

WILMINGTON COALITION

FOR A SAFE ENVIRONMENT

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April 22, 2002

SCAQMD
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Air Quality Management District
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Mr. Barry Wallerstein
Executive Officer

Ms. Kathy Stevens
Planning-CEQA

Reference: Ultramar, Inc. Wilmington Refinery
CARB Phase 3 Proposed Project
Draft Subsequent Environmental Impact Report
March 2002 SCH No. 2000061113

Subject: Opposition To Draft Subsequent Environmental Impact Report (DSEIR)
And Issuance Of Permit To ULTRAMAR, Inc.

The Wilmington Coalition For A Safe Environment has voted not to support the issuance of a permit to Ultramar, Inc. until the company have properly addressed and eliminated the negative environmental impact and negative health impact they are causing. We have asked our organization members and friends to write letters in opposition to Ultramar, Inc. project proposal.


9-1

The Wilmington Coalition has been at the forefront battle to protect the community of Wilmington and the public interests in environmental, economic, health, welfare and safety issues.

We are in opposition to the issuance of a permit for the following reasons:

1. SCAQMD & Ultramar failed to provide adequate Public Notification to the residents of Wilmington and the Los Angeles Harbor Area communities. One advertisement in the L.A. Times classified ads is not adequate when the local newspapers are the Wilmington Community News (Free Distribution), Random Lengths (Free Distribution), View From The Hill (Free Distribution), Daily Breeze. In addition, Wilmington is over 50% Spanish Speaking and the largest Spanish language paper is La Opinion. No press releases were sent to local newspapers to inform the public.

9-2

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2. SCAQMD & Ultramar did not hold a Public Hearing in Wilmington. The proposed project will have a significant negative environmental impact and negative health impact on the community of Wilmington. 9-3
 3. SCAQMD & Ultramar did not mail or distribute letters or brochures to all or a significant number of Wilmington residents. Nor was any information available in the Spanish language. 9-4
 4. SCAQMD & Ultramar did not send a liaison or community representative to Wilmington community organizations to inform the community of the project and its significant impact on the community. Nor any available in the Spanish language. 9-5
 5. SCAQMD & Ultramar failed to distribute copies of the 5 volume 1,000+ page DSEIR to Wilmington residents, Wilmington Library or any Wilmington community organization. The DSEIR is not available in the Spanish language when the community is 50% Spanish speaking. 9-6
 6. The DSEIR fails to adequately and completely address the negative environmental impact on Wilmington and the public. Data and sources referenced are outdated, incomplete and the significance inadequate emphasized. ie. There is no mention of the California Air Resources Board air quality test data which disclosed that there were 26 Carcinogenic Chemicals and 39 Toxic Chemicals found in Wilmington's air across the street from Wilmington Park Elementary School which is less than ½ mile from Ultramar, Inc.. 9-7
 7. SCAQMD & Ultramar failed to conduct any air quality studies in Wilmington or near Ultramar's various facilities. The air quality in Wilmington is getting worse every year and should not be referenced to any regional studies which show an improvement in air quality. 9-8
 8. The DSEIR failed to address the negative health impact on Wilmington and the public. Informal surveys conducted by the Wilmington Coalition has disclosed that over 20% of Wilmington's children are suffering from asthma, bronchitis, allergies or some form of respiratory problem when the family has no previous history of these problems. 9-9
 9. SCAQMD & Ultramar failed to conduct any health impact studies in Wilmington to determine the extent of any health impacts which exists which they may have contributed too. More than 1 person per million are dying of cancer in Wilmington. We are probably closer to ten times this number or more. 9-10
 10. Ultramar failed to adequately address and offer any significant Mediation for the negative environmental impact and negative health impact it is causing on the Wilmington and Los Angeles Harbor Area communities. 9-11
- We reserve the right to submit additional information when we have had ample time to review the DSEIR which we only received a copy as of last Thursday at 4:00pm. 9-12

We request that you not issue a permit to ULTRAMAR, INC. until all Negative Environmental Impacts and Negative Health Impacts on Wilmington have been properly assessed and addressed.

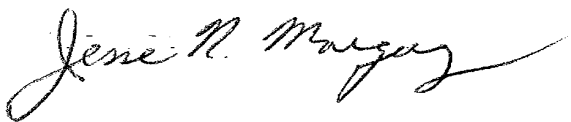
9-13

We request that you hold a Public Hearing in Wilmington within 60 days to allow the community an opportunity to be advised of the DSEIR and Ultramar Project Proposal and ask questions. We additionally ask for a 60 day extension for the Public Comment Period.

9-14

The Wilmington Coalition For A Safe Environment is a coalition of Wilmington residents, senior citizens, students, business owners, harbor area employees and friends.

Cordially,



Jesse N. Marquez
Chairman

COMMENT LETTER NO. 9
LETTER FROM WILMINGTON COALITION FOR A SAFE ENVIRONMENT

Jesse Marquez
April 22, 2002

Comment 9-1

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

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

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

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

Comment 9-2

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 an EIR.

