . . shall establish standards for determining which persons are protected by this article and standards for determining which practices are discriminatory." Cal. Govt. Code § 11139.5. These standards, contained in Title 22, Division 8, of the California Code of Regulations, prohibit the carrying out of programs or activities that have a racially discriminatory impact. Specifically, 7-105 cont'd

It is a discriminatory practice for a recipient, in carrying out any program or activity . . . on the basis of ethnic group identification, religion, age, sex, color, or a physical or mental disability . . . (i) to utilize criteria or methods of administration that . . . have the purpose or effect of subjecting a person to discrimination on the basis of ethnic group identification, religion, age, sex, color, or a physical or mental disability . . . [or] (j) to make or permit selections of sites or locations of facilities . . . that have the purpose or effect of excluding persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity.
22 CCR § 98101.

A. The Draft SEIR and Final SEIR Must be Translated into Spanish

Many of the people most affected by this Project will be unable to participate meaningfully in the CEQA process if the documents are not translated into Spanish. CBE therefore requests that the SEIR, and all CEQA documents, be translated into Spanish and that public proceedings be conducted with simultaneous Spanish and English translation.

Here, in Wilmington and the community closest to the Port Project, substantial portions of the

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31Indeed, CBE filed a Title VI Civil Rights Act Complaint against the South Coast Air Quality Management District based on SCAQMD's pollution trading program, Rule 1610, that transferred pollution to the Wilmington-San Pedro area. Demographic mapping prepared by CBE in conjunction with that effort found that the community living closest to three marine terminals next to the Port Project site were over 80% people of color and were directly impact by air pollution from the loading of marine vessels in the Port. Several refineries, power plants and other polluting industries are located near the Port Project site. *See also* Eric Mann and the Labor\Community WATCHDOG, L.A.'S LETHAL AIR: A PIONEERING STUDY OF THE POLITICS OF L.A.'S AIR POLLUTION 27-34 (1991) (noting that four of the country's top twenty air polluters are located in the Wilmington and San Pedro areas). 7-106

affected population are Spanish-speaking and have been excluded from the public review and comment process, in violation of the underlying spirit of NEPA. According to the 1990 Census 1,131,728 people in the City of Los Angeles speak Spanish and 724,000 of the 3,485,398 people living in Los Angeles speak Spanish, but do not speak English very well. Available at http://www.lacity.org/pln/DRU/LAFacts/Population.htm. CBE is confident that the 2000 Census data will reveal an even higher percentage of Spanish speakers in the City and in the Wilmington area. All documents must be translated into Spanish. 7-106 cont'd

XVI. CBE Requests a Public Hearing in Wilmington Prior to Approval of Project

CBE requests that SCAQMD hold at least one public hearing in Wilmington to allow public participation on this project. CBE has submitted dozens of letters from Wilmington community members opposed to the SEIR. This level of public interest in the local community justifies public meetings in that community on this project. 7-107

XVII. The SEIR Should be Redone and Recirculated for Public Comment

Given all of the changes and inadequacies in the SEIR, it should be re-done and re-circulated for public comment. 7-108

XVIII. Please Include CBE on your Interested Persons List for the Port Project

Please include CBE on your interested persons list for this Project. Please address public notices to CBE, Attn: Scott Kuhn, 5610 Pacific Blvd., Suite 203, Huntington Park, CA 90255, Fax: 323-588-7079. 7-109

Finally, CBE requests a written response to these comments. 7-110

Should you have any questions, please contact me at 323-826-9771 ext. 108.

Sincerely,

Scott Kuhn, CBE Staff Attorney
COMMUNITIES FOR A BETTER ENVIRONMENT

COMMENT LETTER NO. 7
CITIZENS FOR A BETTER ENVIRONMENT

Scott Kuhn
April 22, 2002

Response 7-1

The general comments raised in this comment have been responded to in more specific comments that follow. The air quality impacts associated with the proposed project have been comprehensively evaluated in the SEIR, including the existing air quality, the impacts associated with the proposed project and the cumulative impacts associated with a number of projects in the area (see Final SEIR, Chapter 3 – Existing Environmental Setting, Section A – Air Quality; Chapter 4 – Environmental Impacts and Mitigation Measures, Section A – Air Quality; and Chapter 5 – Cumulative Impacts, Section A – Air Quality). 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.

The SCAQMD disagrees with the commentator's opinion that the SEIR contains an inadequate study of cumulative impacts, (see Responses 7-7, 7-67), environmental justice (see Response 7-105) and alternatives (see Responses 7-96 through 7-98).

All feasible mitigation measures have been included in the SEIR (see Responses 7-7, 7-56, 7-61, and 7-63).

The SCAQMD strongly disagrees with the commentator's opinion that the Draft SEIR is inadequate and should be "re-done and re-circulated." Based on comments received on the Draft SEIR, minor revisions have been made in the Final SEIR. As discussed in the following Responses (Responses 7-2 through 7-107), those revisions did not constitute significant new information, result in impacts substantially greater than those that were evaluated in the Draft SEIR, or constitute significant new information that would trigger recirculation of the Draft SEIR pursuant to CEQA Guidelines §15088.5. Therefore, the Draft SEIR does not need to be revised and re-circulated for public review as demonstrated by the following responses.

Response 7-2

The intent of this comment is not clear and the definition of a "Good Neighbor Agreement" agreement is not provided in this comment. All feasible mitigation measures have been imposed on the proposed project (see Response 7-7). A "Good Neighbor Agreement" is beyond the scope of the proposed project. SCAQMD recommends that CBE contact the refinery directly to discuss issues outside the scope of the currently proposed project.

Response 7-3

Most of the modifications to the storage tank farms are associated with the CARB Phase 3 proposed project. Because of the physical/chemical properties of ethanol, complying with CARB Phase 3 reformulated gasoline specifications requires that the blending of gasoline be accomplished in a different manner. It also requires different blending components increasing the need for storage tanks because different blending components must be stored separately until final gasoline blending. The California Energy Commission (CEC) has indicated that the storage tank capacity within the state, and particularly within southern California, is constrained in the Los Angeles basin and will be more constrained in the future (CEC, MTBE Phase Out in California, Final Report dated March 2002). Tankage for clean products will be reduced by 10 to 15 percent over the next seven years by the need to comply with a new regulation from the SCAQMD (Rule 1178) requiring tank modifications to obtain further emissions reductions. Further, permitting, port policies and pressure from special interest groups make it unlikely that additional terminal capacity can be constructed. In fact, port policies may lead to further terminal closures in the near future, resulting in additional constraints on storage tanks (CEC, 2002).

As indicated on page 4-13 of the Final SEIR, "Two naphtha tanks at the Olympic Tank Farm (299-TK-1002 and 299-TK-501) are being constructed to replace tanks that were lost due to the reduction in size of the Marine Terminal and are not directly related to the CARB Phase 3 project." Nonetheless, the impacts associated with these two naphtha tanks were evaluated in this SEIR so that this project and other related modifications were not "piecemealed" and their impacts evaluated separately. The approach taken in the Draft SEIR is required by CEQA so that impacts from different projects occurring within similar time periods would not be underestimated.

The Final SEIR explains how each of the components of the project are required by the CARB Phase 3 requirements in Table 2-4, page 2-12.

The comment that the project's goal is to increase gasoline capacity is not correct. As noted above, the project is to comply with the CARB Phase 3 reformulated fuels specifications. As indicated in the Draft SEIR, the proposed project will not result in an increase in crude throughput capacity (see Final SEIR, page 2-9). Replacing MTBE with ethanol reduces the volume of gasoline up to about 10 percent. By altering the mix of blending components, Ultramar can make up some of the loss in gasoline volume. The Draft SEIR made conservative assumptions to make sure that the impacts associated with all portions of the project were adequately evaluated and only assumed the increase in gasoline blending components and not the decreased volume associated with the removal of MTBE. Therefore, the statement cited from page 1-7 of the Draft SEIR has been clarified in the Final SEIR to indicate that increasing gasoline production is to make up for the loss of volume by switching from MTBE to ethanol. Further, the Final SEIR has been revised to remove the assumption that there will be an increase in gasoline production.

Response 7-4

With regard to identifying sensitive receptors, please refer to the detailed information in Response 7-5. The commentator inaccurately characterizes CEQA requirements by stating, "The SEIR must analyze the existing distribution of pollution in the area to determine if there are any

disproportionate impacts from environmental hazards or pollution on people of color and low income people." Although CEQA Guidelines §15125 requires describing the existing physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time the environmental analysis commences, CEQA does not require an analysis of impacts on the existing setting. Instead the existing environmental setting "will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant." (CEQA Guidelines §15125(a)). The SEIR identifies the existing physical environmental setting in Chapter 3. Potential adverse impacts from the proposed project are then calculated using the existing physical environmental settings described in Chapter 3 as the baseline.

If the commentator's reference to analyzing "any disproportionate impacts . . . on people of color and low income people" refers to impacts from the proposed project, then he is incorrectly interpreting the CEQA requirements. Specific guidelines for analyzing adverse environmental impacts in the SEIR are contained in CEQA Guidelines §15126.2, which states in part, "An EIR shall identify and focus on the significant effects of the proposed project." There is no requirements at this time to focus the analysis in an EIR on any specific group. The SCAQMD is aware of the efforts at the state level to develop guidelines for analyzing environmental justice impacts and will monitor this process.

As explained in detail in Responses 7-5 and 7-6, the SEIR has complied with all relevant CEQA requirements for analyzing potential adverse impacts from the proposed project.

Response 7-5

This comment is incorrect regarding the impacts on sensitive populations. Volume 2 of the SEIR includes an extensive review of the potential impacts of the proposed project at each of the proposed project sites on the surrounding community, including sensitive receptors. The identified sensitive receptors include schools, parks, hospitals, and daycare facilities. The reference in the comment to a "six mile impact zone" is unclear and not based on data regarding the project impacts. The sensitive populations within the one per million cancer risk isopleth were identified. A number of sensitive populations were identified, however, because the project sites are located within heavy industrial areas, a large number of sensitive receptors were not identified. Finally, the potential impacts associated with exposure to the closest sensitive populations were identified. In all cases, the potential impacts to the closest sensitive populations and the closest residential populations to each of the project sites were identified and determined to be less than significant. Therefore, an analysis of potential adverse impacts to other sensitive populations further away from the refinery, marine terminal or tank farms is not necessary since the impacts associated with the proposed project at areas further from the project sites would be less than identified in the SEIR and, therefore, also less than significant. Although the commentator identifies a general list of sensitive receptors, he does not identify any specific sensitive populations that were not included in the analysis.

The hazards associated with a release, accidents and fires for the proposed project (including the Refinery, Marine Terminal, Marine Tank Farm, and Olympic Tank Farm) have been evaluated extensively in Volume III of the Final SEIR. In all cases, the hazards identified for the proposed

project would be reduced or the impacts would only extend into the immediate vicinity of the project site, which are all industrial areas. No hazards were identified that would extend into residential areas or impact other sensitive populations (page 4-70, Volume I of the Final SEIR and Volume III of the Final SEIR).

The impacts associated with the construction phase have been fully evaluated in the Final SEIR (see Final SEIR Chapter 4, Section A, and Appendix A). The impacts of the proposed construction phase have been considered to be significant and mitigation measures have been imposed. The construction emissions will cease following completion of construction activities and do not impose long-term emission impacts.

