

4.14 Recreation and Coastal Access

This section discusses the potential impacts of the Project on recreational facilities in the Project region and local vicinity. This section also describes the environmental setting, regulatory setting, identifies the applicable significance thresholds for impacts, assesses potential impacts of the Project, and recommends measures to mitigate any significant impacts, if applicable. The section also provides a discussion of cumulative impacts. Alternatives are discussed in Chapter 5.0, Alternatives.

As described in Chapter 2.0, Project Description, the Project would include the demolition and remediation of the site followed by soil stabilization or revegetation of disturbed areas, with some minor long-term operations associated with remediation.

4.14.1 Environmental Setting

Benefits of recreation and exercise include greater resistance to stress, disease, anxiety, and fatigue, more energy and capacity for work and leisure activities, reduced risk of heart attack, and more. In addition to health benefits, parks and recreation facilities provide important social and cultural value to communities, they provide important economic benefits to the region through tourism and increased property values, and they can play an important role in conserving sensitive natural resources (County 2006).

Residents and visitors of the County of San Luis Obispo (County) have access to many diverse outdoor recreational opportunities provided by public agencies and non-profit organizations, including County parks, state parks and beaches, city parks, parks provided by community services districts, school district properties, federal lands (i.e., Los Padres National Forest and Carrizo Plain National Monument), and natural preserve areas (County 2019). Regional and local parks, recreation, and coastal access areas are described in detail below.

4.14.1.1 Regional Parks and Recreation Facilities

Parks and recreation are strongly linked; however, the County defines recreation as amenities that are provided within parks and may include, but are not limited to, benches, trails, interpretive displays, fields, playgrounds, etc. In addition, recreation can be defined as active or passive. Active recreation typically involves facilities and large groups of people. Examples of active recreation include community centers, skate parks, tennis courts, sports facilities, and swimming pools. Passive recreation includes more tranquil activities and does not necessarily involve a large group of people. Examples of passive recreation include walking trails, picnic sites, bird watching areas, and scenic outlooks (County 2006).

The County Department of Parks and Recreation owns and maintains recreational facilities (County 2006) listed in Table 4.13.2.

4.14 Recreation and Coastal Access

- **Parks.** The County provides many types of parks and related facilities. Mini and neighborhood parks typically include playground equipment, individual picnic areas, open play areas, and/or benches. Community parks typically include sports complexes, community centers, tennis and basketball courts, skate parks, group picnic areas, and/or a swimming pool. Regional parks typically include facilities for camping, fishing, boating, and/or hiking. Table 4.13.2 identifies the existing park facilities within the County.
- **Recreation Programming.** Recreation programming includes organized leagues or classes, such as sports camps, league sports, etc. This amenity has not historically been offered by the County; however, the County provides swim lessons and aquatic programs, including junior lifeguards and water aerobics.
- **Golf Courses.** The County operates three golf courses, including Morro Bay Golf Course, Chalk Mountain Golf Course, and Dairy Creek Golf Course. Each golf course consists of 18-hole, championship-style facilities, except Dairy Creek Golf Course, which provides a nine-hole course. Morro Bay Golf Course is part of Morro Bay State Park in Morro Bay, Chalk Mountain Golf Course is part of Heilmann Regional Park in Atascadero, and Dairy Creek Golf Course is part of El Chorro Regional Park near the city of San Luis Obispo.
- **Trails.** The County provides trails within its regional parks, community parks, and communities and neighborhoods as connectors. Trails managed by the County include Bob Jones Pathway (connects the city of San Luis Obispo and the community of Avila Beach) and Hi Mountain Trail (connects Lopez Lake Recreation Area with Los Padres National Forest). Other trails have been authorized to provide passive recreation while connecting parks, schools, and libraries with neighborhoods. Most trails in the County are designated for multi-use, allowing equestrians, pedestrians, and bicycles.
- **Special Places.** Special recreational opportunities provided by the County include access along and to the coastline (e.g., Morro Bay Estuary), historic sites (e.g., Rios Caledonia Adobe), and natural areas (e.g., Bishop Peak, Elfin Forest), which balance passive use with resource preservation.
- **Partnerships.** Partnerships include other agencies and organizations working with the County to provide resources (e.g., volunteer hours, expertise, grantsmanship, etc.) that benefit the County's parks system. For example, the San Luis Obispo Botanical Garden was initially an idea brought to the County by a nonprofit organization and was developed through coordination between the nonprofit organization and the County.

In addition to County-provided recreational opportunities, the County's seven incorporated cities operate their own parks and recreation programming. Typically, city parks and their recreation programs are available to people who live within the unincorporated areas just as County parks and recreation facilities are available to city residents. Partnerships between the County Parks and Recreation Department and cities have expanded recreation opportunities for use by local residents regardless of whether they live within a city or the unincorporated part of the County. Examples include cooperative development of Barney Schwartz Park in the city of Paso Robles and the joint use of ball fields between the City of San Luis Obispo and the County. There are also private recreation facilities located within the County, which are taken into consideration during recreational planning (County 2006).

4.14.1.2 Local Recreation Facilities

Significant recreational resources in the Project vicinity are discussed in further detail below.

Juan Bautista de Anza National Historic Trail

A portion of the mapped historic trail corridor for the Juan Bautista de Anza National Historic Trail is located directly to the east of the Project site. The historic trail corridor has been mapped by the National Park Service to indicate the general path believed to have been traveled by the 1776 Anza expedition, the first colonizing expedition from New Spain to come overland into California. At this location, the mapped historic corridor does not relate to any existing physical recreational facility that has been developed on the ground. However, it connects a variety of historic sites related to the Spanish Colonial era and areas along the route, particularly areas where the expedition is known to have camped and that have the potential to contain significant artifacts related to the expedition. A recreational trail was developed along the Monarch Dunes frontage with State Route 1 along this portion of the trail corridor and the areas within the mapped historical corridor have been included in the County's inventory of "Proposed Trail Corridors" and may be developed in the future.

