

**FINDINGS FOR THE PHILLIPS 66 RODEO RENEWED PROJECT REIR; PHILLIPS 66 COMPANY (APPLICANT & OWNER); COUNTY FILE# CDLP20-02040**

**California Environmental Quality Act (CEQA) Findings**

Environmental Impact Report: The Rodeo Renewed Project proposes to modify the existing Phillips 66 Rodeo Refinery into a repurposed facility that would process renewable feedstocks into renewable diesel fuel, renewable components for blending with other transportation fuels, and renewable fuel gas. The project includes constructing a pre-treatment facility, modifying certain existing refinery equipment, taking other existing processing equipment out of service, demolishing an existing petroleum coke facility on the Rodeo refinery site, demolishing the Santa Maria Refinery in San Luis Obispo County, and decommissioning several hundred miles of regional pipelines. As a result of the project, the Rodeo facility would no longer refine crude oil into petroleum-based products.

In June 2022, a CEQA lawsuit was filed in the Contra Costa County Superior Court challenging the Board of Supervisor's certification of the Environmental Impact Report prepared for the project (2022 EIR) and the approval of the Project. (Communities for a Better Environment, et al., v. County of Contra Costa, et al., Contra Costa County Superior Court Case No. N22-1080.) On July 21, 2023, the Superior Court, the Honorable Edward G. Weil presiding, issued a Statement of Decision in which the Superior Court remanded to the County for reconsideration three issues in the 2022 EIR. On August 23, 2023, the Superior Court entered judgment and issued a peremptory writ of mandate to the County to decertify the 2022 EIR and to conduct further environmental review in compliance with CEQA to remedy the three issues identified in the Statement of Decision. On October 12, 2023, the Superior Court reaffirmed its Statement of Decision (see Appendix B of the Final Revised Environmental Impact Report (Final REIR)), allowing the Land Use Permit to remain in place and allowing Project construction activities, and ruled that the judgment would be modified to enjoin Project operations until further order of the Court. The Superior Court did not identify any other CEQA violations, and the remaining content of the 2022 EIR is valid.

Analyses in the 2022 EIR that were not identified in the Statement of Decision and peremptory writ of mandate as requiring reconsideration have not been revised and were not recirculated in the Draft Revised Environmental Impact Report (Draft REIR). Pursuant to CEQA Guidelines Section 15088.5(f)(2), reviewers were notified that their comments should be limited to the revised chapters or sections of the Draft REIR. Pursuant to CEQA Guidelines Section 15088.5(f)(2)(ii), written responses have been prepared only to comments received regarding the contents of the REIR. The Final Revised EIR (Final REIR) constitutes the second part of the REIR for the Project and is intended to be a companion

to the Draft REIR. The Draft REIR for the Project, which was circulated for public review and comment from October 24, 2023, through December 8, 2023, constitutes the first part of the REIR and is incorporated by reference and bound separately from the Final REIR (refer to <https://www.contracosta.ca.gov/RodeoRenewed> (link)). Accordingly, the REIR for the Project comprises the following:

- Draft REIR and Appendices
- Final REIR and Appendices

The Draft REIR and Final REIR, as well as the portions of the 2022 EIR determined by the Superior Court to be in compliance with CEQA, or otherwise unchanged by the REIR comprise the EIR for the project – collectively considered the “2024 EIR”.

### **Findings Regarding Potential Environmental Impacts**

Contra Costa County is the lead agency under the California Environmental Quality Act (CEQA) for preparation, review, and certification of the EIR for the Phillips 66 Rodeo Refinery Renewable Fuels Project. As the lead agency, the County is also responsible for determining the potential environmental impacts of the proposed action, which of those impacts are significant, and which impacts can be mitigated through imposition of feasible mitigation measures to avoid or minimize such impacts to a level of “less than significant.” The 2022 EIR for the project considered the project’s impacts, which are summarized in Table ES-3 of the 2022 Draft EIR.

The 2023 REIR CEQA review remedies three specific areas: (1) reconsideration of the NuStar terminal as part of the project description; (2) reconsideration of Unit 250 as a part of the cumulative impact analysis; and (3) reconsideration of the mitigation measures for the Project’s odor impacts. Pursuant to CEQA Guidelines Section 15088.5(c), recirculation is limited to those chapters and sections and the additional information contained in the Draft REIR, namely portions of Section 4.3, Air Quality and Section 6.4, Cumulative Impacts. In response to the Superior Court’s Statement of Decision, Section 4.3 identifies the significant impact and mitigation measures related to odor, addressing each Project phase including construction, demolition, and operation and maintenance. Table 2-1 of the Draft REIR summarizes the conclusions of the updated environmental analysis, providing a table of impacts and mitigation measures identified. Section 6.4 identifies the cumulative impacts of the project including the revised analysis to address Unit 250.

Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15091, no public agency shall approve and carry out a project where an EIR has been certified, which identifies one or more significant impacts on the environment that would occur if

the project is approved, unless the public agency makes one or more findings for each of those significant impacts, accompanied by a brief explanation of the rationale for each finding. The possible findings, which must be supported by substantial evidence in the record, are:

- Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant impact on the environment.
- Changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
- Specific economic, legal, social, technological or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR.

The following impacts have been identified in either the 2022 EIR or Revised EIR, collectively the 2024 EIR.

“No Impact” or “Less than Significant Impact”

FINDING: The project would have either no impacts or less than significant impacts related to:

- Aesthetics
- Energy conservation
- Greenhouse gases
- Land use and planning
- Noise and vibration
- Wildfires.

FINDING: Potentially significant impacts were also identified, all of which can be mitigated to a less-than-significant level. These impacts affect the environmental topics of:

- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Transportation and Traffic
- Tribal Cultural Resources

Environmental analysis contained in the 2024 EIR determined that measures were available to mitigate these potential adverse impacts to less-than-significant levels. The recommended mitigation measures are included within the Mitigation Monitoring and Reporting Plan, which describes the timing and responsible agency for monitoring compliance with all mitigation measures. Refer to Final REIR Appendix A, Mitigation Monitoring and Reporting Program, which includes the final MMRP for the Rodeo Renewed Project EIR.

FINDING: The 2024 EIR for the proposed project identified eight significant and unavoidable impacts related to related to:

- Air quality
- Biology
- Hazards and hazardous materials
- Hydrology and water quality

Each impact is described further below. These potential environmental impacts remain significant and unavoidable despite the imposition of all feasible mitigation measure.

The County determines and finds that changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effects as identified in the EIR. The County also determines and finds that all feasible mitigation has been adopted to reduce or avoid the potentially significant impacts identified in the 2024 EIR and that no additional feasible mitigation is available to further reduce significant impacts.

### **Findings on Alternatives to the Phillips 66 Rodeo Renewed Project**

#### Alternatives Considered but Eliminated from Further Consideration

The County finds that each of the alternatives eliminated from further consideration in the Draft EIR is infeasible, would not meet most project objectives, and/or would not reduce or avoid significant impacts of the Project, for the reasons detailed in Chapter 5 of the 2022 Draft EIR.

#### Alternatives Analyzed in the EIR

In accordance with CEQA and the CEQA Guidelines, Chapter 5 of the 2022 Draft EIR evaluated a reasonable range of alternatives to the Phillips 66 Rodeo Renewed Project. The EIR's analysis examined the feasibility of each alternative, the environmental impacts

of each alternative, and each alternative's ability to meet the project objectives described in Chapter 5, Section 5.5 of the 2022 Draft EIR. In accordance with CEQA and the CEQA Guidelines, the alternatives analysis included an analysis of a no-project alternative and identified the Reduced Project Alternative as the environmentally superior alternative.

FINDING: The County certifies that it has independently reviewed and considered the information on alternatives provided in the Draft EIR and in the administrative record. For the reasons set forth below, the County finds that the alternatives either fail to avoid or substantially lessen the Project's significant impacts (and in some cases increase or create new significant and unavoidable impacts) or are "infeasible" as that term is defined by CEQA and the CEQA Guidelines.

The Draft EIR evaluated four alternatives to the Project:

- Alternative 1 – No Project Alternative
- Alternative 2 – Reduced Project Alternative
- Alternative 3 – Terminal Only Alternative
- Alternative 4 – No Temporary Increase in Crude Oil Alternative

Brief summaries of these alternatives and findings regarding these alternatives are provided below.

1) Alternative 1 – No Project Alternative

Under the No Project Alternative, the Rodeo Refinery would continue to receive petroleum-based feedstocks, including crude oil, by pipeline (from the Santa Maria Site via the Pipeline Sites) and marine vessels, refine those feedstocks into a variety of petroleum-based fuel products, and ship those products out by pipeline, marine vessels, and rail. The Carbon Plant would continue to receive raw coke by truck, produce finished petroleum coke, and ship that material to market by rail and truck. The No Project Alternative would consist of the continued operation of the existing Rodeo Refinery equipment and the Santa Maria Site and the Pipeline Site. Future activity levels would be, on average, similar to the baseline in terms of material throughput, number of truck, train, and marine vessel trips, and employment. (See Draft EIR, Chapter 5, Section 5.5.1.1)

FINDING: In accordance with Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3), the County finds that specific legal, social, technological, or other considerations, including failure to meet project objectives, render the No Project alternative infeasible. This alternative would not achieve most of the objectives of the proposed project, with the exception of maintaining quality jobs. Moreover, the No

Project Alternative would result in the same impacts to aesthetics, biological resources, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, and public services as the proposed Phillips 66 Rodeo Renewed Project and would result in more severe impacts to air quality, energy use, greenhouse gas emissions, transportation, and utilities and service systems than the proposed Phillips 66 Rodeo Renewed Project. For these reasons, the County rejects this alternative.