Finally, the impacts associated with the operational phase of the proposed project have been fully evaluated in the Final SEIR (see Final SEIR Chapter 4, Section A, and Appendix A). The impacts of the operation of the proposed project have been considered to be significant and mitigation measures have been imposed, where feasible. Further, the proposed project is expected to result in an emission benefit associated with mobile sources that utilize the reformulated fuels resulting in emission reductions. A reduction in toxic air contaminant emissions is also expected for vehicles that use the reformulated fuels. Therefore, the proposed project is expected to result in emission benefits as well.

There is no question that poor air quality can exacerbate respiratory problems such as asthma. The SEIR discloses that the proposed project is expected to generate significant adverse regional air quality impacts, which could affect sensitive populations, especially those with respiratory problems. 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.

Response 7-6

See Response 7-5 above regarding the potential hazard impacts of accidental releases and potential air quality impacts from the proposed project. The opinion in this comment that a CEQA document must identify low-income health care providers is incorrect. The availability of health care facilities is not required to be evaluated in the environmental setting of a CEQA document.

The Final EIR concluded that no significant impacts were expected due to exposure to toxic air contaminants or hazards from the Refinery, marine terminal and tank farms, and has disclosed the estimated emissions and risk related to the proposed project. Because no significant health impacts are expected, the proposed project is not expected to result in a need for new or impact existing health care providers. Therefore, it is not necessary to include information regarding health care providers in this SEIR. This information is included in the City's general plan, which should be consulted for further information.

An EIR only needs to include information relevant to the proposed project. The adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project (CEQA Guidelines 15204). "CEQA does not require a lead agency to conduct every

test or perform all research, study, and experimentation recommended or demanded by commentators. When responding to comments, lead agencies need only to respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR." (CEQA Guidelines 15204(a)).

In addition, CEQA requires that impacts that have physical consequences be evaluated. "In evaluating the significance of an environmental effect of a project, the lead agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project" (CEQA Guidelines §15064(d)). The proposed project impacts on the health effects associated with exposure to toxic air contaminants were evaluated and concluded to be less than significant. Therefore, no physical impacts related to health care providers are expected. Social issues only need to be addressed in an EIR when there is the potential for physical changes (CEQA Guidelines §15064(f)(6)). No such physical changes resulting from social issues were identified for the proposed project.

Response 7-7

With regard to the incorrect assertion that the SEIR must analyze disproportionate environmental impacts of the existing environment, the commentator is referred to Response 7-4. Relative to the CEQA requirement to discuss any inconsistencies between the proposed project and applicable general plans and regional plans, the Draft and Final SEIR included discussions of these plans, as applicable. See the Final SEIR pages 3-18 and 4-17 regarding the Air Quality Management Plan. See Final EIR page 3-25 regarding the Los Angeles General Plan Seismic Safety Element. See Final EIR page 3-32 regarding the Port of Los Angeles Mater Plan. See Final EIR pages 3-39 through 3-40 regarding wastewater discharge requirements. See Final SEIR page 3-42 through 3-43 regarding the Los Angeles General Plan. See Final EIR page 3-42 regarding the Wilmington-Harbor City Specific Plan. See Final EIR pages 3-58 through 3-59 regarding traffic management plans in the Wilmington area. See Final SEIR, Chapter 3, Section A for the air quality environmental setting. See Final SEIR, Chapter 5, Section A for the cumulative air quality impacts and mitigation measures and Response 6-5. The project-related emissions have been mitigated to the extent feasible. Further, the cumulative emissions will be mitigated on a project-by project basis. For more detailed information relative to the existing setting for the proposed project, refer to Responses 7-4 and 7-8. For a more detailed response to the comment regarding potential inconsistencies between the proposed project and relevant local plans, refer to Response 7-9.

Response 7-8

The Final SEIR has addressed existing regional air quality and potential adverse impacts associated with the potential exposure to all populations (regardless of race or economic status) and has addressed the impacts of the proposed project to all populations near the Refinery including sensitive populations, residents and workers near the Refinery.

The Final SEIR includes a discussion of the existing cancer risk in the South Coast Air Basin (see Final SEIR, page 3-8). The SEIR indicates that the average cancer risk in the Basin is about 1,400 per million due to exposure to various toxic air contaminants. These data are based on air

monitoring and testing completed as part of the SCAQMD's Multiple Air Toxic Exposure Study, referred to as MATES-II.

The regional distribution of air quality was provided in the SEIR (see Final EIR pages 3-2 through 3-5). Coastal areas of the South Coast Air Basin tend to have better air quality than the inland areas of the Basin. For example, the ozone standards are exceed frequently in the San Gabriel Valley, Riverside, Coachella Valley and San Bernardino Valley. The ozone standards are only exceeded a few days each year in the coastal areas (e.g., South Coastal Los Angeles County Monitoring Station).

The comments related to the TSDF facilities in Los Angeles County are unrelated to the proposed project and no response is required. With regard to analyzing disproportionate impacts on specific populations, refer to Response 7-4. Finally, the SCAQMD has complied with all relevant CEQA requirements in its analysis of the proposed project.

Response 7-9

The Draft and Final SEIR addressed the regional plans that are applicable to the proposed project. For example, compliance with the air quality management plans is addressed on page 4-17 of the Final SEIR. The proposed project is not expected to result in an increase in wastewater (see Final SEIR pages 4-78 through 4-79) or solid/hazardous waste generated (see Final SEIR pages 4-89 through 4-91) during the operational phase of the project. The project is expected to result in an increase of eight workers which are expected to come from the existing labor pool in southern California so that no impacts on housing are expected. Finally, the proposed project is located within existing industrial facilities. The natural habitat has been removed from these facilities and no impacts on any natural communities or conservation plans are not expected.

Response 7-10

The data from the MATES-II Study are provided in the environmental setting portion of the SEIR (see page 3-8). The comments regarding the results in the MATES II study are incorrect (see MATES II Study, Figure 3-3).

The commentator mistakenly infers from the Kings County Farm Bureau v. City of Hanford case (221 Cal. App. 3d 692, 717-18 (1990)) that, "Given the existing cancer risks for the nearby community, any increase in toxic pollution must be considered significant and must be mitigated fully." The court did not make such a finding in this case. The lead agency for this project under consideration in this case concluded that because ozone levels were "already bad," the incremental addition from the project must be treated as minor. As the court explained, "[t]he EIR's analysis uses the magnitude of the current ozone problem in the air basin in order to trivialize the projects impact." The court's conclusion is very different than the commentator's assertion that any pollution increase should be considered significant. In any event, the SCAQMD's conclusion that air toxic impacts are not significant is based on quantifying the health risks (cancer and non-cancer health risks) using established and approved methodologies and comparing the results to an adopted significance threshold, which is consistent with CEQA Guidelines §15064(h)(3).

The toxic air contaminant emissions from the proposed project are less than the significance criteria and less than significant (also see Response 7-8). Therefore, mitigation measures for toxic air contaminants are not required under CEQA. Mitigation measures need only to be imposed when a significant impact related to the proposed project has been identified (CEQA §15126.4(a)(1)(A) and §15126.4(a)(3)).

The proposed project is required to comply with the applicable portions of SCAQMD New Source Review rules (SCAQMD Regulation XIII) and toxic air contaminant rules, e.g., SCAQMD Rule 1401. However, compliance with all applicable SCAQMD rules and regulations is required as part of the proposed project (i.e., part of the project description) and is not considered to be mitigation. The important point is to note that the proposed project is required to comply with all applicable SCAQMD rules and regulations, including use of Best Available Control Technology pursuant to Rule 1303(a) (which requires the use of bellow sealed valves) and inspection and maintenance programs (SCAQMD Rule 1173).

Emissions from the marine terminal are included in the Final SEIR Table 4-7 (stationary source emission changes), Table 4-8 (emissions associated with additional marine vessels), Table 4-14 (cancer risk for the marine terminal), Table 4-15 (cancer risk associated with marine vessels), Appendix A (emission calculations), and the Health Risk Assessment – Volume II of the Final SEIR (details of the health risk calculations for the marine terminal). Please refer to Response 6-3 regarding the SCAQMD's authority to impose mitigation measures on marine vessels.

Response 7-11

Please note that the refinery is an existing operating refinery and will not be "resuming" operations as part of the proposed project. The impacts associated with the proposed project including marine terminal emissions and truck transportation emissions have been included in the Final SEIR.

The emissions from diesel engines were included in the Final SEIR, Tables 4-6 and 4-7 and Appendix A.

The proposed project will lead to increased emissions of diesel exhaust particulate matter from onsite construction equipment and diesel-fueled truck exhaust and from off-site diesel truck exhaust during construction. An Advisory Committee was formed to advise the CARB staff in its preparation of an assessment of the need to further control toxic air pollutants from diesel-fueled engines. The Risk Management Subcommittee was formed to identify the: (1) operating parameters; (2) emission factors; and (3) modeling methodologies recommended for estimating human health risks from diesel-fueled engines. This information will be used by the Subcommittee to develop the scenarios to evaluate the risks associated with exposure to diesel particulate emissions. The SCAQMD is waiting for this guidance before initiating a quantitative risk analysis for diesel particulate emissions.

Significant impacts associated with exposure to diesel particulate emissions are not expected during construction activities. As listed in Table 4-4 of the Final SEIR, the highest construction related on-site and off-site diesel exhaust particulate matter emissions is estimated to be 26 pounds per day and less than one pound per day, respectively. These emissions are expected to cease within about

one year. Therefore, long-term exposure to construction-related diesel exhaust particulate matter that could result in significant cancer risks to sensitive populations is not expected.

Significant impacts associated with exposure to diesel particulate emissions are not expected during operation of the proposed project. Since the proposed project is not expected to result in an increase in gasoline production, no increase in emissions from diesel engines are expected due to the transportation of gasoline. The Final SEIR has been revised to reflect this change.

Total truck exhaust PM10 emissions associated with trucks used to transport ethanol (and evaluated in the Previous Final EIR) are estimated to be 3 pounds per day (see Final SEIR Table 4-6). The maximum emissions at any single location will occur in the vicinity of a third-party terminal, because all of the trucks will leave that location. The emission rate for one truck at a speed of 25 mph is about 0.6 grams per mile. Therefore, the total emissions from 30 trucks per day (60 truck trips) travelling over the one-quarter mile into and out of a terminal (assuming all trucks would be traveling to/from the same terminal) would be about 9 grams per day or about 0.02 pound per day. Therefore, significant cancer risks associated with exposure to diesel particulate emissions are not expected. It should be noted that these trucks are expected to use a number of other third party terminals and these diesel emissions would occur at several sites and not one site so that the emissions at any one site would be even less than 0.02 pound per day.

Response 7-12

The proposed project impacts on VOC, NOx, SOx, and PM10 emissions are expected to exceed the SCAQMD significance thresholds and are considered significant so that feasible mitigation measures are required. See the Final SEIR pages 4-31 through 4-56 for a discussion of feasible mitigation measures for the proposed project. Also see Responses 6-3, 7-56, 7-61 and 7-48.

Also, note that long-term air quality benefits are expected to occur due to the implementation of the CARB Phase 3 regulations (see Final SEIR, Chapter 5).

CEQA does not include any requirements stating that there should be no net increase in any kind of environmental impact from a project. CEQA allows an agency to approve projects with significant adverse environmental impacts after all feasible mitigation is imposed, provided a Statement of Findings and Statement of Overriding Considerations is prepared.

Response 7-13

Storage tanks are cleaned on a periodic basis and not on a routine basis. Tanks are cleaned for example when the material stored within the tank is changed and the two materials are incompatible or for maintenance activities. The cleaning of storage tanks at the refinery is not part of the proposed project, and no storage tanks are expected to be cleaned as part of the proposed project. Therefore, no additional emissions associated with storage tanks cleaning are expected from the proposed project.