Oceano Dunes State Vehicular Recreation Area

Oceano Dunes State Vehicular Recreation Area (ODSVRA) is a geologically unique sand dune complex that provides over approximately 1,000 acres for public off-highway vehicle (OHV) use. One of several OHV areas administered by the California Department of Parks and Recreation (CDPR), also referred to as State Parks, the ODSVRA offers visitors recreational activities such as swimming, surfing, surf fishing, camping, and hiking (CDPR 2023). The ODSVRA is located approximately 0.5 mile west of the western boundary of the Project site.

Oso Flaco Lake Natural Area

Oso Flaco Lake Natural Area is a public state park located south of and adjacent to ODSVRA, approximately 1.4 miles southwest of the Project site. The Oso Flaco Lake Natural Area is a 9,800-acre day use area and is designated for hiking, fishing, bird watching, nature study, and other non-motorized uses (CDPR 2023).

Guadalupe-Nipomo Dunes National Wildlife Refuge

The Guadalupe-Nipomo Dunes National Wildlife Refuge (Refuge), administered by the U.S. Fish and Wildlife Service (USFWS), was established in August 2000 to conserve central California coastal dune and associated wetland habitat and support the recovery of native plants and animals that are federally listed as threatened or endangered, including, but not limited to, breeding habitat for the endangered California least tern, California red-legged frog, and threatened Western snowy plover. The Refuge is located in the heart of the Guadalupe-Nipomo Dunes Preserve, along an 18-mile stretch of coastline that occupies approximately 20,000 acres of southwestern San Luis Obispo County and northwestern Santa Barbara County. Public visitors may hike in from either the Rancho Guadalupe Dunes County Park from the south or the Oso Flaco Lake Natural Area from the north. The Refuge is located approximately 1.8 miles southwest of the Project site and offers numerous recreational opportunities including hiking, wildlife viewing, and fishing (USFWS 2023).

4.14.1.3 Coastal Access

The County requires development within the Coastal Zone between the first public road and the tidelands to protect and/or provide coastal access as required in the Coastal Zone Land Use Ordinance (CZLUO) Section 23.04.420. In general, lateral access refers to provision for public access and use along the shoreline, whereas vertical access refers to provision for access from the first public road to the shore, or perpendicular to the shore. The County's requirements for establishing new coastal access are described in detail in Section 4.14.2, Regulatory Setting. Existing coastal access within the vicinity of the Project site and within the Project site is described below.

Local Coastal Access

The Project site is located east of the ODSVRA, and northeast of the Oso Flaco Day Use Area and Oso Flaco Lake Trail. The Nipomo Bluff Trail terminates approximately 0.6 mile east of the Project site, and a small segment of the Juan Batista de Anza National Historic Trail has been constructed along a portion of State Route 1 east of the Project area. The County Parks Department will require from the Applicant as a condition of approval a new Offer to Dedicate (OTD) for a trail easement along the Phillips 66 Willow Road (Highway 1) property frontage, for the Juan Batista de Anza National Historic Trail.

The western Phillips 66 property line is approximately 1.5 miles from the ocean. The nearest vertical coastal access points are located approximately 4.5 miles to the north (pedestrian and vehicle access at the entrance to the ODSVRA) and 0.74 mile south (pedestrian only access from Oso Flaco Lake).

ODSVRA Coastal Access Background

In 1982 the California Coastal Commission (CCC) approved Coastal Development Permit (CDP) 4-82-300 that authorized uses and development at ODSVRA. The CDP included a series of requirements designed to allow for final decisions to be made on Park management issues including the nature and intensity of allowed public recreational uses. Use of OHVs have historically been allowed uses subject to the CDP. In addition to considering five CDP amendments through 2001, the CCC also performed six annual CDP re-reviews between 2002 and 2007. The CCC expressed concerns to State Parks in these annual re-review and amendment settings regarding the issues that OHV and other vehicular activities raised when conducted in environmentally sensitive habitat areas (ESHA) over the years. However, the CDP did not change with respect to the intensity of allowed uses beyond what had been approved in 1982 (CCC 2020).

In July 2019, the CCC gave direction to State Parks that stated:

[I]n the Coastal Commission's view, [Oceano Dunes] SVRA operations that are fully consistent with on-the ground realities, and with today's laws and requirements, do not include OHV use.

In March 2021, the CCC amended the CDP to phase out the use of OHVs over three years, restrict driving vehicles on the beach and camping to the north end of the park, and close the Pier Avenue entrance. The organization Friends of Oceano Dunes, a nonprofit community organization,

subsequently challenged these amendments in court, alleging that the CCC abused its discretion by phasing out OHV use at the park (Superior Court County of San Luis Obispo 2023).

On July 19, 2023, the San Luis Obispo County Superior Court ruled that the CCC did abuse its discretion when it decided to phase out all OHV at Oceano Dunes and also ruled in favor of the plaintiff's argument that the CCC failed to comply with the California Environmental Quality Act (CEQA) because it failed to do a traffic impact analysis for the decision to close the Pier Avenue vehicle access point to the ODSVRA. As a result, the Court overturned the CCC's March 2021 amendment to the CDP (San Luis Obispo Tribune 2023). That Superior Court decision is currently pending in the Court of Appeals.

Project Site Coastal Access Background

The Project site is within the Coastal Zone and is subject to the California Coastal Act and the County's CZLUO enacted to ensure compliance with the California Coastal Act. Within the CZLUO, Section 23.04.420 addresses the requirement for certain projects and project sites to provide public coastal access (see Section 4.14.2, Regulatory Setting). Subsection d(1)(ii) specifies that vertical access (access between the first public road to the shore, or perpendicular to the shore) is required in rural areas where no dedicated or public access exists within one mile, or if the site has more than one mile of coastal frontage, an accessway shall be provided for each mile of frontage. Subsection d(2) specifies that vertical access dedication shall be a minimum width of five feet in urban areas and 10 feet in rural areas.

