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Sent by e-mail 5/3/2024

Subject: Draft Environmental Impact Report (DEIR) for Phillips 66 Santa Maria Refinery Demolition and Remediation Project (State Clearinghouse # 2023050020)

Dear Ms. Strachan,

These comments are submitted on behalf of the California Department of Parks and Recreation (State Parks), Oceano Dunes District, regarding the Draft Environmental Impact Report (DEIR) for Phillips 66 Santa Maria Refinery Demolition and Remediation Project, herein referred to as the Project. State Parks appreciates this opportunity to provide comments regarding the DEIR.

The Oceano Dunes District owns and manages the property adjacent to the refinery and leases a portion of property on the west side of the railroad tracks as part of Oceano Dunes State Vehicular Recreation Area (Leasehold/Leased Lands). The outfall pipeline traverses leased land and State Park owned lands. Oceano Dunes District staff manages the Phillips 66 leasehold area with the primary focus of natural resource management. This includes the monitoring and management of several sensitive species which inhabit the area including the State and Federally Endangered Nipomo Mesa Lupine (*Lupinus nipomensis*).

Specific Comments on Proposed Project

1. **Plant Palette and seed mix should only include native dune scrub species collected within the Nipomo Guadalupe Dunes Complex (NGDC) to preserve local genetics (Section 2.6 Project Activities: Site Stabilization and Restoration)**

The Plant Palette and Seed Mix as described states that "local genetic sources of native plant materials would be used to the extent practicable." (Pg. 2-56) However, what is "practicable" is open for interpretation. Since the habitat in question contains several locally endemic plant species, introducing viable plant materials, even California natives, that are not locally collected within the NGDC should not occur. Not importing viable seed and allowing for natural recruitment of natives from the existing seed bank and surrounding area or using sterile seeds would be preferable to introducing genetic material from outside of the NGDC.

2. **Recently described sensitive species blushing layia (*Layia erubencens*) CRPR 1B.2 should be evaluated and considered as Special-Status Plant Species with Suitable Habitat Present in BSA (Section 4.4.1.5 Sensitive Plant Species)**

Blushing layia, a sensitive plant species documented within the ODSVRA leasehold property was described in 2022 (Baldwin 2022) and given a CRPR 1B.2 rare plant ranking in 2024 (CNDDB 2024). This species was not evaluated within Table 4.4.2 Special-Status Plant Species with Suitable Habitat Present in BSA. Park staff has documented a healthy population of blushing laying with well over 1000 individual plants flowering in April 2024 directly west of Area 5 (Sulfur) and Area 6 (Coke Storage) on the west side of the Union Pacific railroad tracks within the immediate vicinity of the outfall pipeline and on both sides of the outfall pipeline maintenance road. Due to its close proximity of the BSA, blushing layia should be included as a sensitive species with potential to occur within the project area.

Citations:

Baldwin, B. G. 2022. A new species of Layia (Compositae) from the central coast of California.
Madroño 69: 88–94.
California Natural Diversity Database (CNDDB). April 2024. Special Vascular Plants, Bryophytes,
and Lichens List. California Department of Fish and Wildlife. Sacramento, CA.

3. **Demolition & Remediation Activity Management Plan (DRAMP) stabilization methods should not use viable grass seed because it will displace sensitive native vegetation (AQ.1-1)**

AQ.1-1.10 states, "Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with a fast germinating, non-invasive grass seed and watered until vegetation is established". Given the unique assemblage of documented sensitive plant species, including State and Federally Endangered Nipomo Mesa lupine and seven other California Rare Plant Ranks (CRPR) plants, and State Sensitive Silver Dune Lupine-Mock Heather scrub habitat (Tables 4.4.3 and 4.4.4), viable grass seed, even if it is "non-invasive" should not be used for stabilization because it will displace sensitive native species and alter sensitive native habitat. In such a sensitive habitat, even non-invasive grasses will continue to proliferate and displace endemic vegetation. Annual and perennial grass species inherently compete with sensitive native forbs like Nipomo Mesa lupine which "seems to prefer pockets of open sand between widely spaced individuals of dune-heather (Pg. 4.4-28)." Instead of "non-invasive grass seed", sterile grass seed (example: Quickguard brand sterile triticale) that will not proliferate or temporary stabilization measures that will not have a permanent impact, such as seed free hydromulch or certified weed-free straw blankets, should be used and then replaced with permanent restoration methods.

4. **The Habitat Restoration and Revegetation Plan should salvage all usable topsoil for revegetation (BIO.1-3)**

The requirements for BIO.1.3 Habitat Restoration and Revegetation Plan state, "Any usable topsoil with the potential to hold the seeds of sensitive species would be

salvaged and used when revegetating the area." Based on the documented presence of multiple sensitive plant species throughout the BSA, including Nipomo Mesa lupine, which as previously stated, "is difficult to delineate the spatial extent of occupied habitat," all useable topsoil should be assumed to hold seeds of sensitive species and should therefore be salvaged, stockpiled and returned to the location from which it was removed for seed bank preservation. Discretion as to whether or not topsoil has the "potential" to hold seed should not be included within the Habitat Restoration and Revegetation Plan and all topsoil should be assumed to include seeds of sensitive species. If topsoil is found to be contaminated and removed, then mitigation measures should be in place to replenish the potential seed bank.