Because tank cleaning can result in significant air emissions, the SCAQMD has imposed SCAQMD Rule 1149 – Storage Tank Degassing. Rule 1149 requires that emissions from storage

tank degassing be controlled through one of several approved methods. Therefore, storage tank cleaning operations in the South Coast Air Basin are required to be controlled, are not expected to be a significant source of emissions, and are accounted for in the SCAQMD's Air Quality Management Plan emission inventory for the South Coast Air Basin.

Response 7-14

The Draft SEIR included the emissions from pressure relief valves (PRVs) (see Appendix A) that are included as part of the proposed project. The PRVs are subject to the SCAQMD's BACT requirements. The emissions from these devices will be routed to existing air pollution control devices (see Final SEIR, page 4-13) so that VOC emissions from PRVs are expected to be negligible. In addition, these devices are required to be inspected for leaks per the requirements of SCAQMD Rule 1173.

Response 7-15

As described in the Draft EIR, the emissions from all new and modified storage tanks will be controlled through the use of Best Available Control Technology (BACT), which consists of internal floating roof tanks. BACT, by definition, is control equipment with the lowest achievable emission rate. The use of BACT controls emissions to the greatest extent feasible for the new and modified emission sources. Therefore, additional VOC emission reductions (through mitigation measures) from storage tanks associated with the proposed project are not feasible. Further, the proposed project includes taking old tanks (that do not currently comply with BACT) and replacing or upgrading them with equipment that includes BACT, which should result in fewer emissions from tank fittings and seals. The emissions from the storage tanks have been calculated and included in Appendix A of the SEIR.

Response 7-16

See Response 7-15 regarding the control of emissions from storage tanks by complying with Rule 1303 BACT requirements. See Response 7-12 regarding emissions from storage tank cleaning.

Response 7-17

See Response 7-14 regarding the control of VOC emissions from pressure relief devices.

Response 7-18

As explained in the Final SEIR (see page 4-31), "all fugitive components will be required to be included in an inspection and maintenance program, as required by SCAQMD Rule 1173, to ensure that the equipment is properly maintained." Rule 1173 requires that all accessible pumps, compressors, and pressure relief devices be audio-visually inspected once during every eight-hour operating period. Rule 1173 also requires that all accessible components be inspected (via testing) on a quarterly basis. Rule 1173 requires inspection and record keeping and various SCAQMD rules and regulations allow for monetary penalties for non-compliance. Measures beyond those required by Rule 1173 are not required because the proposed project will incorporate BACT. The

use of BACT minimizes the potential for leaks from fugitive components. For example, the pumps for the proposed project will be sealless pumps and, therefore, less likely to leak. The process valves will be mostly leakless valves that are also not expected to leak. (It should be noted that, in order to provide a conservative emission estimate in the SEIR, the emission calculations for the fugitive components did not include the use of BACT. Therefore, the overall project emissions from fugitive components have been overestimated since BACT is required to be installed). The requirements for inspection and maintenance are already part of the proposed project and are not considered to be mitigation for purposes of the SEIR.

Response 7-19

The comment is incorrect. See Response 7-3 regarding the comment that all aspects of the project are required to comply with CARB Phase 3 requirements. As explained in Response 7-3, several storage tanks are being modified due to the loss in storage capacity at the Ultramar marine terminal. Emissions from these tanks must be offset pursuant to Rule 1303.

Capacity at a refinery is determined by the quantity of crude processed. As described in the SEIR, the proposed project will not result in an increase in the crude capacity refined at the Refinery, and therefore, will not increase the capacity of the refinery. Therefore, the offset exemption in Rule 1304 (c)(4) applies to the portions of the proposed project associated with compliance with the CARB Phase 3 requirements. Please note that the Final SEIR has been revised to show that there will be no increase in gasoline produced at the Refinery and no increase in truck traffic related to gas distribution (see Response 7-3).

Response 7-20

The project's impacts on water resources have been addressed in the SEIR (see Chapters 3 and 4, Section D). It is true that the existing Refinery operations require water. However, the proposed project is not expected to require any additional water since there are no proposed units or modifications to existing units that would require additional water (see Final SEIR, page 4-80). Therefore, no significant impacts on water demand or wastewater generation were identified and no mitigation measures are required.

Response 7-21

Ultramar uses third party terminals (i.e., terminals not owned or operated by Ultramar) to distribute gasoline to gasoline stations. Since ethanol must be blended at the terminals, ethanol will be blended into gasoline produced by Ultramar at the third party terminals. Ethanol will not be received, stored, blended or transferred at any of the Ultramar facilities so the issues related to this comment are considered speculative. However, the following responds to the general comment regarding the Lawrence Livermore National Laboratory report.

The release of ethanol may be potentially significant and increase the concentration of hydrophobic compounds in ground water, however, because of the following measures are included as part of standard operations at third party terminals that would handle ethanol, no significant ethanol

release or impacts are expected: (1) source control programs, cathodic protection, periodic testing of pipelines, and so forth, are standard practice at terminals that are expected to receive, store and transfer gasoline and ethanol; and (2) terminals have existing ground water sampling programs which will be expanded to include ethanol. The proposed project does not include the installation of any new underground storage tanks or above ground storage tanks for ethanol. However, additional underground storage tank requirements have been imposed in California which further reduce the potential for leaks, e.g., double containment requirements, and leak detection systems.

It is also important to note that the study completed by Lawrence Livermore National Laboratory (LLNL) is only one of a number of reports used by the state to review the elimination of MTBE from gasoline. Extensive analysis was completed by the University of California, California Air Resources Board, Regional Water Quality Control Board, among others, associated with SB 521. The LLNL report (UCRL-AR-135949, 1999) presents information on releases of ethanol to soil and surface waters. This document was prepared as part of Senate Bill 521 (SB 521), enacting the MTBE Public Health and Environmental Protection Act of 1997 which directed the University of California to conduct research on the effects of MTBE. SB 521 also required the Governor to take appropriate action based on the findings of the report and information from public hearings. In consideration of this study, public testimony, and other relevant information, California's Governor Davis found that, "on balance, there is significant risk to the environment from using MTBE in gasoline in California." In response to this finding, on March 25, 1999, the Governor issued Executive Order D-5-99 which directed, among other things, that California phase-out the use of MTBE in gasoline. The LLNL report also indicates that eliminating the use of MTBE and replacing it with ethanol is expected to mitigate the ground water problems created by MTBE. Therefore, on balance, the decision to eliminate MTBE is expected to provide beneficial impacts to ground water quality throughout the state.

Response 7-22

The proposed project will occur at existing facilities so a terrorist attack and resulting effects would in large be part of the existing setting. Further in response to the September 11, 2001 terrorist attacks in New York, increased/enhanced safety/security measures are being put into place or are already in place (see Responses 4-2 and 7-25).

The hazards related to the proposed project have been addressed in the SEIR, Volume 1, Chapter 4, Section C and Volume III. The fire hazards (or other related hazards) associated with the proposed project would be the same, regardless of whether the event that triggered the release or fire was caused by an intentional act, an accidental event, or a natural event. The proposed project hazard impacts have been addressed in the SEIR. Measures that would minimize the hazards, which are outlined in the Final SEIR (see pages 4-73 and 4-74) also minimize the impacts of a terrorist attack. All Ultramar facilities are fenced and access to the sites is limited. Further, access to the sites is provided through guarded gates only.

Response 7-23

The comment is incorrect. The proposed project would not build any new storage tanks closer to residential areas than currently exist. Further, the proposed project includes taking old tanks (that

do not currently comply with BACT) and replacing or upgrading them with equipment that has BACT, which should result in fewer emissions from tank fittings and seals. See Response 7-22 regarding the hazard impacts associated with terrorist acts. Further, no hazard impacts were identified that would impact any residential areas because residential areas are located a sufficient distance from the proposed project sites to avoid hazard impacts.

Response 7-24

See Response 7-22 regard hazard impacts associated with terrorist acts. The December 2001 Final EIR discussed the potential impacts related to tanker trucks. The following is the evaluation of the transportation of hazardous materials in the December 2001 Final EIR. Transportation hazards were evaluated in the December 2001 Final EIR to evaluate the transport of ethanol, high octane blending components and propane/propylene associated with the CARB Phase 3 project. A summary of the transportation hazards will be included in the Final SEIR.

The transportation of hazardous materials also can result in offsite releases through accidents or equipment failure. The proposed project will increase the amount of hazardous materials transported to the Refinery.

Ethanol/MTBE

The proposed project would eliminate the use of MTBE and would eliminate the transport of MTBE to the Marine Terminal and Refinery via marine vessel. Ethanol, instead of MTBE, would be transported into the area via railcars. The use of ethanol is expected to provide an environmental benefit over the use of MTBE. In the event of a leak or spill, while ethanol is more soluble than MTBE, ethanol is expected to present less of a risk of ground water contamination since it breaks down in the environment more rapidly than MTBE. Also, the health impacts related to ethanol exposure are limited (CARB, 1999).

The proposed project will increase the truck transport of ethanol by about 30 trucks per day. The distance traveled by all ethanol trucks per day was estimated to be about 960 miles per day. The estimated accidental release rate for all ethanol truck delivery is about 0.1 accident per year or about one accident in 10 years. Ethanol is not an acutely hazardous material and the hazards related to the transport of ethanol are expected to be less than those associated with the transport of MTBE and less than significant, as discussed below.

The overall hazards associated with the handling and transport of ethanol are expected to be less than those associated with MTBE. Ethanol has a lower vapor pressure than MTBE (49-56.5 mmHg for ethanol as compared to 245-256 mmHg for MTBE) (API, 2000). Therefore, a release of ethanol would travel a smaller distance than a release of MTBE, given the same conditions. In addition, the toxicity of ethanol is less than the toxicity of MTBE as shown in Table 1. Therefore, the health impacts in the event of a release of ethanol also are expected to be less than the health impacts associated with an MTBE release.

The proposed project is expected to require the delivery of ethanol via railcars. A maximum of about nine railcars per day may be required to deliver ethanol. These railcars are expected to arrive on one train per day. The proposed project is not expected to change the probability of a train accident, derailment, or potential release of material in the event of an accident. Rail accidents are generally weather or mechanical-related. The proposed project will not change the average number of railcars that would derail and/or rupture in the event of an accident. Further, in the event of an ethanol release, the health effects are expected to be less than significant. The overall hazards associated with the handling and transport of ethanol are expected to be less than those associated with MTBE. Therefore, a release of ethanol would travel a smaller distance, persist in the environment for less time, and result in fewer health impacts than a release of MTBE, given the same conditions. The hazards related to the transport of ethanol instead of MTBE are expected to be less than significant.

TABLE 1

HEALTH ASSESSMENT VALUES AND HEALTH PROTECTIVE CONCENTRATIONS

	Non-Cancer		Cancer
	1-Hour (ug/m^3)	**Annual Average (ug/m^3)**	**Unit Risk Factor $(ug/m^3)^{-1}$**
Ethanol	100,000 (53,000 ppb)	100,000 (53,000 ppb)	No evidence of carcinogencity by inhalation.
MTBE	25,000 (7,000 ppb)	3000 (800 ppb)	2.6×10^{-7} (9.3×10^{-7} ppb^{-1})

Source: OEHHA, 2000.

