I. INTRODUCTION

The Tosco Los Angeles Refinery Wilmington Plant is proposing modifications to its existing Refinery to comply with California Air Resource's Board (CARB's) Phase 3 Reformulated Gasoline requirements without any loss in the volume of gasoline produced by the Refinery. No modifications are currently planned at the Carson Plant or Marine Terminal or at any other distribution terminals. The project will not increase the crude throughput capacity of the Refinery.

The proposed changes were determined to be a "project" as defined by the California Environmental Quality Act (CEQA) (California Public Resources Code §21000 et seq.). The South Coast Air Quality Management District (SCAQMD) is the lead agency for the project and, therefore, has prepared a Final Environmental Impact Report (EIR) pursuant to CEQA Guidelines §§15089 and 15132.

CEQA requires the preparation of an EIR for proposed projects that have the potential to generate significant adverse environmental impacts. An analysis of potential adverse impacts that could result from the proposed Refinery modifications was conducted and presented in the Final EIR and supporting documents. All the CEQA documents related to the Tosco CARB Phase 3 Proposed Project can be obtained by contacting the SCAQMD at (909) 396-2039.

A Notice of Preparation (NOP) of a Draft EIR and Initial Study for the Tosco Los Angeles Refinery Phase 3 Reformulated Fuels Project were released for a 30-day public review and comment period on September 13, 2000. The Draft EIR for the proposed project was released on January 16, 2001, for a 45-day public review and comment period. The Draft EIR contained responses to all comments received on the NOP, a detailed project description, the environmental setting for each potential impact area, analysis of potentially significant adverse environmental impacts (including cumulative impacts, project alternatives, and other topics as required by CEQA). The discussion of environmental impacts included a detailed analysis of each of the following potential impact areas: air quality, geology and soils, hazards and hazardous materials, noise, and transportation/traffic.

The SCAQMD received one comment letter on the Draft EIR. The Final EIR incorporates the comment letter and responses into Appendix D of Volume I of the Final EIR. The Final EIR contains the following: (1) Volume I – Final EIR (revised Draft EIR); (2) Volume II –Health Risk Assessment; and (3) Volume III – Worst Case Consequence Analysis. The Final EIR determined that the environmental area considered potentially significant after mitigation was air quality during both the construction and operational phases of the proposed project. No changes were made to the Final EIR that would be considered as providing significant new information related to the environmental analysis or mitigation measures.

The Final EIR concluded that there would be no significant adverse impacts on aesthetics, agriculture resources, biological resources, cultural resources, energy, geology/soils, hazards and hazardous materials, hydrology/water quality, land use/planning, mineral resources, noise, population/housing, public services, recreation, solid/hazardous waste, and transportation/traffic. The Final EIR concluded that significant adverse impacts on air quality during project construction and operation would be expected. The significant adverse air quality impacts during construction and operation that may result from the proposed project are acceptable, however, when compared to the project benefits. The discussion of adverse impacts and project benefits is set forth below in the Statement of Findings and the Statement of Overriding Considerations.

CEQA Guidelines require a public agency's decision-makers to consider the information in the CEQA document along with other information that may be presented to the agency when approving a project. This document sets forth the factors to be considered in the SCAQMD's evaluation of benefits and potential impacts resulting from construction and operation of the proposed project.

II. STATEMENT OF FINDINGS

CEQA prohibits a public agency from approving or carrying out a project for which a CEQA document has been completed which identifies one or more significant adverse environmental effects of the project unless the public agency makes one or more written finding for each of those significant effects, accompanied by a brief explanation of the rationale for each finding (CEQA Guidelines §15091). The Draft and Final EIRs, all technical attachments and the administrative record for the proposed project are available at the SCAQMD headquarters located at 21864 E. Copley Drive, Diamond Bar, CA 91765 or by calling the Public Information Office at (909) 396-3600. The following paragraphs include findings for significant adverse impacts identified in the EIR and the rationale for each finding.

The following findings are supported by substantial evidence in the record as explained in each finding. This Statement of Findings will be included in the record of project approval and will also be noted in the Notice of Determination.

