

TRANSCRIPTION OF THE VIDEOTAPED
BENICIA SPECIAL PLANNING COMMISSION MEETING

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CHAIR DEAN: Good evening, everyone. Welcome to the Benicia Planning Commission. Will you rise and join me in the Pledge of Allegiance.

(Pledge of Allegiance is cited by the audience)

CHAIR DEAN: There you are. Roll call on the commission, please.

MS. MILLION: Commissioner Birdseye?

COMMISSIONER BIRDSEYE: Here.

MS. MILLION: Commissioner Cohen Grossman?

COMMISSIONER COHEN GROSSMAN: Here.

MS. MILLION: Oakes?

COMMISSIONER OAKES: Here.

MS. MILLION: Commissioner Radtke?

COMMISSIONER RADTKE: Here.

MS. MILLION: Young?

COMMISSIONER YOUNG: Here.

MS. MILLION: Chair Dean?

CHAIR DEAN: Here.

This is a reference to the fundamental rights of the public. A plaque stating the fundamental rights of each member of the public is posted at the entrance to this meeting room per Section 4.04.030, point the city

1 of Benicia's open government ordinance.

2 This is continuation of the public hearing for
3 the Valero Crude by Rail project and environmental
4 impact import and use permit. Thank you all for coming
5 back. We'll get going in a minute.

6 Is there any update from staff before we get
7 started with public comment?

8 MS. MILLION: Yes. I just wanted to bring to
9 your attention that we did receive some additional
10 public comments, some which was, again, handed in last
11 night during the meeting and then throughout the day
12 today. That's been provided to the commission as well
13 as on the side table. So that would be date-stamped
14 received February 10th.

15 Also, if you remember on Monday, the commission
16 had some questions regarding the economic report from
17 Andrew Chang, and Mr. Chang is here tonight to answer
18 any of the commissioners' questions. If you remember he
19 was not able to attend last night, but was able to
20 attend tonight. He is here if the commission would like
21 to take advantage of that.

22 CHAIR DEAN: Well, then maybe we should -- if
23 the commission has questions for Mr. Chang, we should do
24 that first and then go to the public comment.

25 MS. MILLION: I would recommend that.

1 CHAIR DEAN: Okay. So commissioners, who --
2 Commissioner Young, I think you had a question.

3 COMMISSIONER YOUNG: I did.

4 CHAIR DEAN: Hi. Good evening.

5 MR. CHANG: Can I quickly introduce myself.
6 Would that be okay?

7 COMMISSIONER YOUNG: Pardon me?

8 MR. CHANG: If that would be okay, can I quickly
9 introduce myself and a little bit of the nature of the
10 report?

11 COMMISSIONER YOUNG: I have questions about your
12 report.

13 MR. CHANG: Sure.

14 COMMISSIONER YOUNG: Did you want to say
15 something first?

16 MR. CHANG: Is it okay to say a little context
17 before we start answering the questions?

18 COMMISSIONER YOUNG: I'm having a hard time --

19 CHAIR DEAN: Can you lean forward.

20 MR. CHANG: I would just like to do a quick
21 introduction so we can talk a little bit about the
22 scoping and the nature of the report and the
23 methodology. I think that by talking about that a
24 little bit, you guys might -- the commission might
25 actually have a better context for the way we've set up

1 the study.

2 CHAIR DEAN: I think that might be appropriate
3 if you want to do it quickly and be concise.

4 MR. CHANG: Sure. We were commissioned by the
5 Valero company a couple of years ago to assess the
6 economic and fiscal benefits of the Valero corporation
7 on the community, and also the greater region in the San
8 Francisco Bay Area. We actually utilized fairly
9 standard economic principals to assess the -- that
10 particular impact.

11 There are a couple things that have made this
12 particular project unique. Normally when we do this
13 type of assessment for cities or for various
14 developments, et cetera, we'll do a lot of projections
15 in the sense that there are new developments, new
16 facilities, new things that pop up that cause us to
17 actually try to figure out what the assessed cash flows
18 would be.

19 Because Valero had been here for a long time, we
20 base our particular studies on, really, accounting data.
21 So a lot of the information that's provided through
22 here, although we do do some generally accepted methods
23 for economic assessments, like converting the dry
24 spending to jobs, et cetera, into other factors jobs,
25 like jobs, economic output earnings tax dollars

1 et cetera, the fundamental data is really based on
2 accounting data.

3 With that, I think I can start answering some of
4 the particular questions that you might have.

5 CHAIR DEAN: Just one clarifying -- when you say
6 "accounting data," is that Valero data?

7 MR. CHANG: Correct.

8 CHAIR DEAN: Okay. Thank you. Commissioner
9 Young.

10 COMMISSIONER YOUNG: Yes, thank you. In your
11 report -- there are a couple things I want to ask about.
12 One is the projection of sales tax revenue. It says on
13 Page 178 that you estimate that -- I'm sorry -- that the
14 project would produce as much as \$2 million in one-time
15 sales revenue.

16 MR. CHANG: Correct.

17 COMMISSIONER YOUNG: Maybe I need to be educated
18 on how you got to that number.

19 MR. CHANG: Sure. There are a couple things
20 that will actually occur in regards to sales tax
21 revenues. First of all, there are the revenues of the
22 project development itself. So sales tax can be
23 collected in a host of different ways. One way is the
24 fact that, you know, when you typically go buy a
25 product, the sales tax is collected at the point of

1 sale. When you do an economic development, it can be
2 collected at the point of development. There's a
3 particular ordinance on that one. That is a part of the
4 sales tax benefits that you can get, so the cost of
5 materials for the new rail.

6 The second part of this is the fact that you are
7 actually going to have people coming into the town for
8 economic purposes. So consequently, the construction
9 folks who come into town, they are going to be going to
10 the local CVS or to the local grocery stores, et cetera,
11 and staying at the local hotels. All that particular
12 activity will generate an additional sales tax revenue.

13 COMMISSIONER YOUNG: And is that possible to
14 break that down between the actual benefits that would
15 be generated by the construction project versus the
16 ancillary sales tax that you just talked about?

17 MR. CHANG: Correct, and I actually think we did
18 do that.

19 MR. LEVELE: We have that for the current
20 spending. We don't have it broken for projection, but
21 the large majority of it is the direct sales or the
22 direct purchases by Valero, the indirect activity from
23 the contractors coming into town and so forth. It's a
24 small portion of it.

25 I'm sorry. Our page numbers are apparently a

1 little different, but there is a chart that looks
2 something like this for the current sales tax revenues,
3 and the large portion of it about, close to 90 percent
4 is the direct portion.

5 COMMISSIONER YOUNG: Is the what?

6 MR. LEVELE: The direct portion.

7 COMMISSIONER YOUNG: The direct?

8 MR. CHANG: Yes.

9 COMMISSIONER YOUNG: So that would be for the
10 sales of materials necessary to build the project?

11 MR. CHANG: That's correct.

12 COMMISSIONER YOUNG: The project consists of
13 materials, labor and engineering?

14 MR. CHANG: Correct.

15 COMMISSIONER YOUNG: The total on that is
16 \$55 million. So sales tax is -- in Sloan county 7.625
17 percent. Of that amount the city collects one percent.
18 This is according to the city's web page and finance
19 director.

20 So to generate 90 percent of \$2 million or
21 \$1.8 million, and if the city is collecting one percent
22 of that, that translates, by my math, into \$180 million.
23 So I'm wondering how a \$55 million project that includes
24 labor, materials and engineering could generate \$180
25 million in sales just for materials just to Benicia

1 companies.

2 MR. LEVELE: I believe you said two million. I
3 believe it's actually 200,000.

4 COMMISSIONER YOUNG: Well, I'm looking at Page
5 178 of your report -- I'm sorry -- Page 31 of your
6 report. "We estimate the construction would directly
7 and indirectly create over a thousand jobs" -- that's a
8 different question -- "And depending on the sources of
9 materials, this could produce as much as \$2 million in
10 one-time sales tax revenue for the city."

11 MR. CHANG: I'm sorry. We are having a hard
12 time finding that.

13 COMMISSIONER YOUNG: Page 31 of your report.

14 MR. LEVELE: I'm sorry. The 200,000 is the
15 direct from that 55 million, and then the 2 million is
16 including a whole bunch of other potential factors.

17 COMMISSIONER YOUNG: I thought you just said
18 that 90 percent of that would be the actual sales of
19 construction materials.

20 MR. LEVELE: The 90 percent is what was
21 happening in 2013 that we referenced in -- like it says,
22 depending on where the various labor and contracting,
23 and the sources of those materials are coming from. A
24 much larger portion could be coming locally, which would
25 mean additional taxes.

1 COMMISSIONER YOUNG: The first clause of that
2 sentence is, "Depending on the source of materials." So
3 that certainly implies that we are talking about the
4 materials for the construction of the project, not just
5 ancillary benefits.

6 MR. CHANG: It's been a little since we have
7 gone through this one. But what we can do is, we can
8 actually document this particular issue for you and come
9 back on you on that one. It's been a little while since
10 we have seen the actual --

11 COMMISSIONER YOUNG: This is an important factor
12 because the city is relying -- the staff is relying on
13 your numbers.

14 MR. CHANG: I don't disagree with you on that
15 whereon, but I think what we need to do is pull up the
16 model again. It's been a little while. It's been over
17 two years since we saw this model, about two years since
18 we saw this model. We can definitely get back to you on
19 that one.

20 COMMISSIONER YOUNG: For the moment we shouldn't
21 necessarily rely on these numbers? You may get back and
22 revise that?

23 MR. CHANG: I'm not saying we are going to
24 revise it. I think what we can do is we can document
25 it, because I don't think we made a mistake.

1 COMMISSIONER YOUNG: The second question I had
2 has to do with the projection of jobs. We know we are
3 talking about 20 permanent jobs, up to 20 permanent
4 jobs. My question is how does 20 permanent jobs morph
5 into a thousand jobs?

6 MR. CHANG: Sure. You have to consider that the
7 fact that the jobs themselves are both direct and
8 indirect. So consequently the way they -- the way the
9 economy company works is -- what happens is the fact
10 that when you spend a dollar in a particular economy, it
11 actually ripples to the economy. So there's a couple
12 points to this one.

13 The first part is the way it works is it ripples
14 through economy. When we spend a dollar, let's say for
15 a machine part, that particular dollar travels again to
16 the next persons where they got the raw resources; maybe
17 some part of that goes to things like services, and some
18 of it goes to things like some of the profits or some of
19 the wages, the salaries for the people who put that
20 together. As it ripples through, it creates more and
21 more jobs. That's actually called a multiplier effect.
22 That's kind of a common thing. In addition to that, I
23 think that the 200,000 --

24 MR. LEVELE: The one thousand jobs is while they
25 are constructing it there is a lot more work going on to

1 construct the facility than there will be once it's
2 operational.

3 COMMISSIONER YOUNG: For six-to-nine month
4 period of construction there's going to be another 120
5 or 150 employees working on the project, and the
6 multiplier effect turns that into a thousand jobs?

7 MR. CHANG: Not the 20 jobs. There is more than
8 20 jobs working on the project.

9 COMMISSIONER YOUNG: No. That's what I said.
10 We're talking about the temporary construction jobs.

11 MR. CHANG: Correct. It's 1,000 --

12 COMMISSIONER YOUNG: Those thousand jobs that
13 were created through the multiplier effect are really
14 temporary?

15 MR. CHANG: Yes. And that's what we stated.

16 COMMISSIONER YOUNG: So I think it's important
17 to make that distinction. The multiplier effect is also
18 the same thing that cities have used to justify spending
19 money on stadiums on the theory that there will be all
20 this development that happens around the stadium. Is
21 that true?

22 MR. CHANG: Multiplier effects are utilized for
23 a lot of different things, including an active analysis.
24 It was actually developed in many years ago. And the
25 person who developed this particular type of approach,

1 won a Nobel Prize for it.

2 COMMISSIONER YOUNG: I guess my question -- my
3 sense that these studies that have been done to justify
4 spending public monies often result in nothing close to
5 the presumed and intended benefits that the multiplier
6 effects would --

7 MR. CHANG: I don't think there's any dispute
8 that the multiplier effect is real. I can't speak to
9 how it's been applied in other studies, but I can say
10 that this multiplier effect is generally considered a
11 real effect that's generally accepted by pretty much
12 everyone in the industry.

13 COMMISSIONER YOUNG: Okay. I'll -- I'll stop
14 there.

15 CHAIR DEAN: Other questions for the speaker?
16 No?

17 Thank you. I'm sorry. Your associate there,
18 can we get him introduce himself too?

19 MR. CHANG: I'm sorry.

20 MR. LAVELE: Devon Lavele.

21 CHAIR DEAN: Thank you very much. Thank you,
22 gentleman. Thanks for making the trip.

23 Okay. So we are going to continue with the
24 public comment on this item. Last night we went through
25 a 109 speakers. We didn't actually have 109 speakers,

1 but of the sign up -- people who signed up, we got to
2 109, and tonight we are going to start with number 110,
3 and that's Mr. Nick Dispota.

4 Before you start, sir, just an explanation.
5 After Mr. Dispota speaks, we will continue down the list
6 until we get to the end, and then we will start over at
7 number 1. And everybody who was not here the previous
8 nights but is here tonight, we'll then go through the
9 order again and allow those people to have a chance to
10 speak. We would like to hear everybody.

11 After Mr. Dispota, I'll call out a number of
12 names and we'll see who is here and available tonight.

13 Good evening. If you are ready.

14 MR. DISPOTA: I am ready. Good evening,
15 everybody. My name is Nick Dispota, and I live in
16 Richmond. We have heard many references over the last
17 two days to the environmentally superior alternative,
18 the EIR. I want to take a moment to read the critical
19 sentence in Chapter 6.4.4. And I'm quoting, "Because
20 none of the significant unavoidable impacts of
21 transporting crude by rail would occur under the
22 no-project alternative, and because maintaining the
23 status quo would not cause a change to baseline
24 conditions that could be characterized as significant,
25 the no-project alternative would be the environmentally

1 superior alternative," end quote.

2 Given that, why would the city staff recommend
3 approval of a project that the EIR determined will
4 expose the public to air pollutants that exceed
5 thresholds in multiple counties and to the significant
6 risks of fire explosion and contaminations of waterways.
7 I think there are two reasons: One, the city's
8 consulting attorney persuaded the staff that they had no
9 other choice but to certify the EIR if they wanted to
10 avoid legal entanglements of federal preemption.

11 But yesterday we heard attorneys, and I think
12 you received another letter today from another attorney
13 stating that the application of preemption was overly
14 broad and that it could or would interfere with the
15 city's legitimate police powers. The second reason that
16 I think the staff would recommend approval is that the
17 financial benefits to the city are great, and we, you,
18 can rely on the federal railroad administration for
19 regulation to mitigate the risks.

20 Now those two reasons aren't usually exclusive.
21 In fact, they are mutually reenforcing. I want to widen
22 the lens a little bit beyond oil trains and ask you
23 consider what these three things have in common. One,
24 the natural gas leak that's going on at Aliso Canyon
25 even as we sit here. Two, the oil pipeline rupture that

1 fouled beaches in Santa Barbara County and finally, the
2 contamination of drinking water in Flint, Michigan.

3 What do they all have in common? They all
4 resulted from a misplaced trust in the safety of what
5 are really familiar technologies, and a misplaced trust
6 in the judgement of public officials charged with
7 permitting and regulating those technologies. So I'm
8 here to ask you, please do not create the conditions for
9 another environmental disaster somewhere, some day in
10 this state. You have moral responsibility. And from
11 what I have seen, you take that responsibility quite
12 seriously. Thank you.

13 CHAIR DEAN: Thank you, sir.

14 Next speaker. Myron Nissin. If you are here,
15 you can just stand up and head toward the podium
16 microphone.

17 Donna Wapner. Myron was 111. Donna Wapner 112.
18 Number 113, Adrian Hayashi. Hi.

19 MS. WAPNER: Hi. I'm Donna Wapner, and I would
20 like to thank you all for your diligence and attention
21 to details as you evaluate this complex and contentious
22 issue in this community. I'm a resident of Benicia, and
23 I'm a public health educator. I would like to urge you
24 to not certify the FEIR and to deny Valero's use permit
25 for the crude by rail project.

1 I'm not here to demonize Valero or to say they
2 don't have a right to be in our community or that their
3 workers are not kind and generous people. They are
4 here. Refineries are a dirty industry, but they are a
5 regulated industry. And this industry will continue to
6 prosper until our society will no longer rely on fossil
7 fuels.

8 But as a company, their focus is on profit and
9 increasing return for shareholders like most companies.
10 They pay their taxes, but when they can they try to
11 lower their bill. They strive to meet emission
12 standards, but there have been numerous incidents when
13 they have been fined. They often fight with regulators
14 and legislators to change rules and regulations that
15 enforce them to increase costs, to reduce emissions and
16 environmental impacts. Pushing limits and restrictions
17 so that they can have more operational flexibility is
18 expected so they can meet their increased profit goals,
19 hence this request to start transporting crude by rail.
20 It will allow them to receive and then process a variety
21 of cheaper but more hazardous crudes. My concern
22 actually is not their request because I expect Valero to
23 constantly come forward to the Planning Commission with
24 changes over time. My real concern is that our city
25 actually recommended approval.

1 The city has the responsibility to protect the
2 health and vitality of its residents and our city
3 environment, not to help Valero remain competitive in
4 the marketplace. I'm embarrassed and I'm gravely
5 concerned that our city staff recommended approval.

6 As the reports say, there are significant,
7 unavoidable impacts associated with air quality and
8 greenhouse gas emissions, hazards and hazardous
9 materials and biological resources that cannot be
10 mitigated. These impacts exist even with the use of
11 newer railcars in the future.

12 There have been more crude by rail explosions
13 and spills in the last two years than in the previous
14 40 years, and it's naive to think that serious accidents
15 and increased pollutants in our air and waterways will
16 not occur in our community or up lane if this project is
17 approved. The question is only when and at what cost.

18 The possible boon to the city tax base or jobs
19 will be short-lived because sooner or later, accidents
20 will happen and gains will be washed away by long-term
21 negative health impacts of our town citizens,
22 environmental devastation and cleanup costs and the
23 long-term reduction in property taxes due to a decrease
24 in values once these, quote, significant and unavoidable
25 impacts begin to multiply.

1 The only real winner in this scenario is Valero,
2 because for them the profit is now. The environmental
3 community and human impacts are not their primary focus,
4 nor should it be. But it should be the number one focus
5 for our city and for this commission.

6 Valero may not be the ultimate one responsible
7 for damages if there is a major train derailment or an
8 accident outside their property or facility in the
9 future, but that doesn't mean that you, as a Planning
10 Commission, don't have the responsibility to limit our
11 exposure or those up lined of those very real
12 possibilities because it will be you who says yes to
13 this project and it will be you could also say no to the
14 project alternative.

15 From my prospective, the ultimate work for
16 Benicia Planning Commission is to help Benicia adapt in
17 change and take a long-term and wide scope view of how
18 to balance business interest to community interest.
19 Keeping and attracting other industrial park tenants is
20 also at risk because the impact of daily railcars can
21 block access, increase pollution and slow traffic. And
22 that area should be part of our community's economic
23 engine for the next hundred years, not just the home for
24 ongoing Valero projects.

25 It's up to us to guard against real threats to

1 our welfare and also a city, be responsible citizens to
2 the rest of California. You can't ignore up-rail
3 community concerns. You have a very real and important
4 decision in your hands. Please make the choice that
5 supports people over profits, that supports long-term
6 planning versus short-term industrial benefits. And one
7 that understands most of what really makes Benicia a
8 great place to live has nothing to do with Valero. If
9 our city does not take seriously the job of monitoring
10 carefully Valero's ongoing push and request to expand
11 its business agendas and plans, this company could be
12 the one business in our border that helped our coffers
13 for many years but ultimately led to --

14 CHAIR DEAN: I'm sorry. You are going to have
15 to wrap up. You've run out of time.

16 MS. WAPNER: -- that also led to our city's
17 lives. Thank you very much.

18 CHAIR DEAN: Thank you. I'm going to take a --
19 typically we do this at the beginning of every public
20 comment period, and I was remised not to mention this
21 earlier, but we do have rules of conduct. I know you
22 have been here before, but I'm going to run through
23 these quickly.

24 First of all, everybody gets to speak for five
25 minutes. We have a lot of speakers, so don't abuse that

1 time limit. If others have already expressed the
2 opinions that you have, you don't necessarily need to
3 take all your time to re-express those opinions. You
4 can just say you agree with the previous speakers. We
5 would appreciate that.

6 Speakers are requested not to make personal
7 attacks on commission members, staff or members of the
8 public or make comments which are slanders that may
9 invade another person's privacy. In order to facilitate
10 the process and the sure fairness, we would request
11 there be no clapping, cheering or booing. Instead, if
12 you agree with the speaker, we would ask that you please
13 raise your hand so the commission knows that you are in
14 agreement with the statements being made.