The first public road from the beach in the vicinity of the Santa Maria Refinery (SMR) site is State Route 1. The SMR property extends west from State Route 1 to the western property line shared with the ODSVRA, such that the SMR property does not extend to shoreline. Any coastal access would have to cross the Union Pacific Railroad (UPRR) right-of-way (ROW), a fee-owned 100-foot-wide strip of land bisecting the SMR property. In order to gain coastal access from the SMR property, access would be required across the Oceano Dunes property held by CDPR, as well as UPRR property.

Two previous permits were submitted by the Applicant for Phillips 66 SMR and processed by the County that evaluated requirements for coastal access. Both projects had an Environmental Impact Report (EIR) prepared and went to the Board of Supervisors for a final decision, with different outcomes:

- DRC2012-00095 (Rail Spur Extension): a draft EIR circulated in November 2013; the Project was denied by the Board of Supervisors on March 14, 2017, and the associated EIR (SCH #2013071028) was not certified; and
- DRC2008-00146 (Throughput Increase Project), which was approved by the Board on February 26, 2013, with a separate, certified EIR (SCH #2008101011).

The approved Throughput Increase Project (DRC2008-00146) included Condition #17, which required an offer of dedication for vertical access from State Route 1 to the western property line to comply with the coastal access provisions of the Coastal Act and the CZLUO. This requirement was consistent with the standards of Section 23.04.420, including provisions that a vertical right of access be provided for each mile of coastal frontage, unless that access would be inconsistent

4.14 Recreation and Coastal Access

with public safety, military security needs, or the protection of fragile coastal resources. The steps for implementing coastal access Condition 17 would involve Phillips 66 submitting an ~~Offer to Dedicate~~ (OTD) Vertical Public Access Easement prior to receiving notice to proceed for the Throughput Increase Project. In addition, Phillips 66 could submit documentation demonstrating that coastal access at the SMR would be inconsistent with the requirements of Section 23.04.420 of the CZLUO due to public safety and coastal resource issues.

During review of the Rail Spur Extension Project, the County determined that it was appropriate to include a programmatic assessment of various vertical access options and potential environmental impacts of developing the accessway. A study was prepared for the FEIR in December 2015 to assist in determining if a vertical coastal accessway at the SMR would be consistent with the requirements of Section 23.04.420 of the CZLUO. The Vertical Coastal Access Analysis (Chapter 9.0 of the Rail Spur FEIR) is incorporated by reference. This document has detailed analysis for the various access options and is a stronger reference than the Arcadis Access Study.

While the Rail Spur Extension Project was ultimately not approved and the EIR was not certified, the assessment was available for use by the County to assist in determining:

1. The level of coastal access, if any, and the associated impacts, that would be appropriate for the refinery site consistent with the standards of Section 23.04.420 of the CZLUO; and
2. What intensity of use and type of coastal access would be appropriate at the SMR site.

The assessment identified an existing service road extending west from the SMR towards the coast for maintenance of the outfall facility as an option for providing coastal access that would reduce impacts to sensitive coastal resources. The location of this road access which crosses the railroad property is shown in Figure 4.14-1. Three possible options for use of this service road and the adjacent area were identified, which included the following:

- Bicycle and Pedestrian Access,
- Motor Vehicle, Bicycle, and Pedestrian Access, and
- Docent Led Access for Pedestrians Only.

These three options were selected because they represent the full range of intensity for coastal access. The assessment concluded that the docent-led coastal access option would have the lowest level of impacts on the environment, the bicycle/pedestrian coastal access option would have the second lowest level of impacts on the environment. The motor vehicle coastal access would provide the highest intensity of public use but would also have the greatest level of impact on the environment and most potential for inconsistencies with land use policies.

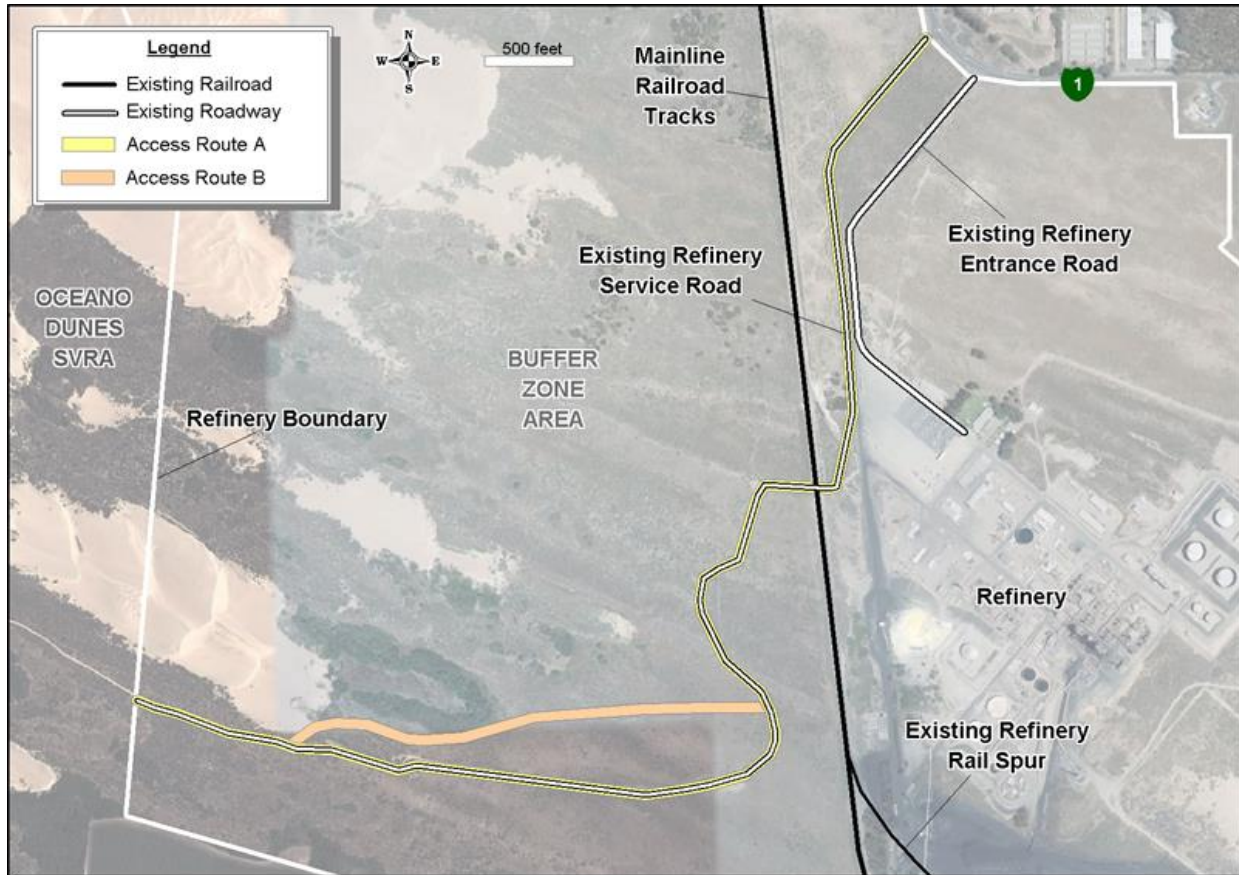
The current SMR service road has a private “at-grade” crossing of the railroad tracks and is classified as a private crossing. The railroad ROW is owned by UPRR, and any future development/establishment of public coastal access would require an agreement with UPRR to cross their property. The California Public Utilities Commission (CPUC) has exclusive jurisdiction over railroad crossings in California (Public Utilities Code §§1201-1202). If the railroad crossing was to be used as a bicycle and pedestrian path, for public vehicle access, or for docent-led access,