A. POTENTIALLY SIGNIFICANT IMPACTS WHICH CANNOT BE MITIGATED TO A LEVEL OF INSIGNIFICANCE

1. Construction emissions of carbon monoxide, volatile organic compounds, and nitrogen oxides would exceed SCAQMD significance thresholds during maximum activity periods.

Finding: The SCAQMD makes the following findings with respect to this impact: (1) mitigation measures were incorporated into the project that would reduce the significant air quality impacts, but not to insignificance; (2) such mitigation measures are within the

jurisdiction of the SCAQMD; and (3) no other feasible mitigation measures are available to lessen the significant impact to air quality during construction.

Explanation: The construction emissions of carbon monoxide (CO), volatile organic compounds (VOCs), and nitrogen oxides (NOx) exceeded the SCAQMD significance thresholds during peak construction activities. Mitigation measures to minimize these impacts that were imposed on the project include the following:

A-1 Develop a Construction Traffic Emission Management Plan for the proposed project. The Plan shall include measures to minimize emissions from vehicles including, but not limited to: schedule truck deliveries to avoid peak hour traffic conditions, consolidate truck deliveries, and prohibit truck idling in excess of 10 minutes.

Off-Road Mobile Sources:

A-2 Suspend use of all construction equipment during second-stage smog alerts.

A-3 Prohibit trucks from idling longer than 10 minutes.

A-4 Use electricity or alternate fuels for on-site mobile equipment instead of diesel equipment to the extent feasible.

A-5 Maintain construction equipment properly tuned and retard diesel engine timing.

A-6 Use electric welders to avoid emissions from gas or diesel welders in portions of the Plant where electricity is available.

A-7 Use on-site electricity rather than temporary power generators in portions of the Plant where electricity is available

PM10 Emissions from Grading, Open Storage Piles, and Unpaved Roads:

A-8 Develop a fugitive dust emission control plan. The plan shall be reviewed and approved by the SCAQMD. Measures to be incorporated in the plan include, but are not limited to the following: (1) water active construction sites three times per day, except during periods of rainfall; (2) enclose, cover, water twice daily, or apply approved soil binders according to manufacturer's specifications to exposed piles (i.e., gravel, dirt and sand) with a five percent or greater silt content; (3) suspend all excavating and grading operations when wind speeds (as instantaneous gusts) exceed 25 mph; (4) apply water three times daily, except during periods of rainfall, to all unpaved road surfaces; and (5) limit traffic speeds on unpaved roads to 15 mph or less.

Other mitigation measures included in the SCAQMD CEQA Air Quality Handbook (SCAQMD, 1993), were considered but were rejected because they would not further mitigate the potentially significant air quality impacts during construction. These mitigation measures included: (1) provide temporary traffic control during all phases of construction activities (traffic safety hazards have not been identified); (2) implement a shuttle service to and from retail services during lunch hours (most workers eat lunch on-site and lunch trucks will visit the construction site); (3) use methanol, natural gas, propane or butane-powered construction equipment (equipment is not commercially available); and (4) pave unpaved roads (unpaved roads will be watered on a regular basis to reduce emissions).

Though these measures did not reduce construction emissions below the SCAQMD significance threshold, no other feasible mitigation measures were determined to be available. Further, the emission reduction calculations were based on very conservative data and assumptions. In addition, the construction emissions will not have a long-term adverse air quality impact because these emissions will cease following the completion of the estimated one year construction phase (actually the peak construction phase).

2. Operation impacts of VOC emissions from storage tanks would exceed SCAQMD significance thresholds during maximum activity periods.

Finding: The SCAQMD finds that no feasible mitigation measures or project alternatives have been identified to lessen or minimize the potentially significant adverse air quality impacts associated with the proposed project.

Explanation: The VOC emissions from storage tanks are controlled through the use of Best Available Control Technology (BACT). The use of BACT is required by SCAQMD regulations and has been imposed as appropriate. By definition, the use of BACT reduces emissions to the greatest extent feasible. A BACT review will be completed during the SCAQMD permit approval process for all new/modified sources. Therefore, additional emission reductions from the proposed project equipment are not feasible. In addition, the EIR concluded that the cumulative air quality impacts associated with the implementation of the CARB Phase 3 requirements will result in large emission benefits from the reductions of emissions from motor vehicles using the reformulated fuels.