Response 9-3

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.

See Response 9-1 regarding the proposed project impacts on health and safety.

Response 9-4

See Response 9-2 regarding public notice. Adequate public notice was provided under the CEQA requirements. CEQA does not require that the documents be translated into Spanish. With regard to the June 20, 2002 public meeting on the CEQA document, for the proposed project and the July 30, 2002 Townhall meeting held in the Wilmington Community, notices about the meetings were

distributed in Spanish and English. Further, the SCAQMD provided Spanish translation at both public meetings.

Response 9-5

See Response 9-2 regarding public notice. Adequate public notice was provided under the CEQA requirements. CEQA does not require that the documents be translated into Spanish.

Response 9-6

The comment is incorrect. Notification of the Draft SEIR was provided to Wilmington Community Organizations including Communities for a Better Environment and the Wilmington Homeowners Association. See Response 9-2 regarding public notice. Adequate public notice was provided under the CEQA requirements.

Response 9-7

The comment that the Draft SEIR fails to adequately address the negative impacts of the proposed project is inaccurate and not substantiated. No reference is provided for the “California Air Resources Board air quality test data . . .” so the additional information (if applicable) cannot be added to the Final SEIR. The SEIR included a discussion of the existing toxic air contaminant data and included recent ambient air quality data for toxic air contaminants completed by CARB in the area (see Table 2-4, page 3-7 through 3-9) and monitoring completed by the SCAQMD in the Wilmington area (see Final SEIR, page 3-8).

Note that the proposed project impacts on the Wilmington Park School, located about 0.5 mile north of the Refinery, were evaluated in the SEIR (see Volume II). The maximum cancer risk at the Wilmington Park School was estimated to be about 2 per million which is less than the 10 per million significance level, and therefore, less than significant. The cancer risk at the school is overly conservative as it is based on a 70-year continuous exposure period (i.e., assumes a residential exposure). Also, note that the dominant wind direction in the area is due east which blows air emissions from the Ultramar facilities away from the Wilmington area (see Final SEIR, Figure 5-3, page 5-26).

Response 9-8

The SEIR adequately described the local and regional existing air quality for the proposed project, as is required by CEQA (CEQA Guidelines §15125(a)). The regional air quality setting has been described in the SEIR based on data from air monitoring completed by the SCAQMD and CARB for various monitoring stations around the South Coast Air Basin for both criteria and toxic air contaminants. The local air quality setting is described in the SEIR (see Final SEIR, Chapter 3 – Section A, Air Quality) using the following: (1) the existing refinery emissions (based on annual emission fee data submitted for the last two years, see Table 3-3, page 3-6); (2) the criteria pollutant emissions data for the last five years of data from the closest monitoring station to the Ultramar facilities (see Table 3-2, page 3-5); (3) the existing toxic air contaminant emissions from the refinery (see Table 3-6, page 3-9 through 3-11); (4) air monitoring data for toxic air

contaminants conducted by CARB at the air monitoring station located closest to the Ultramar facilities (see Final, Table 3-4, page 3-7). (Note the closest monitoring station is in North Long Beach which is downwind from the Ultramar facilities). Monitoring stations located west of the Refinery would not be downwind from Ultramar facilities); and (5) air monitoring data for toxic air contaminants completed by the SCAQMD as part of the MATES II study (see Final SEIR, page 3-8). Based on the above, the Final SEIR adequately described the air quality setting for the proposed project. Note that the SCAQMD and CARB operate an extensive air monitoring network throughout the South Coast Air Basin to measure the ambient air quality and to determine compliance with ambient air quality standards.

The comment on the decline of air quality is incorrect. Ambient air quality data for the Long Beach area (the closest air quality monitoring station, which is downwind from the Wilmington area) are shown in Table 3-2 (page 3-5) of the Final SEIR. The data indicate that the concentration of criteria air pollutants in the area has been consistent or has shown a decrease in concentrations (e.g., carbon monoxide, nitrogen dioxide, and PM10). Further, the proposed project is to comply with the CARB Phase 3 reformulated fuel requirements. Compliance with these requirements is expected to result in a decrease in emissions associated with vehicles that use the fuel, including a decrease in toxic air contaminants, thus providing air quality benefits to the area.

The Basin has made substantial progress with regard to improving air quality since the 1950's, but the Basin still has a long way to go to meet all federal and California clean-air standards. Within the jurisdiction of the SCAQMD in Southern California, the ambient air quality standards are violated for smog or ozone, particulate matter (PM10), carbon monoxide, and there are dozens of air toxics that are in the air that the SCAQMD is concerned about, although the SCAQMD continues to make progress in improving air quality. The SCAQMD's job is to come forward with programs that will help clean the air. The SCAQMD hopes that by the year 2010 or shortly thereafter, residents will be able to have clean air in Southern California, but it is going to take that long. The SCAQMD wants to make sure that there is continued progress each year towards that goal. Also, see Response 44-9 regarding HF acid.