## 2) Alternative 2 – Reduced Project Alternative

In the Reduced Project Alternative, the capacity of the Rodeo Renewed facility would be reduced compared to the Project because the Pre-Treatment Unit would consist of only two pre-treatment trains instead of three, thereby reducing overall processing capability for renewable feedstocks to 55,000 bpd (instead of 80,000 bpd) and shipping 50,000 bpd of renewable fuels (instead of 55,000 bpd). With existing (as of 2021) renewable processing capacity of 12,000 bpd (i.e., the Unit 250 production) and the reduced shipping of 50,000 bpd, the total production capacity of the facility after the Reduced Project Alternative is operational would be 62,000 bpd of renewable fuels. Like the Project, the facility would continue to receive 38,000 bpd of gasoline blendstocks, and blend and ship 40,000 bpd conventional fuels. All other elements of the Reduced Project would be identical to the Project, including demolition of the Carbon Plant and the Santa Maria Site and cleaning and decommissioning the Pipeline Sites. (See Draft EIR, Chapter 5, Section 5.5.2.1)

**FINDING:** In accordance with Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3), the County finds that specific legal, social, technological, or other considerations, including failure to meet project objectives, render the Reduced Project Alternative infeasible. By reducing renewable feedstock throughput, this alternative would generate fewer jobs, would result in a lower volume of renewable fuels being produced and brought to market to support the State's renewable energy goals, and would not achieve the Project objectives as well as the proposed project. For these reasons, the County rejects the Reduced Project Alternative as infeasible.

## 3) Alternative 3 – Terminal Only Alternative

Under the Terminal Only Alternative, the process equipment at the Rodeo Site would be demolished, likely over a period of years, leaving only the storage tankage and associated infrastructure, including the wastewater treatment plant (Unit 100), piping, pumps, and administration buildings in active service. In this alternative, as in the Project, the Carbon Plant and Santa Maria Site would be closed and demolished and the Pipeline Sites would be cleaned and removed from active service.

Operation of this alternative would involve the receipt of gasoline blendstocks, as under existing conditions, as well as renewable fuels and blendstocks, by marine vessel and potentially rail. Finished gasoline and diesel, both petroleum-based and renewable, would be distributed from the Rodeo Site by pipeline and potentially rail. The Terminal Only Alternative would result in 110 vessels per year delivering blendstocks and fuels, which is considerably less than the Project. As described in Table 5-1, the Terminal Only Alternative is assumed to handle an average of 75,000 bpd, in approximately equal amounts of gasoline and diesel fuel. This alternative would employ far fewer personnel than the Project, with employment estimated at 75. (See Draft EIR, Chapter 5, Section 5.5.3.1)

**FINDING:** In accordance with Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3), the County finds that specific legal, social, technological, or other considerations, including failure to meet project objectives, render the Terminal Only Alternative infeasible. The Terminal Only Alternative would not convert the Rodeo Refinery to a renewable transportation fuels production facility. The Terminal Only Alternative would not produce renewable fuels, and would therefore not assist California in meeting its goals for renewable energy, GHG emission reductions and reduced Carbon Intensity. The lack of production of renewable fuels at the Rodeo facility could mean that the region's fuel demand would have to be met with greater amounts of petroleum-based fuels, some portion of it imported, than with the Project. In that case, the Terminal Only Alternative would not assist in the attainment of California's climate and energy goals. The Terminal Only Alternative would not convert equipment and infrastructure to produce renewable fuels, but it would discontinue the processing of crude oil at the Rodeo Refinery. The Terminal Only Alternative would result in the elimination of approximately 575 of the 650 existing jobs at the Rodeo Refinery. Although it would preserve 75 jobs.

The Terminal Only Alternative would repurpose and reuse only a small portion of the facility's existing equipment capacity, primarily storage tanks and administrative facilities. The remainder of the refinery's equipment would not be reused.

The Terminal Only Alternative would preserve marine and rail facilities, and possibly truck loading/offloading facilities. Those facilities would likely be used to receive, store, and distribute renewable fuels and would certainly be used to handle conventional fuels and fuel components (e.g., the existing gasoline blending operation). However, this alternative does not include accessing renewable feedstocks.

The Terminal Only Alternative would not be able to process renewable feedstocks.

The Terminal Only Alternative would allow the Rodeo facility to supply regional market demand for conventional and renewable fuels. However, the capacity to supply fuels would be substantially less than the Project's and would not maintain the facility's current capacity to produce approximately 120,000 bpd.