15 In fact, I see people are already doing that
16 tonight and doing this throughout the meeting. We
17 really appreciate that. I do say that I think we take
18 note of that. We appreciate your consideration and
19 please respect the speakers who are at the podium and
20 any of the staff members during their comments and
21 interaction with the commission.

22 With that, our next speaker. I called 113,
23 Adrian Hiyashi. And after that, 114, Steve Nadel.
24 After that, Irwin -- number 115, Irwin Ordonias.

25 Please if I am mispronouncing somebody's name,

1 correct me when you come forward.

2 Hi. Good evening.

3 MS. HIYASHI: Hi. My name is Adrian Hiyashi.
4 Good evening to the commissioners as well as the
5 citizens of Benicia. We moved to California from
6 Honolulu 10 years ago. My husband and I fell in love
7 with Benicia from our very first visit. It was just
8 what we were looking for; open-faced crab sandwiches in
9 a pretty small town just close enough to San Francisco,
10 nice people, cute downtown, and best of all, we would be
11 five minutes from the water. The only drawback was the
12 refinery.

13 We made a decision to trust that the refinery
14 and city officials were going to keep the citizens of
15 Benicia safe at all costs, and the checks and balances
16 were in place. I had also read at the time that the
17 lease term was up for re-evaluations sometime in the
18 2020's, which I have since been told is 2031. The
19 possibility was appealing and that there was seemingly
20 opportunity in the future for the refinery to no longer
21 operate in Benicia. It's been 10 years, and I don't
22 know if that information is still current or if it was
23 true and accurate at the time. But it gave a window of
24 hope that the town I fell in love with would, within my
25 lifetime, go green.

1 My husband and I installed solar in our home
2 back in 2008. We ditched the front lawn in 2012. We've
3 raised chickens and planted nearly every fruit tree that
4 thrives in our climate. I have requested that the
5 Benicia Unified School District and the Department of
6 Parks and Recreation stop spraying Ranger PRO, a known
7 carcinogen at the public schools in the morning before
8 school starts. It makes no sense to spray the schools
9 before students arrive. It off-gases for hours and the
10 residue permeates for hours. My point in bringing this
11 up is we all need to be willing to ask why. Is there a
12 better way of doing this? Need this happen at all?
13 What can I do to make a difference? My question to all
14 of you is, is this a difference you want to make?

15 We are a community of intelligent, caring and
16 thoughtful people. This proposal lacks ingenuity and
17 allows big oil to gain a stronger foothold in our
18 community which is counter-intuitive in this era. The
19 refinery was a city saver back in the 70s, but the world
20 has change and will continue to do so.

21 I do not foresee oil will be the savior it had
22 been in decades past. We are on a continuing trend of a
23 decrease in the demand for oil. City staff of Benicia,
24 are you really planning for the future or continuing
25 with status quo?

1 As a realtor, I would like to touch on the
2 property values. Should you list your home tomorrow,
3 you will need to disclose that these crude oil trains
4 are a real possibility in the future for the community
5 the new owners are buying into. These hearings and the
6 city's recommendation for approval trigger a disclosure.
7 Lack of disclosure is a lawsuit waiting to happen should
8 the trains come to fruition. This puts all the aware
9 homeowners 94510 zip code between a rock and a hard
10 place with regard to listing their property during
11 interim of an absolute decision. The placement of the
12 disclosure is on the solar property questionnaire or
13 SPQ, Page 104, Section 5 A10, which states material
14 facts or defects affecting a property not otherwise
15 disclosed to the buyer.

16 Has there been a study or evaluation on the
17 effects that have been had on other thriving communities
18 that incorporated these crude oil trains in regard to
19 future property values and perception which leads to
20 desirability? There has been -- excuse me -- having a
21 refinery and/or crude oil trains in your community does
22 not earn a gold star in terms of real estate. Period.

23 How is Valero's property tax assessed by the
24 county assessor? Is it by the value of the land plus
25 the building on it? I'm confused by the comment

1 regarding the appeal. The statement made it sound like
2 the assessor takes into account other refineries in
3 California in order to quantify the tax rate.

4 Also, if Valero is leasing the land from the
5 city, isn't it the city's responsibility to pay the
6 property tax as the land owner? Very confusing to me.
7 I don't understand any of that. I want to live in this
8 city. I want to be represented by fellow community
9 members who are forward-thinkers with the keywords
10 "renewable," "green" and "sustainability" as their
11 political platform and first agenda.

12 The word transparency has been thrown around
13 quite a bit, yet all I see are smoke in mirrors.
14 Benicians deserve to be represented in a way that
15 resonates with where the world at large is headed, for a
16 competitive edge and sustainable fiscal environment.
17 When being led by the truth, it is effortlessly
18 transparent. Why weren't the residents asked for input
19 before Pandora's box was open? Is there no way to
20 notify every homeowner? Does our commentary always have
21 to come after the line was cast? I have an idea, how
22 about notifications in our water bill. Why isn't all
23 important information the city wants its citizens to
24 know about put on the back of our water bill? Does
25 Valero have ties and/or financial investment in our

1 water treatment plan? What gives?

2 This isn't a let's-try-it-and-see-how-it-goes
3 project. It's a permanent decision and watering the
4 roots Valero has in Benicia. Why would we invest
5 further in the oil industry to carry us for the decades
6 to come? It's illogical and irresponsible. How many of
7 us have asked our children what their thoughts are on
8 bringing the trains in with volatile contents? It's
9 their community too.

10 CHAIR DEAN: I'm sorry. Your time is up.

11 MS. HIYASHI: Okay. I look to our leadership
12 and I ask you this: What will the next 50 years in
13 Benicia look like? I love this town. For my children
14 and yours, please decline Valero's offer.

15 CHAIR DEAN: Thank you. Question for the
16 speaker?

17 COMMISSIONER YOUNG: It's actually for
18 Mr. Hogin.

19 I think this refers to what you were talking
20 about when you were speaking to Commissioner Radtke
21 yesterday. Was that also on this issue of disclosure on
22 real estate sales?

23 MR. HOGIN: Yes. The question had to do with
24 whether the ability of a title company or real estate
25 agent to disclose the presence of trains that

1 potentially may contain Bakken crude oil would be
2 preempted by federal law. And my response was no, not
3 in any way would, the preemptive effect of the ICCTA be
4 felt in that way.

5 COMMISSIONER YOUNG: So the speaker is correct,
6 it would have to be disclosed on disclosure statements?

7 MR. HOGIN: I don't know the answer to that
8 question. She did read what it said on a box of a
9 particular form about disclosure of defects in the
10 property. Whether or not that would apply to the fact
11 that Valero would be receiving crude oil in a different
12 manner from different sources, I don't know.

13 COMMISSIONER YOUNG: Okay. Thank you.

14 CHAIR DEAN: I would prefer if the commission
15 has questions, that you hold them, particularly if they
16 are for the staff so that we can get through as many
17 speakers as we can rather than get into a discourse now
18 with the staff.

19 So the -- 114, Steve Nadel. 115, Irwin Ordonas.
20 116 Erin Ergath. 117, Anina Hutchison. 118, William
21 Darnel. 119, Ethan Buckner.

22 Hi. Good evening. You know, if that's going to
23 take a minute to set up, we can go on with another
24 speaker and come back to you.

25 MR. BUCKNER: That's fine.

1 CHAIR DEAN: Would that be okay?

2 MR. BUCKNER: Yeah.

3 CHAIR DEAN: Okay. Good. 120, Lisa Rinortson.
4 121, Janet Pigeorge. 122, Allison Vogel.

5 Hi. Do you want to come forward?

6 MS. VOGEL: Thank you very much for letting me
7 speak. I'm not from Benicia, but my daughter lives in
8 Benicia.

9 CHAIR DEAN: And your name, please.

10 MS. PIGEORGE: I am from Roselle, and my name is
11 Janet Pigeorge.

12 CHAIR DEAN: Thank you.

13 MS. PIGEORGE: Many people have spoken for two
14 days. Last night was great. We heard testimony from
15 those who had statistics, and I know those statistics
16 have stirred up your thinking. We all are mulling over
17 questions. What should we do that would be right? Is
18 this EIR a coverup for other export shipping activities
19 that they have not told us about? Is the EIR abiding by
20 CEQA laws? How are we going to protect our citizens
21 from fallout greenhouse gases? How do we really protect
22 our homes, the children at schools that are close to the
23 refinery? Our children play outside and breathe the air
24 more than we do. Does the air blow your way or out
25 towards the water towards? We count too.

1 How truthful can oil refinery people be with you
2 and us? Are they just conditioned to the oil industry
3 propaganda? What will a refinery do with all the tar
4 sands? Are they going to export the product to Pacific
5 countries? If so, how? Seems to me Valero has to put
6 them on ocean-going ships. If so, they would contribute
7 to emissions here on the Cardenas Straits, wouldn't
8 they? Why is that an important fact not addressed in
9 the EIR? Is this EIR a slighted hand? Benicia is not
10 the only city involved in the tar sands fight. All
11 citizens in the US, California, must be protected.

12 Last week we learned that 26 cities, 20 school
13 boards, five county regional agencies and two congress
14 women opposed an identical project down in Southern
15 California. What does that tell you? I'll tell you.
16 It's you that are under a microscope and people will
17 remember how the city of Benicia voted on this project.
18 Do you think that all the naysayers are troublemakers?
19 Were all 400 speakers in San Luis Obispo troublemakers
20 or did they just want to breathe fresh air and protect
21 their communities?

22 That EIR said there could be fatalities in
23 certain areas if there's a fire. We know what we are
24 talking about or we would not be here before you.
25 Yesterday refineries that we all loved, respected and

1 trusted, they are gone. Today more chemicals go in,
2 more chemicals come out. We urge you to flick back the
3 curtain and demand that Valero tell the truth and be
4 honest about the missing pieces.

5 Remember, if you approve this project, there
6 will be no turning back. No amount of money can buy
7 your health. You know, there's an old saying, if you
8 don't know -- how can you feel anything if you've never
9 experienced a bad situation? I'm tired of a shelter in
10 place. I'm tired of our children having to move to
11 schools. I'm tired of them having to be put in shelter
12 in place. I'm tired of waking up in the morning and
13 smelling odors. How lucky you are that you haven't
14 experienced this, but you will. It will happen.

15 You know, we moved a school from right next to
16 the refinery, to the other side of town. Now there's a
17 new EIR out for propane and butane. That's what comes
18 out of tar sands. What is Valero going to do with all
19 that propane, butane that is extracted out of the tar
20 sands?

21 I've lived around refineries for 74 years. I am
22 81 years old, and I plan on coming back and speaking
23 against the refineries until they do things right and
24 until they can protect us, until they can put in clinics
25 to listen to all the sick people that are in the areas

1 that they -- a bad word -- that they "rape," and that's
2 exactly what they do to our cities. I ask you to reject
3 this project. Thank you very much.

4 CHAIR DEAN: Thank you. Next speaker will be
5 122, Allison -- Mr. Buckner, are you ready?

6 MR. BUCKNER: Yes, I am. Thank you very much.
7 Hi, Commissioners. My name is Ethan Buckner. I'm a
8 campaigner with Forrest Ethics. I have been working
9 with greenhouse leaders, elected officials, nurses,
10 teachers, students and neighbors here in Benicia and all
11 along the main line these last past three years to
12 address the threat of crude by rail to our public health
13 and safety and to our climate.

14 The staff's recommendation to ignore many of the
15 offsite impacts of the Valero Benicia Crude by Rail
16 project is a slap in the face, not only to residents in
17 this community, but to all of the communities placed
18 directly at risk along the main line. Saying that main
19 line impacts can't be considered sounds a lot like
20 saying that concerns of residents and governments along
21 the rail route are not the city's problem, moreover, it
22 is downright illegal.

23 CEQA requires consideration of offsite impact
24 permit analyses. The opinion on federal preemption
25 expressed by the consultant retained by the city is far

1 too broad. Commissioners, if you haven't read it, I
2 implore you to thoroughly review this staff report
3 submitted by the San Luis Obispo county Department of
4 Planning and Building regarding a similarly proposed
5 project at the Phillips 66 refinery in San Luis Obispo
6 county. This project is almost identical to this one.

7 Advice given to the Sloan commission just last
8 week is exactly the opposite of what you have been told
9 by city staff here and their consultant. They are the
10 county attorney's interpretation of CEQA federal
11 preemption and asserts the county's right to protect its
12 jurisdiction and obligation to take main line impacts
13 into consideration in its permitting decision. The
14 county found that because of federal preemption, all 11
15 Class 1 significant unavoidable impacts cannot be
16 mitigated and that there are insufficient social
17 economical or political benefits that outweigh the
18 project's severe facts.

19 Why such a vastly different conclusion on two
20 fundamentally similarly projects? I would start by
21 highlighting the consulting attorney at Woodwrist,
22 Bradley & Smart, a firm with a long and ugly history of
23 defending off-shore oil drilling, oil refinery
24 modernization projects and power plants, of defending a
25 proposed school in Los Angeles on a parcel of land known

1 to be severely contaminated. This is the firm that the
2 city has chosen as an objective analyzer of an
3 environmental review. It's a shame. I would encourage
4 the city to look to Sloan county's approach and perhaps
5 seek an additional legal opinion on the matter of
6 preemption. You have not been given good advice here.

7 There's substantial case law that supports the
8 city's discretion to consider and deny this permit.
9 These cases are outlined in the letter on the comments
10 submitted by Communities for Better Environment NRDC, CR
11 Club, Forrest Ethics, among others. But there are a few
12 other issues I would like to touch on with regards to
13 rail safety and emergency response. First there seems
14 to be a prevalent idea that newer tank cars, such as the
15 CBC 1232s, are yet to be manufactured. DOT 117s will
16 adequately protect communities from the risk of oil
17 train derailments and fires.

18 1232s were involved in several explosive
19 derailments last year, including Lynchburg, Ogama,
20 Ontario, West Virginia, Illinois, et cetera. They
21 appear to perform a little better than the DOT 111s. I
22 want to note that even the newest tank cars, that have
23 yet to be manufactured, have a puncture velocity of 18
24 miles per hour on the head and 12 miles per hour on the
25 side, and the new federal speed limit is 50 miles an

1 hour. And even the involuntary 40 miles an hour speed
2 limits would do nothing to prevent puncture. Even if
3 you were to knock a stationary tank car on its side, it
4 would be going 16 miles an hour when it hits the
5 ground.

6 I would also like us to stop pretending there is
7 anything that can be done to actually fight a Bakken
8 crude fire. Look at this first photo here. This is a
9 training in Colorado that some Valero folks have
10 attended, I believe, that was put on by Union Pacific
11 Railroad. The photo shows firefighters standing just
12 feet away from tank cars. It looks like they are lit
13 from underneath, like propane burning a stove in your
14 kitchen.

15 These trainings are PR stunts aimed at placating
16 the public and decision makers by making it appear as if
17 fires resulting from a unit train derailment can be
18 reasonably contained. Okay. This is what it actually
19 looks like for a firefighter to try to fight one of
20 these Bakken crude fires. This is Lac-Megantic, Quebec.
21 If you ask any firefighter that was anywhere near there,
22 they will tell you that what they did and what any
23 standard protocol is, is to let it burn. There is
24 nothing you can do. Any first responder that has dealt
25 with this will tell you this.

1 I would urge you to look at these facts soberly
2 because our lives depend on it and the health and safety
3 of our communities depends on it. These, among many
4 other reasons, tell you why you must and deny this EIR
5 and deny this dangerous project.

6 I really appreciate your time and the
7 accommodation with the Power Point. Thank you.

8 CHAIR DEAN: Thank you. Next speaker. 122,
9 Allison Vogel.

10 MS. VOGEL: Hi. Good evening. I would like to
11 make a respectful request for a couple of extra minutes
12 because I am speaking on behalf of two non-profit
13 organizations.

14 CHAIR DEAN: I think we are limiting all the
15 speakers to five minutes unless you've prearrange with
16 staff that you represent an organization.

17 MS. VOGEL: Okay. I will try to -- it should be
18 about five minutes if I read fast, so I will try to do
19 that. Hopefully I won't be cut off. Anyway, thank you.

20 I'm here to speak not for myself, I'm here to
21 speak for us. Not us in Crockett, not us in the room,
22 not us in the United States of America, but us as this
23 whole planet earth. I am here to speak for those that
24 do not have a human voice, which is our natural world
25 and our native ancestors that inhabited this land before

1 it was taken from them by genocide.

2 The Ohlone Indians from this region and
3 indigenous people across America lived in perfect
4 harmony with and respect for the natural world.
5 Everything was a closed loop. Nothing was wasted. No
6 pollution created and never destruction of the earth.
7 All aspects of life were held sacred. To disrespect any
8 of it was a crime against the self because they
9 understood the delicate interconnectedness of all life.
10 What harms the environment, harms the self because there
11 is no separation.

12 Our white male ancestors on the other hand saw
13 themselves as separate and conducted their actions from
14 a base of fear and greed. The two nastiest parasites of
15 the human ego. Our white male ancestors continued
16 throughout history with this blind trajectory of
17 separateness holding some life as sacred and other life
18 as not sacred determined by skin color.

19 Capitalism is based on this disturbing
20 incogitable ideology that some of us human beings should
21 gain great wealth and prosperity from the hard labor of
22 some other human beings. These other human beings have
23 historically have always been brown-skinned people. And
24 capitalism disrespects this mother earth that sustains
25 us all with just another brown-skinned surface to be

1 trampled on for endless reckless gain.

2 We are on a full-speed railway heading for
3 climate chaos, and the reason is the same today as it
4 was in the 1400s, because a handful of powerful white
5 men with lots of money are running the world with a "me"
6 not "us" mentality making very bad decisions for the
7 whole human tribe and oftentimes not even considering
8 wild life and the environment as part of the equation.

9 I am happy to see several women sit on this
10 committee. And so far from what we can tell that at
11 least one white male up there in a position of great
12 power, seems to be a pretty enlightened human being,
13 conducting this hearing from a place of higher
14 consciousness. We all know who I am talking about.

15 I dislike public speaking more than most anyone,
16 but I know that standing to money and power for the best
17 interest of the public good and winning has been, in the
18 past, an almost impossible task especially if you don't
19 have deep pockets to defend yourself. We can't pay for
20 the mess to clean up after derailment, but we are here
21 to tell you that we've got your back should you have the
22 courage to choose health over profit. We stand in
23 solidarity with you feeling the strength of alignment
24 with integrity as our guide. We are past any
25 possibility of selling our planet for some short-sided

1 gain that feeds the pockets of already very well-fed
2 thriving members of the tribe that don't want to share
3 their meat with the rest of us.

4 When they fail to make this particular kill, we
5 promise you they aren't going to starve. They are
6 continuing to chew the fat like they always have. If
7 the outcome means that anyone has to live a little more
8 simpler so that others may simply live, this is a
9 positive outcome. Having only what we need and nothing
10 more are the principals that our indigenous people
11 taught us, that sustaining a healthy thriving world.

12 They learned this from the animal kingdom. This
13 wisdom is unfortunately ignored by all but a very few
14 mostly anonymous weirdos living in tiny homes sprinkled
15 across America. Native Americans also taught us
16 sustainability based on the seventh generation
17 principal. This means that what we do today must
18 protect the lives of our children seven generations from
19 now. If we cannot without absolute certainty know that
20 it will, we refrain from taking that course of action.

21 This is the epitome of the "not me, us
22 heartality." Yes, that's a word I just made up,
23 heartality, which is the opposite of mentality or purely
24 mind-ego based decisions, which have led us way, way,
25 way off course. We must make heart-based decisions

1 without fear. We must act with love, respect and
2 gratitude for all the gifts we receive in our lives that
3 come from the natural world seen and unseen. We must
4 give back not just what we receive from the environment,
5 but more than we receive to restore the balance that has
6 been derailed by overconsumption and the
7 over-sustainable practices since the industrial
8 revolution.

9 The political train got on the right track in a
10 very big way yesterday when Bernie Sanders won the New
11 Hampshire primaries by far more than just a coin toss.
12 This campaign is supported entirely by small donations
13 from people with small incomes like me sending him 20
14 bucks a week. How is he doing it? By refusing to be
15 bought by the super impacts and bullied by the one
16 percent and instead speaking to the hearts of the whole
17 human tribe, carrying the truth of our ancestors into
18 the 21st century with the mantra "not me, us."

19 If we don't feel the passionate burn of this
20 mantra, we are destined to feel the burn of global
21 warming and the self-inflicting demise of our entire
22 human species --

23 CHAIR DEAN: Ms. Vogel, you have run out of
24 time.

25 MS. VOGEL: I will finish. Thank you. I feel

1 the burn of love --

2 CHAIR DEAN: You said you were here representing
3 a couple of groups. Do you want to mention who they
4 are?

5 MS. VOGEL: Yeah. Planet Earth, our dead
6 ancestors and the universe.

7 CHAIR DEAN: Thank you.

8 MS. VOGEL: This is what this is all about. I
9 make less than \$40,000 a year. This is the hundred
10 dollar bill that I would love to give to Bernie, but
11 this is --

12 CHAIR DEAN: That's it. Thank you. We have to
13 go to the next speaker.

14 MS. VOGEL: Thank you.

15 CHAIR DEAN: Next speaker. 123, Susan Harman.
16 124, Giovanni Sensidesolani.

17 Hi. Good evening.

18 MS. SENSIDESOLANI: Good evening. My name is
19 Giovanna Sensidesolani. And I give kudos to the
20 previous speaker. She spoke the truth for all of us.
21 We have to be aware that we are all together on this
22 small ship that is sailing through the universe, and we
23 must step lightly on this planet.

