South Coast
Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4182
(909) 396-2000 • www.aqmd.gov

SUBJECT: NOTICE OF PREPARATION OF DRAFT ENVIRONMENTAL IMPACT REPORT

PROJECT TITLE: CONOCOPHILLIPS LOS ANGELES REFINERY ULTRA LOW SULFUR DIESEL PROJECT

In accordance with the California Environmental Quality Act (CEQA), the South Coast Air Quality Management District (SCAQMD) is the Lead Agency and will prepare a Draft Environmental Impact Report (EIR) for the project identified above.

The ConocoPhillips Los Angeles Refinery first proposed modifications to produce Ultra Low Sulfur Diesel (ULSD) in 2004 and, pursuant to CEQA, the SCAQMD prepared CEQA documents for the proposed modifications. A Draft EIR is now being prepared for the Project because a decision by the California Supreme Court found certain deficiencies in previously prepared CEQA documents for the ConocoPhillips ULSD Project. Specifically, the court invalidated the baseline used in the previous air quality impact analysis. Therefore, the Draft EIR for the ULSD Project will address the air quality setting and air quality impacts associated with the ULSD Project. Additional information on the legal history of the ULSD project is attached to this cover letter.

The Notice of Preparation (NOP) normally serves two purposes: to solicit information on the scope of the environmental analysis for the ULSD Project and notify the public that the SCAQMD will prepare a Draft EIR to further assess air quality impacts that may have resulted from implementing the ULSD Project. However, as explained above and in the attached pages, in response to a California Supreme Court decision on previous CEQA documents for the ULSD project, the analysis will focus only on the air quality setting and impacts from the project.

The attached NOP is not an SCAQMD application or form requiring a response from you. The purpose of the NOP is simply to provide information to you on the above project. If the ULSD Project has no bearing on you or your organization, no action on your part is necessary. The project's description and location are described in the attached NOP.

Comments focusing on your area of expertise, your agency's area of jurisdiction, or issues relative to the air quality setting and impacts analysis should be addressed to Mr. Jeff Inabinet at the address shown above, sent by FAX to (909) 396-3324, or e-mailed to jinabinet@aqmd.gov. Comments must be received no later than 5:00 p.m. on April 26, 2012. Please include the name and phone number of the contact person for your organization.

Project Applicant: ConocoPhillips Los Angeles Refinery

Date: March 23, 2012 **Signature:** _____

Steve Smith, Ph.D.
Program Supervisor
Planning, Rule Development and Area Sources

Reference: California Code of Regulations, Title 14, Sections 15082, 15103, and 15375

LEGAL HISTORY OF THE CONOCOPHILLIPS ULSD PROJECT

On July 16, 2004, two lawsuits were filed challenging the SCAQMD's certification of the 2004 Final Negative Declaration and Addendum and approval of an SCAQMD permit for the ULSD Project (California Superior Court, Los Angeles County, Case Nos. BS091275 and BS091276). These lawsuits asserted that, among other things, an environmental impact report should have been prepared to review the impacts associated with the ConocoPhillips ULSD Project. The petitioners sought a preliminary injunction or stay to prevent Project construction during the pendency of the lawsuits; however, the court denied these requests. The lawsuits were amended following certification of a 2005 Subsequent Negative Declaration to add claims associated with that CEQA document and associated air permits issued by the SCAQMD. The trial occurred in two phases. Phase I challenged the SCAQMD's decision to prepare the Negative Declaration and Addendum. The Phase II trial was held a year later and challenged the Subsequent Negative Declaration, as well as SCAQMD's decision not to apply its Regulation XVII permitting program. Following each trial, the Los Angeles Superior Court concluded that the SCAQMD was correct on all counts. More specifically, the court concluded that the 2004 Final Negative Declaration, the 2004 Addendum, and the 2005 Final Subsequent Negative Declaration all complied with CEQA and that the permitting decisions complied with law. On June 29, 2006, the Superior Court entered Judgment. CBE and Valdez et al. filed notices of appeal in August 2006.

On appeal, plaintiffs argued substantial evidence that supported a fair argument that the Project would have a significant environmental impact on air quality, requiring the SCAQMD to prepare an EIR. On January 16, 2008, the Court of Appeal upheld the decision of the Superior Court on all claims but one. In the Court's opinion, an improper baseline was used to evaluate air quality impacts during operations. It concluded that the increased use of existing equipment should have been evaluated as part of the ULSD Project, not as part of the baseline, and, that if the proper baseline had been used, there was substantial evidence supporting a fair argument of significant NOx emissions, requiring preparation of an EIR. The SCAQMD filed a Petition for Review to the California Supreme Court on February 25, 2008, in which ConocoPhillips joined. The Petition sought review only of the portion of the Appellate Court's decision concerning baseline for evaluation of air quality impacts, and no other portion of the opinion was challenged by any party. On April 16, 2008, the Supreme Court granted review of the case.