The Refinery has spill containment systems in place to reduce the impacts of spills of petroleum products. The marine terminals generally use a water collection and treatment system to prevent discharges of petroleum products to the port. Drip pans and funnels drain to collection areas to contain leaks. Ship washings and ballast water are stored in two tanks for further treatment and disposal. Spills that would reach the water are controlled by deploying the oil booms. Additional spill equipment is available through commercial contracts with suppliers that specialize in spill cleanup. Commercial contractors that specialize in oil cleanup are employed to place any additional booms or equipment, and to remove oil from the water and adjacent areas.

The Ultramar Refinery has a Spill Prevention Containment and Countermeasures (SPCC) Plan per the requirements of 40 CFR, Section 112. The SPCC is designed to prevent spills from on-site facilities and includes requirements for secondary containment, emergency response procedures, training requirements, and so forth.

High Octane Blending Components

The proposed project is expected to result in the delivery of additional high octane blending components (e.g., alkylate and isooctane) to a marine terminal and elimination of MTBE deliveries via marine vessel.

The proposed project would increase the delivery of high octane blending components, including alkylate and isooctane. Alkylate and isooctane are currently shipped and stored at local marine terminals so the proposed project will increase the amount of high octane blending components shipped to the ports. These materials are currently transported into the port area so that the project is not expected to result in new hazards to the port area. Therefore, no new hazards or increased risk will be introduced to the Port area.

Response 7-25

The impacts related to hazards at the marine terminal are existing hazards and were included in the Final SEIR (see page 3-32). The proposed project will result in a net increase of about 65 marine vessels per year for the transport of gasoline blending products. The proposed project will handle materials currently shipped into the port areas and will not introduce new hazards to the area so, even though the number of vessels will increase, no significant impacts are expected. In addition, the California State Lands Commission has adopted the Marine Oil Terminal Physical Security Program (2 CCR §2351) on March 7, 2002 in response to recent terrorist attacks. The regulations require that each terminal prepares a Marine Oil Terminal Security Plan (MOTSP) and submits it to the California State Lands Commission (CSLC) for review and approval. The MOTSPs are designed to: (1) provide for the safety and security of persons, property and equipment on the terminal and along the dockside of vessels moored at the terminal; (2) prevent and deter the carrying of any weapon, incendiary, or explosive on or about any person inside the terminal, including within his or her personal articles; (3) prevent and deter the introduction of any weapon, incendiary, or explosive in stores or carried by persons onto the terminal or to the dockside of vessels moored at the terminal; and (4) prevent or deter unauthorized access to the terminal and to the dockside of vessels moored at the terminal (2 CCR §2351(b)(1-4)). Ultramar has prepared a MOTSP, which is currently under review by the CSLC. The above information has been incorporated into the Final SEIR (see page 3-32).

Response 7-26

The comment related to the increased use of the alkylation unit and increased use of hydrofluoric acid (HF) is incorrect. The proposed project does not include modifications to the Alkylation unit or any other unit associated with the use or storage of HF (see Chapter 2 – Project Description). The alkylation unit currently operates at full capacity so that the only way to increase the production through the alkylation unit is to modify the unit and increase the capacity. No such changes are proposed as part of the proposed project and no increase in HF use is proposed or expected at the Refinery. The proposed project will not result in a change in the use, amount transported, amount stored or hazards related to the use of HF. The use of HF and modifications to the use of HF is outside the scope of the proposed project.

Response 7-27

The impacts of the proposed project of land use are discussed in Chapter 4, Section E – Land Use/Planning. Specific comments related to the potential land use and planning impacts are addressed in Responses 7-28 through 7-38 below.

Response 7-28

The proposed project sites are located within the jurisdiction of the City and Port of Los Angeles. The land use in these areas are controlled by the City of Los Angeles General Plan and the Port of Los Angeles Master Plan, respectively. The Los Angeles County General Plan applies to unincorporated county land and not land within incorporated cities. Therefore, the Los Angeles County General Plan does not apply to the proposed project sites; however, if it did, it would not be inconsistent with the proposed project. As discussed in the SEIR (Chapter 4, Section E – Land Use), the proposed project will be constructed within the confines of existing industrial facilities. All facilities are zoned for heavy industrial uses, which allows for the continued storage of petroleum products or refining activities. The areas surrounding the proposed project sites are also industrial. Heavy industrial uses would be the only use compatible with the surrounding areas. Other uses, e.g., commercial or residential uses would conflict with the industrial uses and be incompatible with the current industrial uses.

The proposed project would not impact the General Plan element quoted in this comment. The proposed project would not discriminate in housing (no new housing is proposed as part of the project), jobs/income (the proposed project is only expected to create a few jobs), education (impacts on education facilities are not part of the proposed project), recreation (the proposed project would not impact recreational facilities), or other facets of living (no social impacts have been identified associated with the proposed project).

Response 7-29

A hazards analysis has been completed for the proposed project. The analysis indicates that the proposed project could have hazards that extend just outside of the proposed project sites but those hazards would remain in industrial areas. No impacts outside of industrial areas were identified. All feasible mitigation measures have been imposed including the preparation of a Process Safety Management Program, and Risk Management Program for the applicable portions of the proposed project (See Final SEIR pages 4-73 and 4-74 for further details). Therefore, the proposed project is expected to be consistent with the Los Angeles County General Plan, even though the proposed project sites are not under the jurisdiction of the Los Angeles County General Plan.

Response 7-30

As discussed in the Final SEIR (see pages 4-75 through 4-80), the proposed project is not expected to result in an increase in water use, after the construction phase so no impacts on water demand are expected. Consequently, the proposed project would not be inconsistent with the General Goals and Policies cited by the commentator. Further, the implementation of the proposed project will eliminate MTBE from the gasoline supply. MTBE has contaminated drinking water supplies in

some areas. Therefore, implementation of the proposed project will comply with the CARB mandated regulations to eliminate MTBE and protect drinking water supplies.

Response 7-31

The proposed project will be constructed within the confines of existing industrial sites and would not cause construction or paving within ground water recharge and watershed areas so no impact on ground water recharge is expected. Based on this conclusion, the proposed project would not be inconsistent with the Public Facilities policies identified by the commentator. The proposed project is not expected to result in an increase in water use, after the construction phase of the proposed project, so no increase in water use or need for water conservation or use of reclaimed water is required. The implementation of the proposed project will eliminate MTBE from the gasoline supply. MTBE has contaminated drinking water supplies in some areas. Therefore, implementation of the proposed project will comply with the CARB mandated regulations to eliminate MTBE and protect drinking water supplies.

Response 7-32

See Response 7-31 regarding the projection of ground water.

Response 7-33

The proposed project requires the installation of Best Available Control Technology so that emissions associated with the proposed project have been controlled to the maximum extent feasible. Further, the proposed project is expected to result in air quality benefits by producing cleaner-burning fuels, so that vehicles that use the fuels will produce less air emissions, providing a regional air quality benefit. Consequently, the proposed project would not be inconsistent with the policy goal identified in this comment.

Response 7-34

See Response 7-33 with regard to air quality impacts. The proposed project is being implemented to comply with CARB Phase 3 fuel specifications which have been developed to further minimize air emissions from vehicles that use fuel. Consequently, the proposed project would not be inconsistent with the policy goal identified in this comment.

Response 7-35

The proposed project is not expected to require additional energy (natural gas or electricity) so that no impacts on energy resources are expected. Consequently, the proposed project would not be inconsistent with the policy goal identified in this comment.

Response 7-36

Based on the hazards analysis prepared for the project, no significant adverse hazard impacts have been identified associated with the movement of materials proposed as part of the project (e.g.,

ethanol and other gasoline blending components). Therefore, the proposed project is expected to be consistent with the Los Angeles County General Plan regarding circulation, even though the proposed project sites are not under the jurisdiction of the Los Angeles County General Plan.

Response 7-37

The proposed project is expected to require about eight additional workers during the operational phase of the proposed project, four at the Marine Tank Farm and four at the Olympic Tank Farm. These workers are expected to be part of the existing labor pool of southern California. No significant adverse impacts on traffic were identified associated with the increase in workers so there is no requirement for carpooling or other activities. Ultramar has an existing transportation management plan and the new workers would be required to participate in the transportation management plan, which includes incentives to carpool. Therefore, the proposed project is expected to be consistent with the Los Angeles County General Plan regarding conservation, open space and recreation, even though the proposed project sites are not under the jurisdiction of the Los Angeles County General Plan.

Response 7-38

The proposed project would not adversely affect housing or opportunities for housing. The conclusions of the SEIR regarding land use/planning remain unchanged, i.e., that the proposed project is consistent with the existing land use and zoning requirements so that no significant impacts of land use/planning are expected. Therefore, the proposed project is expected to be consistent with the Los Angeles County General Plan Housing Element, even though the proposed project sites are not under the jurisdiction of the Los Angeles County General Plan. See Response 7-28 regarding housing impacts.

Response 7-39

The comment is incorrect. The Wilmington Avenue/223rd Street intersection is located within the City of Carson, not the City of Los Angeles. The intersection of Wilmington Avenue/223rd Street currently operates at LOS E during the morning and LOS F during the evening (see Final SEIR Table 4-24, page 4-94). This intersection is located about two miles northwest of the Ultramar Refinery and is impacted by traffic from other refineries and industrial facilities located closer to the intersection. Traffic from the proposed project is not expected to adversely affect the Wilmington Avenue/223rd Street intersection, i.e., the project will not contribute to traffic at this intersection. Free-flowing traffic would continue at all intersections except the intersection of Wilmington Aveue/223rd Street, which is already at LOS E and F. The Ultramar proposed project would not contribute traffic to this intersection. Therefore, the proposed project impacts on traffic during the operational phase are considered less than significant.

Response 7-40

Section 15064(f) of the CEQA Guidelines indicates the following: "Evidence of economic and social impacts that do not contribute to or are not caused by physical changes in the environment is not substantial evidence that the project may have a significant effect on the environment."

Further, CEQA Guidelines Section 15131(a) indicates that economic or social effects of a project shall not be treated as significant effects on the environment and that the analysis shall focus on physical changes. Also see Response 7-41 through 7-43.

The commentator incorrectly mistakenly refers to Citizens Association for Sensible Development of Bishop Area v. County of Inyo. In this case, the court invalidated a negative declaration for a new suburban shopping center because the project would compete with existing downtown stores, thus possibly contributing to a physical deterioration of the downtown area. The case is not relevant to the proposed Ultramar project since no new commercial/industrial facility is being built that could compete with an existing facility. The same conclusion is reached regarding Citizens for Quality Growth v. City of Mt. Shasta where a parcel was rezoned for commercial and manufacturing uses. The Mt. Shasta case is not applicable to the proposed project since no change in zoning or land use is proposed as part of the Ultramar project. Also, since the affected project sites are in industrially zoned areas, and not urban areas, it is not likely that they will contribute to urban blight. There needs to be a clear cause and effect of blight. The proposed project will help reduce existing blight by upgrading, painting and replacing existing tanks that, in some cases have deteriorated as a result of non-use by the previous owner.

Response 7-41

The CEQA guidelines indicate that economic or social information may be included in an EIR or may be presented in whatever form the agency desires (CEQA Guidelines 15131). The guidelines further state that the "Economic and social changes resulting from a project shall not be treated as significant effects on the environment" unless there is some physical change (CEQA Guidelines 15064(f)). The proposed project is not expected to increase the permanent work force at the Refinery, impact housing or population. Therefore, no physical impacts are expected from the proposed project. The Refinery has been located at the site since 1970 and during that time the area has seen significant urban growth including an increase in property values, increased residents in the area, increased commercial/industrial development, more schools, and so forth. Therefore, there is no evidence that the modifications to existing industrial facilities as proposed with this project would result in a urban deterioration in the Wilmington or other surrounding areas.

