

APPENDIX C

County Responses to Requests for Extension of Review Period Time

**Department of
Conservation and
Development**

30 Muir Road
Martinez, CA 94553

Phone: 1-855-323-2626

December 3, 2014

**Contra
Costa
County**



John Kopchik
Interim Director

Aruna Bhat
Deputy Director

Jason Crapo
Deputy Director

Robert T. Calkins
Interim Deputy Director

Rachael E. Koss
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080-7037

**RE: Request for Extension of Public Comment Period for the Phillips 66
Propane Recovery Project Recirculated Draft Environmental Impact Report**

Dear Ms. Koss:

This letter is in response to your December 1, 2014 and December 3, 2014 requests on behalf of Safe Fuel and Energy Resources California for a 45-day extension of the public comment period for the Phillips 66 Propane Recovery Project Recirculated Draft Environmental Impact Report ("RDEIR"). After consideration of the pertinent facts, I have decided to deny your request. This denial is based on the following:

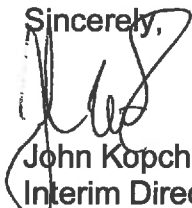
- Your December 1, 2014 letter suggests that the County failed to completely respond to a Public Records Act request from your firm, dated October 28, 2014. All of the requested documentation and the complete administrative record were provided to your firm on November 3, 2014.
- Your December 1, 2014 letter also states that the County has not made all of the documents referenced or relied upon in the RDEIR available for public review, as required by the California Environmental Quality Act ("CEQA"). CEQA does require that the RDEIR's reference documents be accessible to the public, and accordingly they are available upon request, but neither CEQA nor the CEQA Guidelines require that all reference materials be circulated for comment or be posted online for the duration of the public comment period.
- Your December 1, 2014 letter further suggests that the public has been given inadequate time to review the RDEIR's reference documents. The documents were promptly provided in response to your October 28, 2014 Public Records Act request, as well as your June 12, 2014 Public Records Act request. Thus, I disagree with your assertion that the public has been deprived of an opportunity to review these documents.

- Your December 3, 2014 letter states that the County failed to provide supporting data for Tables 4.1-4 and 4.1-5 that provide the underlying data necessary to verify the figures and conclusions in the RDEIR. CEQA § 15148 states that the preparation of EIRs is dependent upon information from many sources, and that these documents should be cited, but are not required to be included in the EIR. The RDEIR cites all the documents used in its preparation and they were included in the administrative record, but references cited within the RDEIR's referenced documents were not included, because CEQA does not require them to be. Hence, the appendices to the Marine Terminal initial study were not included in the administrative record. However, at your request we retrieved the Marine Terminal initial study's Appendices B, C, and D and the Marine Terminal Phase III Air District application and provided them to you today.
- The Ambient Monitoring Data can be opened using Microsoft Notepad, a basic text-editing program pre-installed on most desktop computer operating systems.
- CEQA Guidelines § 15105 (a) states that the comment period for a draft EIR (or a recirculated EIR, as in this case) should not be less than 30 days nor more than 60 days, except in unusual circumstances. When a draft EIR is submitted to the State Clearinghouse for review, the comment period shall not be less than 45 days. As indicated in the Notice of Availability for the RDEIR, the County provided the appropriate amount of public review time, as required under CEQA.

Based on the foregoing, I find no unusual circumstance which justifies extending the comment period beyond 45 days. The County complied with the letter and spirit of the law regarding access to the RDEIR reference documents. Therefore, the close of the public comment period on the RDEIR remains **5:00 P.M. on Friday, December 5, 2014.**

If you have any questions, please direct them to the Principal Planner, Ms. Lashun Cross, at (925) 674-7786.

Sincerely,



John Kopchik
Interim Director
Department of Conservation and Development

cc: Theresa Speiker, Chief Assistant County Administrator

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Deputy Director

Jason Crapo
Deputy Director

Robert T. Calkins
Interim Deputy Director

Roger Lin
Communities for a Better Environment
1904 Franklin Street, Ste 600
Oakland, CA 94612

**RE: Request for Extension of Public Comment Period for the Phillips 66
Propane Recovery Project Recirculated Draft Environmental Impact Report**

Dear Mr. Lin:

This letter is in response to your December 3, 2014 request for an extension of the public comment period for the Phillips 66 Propane Recovery Project Recirculated Draft Environmental Impact Report ("RDEIR"). After consideration of the pertinent facts, I have decided to deny your request. This denial is based on the following:

- Your letter suggests that there is significant data missing from RDEIR or that it is being improperly claimed as "protected information" by the project proponent. The County has not been denied access to any necessary information or documentation by the applicant. The County has made all of the documents referenced or relied upon in the RDEIR available for public review, as required by the California Environmental Quality Act ("CEQA"). CEQA does not require that all reference materials be circulated for comment or be posted online for the duration of the public comment period, but that the RDEIR's reference documents merely be accessible to the public, and accordingly they have been available upon request.
- Furthermore, CEQA Guidelines § 15105 (a) states that the comment period for a draft EIR (or a recirculated EIR, as in this case) should not be less than 30 days nor more than 60 days, except in unusual circumstances. When a draft EIR is submitted to the State Clearinghouse for review, the comment period shall not be less than 45 days. As indicated in the Notice of Availability for the RDEIR, the County provided the appropriate amount of public review time, as required under CEQA.
- Your comment regarding the Propane Recovery Project being a tar sands crude by rail project is duly noted.

Based on the foregoing, I find no unusual circumstance which justifies extending the comment period beyond 45 days. The County complied with the letter and spirit of the law regarding access to the RDEIR reference documents. Therefore, the close of the public comment period on the RDEIR remains **5:00 P.M. on Friday, December 5, 2014.**

If you have any questions, please direct them to the Principal Planner, Ms. Lashun Cross, at (925) 674-7786.

Sincerely,



John Kopchik
Interim Director
Department of Conservation and Development

cc: Theresa Speiker, Chief Assistant County Administrator

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Aruna Bhat
Deputy Director

Jason Crapo
Deputy Director

Robert T. Calkins
Interim Deputy Director

Laurel L. Impett, AICP
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, CA 94102

**RE: Request for Extension of Public Comment Period for the Phillips 66
Propane Recovery Project Recirculated Draft Environmental Impact Report**

Dear Ms. Impett:

This letter is in response to your December 3, 2014 request on behalf of Rodeo Citizens Association for a 30-day extension of the public comment period for the Phillips 66 Propane Recovery Project Recirculated Draft Environmental Impact Report ("RDEIR"). After consideration of the pertinent facts, I have decided to deny your request. This denial is based on the following:

- Your letter states that the County failed to "provide pertinent data required to verify the accuracy of the RDEIR's air quality and health risk analyses" relating to Tables 4.1-4 and 4.1-5 of the RDEIR. All of the supporting documentation and data, as well as the complete administrative record, were provided to your firm in response to your March 19, 2014 Public Records Act request. Staff is available to direct you to the documents in the administrative record, should you need assistance.
- The County has made all of the documents referenced or relied upon in the RDEIR, including those relating to Tables 4.1-13, and 4.1-14, available for public review, as required by the California Environmental Quality Act ("CEQA"). CEQA does not require that all reference materials be circulated for comment or be posted online for the duration of the public comment period, but that the RDEIR's reference documents merely be accessible to the public, and accordingly they have been available upon request. CEQA § 15148 states that the preparation of EIRs is dependent upon information from many sources, and that these documents should be cited, but are not required to be included in the EIR. The RDEIR cites all the documents used in its preparation and they were included in the administrative record, but references cited within the RDEIR's referenced documents were not included, because CEQA does not require them to be.

Hence, the appendices to the Marine Terminal initial study were not included in the administrative record.

- Furthermore, CEQA Guidelines § 15105 (a) states that the comment period for a draft EIR (or a recirculated EIR, as in this case) should not be less than 30 days nor more than 60 days, except in unusual circumstances. When a draft EIR is submitted to the State Clearinghouse for review, the comment period shall not be less than 45 days. As indicated in the Notice of Availability for the RDEIR, the County provided the appropriate amount of public review time, as required under CEQA.

Based on the foregoing, I find no unusual circumstance which justifies extending the comment period beyond 45 days. The County complied with the letter and spirit of the law regarding access to the RDEIR reference documents. Therefore, the close of the public comment period on the RDEIR remains **5:00 P.M. on Friday, December 5, 2014.**

If you have any questions, please direct them to the Principal Planner, Ms. Lashun Cross, at (925) 674-7786.

Sincerely,



John Kopchik
Interim Director
Department of Conservation and Development

cc: Theresa Speiker, Chief Assistant County Administrator