The Terminal Only Alternative would not transition the Rodeo Refinery to a renewable fuels facility and would not require any increased crude oil or gasoil deliveries.

The Terminal Only Alternative would not have the capacity to process recyclable fats, oil, and grease.

The Terminal Only Alternative would provide a mechanism for compliance with the federal RFS and state LCFS because it would likely supply some renewable and low-carbon fuels, although to a far lesser extent than the Project.

For these reasons, this alternative was found to be infeasible.

### 3) Alternative 4 – No Temporary Increase in Crude Oil Alternative

Under this alternative, it is reasonable to expect that the decreased vessel traffic to the Marine Terminal during the 7-month interim period, and therefore the decreased production of refined products by the Rodeo Refinery, would be offset by imports to other regional fuels facilities and possibly, where feasible, increased production by the other three regional refineries. Imports would likely come primarily by vessel, and increased production, should some excess capacity be available, would require imports of crude oil, also likely primarily by marine vessel. Accordingly, some or all of the vessel traffic that would not come to the Rodeo facility would come to other regional facilities.

Under operating conditions, however, the No Temporary Increase in Crude Oil Alternative would result in the same significant and unavoidable impacts associated with vessel spills as the Project.

**FINDINGS:** In accordance with Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3), the County finds that specific legal, social, technological, or other considerations, including failure to meet project objectives, renders the No Temporary Increase in Crude Oil Alternative infeasible. Under this alternative, it is reasonable to expect that the decreased vessel traffic to the Marine Terminal during the 7-month interim period, and therefore the decreased production of refined products by the Rodeo Refinery, would be offset by imports to other regional fuels facilities and possibly, where feasible, increased production by the other three regional refineries.



Imports would likely come primarily by vessel, as happened in 2020 during the Marathon Martinez refinery shutdown (CEC, 2021a), and increased production, should some excess capacity be available, would require imports of crude oil, also likely primarily by marine vessel. Accordingly, some or all of the vessel traffic that would not come to the Rodeo facility would come to other regional facilities.

Under operating conditions, however, the No Temporary Increase in Crude Oil Alternative would result in the same significant and unavoidable impacts associated with vessel spills as the Project.

The No Temporary Increase in Crude Oil Alternative would convert the Rodeo Refinery to a renewable transportation production facility that would produce the same amounts of renewable fuels as the Project.

The No Temporary Increase in Crude Oil Alternative would produce renewable fuels in the same quantities as the Project. Accordingly, the facility would assist California in meeting its goals for renewable energy, GHG emission reductions, and reduced CI. The decreased production of conventional fuels during the construction period compared to the Project would mean that the region's fuel demand would have to be met with imported petroleum-based fuels, but such an eventuality would be of short duration (7 months) and would not interfere with the long-term supply of renewable fuels.

The No Temporary Increase in Crude Oil Alternative would result in the conversion of equipment and infrastructure to produce renewable fuels to the same extent as the Project would, and it would discontinue the processing of crude oil at the Rodeo Refinery.

The No Temporary Increase in Crude Oil Alternative would preserve the existing jobs.

The No Temporary Increase in Crude Oil Alternative would repurpose and reuse the facility's existing equipment capacity, including the marine and rail terminals to the same extent as the Project.

The No Temporary Increase in Crude Oil Alternative would preserve marine, rail, and truck offloading facilities to access renewable feedstocks to the same extent as the Project.

The No Temporary Increase in Crude Oil Alternative would have the same ability to process a comprehensive range of renewable feedstocks as the Project.

The No Temporary Increase in Crude Oil Alternative would maintain the Rodeo facility's capacity to supply regional market demand for both renewable and conventional fuels in

the long term. However, during 7 months of the construction period, the Rodeo facility would not be able to supply its historic share of the regional market for conventional fuels, which could result in either increased imports or regional shortages of transportation fuels.

The No Temporary Increase in Crude Oil Alternative would have the capacity to process recyclable fats, oil, and grease.

The No Temporary Increase in Crude Oil Alternative would provide a mechanism for compliance with the federal RFS and state LCFS by producing renewable fuels at the maximum capacity of the Project.

For these reasons, this alternative was found to be infeasible.

#### 5) Environmentally Superior Alternative

**FINDING:** While the County finds that the Reduced Project Alternative is the environmentally superior alternative because it would not result in impacts greater than the proposed Project and would in many cases result in reduced impacts compared to the proposed Project, the County also finds that the Reduced Project Alternative is infeasible under Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3) because it would not meet many of the basis project objectives. The Reduced Project Alternative is infeasible because it would result in a lower volume of renewable fuels being brought to market to support the State's renewable energy goals, and would not achieve the Project objectives as well as the proposed project. For these reasons, the County rejects the environmentally superior alternative as infeasible. The County further finds that of the remaining alternatives evaluated in the EIR, each has varying levels of impacts on different environmental resources, as noted in the Findings above, and none of the remaining alternatives is superior to the Project for CEQA purposes. Compared to the remaining alternatives, the Phillips 66 Rodeo Renewed Project provides the best available and feasible balance between maximizing attainment of the project objectives and minimizing significant environmental impacts, and the Project is the environmentally superior alternative among those options.