5. **Weed Management Plan should specify herbicide mode of action to avoid impacts to sensitive native species (BIO.1-4)**

BIO.1.4 states that the Weed Management Plan shall specify manual and chemical removal methods and that "all proposed weed control methods must minimize the extent of any disturbance to native vegetation," however, these methods are not identified. The Weed Management Plan should specify herbicide mode of action and require that herbicide applications to manage invasives throughout the Project area only use post-emergent herbicides and not pre-emergent herbicides in order to avoid disruption of native seed germination. Also, only grass specific herbicides (i.e. selective graminicides) should be used where sensitive broadleaf plants are present to avoid impacts to sensitive species.

6. **Nipomo Mesa lupine occurrence map does not include all known locations for sensitive species (BIO.2-2)**

Mapping of Nipomo Mesa lupine within the BSA is insufficient as it is based on limited recent survey data from 2022 through 2023 and does not include all available location data. The DEIR acknowledges that as an annual, "the observed distribution in any given year does not always accurately represent its full distribution across habitats" and "it is difficult to fully delineate the spatial extent of occupied habitat without multiple years of surveys during varying weather conditions (Pg. 4.4-29)." This section also acknowledges that annual surveys were conducted by Land Conservancy of San Luis Obispo County (LC-SLO) from 2007 to 2017. However, the mapped distribution of Nipomo Mesa lupine for the DEIR does not include these locations or locations documented in CNDDB particularly within the vicinity of the helicopter pad on the northeastern corner of Area 3. Only point locations from three limited surveys in 2022 and 2023 were used, one of which was conducted out of season on June 20, 2022 when all plants would have already likely desiccated (in 2023 all plants within the leasehold west of the BSA had desiccated by the final survey on June 15th). All available point location data including the LC-SLO data set should be included within the mapped locations for Locations of Special-Status Plant Species (Figures 4.4-9 through 4.4-12) and for BIO.2-2 Nipomo Mesa Lupine Avoidance under "known population boundaries mapped in previous years."

7. The Nipomo Mesa lupine mitigation criteria metric is not biologically appropriate for Nipomo Mesa lupine (BIO.2-3)

BIO.2-3 proposes Nipomo Mesa Lupine mitigation "at a 3:1 ratio (based on square feet cover of individual plant) for permanent impacts to individuals (Pg. 4.4-78)." However, given its small size, irregular shape and seasonal nature, plant size is not an appropriate metric for assessing permanent impacts to individuals. Measurements would vary considerably depending on season and method of measurement due to wide growth fluctuations caused by varying rainfall and other seasonal conditions. Also, given that Nipomo Mesa lupine is an annual plant, only a fraction of the population in a given year may set seed and the plant numbers will vary considerably. Instead of square feet cover, the number of reproductive plants (i.e. plants that set seed) at a 3:1 ratio over a 5-year average would be a more appropriate mitigation metric. At a minimum, the California Department of Fish and Wildlife and the United States Fish and Wildlife Service should be consulted to determine a mitigation metric that will be measurable and appropriate for the recovery of the species.

Discussion of Wastewater Outfall Pipeline as it pertains to the Proposed Project and the Project Alternatives

Approximately 0.8 miles of wastewater outfall pipeline lies below the ground surface within the ODSVRA leasehold and approximately 1.5 miles lies within the public use area of the ODSVRA. Under the Proposed Project the outfall pipeline would remain in place and continue to be subject to the maintenance requirements under the existing California State Lands Commission (CSLC) lease which expires in 2028. Under the Full Removal Alternative (5.1.2) and the Removal of Offshore Facilities Alternative (5.1.3) the outfall pipeline would be removed. In order to have a meaningful comparison of the environmentally superior alternatives, the existing baseline conditions must be accurately represented. However, the DEIR does not include the outfall pipeline corridor within the BSA and minimizes the potential impacts, both positive and negative, that the removal would have on recreation, biological resources and cultural resources. Section 5.2.2 and 5.2.3 states that impacts to biological resources "would be similar but greater than the Project as more soil movement and grading would occur" and that impacts to parks and recreation facilities "would be similar to the Project."

1. Recreation within the vicinity of the outfall pipeline was not adequately addressed in the environmentally superior Alternatives discussion.