24 I have been a Benicia resident for over
25 20 years, and I have business downtown. This is my 12th

1 year in business in Benicia. I really love this
2 community, and I don't want to leave, but I am really,
3 really petrified of what you are facing and what we all
4 are facing by asking Valero or giving permission to
5 Valero to bring in these bomb trains. We do not need
6 them in this community. We must be very, very careful.
7 And as our previous speaker said, we really must look at
8 the entire planet and where we are leaving this planet
9 for our children and our grandchildren.

10 I wrote a letter on October 29th to the board
11 about the revised EIR. And I went down there yesterday,
12 and apparently the letter isn't there although I watched
13 them stamp it and put it in the file. Some of the
14 things that I asked about in this letter was the issue
15 about air quality that Valero and the commission reports
16 would improve air quality in the entire Bay Area basin,
17 but it doesn't discuss at all what the air quality would
18 be in Benicia.

19 I have lived here 20 years and some of you may
20 have lived here longer than I have. You know that when
21 the winds blow in any direction here in Benicia, we are
22 receiving the air from a collection of refineries that
23 are surrounding us. If we add the air from these bomb
24 trains coming in, we are just asking for trouble, and
25 not just for ourselves. I've never had any respiratory

1 problems until the last few years, and I know that we
2 have a real problem with our children and asthma, and
3 that is because of the quality of the air here.

4 Bringing in the bomb trains is not going to improve
5 that. Maybe it will improve the quality of the air in
6 the middle of the bay and so the sailers won't have to
7 worry so much, but it's really not going to affect us
8 here in Benicia other than negatively.

9 One of the other issues I asked about was this
10 insurance issue. I remember from speakers that you
11 claimed that because one person spoke out here about how
12 Union Pacific would be responsible, even our lawyer said
13 that is not sufficient responsibility, we cannot expect
14 to continue with this without being sure that we have
15 something really in writing about who is responsible,
16 when, not if, but when an accident occurs.

17 Valero is a good neighbor in many ways. They
18 are the ones that do help the community. However, they
19 have had several incidents, like in 2014 they paid
20 \$183,000 fines, for pollution, and in 2013 they happened
21 to be number 12 out of the 100 greatest polluters in the
22 United States, and this was an institute of the APA
23 toxic release inventory. So we really cannot expect
24 Valero to suddenly become a hundred percent clean
25 industry.

1 I wanted to read just one thing here. The one
2 thing that really upset me was the idea that they are
3 not responsible because the railways are not their
4 purview. This really does seem ridiculous. Supposing
5 your child came to you and asked you permission to
6 participate in an activity that poses excessive risk to
7 their health and wellbeing, as well as the health and
8 wellbeing of their community and their friends, but they
9 tell you that they can't control that so you should
10 accept that risk. As a parent, as an adult and as a
11 decision-maker for the community would you say, 'oh, go
12 ahead. Go take that activity even though you have no
13 control of the risk.' You are the decision-makers. You
14 have to listen to the community. We have been here
15 every night until 11:00 speaking to you. Do not fail
16 us. Listen to the people who elected you. Thank you.

17 CHAIR DEAN: Thank you. Next speaker. 125,
18 Kathleen Olsen followed by 126, Rick S. 127, Eric
19 Hoglund.

20 Rick? Hi. Good evening.

21 MR. SLIZESKI: Hi. Rick Slizeski. I see why
22 they wrote it down as Rick S. Anyway, I'm a resident of
23 Benicia. Thank you for this opportunity to speak to
24 you.

25 I urge the Planning Commission to vote against

1 certifying the draft EIR, and I also ask the commission
2 to deny the permit to Valero for processing or for
3 proceeding with the Crude by Rail project. I first
4 wanted to respond to a couple of the comments made by
5 Valero's environmental engineer last night. He stated
6 that the Benicia refinery was designed to process heavy
7 or medium sour crude. This presumably would make it the
8 perfect refinery for processing Canadian tar sands
9 crude. He also said that in assessing greenhouse gas
10 emissions, the emissions from transporting the crude
11 from the wellhead to the refinery should be evaluated,
12 just those emitted within the state of California over
13 the Bay Area.

14 With this last point, I agree. However, what he
15 did not mention is considering the greenhouse gas impact
16 of the particular source of crude that is used. I would
17 submit to you that if Valero is going to refine Canadian
18 tar sands crude, the amount of greenhouse gas emissions
19 resulting from transporting it would be trivial in
20 comparison to what results from extracting and
21 processing the dirtiest of all crude oil sources.

22 As retired and as a scientist and as climate
23 expert, Dr. James Hansen commented, if the Canadian tar
24 sands are developed, it's game over for keeping climate
25 change below catastrophic levels. I urge the Planning

1 Commission to give the utmost consideration to the
2 impact of this project on greenhouse gas emissions as
3 climate change is not something that will happen at some
4 distant date in the future, but is occurring right now.
5 As I'm sure most or not all of you are aware that 2015
6 was the warmest year on record ever since historical
7 data began to be kept on that subject. Also, 14 of the
8 15 warmest years on record have occurred in this
9 century.

10 Additionally, the number of natural disasters
11 such as wildfires, drought and floods are accelerating
12 at an alarming rate. By way of comparison, in the
13 1970's there was 660 such natural disasters. But in the
14 2000's there are 3,332 of them, a five-fold increase.
15 To try to slow the rate of climate change, I ask you not
16 to approve this project unless Valero commits to not
17 processing Canadian tar sands crude here.

18 Regarding the Bakken shale crude, I urged the
19 Planning Commission to not approve the project ousting
20 Valero to only bring in Bakken shale crude that has been
21 at the source. As I understand, such technology is
22 readily available and has been used for years with other
23 similar types of crude oil. Unless Bakken crude is
24 degasified, it is simply too dangerous to transport or
25 have at the refinery as evidence by the multiple

1 catastrophic explosions that have resulted in recent
2 years.

3 I also urge you to vote against certifying the
4 final draft EIR as it is riddled with internal
5 inconsistencies and defies logic in many instances.
6 This became readily apparent during the questioning by
7 commissioners themselves, as well as the public comments
8 you have already heard regarding such things as the
9 analysis of greenhouse gas emissions, traffic delays and
10 the touted economic benefits.

11 Most crucially, it is apparent that a
12 fundamental issue has not been adequately resolved
13 specially despite what the contract attorney stated.
14 Serious questions remain regarding how federal
15 preemption law should apply to this rail transportation
16 crude project. If the law was as definitive as he
17 presented, then the opinion that you receive from other
18 cities and from the state attorney general would be
19 inexplicable. I think the way to resolve this is to go
20 back to the California attorney general's office and ask
21 for a definitive ruling on this crucial point. Until
22 you have a ruling on that, you cannot proceed to make a
23 lighted goal a success of how to proceed here.

24 I see I'm running out of time, and I urge you to
25 vote against this project. All the benefits that are

1 being represented are few more, and the consequences are
2 going to be long-lasting. Thank you very much.

3 CHAIR DEAN: Thank you, sir. Next speaker.
4 127, Eric Hoglund. He spoke yesterday. Okay. I can't
5 hear that.

6 MR. STIERWALT: My number is 126. I was Rick S.
7 I just want to mention -- I should be 126.

8 MS. MILLION: Chair Dean, Rick Slizeski
9 was actually -- I can see the confusion. He was
10 actually 82, so had he been here he would have spoken.
11 I would suggest just having Rick S speak, and it would
12 solve the problem.

13 CHAIR DEAN: Okay. You want to come down and --
14 yeah. Reintroduce yourself then.

15 MR. STIERWALT: I think there are two Rick S's.
16 I'm Rick Stierwalt. I have been in town for 30 years. I
17 have been involved with this project for the last year
18 and a half. I am a construction superintendant for
19 30 years. I want to bring up some issues.

20 The Planning Commission is well aware of the
21 facts. To transport oil from North Dakota, Valero could
22 use what will be the new Vancouver, Washington facility
23 by train. You can train the crude from North Dakota to
24 Vancouver and then take it by ship to Benicia. The
25 message according to the Wall Street Journal is the

1 crude oil has the energy of two million sticks of
2 dynamite. One car. The message is that on average
3 there is a spill or crash, on average, once every seven
4 to eight weeks in America.

5 Big oil has delayed better braking, better crude
6 oil cars, safer travel now for decades. They have
7 delayed it and delayed it and delayed it. There is one
8 federal bridge inspector who inspects 250 train bridges
9 a year for 11 western states. One inspector for 11
10 western states. There are 5,000 train bridges in
11 California alone. So if he inspects 250 bridges a year,
12 that will take 20 years before he inspects the same
13 bridge twice. Above that, he has 10 other western
14 states of bridges to inspect.

15 Valero is not going away if it does not pass.
16 After crashes, thousands of gallons of crude oil have
17 entered into a common sewer system, spread out past the
18 blast site, and then it caught on fire. Three volumes
19 now for the EIR. It makes no sense. People would
20 decide to move or stay if it passes. This is a great
21 town without spills. What will I recommend to my
22 family, friends and kids?

23 I want to mention Steven Young with the Planning
24 Commission has done an excellent job asking very direct
25 questions to which many people have a hard time

1 answering. Those questions need to be answered before
2 this thing passes. There is a slew of unreasonable
3 safety laws that they bring up because the federal
4 regulations continue to make very lax laws and it allows
5 crashes to happen and then fines don't exist because
6 they fell within the laws.

7 One of the laws that is there is that it is
8 legal and safe for a railroad to have 14 of 18 broken
9 railroad ties. That is considered safe. 60 percent of
10 all railroad spills happen due to bad rails or the ties.
11 Okay? 14 out of 18 railroad ties broken is absolutely
12 absurd. When you have the equal of two million sticks
13 of dynamite in a crash per car and you have federal
14 railroad bridges that are inspected once every 20 years,
15 well, one train weighs 9.8 million pounds of crude oil,
16 and that excludes the weight of the steel train itself.

17 The brakes have been -- the brakes have been
18 asked to be upgraded since 1960. That has been put off
19 now for 55 years. Big oil is very slow to pay the
20 crashes, and they pay a very small percentage. That
21 typically is what happens. In order for this to pass,
22 what really needs to happen is stricter laws that are
23 above and beyond the federal regulation. It makes no
24 sense to accept these laws. Once we accept them, then
25 those -- the regulations by the federal government and

1 federal railroad will supercede all city and state laws.

2 I just want to say -- I'm coming to a close -- I
3 want the Planning Commission to listen to what I am
4 saying. I want them to use their wisdom and knowledge
5 and do the right thing. Vote no on no crude by rail.
6 Thank you.

7 CHAIR DEAN: Thank you. Next speaker, No. 128,
8 Dan Smith, followed by 129, Michelle Roe Shields and
9 then 130, Sue Kiby.

10 Hi, Mr. Smith. Good evening.

11 MR. SMITH: Good evening, Chairman Dean.
12 Dan Smith. Benicia homeowner for 24 years. A renter
13 here before that. Some of what I have to say has been
14 said before, but I think I have a slightly different
15 perspective.

16 First of all, I want to reiterate the thanks to
17 you, Commissioners, who have worked these long nights
18 for free unlike city staff and the Valero employees who
19 are here, who are getting paid to be here. You do it
20 simply out of love for our community, which is the
21 reason I am here too.

22 Last night we heard many remarkable things from
23 Valero employees. One said the staff of the refinery in
24 New Brunswick, Canada, where so many peopled died --
25 near where so many people died in Quebec were being good

1 neighbors. That may be true of the individuals but
2 certainly not of Canadian Pacific Railway or the Irving
3 Oil refinery. Another Valero employee remarked how
4 comparatively little scrutiny was given in 2002 to the
5 sulphur scrubber of the Valero improvement project. I
6 was on the City Council during that approval process,
7 and I have to agree. Our review of VIP was grossly
8 inadequate. This is true even though Valero/Benicia is
9 one of the newest refineries in the US. Hardly a
10 candidate for closure.

11 Here we are again with the city attorney and
12 planning staff shrugging its shoulders and noting Valero
13 is very important to our tax base. That is certainly
14 still true right now, but it's no excuse for
15 recommending this project. I would like to quote Yolo
16 County supervisor, Don Sailor who signed the letter
17 condemning this project that was received from the
18 Sacramento area coalition of governments.

19 "Our concern is about the 500,000 people in the
20 six county areas that live within a half a mile of the
21 rails. People are exposed to potential risk." See,
22 this project does not just affect 20,000 Benicians. It
23 affects those 28,000, those 500,000 and hundreds of
24 thousand, if not millions along the rail from Dakota and
25 Canada.

1 Another speaker last night said we have a
2 constitutional obligation to -- as well as one to
3 California law to ignore the federal preemption smoke
4 screen thrown out by staff. Considering the million or
5 more people at risk in this project, I would say you
6 commissioners also have a moral responsibility here.

7 Another speaker from Valero spoke of the, quote,
8 "Great strides made in rail safety in recent years."
9 True, some strides have been made with safer tank cars
10 and positive train control which has been devised. Yet
11 still greater strides are needed before we approve this,
12 but staff's recommendations won't even allow you to ask
13 for the strides that have been made so far, much less
14 requiring the stabilization of fuel before transport.

15 In conclusion, I plead to you commissioners, do
16 this job for which you are not paid and do it well.
17 Protect us from -- protect us when our city staff who
18 was paid to do it, will not.

19 CHAIR DEAN: Thank you. Next speaker, please.

20 Michelle Roe Shields. Hi. Good evening.

21 MS. ROE SHIELDS: Yes, I am Michelle Roe
22 Shields. My husband and I retired to Benicia three
23 years ago. A month after we moved into our house we
24 learned that crude by rail was coming into Benicia from
25 a notice in our phone bill. We were stunned. We both

1 have family in San Antonio and Houston who have decades
2 and experience in the oil business. I urge you to
3 reject Valero's proposal to build a massive offloading
4 crude oil train terminal in Benicia.

5 Transporting crude by rail is not safe. As we
6 have seen all too many times over the last few years, in
7 a blink of an eye, one of these massive oil trains can
8 derail, crash and explode. Just a week ago three tank
9 cars carrying hazardous sulfuric acid derailed on train
10 tracks under the Benicia bridge in Martinez. The Contra
11 Costa Times reported that the Martinez derailment
12 occurred at 8:00 a.m. last Wednesday. By 9:30 a.m., an
13 hour and a half later, the Contra Costa County Hazardous
14 Materials crews were on the scene along with scores of
15 Union Pacific employees, but the cars remained derailed,
16 including one that was tilted on its side. Officials
17 were waiting for a crane to arrive to move the tank car
18 back on the tracks. Martinez Mayor Rob Schroeder, was
19 quoted, "Thank God there were no leaks. We may have
20 dodged a bullet here." But it does bring up that
21 discussion again about transporting hazardous materials.
22 Adding cities, such as Martinez have absolutely no
23 control over the rail lines or what is shipped through
24 our communities. This is why voting against
25 certification is so critical. You have the power now to

1 say no.

2 Between January 2012 and October 15, 4,321 train
3 derailments, more than three per day on average, were
4 reported in the US according to the federal railroad
5 administration. Currently the tank cars used to
6 transport volatile crude oil can puncture with impacts
7 of even less than 10 miles an hour. They are just not
8 strong enough and lack effective braking systems to
9 carry these enormous volumes of volatile fuel safely.
10 10 of the 13 tank cars that leaked and exploded into the
11 James River in Lynchburg, Virginia in April 2014 were
12 the upgraded CPC 1232 tank cars that Valero proposes to
13 use.

14 According to the Wall Street Journal, each tank
15 car crude holds the energy of the equivalent of two
16 million sticks of dynamite or the fuel of a wide-bodied
17 jetliner. Multiply these figures by 50 cars and each
18 one-mile long train that's coming into Benicia twice
19 daily, 365 days a year, holds the equivalent of 100
20 million sticks of dynamite. These trains also emit
21 toxic pollutants of nitrous oxide, nitrogen dioxide,
22 sulphur dioxide, benzene, and fine particular matter.

23 A Department of Transportation analysis from
24 2014 predicts that trains hauling crude oil will derail
25 an average of 10 times a year over the next two decades.

1 If just one of those more severe accidents occurs in a
2 high population area like Sacramento, Davis or Benicia,
3 the DOT report predicts it could kill more than 200
4 people and cause roughly \$6 billion in damage. It's no
5 wonder that state and local officials, cities and
6 counties have come out against this dangerous proposal.
7 Transport by crude by rail is not safe. It is dangerous
8 and places our lives, our communities, our wildlife and
9 our environment in daily peril.

10 I urge you to deny certification and reject
11 Valero's proposal to build a massive offloading crude
12 oil tran terminal in the industrial park in Benicia.
13 Thank you.

14 CHAIR DEAN: Thank you. Next speaker, Sue Kiby,
15 130, followed by 131, Valerie Love, then 132, Claudia
16 McDuna, 133, Matt Jones. Hi. Good evening.

17 MS. KIBY: Good evening. My name is Sue Kiby.
18 I'm a citizen of Benicia living in the blast zone.

19 First I want to thank the Planning Commission
20 for the many hours spent pouring over these deliberately
21 obtuse documents and listening to all our comments. I
22 hope you found them helpful.

23 Valero energy was immensely profitable in 2015.
24 Dividends to investors surged 80 percent. It's a great
25 time to be a refinery. With demand of gasoline growing

1 at three times the historic rate and crude oil prices
2 falling to under \$30 a barrel from over \$120 a barrel
3 just four years ago, Valero shareholders enjoyed -- as
4 Commissioner Young noted on Monday -- an adjusted net
5 income of 4.6 billion in 2015, which is more than a
6 billion increase over 2014. They will receive a
7 20-percent increase in dividends in the first quarter of
8 this year.

9 It is shameful that despite record profits,
10 Valero continues to intimidate its employees and the
11 city with "Support this project or else." Or else what?
12 Or else what? Valero is not going anywhere. Valero
13 does not need this project to stay competitive. Make no
14 mistake, this train is fuelled by greed alone.

15 Climate change imposes an immediate and growing
16 threat to California's economy, environment and public
17 health. In September 2015 California regulators
18 restored ambitious regulations to cut transportation
19 fuel emissions 10 percent within five years, including
20 all pollution resulting from transporting fuel into the
21 state. At a time when the governor of California
22 ordered reducing our, quote, abject and massive
23 dependancy on fossil fuel, end quote. We are heading in
24 the opposite direction.

25 The Paris agreement signed by 190 world leaders

1 in December signals the urgency of reducing greenhouse
2 gas emissions now. The over-blown selling point that
3 Valero counts repeatedly of reduced emissions from
4 maritime vessels has nothing to do our objective and
5 will have no impact on we terrestrial beings living
6 along the rail lines and in the refinery's blast zone.

7 The Bay Area Air Quality Management Districts in
8 which emissions will be reduced is huge encompassing
9 seven counties plus portions of Solano and Sonoma.

10 Here's my little Exhibit 1. Seven counties plus these
11 two. Huge. We are considering bringing some of the
12 most toxic volatile chemicals on the planet into
13 California to dozen of communities and refining this
14 stuff in Benicia's backyard. Let's be clear, this is
15 not good for Benicia, and it has nothing, absolutely
16 nothing to do with reducing carbon emissions or
17 reversing climate change. How out of the step of times
18 can we be?

19 I ask you to examine impact 4.6-1 in the EIR
20 regarding the construction of the offloading site, which
21 states, "The project would generate direct and indirect
22 GHG emissions significant and unavoidable. Construction
23 is estimated 25 weeks, seven days a week and 600 to one
24 of metric tons of CO2 emissions would result." Now
25 comes another example of the whacky math that you find

1 throughout this DEIR. For some unknown reason, these
2 emissions are amortized over a 30-year period and
3 reduced to 20 metric tons. Hello? And these are among
4 the emissions that are offset in the reduction in
5 maritime vessels. But wait a minute, those maritime
6 vessels are still coming in because there's still
7 construction.

8 At the risk of stating the obvious, one thing I
9 want to mention is a legal opinion is just that, an
10 opinion. Supreme Court Justices read the same briefs,
11 hear the same arguments and often reach totally opposing
12 opinions. So when the city's legal counsel says that
13 due to preemptions, granite the railroad, the commission
14 has no authority to deny this project, well, that's an
15 opinion. I was delighted to hear the brilliant young
16 lawyer last night clarify the fact that the applicant is
17 Valero with no preemptions.

18 In my biased opinion, it would be valid to deny
19 this project, not only because it is insane, as the good
20 doctor said, but because preconception is being used by
21 the applicant to subvert you through process and because
22 the negative impacts cannot be mitigated and delivery of
23 toxic crude cannot be regulated.