#### **Statement of Overriding Considerations.**

Pursuant to Public Resources Code section 21081(b), the County must balance the benefits of the proposed project against any unavoidable environmental impacts in determining whether to approve the proposed project, and CEQA Guidelines section 15093(b) provides that when a public agency approves a project that will result in

significant impacts that are identified in the Final EIR but are not avoided or substantially lessened, the agency must state in writing the specific reasons to support its decision based on the Final EIR and/or other information in the whole administrative record. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh its unavoidable adverse environmental impacts, the adverse effects may be considered "acceptable." If a lead agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. The statement of overriding considerations does not substitute for, and is in addition to, findings required by CEQA Guidelines section 15091.

The project would have significant and unavoidable impacts (i.e., impacts that would remain significant even after the application of mitigation) related to air quality, biology, hazards and hazardous materials, and hydrology and water quality. Specifically:

- 1) The project would have a significant and unavoidable air quality impact from the rail transport of renewable feedstocks.
- 2) The project would have significant and unavoidable impacts on special-status species, wetlands, and migratory wildlife from potential spills from marine vessels and the introduction of invasive species.
- 3) The project would have a significant and unavoidable impact as a result of the hazards posed by potential spills of hazardous materials from marine vessels.
- 4) The project would have a significant and unavoidable impact on surface water quality from potential spills from marine vessels.

Contra Costa County is the lead agency under the California Environmental Quality Act (CEQA) for preparation, review, and certification of the EIR for the Rodeo Renewed Project. As the lead agency, the County is also responsible for determining the potential environmental impacts of the proposed action, which of those impacts are significant, and which impacts can be mitigated through imposition of feasible mitigation measures to avoid or minimize such impacts to a level of "less than significant." Public Resources Code section 21081(a) provides that no public agency may approve or carry out a project for which an EIR has been certified that identifies one or more significant effects on the environment that would occur if the project is approved or carried out, unless the public agency makes findings with respect to each significant effect.

## Summary of Significant Unavoidable Environmental Impacts

The 2024 EIR for the proposed project identified eight significant and unavoidable impacts related to related to air quality, biology, hazards and hazardous materials, and hydrology and water quality, including Impact 4.2-3: The EIR discloses that locomotive emissions along rail lines outside the San Francisco Bay Area Air Basin (SFBAAB) related to transport of renewable feedstocks for the Rodeo Renewed Project would exceed regulatory significance thresholds, resulting in a significant impact. Furthermore, the EIR discloses that the County has no authority to impose mitigation measures based on federal preemption, even if any were feasible, on that activity. Accordingly impacts would be significant and unavoidable.

Impact 4.4-4: The EIR discloses that marine vessels transiting San Francisco and San Pablo bays and unloading and loading at the marine terminal could potentially spill crude oil and refined products during the transitional period and renewable feedstocks and renewable products during the operational period and that such spills would constitute a significant impact on special-status species and their habitats. The EIR imposes mitigation measures BIO-2 and BIO-3, but discloses that those measures would be unlikely to mitigate the project's impact to a less-than-significant level, and impacts would be significant and unavoidable.

Impact 4.4-5: The EIR discloses that marine vessel activity during the transitional and operational periods would increase the risk of introducing non-indigenous invasive species, resulting in a significant impact on sensitive species and their habitats. The EIR imposes mitigation measures BIO-4a and BIO-4b, but discloses that those measures would be unlikely to mitigate the project's impact to a less-than-significant level, and impacts would be significant and unavoidable.

Impact 4.4-7: The EIR discloses that marine vessel activity during the transitional and operational periods would increase the risk of spills of crude oil and refined products during the transitional period and renewable feedstocks and products during the operational period. These effects would constitute a significant impact on sensitive species and their habitats. The EIR imposes mitigation measure BIO-5, but discloses that the measure would be unlikely to mitigate the project's impact to a less-than-significant level, and impacts would be significant and unavoidable.

Impact 4.4-9: The EIR discloses that marine vessels transiting San Francisco and San Pablo bays and unloading and loading at the marine terminal could spill crude oil and refined products during the transitional period and renewable feedstocks and renewable products during the operational period and that such spills would constitute a

significant impact on native resident and migratory wildlife. The EIR imposes mitigation measure BIO-6, but discloses that the measure would be unlikely to mitigate the project's impact to a less-than-significant level, and impacts would be significant and unavoidable.