The proposed project would modify several existing storage tank farms, an existing marine terminal, and an existing Refinery which are all located within industrial areas. New facilities would not be built outside of current industrial facilities and industrial development would not be located closer to residential areas. See also Response 7-40.

Response 7-42

The impacts of exposure to toxic air contaminants associated with the proposed project were evaluated at the various project locations. Based on the result of the analysis, the exposure to toxic air contaminants was determined to be less than significant. Therefore, no significant health impacts were identified for the proposed project. The cumulative impacts associated with the proposed project sites were also determined to be less than significant so that the proposed project is not expected to result in significant exposure to toxic air contaminants. See also Response 7-10

Also, note that the proposed project is expected to result in the production of cleaner fuels, resulting in reduced emissions from vehicles that use the fuels, and thus generating less emissions from vehicles. In addition, the overall proposed project, which includes phasing out MTBE, is being undertaken to eliminate the source of ground water contamination, which is also an environmental benefit.

As already noted in Responses 7-40 and 7-41, the proposed project is not expected to contribute to urban blight in any areas in the vicinity of the proposed project site.

The SEIR has correctly disclosed the potential environmental impacts associated with the proposed project so that decision-makers can take this information into account when making decisions regarding the proposed project.

Response 7-43

No significant effects with respect to social or economic impacts have been identified for the proposed project so that no mitigation measures are required for social issues. See also Responses 7-40, 7-41, and 7-42.

Response 7-44

The proposed project is not expected to result in a significant increase in noise or a significant noise impact (see Chapter 4, Section F – Noise). This conclusion is not only based on project noise levels being consistent with the general plan or local noise ordinances, it is also based on the proposed project not exceeding other significant criteria identified in Chapter 4, Section F.

Response 7-45

The noise levels at the Marine Tank Farm and the Marine Terminal have been estimated based on the land use at each site (65-70 dBA, see page 3-50 of the Final SEIR). Further the proposed project is not expected to add equipment that generates significant noise levels. New pumps will be added to the Marine Tank Farm and the noise associated with that pump is expected to be at background levels within 100 feet based on the noise rating of the equipment. The closest residential area to the Marine Tank Farm is about one-half mile away. So noise related to the Marine Tank Farm would not be noticeable. The modifications to the Marine Terminal only include the change of service of a storage tank and the construction of an external floating roof. No new operational noise increases are expected at the Marine Terminal so no additional noise would not be generated at the Marine Terminal. The closest resident to the Marine Terminal is over one mile away so no noise increases are expected at residential areas..

Response 7-46

The comment is incorrect and no additional data have been provided to indicated that the analyses in the SEIR is inadequate. The analysis of the noise impacts is contained in the Final SEIR (see Chapter 4, Section F – Noise) and included a noise analysis during both the construction and operation phases. The analysis indicates that: (1) the noise increase associated with the Refinery

would be less than one dBA, and less than significant during both construction and operation and would comply with the City of Los Angeles Noise Ordinance; (2) the modifications to the Marine Tank Farm would be less than significant and comply with the Los Angeles Noise Ordinance; (3) the modifications to the Olympic Tank Farm will be less than significant and comply with the City of Los Angeles Noise Ordinance; and (4) the modifications to the Marine Terminal would be less than significant and comply with the City of Los Angeles Noise Ordinance.

Response 7-47

The comment is quoting from the CEQA Guidelines and court cases and does not raise any issues related to the SEIR so no comment is required. The SCAQMD has quantitatively and adequately analyzed all aspects in accordance with CEQA.

Response 7-48

The SCAQMD is aware of its responsibilities under CEQA to adopt feasible mitigation measures where significant impacts have been identified (CEQA Guidelines §15126.4(a)(1)(A)). Mitigation measures are not required for effects which are not found to be significant (CEQA Guidelines §15126.4(a)(3)). Mitigation measures must be consistent with all applicable constitutional requirements including that there must be a connection between the mitigation measure and a legitimate governmental interest and the mitigation measure must be roughly proportional to the impacts of the project ((CEQA Guidelines §15126.4(a)(4)(A-B).

Further, "if the lead agency determines that a mitigation measure cannot be legally imposed, the measure need not be proposed or analyzed. Instead, the EIR may simply reference that fact and briefly explain the reasons underlying the lead agency's determination" ((CEQA Guidelines §15126.4(a)(5)).

The above requirements have been reviewed and feasible mitigation measures have been imposed on the proposed project, per these requirements.

Response 7-49

The comment that the CARB Phase 3 regulations include a sulfur limit for diesel engines of 15 ppm is incorrect. CARB Phase 3 requirements include specifications for the make-up of reformulated gasoline. The CARB Phase 3 requirements do not include requirements that low sulfur diesel be available for use in on-road engines by December 31, 2002. CARB has developed diesel fuel regulations that limits the sulfur content in diesel fuel to 15 ppm (down from the previous 500 ppm). Refiners will be required to start producing the 15 ppm sulfur fuel beginning June 1, 2006. For retail stations and wholesale purchasers, highway diesel fuel sold as low sulfur fuel must meet the 15 ppm sulfur standard by September 1, 2006.

The SEIR already includes a mitigation measure that addresses the use of low sulfur diesel for construction equipment. See Mitigation Measure A-9 (Final SEIR page 4-30) which requires the use of low sulfur diesel, where feasible. The CEC has imposed essentially the same mitigation

measure on the construction phase of a number of power plant projects as proposed for the construction phase of the Ultramar project.

Response 7-50

See Mitigation Measure A-8 (Final SEIR page 4-29) which requires the use of PuriNOx when it is commercially available and compatible with the engine warranty.

Response 7-51

The use of CARB-certified compressed natural gas – powered construction equipment is not feasible because construction equipment that uses this fuel is not available.

The mitigation measure requiring the use of CARB-certified construction equipment has been imposed on the proposed project (Mitigation Measure A-10, Final SEIR page 4-30).

Response 7-52

SCAQMD is encouraging the use of all air pollution control technologies that have been demonstrated to be effective and not result in increased emissions (e.g., through increase fuel use or reduced efficiency of the engine). The demonstration of the effectiveness of various technologies is through the U.S. EPA's or CARB's certification process. The agencies have established programs that require and verify testing data from manufacturers to assure that use of the technologies will generate air quality benefits. These controls must be verified by CARB to ensure that real emission reductions are attained through their use. Two particulate traps have been verified by CARB for use on specified on-road engine models. Due to differences in the engines between on-road and off-road engines, CARB will need to verify that the particulate traps also are effective in controlling emissions from off-road engines before they can be considered feasible mitigation.

Response 7-53

See Response 7-52 regarding the determination of feasible mitigation measures. The use of low NOx burners and controls such as SCR and SCONOx are feasible control measures for stationary emission sources (e.g,. heaters and boilers). However, the proposed project does not include any stationary sources of NOx (other than an emergency pump) so that additional NOx control equipment is not required.

The use of SCR and SCONOx as NOx emission control strategy for heavy-duty diesel applications is still under research and development and is not commercially available for application on heavy duty diesel engines at this time. Further, CARB has not verified emission reductions associated with SCR on heavy-duty engines. Until this occurs, the emission reductions associated with the use of this technology are uncertain and SCR for construction equipment is not considered to be feasible mitigation under CEQA. Additionally, the potential hazard impacts associated with such mitigation would need to be considered.

Emission offsets are required for new and modified permitted emission sources by SCAQMD Regulation XIII and/or Regulation XX. Emission offsets are required for all emission increases associated with stationary sources, thus minimizing the impacts associated with emissions from stationary sources. Per the requirements of SCAQMD Rule 1304(c)(4), offsets are not required for projects that are needed to comply with state or federal regulations provided that there is no increase in rating. The reformulated fuels projects are required to comply with state reformulated fuels requirements. Therefore, emission offsets are not required for the reformulated fuels projects identified in this SEIR, as long as there is no increase in the crude capacity of the Refinery. As indicated in the SEIR, no increase in the crude capacity at the Refinery is associated with the proposed project.

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. See Response 6-3 for further details regarding the SCAQMD's authority to regulate mobile sources.

Response 7-54

As indicated in the Final SEIR (page 4-31), the fugitive components will be required to be included in an inspection and maintenance program, as required by SCAQMD Rule 1173, to ensure that the equipment is properly maintained. Violations of SCAQMD rules and regulations are subject to penalties as outlined in SCAQMD Regulation VII. See also Response 7-18.

Response 7-55

The Refinery currently operates a number of air monitoring devices including continuous emission monitors on heaters and boilers. Source testing is also routinely required for refinery combustion sources. The predominant source of emissions from the proposed project is from fugitive components (valves, pumps, flanges, and drains) and indirect emission sources (railcars and trucks) associated with transportation activities. VOC emissions from fugitive components are or will be (for new components) included and monitored as part of the existing inspection and maintenance program. The project emissions on toxic air contaminants were less than significant so no mitigation measures are required for toxic air contaminants. Other forms of continuous monitoring on fugitive components are not feasible. During operation, no other stationary source of criteria pollutants exceed the significance thresholds, so no mitigation measures which would include monitoring are required.

Response 7-56

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 Mobil Final EIR, 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. The Final SEIR has been revised to include more detailed information on the SCAQMD's authority to regulate mobile sources (see Final SEIR, Chapter 4, Section A – Air Quality).

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.

Based on the above there are no other feasible mitigation measures to minimize or eliminate the significant emissions from marine vessels associated with the proposed project.

The proposed project is not expected to result in an increase in the marine loading emissions as materials are not expected to be loaded onto marine vessels. Rather petroleum products will be unloaded from marine vessels, which only generates emissions at the storage tanks. The storage tanks have been modified to included the installation of internal floating roofs (i.e, BACT), so that the emissions are controlled to the maximum extent feasible.

Response 7-57

The SEIR included the impact of marine terminal operations on air quality (see Final SEIR, Chapter 4.0, Section A – Air Quality pages 4-2 through 4-59), water quality (see Final SEIR,

Chapter 4.0, Section D – Hydrology/Water Quality, pages 4-75 through 4-83), transportation, (see Final SEIR, Chapter 4.0, Section H – Transportation/Circulation, pages 4-92 through 4-97), and hazards (see Final SEIR, Chapter 4.0, Section C- Hazards and Hazardous Materials, pages 4-65 through 4-74 and Volume III). See also Responses 7-5, 7-24, 7-25, and 7-26 for a discussion of the analysis of hazard impacts from the proposed project included in the SEIR.

The proposed project is not expected to result in an increase in hazards associated with the unloading of materials at the marine terminal because gasoline blending components are currently transported into the port and through the marine terminal for use at the refinery. The proposed project will only result in an increase in the number of ships that visit the port, not a change in hazards associated with those vessels. No significant hazard impacts were associated with the marine terminal activities so there is no need to evaluate alternative locations. Further, Public Resources Code §21178(g) exempts projects that will enable the production of CARB Phase 3 compliant fuels from the requirements of analyzing a no project alternative and alternative sites. The proposed project will allow the production of CARB Phase 3 compliant fuels so that the SEIR does not need to evaluate alternative locations. Also, note that the Port of Los Angeles has reduced the size of virtually all of the petroleum marine terminals within the port and is using the land for alternate cargo. Therefore, the feasibility of finding alternative locations for the marine terminal is considered remote.