24 We are a gateway to the Bay Area with our finger
25 in the dike, and this is your moment in history.

1 Benicia could be the little city by the bay that said no
2 to big oil, no to the money railroad and saved us all.
3 Whoa. Good timing.

4 CHAIR DEAN: Good timing. Thank you.

5 Next speaker. 131, Valerie Love. Claudia
6 McDuna. 133, Matt Jones.

7 Hi. Following Mr. Jones, 134, Mark Altgelt.
8 135, Linda Myo. 136, Sky Benjamin.

9 Hi. Good evening.

10 MR. JONES: Good evening, Commissioners. My
11 name is Matt Jones. I'm a planning manager with the
12 Yolo Solano Air Quality Management District, and tonight
13 I'm representing my own district, of course, but I am
14 also representing the Butte County Air Quality
15 Management District, the Feather River Air Quality
16 Management District, the Placer County Air Pollution
17 Control District, the Sacramento Metropolitan Air
18 Quality Management District and Shasta County, all of
19 which are up rail districts.

20 Their biased draft EIR for the Valero/Benicia
21 Crude by Rail Project identified significant air quality
22 impacts in multiple air districts as a result of
23 emissions from additional locomotive trips as crude oil
24 is transported via rail to the refinery. These air
25 districts currently do not meet state and/or federal air

1 quality standards primarily due to the emissions
2 associated with mobile sources, including locomotives.

3 In addition, these locomotives are a significant
4 source of air toxics in our local communities. Their
5 biased draft EIR does not suggest any mitigation for
6 these well-documented impacts. Instead, in the revised
7 EIR, the lead agency claimed that federal preemption
8 prohibits the mitigation preemption emissions, either
9 directly from locomotives or indirectly through the
10 purchase of emissions offsets.

11 After the publication of the revised draft EIR
12 local air districts representing the counties of Butte,
13 Sutter, Placer, Sacramento, Shasta, Yolo, Solano, as
14 well as the Bay Area Air Quality Management District
15 submitted a joint letter to the city. In this joint
16 letter, the air districts reiterated that mitigation was
17 feasible and there was no legal barrier preempting
18 Valero from implementing an offsite mitigation program
19 in the affected air districts.

20 In the final EIR for this project, the lead
21 agency acknowledged the opinion of the air districts but
22 did not commit to any new mitigation measures. Offsite
23 mitigation programs have been successfully implemented
24 by other projects in air districts throughout
25 California. Moreover, a project very similar to the

1 Valero project has committed to implementing just such a
2 program. The Phillips Santa Maria Refinery in San Luis
3 Obispo County filed an application for approval to
4 extend the existing rail track and install equipment
5 needed to enable rail delivery of North American crude
6 oil.

7 The EIR for that project identified similar
8 significant air quality impacts. The EIR then proposed
9 mitigation measures to reduce project emissions
10 directly. The EIR also proposed an offsite mitigation
11 program to reduce any remaining emissions below the
12 applicable significant threshold. The language of
13 mitigation measure AQ-3 in the Phillips Santa Maria
14 Refinery Rail Project FEIR specifically reads, quote,
15 "Prior to issuance of the notice to proceed, the
16 applicant shall provide a mitigation monitoring and
17 reporting plan. The plan shall investigate methods for
18 reducing the locomotive emissions through contracting
19 arrangements that require the use of tier four
20 locomotives or equivalent to emission levels. The plan
21 shall indicate that on an annual basis if the main line
22 rail emissions, a reactive organic gases, ROG, and
23 nitrogen oxides, NOS, with the above mitigation still
24 exceed the applicable air district thresholds, the
25 applicant shall secure emission reduction and ROG plus

1 NOS emissions or contribute to new or existing programs
2 within each applicable air district similar to the
3 emission reduction program utilized by the San Luis
4 Obispo Air Pollution Control District to ensure that the
5 main line rail, ROG plus NOS emissions do not exceed the
6 air district thresholds for the life of the project.

7 The applicant shall provide documentation to the
8 air district from the San Luis Obispo County Planning
9 and Building Department that emissions reductions have
10 been secured for the life of the project prior to the
11 issuance of the notice to proceed." End quote.

12 The air districts affected by this project urge
13 the city of Benicia not to approve the Valero/Benicia
14 Crude by Rail Project or the final EIR until the city
15 incorporates an offsite mitigation program, especially
16 since such a program has been shown to meet feasible
17 mitigations for a similar project. Considering the
18 significant impacts on our air basin and acknowledging
19 the mitigation proposed for this similar project, the
20 affected air district strongly recommend that FEIR not
21 be certified without mitigation that it reduces
22 emissions to a less than significant and level within
23 our respective districts. Thank you.

24 CHAIR DEAN: Thank you. Question for the
25 speaker, please? Sir, do you want to return for a

1 moment?

2 COMMISSIONER COHEN GROSSMAN: Just a quick
3 question, Mr. Jones. What would an off-site mitigation
4 program look like? What's an example of one in this
5 case?

6 MR. JONES: In this case the Sacramento region
7 where most of these air districts are located has a
8 regional program called the Carl Moyer Program, and that
9 program is set up to fund replacements of agricultural
10 equipment, off-road agricultural equipment. That
11 equipment is not regulated right now, so all of those
12 emissions, if we reduce emissions from that kind of
13 equipment, they are surplus emission reductions. And
14 similar programs to the one I just described exist in
15 other air districts.

16 CHAIR DEAN: Thank you. Next speaker. Mark
17 Altgelt.

18 MR. ALTGELT: Yes.

19 CHAIR DEAN: Good evening.

20 MR. ALTGELT: Hello, Planning Commission. Thank
21 you for the opportunity to speak. My name Mark Altgelt
22 from -- I'm from Vallejo and a volunteer with Citizens
23 Climate Lobby.

24 The Bakken crude oil trains are extremely
25 volatile and explosive. And just for that reason alone

1 the proposal should be denied. And also Bakken crude is
2 about the dirtiest oil option available, and so Valero
3 should be looking for clean sources of oil, not the
4 dirtiest, especially with temperatures rising year after
5 year and breaking records with increasing climate change
6 and all the consequences that it's bringing about. So
7 this just isn't a good long-term approach.

8 Bakken crude is not really profitable to extract
9 at \$30 a gallon. So I don't know how they are going to
10 maintain the supply at \$30 a barrel. I don't know how
11 they are going to maintain the supply. These are family
12 operations, and many of them aren't able to maintain
13 their business plan because the cost of oil is so low.
14 So investing in streamlining the import of this oil now
15 just doesn't make sense, both for environmental reasons
16 and for business reasons. It's just not a good business
17 plan.

18 The United States invaded Iraq, and despite
19 9/11, it was largely award for oil. As a consequence,
20 the Middle East is in -- as we all know -- you know, in
21 the whole global -- the whole world is in turmoil as a
22 result of that. Rather than -- and here we are in
23 response, striving for oil independence with this dirty
24 oil. So I think it would be beneficial as a national
25 policy to strategically buy Middle East oil because it's

1 cleaner, better quality oil and could be used
2 strategically -- if purchased strategically to help
3 bring about stability in the Middle East and world.

4 So I hope that you will reject this proposal for
5 a number of reasons, just for long-term benefit of
6 Benicia, Benicia's children and for a better plan -- for
7 the opportunity to have a better plan than what this is.
8 Thank you.

9 CHAIR DEAN: Thank you. Speaker 135, Linda Maio
10 followed by 136, Sky Benjamin.

11 MS. MAIO: Hi, my name is Linda Maio. I'm vice
12 mayor of the city of Berkeley. I wanted to thank you
13 for giving your time. Last night our meeting went from
14 5:30 to 11:00. About half of that was public comment.
15 You have been doing this for three nights now. I wanted
16 to appreciate, because I can actually -- I have
17 first-hand experience with paying attention and taking
18 notes.

19 I am here because Benicia is not alone. We
20 are -- our boards mean virtually nothing particularly
21 when we are talking about these volatile and hazardous
22 materials. We have been focusing along with many of the
23 cities on the San Luis Obispo spur land use request.
24 But there is no difference here because once you
25 actually grant the spur, the federal preemption takes

1 over, and they can go anywhere, any time that they
2 choose. Point south, point north. It's all pretty much
3 open. We don't have any power. The power that we have
4 and we actually had to fight to get that at the state
5 level, was to have some advance notice to our public
6 safety -- for the public safety staff, our firefighters.
7 We know that once these spurs are approved, we have very
8 little power.

9 When we met with Secretary Fox, the most he
10 could do was actually issue the new rulemaking for a
11 better car. But even those cars are not adequate when
12 you look at the accident rate and the seriousness that
13 these accidents have caused. I don't know if you've
14 seen the weather channel video, but they make two major
15 points. They actually videoed the accidents, many of
16 them and that number has been far surpassed, but also
17 the rickety condition of our railroads. And because
18 they haven't paid attention to our railroads for years,
19 they really are in pretty abysmal shape. They haven't
20 really invested in them. Now because that's the
21 lifeline for their materials, they are proposing to use
22 these rails without the adequate safety guards.

23 Who are our coalition? The cities that have
24 past resolutions on shipping crude by rail are
25 Emeryville, Oakland, Fremont, Hayward, the mayor of

1 Alameda went to the dams in San Luis Obispo. I could
2 not go, but I can assure you that the other cities are
3 as concerned as Benicia is. If you look at passing
4 through my particular council district at Fourth Street,
5 Bayer Pharmaceuticals, many schools, many buildings,
6 many residents, schools, day care centers, just think of
7 Jack London Square. That's where those trains are going
8 through heading south to San Luis Obispo if they approve
9 it.

10 But also again, I just want to reiterate, that
11 once the Valero spur is approved, our power to regulate
12 and where they go is really gone. It's totally --
13 because we have a land use decision to make that you are
14 sitting there and your counsel will make their vote, so
15 we understand that.

16 You've had some really wonderful testimony
17 tonight. I have only been here for a half-hour, but
18 you've got a lot of really excellent testimony tonight.
19 I was recalling when the Cosco Busan Freighter hit the
20 Bay Bridge Pier and we were faced with the cleanup from
21 just the fuel from that one small ship -- well, it
22 actually wasn't that small, but the cleanup -- the
23 amount of damage to the bay we were cleaning up for
24 months and the bird habitat was affected tremendously.

25 The video, if you haven't seen it, I would

1 recommend that you do. I just want you to know that the
2 cities that I mentioned -- I'll mention them again --
3 Berkeley, Emeryville, Hayward, Alameda, Oakland, San
4 Jose, we are all poised to take action against these
5 spurs because they all affect us deeply in addition to
6 your own town of Benicia, so I urge you to deny it.
7 Thank you.

8 CHAIR DEAN: Thank you. Next speaker, 136, Sky
9 Benjamin, followed by 137, Jan Cox Golovich. Do we have
10 Mr. Benjamin?

11 137, Jan Cox Golovich. Hi.

12 MS. COX GOLOVICH: Good evening. Thank you for
13 all your patience in allowing us to draw on for the last
14 three nights.

15 Back in 1990 I was attending UC Davis, and I was
16 taking a class, and they sent me down here to observe
17 the shenanigans of the city of Benicia staff. At that
18 time we had a city manager who was telling the Planning
19 Commission and City Council and the community and
20 everybody that would listen that we have to build 5,000
21 homes out in Sky Valley. We just have to do it because
22 if we don't do it, the county of Solano is going to come
23 in and take away our sphere of insolence and give it to
24 Vallejo or give it to Fairfield so we just have to do
25 that.

1 So I went back to Davis, and I talked to my
2 professor and I said, "How does the city staff get away
3 with such a blatant lie like that?" He said to me,
4 professor said to me, "You know, they can get away with
5 anything they want as long as no one challenges them."
6 So that became my job; to challenge the city staff
7 whenever they said something really ridiculous, and
8 that's why I'm here tonight.

9 You guys are already pretty wise to this blatant
10 lie, and that is that because of federal preemption, you
11 have to approve this project and there's nothing you can
12 do about it as if the Feds are going to come in and
13 issue some kind of legal thing and force you to issue a
14 permit. That is simply untrue. In fact the opposite is
15 true. You have every right and indeed you have the
16 responsibility to deny this permit. If you find that
17 this permit would be detrimental to the health and
18 safety of this community and every community along this
19 line from here all the way up to North Dakota and
20 beyond.

21 Like I said, I have been watching you for the
22 last couple of months -- last couple of nights. I'm
23 sorry. And actually I have been watching you for a long
24 time, and you guys are pretty sharp, and I don't think
25 you have bought the staff lie. I am pretty sure you

1 know what to do. You know what the legal ramifications
2 are and I have every confidence that our city is going
3 to remain safe in your hands. Thank you very much.

4 CHAIR DEAN: Thank you. Next speaker,
5 Roger Straw followed by 139, Greg Snyder and then David
6 Brawn.

7 Mr. Straw.

8 MR. STRAW: Like Jan said, thank you for your
9 patience with us, Commissioners. Thank you for your
10 intelligence and for your energy and your time. I'm
11 Roger Straw, editor and publisher of the Benicia
12 Independent and a citizen of Benicia.

13 First I want to just simply ask you before I go
14 into anything else to decline to certify the grossly
15 inadequate EIR. And if you must certify the document,
16 then to deny the permit for Valero crude by rail. There
17 are no findings that can support permitting this
18 project.

19 Second, I note that after a very short 45-day
20 review period there has been on top of the three massive
21 volumes themselves now, another flood of incoming
22 reviews and analyses that are highly critical of the
23 final EIR. I don't envy your job. If I were a
24 commissioner I would want additional time to study these
25 documents, these new documents. It's been a long

1 process. Some have accused us of wanting to drag it
2 out. That's the opposite for me. I wish this was over
3 yesterday, and I think you must too.

4 How are you going to make an important decision
5 like this without studying the expert comments and legal
6 and scientific reviews like those submitted recently by
7 the Bay Area Air Quality Management District, up rail
8 agencies, the NRDC and 18 other organizations, Adams
9 Brownwell, attorneys on behalf of Safer California and
10 others, not to mention the incredible comments that you
11 are getting from citizens tonight.

12 I want to briefly ask you not to lose track of
13 the one-page letter that you received yesterday from the
14 local Ironworkers Union. I don't know if they are here
15 to speak tonight, but the Ironworkers are one of
16 Valero's strongest supporters, and yet this little
17 one-page letter speaks of withholding support until
18 they, quote, receive more information and assurances
19 from Valero as to the safety of the 1250 apprentices
20 being trained at their facility. A lot of letters
21 coming in. I hope you didn't miss that one.

22 Given only five minutes, I would like to
23 acknowledge and incorporate into my remarks those
24 offered previously by Jackie Prang of the NRDC and
25 Rachael Koss of Adams Brownwell on behalf of Safer

1 California. This is my message to you, my heart goes
2 out to Lynn Litler and Elizabeth Lyndensky and all the
3 residents of Davis, California.

4 My life changed dramatically in the spring of
5 2011 when I learned that city staff's recommendations of
6 a mitigated negative declaration of which I didn't
7 understand at that time, that would make me -- a
8 declaration that would make me as a citizen of Benicia
9 complicit with the open pit mine tar sand -- pit mining
10 of tar sands crude in Canada. Immediately back then, as
11 a world citizen, my thoughts turned to our neighbors up
12 and down the rail lines and most especially to those
13 native people and others who live in Alberta, Canada and
14 to the wild life and the Boreal Forests that I had at
15 that time already heard were being destroyed, complicit.
16 That's what this has all been about for me ever since
17 2013, tar sands.

18 It sounds increasingly like Valero doesn't even
19 own Bakken crude. It's been tar sands. Fears of
20 explosions came later after that early concern about the
21 Boreal Forests in Alberta. It was not until July that
22 same year that Lac-Magantic went up in unquenchable
23 flames given flight by erupting tank cars and rivers of
24 burning Bakken crude. The media and the public became
25 rightfully alarmed, but my heart, as from the start,

1 been with the land in the upper midwest and Canada the
2 air that circles the globe. Our decision here in
3 Benicia is part of a much larger picture. We are not an
4 isolated island in our small corner of earth.

5 Please take into consideration the vast
6 implications of our decision here today and vote to
7 neither certify nor permit Valero crude by rail.

8 CHAIR DEAN: Thank you. Next speaker number
9 139, Craig Snyder.

10 MR. SNYDER: Good evening. My name is
11 Craig Snyder. I'm a Bay Area native and a Benicia
12 resident for a little over 12 years, and I thank the
13 commissioners for your thorough review of this important
14 project, and I also thank the folks on both sides here
15 that have shared their heartfelt concerns because good
16 government depends on active citizen participation.

17 So I notice that crude oil prices have dropped a
18 little over \$30 a barrel this week, and the price used
19 to be over \$50 a barrel to break even on Bakken crude
20 extraction, \$70 a barrel to make tar sands break even
21 and production of North American shale oil has already
22 dropped dramatically. We hear stories of people going
23 out of business right and left up there. So will crude
24 prices go back up or with Iran coming online, will they
25 drop further? Clearly the whole enterprise is rather

1 speculative. How can such a sketchy proposal justify
2 the adverse safety and environmental impacts that it
3 causes?

4 In addition, last night Valero said they are
5 already receiving Bakken crude and Canadian tar sands
6 oil from other means. So again, why should we override
7 the adverse safety and environmental impacts that this
8 project will cause and omit all this certainty about oil
9 prices, future supply, demand, et cetera. We are
10 supposed to trust that Valero will be here for Benicia
11 but consider the corporate environment of today with
12 mergers, takeovers, sales, et cetera. There's no
13 guarantee that Valero will be here in five, 10 or even
14 two years. So why should we overlook the adverse safety
15 and environmental impacts by approving this project?
16 There is really -- when you really look at all these
17 facts, there is really no compelling need for this
18 project in the first place.

19 Last night we learned there's uncertainly over
20 what combustibles will be transported at what pressures.
21 Uncertainty over who will ultimately pay for an accident
22 if one happens. Uncertainty over which routes and what
23 track conditions will be affected, and there's
24 uncertainty on how the traffic in the industrial park
25 will really be affected. In fact, the whole proposal is

1 so speculative and riddled with uncertainty that defies
2 logic how it can possibly be approved.

3 Now, this is a copy of the Benicia strategic
4 plan for 2015, 27, and a couple things stand out under
5 strategic issue number 3, strength and economic fiscal
6 conditions. Two -- number two is strengthen a Benician
7 industrial park competitiveness, number three, retain
8 and attract business. In addition, our own city manager
9 has characterized the industrial park as the engine of
10 Benicia and almost everyone agrees we need to diversify
11 the economy of Benicia and not to rely too heavily on
12 the refinery for our future well-being. Why would we
13 degrade our industrial park with this proposal? It
14 defies common sense.

15 Who would want to locate a business within a
16 half mile blast zone of a potential oil train explosion.
17 Ask yourself this: Would you choose to locate your
18 business in an industrial park with four times daily
19 traffic delays and associated air pollution and the
20 constant presence of high pressured flammable trains or
21 would you choose an industrial park that doesn't have
22 that problem?

23 My wife and I have been driving electric cars
24 for nearly three years. It's powered by solar panels
25 that are on our roof. What really makes me sad is the

1 waste of fuel that we see all around us. More SUV and
2 truck sales are up and apparently cheap gas equals
3 wasted gas. If you look at what's going on up in Canada
4 with tar sands oil extractions up there, it's truly
5 criminal. We rail against the bombing and destruction
6 of Syria, yet the area slated for tar sands mining is
7 the size of Florida. Mushaira Asad would need to carpet
8 bomb every square inch of his entire country of Syria to
9 achieve that level of destruction. It's truly
10 disgusting the lengths that people are willing to go to
11 make a buck. Earthquakes, methane gas release, air and
12 water pollution, global warming, ocean acidification.
13 It just goes on.

14 In this day and age, I find it truly repugnant
15 that my town of Benicia should somehow seek to benefit
16 from this horrible destruction. Valero's Crude by Rail
17 Projects adds insult to injury by compounding the
18 environmental impacts and shale oil and tar sands
19 extraction while adding the significant risk to human
20 health and safety.

21 I'll close with this sentence: Only after all
22 conventional oil reserves have been exhausted and we
23 have all minimized our greenhouse gas footprint to the
24 minimum needed, should a risky proposal such as this
25 even be considered, let alone approved. Thank you very

1 much.

2 CHAIR DEAN: Thank you. Next speaker number
3 140, David Brawn. 141, Paul Cushing following
4 Mr. Cushing, 142, Mark Donnelly and then Peter Cassidy.

5 Hi. Good evening.

6 MR. CUSHING: Good evening. My name is Paul
7 Cushing. I am a Benicia resident. This isn't about
8 increasing capacity of Valero or changing their existing
9 refining capabilities or whether fracking should or
10 shouldn't be done. It's about giving them a more
11 cost-effective to acquire and ship raw materials to
12 their facility. We need to remember that this is a
13 business after all, and they do exist to make a profit.
14 They wouldn't be doing their jobs if they weren't
15 looking at ways to improve their bottom line. We should
16 also remember they are the largest contributor to our
17 economy. This is a major part of the reason Benicia is
18 such a nice place to live and has such good schools,
19 which is in turn increasing our property values.