No feasible mitigation measures have been identified for stationary sources located at the Plant. Therefore, air quality impacts on VOC remain significant.

3. Operation impacts of NOx emissions from railcars would exceed SCAQMD significance thresholds during maximum activity periods.

Finding: The SCAQMD finds that no feasible mitigation measures or project alternatives have been identified to lessen or minimize the potentially significant adverse air quality impacts associated with the proposed project.

Explanation: The major source of NOx emissions is not directly from the Refinery but from indirect transportation sources, i.e., rail cars used to transport butane. The SCAQMD has no authority to regulate railcar emissions. The U.S. EPA controls emissions from railcars and has established emissions standards for NOx, VOCs, CO, particulate matter, and smoke for newly manufactured and remanufactured diesel-powered locomotives and locomotive engines which have been previously unregulated. Three separate sets of emission standards have been adopted, with applicability of the standards dependent on the date a locomotive is first manufactured. The first set of standards (Tier 0) apply to locomotives and locomotive engines manufactured from 1973 through 2001. The second set of standards (Tier 1) applies to locomotives and locomotive engines that will be manufactured from 2002 through 2004. The final set of standards (Tier 2) apply to locomotives and locomotive engines that will be manufactured in 2005 and later (U.S. EPA, 1997). With the new national emission standards for both newly manufactured and remanufactured locomotives originally built after 1972, future locomotive emission rates are projected to be much lower than the current emission rates. The U.S. EPA estimates that NOx emissions from locomotives will be reduced by about 62 percent from their current levels to levels equivalent to locomotives manufactured after 2004 (U.S. EPA, 1997). This would reduce project-related NOx emissions from railcars from 90.5 lbs/day to about 56 lbs/day, which would still be significant. However, the actual emission reductions are a function of the date that new locomotives come into service and are used to transport materials to/from the Tosco Wilmington Plant. Since the date at which this conversion actually happens is uncertain and not guaranteed, the NOx emissions from project-related railcars are expected to remain significant.

Other transportation methods (i.e., trucks and ships) would be expected to generate NOx emissions as well. It is estimated that the facility would need to receive about 45 trucks/day to transport the equivalent of nine railcars per day. These trucks would generate an estimated 140 lbs/day of NOx. Therefore, NOx emissions would be worse if the project used trucks to transport butane. Ships could also be used to transport butane to/from the Wilmington Plant. The use of ships to transport butane would result in additional marine vessel emissions into the Port of Los Angeles. (See the Final EIR Chapter 6, Alternatives for a further discussion on marine vessel emissions.) Ships would visit the ports less frequently than railcars or trucks because the ships could hold larger quantities of product. However, additional marine vessel trips would generate emissions that exceed the SCAQMD threshold levels for NOx (and most other pollutants).

Based on the above, there are no other feasible mitigation measures to minimize or eliminate the NOx emissions from railcars.

B. IMPACTS ASSOCIATED WITH PROJECT ALTERNATIVES

1. Project alternatives are not available to reduce the potentially significant impacts.

Finding: The SCAQMD finds that the identified project alternatives would not achieve the goals of the project with fewer or less severe environmental impacts.

Explanation: Potential adverse environmental impacts from two project alternatives were analyzed and it was determined that no feasible project alternatives were identified that would achieve the goals of the project with fewer or less severe environmental impacts than the proposed project. In general, the project alternatives analyzed in the EIR consist of several different ways of increasing the alkylate available to the Refinery, including shipping additional alkylate to the Refinery and constructing a new alkylation unit at the Refinery. It was concluded from the analysis that all project alternatives would generate adverse environmental impacts in the same environmental areas as the proposed project, i.e., air quality. For all environmental impacts evaluated, no feasible project alternatives were identified that would reduce the environmental impacts to a level of insignificance.