While the proposed project is expected to result in emission increases, the project also is expected to result in regional emission reductions (see Final SEIR, Table 5-3, page 5-20) associated with vehicles that use the reformulated fuels. The benefits of improved air quality were not included in the calculated emissions estimates because they occur over a wide area, not just in the vicinity of the proposed project. However, air quality benefits resulting from lower vehicle emissions will also accrue in the local area of the Refinery and terminals. Please note that a number of mitigation measures have been imposed on the construction phase of the proposed project (see Final SEIR, page 4-28).

All new and modified components are required to comply with the SCAQMD's best available control technology (BACT) requirements as part of the proposed project. 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 emission reductions for stationary sources through mitigation measures are not feasible, i.e., there is no other feasible control equipment. "Feasible" as used here is based on the definition contained in CEQA Guidelines §15364, which states "'Feasible' means capable of being accomplished in a

successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors.”

Further, the total emissions from the petroleum industry in southern California have been cut by 73 percent between 1979 and 2000 (WSPA, 2002). The 2001 ozone smog season in Southern California was the cleanest on record. For the third year in a row, there was no Stage 1 smog episode. SCAQMD records indicate that Southland smog levels have been steadily dropping since the late 1970s, with the number of Stage 1 episodes dropping from 121 in 1977 to zero since 1999. A Stage 1 episode is defined as occurring when ozone levels reach 0.20 parts per million.

Response 9-9

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

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 9-10

The comment that the “SCAQMD & Ultramar failed to conduct any health impacts studies in Wilmington to determine the extent of any health impacts which exists which they may have contributed too” is incorrect. See Response 9-9 regarding the Health Risk Assessment. Also note that the Final SEIR includes a Health Risk Assessment for the existing Ultramar facilities and a cumulative Health Risk Assessment for the Refinery, tank farms and terminal following all proposed modifications. The results of the HRA indicate that the health impacts associated with the existing Ultramar facilities, the proposed project, and the Ultramar facilities following modifications would be less than significant.

Also, note that the estimated cancer risk associated with the existing environment is discussed in the Final SEIR (see page 3-8), based on the results of the SCAQMD MATES II study and monitoring data collected by the CARB (see page 3-9).

Response 9-11

The SEIR includes a discussion of feasible mitigation measures for all resources where potentially significant impacts are identified (see Final SEIR, Chapter 4 – Environmental Impacts and Mitigation Measures). The commentator does not identify how “mediation” would be considered a feasible mitigation measure, i.e., how it could reduce significant impacts. Mediation would not be required under the requirements of CEQA because it would not provide mitigation of a potentially significant impact. Mediation would be outside of the CEQA process and the commentator should contact Ultramar directly to discuss this issue.

Response 9-12

The Draft SEIR was available for public review and the comment period exceeded the required 45-day public comment period. Please note that pursuant to Public Resources Code §21091(2)(4), a lead agency may respond to comments submitted after the close of the comment period, but it is not required to respond. The SCAQMD responded to all comments received on the Draft SEIR including those received after the close of the public comment period and those received at the June 20, 2002 public meeting. Further, as noted in the Draft SEIR, refineries must comply with the Governor’s Executive Order to phase-out MTBE and comply with the CARB Phase 3 reformulated fuel specifications. As a result, there is no guarantee that late comments can be considered.

Response 9-13

Comment is noted. The SCAQMD will assure that all aspects of CEQA and its rules and regulations have been addressed before certifying the SEIR or issuing any permits for the proposed project.

Response 9-14

See Response 9-3 regarding a public hearing. CEQA does not require that a public hearing be held as part of the public review period (CEQA Guidelines §15087); however, the SCAQMD held a public meeting on the proposed project on June 20, 2002. Further, a town hall meeting was held in Wilmington on July 31, 2002 to obtain additional input from the Wilmington community on air quality issues, including Ultramar’s proposed project, and the proposed environmental justice enhancements.

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

environmental problems associated with MTBE. Because Ultramar relies on third party distribution systems, it will be necessary for Ultramar to comply with the industry imposed phase-out date which may be different from the state imposed phase-out date.

The Ultramar Draft Supplemental SEIR document has been available for immediate public review and download from the SCAQMD's web site since March 8, 2002 (www.aqmd.gov/ceqa/documents/2002/nonaqmd/ultramar/draft/ultDEIR.html). Further, at a recent public meeting, you indicated that you were contacted by CBE and asked to provide comments on the Ultramar SEIR and/or permits. CBE was mailed a hard copy of the notice of availability on March 6, 2002 and the notice of availability was sent electronically to CBE's Oakland office on March 8, 2002. Consequently, you have been afforded the opportunity to obtain and review the Draft SEIR for the full 45-days public review period provided under CEQA.

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

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