20 My first memory of Valero is at a fundraiser for
21 the band at the middle school. They were trying to
22 figure out how they were going to come up with the money
23 to fund it. It turned out to be surprisingly simple.
24 One of the dads who worked at Vallejo showed up with a
25 large check from Vallejo -- pardon me -- from Valero. I

1 have never seen that kind of support. I've spent a lot
2 of time volunteering at my kids' schools in a previous
3 area, and I was really pretty impressed by that.

4 There is risk to any method of shipping crude,
5 which has obviously been a large part of this
6 discussion. Eric Hoag, one who spoke last night
7 mentioned that he had a degree from the maritime academy
8 dealing and had an actual background dealing with
9 shipping being in charge of a lot for Maersk. He
10 mentioned a reference to a study indicating that rail is
11 actually a preferable method to transport crude.

12 I would like to expand on that a little bit.
13 I'm not sure people understand that there are
14 significant risks to transporting crude by ship as well.
15 They pass through the San Francisco Bay, which is a busy
16 and at times, dangerous waterway. When waves and tides
17 can combine too quickly and widely disperse marine
18 spills.

19 I think someone from Valero mentioned the Cosco
20 Busan incident last night. The Cosco Busan spill
21 occurred on November 7th, 2007. As a result of a
22 collision and heavy fog with a fender of the tower on
23 the bay bridge, the container ship Cosco Busan spilled
24 53,569 gallons of heavy or bunker fuel oil. This was a
25 container ship, not a tanker. About 200 miles of

1 coastline incorporating some 3,367 acres was oiled. In
2 the report I read, they only went into account of birds.
3 An estimated 6,849 birds were killed. Of 1,084, they
4 managed to collect alive, only 295 survived to be
5 rehabilitated and released.

6 From a rough math of the spill two days after it
7 occurred, the spill had gone on the ocean side as far
8 north as Stinson Beach, roughly, and south of Lake
9 Merced. Inside the bay up near Pointinal to the north
10 and as far south as about Brisbay. Total monetary
11 damages were estimated at \$2.1 million for the ship, a
12 million and a half for the bridge's fender and more than
13 \$70 million for oil spill cleanup.

14 I think most of us can remember the Exxon Valdez
15 Diesel spill on March 24th, 1989, Prince William Sound,
16 Alaska. The 11 million gallons was commonly used as an
17 estimate of the size of the spill. Less than 10 percent
18 of the oil was recovered in NOAA. The National
19 Oceanantic and Atmosphere Administration estimated in
20 2007 that more than 26,000 gallons of oil remained in
21 the sandy soil of the shore line. They went into more
22 detail on the aftermath to wild life.

23 Immediate effects included the deaths of 100,000
24 as many as 250,000 sea birds. At least 2,800 sea
25 otters, approximately 12 river otters, 300 harbor seals,

1 247 bald eagles and 22 orcas and an unknown number of
2 salmon and herring. That particular spill, none of us
3 will live to see the effects of that gone. It's going
4 to take far longer than any of us will be alive to see.

5 I know that there has been a lot of work on this
6 process, but this has been going on for three years. I
7 would just like to make the point that this is the kind
8 of thing that has encouraged a lot of companies and
9 their jobs -- has driven so many companies and their
10 jobs with them out of state. One other thing I would
11 just like to mention, we have had a lot of people on
12 both sides make varying comments, and they are stated
13 as, well, this is the way it is. What kind of response
14 are we going to be able to hear because most of us are
15 going to leave after this? Are we going to hear to all
16 -- of these hundred and some-odd people have made
17 comments. Are we going to see individual responses to
18 that?

19 CHAIR DEAN: Let's see. The commissioners are
20 taking your comments into account. There will not be
21 any kind of official response to the comments that have
22 been made. But certainly the commissioners will take
23 all the comments they hear into account in their
24 discussion when it comes to making a decision on the
25 project.

1 MR. CUSHING: Okay. Thank you.

2 CHAIR DEAN: Thank you. Next speaker. 142,
3 Mark Donnelly followed by 143, Peter Cassidy. 144,
4 Susan Mirniky. 145, Diana Cababru. 146, Debbie Souza.
5 147, Aimee Durfee.

6 Hi. Good evening.

7 MS. DURFEE: Hi. My name is Aimee Durfee. I'm with
8 the Martinez Environmental Group, and I'm a resident of
9 Martinez. As you know, we have two refineries, and I
10 live right across the bridge. So any pollution or
11 explosion that occurs from this project would directly
12 affect our town. There is a number of reasons I have a
13 lot of concerns about this project.

14 The first one is that the EIRs found 11
15 significant affects that are unavoidably related to rail
16 safety, emissions, explosions and the staff report
17 stated that mitigation is infeasible. So that means
18 that you approve the project? These are serious,
19 serious as many, many people have already stated
20 findings in this document that we can't do anything
21 about. These are reasons to reject the project.

22 Second, this project's approval will enrich
23 Valero by \$55 million at our expense. Their property
24 value will increase by \$55 million, but we are paying
25 with our health and the risk to our towns. I also want

1 to go back to the question about jobs and the question
2 that Commissioner Young had brought up about the
3 thousand jobs resulting from multiplier effect from
4 construction jobs.

5 I understand what a multiplier effect is. I
6 don't doubt that's a valid way to calculate these kinds
7 of things, but I want to appreciate you for questioning
8 this. The issue is, are those 1,000 jobs, if those are
9 real, are they here in Benicia? Are they even in the
10 East Bay? Are they even in California? Are they
11 resulting from manufacturing materials in other states?
12 Will this area even see any of those jobs?

13 Also, separately, the estimate of 120
14 construction jobs, I think, should be questioned as
15 well, because that number could change, it could slow
16 down. For example, the Oakland Army Base, before it was
17 approved they said they were going to have 3,000
18 construction jobs resulting on that project. After it
19 was approved somehow that number plummeted to about a
20 couple hundred because everything slowed way down. So I
21 just want to say those numbers that people are throwing
22 around about jobs are not guaranteed in any way. So if
23 you are including that in your analysis of the benefit
24 of this, I think it's highly questionable.

25 I finally want to say that there is a shale game

1 being played with greenhouse gas and air quality. It is
2 Orwellian that the EIR states that this project will
3 reduce greenhouse gases because it moves transfer from
4 marine to rail. This project is bringing in tar sands,
5 it's bringing in Bakken shale. And if these are pulled
6 out of the ground, greenhouse gases will increase. I
7 think that if the applicant is able to use a national
8 scope for their analysis of greenhouse gas reductions,
9 then they should be including the amount of greenhouse
10 gases that are produced by the extraction.

11 On the issue of clean air, tar sands is dirtier
12 when it is refined. Is that included in the analysis?
13 If the train explodes the air is going to get dirty. We
14 already live in an incredibly polluted area, so to play
15 games with the limits to mitigate this elsewhere is just
16 poisoning our communities. I want to also say it seems
17 like the staff is sort of throwing up your hands and
18 saying we can't do anything. We just have to sacrifice
19 our community to Valero's profits.

20 And Martinez, we have been dealing with crude by
21 rail for several years. We have had crude by rail
22 trains going through our town for a couple years. They
23 have stopped now, but they have been going through our
24 town for a couple of years. Every 7 to 10 days we had
25 this train going from Stockton to Richmond. So it

1 affected not just our town but many towns in Contra
2 Costa County. We brought this issue to our City
3 Council. The City Council did very, very little. But
4 we brought this issued to our school board. And when
5 our school board understood that there were five schools
6 within the blast zone, they got it immediately. They
7 went out on a limb, and they passed a resolution. They
8 took a risk to oppose crude by rail coming through
9 Martinez. They didn't have to do that, but they did it
10 because they cared about what was happening to their
11 kids.

12 I'm asking you to be courageous. Whether the
13 city gets sued by Valero, whether you get sued by Union
14 Pacific, you need to stand up for your community and
15 deny this project. Thank you.

16 CHAIR DEAN: Thank you. Next speaker, 148,
17 Sandra Sheer. 149, Dean Lloyd. 150, Lewis Mendez.
18 151, Tom Griffith.

19 Hi. Good evening.

20 MR. GRIFFITH: Tom Griffith. Thank you,
21 commissioners for the opportunity to speak. My name is
22 Tom Griffith, and I'm a resident of Martinez, your
23 neighbor across the bridge. As neighbors our fates are
24 interconnected. In 1988 when the shale refinery spilled
25 440,000 gallons of crude oil into the wetlands and

1 Suisun Bay and told no one about it for four weeks, the
2 oil eventually found its way to Benicia.

3 In reverse, what happens in Benicia is very much
4 the concern of Martinez. I'm also the co-founder of the
5 Martinez Environmental Group and the Bay Area Refinery
6 Corridor Coalition. And both Benicia and Martinez
7 residents are deeply concerned about crude by rail
8 trains. I would like to talk a little bit about rail
9 safety and a little bit in general.

10 According to the federal railroad office of
11 safety analysis, in 2015 in the United States there were
12 1,898 rail accidents. This works out to a little over
13 five per day every day of 2015. Now these -- a lot of
14 these were crashes and derailments by vehicle collision.
15 So a vehicle can go into a train and knock that train
16 off or make an explosion. Trains labeled BNSF had 259
17 accidents and trains labeled Union Pacific had 335
18 accidents. In 2015 in California there were 174 train
19 accidents, about one every other day. Locally, I was
20 surprised by the numbers.

21 Alameda County there were eight accidents with
22 five dead and one hurt. In Contra Costa County there
23 were seven accidents, two people killed, three hurt. In
24 Solano County there were two rail accidents with one
25 dead and one hurt. In Sacramento County there were nine

1 accidents, one person was killed and five injured.
2 That's 26 rail accidents in 2015 that caused nine
3 deaths. And this is just between Alameda and
4 Sacramento. I was surprised by that number. Horrified,
5 actually.

6 We know the oil companies did not send much if
7 any Bakken by rail last year. If this project is
8 approved, that will change. Any one of those 27
9 accidents that happened last year could have been an
10 explosive crude by rail event. A disaster that, by
11 their own admission, local fire, police and hazmat teams
12 cannot handle nor should they or the citizens of Benicia
13 or her neighbors up rail or across the street be forced
14 to put health and lives and livelihoods and homes and
15 children at risk for the profits of one company. I
16 conclude that it is only a matter of time before our
17 luck runs out as our mayor said and a devastating
18 accident occurs somewhere along in our communities.

19 So, please, for all of us, deny this permit.
20 Thank you.

21 CHAIR DEAN: Thank you, sir. This might be a
22 good time to take a break. Take a 10-minute break for
23 the commission and stretch your legs, and we will resume
24 the public comment as soon as we get back. Quick break.
25 Say, 10 minutes.

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(Brief recess)

CHAIR DEAN: All right. Thank you. We're going to continue with the public testimony. And the next speaker would be 151, Tom Bethards. Excuse me. Jack Bethards. Is that right?

MR. BETHARDS: Yeah. My name is Jack Bethards.

CHAIR DEAN: Thank you. Sorry about that.

MR. BETHARDS: I'm the owner of Shorestein Company Pipe Organ Builders in the industrial park. I'm a close neighbor of Valero. I have a fairly large investment to protect there, the building, the equipment, inventory, sometimes instruments from our customers that are nearly \$2 million each. Most important, I have a lot of employees to protect. Their safety is important. I have spent some time -- I should mention one other interesting thing. I spent a lot of time at the railroad crossing, waiting and waiting and waiting while the trains go back and forth shifting their loads and switching and changing around and going and then making an attempt to start and then not going. It's a frustrating thing. I've even tried to beat them a few times, going back to the freeway and running to race them. I have never been able to make it.

I am very close to Valero, and I am involved in their operations, literally, every day. Now, this

1 project has been going on and on and on. We have done a
2 lot of study. I spent a lot of time studying it, and I
3 know everybody here has. There is some risk. There is
4 no doubt of it, but there is risk in every single thing
5 we do, everything we do every day. And the question is,
6 what is the balance of risk versus reward or versus
7 benefits? I think this project is loaded with
8 safeguards one after another, a tremendous number of
9 safeguards, in my opinion.

10 The staff report I have compared with all the
11 material that I studied over the time, and I think it's
12 a good survey of the situation, and I endorse it. I
13 agree with the staff report, and I think we should
14 accept the project. The reason is, it is loaded with,
15 as I said, safety measures, but there is one safety
16 measure that nobody talks about and it's not mentioned
17 too much in the report. That is the tremendous risk
18 that Valero takes, the risk of losing tremendous amounts
19 of money, if there is an incident. They are the ones
20 that gain the most to lose or have the most to lose in
21 the case of an accident, and the same is true of the
22 railroad and the other industries involved. They can
23 lose a fortune, not only from the cleanup of the
24 incident but from lawsuits that go on and on and on, all
25 sorts of problems that they want to avoid more than

1 anything else. I don't think anyone in this room or
2 anyone anywhere has more interest in protecting this
3 city, than does Valero because it's in their good self
4 interest.

5 They have proven also that they are a good
6 citizen in this town. It's a well-managed,
7 well-financed, very fine company. It's an anchor of our
8 town and of our industrial park. Now, about six or
9 seven years before I moved here I started a study, where
10 to move my company out of San Francisco where we were
11 established in 1877. I looked at every city in the
12 whole Greater Bay Area. I came up with only two that I
13 thought were truly business friendly. That is two that
14 would welcome me and my little company. One was
15 San Leandro, the other was Benicia.

16 Of course Benicia won out because it's the most
17 beautiful cities by far. In fact, it's one of the most
18 beautiful cities in the whole area, and I'm very lucky
19 to be here. One of the main reasons I came here was
20 Valero, because of the strength they offer. They are
21 the anchor. They are the main business in town. They
22 attract other businesses. They support other
23 businesses, and they make this a successful town. If
24 you like Benicia, one reason Benicia is the garden spot
25 it is, is because it's prosperous town. We are

1 prosperous because we have many very fine businesses
2 that keep this city going and keep it prosperous.
3 People marvel at the city, and I always tell them when
4 people come to visit, I say, it's because we have a
5 wonderful industrial base, and the city encourages their
6 businesses and supports them, and I would like to
7 suggest that we support this activity. I think it's a
8 real benefit for our town.

9 I want to make one final comment. Tonight we
10 have heard lots of very compelling, shocking technical
11 claims. Some of them very, very believable. However,
12 there's no opportunity to debate them in this kind of a
13 format. I'm afraid it's up to you, commissioners, to
14 take each one of these claims tonight, some of them
15 scientific, some of them technical and before you accept
16 them to challenge them yourselves and see that they
17 really are true because there's been a sea of
18 accusations and comments about this project. Some of
19 them probably quite true, but many of them possibly not.
20 It's up to you to study them, and I hope you will be
21 able to do that before you make your decision. Thank
22 you very much.

23 CHAIR DEAN: Thank you, sir. Next speaker, 153,
24 Jim Kons, K-o-n-s. 154, Anne Ponal. 155, Angela
25 Martin.

1 Hi. Good evening.

2 MS. MARTIN: Good evening. Hi. Hello. Thank
3 you for the opportunity to speak, and thank you for all
4 your hard work on this project. My name is Angela
5 Martin, and I have been a Benicia resident for about
6 46 years. I'm a recently retired health systems
7 administrator. I've also in the past worked for the
8 City of Benicia Parks and Community Services Department
9 and also for the Benicia Unified School District, so I
10 have a soft spot for our youth and the kids who were
11 young at the time when I worked in those groups.

12 I also for eight years in my professional life
13 worked for Worldcom, which is interesting and
14 challenging look at the things that can happen in our
15 association with large corporations here in this
16 country. I think the primary responsibility that we
17 have in considering this project is to public health and
18 safety. We already live in a high incident cancer zone.
19 Personally I know three children of friends who have
20 experienced adult onset leukemia. One is deceased. One
21 is permanently disabled. I'm not sure about the status
22 of the third one. I hope and pray he is still in
23 remission.

24 So the statistics of what can go wrong in terms
25 of our environmental quality here and actually knowing

1 the people as we all do, that these things could
2 possibly happen to, there are two different things.
3 These are our neighbors. These are our children and our
4 friends. I think we owe it to them to be conservative
5 in considering the bad things that might happen. Even
6 if the chances of an accident are really small or
7 miniscule, the consequences of that accident could be
8 devastating.

9 So we're not beholden to them to any private
10 enterprise. Government is here to serve the citizens.
11 The government doesn't work for any particular entity.
12 Even 20 percent of the tax base, good citizen company,
13 you know, what about the other 80 percent? I think that
14 the -- certainly the health risks outweigh and there has
15 been a lot evidence given by the speakers who have done
16 a great job of researching the situation.

17 Also, the political legislation that exists
18 would make a decision in favor of this project to fly on
19 the face of things that are happening in other
20 communities and be very much out of step with trends
21 that are being undertaken by other governments and other
22 organizations to protect the environment and to protect
23 public health and to seek alternatives to these
24 dangerous use of the tar sands and Bakken shale oil.

25 There are alternatives, and we need to look at

1 green alternatives for the industrial park and not to
2 continue subject our decision-making process to the fear
3 of the fact that our large good neighbor is going to
4 turn on us if we disagree. They will come up with
5 something else to continue to make their business a
6 robust profit-making concern that it has proven to be.
7 I don't think we need to be afraid of that.

8 We also have a reputation here in Benicia for
9 being a beautiful city. We have fishing, recreational
10 fishing. We've got wild life. We've got the marsh. We
11 have the Benicia State Park. That quality of life,
12 which is our family value, why most of the us live here
13 in Benicia, we can't afford to take a risk with that and
14 ruin our reputation by being seen as a city government
15 that would make the wrong decision when we have the
16 chance to make the right one.

17 The mitigation measures that would be in place
18 with the existing rules and regulations are
19 insufficient. I think we all know that after smelling
20 the stinky smell on the East Side for so many years
21 generated by the refineries.

22 Thank you, and please don't vote for this
23 project.

24 CHAIR DEAN: Thank you. Number 156, Adam
25 Rowles. 157, Jim McDonald. After Mr. McDonald, 158,

1 Jasmine Powell. 159, Dean R. Lloyd.

2 MR. ROWLES: The US Department of Energy. It's
3 a bit of a technical matter. Basically when you cannot
4 make a decision because federal regulations prohibit you
5 from making them, CEQA requires a joint NEPA CEQA report
6 be filed at this point, which you have not done. Okay.

7 This is a website from the Department of Energy
8 of one of many that shows you how you determine whether
9 or not a NEPA report needs to be done. You can also go
10 to different government websites, state websites where
11 there is a NEPA required, and they all basically say the
12 same thing; if you can't do some action because of
13 federal regulation, NEPA is required. CEQA, Article 14,
14 which is a big article -- anybody who is advising you
15 can't tell you that they don't know this. It was itty
16 bitty little print. It's a great big article, Article
17 13 as what you are required to do in the event that a
18 CEQA/NEPA combination report needs to be filed.

19 I make reference to NEPA in the documents that I
20 have here that were submitted on time, and you need to
21 comment on the fact as my reference to NEPA in here are
22 legitimate, why or why not. You have not done that
23 either. You are denying due process. I was on the
24 school board for five years and three law firms, and
25 they all just stress one phrase, do not deny due

1 process. Period. And you will be denying due process
2 if you pass this without doing a joint NEPA/CEQA.

3 The problem with the railroads is the tracks
4 themselves. They were built in the 1800s. The gravel
5 you see there is an integral part of a train staying on
6 it. When the gravel washes away or goes away, the
7 tracks have nothing to hold them. It's literally what
8 holds the train and rails in place is the gravel.

9 There have been sections that are less than a
10 year old that have already broken down from the weight
11 of these oil car transfers. The technology -- 1800
12 century technology. Modern technology is what's called
13 a non-ballasted slab track. Non-ballasted slab track
14 costs 20 percent more to produce, but the maintenance
15 cost just goes nowhere. Okay. The number of wrecks
16 that you are going to have is not the railcars. If the
17 track gives out from underneath the railcar, you are
18 going to have problems. If you get rid of the failure
19 of the tracks, you are going to have the failure -- the
20 derailments are going to go down significantly. You
21 have to say that you want non-ballasted slab track. I
22 have documented a lot of that in here as well.

23 As far as storage tanks, I have referred to a
24 document -- I think it was 1947 or '49 by a shale oil
25 engineer on shale oil stationary, which means shale oil.

1 The safest way to store ball to liquids is a spherical
2 dome. So that's from shale oil of New York. In other
3 words, you can't allow them to modify these tanks
4 because of air fuel detonations. Air fuel detonations
5 is why this map here from DOT has 90 percent of Benicia
6 in a danger zone, because 22 barrels of diesel fuel that
7 first vaporized and then was detonated, just 22 barrels,
8 would take out the entire Benicia downtown, and I have
9 that document. You can see the photographs and things
10 of an air fuel detonation. It's the number one bomb, by
11 the way, by all the militaries. They just love this.
12 It makes a typical munitions look like fire crackers.
13 That's why DOT knows this. That's why DOT put this
14 one-mile radius around here. That's why cities are
15 saying to places like this, we are not even going to
16 touch your facility as far as fire response. It's
17 100 percent your responsibility. The only thing we are
18 going to do is go around the residents and hopefully
19 pick up the pieces. Many places are doing this. We are
20 not getting involved in your situation. All right. You
21 have to put the in-place foaming. It's factory -- it's
22 industry standard that any oil spill be foamed within 15
23 minutes. It's not practice, but it's there in black and
24 white. Why? Because of the air fuel detonation.