C. STATEMENT OF FINDINGS CONCLUSION

Changes or alterations have been incorporated into the project to mitigate or avoid the potentially significant adverse environmental effects associated with certain project impacts, i.e., air quality impacts during construction and operation. No additional feasible mitigation measures or project alternatives other than those already included in the Final EIR, have been identified that can further mitigate the potentially significant project impacts on air quality and meet the proposed project objectives.

All feasible mitigation measures identified in the Final EIR have been adopted as set forth in the Mitigation Monitoring Program. The SCAQMD further finds that the Final EIR considered those alternatives or process modifications that meet the requirements of Public Resources Code §21178.1(g). The analysis indicated that the alternatives would not reduce to insignificant levels the significant impacts identified for the proposed project.

The project is intended to improve air quality in California and more specifically within the South Coast Air Basin. The need for cleaner burning fuels was identified in the 1990 federal Clean Air Act Amendments and the California Clean Air Act. Both the U.S. Environmental Protection Agency and California Air Resources Board have developed and mandated use of reformulated fuels with detailed specifications in severe non-attainment areas, such as the Basin, to reduce mobile source emissions. Based on these requirements, the SCAQMD finds that the proposed project achieves the best balance between minimizing potential adverse environmental impacts and achieving the project objectives.

III. STATEMENT OF OVERRIDING CONSIDERATIONS

If significant impacts of a proposed project remain after incorporation of feasible mitigation measures, or no feasible measures to mitigate the adverse impacts are identified, the decision makers may make a determination that the benefits of the project outweigh the unavoidable, significant, adverse environmental effects. When approving a project under such circumstances, the unavoidable adverse environmental effects may be considered "acceptable" (Public Resources Code §21081 and CEQA Guidelines §15093). Accordingly, a Statement of Overriding Considerations regarding potentially significant adverse environmental impacts resulting from the proposed project, as set forth below, has been prepared for the SCAQMD's decision makers' consideration. This Statement of Overriding Considerations will be included in the record of the project approval and will also be noted in the Notice of Determination.

Having reduced the potential effects of the proposed project through all feasible mitigation measures as described above, and balancing the benefits of the proposed project against its potential unavoidable adverse impacts on air quality, the SCAQMD finds that the benefits of the project outweigh the adverse impacts for the following reasons:

1. State regulations mandate the use of CARB Phase 3 reformulated gasoline in extreme ozone non-attainment areas, which include the South Coast Air Basin. Reformulated gasoline must meet explicit specifications under state law. Tosco refines and sells fuels in the Basin. If Tosco is to continue refining gasoline for use in the Basin, it must produce reformulated gasoline that complies with state mandated specifications. The proposed project has been developed to comply with the state reformulated gasoline requirements. The nature of the proposed project, as well as Public Resources Codes §21178, limits the range of feasible alternatives to meet the basic project objective of complying with state reformulated fuel requirements.

2. The proposed project will allow the Refinery to produce reformulated gasoline in compliance with California's CARB Phase 3 reformulated gasoline requirements, thereby ensuring supply of California-compliant reformulated fuels within California.

3. The California Air Resources Board estimates that large mobile source emission reductions from the use of the Phase 3 reformulated fuels will produce regional air quality benefits. CARB estimates that the use of Phase 3 reformulated gasoline will result in emission decreases of about 19 tons per day of NOx in 2005 and about a seven percent reduction in potency-weighted toxic emissions over the current fuel. These projected mobile source emission reductions will produce human health benefits region-wide.

The SCAQMD further finds that although the air quality impacts associated with the proposed project are significant and unavoidable, the impacts are acceptable due to overriding concerns, as provided above. In balancing the benefits of the overall project with the project's unavoidable and significant adverse environmental impacts, the SCAQMD finds that the project benefits outweigh the unavoidable adverse impacts, such that these impacts are acceptable. The SCAQMD further finds that substantial evidence presented in the Final EIR supports the need to adopt the Final EIR despite the project's adverse impacts.