On March 15, 2010, the Supreme Court concluded that the environmental impacts of a proposed Project must be compared to the environmental conditions that exist at the time the CEQA analysis is commenced, not the level of development or activity that would be allowed under existing permits or approvals. Because the ULSD Project may require increased utilization of existing boilers and other steam generating equipment, it was inconsistent with CEQA to use the maximum permitted operating capacity of this utility equipment as the baseline against which to compare NOx emissions from the proposed Project, rather than an estimate of the actual NOx emissions from the equipment under current operating conditions. Therefore, the SCAQMD is preparing an EIR for the ConocoPhillips ULSD Project to respond to the findings of the Supreme Court.

The Supreme Court left to the discretion of the SCAQMD the methodology for estimating the "actual existing levels of emissions" from the utility equipment. The Court explained:

> "The District and ConocoPhillips emphasized that refinery operations are highly complex and that these operations, including the steam generation system, vary greatly with the season, crude oil supplies, market conditions, and other factors. . . .

> "We do not attempt here to answer any technical questions as to how existing refinery operations should be measured for baseline purposes in this case or how similar baseline conditions should be measured in future cases. CEQA Guidelines section 15125 (Cal. Code Regs., tit. 14, § 15125, subd. (a) directs that the lead agency 'normally' use a measure of physical conditions 'at the time the notice of preparation [of an EIR] is published, or if no notice of preparation is published, at the time environmental analysis is commenced.' But, as one appellate court observed, 'the date for establishing baseline cannot be a rigid one. Environmental conditions may vary from year to year and in some cases it is necessary to consider conditions over a range of time periods.' . . . In some circumstances, peak impacts or recurring periods of resource scarcity may be as important environmentally as average conditions. Where environmental conditions are expected to change quickly during the period of environmental review for reasons other than the proposed project, project effects might reasonably be compared to predicted conditions at the expected date of approval, rather than to conditions at the time analysis is begun. . . A temporary lull or spike in operations that happens to occur at the time environmental review for a new project begins should not depress or elevate the baseline; overreliance on short term activity averages might encourage companies to temporarily increase operations artificially, simply in order to establish a higher baseline.
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> "Neither CEQA nor the CEQA Guidelines mandates a uniform, inflexible rule for determination of the existing conditions baseline. Rather, the agency enjoys the discretion to decide, in the first instance, exactly how the existing physical conditions without the project can most realistically be measured, subject to review, as with all CEQA factual determinations, for support by substantial evidence."

The Court observed that the SCAQMD had previously calculated NOx emissions from the proposed ULSD Project. However, it also stated that the SCAQMD is not required to use the same measurement method in the EIR that was used in the Negative Declaration. "Whatever method the District uses, however, the comparison must be between existing physical conditions without the Diesel Project and the conditions expected to be produced by the project."

It should be noted that neither the Court of Appeal decision nor the Supreme Court decision invalidated any aspect of the prior CEQA documents except for the baseline used in the air quality impacts analysis. Other aspects of the prior CEQA documents were challenged in the litigation, but those challenges were rejected by the trial court, and the trial court's rulings were upheld on appeal. Therefore, the Draft EIR for the ULSD Project will be focused on the issues as directed by the court and will be limited to air quality setting and impacts from project operations.

The Refinery modifications proposed as part of the ULSD Project have been completed and ConocoPhillips has been producing ULSD at its Los Angeles Refinery since 2006, as required by these regulations. However, applying the court's decision, an EIR is required for the ConocoPhillips ULSD Project to address air quality impacts from the proposed project. Thus, the SCAQMD need not evaluate further impacts to other environmental topic areas from the project. Consequently, the SCAQMD will not prepare an initial study and has begun preparing the EIR in response to direction by the Court.

PROJECT OBJECTIVES

The project objectives for the ConocoPhillips ULSD Project were developed to comply with federal, state and SCAQMD regulations that limit the sulfur content of diesel fuels and are

included below as part of this notice. Reducing the sulfur content of diesel fuel leads to a reduction of sulfur oxides (SOx) and particulate sulfate emissions from sources (such as vehicles and trucks) that use the fuel. The objectives of the ULSD Project are the following:

- Reduce the sulfur content of diesel fuel produced at the Los Angeles Refinery.
- Comply with SCAQMD's Rule 431.2 which required a reduction in sulfur content in diesel fuel used in stationary sources to 15 ppmw.
- Comply with CARB's 2000 Diesel Risk Reduction Plan to reduce exposure to diesel particulate matter.
- Comply with the U.S. EPA's diesel fuel standards that required refiners to sell highway diesel fuel that meets a maximum sulfur standard of 15 ppmw.