Impact 4.4-10: The EIR discloses that marine vessel activity during the transitional and operational periods would increase the risk of introducing non-indigenous invasive species, resulting in a significant impact on native resident and migratory wildlife. The EIR imposes mitigation measure BIO-7, but discloses that the measure would be unlikely to mitigate the project's impact to a less-than-significant level, and impacts would be significant and unavoidable.

Impact 4.9-2: The EIR discloses that marine vessels transiting San Francisco and San Pablo bays and unloading and loading at the marine terminal could potentially spill crude oil and refined products during the transitional period and renewable feedstocks and renewable products during the operational period and that such spills would constitute a significant impact from the risk of spills and the release of hazardous materials. The EIR imposes mitigation measures HAZ-1 and HAZ-2, but discloses that those measures would be unlikely to mitigate the project's impact to a less-than-significant level, and impacts would be significant and unavoidable.

Impact 4.10-1: The EIR discloses that marine vessels transiting San Francisco and San Pablo bays and unloading and loading at the marine terminal could potentially spill crude oil and refined products during the transitional period and renewable feedstocks and renewable products during the operational period and that such spills would constitute a significant impact on surface water quality. The EIR imposes mitigation measures HAZ-1 and HAZ-2, but discloses that those measures would be unlikely to mitigate the project's impact to a less-than-significant level, and impacts would be significant and unavoidable.

Cumulatively Considerable Impacts: The Project would result in significant and unavoidable impacts to marine biological resources as a result of an accidental spill of renewable feedstocks enroute, at or near the Marine Terminal. The frequency and size of potential spills could be lessened but not completely eliminated (refer to Mitigation Measure BIO-3, BIO-6 and BIO-7, which require implementation of HAZ-1 and HAZ-2). In addition, significant and unavoidable impacts would occur related to increased vessel traffic that would increase the presence of nonindigenous species. Mitigation Measure BIO-4 would reduce impacts but not to a less-than-significant level. Despite these recommended mitigation measures, the potential for a substantial adverse impact on special-status marine species or their habitat cannot be eliminated. The Project, in

combination with specifically the Martinez Refinery Renewable Fuels Project, which identifies the same significant and adverse impacts, and the Phillips 66 Rodeo Unit 250 Hydrotreater project, which would continue to receive feedstocks by Marine Terminal and rail, would be cumulatively considerable.

Although compliance with existing regulations and implementation of Mitigation Measures HAZ-1 and HAZ-2 for the Project would reduce the frequency and size of spills the potential for a substantial adverse impact on water quality cannot be eliminated. With respect to the NuStar Project, impacts related to hazards or hazardous materials are not expected to change because NuStar did not expand the rail spur or change its offloading rack capacity. However, the Project, in combination with other projects, specifically the Martinez Refinery Renewable Fuels Project, which identifies the same significant and unavoidable impacts, and operation of the Phillips 66 Rodeo Unit 250 Hydrotreater project, which would continue to receive renewable feedstocks by Marine Terminal and rail, would result in adverse impacts that would be cumulatively considerable.

The Project would result in a significant and unavoidable impact due to the potential to violate water quality standards affecting surface water quality from the transitional and operational phases of the Project. Accidental discharges into waters of the San Pablo and San Francisco Bays from vessels transporting feedstocks and blending stocks to, and refined products from, the Marine Terminal could occur. A marine vessel spill could impact a range of areas, depending on the tide, the wind and other factors. The spill sizes could cover a substantial range, with the worst-case discharge volume at the Marine Terminal estimated to be 3,976 bbls. Although compliance with existing regulations and implementation of Mitigation Measures HAZ-1 and HAZ-2 for the Project would reduce the frequency and size of spills the potential for a substantial adverse impact on water quality cannot be eliminated. Therefore, the Project, in combination with other projects, specifically the Martinez Refinery Renewable Fuels Project, which identifies the same significant and unavoidable impacts, would result in adverse water quality impacts that would be cumulatively considerable.

### Overriding Considerations

In addition to reviewing the project EIR in accordance with CEQA requirements, the Board has reviewed written and oral testimony regarding the aspects of the project, some of which are unrelated to adequacy of the CEQA analysis. Specifically, a wide range of individuals, business entities, and organizations expressed support for the project, pointing out its employment benefits to Contra Costa County, its wider economic benefits to the Bay Area, and its air quality, energy, and carbon-reduction

benefits to California. Letters in support of the project were received from, among many others, the United Steelworkers, the International Brotherhood of Electrical Workers, the Contra Costa Building and Construction Trades Council, the Bay Planning Coalition, the Carpenters and Joiners of America, the Industrial Association of Contra Costa County, the East Bay Leadership Council, the Bay Front Chamber of Commerce, the Phillips 66 Community Advisory Panel, Southwest Airlines, and the Council of Business and Industry. A number of individuals expressed their disapproval of the project, primarily on the grounds of potential noise, odors, and risks from the Rodeo Renewed facility itself and potential global land use and food security implications of the increased use of renewable feedstocks.