IV. MITIGATION MONITORING PLAN

Introduction

In addition to the requirements for preparing environmental analyses for proposed projects, CEQA also requires an agency to prepare a plan for reporting and monitoring compliance with and implementation of mitigation measures. Mitigation monitoring requirements are included in Public Resources Code §21081.6, which specifically states:

> When making findings as required by subdivision (a) of Public Resources Code §21081 or when adopting a negative declaration pursuant to Paragraph (2) of subdivision (c) of Public Resources Code §21080, the public agency shall adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment (Public Resources Code §21081.6). The reporting or monitoring program shall be designed to ensure compliance during project implementation. For those changes which have been required or incorporated into the project at the request of an agency having jurisdiction by law over natural resources affected by the project, that agency shall, if so requested by the lead or responsible agency, prepare and submit a proposed reporting or monitoring program.

The provisions of Public Resources Code §21081.6 are triggered when the lead agency certifies a CEQA document in which mitigation measures, changes, or alterations have been required or incorporated into the project to avoid or lessen the significance of adverse impacts identified in the CEQA document. Public Resources Code §21081.6 leaves the task of designing a reporting or monitoring plan to individual public agencies.

To fulfill the requirements of Public Resources Code §21081.6, SCAQMD staff has developed the following mitigation monitoring plan for impacts resulting from implementation of the Tosco CARB Phase 3 Proposed Project.

General Mitigation Monitoring and Reporting

The mitigation monitoring and reporting described in this plan is primarily the responsibility of the SCAQMD as the CEQA lead agency. The mitigation measures discussed herein are primarily

the responsibility of Tosco to implement. To certify compliance, documentation that mitigation measures have been implemented will be maintained by Tosco to ensure potential significant environmental impacts are mitigated to an insignificant level or the greatest extent feasible. Tosco will be required to submit monthly monitoring reports to the SCAQMD during construction of the project, which is when all feasible mitigation measures must occur.

The environmental resources that were identified in the Final EIR as having significant or potentially significant adverse impacts are identified below. The Final EIR concluded that no significant adverse impacts on aesthetics, agriculture resources, biological resources, cultural resources, energy, geology/soils, hazards and hazardous materials, hydrology/water quality, land use/planning, mineral resources, noise, population/housing, public services, recreation, solid/hazardous waste, and transportation/traffic. The Final EIR concluded that significant impacts on air quality would be expected.

A. DETERMINATION OF ENVIRONMENTAL IMPACTS

AIR QUALITY IMPACTS

Air Quality Construction Phase Impacts

Construction-related emissions of CO, VOCs, and NOx would exceed the SCAQMD significance threshold for daily emissions**.** Emission sources include worker vehicles, heavy construction equipment, and grading activities.

Air Quality Construction Phase Mitigation Measures

Based on emission estimates from the construction phase, the significance thresholds provided in Chapter 4 of the Final EIR will be exceeded. Therefore, the following mitigation measures to reduce construction-related emissions shall be implemented.

A-1 Develop a Construction Traffic Emission Management Plan for the proposed project. The Plan shall include measures to minimize emissions from vehicles including, but not limited to: schedule truck deliveries to avoid peak hour traffic conditions, consolidate truck deliveries, and prohibit truck idling in excess of 10 minutes.

Off-Road Mobile Sources:

A-2 Suspend use of all construction equipment during second-stage smog alerts.

A-3 Prohibit trucks from idling longer than 10 minutes.

A-4 Use electricity or alternate fuels for on-site mobile equipment instead of diesel equipment to the extent feasible.

A-5 Maintain construction equipment properly tuned and retard diesel engine timing.

A-6 Use electric welders to avoid emissions from gas or diesel welders in portions of the Plant where electricity is available.

A-7 Use on-site electricity rather than temporary power generators in portions of the Plant where electricity is available

PM10 Emissions from Grading, Open Storage Piles, and Unpaved Roads:

A-8 Develop a fugitive dust emission control plan. The plan shall be reviewed and approved by the SCAQMD. Measures to be incorporated in the plan include, but are not limited to the following: (1) water active construction sites three times per day, except during periods of rainfall; (2) enclose, cover, water twice daily, or apply approved soil binders according to manufacturer's specifications to exposed piles (i.e., gravel, dirt and sand) with a five percent or greater silt content; (3) suspend all excavating and grading operations when wind speeds (as instantaneous gusts) exceed 25 mph; (4) apply water three times daily, except during periods of rainfall, to all unpaved road surfaces; and (5) limit traffic speeds on unpaved roads to 15 mph or less.