PUBLIC RESOURCES CODE §21092.6 – LIST RELATING TO HAZARDOUS WASTE

Government Code §65962.5 refers to the "Hazardous Waste and Substances Site List", which is a list of facilities that may be subject to the Resource Conservation and Recovery Act (RCRA) corrective action program. Neither the ConocoPhillips Wilmington Plant nor the Carson Plant are included on the list prepared by the Department of Toxic Substances Control (DTSC) pursuant to Government Code §65962.5 (DTSC, 2012). Nonetheless, the ConocoPhillips Carson Plant is included on a list of RCRA-permitted sites that require corrective action as identified by DTSC (DTSC, 2012). Furthermore, both plants are subject to corrective action under the "Spills, Leaks, Investigation & Cleanup (SLIC) Program" administered by the Los Angeles Regional Water Quality Control Board pursuant to California Water Code §13304. In order to provide full public disclosure per CEQA (Public Resources Code §21092.6) with regard to corrective actions required by local agency, the following information is provided:

Applicant:	**ConocoPhillips Carson Plant**
Address:	1520 East Sepulveda Boulevard, Carson, CA 90745
Phone:	(310) 522-9300
Address of Site:	1520 East Sepulveda Boulevard, Carson, CA 90745
Local Agency:	City of Carson
Assessor's Book:	7315-002-021
List:	DTSC and SLIC Corrective Action
SLIC Case No:	0232

Applicant:	**ConocoPhillips Wilmington Plant**
Address:	1660 West Anaheim Street, Wilmington, CA 90748
Phone:	(310) 952-6000
Address of Site:	1660 West Anaheim Street, Wilmington, CA 90748
Local Agency:	City of Los Angeles
Assessor's Book:	7412-015-003; 7412-022-008, 009 & 010; 7412-024-033 & 006; 7412-025-008
List:	SLIC Corrective Action
SLIC Case No:	0231

CONCLUSION

No court decision invalidated any aspect of the prior CEQA documents except for the baseline used in the air quality impacts analysis for project operations. Other aspects of the prior CEQA documents were challenged in the litigation, but those challenges were rejected by the trial court, and the trial court's rulings were upheld on appeal. Therefore, the analysis of impacts in the Draft EIR for the ULSD Project will be limited to air quality setting and impacts from project operations, as directed by the court.

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
21865 Copley Drive, Diamond Bar, California 91765-4182

NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT

Project Title:
ConocoPhillips Los Angeles Refinery Ultra Low Sulfur Diesel Project

Project Location:
The ConocoPhillips Los Angeles Refinery operates at two locations: the ConocoPhillips Carson Plant is located at 1520 East Sepulveda Boulevard, Carson, California, 90745. The ConocoPhillips Wilmington Plant is located at 1660 West Anaheim Street, Wilmington, CA 90744. The Ultra Low Sulfur Diesel Project is located at the Los Angeles Wilmington Plant.

Description of Nature, Purpose, and Beneficiaries of Project:
The ConocoPhillips ULSD project was developed to comply with the federal, state and SCAQMD regulations that limit the sulfur content of diesel fuels. The project includes the following activities: 1) modifications to Hydrotreater Unit 90; 2) replacement of an existing charge heater with a functionally identical replacement heater; 3) installation of a Selective Catalytic Reduction Unit to control NOx emissions from the replacement heater, with aqueous ammonia supplied from an existing aqueous ammonia storage tank; 4) demolition of an existing cooling tower and replacement with a new cooling tower of the same capacity; 5) minor modifications to the mid barrel handling and shipping system including a new jet shipping pump, two new pumps for handling jet and diesel blendstocks, and one new sample pump and associated piping to create separate facilities for handling jet and diesel fuel; 6) minor modifications to the hydrogen distribution system including new hydrogen distribution piping; 7) and modifications to one storage tank to allow a change of service (i.e., contents). In response to the court's decision on the 2004 Final Negative Declaration and Addendum, an EIR is required for the ConocoPhillips ULSD Project to address air quality impacts only from the proposed project.

Lead Agency:	**Division:**
South Coast Air Quality Management District	Planning, Rule Development and Area Sources

Initial Study and all Supporting Documentation are Available at:

SCAQMD Headquarters 21865 Copley Drive Diamond Bar, CA 91765	Or by Calling: (909) 396-2039

The Initial Study is also available by accessing:
http://aqmd.gov/ceqa/nonaqmd.html

The Notice of Preparation is provided through the following:

☑ Los Angeles Times (March 28, 2012)	☑ Daily Breeze (March 28, 2012)	☑ SCAQMD Website
☑ SCAQMD Public Information Center	☑ Interested Parties	☑ SCAQMD Mailing List

Review Period:
March 28, 2012 through April 26, 2012

CEQA Contact Person:	**Phone Number:**	**E-Mail Address**
Jeff Inabinet	(909) 396-2453	jinabinet@aqmd.gov