



# San Joaquin Valley

## AIR POLLUTION CONTROL DISTRICT



### GOVERNING BOARD

**Hub Walsh, Chair**  
Supervisor, Merced County

**Tom Wheeler, Vice Chair**  
Supervisor, Madera County

**Oliver L. Baines III**  
Councilmember, City of Fresno

**Tony Barba**  
Supervisor, Kings County

**Skip Barwick**  
Councilmember, City of Tulare

**Sally J. Bompreszi**  
Councilmember, City of Madera

**Dennis Brazil**  
Mayor, City of Gustine

**John Capitman, Ph.D.**  
Appointed by Governor

**Judith G. Case McNairy**  
Supervisor, Fresno County

**David Couch**  
Supervisor, Kern County

**Bob Elliott**  
Supervisor, San Joaquin County

**Harold Hanson**  
Councilmember, City of Bakersfield

**William O'Brien**  
Supervisor, Stanislaus County

**Alexander C. Sherriffs, M.D.**  
Appointed by Governor

**J. Steven Worthley**  
Supervisor, Tulare County

---

**Seyed Sadredin**  
Executive Director  
Air Pollution Control Officer

---

Northern Region Office  
4800 Enterprise Way  
Modesto, CA 95356-8718  
(209) 557-6400 • FAX (209) 557-6475

---

Central Region Office  
1990 East Gettysburg Avenue  
Fresno, CA 93726-0244  
(559) 230-6000 • FAX (559) 230-6061

---

Southern Region Office  
34946 Flyover Court  
Bakersfield, CA 93308-9725  
(661) 392-5500 • FAX (661) 392-5585

---

[www.valleyair.org](http://www.valleyair.org)

DATE: November 13, 2014

TO: SJVUAPCD Governing Board

FROM: Seyed Sadredin, Executive Director/APCO  
Project Coordinator: Dave Warner

RE: **ITEM NUMBER 7: APPROVE VOLUNTARY  
EMISSION REDUCTION AGREEMENT WITH  
PARAMOUNT PETROLEUM CORPORATION TO  
RECEIVE FUNDS IN THE AMOUNT OF \$500,000  
TO MITIGATE AIR QUALITY IMPACTS OF THE  
PROPOSED ALON BAKERSFIELD CRUDE  
FLEXIBILITY PROJECT**

### **RECOMMENDATIONS:**

1. Approve and authorize the Chair to sign the attached Voluntary Emission Reduction Agreement with Paramount Petroleum Corporation.
2. Authorize staff to identify, fund and manage air quality projects to mitigate criteria pollution impacts associated with the Alon Bakersfield Crude Flexibility Project.

### **BACKGROUND:**

Since 2005, the District has entered into Voluntary Emission Reduction Agreements (VERAs) with project proponents to mitigate air quality impacts of their projects. These agreements benefit air quality by achieving additional reductions in emissions. The District has entered into 21 VERAs and to date has received over \$15 million through the VERA process to invest in local emission reduction projects. Projects funded by the District have achieved total emission reductions of over 1,569 tons of Nitrogen Oxides (NOx), 191 tons Volatile Organic Compounds (VOC), and 117 tons of Particulate Matter 10 microns or less in size (PM10). The agreement before you today is similar to previous agreements approved by your Board.

Alon USA Energy, Inc. (Alon), the parent company of Paramount Petroleum Corporation (Paramount), has proposed the Alon Bakersfield Crude Flexibility Project (Project) located in the City of Bakersfield. The Project will result in the expansion of the existing refinery operations to allow greater flexibility to process a variety of crude oils on site, specifically crude oils delivered by train. The Project includes (1) construction of additional rail lines, transfer equipment to offload crude oil from rail cars, new crude oil storage tanks, and new boilers to provide heating for the rail cars and storage tanks; (2) process unit upgrades and modifications to enhance operating flexibility to process crude oils with different physical properties; (3) repurposing of existing tankage; and (4) relocation and modernization of an existing liquefied propane gas truck rack and upgrades to the sales rack.