As required under Public Resources Code section 21081 and CEQA Guidelines section 15093, the Board of Supervisors, having reviewed and considered the project 2024 EIR, all other written materials within the administrative record, and all oral testimony presented at public hearings and other public meetings on the project 2024 EIR, has balanced the benefits of the proposed project against the identified unavoidable adverse impacts associated with the project, and hereby finds that the benefits outweigh and override the significant unavoidable impacts for the reasons set forth below.

After balancing the specific economic, legal, social, technological, and other benefits of the proposed project, the Board of Supervisors finds that the significant and unavoidable adverse impacts identified above are acceptable due to the following specific considerations in the record, which outweigh the unavoidable, adverse environmental impacts of the project. Further, the Board of Supervisors finds that each of the separate benefits of the proposed project is hereby determined to be, independent of the other proposed project benefits, a basis for overriding all unavoidable environmental impacts identified in the 2024 EIR.

The County finds that the project will provide the following benefits to the residents of the County and of the State of California.

Attainment of Regulatory and Policy Goals: The Rodeo Renewed Project transforms an existing crude oil production facility into a renewable fuels processing facility providing for the production of up to 55,000 barrels of renewable transportation fuels per day to assist California in meeting a number of goals. The project's renewable fuels products would produce fewer lifecycle GHG emissions per barrel, and their use in transportation would have a lower carbon footprint than conventional petroleum-based fuels.

- Assist Attainment of Goals. Governor Newsom's Executive Order N-79-20 states: "clean renewable fuels play a role as California transitions to a decarbonized

transportation sector” and “to support the transition away from fossil fuels consistent with the goals established in this Order and California’s goal to achieve carbon neutrality by no later than 2045, the California Environmental Protection Agency and the California Natural Resources Agency, in consultation with other State, local and federal agencies, shall expedite regulatory processes to repurpose and transition upstream and downstream oil production facilities...” The Governor’s Order also directs CARB to “develop and propose strategies to continue the State’s current efforts to reduce the carbon intensity of fuels beyond 2030 with consideration of the full life cycle of carbon. Additionally, the California Air Resources Board’s November 19, 2020, “California’s Greenhouse Gas Goals and Deep Decarbonization” presentation anticipates that biofuels will comprise 19 percent of the transportation “fuel” sector by 2045.” As a major producer of renewable fuels, the project would materially contribute to California’s efforts to meet the goals of Executive Order N-79-20.

- Compliance With Federal and State Standards. The federal Renewable Fuel Standard (RFS) program was created under the Energy Policy Act of 2005 as an amendment to the Clean Air Act (CAA), and expanded by the Energy Independence and Security Act of 2007. EPA implements the program in consultation with U.S. departments of Agriculture and Energy. The RFS requires a certain volume of renewable fuel to replace or reduce the quantity of petroleum-based transportation fuel, heating oil or jet fuel. The program has a goal of producing, nationally, 36 billion gallons of total renewable fuel per year; by producing over 800 million gallons of renewable fuels per year the project would materially promote that goal.

Under California Assembly Bill (AB) 32, the Global Warming Solutions Act of 2006, refineries are subject to regulations aimed at reducing California’s global warming emissions and transitioning to a sustainable, low-carbon future (CARB 2021). The latest Update to the Climate Change Scoping Plan (CARB 2017) sets goals of a 40-percent GHG emission reduction below 1990 emission levels by 2030 and a substantial advancement toward the 2050 goal to reduce emissions by 80 percent below 1990 emission levels. Key provisions of AB 32 include the Low-Carbon Fuel Standard, which is intended to reduce California’s dependency on petroleum by encouraging the provision of low-carbon and renewable alternative fuels, and the Cap-and-Trade Regulation, which discourages major sources of GHG emissions and encourages investment in cleaner, more efficient technologies. By increasing production of renewable fuels, the project will provide a mechanism for compliance with these provisions through providing facilities in California.



Furthermore, by reducing emissions of air pollutants from existing conditions, the project will forward the goals of the Bay Area Air Quality Management District's 2017 Clean Air Plan. Specifically, the project would be consistent with the plan's Refinery Emissions Reduction Strategy by eliminating sources associated with petroleum refining, and with the plan's call for refineries to transition to clean energy companies by 2050.

Reductions in Greenhouse Gas Emissions from the Combustion of Renewable Fuels: The combustion of renewable fuels produced by the project would result in reductions of greenhouse gas emissions of approximately 45-75 percent as compared to petroleum-based fuels. Based on the carbon intensity of the renewable diesel sold in California in 2021, the project would reduce the lifecycle carbon emissions of transportation fuels by approximately 8.5 million metric tons per year. (2022 Final EIR, p. 3-50.)