Response 7-58

The impacts associated with solid/hazardous waste are addressed in Chapter 4, Section G – Solid/Hazardous Waste. As indicated in the Final SEIR, solid waste generated at the Refinery, Tank Farms and Marine Terminal are generally from administrative offices. The proposed project is expected to result in an increase in administrative staff of eight workers at the Tank Farms which is not expected to substantially increase the amount of solid waste generated by the proposed project.

The proposed project is not expected to increase the hazardous waste generated by the Refinery processing, Tank Farm or Marine Terminal activities. The proposed project is not expected to change the refining process and only minor changes to refinery units are expected. The waste streams generated by the Refinery, Tank Farms, and Marine terminal are not expected to be affected. Therefore, the impact of the proposed project on hazardous waste facilities is expected to be less than significant.

Response 7-59

The project impacts during construction and operation on transportation/traffic were addressed in the SEIR (see Final EIR, Chapter 4, Section H – Transportation/Traffic, page 4-92, and Appendix C). The conclusion of the level of service analysis was that the proposed project would not result in significant transportation/traffic impacts during either the construction or operational phases so that mitigation measures are not required.

The proposed project is consistent with the various transportation plans because its impact on traffic is minimal and less than significant.

Response 7-60

The impacts associated with the ship traffic were included in the Final SEIR (see page 4-96). As stated in the SEIR, the proposed project is expected to increase the number of tanker calls to the Port by about 65 ships per year. On any one day there will be no increase in marine vessel traffic within the port because only one ship can dock at the terminal at a time. There will continue to be a maximum of one ship in the port per day associated with the Ultramar facilities. Therefore, no significant adverse impact to the Long Beach/Los Angeles Harbor system is expected.

Response 7-61

CEQA Guidelines §15040(b) states, "CEQA does not grant an agency new powers independent of the powers granted to the agency by other laws." The SCAQMD has no authority to control marine vessel emissions, i.e., combustion emissions from the engines that propel the vessel. As a result, the SCAQMD has no authority to require a mitigation measure to control emissions from these sources. Further, since neither the SCAQMD nor Ultramar own and control off road marine sources, the SCAQMD cannot require these sources be retrofit or their engines replaced.

There are some local marine vessels that have been voluntarily repowered. As noted in Response 7-56, the SCAQMD has developed a protocol for generating NOx credits from marine vessels (Rule 1631). Marine retrofit or repowering projects, however, are all voluntary projects. 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, i.e., combustion emissions from the engines that propel the vessel.

The SCAQMD is not relying on the Mobil EIR as the CEQA document for the proposed project, rather the SCAQMD is documenting that a thorough analysis of this issue was conducted therein. The SEIR cites and summarizes that analysis pursuant to CEQA Guidelines §15148. The Mobil Final EIR (SCAQMD, 1998) concluded that 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. 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 they have a tendency to increase emissions (see Finale SEIR Chapter 4, Section A – Air Quality). 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 visits during first or second stage smog alerts; imposing fuel specifications; and reducing 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.

The SCAQMD's Rule 1142 does not regulate combustion emissions from marine vessel engines used to propel the vessel. Rather Rule 1142 regulates the fugitive VOC emissions associated with the loading of marine vessels. All marine terminals that transfer petroleum products are subject to the requirements of SCAQMD Rule 1142, including Ultramar. The proposed project will not result in an increase in product loaded onto vessels or a related increase in VOC emissions associated with vessel loading at the marine terminal.

The SCAQMD's District Counsel reviewed similar comments made on this issue on the previous EIR, reviewed the Draft SEIR before it was released, and reviewed these responses to comments prior to their release. The SEIR and the response to comments received on this letter reflects the opinion of the SCAQMD's District Counsel.

Response 7-62

The comment is incorrect with regard to impacts associated with soil contamination. Existing laws and regulations address the discovery and remediation of contaminated sites, including the discovery of such sites during construction activities. Existing laws require health and safety plans, working training, and various other activities which serve to protection workers from exposure to contamination, including 29 CFR Part 1910.120, Hazardous Waste Operations and Emergency Response (Fed-OSHA, HAZWOPER); CCR 5192, Hazardous Waste Operations and Emergency Response (Cal-OSHA, HAZWOPER); and SCAQMD Rule 1166, Volatile Organic Compound (VOC) Emissions from Decontamination of Soil.

All contamination does not need to be remediated, only contamination that exceeds certain concentrations. Monitoring required under SCAQMD Rule 1166 can help detect VOC contamination that exceeds 50 ppmv. The hazardous waste regulations in Title 22 of the CCR establish requirements for hazardous waste handling, transport and disposal. These requirements apply to all contamination, whether it is discovered as part of construction or some other activities.

The presence of soil contamination will be determined through routine monitoring as required by SCAQMD Rule 1166. If contamination is discovered, the health and safety plan will be developed that specifically requires the use of employees trained in hazardous material/waste procedures, personnel protective clothing, and so forth that minimize employee exposure.

It should also be noted that, at this time, there is no known soil contamination that will be encountered within the Refinery, terminals, or along the pipeline route. As a conservative analysis for purposes of the SEIR, it was assumed that 10 percent of the soil handled would be contaminated and properly disposed of or treated onsite.

No significant impacts related to soil contamination were expected, therefore, no mitigation measures are required for soil contamination.

Response 7-63

The comment is stating sections of the CEQA statutes and guidelines and does not specifically criticize or ask questions regarding the Draft SEIR. The SCAQMD is fully aware of all relevant CEQA requirements relative to mitigating significant adverse impacts. The Draft SEIR identified several environmental resource areas where there was the potential for significant adverse impacts including air quality and hazards. In both cases, mitigation measures were imposed or the reasons that they could not be imposed were evaluated in the SEIR (see Final SEIR pages 4-28 through 4-56 for air quality mitigation measures and pages 4-73 through 4-74 for hazard mitigation measures). Thus, the SEIR has complied with the CEQA requirements for mitigation (CEQA Guidelines §15126.4). Also see responses 7-56 and 7-61 regarding the authority to mitigate emissions from marine vessels and railcars. The commentator is referred to Response 7-48 through 7-53 regarding discussion of specific types of mitigation measures.

Response 7-64

The comment is stating sections from CEQA court cases and does not specifically criticize or ask questions regarding the SEIR. Refer, however, to Response 7-65 regarding the commentator's opinion that the SEIR for the proposed project defers mitigation.

Response 7-65

Mitigation Measure A-7 recognizes that extensive research on the control of emissions from mobile sources is currently on-going. The SCAQMD is encouraging the use of all air pollution control technologies that have been demonstrated to be effective and not result in increased emissions (e.g., through increase fuel use or reduced efficiency of the engine). The demonstration of the effectiveness of various technologies is through the U.S. EPA's or CARB's certification process. The agencies have established programs that require and verify testing data from manufacturers to assure that use of the technologies will generate air quality benefits. These controls must be verified by CARB to ensure that real emission reductions are attained through their use. For example, two particulate traps have been verified by CARB for use on specified on-road engine models. Due to differences in the engines between on-road and off-road engines, CARB will need to verify that the particulate traps also are effective in controlling emissions from off-road engines before they can be considered feasible mitigation. Currently, there are few options to control the emissions from off-road heavy diesel engines and the retrofit technologies are not considered to be feasible at this time. Therefore, this mitigation measure has been imposed to require the applicant to use new technologies that may become available prior to the start of the construction phase of the proposed project. The SEIR assumes that the technology will not be available and that the construction emissions will remain significant (see SEIR Table 4-16). However, should any applicable control technologies be certified prior to the beginning of the construction phase, they will be required to be used. Mitigation Measure A-7 does not defer mitigation, as suggested in the comment, but allows for the further control of air emissions, should additional controls become available in the future.

Response 7-66

The specific locations of abandoned wells have not been identified. Sufficient requirements have been imposed by other agencies (including the Department of Conservation Division of Oil, Gas and Geothermal Resources) that requires all accessible abandoned wells within 10 feet of construction activities be tested for oil or gas leakage, and re-abandoned, as required by the Department of Conservation. No significant impacts were identified or expected since existing rules and regulations have been imposed to minimize impacts of the proposed project on abandoned wells.

Response 7-67

The mitigation measures for the cumulative air quality impacts are discussed in the Final SEIR pages 5-30 through 5-32. The mitigation measures to minimize emissions associated with operation of the related projects include the use of BACT for all new emission sources and modifications to existing sources. The use of BACT would control localized emissions. A BACT review will be completed during the SCAQMD permit approval process for all new/modified sources. In addition, the related refinery projects would provide regional emission benefits by reducing emissions from mobile sources that use the reformulated fuels.

Response 7-68

The comment is incorrect. The cancer risk at the Ultramar Refinery, Olympic Tank Farm, Marine Tank Farm and Marine Terminal for both the project scenario and the cumulative operational scenario is less than significant. Therefore, no mitigation measures are required (CEQA Guidelines §15126.4(a)(3)).

Response 7-69

The Final EIR will be revised to reflect the change or potential change in compliance dates for the phase-out of MTBE. Also, see Response 3-3. According to the Governor's Executive Order, the compliance date was delayed to assure a reliable gasoline supply in California. Although Governor Davis has extended the date one-year for MTBE phase-out, 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 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 currently expected to be adopted by the CARB. The petroleum industry wants to eliminate MTBE as expeditiously as possible to remove a potential source of ground water contamination. 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 required phase-out date.

Response 7-70

See Response 7-69. No change in the construction schedule is expected, i.e., construction activities are expected to occur as soon as all permits have been secured. Ultramar is continuing to try to eliminate MTBE by December 31, 2002, but its ability to do so may be impacted by delays in completing and certifying the CEQA document and receiving permits. Most of the petroleum industry is trying to eliminate MTBE by December 31, 2002 and some refiners (e.g., BP and Phillips) have indicated that they will remove MTBE by the original date. However, some refiners have not received all necessary permits so that there may be a delay in meeting the December 31, 2002 date. Governor Davis proposed the extension because of concerns that a sufficient supply of gasoline (with ethanol) would not be available by December 31, 2002.

Response 7-71

As indicated on page 2-9 of the Final SEIR, "Neither the previously analyzed CARB Phase 3 project at the Ultramar Refinery nor the currently proposed project will increase the Refinery's crude throughput capacity." See also Response 7-19.

Response 7-72

The proposed project will not increase the processing of distillates at the Ultramar Refinery. In order to process additional distillates or make additional distillates, modifications would be required to various refinery units to increase their capacities. Currently, only minor modifications have been proposed to Refinery units to comply with the CARB Phase 3 requirements (e.g., modifications so that propane, butane and pentane can be removed to control the vapor pressure of the gasoline blend). The proposed project would eliminate the use of MTBE as an oxygenate and replace it with ethanol. Currently, MTBE accounts for about 10 percent of the gasoline supply. Additional gasoline blending components (including alkylate and isooctane) are proposed to be transported to the marine terminal to partially make up for the loss in gasoline volume associated with the removal of MTBE.

Response 7-73

The proposed project will not increase the maximum capacity of the refinery to process distillates.

Response 7-74

The text in the Draft SEIR should have read that the proposed project is expected to result in an increase of 120 trucks per day within the South Coast Air Basin. However, the Final EIR has been revised to indicate that, based on more detailed project information, no increase in gasoline production is expected so no increase in truck traffic associated with gasoline transportation is expected.

Response 7-75

This comment is not related to the environmental analysis in the SEIR. However, the RMP referred to on page 2-23 has been prepared for the existing refinery. As discussed on page 4-74 of the Final SEIR, the existing RMP will need to be reviewed and revised to include the propane/propylene storage vessels. The revisions to the RMP are required within six months of operation of the new storage vessels.