the classification of the crossing would change from private to public, and a permit would be required from the CPUC. UPRR has stated that they would oppose any application to the CPUC that would change the existing at-grade crossing from private to public (County 2015, County 2024). The CPUC Policies and Procedures require that public railroad crossings use a separated grade (the crossing is located above or below the railroad tracks), unless it can be shown why a separation of grades is not practicable (CPUC Policies and Procedures, Rule 3.7). ~~In~~The CPUC heavily prioritizes reducing the total number of at-grade crossings. Each crossing proposal is evaluated on its specific characteristics and if an at grade crossing were to be allowed, the CPUC generally requires the closure of at least one or more crossings on the same rail line. However, in discussion with CPUC staff, they have stated that any changes from private to public use of the Union Pacific Mainline DOT #745382G must be grade-separated to accommodate a change from private to public use. This would require a formal application process with the CPUC (County 2015, County 2024).

-Construction of the coastal access across the SMR property would need to connect with access into the ODSVRA. At the time of preparation of the Rail Spur Extension Project EIR, the ongoing deliberations regarding the best manner and location for access and staging for the ODSVRA had not been completely resolved. Conditions included in the CDPR's Coastal Development Permit issued by the CCC (CDP 4-82-300, as amended) for the ODSVRA operations required CDPR to determine a permanent access and staging location for OHV activities that is the least environmentally damaging alternative and that incorporates all feasible mitigation measures. As a result, a number of studies have been conducted to examine potential alternative access routes into the ODSVRA, including the State Parks studies which did not identify this site as a potential access location. The Rail Spur Extension Project EIR concluded that until the CDPR resolves the long-standing issues associated with access and staging for the ODSVRA, the most appropriate type and location of future coastal access on the SMR site is uncertain (County 2015).

4.14 Recreation and Coastal Access

Figure 4.14-1 Possible Locations for Coastal Access at the SMR Property



Source: County 2015

In March 2015 the County issued a final notice to proceed for the Throughput Project. As required, Phillips 66 provided the County with an Irrevocable OTD Vertical Public Access Easement, recorded April 15, 2015, which is valid for a duration of 21 years. The OTD becomes revocable in 2036 unless it is accepted (the Applicant or their successor-in-interest meeting all of the condition requirements to construct the coastal access by 2036). The OTD, which encumbers a private service road used by Phillips 66 to inspect the wastewater outfall pipeline, is in two segments bisected by the UPRR fee-owned land. ~~The OTD will expire unless accepted; acceptance is contingent on the Applicant or their successor-in-interest meeting all of the condition requirements to construct the coastal access by April 2036.~~

4.14.1.4 Determining Parks and Recreation Need

National Recreation and Park Association

Due to an increase in urban and suburban populations in the 1960s and 1970s, the 1983 National Recreation and Park Association (NRPA) park standards were established to guide communities in planning for future park demands. Table 4.14.1 identifies the national park standards.

Table 4.14.1 National Recreation and Park Association Park Standards

Classification	Acres / 1,000 people	Size Range	Population Served	Service Area
Neighborhood Parks	1–2	15+ acres	One neighborhood (approximately 5,000 people)	1/4–1/5 miles
Community Parks	5–8	25+ acres	Several neighborhoods	1–2 miles
Regional Metropolitan Parks	5–10	200+ acres	Several communities	1 hour driving time
Regional Park Reserve	Variable	1,000+ acres	Several communities	1 hour driving time
Special Areas	No Applicable Standard	Includes linear parks, trails, beaches, golf courses, historical sites, flood plains, coastal accessways, etc.		
Conservancy (Natural Areas)	No Applicable Standard	Protection and management of the natural/cultural environments with recreational use as a secondary objective.		

Source: County 2006

The NRPA park standards provide a starting point for assessing the current need for parks within a community and recommend developing individual local standards for assessing the need for parkland (County 2006).