Section 5.2.3 states that "maintenance of the outfall pipeline onshore historically has involved driving the pipeline route and occasional movement of sands with a bulldozer to ensure proper cover by sand." However, this statement minimizes the required maintenance and, therefore, does not accurately represent the existing conditions. In order to maintain proper burial within the approximately 1.0 mile section of outfall pipeline within the public recreation area of the ODSVRA, weekly sand pushes are typically required. Should the pipeline be exposed, it would pose a significant hazard to visitors recreating in this area and would need to be clearly marked if not buried, thus creating a significant impact on recreational activities within the park. This existing level

of maintenance represents the CEQA baseline from which impacts from this alternative should be evaluated.

2. **Biological and cultural resources within the vicinity of the outfall pipeline were not adequately addressed in the environmentally superior Alternatives discussion.**

Though the DEIR acknowledges that impacts to biological resources and cultural resources would be greater than the proposed Project for Full Removal Alternative (5.1.2) and the Removal of Offshore Facilities Alternative (5.1.3), the outfall pipeline and pipeline maintenance road was not included in the BSA and therefore, the potential for additional sensitive species or cultural resource to occur under these alternatives and the potential associated impacts were not evaluated.

Several protected species occur within the vicinity of the western most portion of the outfall pipeline that do not occur within BSA including migratory shorebirds, marine mammals and nesting populations of State and Federally Endangered and California Fully Protected California Least Tern (*Sternula antillarum browni*) and the Federally Threatened Western Snowy Plover (*Anarhynchus nivosus nivosus*). Furthermore, the western most portion of the outfall pipeline lies within Critical Habitat for Western Snowy Plover and much of the eastern portion lies within Critical Habitat for La Graciosa Thistle. In addition, multiple sensitive plant resources occur within the vicinity of the outfall pipeline that were not documented within the BSA including red sand-verbena (*Abronia maritima*) (CRPR 4.2), suffrutescent wallflower (*Erysimum suffrutescens*) (CRPR 4.2), blushing layia (*Layia erubencens*) (CRPR 1B.2), crisp monardella (*Monardella undulata ssp. crispa*) (CRPR 1B.2), and Dune mat vegetation alliance (Rarity Rank G3 S3).

Furthermore, two sub-populations of Nipomo Mesa lupine occur on the ground surface directly above the outfall pipeline within the leasehold area, one of which has consistently had the greatest number of individuals of any subpopulation within the leasehold, making it critical to the recovery of the species. For context on the potential impact of removal of the pipeline for the recovery of Nipomo Mesa lupine, from 2007 to 2017, during which time LC-SLO conducted annual census surveys of the range wide extant population, 11% of all identified individuals were located within 50-feet of the outfall pipeline and pipeline maintenance road. State Parks estimates that to date for the 2024 growing season, 41% of all individuals within the leasehold are located within 50-feet of the outfall pipeline and pipeline maintenance road. Categorizing potential impacts of removing this section of pipeline as "similar but greater" minimizes the potential impacts associated with the removal of the outfall pipeline.

Finally, the potential for impacts to cultural resources from these two alternatives has not been adequately addressed along the entire length of the outfall pipeline. A literature and records search was conducted for the DEIR within a 0.25-mile radius of the Project

area and field surveys were limited to within the Santa Maria Refinery fence (Sections 4.5.1.4 and 4.5.1.7). This leaves the entire outfall pipeline without a field survey and the majority without a literature and records search. Without a proper field survey and records search it is not possible to adequately compare the Alternatives.

3. Discussion of environmentally superior alternatives

Under the Full Removal Alternative (5.1.2) or the Removal of Offshore Facilities Alternative (5.1.3) impacts to the aforementioned biological resources, cultural resources, and public recreation should be evaluated. Removing the section of pipeline within the public recreation area could have negative impacts on recreation in the short term by limiting recreation opportunities within the area during the removal process but would have a long-term positive impact by removing the need for regular maintenance that currently limits recreation opportunities on a weekly basis. Removing the westernmost section of the pipeline has the potential to have increased short term negative impacts on biological resources, specifically Western Snowy Plover nesting, California Least Tern nesting and Critical Habitat for western snowy plover. However, these impacts could be mitigated by limiting removal activities to times outside of the typical nesting season for these species and with standard biological monitoring and avoidance measures. Removing the section of pipeline within the leasehold could have negative impacts to populations of Nipomo Mesa lupine and other sensitive plant species. By only removing sections of pipeline that would have net positive impacts to recreation and leaving the sections of the pipeline capped in place that would have negative impacts to biological resources, a superior environmental alternative could be reached.

Conclusion

Thank you for the opportunity to submit comments for this DEIR. We look forward to working with the San Luis Obispo County Department of Planning and Building, along with other valuable partners, for the issuance of an EIR that cooperatively addresses and accommodates our concerns.

If you have any questions or would like to discuss these comments in more detail, please contact myself or Ronnie Glick, Senior Environmental Scientist at 805-365-5284

Sincerely,

DocuSigned by:
Kevin Pearce
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Kevin Pearce, Acting Superintendent
California State Parks, Oceano Dunes District