CEQA does not include any provisions requiring a new RMP or revisions to an existing RMP to be included in a CEQA document. However, the hazards analysis included as part of the SEIR (including Volume III of the SEIR) evaluates the hazards associated with the proposed project. The RMP contains similar information. Therefore, the information requested in this comment has already been provided and circulated to the public.

Response 7-76

This comment is not related to the environmental analysis in the SEIR. However, an Emergency Response Plan, a Fire Prevention Plan and a Process Hazards Safety Review have already been prepared for the existing facilities, where applicable. The Emergency Response Plan and Fire Prevention Plans will be reviewed but no major modifications to these documents are expected to be required.

CEQA does not include any provisions requiring that a PSM review be included in a CEQA document. However, as discussed on page 4-74 of the Final SEIR, a PSM is required as part of the proposed project. The PSM must be completed prior to operation of the new equipment. The hazard analysis included as part of the SEIR (including Volume III of the SEIR) evaluates the hazards associated with the proposed project. The PSM will include similar information, although some of the information is more detailed and may contain confidential material. Public circulation of the information in a PSM is inappropriate and could lead to safety concerns at the refinery (e.g., terrorist concerns).

Response 7-77

This comment is not related to the environmental analysis in the SEIR. However, the Title V permit is currently under review by the SCAQMD. Based on the SCAQMD's current schedule, the Title V permit is expected to be issued during the third quarter of 2002. Title V permitting is specifically exempt under CEQA (14 CCR §21080.24) which indicates that CEQA "does not apply to the issuance, modification, amendment, or renewal of any permit by an air pollution control district or air quality management district pursuant to Title V." Therefore, the Title V permit is not required to be coordinated with the CARB Phase 3 EIR.

Response 7-78

Based on the health risk assessment for the proposed project and the cumulative project, Proposition 65 notice is not required because the health risk at all facilities is below the public notification levels (e.g., less than 10 per million cancer risk). However, in order to provide full

public disclosure, Ultramar provides public notification in local newspapers under Proposition 65 on a quarterly basis for all its facilities and will continue to do so.

Response 7-79

This comment is not related to the environmental analysis in the SEIR. Transportation permits are only required to transport overweight, oversized and wide loads on state highways. The need to transport such equipment has not been identified and is not expected to be required so that no permit applications have been submitted or are expected to be required.

Response 7-80

This comment is not related to the environmental analysis in the SEIR. Ultramar has submitted applications to the California Coastal Commission for the CARB Phase 3 project. It is expected that a Coastal Development Permit will not be required and that a de minimus waiver will be issued. The SEIR has included the environmental review for the Coastal Development permit. The decision from the California Coastal Commission is not expected to be finalized until after the SEIR is certified.

Response 7-81

This comment is not related to the environmental analysis in the SEIR. Ultramar has not applied to the Port of Los Angeles for building permits related to the proposed project. A building permit will not be submitted until the SEIR is certified. Note that the building permit process is not considered to be a discretionary action or review so it is exempted under CEQA. Therefore, the timing for this permit is uncertain at this time.

Response 7-82

This comment is not related to the environmental analysis in the SEIR. Ultramar has not applied to the Port of Los Angeles for a grading permit related to the proposed project because no grading permit will be required for activities within the Port for the proposed project.

Response 7-83

This comment is not related to the environmental analysis in the SEIR. Ultramar has not applied to the Port of Los Angeles for a franchise permit related to the proposed project because no franchise permit will be required from the Port of Los Angeles for the proposed project.

Response 7-84

This comment is not related to the environmental analysis in the SEIR. Ultramar has not applied to the Port of Los Angeles for a plumbing or electrical permit related to the proposed project. No plumbing or electrical permits are required from the Port of Los Angeles for the proposed project.

Response 7-85

This comment is not related to the environmental analysis in the SEIR. Ultramar already has submitted a hazardous materials business plan to the Port of Los Angeles. The business plan is a reporting requirement and not subject to a discretionary action under CEQA so the SEIR is not used as the environmental review document for this process. The hazardous materials business plan must be updated, if necessary, within 180 days after completion of the proposed project.

Response 7-86

This comment is not related to the environmental analysis in the SEIR. Ultramar has not applied to Cal OSHA for construction related permits for this project. It is expected that a Cal OSHA permit will be required for construction of the pipeline. The timing for submittal of this permit will be after the certification of the SEIR and is expected to be in December 2002. The Cal OSHA permits are not subject to a discretionary action under CEQA so the SEIR is not used as the environmental review document for this process.

Response 7-87

As indicated on pages 3-39 and 3-40 of the Final SEIR, the Refinery has an existing Industrial Wastewater Discharge Permit for the Refinery and Marine Tank Farm. As indicated on page 4-53 of the Final SEIR, "the proposed project is not expected to result in an increase in wastewater discharged from the Refinery, Marine Tank Farm, or Olympic Tank Farm since there are no new units that would generate additional wastewater discharge." Therefore, no modifications or changes are expected to be required to the LACSD permits.

Response 7-88

This comment is not related to the environmental analysis in the SEIR. The Los Angeles Department of Water and Power owned the Olympic Tank Farm and Marine Tank Farm in 1999, 2000 and 2001.

The Los Angeles Department of Water and Power operated the Olympic Tank Farm and Marine Tank Farm in 1999, 2000 and through June 2001.

Response 7-89

This comment is not related to the environmental analysis in the SEIR. The Los Angeles Department of Water and Power continues to own the Olympic and Marine Tank Farms. Ultramar took over a lease from the Los Angeles Department of Water and Power and began operating the Olympic and Marine Tank Farms in July 2001.

Response 7-90

This comment is not related to the environmental analysis in the SEIR. The lease between Ultramar and the Port expired in January 2002. Ultramar is currently negotiating with the Port to

extend the lease to allow for the smooth transition of closing the terminal and finalizing the demolition and remediation of the terminal, as necessary.

Response 7-91

Ground water monitoring was conducted as part of property transactions at the Marine and Olympic Tank Farm, prior to Ultramar taking over a lease from the Los Angeles Department of Water and Power. Ground water samples were taken from the site and tested for volatile organic compounds and heavy metals. No evidence of ground water contamination was observed at the Marine or Olympic Tank Farm.

Response 7-92

This comment is not related to the environmental analysis in the SEIR. However, Ultramar has not released the contractor bids for all portions of the proposed project. Therefore, the cost of the project is not known. Further, the cost of the project is irrelevant to the EIR. Based on costs estimates from the CARB, capital improvement costs at all refineries in California are estimated to be about one billion dollars; capital expenditures at pipeline terminals and ethanol off-loading sites for the handling, storage and blending of ethanol is about $60 million; and additional increased costs, beyond those currently experienced for MTBE, are expected to import ethanol, gasoline, and gasoline blend stocks.

Response 7-93

As indicated on page 4-17 of the Final SEIR, "Proposed projects that are consistent with the local General Plans are consistent with the air quality related regional plans. The proposed project is considered to be consistent with the air quality related regional plans since it is consistent with the City of Los Angeles' General Plan." See Response 7-95 for additional information regarding why the proposed project is consistent with the AQMP. The proposed project is to produce gasoline in compliance with CARB Phase 3 requirements. These requirements have been included as part of the State Implementation Plan (SIP); therefore, the proposed project is consistent with the SIP.

Response 7-94

As indicated in Chapter 4 – Section E, Land Use/Planning, the proposed project is consistent with the Los Angeles General Plan (including the Wilmington-Harbor City Community Plan). The Refinery, marine terminal and storage tank farms are all within existing industrial zoned areas. Heavy industrial land uses would be the only land uses compatible with the surrounding areas. The proposed project is consistent with the Los Angeles General Plan. See also Response 7-9.

Response 7-95

As indicated on page 4-17 of the Final EIR, "The proposed project is considered to be consistent with the air quality related regional plans (including the AQMP). The 1991 AQMP specifically included control measure ARB-6-New Gasoline Specifications, Phase 2 Reformulated Gasoline. CARB adopted regulations implementing control measure ARB-6 in 1991, which became effective

in 1996. Projects undertaken to comply with AQMP control measures are considered to be consistent with AQMP.

In December, 1999, CARB adopted new gasoline specifications, CARB Phase 3, prohibiting the use of MTBE as an oxygenate, while establishing more stringent standards for sulfur and benzene content in gasoline. CARB Phase 3 contributes to further emission reductions from gasoline combustion in on-road vehicles beyond those obtained from control measure ARB-6. Because CARB Phase 3 reformulated gasoline projects contribute to further emission reductions from on-road sources beyond those obtained from 1991 AQMP control measure ARB-6, they are considered consistent with the AQMP.

Response 7-96

As noted in Response 7-58, Public Resources Code §21178(g) exempts projects that enable the production of CARB Phase 3 compliant fuels. In spite of this exemption, Chapter 6 - Project Alternatives in the Draft and Final SEIR discussed potential alternative locations for the storage of petroleum products. All alternatives would result in significant impacts to air quality and hazards. As indicated in the Final SEIR, no feasible alternatives were identified that would reduce the air quality or hazard impacts to less than significant.

Further, the California Energy Commission (CEC) prepared a report which states that tank storage for clean products and product blending, which is currently already severely constrained in the Los Angeles Basin, will be reduced by 10 to 15% over the next seven years due to the need to comply with new air quality regulations to obtain emission reductions. The phase-out of MTBE has created the need to keep more different product in segregated storage, which ultimately limits the effectiveness of tank usage and contributes to infrastructure restrictions. The issue is further complicated by the need to provide a separate tank for each product throughout the distribution system. Some MTBE tanks will be useful for the alternative materials, but the tankage system does not have the capacity or the additional number of spare tanks to meet the requirements of so many new streams. Especially in the Los Angeles Basin, tank space for all products from crude oil to clean, is currently extremely difficult to find, and refiners are forced to lease tank space (California Energy Commission, MTBE Phase Out in California, March 2002, P600-002-008CR). As a result, alternative tank farm sites are, generally, unavailable.

Response 7-97

See Responses 7-58 and 7-96 regarding alternative locations for storage of petroleum products. The proposed project will modernize existing tank farms, which will result in safer, less polluting storage tanks at the proposed project site. No storage tanks will be located outside of the existing storage tank farm boundaries. The proposed project will not place storage tanks any closer to residential areas than currently exist. (Note: even without the proposed project storage tanks will continue to be located at the Olympic and Marine Tank Farms.) The modifications to the tank farms include replacing old tanks, building new tanks, installing Best Available Control Technology on tanks that include internal floating roof tanks, and installing leak detection systems.

Response 7-98

See Responses 7-58, 7-96 and 7-97 regarding alternative locations for storage tanks.

Response 7-99

The project at the Marine Terminal is part of the Port's overall redevelopment plan which includes remediation and clean up of contamination found at the site. According to the Port, it is likely that the Regional Water Quality Control Board would be the agency responsible for site remediation due to its jurisdictional authority over projects with potential groundwater contamination. Except for enforcement of Rule 1166 – Volatile Organic Compound Emissions from Decontamination of Soil, the SCAQMD has no approval authority over site remediation projects. Further, because it has primary approval authority over projects at the Marine Terminal, the Port, which is the appropriate lead agency under CEQA, has indicated that it is in the process of preparing an EIR for the revdevelopment plan, which will include site remediation impacts as well as reuse of the Ultramar site and adjacent terminals as a general cargo terminal. With regard to the CEQA document, the Port is currently preparing the initial study for the project.