San Luis Obispo County Levels of Severity

The County's most recent resource summary report is the 2016–2018 Resource Summary Report, which assesses several resources, including parks. The report evaluates existing resources using a Resource Management System, which helps decision makers balance land development and existing resources by assessing resource levels and determining the level of development those resources could sustain. The Resource Management System identifies the following three alert levels, called “levels of severity,” to identify potential resource deficiencies:

- **Level 1.** This level of severity is the first alert of resource deficiency and occurs when there is sufficient lead time to either expand the capacity of the resource or slow the rate at which the resource is being depleted;
- **Level 2.** This level of severity identifies the crucial point when some moderation of the rate of resource use must occur to avoid reaching or exceeding the capacity of the resource; and
- **Level 3.** This level of severity is the most critical level of concern and occurs when the demand for the resource is equivalent or exceeds its supply. Typically, the County is responsible for taking action to address resource deficiencies before this level of severity is reached.

As described in the County's 2016–2018 Resource Summary Report, to assess the level of severity for regional parks, the total acreage of regional parks was divided by the estimated total 2018 County population, which includes cities and unincorporated areas. The total 2018 County population was estimated to be 282,544, and the total acreage of regional parks was estimated to be 11,991 acres. Based on these statistics, the County provides 42.4 acres of parkland per every 1,000 residents. Therefore, the County provides more than 10 to 15 acres of regional parkland per 1,000 persons and this resource has not been assigned a recommended level of severity (County 2019).

4.14 Recreation and Coastal Access

As described in the County’s 2016–2018 Resource Summary Report, to assess the level of severity for community parks, the population within a five-mile radius of the URL for the 10 unincorporated communities was determined using 2010 census block data. The resulting population was adjusted by applying the population growth rate for 2010 to 2018 to reflect the 2018 population (County 2019). For the community of Nipomo, the total population in 2018 was estimated to be 29,040. Nipomo Community Park provides 136 acres of total parkland acreage for the community; therefore, the community of Nipomo provides approximately 4.23 acres of parkland per every 1,000 residents and has not been assigned a level of severity since there are more than two to three acres of community parkland per 1,000 residents in the community (County 2019). However, the Nipomo Community Park Master Plan notes that there are only 15 acres of active recreation facilities within Nipomo Community Park, which results in less than one acre of active recreation facilities per 1,000 residents in the community (County 2012).

The demand for certain types of recreation ebbs and flows over time and popular new recreational pursuits can create acute unmet demand in a short period. For this reason, the County periodically reexamines the traditional models for determining what facilities should be included in every park based on examining statewide and national trends, performing periodic County-wide surveys, conducting local workshops, and/or preparing and updating master plans for each park facility (County 2006).

4.14.2 Regulatory Setting

4.14.2.1 Federal Regulations

Coastal Zone Management Act

The Coastal Zone Management Act (CZMA) was passed in 1972 and outlines the management of the nation’s coastal resources including the Great Lakes. Its goal is to “preserve, protect, develop, and where possible, to restore or enhance the resources of the nation’s coastal zone.” The CZMA is administered by the National Oceanic and Atmospheric Administration (NOAA) and outlines three national programs, the National Coastal Zone Management Program, and the National Estuarine Research Reserve System, and the Coastal and Estuarine Conservation Program.

4.14.2.2 State Regulations

The Quimby Act

The Quimby Act (AB 1191) authorizes the legislative body of a county or city to require the dedication of land or to impose fees for park and recreational purposes as a condition of the approval of a tentative or parcel subdivision map if specified requirements are met. Existing law requires fees collected to be committed within five years after the payment of fees or issuance of building permits on half of the lots created by the subdivision, whichever occurs later. Existing law also requires fees not committed to be distributed and paid to the then record owners of the subdivision, as specified. The Quimby Act allows fees to be collected for up to three acres of parkland per 1,000 residents to serve the needs of residents of the county.

California Coastal Act of 1976

The California Coastal Act of 1976 mandates that local governments prepare a land use plan and schedule of implementing actions to carry out the policies of the California Coastal Act. The California Coastal Act guides how land along the coast of California is developed, or protected from development and identifies maintaining public access to the coast as a top priority, as well as preservation of sensitive coastal and marine habitat and biodiversity. The California Coastal Act defines the area of the coast that falls under the jurisdiction of the CCC, which is called the Coastal Zone. The Coastal Zone extends seaward to the state’s outer limit of jurisdiction (three miles) and generally extends inland 1,000 yards from the mean high tide line of the sea, but it is wider in areas with significant estuarine, habitat, and recreational values, and narrower in developed urban areas. The Project is located within the Coastal Zone.

4.14.2.3 Local Regulations

County of San Luis Obispo General Plan

Parks and Recreation Element

The County’s Parks and Recreation Element establishes goals, policies, and implementation measures for the management, renovation, and expansion of existing, and the development of new parks and recreation facilities in order to meet existing and projected needs and to assure an equitable distribution of parks throughout the County (County 2006).

Land Use Element, Framework for Planning – Coastal Zone

The County Framework for Planning serves as the Land Use Element (LUE) for the County (County 2018). The LUE is a plan describing the official County policy on the location of land uses and their orderly growth and development. The LUE coordinates policies and programs in other County General Plan elements that affect land use and provides policies and standards for management of growth and development in each unincorporated community and the rural areas of the County. The LUE also serves as a reference point and guide for future land use planning studies throughout the County.

The LUE also incorporates the Land Use Plan portion of the County Local Coastal Program (LCP), which has been certified by the CCC. The Land Use Plan is the Land Use Element for the Coastal Zone, which is the area subject to the California Coastal Act of 1976. The Land Use Plan, together with the CZLUO and related maps, comprise the County’s LCP.

Coastal Zone Land Use Ordinance

The CZLUO constitutes Title 23 of the San Luis Obispo County Code. The CZLUO was established to guide and manage the future growth in the coastal zone of the County in accordance with the General Plan, to regulate land use in a manner that will encourage and support orderly development and beneficial use of lands, to minimize adverse effects on the public resulting from inappropriate creation, location, use, or design of buildings or land uses, and to protect and enhance significant natural, historic, archaeological, and scenic resources within the coastal zone of the County. The CZLUO is the primary tool used by the County to carry out the goals, objectives, and policies of the General Plan for land use and planning decisions within the coastal zone.

