

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 3/17/2015	(3) CONTACT/PHONE Robert Fitzroy, Project Manager / (805)781-5179	
(4) SUBJECT Submittal of a Defense and Indemnity Agreement with Phillips 66 Company, a Delaware Corporation, pursuant to Condition of Approval #21 associated with the approval of Coastal Development Permit DRC2008-00146 to allow an increase in crude throughput at the existing Phillips 66 oil refinery at 2555 Willow Road (DRC2008-00146). District 4.			
(5) RECOMMENDED ACTION It is recommended that the Board instruct the Chairperson to sign the Defense and Indemnity Agreement between County of San Luis Obispo and Phillips 66 Company, a Delaware Corporation, pursuant to Condition of Approval #21 associated with the approval of Coastal Development Permit DRC2008-00146 to allow an increase in crude throughput at the existing Phillips 66 oil refinery at 2555 Willow Road.			
(6) FUNDING SOURCE(S) Current Budget	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. ___) <input type="checkbox"/> Board Business (Time Est. ___)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input checked="" type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date: <u>February 26, 2013</u>	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) District 4			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Robert Fitzroy, Project Manager

VIA: Planning Manager and Environmental Coordinator / Ellen Carroll

DATE: 3/17/2015

SUBJECT: Submittal of a Defense and Indemnity with Phillips 66 Company, a Delaware Corporation, pursuant to Condition of Approval #21 associated with the approved Coastal Development Permit DRC2008-00146 to allow an increase in crude throughput at the existing Phillips 66 oil refinery at 255 Willow Road. District 4.

RECOMMENDATION

It is recommended that the Board approve and instruct the Chairperson to sign the Defense and Indemnity Agreement between County of San Luis Obispo and Phillips 66 Company, a Delaware Corporation, pursuant to Condition of Approval #21 associated with the approved Coastal Development Permit DRC2008-00146 to allow an increase in crude throughput at the existing Phillips 66 oil refinery at 2555 Willow Road.

DISCUSSION

Background

On February 26, 2013 the Board of Supervisors approved Coastal Development Permit DRC2008-00146, permitting the existing Phillips 66 oil refinery located at 2555 Willow Road to increase the daily maximum limit of crude oil throughput by 10 percent (44,500 barrels per day). The project was conditionally approved and subject to 23 individual conditions of approval. Condition #21 requires that the applicant enter into a “defense and indemnity” agreement with the County of San Luis Obispo to provide defense and indemnity to the County of San Luis Obispo in any legal challenge to the decision to approve and issue the Coastal Development Permit.

Note that this project is distinct and separate from the Phillips 66 Railroad Spur project. The Final Environmental Impact Report for the Railroad Spur Project is being prepared. Once the Final EIR is complete, a public hearing will be scheduled. All notice requirements will be met and the Final EIR and other project information will be available on the Planning Department website. www.sloplanning.org.

Discussion

Pursuant to Condition #21, the applicant and the County have prepared and agreed upon a defense and indemnity agreement. The agreement is attached hereto (Attachment 1). The terms of the agreement stipulate that the applicant shall defend, indemnify, save and hold harmless the County of San Luis Obispo, its elected officials, officers, employees, agents and volunteers from any and all claims, actions, proceedings, or liability of any nature whatsoever that arise in connection with the decision to approve and issue Coastal Development Permit DRC2008-00146. The agreement also stipulates that the County retains absolute right to approve any and all counsel employed to defend the County.

OTHER AGENCY INVOLVEMENT/IMPACT

County Counsel prepared the agreement and approved the document as to form and legal effect.

FINANCIAL CONSIDERATIONS

None.

RESULTS

Signing the attached defense and indemnity agreement will ensure that the County is indemnified in the event of legal action on the subject project. Once the agreement is signed and all other conditions of approval are satisfied, the County can issue a Notice to Proceed and the project will move forward. This is consistent with the County goal of providing a well-governed community.

ATTACHMENTS

1. Defense and Indemnity Agreement