Kern County served as Lead Agency for the Project under the California Environmental Quality Act (CEQA) and prepared an Environmental Impact Report (EIR). The EIR was approved and certified by the County Board of Supervisors on September 9, 2014. In the approved and certified EIR, Kern County incorporated an air quality mitigation which required Alon/Paramount to enter into a VERA with the District to reduce onsite rail emissions generated by the Project.

Alon currently operates a crude oil refinery under permits issued by the District, and must modify those permits to construct and operate the new equipment identified above. Such permit modifications are subject to very stringent “New Source Review” requirements under District Rule 2201, including the installation of the best available air pollution control equipment and mitigation of increased emissions. The District has made a preliminary determination that Alon has met all permitting requirements, and has published a “Notice of Preliminary Decision” that describes the bases for the District’s decision and requests comments from interested parties.

While all increased permitted emissions associated with the Project will be mitigated as required by District Rule 2201, Paramount has also proposed to implement a VERA in the amount of \$500,000 to satisfy the onsite rail emissions mitigation measure required by the EIR and to provide additional emissions reductions beyond the level required by District regulations.

### **ROLE OF VOLUNTARY EMISSION REDUCTION AGREEMENTS:**

VERAs provide a mechanism under which project proponents can voluntarily enter into a contractual agreement with the District to mitigate their project’s impact on air quality. Once entered into, VERAs become legally enforceable mechanisms for achieving air quality mitigation.

November 13, 2014

Dollars provided by the project proponent are reinvested in the Valley to reduce emissions. Utilizing the District's highly successful grant administration program, the funds generated here will be awarded to Valley businesses, residents, and municipalities to generate real and quantifiable reductions in emissions. The following are some examples of how these funds will be utilized to reduce air pollution:

- Grants to Valley residents to purchase cleaner vehicles
- Grants to Valley residents through the District's Tune-In Tune-Up program to repair older high-polluting vehicles
- Grants to Valley residents to replace fireplaces and non-certified wood burning stoves with clean-burning EPA-certified units
- Grants to businesses to electrify or replace existing diesel-powered off-road equipment
- Grants to businesses to replace old trucks with new low-emissions trucks
- Grants to school districts to replace older and high-polluting school buses

The emissions reductions secured through VERAs are "surplus" to existing regulations, achieving reductions earlier or beyond those required by regulations. Over the years, the District has built a reputation for excellence in the implementation of these programs, as highlighted in multiple audits by state agencies that lauded the District's incentive programs for their efficiency and effectiveness. The District's incentive programs have invested over \$1 billion in public and private funding for clean air projects reducing more than 100,000 tons of emissions.

### **MITIGATION OF PROJECT EMISSIONS:**

As noted above, Kern has approved and certified the EIR for the Project, which includes an assessment of the Project impacts on air quality, characterization of criteria pollutant emissions, assessment of public health/hazard impacts and identification of feasible mitigation opportunities to reduce air quality impacts. As a result, the certified EIR for the Project incorporated the following mitigation measure to reduce air quality impacts:

*Mitigation Measure 4.1-3: Prior to issuance of any grading or building permit, the project proponent shall enter into a Voluntary Emission Reduction Agreement (VERA) with the San Joaquin Valley Air Pollution Control District (SJVAPCD) to reduce onsite rail emissions to below 2 tons per year for NOx and below 2 tons per year for PM10 emissions. A copy of the approved agreement shall be provided to the Kern County Planning and Community Department.*

While onsite rail emissions will be mitigated by the surrendering of Emissions Reduction Credits (ERCs) as required by District Rule 2201, Paramount has proposed to

November 13, 2014

implement a VERA in the amount of \$500,000 to satisfy the mitigation measure required by the EIR and to provide emissions reductions beyond the level required by the mitigation measure and by District rules and regulations. In addition to nearly 8 tons per year of mitigation for onsite rail emissions required by District Rule 2201, the District expects to generate the following emission reductions due to implementation of this VERA:

ROG/VOC:	3 tons
NOx:	45 tons
<u>PM10:</u>	<u>3 tons</u>
Total:	51 tons

Under the terms of the VERA, the District will receive \$500,000 from Paramount, no later than the date of commencing construction activities for the Project. This amount includes a four percent (4%) administrative fee to cover the District's costs of administering the program:

Mitigation Funds:	\$480,769
<u>Admin. Fee (4%):</u>	<u>\$19,231</u>
Total	\$500,000

All mitigation funds collected will be used for emission reduction projects to satisfy the mitigation requirement in the certified EIR for the Project and to reduce emissions beyond the requirements of the EIR. The emission reductions will be in place contemporaneously with the construction and operation of the Project, providing direct air quality benefits in the San Joaquin Valley. The District will establish a separate budgetary account for these funds, and will provide routine tracking and status reports documenting fund expenditures and the emissions reductions achieved for the Project.

#### **FISCAL IMPACT:**

Under the terms of the agreement, Paramount is expected to pay the District a total of \$480,769 in mitigation funds and \$19,231 in administrative fees, for a total of \$500,000, no later than the date of commencing construction activities for the Project. The District's 2014-15 budget contains adequate revenue estimates and appropriations to facilitate the receipt of mitigation funds from Paramount and for expenditures of those funds in accordance with the VERA.

Attachment: Voluntary Emission Reduction Agreement No. 20140249 (10 pages)

San Joaquin Valley Unified Air Pollution Control District  
Meeting of the Governing Board  
November 13, 2014

**APPROVE VOLUNTARY EMISSION REDUCTION AGREEMENT WITH  
PARAMOUNT PETROLEUM CORPORATION TO RECEIVE FUNDS IN THE  
AMOUNT OF \$500,000 TO MITIGATE AIR QUALITY IMPACTS OF THE  
PROPOSED ALON BAKERSFIELD CRUDE FLEXIBILITY PROJECT**

**Attachment:**

**Voluntary Emission Reduction Agreement**  
**No. 20140249**  
**(10 Pages)**

**ALON BAKERSFIELD REFINERY CRUDE FLEXIBILITY PROJECT**  
**VOLUNTARY EMISSION REDUCTION AGREEMENT**

This Voluntary Emission Reduction Agreement ("Agreement") is entered into as of November 13, 2014 by and between Paramount Petroleum Corporation, a subsidiary of Alon USA Energy, Inc., a Delaware Corporation ("Paramount"), and the San Joaquin Valley Air Pollution Control District ("District"), a duly constituted unified air pollution control district, as provided under California Health and Safety Code section 40150, et seq.

**RECITALS**

**WHEREAS**, on September 9, 2014, the County of Kern ("County") approved the Alon Bakersfield Refinery Crude Flexibility Project ("Project"), entailing: (a) Modification of Precise Development Plan No. 62, Map No. 102; and (b) Modification of Precise Development Plan No. 1, Map No. 102-23; and

**WHEREAS**, said Project is more particularly described in Exhibit A attached hereto; and

**WHEREAS**, in conjunction with the County's approval of the Project, the County approved a Final Environmental Impact Report ("FEIR"), identified by its State Clearinghouse number, SCH# 2013091062; and

**WHEREAS**, the FEIR included the following mitigation measure:

*MM 4.1-3 Prior to issuance of any grading or building permit, the project proponent shall enter into a Voluntary Emission Reduction Agreement (VERA) with the San Joaquin Valley Air Pollution Control District (SJVAPCD) to reduce onsite rail emissions to below 2 tons per year for NOx and below 2 tons per year for PM10 emissions. A copy of the approved agreement shall be provided to the Kern County Planning and Community Development Department; and*

**WHEREAS** implementation of Mitigation Measure MM 4.1-3 is required as a condition of Project approval (Condition 10) by the County and under the approved Mitigation Monitoring and Reporting Program as delineated in Exhibit C, Impact #3 of the County staff report; and

**WHEREAS**, Paramount desires to enter into this Agreement in order to fulfill its obligations to implement Mitigation Measure MM 4.1-3 required as a condition (Condition 10) of the County's approval of the Project; and

**WHEREAS**, Paramount desires to provide funding to the District to improve air quality within the District beyond the requirements of Mitigation Measure MM 4.1-3; and

**WHEREAS**, District is responsible for developing and implementing air quality control programs and emissions reductions programs within the District's boundaries as shown in Exhibit B attached hereto and incorporated herein, including air quality control measures for stationary sources, mobile sources, and indirect sources; and

**WHEREAS**, Paramount offers a Voluntary Emission Reduction Fee in the amount of \$500,000 (five hundred thousand dollars) to fund District Emission Reduction Projects within the District, and District has determined that a Voluntary Emission Reduction Fee in this amount is sufficient to satisfy Mitigation Measure MM 4.1-3.