4.14 Recreation and Coastal Access

Section 23.04.420 of the CZLUO outlines the coastal access standards established by the County to satisfy the intent of the California Coastal Act:

a. Access defined:

- 1) **Lateral access:** *Provides for public access and use along the shoreline.*
- 2) **Vertical access:** *Provides access from the first public road to the shore, or perpendicular to the shore.*
- 3) **Pass and repass:** *The right of the public to move on foot along the shoreline.*

b. Protection of existing coastal access: Development shall not interfere with public rights of access to the sea where such rights were acquired through use or legislative authorization. Public access rights may include but are not limited to the use of dry sand and rocky beaches to the first line of terrestrial vegetation.

c. When new access is required: Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- 1) *Access would be inconsistent with public safety, military security needs or the protection of fragile coastal resources; or*
- 2) *The site already satisfies the provisions of subsection d of this section; or*
- 3) *Agriculture would be adversely affected; or*
- 4) *The proposed new development is any of the following:*
 - i. *Replacement of any structure pursuant to the provisions of Section 30610(g) of the California Coastal Act.*
 - ii. *The demolition and reconstruction of a single-family residence; provided that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure. As used in this subsection, “bulk” means total interior cubic volume as measured from the exterior surface of the structure.*
 - iii. *Improvements to any structure that do not change the intensity of its use, or increase either the floor area, height or bulk of the structure by more than 10 percent, which do not block or impede public access and do not result in additional seaward encroachment by the structure. As used in this subsection, “bulk” means total interior cubic volume as measured from the exterior surface of the structure.*
 - iv. *The reconstruction or repair of any seawall; provided that the reconstructed or repaired seawall is not seaward of the location of the former structure.*

- v. *Any repair or maintenance activity excluded from obtaining a land use permit by this title, except where the Planning Director determines that the use or activity will have an adverse effect on lateral public access along the beach.*
- vi. *Nothing in this subsection shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.*

d. Type of access required:

1) Vertical Access:

- i. ***Within urban and village areas:*** *Within an urban or village area where no dedicated or public access exists within one-quarter mile of the site, or if the site has more than one-quarter mile of coastal frontage, an accessway shall be provided for each quarter mile of frontage.*
 - ii. ***In rural areas:*** *In rural areas where no dedicated or public access exists within one mile, or if the site has more than one mile of coastal frontage, an accessway shall be provided for each mile of frontage.*
 - iii. ***Prescriptive rights:*** *An accessway shall be provided on any site where prescriptive rights of public access have been determined by a court to exist.*
 - iv. ***Additional accessways:*** *The applicable approval body may require accessways in addition to those required by this section where the approval body finds that a proposed development would, at the time of approval or at a future date, increase pedestrian use of any adjacent accessway beyond its capacity.*
- 2) Vertical access dedication:** *Accessways shall be a minimum width of five feet in urban areas and 10 feet in rural areas.*
- 3) Lateral access dedication:** *All new development shall provide a lateral access dedication of 25 feet of dry sandy beach available at all times during the year. Where topography limits the dry sandy beach to less than 25 feet, lateral access shall extend from the mean high tide to the toe of the bluff. Where the area between the mean high tide line (MHTL) and the toe of the bluff is constrained by rocky shoreline or other limitations, the County shall evaluate the safety and other constraints and whether alternative siting of accessways is appropriate. This consideration would help maximize public access consistent with the LCP and the California Coastal Act.*

Coastal Plan Policies

The County of San Luis Obispo Local Coastal Plan Policy Document is part of the County's LCP and LUE (County 2007). Many of the policies include programs and standards, some of which have been implemented in the CZLUO and planning area standards. The LUE is the coordinating mechanism for incorporating the policies of this document that have land use implications. In addition to amended portions of the LUE and the CZLUO, this document states –the policy

4.14 Recreation and Coastal Access

commitment of the County to implement the mandates of the Coastal Act. The document includes policies related to shoreline access, recreation and visitor-serving facilities, coastal watershed, visual and scenic resources, hazards, and air quality, among others.

4.14.3 Thresholds of Significance

The determinations of significance of Project impacts are based on applicable policies, regulations, goals, and guidelines defined by CEQA and the County. Specifically, the Project would be considered to have a significant effect on land use and planning if the effects exceed the significance criteria described below:

- a. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or
- b. Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.

Each of these thresholds is discussed under Section 4.14.5, Project-Specific Impacts and Mitigation Measures, below.

4.14.4 Impact Assessment Methodology

The following impact assessment evaluates the potential for the Project to result in adverse change to the existing setting, which was identified using County documents and review of other pertinent literature, including, but not limited to, the *County of San Luis Obispo General, Plan Parks and Recreation Element* (County 2006); *County of San Luis Obispo Framework for Planning – Coastal Zone* (County 2018); the *County of San Luis Obispo General Plan, 2016–2018 Resource Summary Report* (County 2019); the *Vertical Coastal Access Assessment* prepared for the 2015 Phillips 66 Rail Spur Extension Project (County 2015); and the *Coastal Access Feasibility Review* prepared for the Project (ARCADIS US Inc. 2013). The following section identifies the Project’s potential to result in adverse environmental effects to recreational facilities and coastal access based on the Project’s potential to exceed the significance criteria identified above in Section 4.14.3.

4.14.5 Project-Specific Impacts and Mitigation Measures

Impact #	Impact Description	Residual Impact
REC.1	Threshold a): Would the Project increase use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	Class III

The Project does not propose development of any long-term land uses of the Project site following completion of demolition and remediation activities. The Project would not directly result in the

construction of residential uses or otherwise induce population growth in a manner that would increase demand on recreational resources in the Project vicinity.