Maintaining Current Employment Levels: Numerous letters of support for the project were received during the comment period from labor unions and individuals citing the retention of family-wage jobs and the creation of construction jobs as key benefits of the project. The project will preserve and protect approximately 650 existing family-wage jobs in Contra Costa County and will continue to provide indirect support to thousands of other jobs in the Bay Area. In addition, construction of the project will provide up to 500 construction jobs.

Sustainability and Reinvestment in Community: The Rodeo Renewed Project is a substantial investment in the community and facility and supports sustainability by re-using and transforming an existing industrial facility and by producing renewable transportation fuels.

Transportation Fuel Supply Security: Interruptions in the regional supply of transportation fuels have occurred as a result of refinery shutdowns for various reasons. These incidents have adversely affected Contra Costa County's residents and businesses through inconvenience and higher fuel prices. A reliable supply of fuels is thus essential for the economic well-being of the region. The project will maintain the Rodeo facility's current capacity to supply regional market demand for transportation fuels by producing up to 67,000 barrels of renewable fuels per day and distributing up to 40,000 barrels of conventional gasoline per day. Furthermore, shortages that could result from a refinery shut-down during construction of the project will not occur because the project will continue to import and refine crude oil during the project construction period.

Recycling Benefits: Recycling organic wastes and by-products such as used cooking oils, rendering wastes, and other fats, oils, and greases has a number of environmental and

financial benefits. These include reducing demand on landfill space, reducing the carbon footprint of fuels, and generating a second revenue stream from the same material. These benefits improve quality of life and help businesses thrive. By accepting large quantities of recyclable fats, oils, and grease to be processed into renewable fuels, the project will help Contra Costa County, the region, and the State of California realize those benefits.

Demolition of Santa Maria Refinery and Carbon Plant: The project provides for the demolition of these two sites, eliminating uncertainty regarding the re-use of these sites as currently developed.

Reduction of Truck Traffic near Rodeo: Rodeo Refinery truck traffic in 2019 consisted of approximately 40,000 roundtrips per year. With the Rodeo Renewed Project, including the elimination of truck traffic from the Carbon Plant, truck traffic would be reduced to approximately 16,000 truck roundtrips per year.

Reductions in Energy Usage (Electricity and Natural Gas): The proposed Project would result in modest reductions in electricity usage and substantial reductions in natural gas usage.

Each of these benefits are sufficient to outweigh the adverse environmental impacts of the proposed Project and to justify approval of the project and certification of the EIR.

### **Certification of EIR**

On the basis of the whole record before it, including the Draft and Final EIRs, and Draft and Final Revised EIRs, and in accordance with Section 15090, the Board of Supervisors finds that:

- The EIR has been completed in compliance with CEQA;
- The EIR reflects the County's independent judgement and analysis;
- The EIR was presented to the decision-making body of the Lead Agency and the decision-making body reviewed and considered the information contained in the EIR prior to approving the project.

Pursuant to CEQA Section 15097, a Mitigation Monitoring Program has been prepared, based on the identified impacts and mitigation measures in the EIR. The Mitigation Monitoring Program is intended to ensure that the mitigation measures identified in the

EIR are implemented. All mitigation measures are included in the Conditions of Approval for the project.

### Differences of Opinion Regarding Environmental Analysis

In making its determination to certify the EIR and to approve the project, the Board recognizes that the project involves controversial environmental issues and that a range of technical and scientific opinion exists with respect to those issues. The Board has acquired an understanding of the range of this technical and scientific opinion by its review of the Draft EIR, Final EIR, Draft REIR, and Final REIR, the comments received on the Draft EIR and Draft REIR and the responses to those comments in the Final EIR and Final REIR, as well as other testimony, letters, and reports submitted for the record. The Board recognizes that some of the comments submitted on the EIR and REIR, and at the hearing, disagree with the conclusions, analysis, methodology and factual bases stated in the EIR. The EIR was prepared by experts, and that some of these comments were from experts, thus creating a disagreement among experts. The Board has reviewed and considered, as a whole, the evidence and analysis presented in the 2024 EIR and in the record, and has gained a comprehensive and well-rounded understanding of the environmental issues presented by the project. In turn, this understanding has enabled the Board to make its decisions after weighing and considering the various viewpoints on these important issues.

### Documents and Records

The various documents and other materials constitute the record upon which the Board bases these findings and the approvals contained herein. These findings cite specific pieces of evidence, but none of the Board's findings are based solely on those pieces of evidence. These findings are adopted based upon the entire record, and the Board has relied upon and considered all of the evidence in the record in rendering each of its findings. The location and custodian of the documents and materials that comprise the record is Contra Costa County, Department of Conservation and Development, 30 Muir Road, Martinez, CA, 94553, telephone (925) 655-2705.