25 CHAIR DEAN: Sir, you have ran out of time.

1 Thank you for your comments.

2 Next speaker, 158, Jasmine Powell. 159, Dean R.
3 Lloyd. 160, Ken Pauly. 161, Dan Broadwater. I think
4 he spoke last night, didn't he?

5 MR. BROADWATER: Yes, I did.

6 CHAIR DEAN: Yes. Thank you.

7 162, Don Guidance. 163, Sheila Playett. 164,
8 Sharon Bobbit. 165, Jorge Bobbit. 166, Danny
9 Bernadini. 167, Bill Bowden. 168, Tom Carol. 169,
10 Mary Davis. 170, Rick Maland. 171, Richard McKinnley.
11 172, John Mcquire. 173, Ethan James. 174, Fred Neman.
12 175, Audrey Neman. 176, Todd Silva. 177, Mark Salazar.
13 178, Dwayne Whiler. 179, Kathy Forkus. 180, Jack
14 Ruszel.

15 Good evening.

16 MR. Ruszel: Good evening. My name is
17 Jack Ruszel. I own Ruszel Woodworks in the industrial
18 park. As I wrote this speech this afternoon, I watched
19 across the bay a mile-and-a-half long crude oil train
20 traversing from Martinez across -- past Contra Costa.
21 So these trains are running currently contrary to other
22 testimony.

23 Commissioners, I'd like to thank you for the
24 serious amount of work that you have each put into this
25 project. Commissioner Young, I would like to

1 specifically thank you for looking out for Ruszel
2 Woodworks. We actually have a very good safety record.
3 So in your example of an urgent emergency at our a
4 location, a heart attack would have been a better
5 example, but we'll continue to work at keeping our plant
6 safe.

7 Like you, I have spent countless hours working
8 my way through this obviously twisted and misleading
9 fertilizer that makes up this environmental impact
10 report. I should have been spending my time developing
11 profitability in my own company. I should be helping my
12 employees to learn new skills, but instead I am spending
13 my time trying to protect them from a real and pressing
14 danger. I spend my time fending off my good neighbor,
15 Valero. Valero wants to develop their profits at the
16 cost of the health and safety of our community. Valero
17 is trying to improve their profits at the cost of my
18 ability to succeed.

19 I have sent six or seven letters describing real
20 issues with this project. And for my efforts I received
21 a condescending brushoff. Rather than continuing to
22 play their game, I would like to talk about bullying. I
23 got this from wikipedia. "Bullying is the use of force,
24 threat or coercion to abuse, intimidate or aggressively
25 dominate others. One essential prerequisite is the

1 perception by the bully or by others of an imbalance of
2 social or physical power. That's what distinguishes
3 bullying from conflict. A bullying culture can develop
4 in any context in which humans interact with each other.
5 Often bullying takes place in the presence of a large
6 group of relatively uninvolved bystanders. In many
7 cases it's the bully's ability to create the illusion
8 that he or she has the support of the majority. That
9 instills the fear of speaking out."

10 As a verb, "to bully," is defined as simply
11 forcing one's way aggressively or by intimidation. The
12 term may apply to any life experience where one is
13 motivated primarily by intimidation instead of more
14 positive goals, such as mutually shared interest and
15 benefits. As such, any figure of authority or power who
16 may use intimidation as a means of motivating others,
17 such as a dictator, a terrorist or even a ruthless
18 business could rightfully be referred to as a bully.

19 So what do we do? Well, they go on to say that
20 interventions should be built on the foundation that
21 bullying is morally wrong. Based simply on the
22 manipulated traffic study, I believe it is your
23 obligation to deny this environmental impact report and
24 deny the project as reckless. Thank you.

25 CHAIR DEAN: Thank you, sir. Next speaker, 181,

1 Aiden Scholtz. 182, Laura Lopez. 183, Burman Obaldia.
2 184 -- next speaker would be Roger Lynn. And we're
3 going to jump one number here. 184 is Greg Karras.

4 Mr. Karras.

5 MR. KARRAS: Good evening. I'm Greg Karras. I'm
6 with Communities for a Better Environment, CBE. I
7 provided expert comment in this matter, and my
8 qualifications are in the record along with my opinion.

9 I appreciate the Commission's questions about
10 exports from this refinery. It implies concern about
11 the impacts of what we allow here on people elsewhere.
12 Before I get into any details, I need to repeat what CBE
13 has put in the record and what we believe. The decision
14 here is not a close call. Potential impacts of this
15 project are significant, could be catastrophic and
16 irreversible. You shouldn't approve it.

17 Furthermore, you can't properly approve it today
18 because the environmental impact report is so thoroughly
19 flawed, and that's in the record. That's not what I
20 wanted to speak about in these few minutes. I wanted
21 to -- I hope to shed some light on a couple of the oil
22 company's claims. And I do appreciate that some of you
23 stood up for the community and those of us who are
24 affected by the project and don't live here.

25 I live now in unincorporated Marin, and I am a

1 refinery expert with more than 30 years experience. I
2 wasn't always. The way I came to this -- my first
3 experience with industrial pollution, I was six. My dad
4 came home shaking and filthy late one night and tried to
5 explain to the kids about the explosion at the plant
6 that killed coworkers, some of my friends' dads that
7 day.

8 A year ago on the pickett line across the river
9 at the Tesoro Refinery where the workers union was on
10 strike for their safety and ours, I was there with them,
11 CBE was with them, the nurse's union was there with
12 them. And you know what we talked about when we shared
13 food? We talked about what we call just transition.
14 How we are going to have to, and are we going to bring
15 everyone along with a good, clean job as we get oil over
16 the next decades?

17 Nine months ago I was standing across the cove
18 from Chevron with the President of the Workers Union,
19 ESW Local 5, and he was telling visitors who were
20 interested in that same concept, that CBE always tells
21 the truth. What he was talking about, what we were
22 talking about was how at the same time the workers at
23 Chevron were demanding that Chevron stop the unsafe
24 practices that led to the big blow in 2012 that people
25 spoke to. We were talking about it outside and we went

1 to court on it, and we eventually won and stopped a
2 project that would have made that hazard more corrosive,
3 dirtier crude even worse. Obviously it wasn't enough.
4 We need to do more. The city of Richmond could have, at
5 that point, we wouldn't have had to sue them. You
6 should.

7 And that's relevant here because that happened
8 at Chevron in Contra Costa County while they have an
9 industrial safety ordinance that supposedly required
10 safer processes. This county doesn't have one, doesn't
11 even have that requirement. And it's rather obvious and
12 it was the first thing in my expert report, that this
13 train project would be sandwiched, just next to the
14 creek but next to crude oil tanks. The knock on -- they
15 call this knock on effects -- a fire explosion explodes
16 another piece of that refinery, that explodes something
17 else, they turn into burning missiles, they go to
18 another place. That has happened. It's a low
19 probability but very high impact effect, and this is a
20 dangerous design.

21 Valero also yesterday claimed that there would
22 be no change in refinery processing or emissions as a
23 result of the project. That's ludicrous. The purpose
24 of this project is to deliver a type of crude oil they
25 can't otherwise deliver. That type of crude oil, the

1 most likely one, the one that evidence shows would be
2 most economic would be tar sands crude, dill bits.

3 I have a lot of expertise in this. I'm
4 published in the purview literature on the impacts of
5 refining that type of oil. And the impacts here, for
6 this amount, the potential is in the hundreds of
7 thousands of tons per year of emission increment, and
8 that's for GHG use. Blame Valero for the lack of
9 precision in that --

10 CHAIR DEAN: Sir, you have run out of time.

11 MR. KARRAS: Yeah, I want to say one more thing,
12 which that is the crude quality evidence and the
13 evidence that, in fact, Valero is exporting product
14 right now overseas, making more than they need for us,
15 is here to answer your questions, and I'll submit that
16 for the record. Thank you.

17 CHAIR DEAN: Thank you for your comments. Next
18 speaker 185, Jan Siesal. 186, Analise Hollander.
19 Followed by 187, Janet Johnson.

20 Hi. Good evening.

21 MS. HOLLANDER: Hi. Good evening, everyone.
22 Thank you so much for all of your time everyone here,
23 and everyone who has made public comments on all sides
24 of the spectrum. I think everyone's voices really
25 matter.

1 For me, personally, I was born and raised here
2 in Benicia. Majority of my family raised here too, you
3 know, very near and dear to my heart. Growing up here
4 being told that the billowing smoke coming out of the
5 refinery is just steam. I was like, hum, okay. I
6 always kind of knew something was off with that. Also,
7 playing in the water and playing with the black mud.
8 I'm like, okay. Why is this -- definitely oil. I knew
9 that something was wrong, but then -- anyways, going
10 forward, went to UC Santa Cruz and studied cultural
11 anthropology with a focus on environmental and social
12 justice with my main focus on indigenous people's; and
13 my fieldwork in Ecuador and in Uganda with -- majority
14 in Uganda -- and that had to be more undercover research
15 with the oil issues going on over there.

16 Bringing it back to our communities, I just
17 wanted to really honor the ancestors of the land here
18 and the indigenous people, the first nations, not just
19 here in Benicia but all across the county and across the
20 world, because this actually would not just be something
21 that affects the land here, but also people all over the
22 world because obviously it's going to be like a gas
23 central station for the world, potentially it could be.

24 And so I just wanted to take a moment. There's
25 been so much focus on all of the technicalities of it.

1 Very grateful for everyone who shared, and I just wanted
2 to really bring a little bit of a different energy to
3 the room and to all of us. I think towards the end here
4 we have an opportunity to all take a moment to reflect.
5 And if anybody so desires to take a moment, take a
6 breath, and anyone who wants to close their eyes for
7 just a moment is welcomed to. I just wanted to invite
8 people to take a look and feel into what their
9 ancestors, what their grandparents, what their parents,
10 what their children, the ancestors and the yet to be
11 born, what they would desire for this because these are
12 decisions that we are making on the foundations of the
13 people who have come before us and those who are yet to
14 come.

15 And me, being pregnant right now, bringing a
16 child into this world and into this community, you know,
17 I am speaking for both of us right now, and I just
18 wanted us all to take a look and see what it is that's
19 possible, because we all really need to work together in
20 order for us to create something different, building the
21 bridges that we have created, both physically and
22 spiritually and in every way, whatever you want to call
23 it, is essential right now, to not be segregating
24 ourselves and our communities.

25 With all of the diversity in this room, it's an

1 opportunity for us to actually be able to come together
2 and create a vision for our future, for our children,
3 honor those who have come before us and built the
4 bridges and who have developed this town and this
5 country, but also recognize that there are other
6 knowledges that know the way forward and that we are
7 truly "I don't know more," and we must collaborate with
8 this ancestral wisdom.

9 And in closing I wanted to just say a blessing
10 honoring the crossroads.

11 (Song sang by Ms. Hollander)

12 CHAIR DEAN: I'm sorry. You are out of time.
13 Ms. Hollander, you've run out of time. I'm sorry.
14 You'll have to step aside.

15 MS. HOLLANDER: Thank you.

16 CHAIR DEAN: Thank you. 187, Janet Johnson.
17 Good evening.

18 MS. JOHNSON: Good evening, Commissioners.
19 Thank you for continuing this hearing yet another night
20 and for allowing the public such a generous amount of
21 time to comment. I'm here representing the Sunflower
22 Alliance and the Richmond Progressive Alliance.

23 I live in Richmond three miles from the Chevron
24 Refinery. I'm retired from the skill trades, and I'm
25 not unfamiliar with refineries and refinery culture. My

1 father-in-law went to work for standard oil out of
2 college and was a safety engineer at Chevron until his
3 retirement. A few years ago I worked as a contract
4 worker at Chevron research.

5 I have the utmost respect and admiration for
6 refinery workers. They have an enviable spree to core
7 not unlike military or first responders. They have got
8 to have one anothers backs because the work they do is
9 incredibly dangerous.

10 As was shown by the findings of the chemical
11 safety board in the August 6th, 2012 explosion and fire
12 at Chevron, it is not a lack of safety conscienceness.
13 It is the part of refinery workers that leads to
14 accidents. In that incident it was the decision on the
15 part of Chevron management to defer maintenance that led
16 to the sulfonation corrosion of motion of a carbon steel
17 pipe in the crude distillation tower. Moreover, the
18 subsequent explosion and fire occurred as a result of a
19 management decision to not shut down the unit after the
20 leaky pipe was first discovered. The 19 refinery
21 workers on the scene were incredibly lucky to escape
22 with their lives.

23 I bring this up merely to point out that it's
24 important to keep one's eyes wide open when dealing with
25 the oil industry. When the Valero representative last

1 night spoke about the need for secrecy, about
2 proprietary information as to crude shipments and crude
3 stocks, the single reason he offered was the intense
4 competition in the industry. That competitiveness stems
5 from the need to ring maximum profits out of their
6 refining business, which has been pointed out, is by far
7 the most profitable segment of the oil industry. But
8 clearly, industry competition can also lead to bad
9 decisions on the part of managements, such as those I
10 just mentioned about Chevron.

11 The cities of Richmond and Benicia differ in
12 many ways, but one thing they have in common is the
13 money and influence their respective refineries bring to
14 their communities. Chevron has a number of media
15 outlets and dispenses its larges in a city badly in
16 need of resources. When they donate to local
17 non-profits, they are able to publicize how much they
18 love Richmond. More importantly, however, they buy
19 silence about the health effects of their toxic
20 emissions from the staff of these non-profits whose
21 leaders are important community figures.

22 For years Chevron maintained a desk in the city
23 manager's office, but that hardly compares to the
24 influence of your consulting attorney, Mr. Hogin, whose
25 clients include the Western States Petroleum Association

1 and whose CV lists handling challenges to a wide variety
2 of development projects, including oil wells and oil
3 refineries.

4 In conclusion, I would like to quote Jovanka
5 Beckles, one of the three Richmond City Council Members,
6 who defeated \$3 million of Chevron money in the last
7 election. She recently wrote in another context that
8 the best opportunities for change and parenthetically,
9 if generations to come are going to have a habitual
10 world to live in, we must transition from a fossil fuel
11 based economy. The best opportunities for change are
12 frequently at the local level. And they ripple outward
13 to bring changes to other cities, states and eventually
14 the country. We are in this together, she said, and we
15 have to think outside the box. End quote.

16 Your decision will be based on your own reading
17 of the FEIR, and the preponderance of written and oral
18 testimony here points to the conclusion that this
19 document is seriously flawed. Please vote to reject it.

20 Thank you so much for your time.

21 CHAIR DEAN: Thank you.

22 MS. RATCLIFF: Through the Chair. I believe
23 what --

24 CHAIR DEAN: I'm on 188, John Van Landschoot.

25 MS. RATCLIFF: So through the Chair, just to

1 clarify, once we go through the list, then we will go
2 back -- we were going to go back and call people who
3 were called and then were not here. But we are going to
4 finish the list first. That was --

5 CHAIR DEAN: Yeah. We will finish with all the
6 people on our current list. I have some additional
7 cards too, and then we will start over at number one for
8 those people who were not here the first -- when we
9 called them the first time. Okay?

10 Mr. Van Landschoot.

11 MR. VAN LANDSCHOOT: Hi. I'm John Van Landschoot.
12 I live here in town. This May it will be 30 years. We
13 are going to have a big party. Our house is 100 years
14 old. I'll send out an invitation and you can come over
15 and have a drink and some food.

16 I'm not going to say what all the people have
17 already stated. I have been watching in the room over
18 there and at home the last few days. I favor the
19 environmentally superior choice. I don't know why
20 consultants said -- that staff didn't -- I mean, it's a
21 sadness. We are the guardians, as people said, of not
22 only our family but our city, our state, our nation,
23 this world.

24 A lady or two before me was a Native American.
25 I have a little Indian in me from the Great Lakes

1 Chippewa. And when I grew up -- I'm getting a little
2 emotional -- I remember going to Indian lands and being
3 where they did, not so much dances but ceremonies. As a
4 little kid I thought, wow, that was great. My dad is a
5 fisherman, was a fisherman in Lake Superior, and he
6 always would say, you have to take care of what you got.
7 You can't re-soil it. Everybody in this state deserves
8 that and in this world deserve that. We can't keep
9 taking carbon out of the ground and throwing it in the
10 air and say why is the temperature raising? Why are
11 there big storms like the one in the Middle West right
12 now?

13 I want to answer some questions that have been
14 asked here today, at least my answers for them. If you
15 vote this down, which I hope you do, will Valero with
16 this little secret, whisper campaign, will they skip
17 town? I don't think so for two reasons. One is they
18 are making a pile of money. Gas is way down, for oil is
19 way down, \$30 a barrel, 55 gallons. Everybody and his
20 brother is putting oil out. Saudi Arabia is fighting
21 Iran that's put out more oil. Iraq is now in the game.
22 Valenzuela has got economic problems. They are pumping
23 out their oil. Everybody has oil. In fact, I think it
24 was Don Cuffel the other night or so, that was saying
25 they bought a whole boat load of oil that was just

1 sailing around because the previous person couldn't sell
2 it. They brought it in here. There is no problem with
3 Valero going on as they are right now.

4 The other thing I want to talk about is will
5 Valero leave, and the reason for that is that they came
6 here in the early 2000s when they took over for Exxon
7 because Exxon -- federal government says you can't own
8 all those things, so they bought two refineries. It's
9 one of the newest ones, if not the newest refinery built
10 in 1960s in the state of California. They are not going
11 to leave. If they want to stay in the game in
12 California, which they do, they make a lot of money,
13 check out your gas prices, although they are lower, in
14 the east, they are much lower.

15 If they leave here and they want to build
16 another refinery in another gullible town, that's not
17 going to happen. That's not going to happen. The state
18 of California and cities and counties will say no way.
19 That's not going to happen. So the idea that we have to
20 do this -- maybe that was staff's feelings, that we have
21 to do this because, gosh, they will leave or they won't
22 pay us the money that we need for our salaries. I just
23 don't get that.

24 I also want to thank you. I have been watching
25 you guys. I've come for other issues too. You guys are

1 some smart people. I want to make a suggestion and if
2 it's out of line you can yell at me. When you vote this
3 dinosaur, dead dinosaur oil down, I would love if it was
4 unanimous. The reason for that is this: You know, and
5 I know, and everybody on the earth knows, it is going to
6 the City Council. I believe there on some on the City
7 Council that are in the pocket of the refinery. If you
8 go 6-0, that's a big statement.

9 Lastly, I am have been keeping track, except I'm
10 not a very good counter, have you noticed how many
11 people from the city and surrounding cities have come up
12 and said, 'why in God's name are we talking about this?'
13 And how very few people, the paid people, the suits, it
14 seems -- I watched some of them fumble around and my
15 wife and I are thinking these guys are getting paid
16 probably 100 bucks an hour or more -- like the guy
17 today, his two-year-old study on the employment, and he
18 had no answer.

19 CHAIR DEAN: Thank you.

20 MR. VAN LANDSCHOOT: Thank you.

21 CHAIR DEAN: Okay. Thank you. Next speaker
22 189, B. Reynolds. 190, Karen Burns. 191, Leanne
23 Crawly. 192, John David. 193, William Crawly. 194,
24 John Youlmans. 195, Phyllis Ingerson.

25 Hi. Good evening.

1 MS. INGERSON: Good evening. Thank you for
2 letting me speak to the commissioners. My name is
3 Phyllis ingerson. I'm a Benicia native. I was born and
4 raised here. I'm 65 years old. I married the guy
5 across the street who was also born and raised here. So
6 together we have 130 years in Benicia.

7 I noticed when I was trying to put my little
8 doo-dad on my oxygen tank a few people in here jumped.
9 Imagine that. This is a little tank. It's less than
10 five pounds, and I got a reaction from everybody around
11 me. Not only that, I got helped by a nice Benicia
12 police officer to go outside and fix it. So to you,
13 thank you. I worry about driving my car with this
14 oxygen tank with me. I cannot imagine 50 -- or is it
15 100 railcars coming through our city a day with the
16 possibility of an explosion, and you have seen it. You
17 have seen what can happen.

18 I was here when the arsenal closed, and they
19 said Benicia was going to turn into a dustbowl. Nobody
20 was going to stay. Our family stayed. My father went
21 to work for Chevron. He was a merchant seaman. He
22 worked for 40 years. He was never involved in an
23 accident, and he carried crude oil, and he cleaned those
24 tanks.