The Project would generate a maximum daily workforce of 45 temporary construction workers during the overlap of the aboveground demolition phase and the remediation phase. The belowground remediation and demolition phase is estimated to be between three years and 10 years in total duration, with a substantial amount of the remediation and belowground demolition work being completed in the first three years and work continuing at a substantially slower pace over additional years. The majority of workers supporting these activities would be anticipated to come from the existing local workforce. However, a small portion of the workers would be expected to come from areas outside of the County due to the specialized nature of demolition and remediation of oil refinery facilities. Due to the potential longevity of the remediation phase, the Project may result in a minor, short-term increase in the overall population in the community of Nipomo and surrounding areas.

The employment opportunities generated by the Project during demolition of existing facilities and remediation of the site would be limited in quantity (up to 45) and would not result in an increase in local population that would be significant enough to result in an increased demand on local recreational resources. In addition, based on the *2016–2018 County of San Luis Obispo Resource Summary Report*, the community of Nipomo provides approximately 4.23 acres of parkland per every 1,000 residents and has not been assigned a parks/recreation level of severity since there are more than two to three acres of community parkland per 1,000 residents in the community (County 2019). The minor increase in park and recreation facilities users that may result from the Project would result in a negligible acceleration of deterioration of local facilities based on the existing low ratio of population to parkland and recreational facilities. Therefore, impacts would be **less than significant (Class III)**.

Impact #	Impact Description	Residual Impact
REC.2	Threshold b): Would the Project include recreational facilities or require the construction or expansion of recreational facilities which may have an adverse physical effect on the environment?	Class III

As discussed in Section 4.14.1.3 above, a land use permit previously issued for the Phillips 66 Throughput Increase Project (approved February 2013 and subsequently withdrawn in 2021) included a requirement for an OTD for vertical access from State Route 1 to the Phillips 66 western property line. The requirement was imposed to comply with coastal access provisions consistent with the standards of Section 23.044.20, unless that access would be inconsistent with public safety, military security needs, or the protection of fragile coastal resources. The OTD was recorded in April 2015 and valid and irrevocable for 21 years. The OTD becomes revocable in 2036 unless it is accepted.

As discussed above, a *Vertical Coastal Access Assessment* was prepared for the Phillips 66 Rail Spur Extension Project (County 2015), which identified an existing service road extending west from the SMR towards the coast for maintenance of the outfall facility as a suitable option for providing coastal access that would reduce impacts to sensitive coastal resources. The Assessment

4.14 Recreation and Coastal Access

concluded that the CDPR has long-standing issues associated with access and staging for the ODSVRA and those issues affect connectivity of any access from the Phillips 66 property through the ODSVRA to the shore. Based on the ongoing deliberations and legal challenges (see above) regarding the future of OHV uses and vehicle access to the ODSVRA, the most appropriate type and location of coastal access to be provided on the SMR site remains to be determined.

The current Project includes demolition and removal of the SMR facilities followed by soil testing and remediation, with retention or replacement of existing hardscape on the majority of the Project site and some areas of ~~revegetation~~. ~~While these restoration and revegetation~~. The Project does not include any new permanent development or improvements. While the demolition and remediation activities constitute new development as defined by the Coastal Act and the CZLUO, the Project does not impede public access to the shoreline, and the result of the Project would be a vacant site with minimal maintenance and management oversight. Following proposed demolition and remediation activities, there are currently no proposed plans for future development or uses of the Project site. The recorded 21-year Irrevocable Offer to Dedicate public access on the property remains in effect and ~~expire~~becomes revocables in 2036 unless it is accepted. ~~accepted by constructing and recording a trail easement~~.

The provision of vertical access was studied under two prior projects and the primary issue with design and construction is the fact that the UPRR line bisects the Phillips property, such that public access would ~~most likely~~ need a grade-separated under- or over-crossing of the 100-foot UPRR ROW. In addition, the connection from the westerly terminus of the public access on the Phillips property would need to connect to the CDPR property and be acceptable in location and alignment. The Demolition and Remediation Project does not create any impact that would justify the extensive cost and effort required to construct the access. However, as the Project is expected to extend over 10 years (at a greatly reduced level of activity), and the currently ongoing slop oil remediation could take longer than that, there is the potential for the current OTD to expire before a subsequent use is proposed or permitted.

According to Section 23.04.420 of the CZLUO, new coastal access is required “in new development projects” and includes the activities under the Phillips 66 Demolition and Remediation Project. ~~However,~~ the Project does not include any new permanent development or improvements, nor would it not impede coastal access. Nevertheless, as remediation associated with the Project is expected to extend over 10 years (at a greatly reduced level of activity), there is the potential for the current OTD to expire before a subsequent use is proposed or permitted Given this, the Applicant will be required to extend the OTD in perpetuity as a condition of approval for decision makers to consider with findings and conditions. In addition, the OTD will be required to be recorded as a Trail Corridor, at a width of 50 feet (compared to 10 feet under the existing OTD), within which the trail route would be located. This will ensure that the final access route for different trail users is considered and that sensitive resources can be avoided within the OTD area in the design, routing, and construction of the trail, consistent with the County Parks and Recreation Element. The final trail easement, if and when the trail is constructed, would likely be narrower in width, depending on identified users and design requirements.

According to Section 23.04.420 of the CZLUO, new coastal access is required “in new development projects”. With no direct shoreline, the Phillips 66 property does not currently prevent or impede public access to the coast, and the Project consists of demolition and remediation of a facility rather than an intensification of use or a new use. It also does not include any new permanent development or improvements. The Project would result in removal of structures and ultimately in a significant reduction of activity. Impacts associated with the Project do not generate a sufficient nexus and are not proportional to the costs necessary to construct vertical trail access, particularly in light of the bisecting railroad ROW which requires design and construction of an under- or over-pass to create such access. Furthermore, the ~~CDPRODSVRA~~ would need to plan for a point of connection into the ~~ODSVRA~~ Park from the Phillips 66 trail access, which would terminate at the shared property line over a mile from the shore.