Response 7-100

This comment is not related to the environmental analysis in the SEIR. The timeline for the dismantling and remediation of the Ultramar's Marine Terminal has not yet been established. The timing for the closure of the Marine Terminal is currently being negotiated with the Port of Los Angeles and is not yet finalized.

Response 7-101

The comment regarding piecemealing is incorrect. There are two clear and distinct projects that are unrelated, i.e., one does not rely on the other: (1) compliance with the CARB Phase 3 requirements for which the SCAQMD is the lead agency and which involves a number of facilities; and (2) dismantling, remediation and redevelopment of the Marine Terminal for which the Port of Los Angeles is the lead agency. The CARB Phase 3 project has statutory requirements for compliance. Negotiations are currently going on between the Port of Los Angeles and Ultramar regarding the dismantling and remediation of the Marine Terminal.

The project at the Marine Terminal is part of the Port's overall redevelopment plan which includes remediation and clean up of contamination found at the site. According to the Port, it is likely that the Regional Water Quality Control Board would be the agency responsible for site remediation due to its jurisdictional authority over projects with potential groundwater contamination. Except for enforcement of Rule 1166 – Volatile Organic Compound Emissions from Decontamination of Soil, the SCAQMD has no approval authority over site remediation projects. Further, because it has primary approval authority over projects at the Marine Terminal, the Port, which is the appropriate lead agency under CEQA, has indicated that it is in the process of preparing an EIR for the revdevelopment plan, which will include site remediation impacts as well as reuse of the Ultramar site and adjacent terminals as a general cargo terminal. With regard to the CEQA document, the Port is currently preparing the initial study for the project. Ultramar could not wait until all issues were worked out with the Port before going forward with the CARB Phase 3 project

because of the state mandated requirements to phase-out MTBE in gasoline no later than December 31, 2003. Therefore, the Port may need to consider the CARB Phase 3 project as a cumulative project, when and if a CEQA document is prepared for the dismantling, remediation and reuse of the Ultramar Marine Terminal.

Response 7-102

The SCAQMD CEQA Air Quality Handbook (SCAQMD 1993) defines the environmental baseline as the emissions that have occurred over the previous two years. The use of the last two years of emissions data as the environmental baseline is consistent with SCAQMD policy.

Response 7-103

The proposed project is required to comply with the Department of Conservation Division of Oil, Gas and Geothermal Resources requirements with respect to plugging and abandoned wells, as indicated on page 4-60 of the Final SEIR. Therefore, the proposed project is expected to be consistent with the Division of Oil and Gas requirements.

Response 7-104

The comment regarding CEQA §21002.1(c) is incorrect and has been misquoted. CEQA §21002.1(c) indicates the following:

> "If economic, social, or other conditions make it infeasible to mitigate one or more significant effects on the environment of a project, the project may nonetheless be carried out or approved at the discretion of a public agency if the project is otherwise permissible under applicable laws and regulations."

The proposed project is needed to comply with state mandated CARB Phase 3 reformulated gasoline requirements. As addressed in the various responses to comments, the proposed project is expected to comply with applicable rules and regulations. Further, the commentator has not cited any specific laws or regulations with which the proposed project is, in fact, not in compliance.

Response 7-105

The EIR has addressed the impacts associated with the potential exposure to all populations (regardless of race or economic status) near the Refinery, Marine Terminal and tank farms including sensitive populations, residents and workers. The proposed project is not expected to result in a significant increase or change in the population of the areas surrounding the Refinery, and the impact on population is considered less than significant (see the NOP for a further discussion). The comment references state policies on environmental justice. While those policies do not control CEQA review, it is instructive to note that in a 1998 decision, U.S. EPA's Office of Civil Right's held that if a facility does not cause an adverse impact, it cannot be found to have a disproportionate impact on disadvantaged communities or communities of color (Select Steel, 1998). There are no requirements to analyze environmental justice as a separate issue in the CEQA process, as explained in the responses to the NOP.

The comment compares the project with proposals for placing new facilities in disadvantaged communities. This is not a valid comparison because the facilities associated with the proposed project are existing facilities that have maintained operations over a long period during which the character of the community around it has changed. The proposed project is to modify an existing Refinery and terminals that have been located at their current sites for over 30 years and not the siting of new refineries or terminals. Therefore, there has been no discrimination in the selection of the project locations. Additionally, the Wilmington area has not been singled out for this project as reformulated fuels projects have been undertaken wherever existing refineries and terminals are located (including, the cities of Carson, Long Beach, Signal Hill, South Gate, Vernon, Orange, Colton, Rialto, Van Nuys, El Segundo, Los Angeles, and Torrance).

The impacts of the proposed project on toxic air contaminants were analyzed and concluded to be less than significant (see Chapter 4, Section A – Air Quality, pages 4-19 through 4-28 and Volume II). Further, as discussed on page 5-20 of the Final SEIR, the CARB Phase 3 compliant fuels are expected to result in a 7.2 percent reduction in potency-weighted emissions of toxic air contaminants from mobile sources using the fuel providing additional emissions benefits. Therefore, the proposed project is expected to reduce cancer risk from mobile sources that use the CARB Phase 3 fuel.

The proposed project will allow Ultramar to comply with CARB's Phase 3 Reformulated Fuels requirement. These requirements will reduce motor vehicle emissions of hydrocarbons by about one-half ton per day, NOx by about 19 tons per day, and toxics by 7.2%. While exact impacts have not been calculated, it is expected that a roughly proportional reduction in motor vehicle emissions will occur in the Wilmington area. Since significant reductions in mobile source emissions are essential to attain ozone and PM10 standards, this project will contribute to air quality benefits in Wilmington and throughout the region.

The commenter asserts that the EIR must discuss how communities of color, such as Latino communities living near the Refinery, are disproportionately impacted by environmental hazards. CEQA does not contain a requirement for a discussion of impacts on specific groups. However, that does not mean the SCAQMD is failing to address environmental justice issues. CEQA does contain a requirement to adopt all feasible mitigation measures to reduce any significant impact on the environment, including air quality and human health, regardless of who is impacted. The SCAQMD will require all feasible mitigation measures. Also, under CEQA the SCAQMD may not approve any project with significant adverse impacts unless it makes a finding that specific overriding considerations justify approval of the project. These requirements parallel the requirements under Title VI of the Civil Rights Act to address environmental justice concerns.

In addition, the SCAQMD has demonstrated its commitment to environmental justice by adopting a comprehensive program of measures to reduce adverse environmental justice impacts. The original 10 environmental justice initiatives, adopted in 1997, have been completed or are ongoing. These include: Town Hall Meetings, ambient monitoring of air toxics, community response teams, expanded CEQA commenting, an Environmental Justice Task Force, participating in a City of Los Angeles Environmental Justice Forum, providing incentives for early clean-up or removal of diesel engines, improved field inspection technology, portable equipment guidelines to protect sensitive

receptors, and amending air toxic control rules, Rules 1402 and 1402, to further reduce toxic emissions.

Beyond these original 10 initiatives, the SCAQMD has adopted a number of additional measures which reduce emissions in areas impacted by air toxics. An outgrowth of the SCAQMD's Multiple Air Toxics Exposure Study (MATES-II) conducted in 1998-1999 was a landmark series of fleet rules requiring alternative fuel vehicles to replace diesel vehicles in many public fleets, including transit and school buses. Also, the SCAQMD adopted a rule to significantly reduce the sulfur content of diesel fuel.

Similarly, in March 2000, the SCAQMD adopted an Air Toxics Control Plan designed to achieve an additional 50% reduction from today's levels in air toxics exposure, including measures for source-specific rules. The SCAQMD has also adopted measures to specifically reduce risks in the port areas. These include Rule 1158 amendments to prohibit open storage of petroleum coke, and a large number of incentive grants to reduce diesel emissions from marine vessels in the ports. Some incentive programs, including the Carl Moyer program for diesel clean-up, are required to target funds to areas having the highest exposure to pollutant concentrations, including low income populations and communities of color, or both. The SCAQMD has voluntarily incorporated this concept into other incentive programs. The SCAQMD has also adopted a program of extensive targeted outreach toward ethnic communities in the basin, designed to insure these communities are adequately informed and know how to make their voices heard.

This July, SCAQMD staff has proposed a series of further enhancements to the SCAQMD's environmental justice programs. Some of these measures are specifically targeted to benefit the areas affected by this project (see Response 44-2 for more details on the environmental justice initiatives). In particular, staff proposes development of a low-emission and clean-equipment control measure for the category of off-road intermodal equipment, such as that operated at ports and large distribution centers, including off-road diesel equipment. This measure will further reduce diesel emissions in the port. Similarly, the SCAQMD staff has proposed adoption of a rule to require the use of modified HF or alternative processes that eliminate the use of concentrated HF. Ultramar is the only Refinery still using concentrated HF and will be directly required by this rule to reduce the risk posed to the community of accidental toxic exposure.

Thus, the SCAQMD is actively pursuing a myriad of measures to reduce risks, some of which are specifically targeted at the areas affected by the Ultramar project, and is fully committed to implementing concrete measures to address environmental justice concerns. In discussing how to reduce disparate impacts, U.S. EPA has stated, "Efforts that focus on all contributions to the disparate impact, not just the permit at issue, will likely yield the most effective long-term solutions." (65 Fed.Reg. at 29662, June 27, 2000.) The SCAQMD is carrying out an aggressive program of controls for all sources within the SCAQMD's jurisdiction that contribute to air quality concerns in the affected area as well as a comprehensive program of environmental justice measures, consistent with U.S. EPA's recommendation.

Response 7-106

Public notice of the proposed project was provided per the requirements of the California Environmental Quality Act (CEQA). 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 SEIR. CEQA does not require that the documents be translated into Spanish. Note that several comment letters were received in Spanish during the public comment period. Responses to the Spanish comment letters were prepared in both Spanish and English (see Response to Comment letter No. 8).

With regard to the June 20, 2002 public meeting on the CEQA document, for the proposed project held in the Wilmington Community, notices about the meeting were distributed in Spanish and English. Further, the SCAQMD arranged for a Spanish translator to be present at the public meeting.

At its July 12, 2002 meeting, the SCAQMD Governing Board released its Proposed Enhancements to the SCAQMD's Environmental Justice Program for review and comment by the public. Enhancement II-15 describes the SCAQMD's commitment to increase the involvement of minority communities in SCAQMD town hall or other meetings by making "further efforts to translate pertinent public notices into multiple languages, as applicable, to the cultural and ethnic populations of individual neighborhoods and communities." At this time, Enhancement II-15 does not apply to complex technical documents, such as CEQA documents.

Response 7-107

See Response 7-106 with respect to public notice.

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.

Response 7-108

The SCAQMD strongly disagrees with the commentator's opinion that the Draft SEIR is inadequate and should be re-done and re-circulated. Based on comments received on the Draft SEIR, minor revisions have been made in the Final SEIR. As discussed in all of the previous Responses (Responses 7-1 through 7-107), those revisions did not constitute significant new information, result in impacts greater than those that were evaluated in the Draft SEIR, or constitute significant new information that would trigger recirculation of the Draft SEIR pursuant to CEQA Guidelines §15088.5. Therefore, the Draft SEIR does not need to be revised and re-circulated for public review.

Response 7-109

CBE is already on the SCAQMD's list of interested persons for this project and all other CEQA projects and has received all related notices associated with this project.

Response 7-110

In compliance with the CEQA Guidelines (§15088(a)), the SCAQMD as the lead agency will evaluate all comments on environmental issues received from persons who reviewed the Draft SEIR and will prepare written responses. Responses will be provided to the commentator.