#### **AGREEMENT**

**NOW THEREFORE**, for good and valuable consideration, including the mutual covenants set forth herein, Paramount and District hereby agree as follows:

**1. Recitals Incorporated.**

All above recitals are incorporated herein by reference.

**2. Paramount's Obligations.**

**2.1. Voluntary Emission Reduction Fee.**

Consistent with Mitigation Measure MM 4.1-3 required as a condition of Project approval by the County and with Paramount's desire to improve air quality beyond the requirements of Mitigation Measure MM 4.1-3, Paramount agrees to contribute to the District a Voluntary Emission Reduction Fee of Five Hundred Thousand Dollars (\$500,000).

**2.2. Payment of Voluntary Emission Reduction Fee.**

Paramount agrees to pay to District the above Voluntary Emission Reduction Fee no later than the date on which Paramount commences construction activities for the Project.

**3. District's Obligations.**

**3.1. Acknowledgement Regarding Mitigation.**

District acknowledges that Paramount's payment of the Voluntary Emission Reduction Fee pursuant to Paragraphs 2.1 and 2.2 will satisfy the requirements of, and will provide voluntary emissions reductions in excess of, FEIR Mitigation Measure MM 4.1-3.

### **3.2. Use of Voluntary Emission Reduction Fee.**

District agrees to use the Voluntary Emission Reduction Fee contributed by Paramount to fund Emission Reduction Projects identified by District to reduce emissions within the District's boundaries. District agrees to identify effective and appropriate Emission Reduction Projects to fund with the Voluntary Emission Reduction Fee.

### **3.3. Oversight of Air Quality Mitigation Monitoring Plan.**

Upon request of the County, District shall oversee that portion of the Mitigation Monitoring Plan adopted by the lead agency for the Project which relates to Mitigation Measure MM 4.1-3. Alternatively, upon request of the County, District shall cooperate with the County in the oversight of the Mitigation Monitoring Plan adopted by the County for the Project which relates to Mitigation Measure MM 4.1-3.

### **3.4. Documentation, Record Keeping and Monitoring.**

District shall document, keep adequate records on and monitor the emission reductions associated with Emission Reduction Projects funded by District as a result of this Agreement. Upon written request by Paramount or the County, District shall provide Paramount or the County written reports verifying emission reductions associated with said Emission Reduction Projects.

## **4. Representations, Covenants, and Warranties.**

### **4.1. Paramount's Representations, Covenants, and Warranties.**

Paramount represents, covenants and warrants to the District, as of the date of this Agreement, as follows:

4.1.1. The undersigned Paramount representatives are duly authorized to execute, deliver and perform this Agreement, and upon Paramount's execution and delivery of this Agreement, this Agreement will have been duly authorized by Paramount

4.1.2. Upon execution and delivery of this Agreement by Paramount, Paramount's obligations under this Agreement shall be legal, valid and binding obligations of Paramount, duly enforceable at law and in equity in accordance with the terms and conditions of this Agreement.

4.1.3. There is no lawsuit, legal action, arbitration, legal or administrative proceeding, legislative or quasi-legislative action or claim existing, pending, threatened or anticipated which would render all or any portion of this Agreement invalid, void or unenforceable in accordance with the terms and conditions thereof.



4.1.4. Other than the execution and delivery of this Agreement by the undersigned representatives of Paramount, there are no approvals, consents, confirmations, proceedings, or other actions required by Paramount or any third party, entity or agency in order to enter into and carry out the terms, conditions and intent of the parties with respect to this Agreement.