25 I worked for Chevron. I started out in the

1 refinery. I worked in the fracking department. I was
2 clerical. I was trained in an emergency what to do, how
3 to put a mask on, how to put a suit on and how to get
4 out of the refinery. What kind of training are they
5 going to give us here in Benicia if there is an
6 explosion? Is there any? Do we have an evacuation plan
7 in place? No. You have seen the pictures. Is this
8 going to be another Flint, Michigan where you have
9 little kids hurt, 9,000, and they can't do anything
10 about it? Is the air quality going to be so bad that I
11 can't live here any longer when I have chosen to stay
12 here, and this is where I want to be buried. My
13 grandparents are buried here. My mother and father are
14 buried here. My brother is buried here and aunts and
15 uncles. But if the air quality gets any worse than it
16 is now, I am going to be forced to leave Benicia.

17 I don't think that's fair for a company that,
18 what, 20 percent, and the other 80 percent of us suffer.
19 I don't think Exxon -- whatever your name is that's
20 leaving. I know it was Exxon at one time. -- Valero.
21 I don't think Valero is going anywhere. So why should
22 I? I have been here 65 years. Why should I be forced
23 to move? If I worry about driving with this thing in my
24 car, and it only weighs five pounds, you should be
25 scared to death to have railcars coming into Benicia

1 because all it takes is one accident. It has been
2 proven just by me listening today that it does happen.

3 I never knew anything about this crude by rail
4 until today, and I want to know why. Why isn't it in
5 the newspapers, other than the Benicia paper, which I
6 don't get. I get the Valero Times Harold. I get the
7 Contra Costa Times. Why aren't people talking about
8 this? I understand at the farmers market they couldn't
9 set up a booth to distribute literature. Why? People
10 should know that -- I guess my time's up -- what can
11 happen to them.

12 Thank you.

13 CHAIR DEAN: Thank you. Speaker 196, Steve
14 Ingerson. He's not speaking. Okay. Thank you. 197,
15 Cindy Johnson. 198, Hadia Alias.

16 Hi. Did I say that right?

17 MS. ALIAS: Close enough. Thank you for the
18 opportunity to talk to you, and I just want to -- my
19 name Hadia, and I've lived in -- resided in Benicia for
20 more than 30 years. I also own a structural engineering
21 firm located in the industrial park for more than
22 25 years.

23 The responses that I received to the comments I
24 made on the DEIR did not address my concerns in regards
25 to the structural and size aspects. They just referred

1 me back to the DEIR, the same sections that I looked at
2 previously. This project, I'm sure you'll agree, is a
3 unique and specialized facility that is not typical
4 run-of-the-mill type of project. The city did not ask
5 for this project. Valero did. So the city, in order to
6 minimize the risk to the citizens and in order to have a
7 quality facility, this is the time during the DIR and
8 the EIR for the city to ask for certain requirements
9 above the minimum that is required by the court.

10 Court deals mainly with standard type of
11 structures. We did not find in the report anything that
12 addresses additional care required for this type of
13 project. In terms, for example, setbacks, additional
14 setbacks, special requirements. To give you an example,
15 the city of Benicia does not allow, in the design and
16 analysis of residences, the use of sheet rock or stucco
17 sheet walls to resist earthquake, although that is
18 allowed in the court. Now, city of Suisun allows that,
19 but Benicia has put an upgrade on the code. It's
20 requiring does not allow that in order to have a quality
21 construction.

22 This is a project that is much more important
23 and serious and hazardous than a residence. So it is
24 very important for the city to do this now, and to have
25 done it now, in this type of project before you approve

1 to add this additional requirements and show the care to
2 make sure that the citizens of Benicia are protected and
3 the project is a good quality project.

4 The EIR is lacking. I have -- my partner will
5 be talking to you after me and addressing some
6 additional technical parts of the EIR and submitted some
7 papers for you. I just want to conclude by asking you
8 and urging you not to certify the EIR and to reject this
9 project, to protect all of us and to do your good duty
10 here.

11 Thank you so much.

12 CHAIR DEAN: Thank you. Next speaker, 199 Amir
13 Firouv.

14 MR. FIROUV: Hello. My name is Amir Firouv, and
15 thank you for the opportunity to talk to you.

16 Now, regarding this project from a land use and
17 city planning point of view, we do not understand the
18 ability of city planning department decision to permit
19 Valero to do major work and construct permanent
20 structures on tracks to receive railroad cars filled
21 with hazardous materials day in and day out, throughout
22 the years, so close to the property line and Sulphur
23 springs and the flood zone and downstream of the dam,
24 Lake Herman dam, and the process of reducing the
25 existing setbacks and property line on top of -- top of

1 the stream and eliminate or drastically degrade service
2 road access over 3,665 feet of the property.

3 I have a plan here for you to see the comments
4 there. If you want an example of a bad city planning,
5 this is the one. Presently there are 20 -- there is a
6 20-foot wide service road all along the interior
7 parameter line of Valero property. You can see it on
8 Google Maps especially along the top bank of the Sulphur
9 Springs at the northeast side of the property. The
10 service road not only provides easy access for
11 inspection, security, fire suppression, hazardous spill
12 containment from entering the Sulphur Springs, but also
13 helps contain flood in the Sulphur Springs from entering
14 structures and other improvements on the Valero
15 property. This road also increases the setback and
16 buffers zone available for the properties to the east of
17 Valero across from Sulphur Springs. This is what it is
18 now.

19 The proposed city project eliminates the service
20 road and builds a railroad track in its place. That's
21 the exit, the departure track, where a 50-car train
22 could be parked for an extended period of time, every
23 day and night, 365 days a year. Valero proposes to
24 construct a 1,900 feet partial replacement service road
25 60 feet away and parallel to the present road. These

1 are shown on the figure ES-3 of the draft EIR. Along
2 this segment -- there's a section BB, and there's a
3 section AA. In section BB of this figure, there will be
4 substantial degrading of the emergency vehicle access to
5 the eastern most train. That's next to the Sulphur
6 Springs as well as the Sulphur Springs along the
7 remaining -- as well as Sulphur Springs. The remaining
8 portion is a 1,755 feet approximately. This is shown on
9 the Figure AA -- Section AA on Figure ES-3.

10 There is actually no emergency vehicle access at
11 all, where potentially up to five trains could be in an
12 emergency situation with no access to them and the
13 Sulphur Springs banks to contain any hazardous spill
14 that could occur. We know that both Valero proposal and
15 draft EIR which basically cuts and pastes Valero's
16 proposal in their report, failed to mention this major
17 change and its implications when they describe the key
18 components of the project. We can understand why Valero
19 might not want to emphasize this negative point by
20 discussing the degradation of access ability of fire,
21 flood protection when they apply for permit. We are at
22 a loss why the city planning department and city
23 consultants in charge of EIR with who are the technical
24 party's responsibility of clarifying ramifications of
25 the proposal the fate to do so.

1 Another point is that Benicia Municipal Code,
2 Section 17-70-340 on extreme setback require all
3 development shall be back a minimum of 25 feet from the
4 top of the bank of the streams, both seasonal and
5 perennial. No development will be permitted within the
6 setback. Obviously the proposed departure track while
7 this along 3,665 feet of its length parallel to Sulphur
8 Springs. There's no mention in the EIR if Valero has
9 applied for or received a variance from the city for
10 this noncompliance.

11 My time is finishing up. I have a full
12 write-up, so I look forward to your favorable review of
13 this and denying Valero their permit.

14 CHAIR DEAN: Thank you, sir.

15 COMMISSIONER YOUNG: A question for staff, we
16 just got a copy of his testimony tonight, and I think it
17 raises some issues, but as I understand it, am I
18 supposed to ask questions now, or I'm supposed do it at
19 a later point and that would probably tomorrow, I guess?

20 CITY ATTORNEY WELLMAN: We'll finish with the
21 public comment, and then any questions that you have
22 based on the public comment, you will make at the end.

23 COMMISSIONER YOUNG: Questions of the staff or
24 we're going to ask the gentleman to come back?

25 CITY ATTORNEY WELLMAN: No. You can ask staff

1 to address the issues that were raised by the public.

2 COMMISSIONER YOUNG: So tomorrow I will be
3 asking about this particular letter, just to give you a
4 heads up.

5 CITY ATTORNEY WELLMAN: And I believe we have a
6 copy of the letter, so it will be looked at by staff as
7 well.

8 COMMISSIONER YOUNG: Okay.

9 CHAIR DEAN: Just so people know where we are,
10 Mr. Firouy was 199. He's the last one on our original
11 list that was numbered. There are an additional nine
12 cards that I have here. I know there are some people in
13 the audience who were on the original list who are here
14 to speak tonight. So actually it looks like we are
15 getting toward the end.

16 For those people on the original list who
17 haven't had a chance to speak yet, I say hang in there.
18 I think I would like to very much like to complete the
19 public testimony tonight. So without further ado the
20 next card I have is Ed Ruszel followed by Rebecca
21 Seconbody, and then Don Guidewell.

22 Hi. Thank you.

23 MR. RUSZEL: Good evening. I would like to
24 thank the commissioners and staff and the community for
25 doing such a thorough job here. My name is Ed Ruszel.

1 I have property at 2980 Bay Shore Road in Benicia. We
2 give Union Pacific an easement to come across our
3 property. Every one of these trains we will be taking
4 comes across our property. We have less say in these
5 train operations than you do.

6 I want to point out that I am a strong supporter
7 for Valero. I have always liked their big chemistry
8 setup on the hill there. I thought they have done an
9 impressive job. I have toured it. I have met with
10 those people. I was on first-name basis with quite a
11 few of them. This project has kind of changed that.

12 Right up front I want to let you know that I do
13 not support this project, and that I urge the commission
14 to reject this project and/or a subsequent use permit.
15 I would like to point out that at this point I find it
16 very problematic that we have to speak on both the
17 approval of the final draft of the EIR and also the
18 subsequent discussion and approval of a potential use
19 project. That seems very burdensome for the public to
20 comment on at this time.

21 The main reason I do not support this project is
22 that the traffic impacts are grossly understated, and I
23 think the EIR is fatally flawed. The traffic impact has
24 no -- has shown to be not significant and it has not
25 been changed since the very first draft of the EIR. We

1 have written it off, and consequently we have written
2 off all the other businesses in the area. We are just
3 another up-rail community here in your town. You are
4 going to treat us just like all those other communities
5 where these trains would roll through.

6 We don't even have to get into the safety and
7 blocked crossing issues of my particular business. It's
8 many, many businesses like the Ironworkers that finally
9 came out. They wouldn't talk to me for quite awhile.
10 They finally came out. They are my immediate neighbors,
11 and they are worried about their apprentices there.

12 Anyway, I have known about this project, I
13 think, as long as many people in this room. Just for
14 some of the people that haven't heard this, there's some
15 video I took, and I hope you all had a chance to see it.
16 I would have tried to show it tonight, but I'm afraid I
17 don't have time. It is available. I would strongly
18 encourage you to see it. It was referred to quite often
19 last night. I think it's one of the better traffic
20 studies that's been done here.

21 I first heard about this project in January 2013
22 when a train was derailed in front of my factory. When
23 I went out to see what was going on, there was a lot of
24 important looking people there. I thought they might be
25 some big transit authority or some investigators or

1 something. It turns out it was Valero personnel. They
2 wanted to know when their product was going to move
3 because they had to keep on producing. At that time
4 they told me, well, get used to it. We are going to
5 bring in a lot of our crude oils, and you are going to
6 able to see a lot more trains coming through here.

7 After getting in contact directly with city
8 staff, the city manager, head of planning, I was shown
9 the plans and started investigating it very intensely.
10 I met with Valero at their invitation. I looked at
11 their plans. We've made suggestions. We've tried to
12 working with them. There was kind of some communication
13 there until we got to the first Planning Commission. At
14 that point I think most communications on a
15 straightforward negotiation level has stopped, and it's
16 all happened here. That's why we don't see many
17 alternatives to the project. We don't see the proper
18 kind of mitigations for significant blockage of that
19 main thoroughfare Park Road, which was vastly
20 understated in the final comments and in the draft EIR.

21 One of the things that most upsets me is the way
22 that the comments section, as had been alluded too many
23 times, dismisses many comments and says that's not how
24 it works, where I would be told or other people
25 commenting on traffic delays or parking trains inside

1 would be told that no, that won't be happening. But yet
2 somebody else, like the bay keepers were told yes,
3 trains can be parked on sites. This is significant. It
4 drastically changes the traffic impact report and you
5 failed to study that. The traffic impact will be
6 significantly affected. Thank you.

7 CHAIR DEAN: Thank you. Clarification, sir.
8 Mr. Ruszel.

9 COMMISSIONER BIRDSEYE: Where can we see the
10 video that's been mentioned?

11 MR. RUSZEL: I had requested to have it shown.
12 It's a matter of the public record. The city does have
13 it available. I made it available to all commissioners,
14 I believe as a disk. I did discuss this with Aimee. I
15 just brought this up late to her attention so it's no
16 fault of Aimee. It was both of us. I should have thought
17 about bringing another way to show it. I would think it
18 would be available. If you were to request it, that it
19 could be shown as you need to see it.

20 COMMISSIONER BIRDSEYE: It's not online
21 anywhere?

22 MR. RUSZEL: Maybe in the minutes or something
23 if you saw the video, but it would be a hard way to see
24 it. You can see it through the --

25 CHAIR DEAN: Okay. Thank you. Next speaker,

1 Rebecca Sam Betty.

2 Hi. Good evening.

3 MS. SAM BETTY: Good evening, commissioners and
4 city staff. Thank you for the opportunity to provide
5 comments on Valero's Crude by Rail Project. My name is
6 Rebecca Sam Betty. Everybody gets my name wrong, you're
7 totally okay. It's like a boy named Sam, girl named
8 Betty.

9 I am the technical services director
10 Valero/Benicia Refinery and a member of the refinery
11 leadership team. I've worked in the oil industry for
12 20 years. 18 of those years have been spent at the
13 Valero/Benicia Refinery. It's a great plant with great
14 people focused on safe, stable and reliable operations.
15 My department is responsible for developing gaining
16 support for funding and for executing the Crude by Rail
17 Project. I'm a strong supporter for this project. As
18 the EIR explains, Valero's project will significantly
19 reduce global greenhouse gas emissions. It will not
20 increase emissions from processing crude oil or make
21 changes to the emissions limits that are allowed by the
22 Bay Area Air Quality Management District.

23 I'm asking you to certify the final EIR and
24 approve the request for a conditional use permit for
25 Valero's Crude by Rail Project. Thank you for your

1 consideration.

2 CHAIR DEAN: Thank you. Next speaker, Don
3 Guidewell from Benicia. No? Okay. Next speaker, Jerry
4 Stumbo. No? Phyllis Ingerson. Did you already speak?
5 We have a card, but you were among the numbered speakers
6 earlier; is that right?

7 MS. INGERSON: You called my husband and I
8 answered for him.

9 CHAIR DEAN: I think he declined at the time.
10 Next --

11 MR. INGERSON: Could I speak for a second?

12 CHAIR DEAN: Your name -- come on forward. Your
13 name was on the list earlier. I thought you declined.

14 MS. INGERSON: I declined for him.

15 MR. INGERSON: We have been married 46 years.
16 My name is Steven Ingerson, and I've lived here my whole
17 life, 65 years. My son recently left. He lived in
18 Benicia. His son has asthma really bad, and the doctor
19 that he was seeing, told my wife and my son to get him
20 out of this city because the air quality in this area is
21 really, really bad, that the air from China comes over
22 to California. We get that. You see my wife is on
23 oxygen, and she recommended that we leave as well. But
24 you know, we were here when there was 3,000 people that
25 lived in this town. I don't know if you guys know who

1 built the swimming pool. Does anybody? I do. You
2 don't want to know.

3 But anyhow, you know, we were a really
4 tight-knit town before Exxon moved. If Valero wants to
5 move, let them go. We were fine before, and we will be
6 fine still. We don't need them. And threats, really?
7 We are grown adults. There is none of us afraid of
8 threats. I just -- I hope you guys look at the people
9 that live here, that have grown here, that we have had
10 ancestors that have lived here for years before us and
11 say hey, you guys want to make threats, make them, but
12 you guys I hope make the right decision and it seems
13 like some of you are really interested in making the
14 right decision for everybody that lives in this
15 community.

16 I want to continue living here, but I don't know
17 if it's going to be possible with this train that they
18 want to bring in. I'm worried about our safety, our
19 neighbors' safety, all the people I grew up with here.
20 I just think it's a bad project. That's all I have to
21 say, and thank you for listening to me. The hookers
22 built the pool.

23 CHAIR DEAN: That's what you call a parting
24 shot.

25 Next speaker, Ruby Wallace. Is Ruby here? No?

1 Okay. Next speaker, Antonia Soban -- oh.

2 MS. WALLACE: I feel like I'm at court. Hi. My
3 name is Ruby, and I've been here 20 years. I'm a pipe
4 welder, a union pipe welder for 40 years. 38 years I've
5 been a pipe welder. Started at Alaska Pipeline. I've
6 worked on ships. I've worked on submarines. I've
7 worked in every refinery in Los Angeles. I've worked at
8 every refinery here, and I hate refineries. I hate
9 them. They are filthy. All they are is giant chemistry
10 sets. When you go to work at Valero, they show you this
11 cute little orientation film about this comedian that
12 says, it's nothing but a giant chemistry set. That's
13 what it is.

14 This gentleman talked about these refineries
15 being 60 to 100 years old. That's great for antique
16 furniture, but it doesn't work with refineries or
17 vintage clothing. First of all, Valero hates unions.
18 They hate unions. They hire out-of-staters. Does
19 anyone notice all the rig trucks driving around with
20 Texas, Oklahoma, Louisiana, Oregon. I talked to all
21 those guys, and our guys out here are starving to death.
22 They are travelling to 20 different states because they
23 are starving to death. Good neighbor, yeah, right.

24 When I go through a 7-Eleven in the morning you
25 see them all buying their energy drinks and their

1 sandwiches, and my girlfriend rents to all these guys.
2 In fact, I met a lady here that her friend has an agency
3 that hires people from out of state for Valero. They
4 are nobody's friends. They might throw some crumbs to
5 the peasants sometimes, like to give money to the little
6 leaguers. I'm surprised that they gave them five little
7 leaguers that don't have asthma.

8 My girlfriend is on the -- my girlfriend, she's
9 on the emergency whatever it is, and she said Benicia
10 has four times the national average for asthma. I know
11 a girl that has a daycare center. She says every one of
12 those kids is sick. They all need special care. I know
13 a girl whose daughter has asthma. She says all her
14 little friends have asthma, and one little girl has
15 leukemia. Somebody said today that there are three
16 other kids who have leukemia. There's a whole group of
17 people up on Rose who have cancer.

18 Valero's motto isn't, if it ain't broke, don't
19 fix it, it's if it blows up, then we will fix it. I
20 have been blown up. I have been electrocuted. I have
21 been knocked out. I have had face peel off my skin from
22 operators telling me to unbolt the flames. Guarantee it
23 was not -- nothing was in it. It's horrible. It's
24 horrible. These poor operators who work at Valero, they
25 work two weeks dayshift and then they go two weeks

1 nightshift. They suffer sleep depravation. I think we
2 should get -- I'm not even going to start on oil trains.
3 I just don't care. It makes me crazy.

4 I called AAA today. I said, I'm in the blast
5 zone from a refinery, and they are going to bring in oil
6 trains. I said, what happens if my house blows up?
7 They said, we don't know. They just didn't know. I
8 says, am I going to be responsible? Are they going to
9 be responsible? They said, well, you have fire
10 insurance. I said, does that count the refinery that
11 blows up on me?

12 Pipe only lasts about 35 years. Just about
13 35 years. These pipes at Valero and all refineries
14 around here are old, old, old pipe. I've opened up
15 phalanges and looked inside and went oh my, God, just to
16 change the gaskets to them. Oh my, God. They are
17 really letting stuff go through this? It's crazy, but
18 they keep painting it and making it look really, really
19 pretty. It's like a used car salesman with a rotten
20 engine. Ain't she 'purdy'? You know, nice little
21 paint. Ain't she 'purdy'?

22 Then they got these Valero guys. You see them
23 in the restaurants around Benicia. They are wearing
24 these Nomex outfits. They have chemicals on their
25 boots, poison on their boots. Nomex outfits contain

1 fire retardant. They could have the decency to change
2 their boots and take off those Nomex, but it's like a
3 badge or something. I don't know.

4 All I can say is, you know what they say; you
5 can fool some of the people some of the time, but you
6 can't fool all of the people all of the time. Thank
7 you.

8 CHAIR DEAN: Thank you. Next speaker, Antonia
9 Sabanutes. You can please correct me.

10 MS. SABANUTES: Hi.

11 CHAIR DEAN: Hi.

12 MS. SABANUTES: My name is Antoina Sabanutes,
13 and I'm a resident of Davis, California. I have come
14 here tonight just by chance, and I'm actually a
15 president of the Ceasar Chavez Community Council. We
16 are a low income affordable housing apartment complex.
17 You walk outside my front door, past the sidewalk, past
18 the olive trees, look beyond the street, you see a
19 grassy field and you can see the railroad that goes
20 right across my front door just about 100, 200 feet
21 away.