Although coastal access is required for new development, the policy consistency for this Project is not a CEQA impact as no intensification or continuation of use is proposed. Staff will address the policy through Project conditions of approval by including a Project condition for the decision makers to consider with the findings and conditions, that the duration of the existing OTD be amended to extend in perpetuity and the width be extended from 10 feet to 50 feet to consider different trail users and to avoid sensitive resources in the design, routing, and construction of the future trail. The final trail easement, if and when the trail is constructed, would likely be narrower in width, depending on identified users and design requirements. When the Project site is proposed for a new land use and/or development, the provision of coastal access across the site would be likely required. Therefore, the Project would not result in the development of new recreational facilities with the potential to have an adverse physical effect on the environment, and no impacts would occur. Impacts would be **less than significant (Class III)**.

4.14.6 Mitigation Measure Impacts to Other Issue Areas

As no mitigation measures are proposed for recreation and coastal access, there would not be any impact from the mitigation measures on other issue areas.

4.14.7 Cumulative Impacts

Existing and foreseeable future projects within the Project region are identified in Chapter 3.0, Cumulative Study Area.

As discussed in Section 4.14.5 above, the Project could generate a minor increase in park and recreation facilities users resulting in a less than significant increase in demand on local recreational resources because there is adequate existing community parkland per Nipomo resident. Several proposed development projects in the Project vicinity would result in additional population growth and increased demand on local and regional recreational facilities. However, recreational development projects are also proposed in the Project vicinity, including, but not limited to, development of an 11-acre public park and pedestrian, bicycle, and equestrian trails associated with the Dana Reserve Specific Plan. Other reasonably foreseeable future development projects would be subject to the payment of Quimby Fees and Public Facilities Fees to the County to provide funding for construction of capital projects and maintenance of existing facilities. Other

4.14 Recreation and Coastal Access

reasonably foreseeable future projects would also be subject to subsequent environmental review to determine if individual projects would result in physical deterioration of existing parks or other recreational facilities or result in potential adverse physical effects on the environment. Therefore, impacts would be less than cumulatively considerable.

The Project would not result in the need for development of new recreational facilities with the potential to have an adverse physical effect on the environment. Reasonably foreseeable future projects that include the development of recreational facilities would be subject to environmental review and would be required to implement mitigation measures to reduce any potential short- or long-term environmental impacts that may result from the development of new parks and/or recreation facilities. Therefore, cumulative impacts associated with the Project would be less than significant.

4.14.8 References

ARCADIS US Inc. 2013. Coastal Access Feasibility Review; August 2013.

California Coastal Commission (CCC). 2020. State Parks' Oceano Dunes State Vehicular Recreation Area (ODSVRA) Public Works Plan (PWP) Update. Available at: <https://documents.coastal.ca.gov/assets/oceano-dunes/Staff%20report%20for%20October%202020%20update.pdf>. Accessed July 2023.

CCC. 2021. Oceano Dunes Coastal Development Permit 4-82-300 Review. Available at: <https://documents.coastal.ca.gov/assets/oceano-dunes/Commission%20staff%20recommendation%20synopsis%20and%20executive%20summary.pdf>. Accessed July 2023.

California Department of Parks and Recreation (CDPR). 2023. Oceano Dunes State Vehicular Recreation Area Webpage. Available at: http://ohv.parks.ca.gov/?page_id=1207. Accessed June 2023.

County of San Luis Obispo (County). 2006. County of San Luis Obispo General Plan, Parks and Recreation Element. Available at: <https://slocountyparks.com/wp-content/uploads/2015/09/SLO-Parks-Rec-Element-Appendix.pdf>. Accessed June 2023.

County. 2007. Coastal Plan Policies. Available at: <https://www.slocounty.ca.gov/Departments/Planning-Building/Forms-Documents/Plans-and-Elements/Elements/Coastal-Plan-Policy.pdf>. Accessed June 2023.

County. 2012. Nipomo Community Park Master Plan. Available at: <https://slocountyparks.com/wp-content/uploads/2016/02/NipomoCommunityPark-Master-Plan-and-Implementation-Plan-Adopted-12-18-12.pdf>. Accessed June 2023.

County. 2015. San Luis Obispo County, Phillips 66 Company Rail Spur Extension And Crude Unloading Project Final Environmental Impact Report And Vertical Coastal Access Project Assessment, December 2015, SCH # 2013071028.

County. 2018. Coastal Zone Framework for Planning, San Luis Obispo County General Plan. Available at: <https://www.slocounty.ca.gov/Departments/Planning-Building/Forms->

Documents/Plans-and-Elements/Elements/Framework-for-Planning-Coastal-Zone.pdf. Accessed June 2023.

County. 2019. 2016–2018 Resource Summary Report; San Luis Obispo County General Plan. Available at: https://www.slocounty.ca.gov/Departments/Planning-Building/Forms-Documents/General-Plan-Forms-and-Documents/Resource-Summary-Report/2016-2018-Public-Hearing-Draft-RSR-Volume-II_FINAL.pdf. Accessed June 2023.

County. 2024. Personal Communication between Susan Strachan and Eyitejumade Sogbesan at the CPUC, dated February 27, 2024.

San Luis Obispo Tribune. 2023. SLO Judge issues landmark ruling: Off-roading can continue at Oceano Dunes; July 20, 2023. Available at: <https://www.sanluisobispo.com/news/local/environment/article277483108.html>.

Superior Court County of San Luis Obispo. 2023. Certified Publication in the Court of Appeal of the State of California Second Appellate District Division Six; Friends of Oceano Dunes, Plaintiff and Respondent, v. California Coastal Commission, Defendant. Available at: <https://cases.justia.com/california/court-of-appeal/2023-b320491.pdf?ts=1682013682>. Accessed July 28, 2023.

U.S. Fish and Wildlife Service (USFWS). 2023. Guadalupe-Nipomo Dunes National Wildlife Refuge. Webpage. Available at: <https://www.fws.gov/refuge/guadalupe-nipomo-dunes>. Accessed June 2023.

Union Pacific Railroad Public Projects Manual. 2021. Available at: pdf up public projects manual.pdf. Accessed July 2024.