**4.2. District's Representations, Covenants and Warranties.**

District represents, covenants and warrants to the District, as of the date of this Agreement, as follows:

4.2.1. The undersigned District representatives are duly authorized to execute, deliver and perform this Agreement, and upon District's execution and delivery of this Agreement, this Agreement will have been duly authorized by District.

4.2.2. Upon execution and delivery of this Agreement by District, District's obligations under this Agreement shall be legal, valid and binding obligations of District, duly enforceable at law and in equity in accordance with the terms and conditions of this Agreement.

4.2.3. There is no lawsuit, legal action, arbitration, legal or administrative proceeding, legislative or quasi-legislative action or claim existing, pending, threatened or anticipated which would render all or any portion of this Agreement invalid, void or unenforceable in accordance with the terms and conditions thereof.

4.2.4. Other than the execution and delivery of this Agreement by the undersigned representatives of District, there are no approvals, consents, confirmations, proceedings, or other actions required by District or any third party, entity or agency in order to enter into and carry out the terms, conditions and intent of the parties with respect to this Agreement.

4.2.5. The monies paid by Paramount under this Agreement shall be sufficient to ensure that the emission reduction contemplated by this Agreement shall occur, and District shall utilize such monies in such a manner as to ensure that such emission reduction shall occur.

4.2.6. Upon the approval of this Agreement by the Governing Board of the District, the Air Pollution Control Officer of District, or his equivalent representative or designee of such officer, shall have the authority to approve, deliver, verify, enter into, acknowledge and/or accept any communication, notice, notification, verification, agreement and/or other document to be issued or entered into by District under the terms and conditions of this

Agreement, without further approval of the Governing Board of the District.

**5. Indemnification**

Paramount agrees to indemnify, defend and hold harmless District for, from and against any third party claims, losses and/or liabilities arising from or in connection with District's performance of this Agreement, excluding only such claims, losses and/or liabilities which result from or in connection with District's sole negligence, act or omission.

**6. Assignment.**

This Agreement shall be binding upon, and inure to the benefit of, each of the Parties and their respective successors and permitted assigns. No Party shall assign this Agreement or its rights or interests hereunder without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed. Notwithstanding the above, the Parties agree that Paramount may freely assign its rights and duties under this Agreement, without District's prior written consent, to: (a) an affiliate of Paramount or any other subsidiary of Alon USA Energy, Inc.; (b) a successor-in-interest by merger, consolidation or reorganization; (c) a purchaser or other transferee of the Project; or (d) a lender for purposes of financing the Project.

**7. Further Assurances.**

Paramount and District agree to execute and deliver any documents and/or perform any acts which are reasonably necessary in order to carry out the intent of the parties with respect to this Agreement.

**8. No Joint Venture or Partnership.**

District and Paramount agree that nothing contained in this Agreement or in any document executed in connection with this Agreement shall be construed as making District and Paramount joint venturers or partners.

**9. Notices.**

Any notices or communications relating to this Agreement shall be given in writing and shall be deemed sufficiently given and served for all purposes when delivered, if (a) in person, (b) by facsimile (with the original delivered by other means set forth in this paragraph, (c) by generally recognized overnight courier or (d) by United States Mail, certified or registered mail, return receipt requested, postage prepaid, to the respective addresses set forth below, or to such other addresses as the parties may designate from time to time by providing written notice of the change to the other party.

**PARAMOUNT**

Wesley Mikes  
Vice President, Southwest Operations  
14700 Downey Avenue  
Paramount, California 90723  
Telephone: (562) 212-3377  
Facsimile: (661) 326-4255

**DISTRICT**

Seyed Sadredin  
Executive Director/Air Pollution Control Officer  
1990 East Gettysburg Avenue  
Fresno, California 93726  
Telephone: (559) 230-6000  
Facsimile: (559) 230-6061

**10. Entire Agreement.**

The terms of this Agreement, together with all attached exhibits, are intended by the Parties as the complete and final expression of their agreement with respect to such terms and exhibits and may not be contradicted by evidence of any prior or contemporaneous agreement. This Agreement specifically supersedes any prior written or oral agreements between the parties with respect to the subject matter of this Agreement.