Mitigation Monitoring and Reporting

The above described mitigation measures will be implemented by Tosco. Monitoring will be accomplished as follows:

A-1 Develop and submit a construction traffic emission management plan to the SCAQMD for approval. The Construction Emissions Management Plan shall include the following:

Description of construction traffic control methods such as flag persons, contractor entry/exit gates, etc.

Construction schedule including hours of operation.

Description of truck routing.

Description of deliveries, including hours of delivery.

The plan shall be submitted to the SCAQMD prior to beginning construction activities. Upon approval, Tosco shall certify that all personnel subject to the

requirements set forth in the construction traffic management plan comply with the requirements of the plan. The SCAQMD may conduct routine inspections of the site to verify compliance.

A-2 Tosco shall maintain a log that contains the days when second stage smog alerts occur and the time that construction activities were suspended.

A-3 Tosco shall instruct individuals that accept delivery of materials of the requirement to limit truck idling to no longer than 10 minutes. The Tosco employees will evaluate the expected delivery time and if the delivery is expected to take longer than 10 minutes, the truck's operator will be asked to shut off the engine.

A-4 Tosco shall evaluate the use of electricity and alternate fuels for on-site mobile construction equipment prior to the commencement of construction activities. The type of equipment that will use electricity or alternate fuels will be included in the Construction Emission Management Plan.

A-5 Tosco shall maintain or cause to be maintained maintenance records for the construction equipment. All construction vehicles must be maintained in compliance with the manufacturer's recommended maintenance schedule.

A-6 The use of gas or diesel welders shall be prohibited in areas of the Refinery that have access to electricity. Construction areas within the Refinery where electricity is not available will be identified on a site plan as part of the Construction Emission Management Plan. The use of gas or diesel welders within these identified areas will be allowed. The use of gas or diesel welders outside of these identified areas shall be prohibited. Tosco shall include in all construction contracts the requirement that diesel welders are prohibited in certain portions of the Refinery as identified on the site plan. Tosco shall maintain records on where the diesel welders are actually used.

A-7 The use of temporary power generators shall be prohibited in areas of the Refinery that have access to electricity. Construction areas within the Refinery where electricity is not available will be identified on a site plan as part of the Construction Emission Management Plan. The use of temporary power generators within these identified areas will be allowed. The use of temporary power generators outside of these identified areas shall be prohibited. Tosco shall include in all construction contracts the requirement that the use of temporary power generators is prohibited in certain portions of the Refinery as identified on the site plan. Tosco shall maintain records on where the diesel welders are actually used.

A-8 Tosco shall develop and submit to the SCAQMD for approval a fugitive dust emission control plan prior to beginning construction activities. The plan must include a log that tracks the site watering activities and identifies the time and day when winds exceed 25 mph. The log must include the day, time, and location of the active construction sites and unpaved roads that were covered or watered. Watering of active construction sites will be completed three times a day. However, construction sites will not be watered during periods of rainfall. Signs that post a maximum speed limit of 15 mph shall be placed between the truck entrance to the Refinery and the equipment staging areas.

Air Quality Operational Phase Impacts

Operational-related emissions of VOCs from storage tanks and NOx emissions from railcars would exceed the SCAQMD significance threshold for daily emissions**.**

Air Quality Operational Phase Mitigation Measures

No feasible mitigation measures were identified that would minimize or eliminate VOC emissions from storage tanks or NOx emissions from railcars so no further monitoring activities are required.

V. CONCLUSION

Tosco will be required to submit monthly reports to the SCAQMD during the construction phase that identifies the construction progress, includes all required logs, inspection reports, and monitoring reports, identifies any problems, and provides solutions to problems, as necessary. The SCAQMD and Tosco will evaluate the effectiveness of this monitoring program during both the construction period and operation. If either the monitoring program or the mitigation measures as set forth above are deemed inadequate, the SCAQMD or another responsible agency, may require Tosco to employ additional or modified monitoring measures and/or measures to effectively mitigate identified significant adverse impacts to the levels identified in the EIR.

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