**11. Amendments and Waivers.**

No addition to or modification of this Agreement shall be effective unless set forth in writing and signed by the Party against whom the addition or modification is sought to be enforced. The Party benefited by any condition or obligation may waive the same, but such waiver shall not be enforceable by another Party unless made in writing and signed by the waiving party.

**12. Construction.**

Unless otherwise indicated, all paragraph references are to the paragraph of this Agreement and all references to days are to calendar days. Whenever, under the terms of this Agreement the time for performance of a covenant or condition falls upon a Saturday, Sunday or California state holiday, the time for performance shall be extended to the next business day. The headings used in this Agreement are provided for convenience only and this Agreement shall be interpreted without reference to any headings. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neuter genders, or vice versa. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The language in all parts of this Agreement shall be construed as a whole in accordance with its fair meaning, and shall not be construed against any Party solely by virtue of the fact that such Party or its counsel was primarily responsible for its preparation.

**13. Governing Law.**

This Agreement shall be governed by the laws of the State of California applicable to contracts made and to be performed in California.

**14. No Third-party Beneficiaries.**

Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person other than the Parties to the Agreement and their respective permitted successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation of any third person to any Party hereto or give any third person any right of subrogation or action over or against any Party to this Agreement.

**15. Exhibits.**

The exhibits attached to this Agreement shall be deemed to be a part of this Agreement and are fully incorporated herein by reference.

**16. Force Majeure.**

The time within which any party shall be required to perform under this Agreement shall be extended on a day-per-day basis for each day during which such performance is prevented or delayed by reason of events reasonably outside of the control of the performing party, including, without limitation, acts of God, events of destruction, acts of war, civil insurrection, strikes, shortages, governmental delays, moratoria, civil litigation and the like, and/or delays caused by the non-performing party's act or omission.

///

///

///

By signing this Agreement, Paramount's consent to it shall be irrevocable until such time as the District's Governing Board takes Action to approve or reject this Agreement at its next regularly scheduled meeting of November 13, 2014, or as soon thereafter as the Governing Board may consider such item on a properly noticed agenda.

IN WITNESS WHEREOF, Paramount and District have executed this Agreement and agree that it shall be effective as of the date first written above.

**PARAMOUNT**

Paramount Petroleum Corporation



Wesley Mikes  
Vice President, Southwest Operations

**DISTRICT**

San Joaquin Valley Unified Air Pollution  
Control District

Hub Walsh  
Governing Board Chair

**Recommended for approval:**  
San Joaquin Valley Unified Air Pollution  
Control District

Seyed Sadredin  
Executive Director/APCO

**Approved as to legal form:**  
San Joaquin Valley Unified Air Pollution  
Control District



Annette Ballatore-Williamson  
District Counsel

**Approved as to accounting form:**  
San Joaquin Valley Unified Air Pollution  
Control District

Mehri Barati  
Director of Administrative Services

**For accounting use only:**  
San Joaquin Valley Unified Air Pollution  
Control District

Program: \_\_\_\_\_  
Account No: \_\_\_\_\_

**EXHIBIT A**  
**PROJECT DESCRIPTION**

The Alon Bakersfield Refinery Crude Flexibility Project entails modification of Precise Development Plan No. 62, Map No. 102 and Precise Development Plan No. 1, Map No. 102-23 to allow greater flexibility for the existing refinery to utilize a variety of crude oils that can be processed on site. Project components include: (1) expansion of rail, transfer, and storage facilities including addition of up to three boilers; (2) process unit upgrades and modifications; (3) repurposing of existing tankage; and (4) relocation and modernization of an existing liquefied propane gas truck rack and upgrades to the sales rack.

Additional information related to the project description can be located in the Final Environmental Impact Report for the project, State Clearinghouse number SCH# 2013091062, Chapter 3 (Project Description), which is available from the Kern County Planning and Community Development Department.

**EXHIBIT B**  
**SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT BOUNDARIES**