22 I am concerned. I'm concerned for my health and
23 safety, my wellbeing and my 15-year old son's. I'm also
24 concerned for everybody up rail and down rail of me.
25 All of these arguments that you have heard on both

1 sides, and I just humbly ask the city, the Planning
2 Commission and the City Council that's going to come to
3 vote in a couple of weeks here that they take into
4 consideration the necessary work that needs to go into
5 the rail lines, the promise from the people creating the
6 oil, that they upgrade and use the right types of tanks
7 and that even the fuel oil itself be processed before
8 and reduce the flammability and the volatility of it.

9 We have heard from structural engineers. We
10 have heard from many professionals, and I don't think I
11 can add much more to it, but I do wish that the EPA or
12 federal government or somebody can step in and ask
13 Standard Pacific and all these other railroad owners to
14 fix the problem. Thank you.

15 CHAIR DEAN: Thank you. Next speaker, Tom
16 Russell, followed by Phyllis Fox.

17 MR. RUSSELL: Good evening, commissioners, city
18 staff, concerning citizens, Valero employees. When I
19 last spoke on August 14th of 2014, I outlined the fact
20 that all of the pieces were falling into place for
21 Benicia to become a crude export hub and the critical
22 link between the fracking fields in the center of North
23 America and shipping that crude overseas.

24 Just to recap on that, firstly, the federal band
25 on exports were to be lifted, which has now happened.

1 Secondly, in 2011 Valero/Benicia was approved as a
2 foreign trade zone. Thirdly, that Valero/Benicia is
3 allowed to move as much crude through their facility as
4 they like and fourthly, bringing crude by rail will
5 likely make for an idled marine terminal just a short
6 pipeline away from the refinery here in Benicia. The
7 point of my comments was that all that was left to
8 complete, a connection from fracking field to crude
9 trains to tanker ship to the world market was a way to
10 unload crude from a crude train here at the
11 Valero/Benicia facility. What they needed is an
12 unloading rack.

13 The final EIR does include a response to my
14 comments. Their response reads, quote, "The project as
15 proposed by Valero does not include an offloading rack
16 suggested by the commenter. Therefore, the DEIR does
17 not analyze potential impacts of the speculative
18 facility." And although I do thank the lawyers or
19 whoever it is that took the time to respond to my
20 concern, I find it highly inadequate and frankly, an
21 abrupt dismissal to a valid concern. Based on what I've
22 read and discussed with other commenters, this disregard
23 seems pretty systemic throughout the responses.

24 The project does not include an offloading rack.
25 Why, then, does Chapter 1, Section 1, quote -- that the

1 purpose of the document in the DEIR read in part, quote,
2 "A draft impact" -- "A draft environmental impact report
3 was issued for the project in June of 2014 that analyzes
4 the impacts of the refineries in the proposed receipt in
5 North American crude oil by railroad tank cars and the
6 construction, operation and maintenance of a new
7 railroad unloading rack." Why, then, does the document
8 then go on to use the term unloading rack further 37
9 times throughout the document? Why then does Section
10 2.4.1, DEIR Section 3.1.1.2 -- the proposed project
11 read, quote, "The project involves the installation of
12 rails per tracks, a tank car unloading rack, pumps,
13 connecting pipelines and infrastructure.

14 Again, the response I was given, quote, "The
15 project as proposed by Valero does not include an
16 offloading rack as suggested by the commenter." Granted
17 I did use the phrase "offloading rack" while the
18 preferred nomenclature appears to be "unloading rack,"
19 but I sincerely hope that the people responsible for
20 analyzing the risk and writing the document has the
21 cerebral fortitude to connect and equate those two
22 phrases, really understand the meaning and concern and
23 not just dismiss it to semantics.

24 Perhaps they assumed that an unloading rack at
25 the dock. I also trusted they are aware that any crude

1 product at the refinery could easily and efficiently be
2 transmitted to the docks via existing pipeline
3 infrastructure. So the only other answer I can think of
4 is, is Valero just lying to us? Are they purposely
5 giving me and, you the commissioners, false information
6 so they can get the outcome they want for the project?
7 Are they hoping that we will take what is written in the
8 document as honest fact and move on without asking any
9 further questions? Could they be bending and distorting
10 the facts enough to make the plan look like a win-win?

11 I do have further questions, though. My concern
12 still stands as a very possible and very likely outcome
13 of this project and therefore, must be addressed in the
14 EIR for CEQA. It stands to reason that Valero would
15 find value in being able to export crude from Benicia.
16 It would certainly add to their coffers as they sell
17 more of this wholesale product completely untaxed.
18 Environmental benefits estimated by avoiding those
19 incoming crude ships will be negated by outgoing crude
20 ships, and finally our town and the Cardenas streets
21 will be made as bucolic and quaint as other oil ports
22 like Valdez, Alaska, for instance.

23 This project has a single beneficiary to Valero.
24 The company stands to make a whole lot of money by
25 positioning itself to import/export or find whatever

1 there is to do to profit in the oil industry
2 Valero/Benicia will be able to jump on it, and that's
3 good for business. But the trade off affects everybody
4 else. Valero, a massive corporation, reaps all the
5 rewards, and the risk is piled, heaped upon us, in fact
6 upon the citizens and other small businesses in this
7 town. We cannot roll over and allow a corporation like
8 Valero to walk all over us.

9 Commissioners, it's a flawed document. Not just
10 on this issue, on many others that have been talked
11 about.

12 CHAIR DEAN: You have run out of time. Thank
13 you.

14 Next speaker, Phyllis Fox. Okay. I'm not
15 seeing Ms. Fox come forward. We are going to go back to
16 our initial list, and I'm going to quickly go down the
17 list of names to see if there's anybody that is on that
18 original list, that did not speak that is here tonight
19 that wants to speak.

20 The first one I have is Rebecca Ramos, David
21 Lockwood, Benjamin Guy, then Hellman Shush, Frank Crem,
22 David Nancarrow, David Frank.

23 Sir, are you approaching to speak?

24 MR. LOCKWOOD: Yes.

25 CHAIR DEAN: Your name?

1 MR. LOCKWOOD: David Lockwood.

2 CHAIR DEAN: Good evening.

3 MR. LOCKWOOD: Yes. Good evening. I thank you
4 for the opportunity to speak on this subject. I realize
5 that there has been a lot of effort and energy put on by
6 certain organizations to try to stop the project that is
7 coming forward. I suggest you that this is a project
8 that really is not about the environment, not about
9 shipping oil and its dangers, but it's about foreign oil
10 interest who do not want to see American oil extracted,
11 refined and produced in the United States. And that
12 also, the shippers who stand to lose by not being able
13 to have their ships filled with foreign oil to come here
14 to be able to take the profits that they would normally
15 have made in their ocean shipping.

16 I think it's strange that they talk about some
17 money fearsome problems, and believe me, I know exactly
18 what they are talking about in the sense if there should
19 be some type of catastrophe on the rails. You know, we
20 have been shipping oil since the early 1900s by rail.
21 We have been shipping other chemicals, more highly
22 explosive, flammable than the crude oil we are talking
23 about.

24 One of the things I'm concerned about is you are
25 hearing an awful lot of things about things that are

1 aren't real, that aren't, in fact, involved in this.
2 And without coming back to this very body, as well as
3 the council, to ask for permission to do something else.
4 And for example, you have heard a lot about tar sands
5 oil. It's really not oil. It's tar. It isn't broken
6 down in order to be able to be viscous as oil. Valero,
7 my understanding is, that they do not have the ability
8 to handle tar sand product. Why has this been such a
9 big deal? Why, because there's two environmental issues
10 associated with that, that they hammer away at.

11 So I think you people need to examine very
12 carefully the truth of what is being told to you and the
13 exaggerations and the fear monitoring that is going on
14 here. I will ask you to examine how many people have
15 been killed or seriously injured by an oil accident on
16 the railroads in the last 100 years. People scoffed at
17 the projection of the probability of such, that because
18 the people who put this together, the DIRs, and I
19 really -- the EIR, I should say -- I really that think
20 this is nothing more than trying to scare the public
21 into saying some of the things they have tonight.

22 You know, everything -- as one other gentleman
23 said earlier -- everything has an equal and opposite
24 reaction, and there is a possibility that there could be
25 a problem, but we have that all the time. If we were

1 taking the same proportionate situation, and let's talk
2 about keep it at railroad, the people at Davis worrying
3 about four trains a day coming through, they have more
4 than that in their passenger trains going through that
5 city right now. If they are really upset about that,
6 they ought to do something about that first.

7 CHAIR DEAN: Thank you for your comment.

8 Do we have -- are you waiting to speak in the
9 back? You want to come forward?

10 MS. PACHECO-MENDEZ: Good evening, Planning
11 Commissioners. Thank you for the opportunity to comment
12 on Valero's Crude by Rail Project. My name is Marisol
13 Pacheco Mendez. I'm a Benicia resident and homeowner.

14 I'm supportive of the Planning Commission's
15 staff report, which recommends that the commission
16 approve the final EIR and the condition use permit for
17 Valero's Crude by Rail. Much has been said, and I do
18 agree with and concur with the last speaker with regards
19 to the safety and the risk associated with the project.
20 I think it's been more inflated than the real facts. I
21 know you will base your decisions on facts and not fears
22 or misinformation.

23 I understand that there are risks associated
24 with this project as in everyday life. However, safety
25 regulation and practices like the ones that we have in

1 Valero, and not only Valero does prevent this to
2 minimize those risks. I know the city of Benicia, Union
3 Pacific and Valero's first responders are communicating.
4 They have met, and now they have an agreement. In
5 addition to that, they have well-trained and continued
6 to expand their training opportunities. I think the
7 fear and concern about the fact that we have a risk
8 associated and an event can be mitigated or responded by
9 a well-trained first responder.

10 With regards to the timeline that we have been
11 dealing with this project, it's been two to three years
12 now. Supporters and opponents have expressed the their
13 opinions. The CEQA process allows for that. So
14 California is unique in this aspect. I think that now
15 your decision again is -- should be based on facts.
16 With regards to -- much has been said with regards to
17 greenhouse gas. I urge you to go to carp's website and
18 the -- as Benicia Bay air Refinery and the Bay Area
19 Refineries, GHG emissions have gone down since 2008 when
20 we started with the AB-32 report or program in 2014.
21 There is concern about GHG, but the emissions have gone
22 down. You can check them on the website.

23 When considering Valero's request to alter the
24 infrastructure to remain more competitive in the
25 shipping industry and economy, I do believe we need to

1 realize that Valero is the city's great supporter, and I
2 think we have said that in the past discussions, both
3 financially and economic driver to bring support to
4 Benicia and other businesses as well. I do believe that
5 the increased tax revenues are vital to Benicia's
6 economy, and we must invest in this type of project to
7 ensure Valero can remain such an important member of the
8 community as we -- you have seen and you have heard in
9 the past three years and in the past two or three days.
10 It's been three years now and I think it's time to end
11 the wait, so please approve the Valero Crude by Rail
12 Project. Thank you.

13 CHAIR DEAN: Thank you. I want to go back to
14 the list to make sure the people who were originally
15 signed up get a chance to speak.

16 David Lockwood, we called and then he spoke and
17 then Benjamin Guy. Before David --

18 Oh. Okay. Thank you.

19 Hellman Shush. Larry Fullington. He did speak.
20 Thank you. Craig Prim. David Noncarrow. I just want
21 to make sure everybody's name gets called. There might
22 be people who were outside or in the hallways. Okay.

23 We are at number 15, David Noncarrow. 20, David
24 Frank. So who was on the original list that has not
25 spoken? I think we will go down the list. 22, Shannon

1 Walsh. Jim Jacobs, 23. Mike Smith, 24. Any of those
2 that I've called --

3 Are you ready to go? Yeah. Please come down.
4 Hang on here.

5 26, Ed Bendix. 27 Richard Lynn. 28, Sophie
6 Elliott. 29, John Youlmons. 30, Stanley Lawson. 31,
7 Lori Bateman. 33, Robert Yardboro. Tim McCado, 34.
8 35, Angie McCado. Patrick Haggin. Eddy Arboro. Peter
9 Badue. Dennis Crawford. Heidi Buker. Ruby Holthis.
10 Gary Heaton. Don David. Jeff Massingham. Sophie
11 Pasiby. Fermigial Pasiby. Lori Matthews, Mario Jaime.
12 Ella Jaime. Arbor Davis. George Whitney. Robert Gult.
13 Donald Cladwell. Thomas Jacobson, 56. 58, Robert
14 Hayward, Sr. Robert Hayward, Jr., 59. Martin Stostick.
15 Lisa Crawly.

16 Lisa. Hi. 61.

17 MS. CRAWLY: Good evening, and thank you for the
18 opportunity to address you because I had to put my
19 little girl to bed last night. My name is Lisa Crawly.
20 I'm a resident and homeowner of Benicia.

21 I'm an environmental and safety professional
22 with over 24 years experience. I'm an environmental
23 engineer, and I maintain several environmental
24 professional certifications, and I hold a master's
25 degree in security and safety leadership which has to do

1 with community safety.

2 I've worked in Benicia for nine years, and I
3 followed the CBR project closely. And my experience
4 tells me that Benicia enjoys a well-balanced mix of
5 residential, commercial and industrial. All those work
6 together to make a safe, balanced environment, and
7 that's why I bought a house and moved my family here to
8 Benicia just last year. I take great pride in my
9 experience and profession and respect is earned by the
10 integrity of some of these words.

11 And my assessment is that the project has been
12 thoroughly and carefully developed by experience and
13 qualified professionals. I emphasize professionals.
14 The project doesn't change how the refinery operates,
15 just how we receive our raw product. That's no
16 different than how a wood shop sources their raw
17 materials for wood or a beverage maker sources their
18 containers or their raw products. Smart business seeks
19 to be efficient and does not create waste. That's
20 wasted time, wasted money. This will project is valid
21 and well-conceived.

22 It's been with a lot of input from all types to
23 create a community project that doesn't -- it really
24 improves community safety, because you have a lot more
25 interagency interaction. You have created dialog and

1 the benefits of additional emergency response avenues
2 that wouldn't otherwise have been there. You really
3 should be proud of those new ideas that came out of this
4 project.

5 The railroad is a key asset for this nation and
6 its security. It needs to be used to continue
7 supporting business and maintaining America's greatness.
8 Security and stability require flexibility, which is
9 what we are asking for Valero's project, flexibility of
10 resources. National security and the economy are better
11 assured when we have a strong, stable industry. Local
12 and regional economies are more robust with a
13 well-balanced community. This project helps that.

14 Professionals manage risks with their expertise;
15 that's firefighters, doctors, engineers and
16 professionals properly use and understand legal
17 terminology. I'm very surprised at the number of
18 confused statements, the people's untrue statements that
19 were made tonight on such things of exporting. These
20 facilities do not support exporting crude. Another
21 statement, I'm not paid to be here. I just urge you to
22 approve this project because it really does improve
23 agency -- interagency communications. It will be
24 effective in other cases like natural disasters,
25 earthquakes, wildfires. You'll end up having those

1 connections and relationships between companies and
2 agencies.

3 I urge you to approve the project. It's been
4 following the CEQA process and a lot of professionals
5 have worked on this. Thank you.

6 CHAIR DEAN: Thank you. Next speaker or
7 present, Thomas Eckinson, 63. 64, Doug Lemoin. 65,
8 Scholl Trustin. 66, Lanett Munson. 67, Don Wilson.
9 68 -- 69 Cassidy Macena. 70, Jennifer Thorton. 71,
10 Steve Sierras. 72, Bill Mailey. 73, Brandon Van Loon.
11 74, Marisol Pacheco Mendez. She spoke. Okay. 76,
12 Sacog Radicashin. 77, Chris Brown.

13 Good evening.

14 MR. BROWN: You were right predicting that we
15 would get here before 11:00 p.m. tonight. Thank you
16 all. I'm from Sacramento. I also have more than
17 30 years in environmental issues, so I'm familiar with
18 some of the documents here. I'm here to oppose the
19 approval of both documents for the first the obvious
20 flaws. I'm not going to repeat those that we've heard
21 various experts testify this evening. The second
22 because as a resident of Sacramento, you have heard from
23 air quality management districts, but I'm here to tell
24 you this will transfer impacts to up rail communities.
25 We have literally thousands of people along the tracks.

1 The central valley is an area in which many people
2 suffer already from asthma. This will increase as your
3 documents say the impact on air quality, further
4 damaging the health of residents of that area.

5 Sacramento, in addition to that, is the home of
6 our state government. As that, you all here are agents
7 of all of us tonight. That's one of the interesting
8 things we have about our government is that as a
9 representational government, you are representing not
10 just the folks in Benicia but everybody who is
11 potentially impacted on this because you're agents of
12 our constitution. With that, I ask you to represent the
13 interest of everybody who is going to be impacted.

14 One of the things that has to be looked at
15 seriously is -- that's why you got letters from the
16 attorney general and other government officials of this
17 plan because they recognize that too. You all are the
18 decision-makers here. One of the things, if this
19 accident were to happen on one of the curves that goes
20 through downtown Sacramento, it could potentially be the
21 Capital that's within the blast zone and a number of key
22 state agencies are as well.

23 From what we have seen of other accidents with
24 these crude by rail accidents over the last two years,
25 would be billions of dollars of cleanup, potentially

1 hundreds, if not thousands of people killed or injured
2 but potentially months, if not years of cleanup and
3 possibly some of it never being cleaned up. You all
4 depend on Benicia as do literally millions of
5 Californians on water supplied that goes down the
6 Sacramento and the other tributary rivers. If these
7 cars were to spill into those rivers, the same kinds of
8 water impacts you heard tonight concerned about the bay
9 -- that should be happening in our drinking water, in
10 our drinking water. The mutual. That's a much bigger
11 risk. Many more people impacted. I ask you to consider
12 that as well.

13 But those were some of the issues I was going to
14 talk about before I came here. What I really found
15 interesting, because I have been watching here for two
16 nights, planning on coming, was this concept of
17 preclearance and the preemption clause. A number of
18 years ago I worked in Nevada on the Yucca Mountain
19 Project and preemption was a really critical issue there
20 with that high waste facility that has been built but is
21 not operating 30 years later. Federal government said
22 the state could do nothing to stop that. Yet, here we
23 are 30 years later. It's not operating.

24 So I looked up the concept of preemption and
25 preclearance with regard to these. I found a case just

1 decided last year by the Surface of Transportation Board
2 and a petition for declaratory order where a zoning
3 board had given permission to a liquified petroleum gas
4 transload facility. Sounds -- moving stuff off rail to
5 a liquid petroleum facility and a nearby town appealed
6 that and sued to stop that permit from going through.
7 The transportation board refused to call that
8 preclearance. Why? Because just like we've heard in
9 the first and second nights here, Union Pacific does not
10 own Valero. The preclearance coverage does not extend
11 to Valero. It's on the rails, not on the refinery.

12 I have a copy of the legal document. I'll leave
13 it with you all, but you can look it up yourselves. It
14 was a decision on March 17th, 2015 on this very issue
15 about whether you can use the issue that is in this --
16 despite the conclusions of your EIR that say that the no
17 action alternative is the preferred. The recommendation
18 is that you can't take that. Well, I think you can,
19 safely.

20 CHAIR DEAN: Thank you for your comments.

21 Next speaker, Ryan Heater.

22 Hi. Good Evening.

23 MR. HEATER: Ryan Heater. I think it was
24 misspelled. My name is Ryan Heater, and I'm from the
25 city of Sacramento. I live within the blast zone. Just

1 for the record, I promise you, I'm not a foreign oil
2 interest.

3 I just wanted to tell you a little bit about
4 Sacramento, and as you probably know, the train runs
5 directly through the grid of downtown Sacramento. As
6 Chris mentioned, only a few blocks from the grounds of
7 the state capital building. The east/west streets in
8 the downtown have grade level crossings, and so the
9 accident risk of a train accident with the cars is
10 actually quite high, and the risk is real. Extremely
11 expanded oil trains carrying volatile material is
12 unacceptable to us. Frankly, Lac Magantic was a village
13 compared to Sacramento, which is the fourth largest
14 metro in the state of California. And I have heard
15 people say that the risk is inflated, and frankly, I
16 would like someone to tell the folks in Lac Magantic
17 that the risk is inflated because it's real and it's
18 been proven.

19 So also for your information, there are 17
20 schools within the blast zone in Sacramento with 13,000
21 students. The school district has formerly opposed to
22 the oil trains and the teachers and staff are not
23 trained to be first responders if there was an accident.
24 So again, we did not buy into the argument that these
25 trains are essentially none of our business as they are

1 federally regulated, and safety is important. And we
2 understand that federal agencies and senators and
3 congressmen from Texas and elsewhere in the country may
4 have very different priorities than the safety of our
5 community, and I think the safety record of the trains
6 and the maintenance records speaks for itself.

7 The cost effectiveness, I understand it's a
8 business, yet at the same time not at our expense and
9 not at the expense of our safety. And I'm astonished to
10 hear how maritime disasters justify train usage. I
11 think the argument makes no sense to me at all how -- in
12 that respect. This is our chance to do something. And
13 like many cities, we're excited about the rejuvenation
14 of our downtown. We're excited about 10,000 new
15 residential units the next few years going into downtown
16 Sacramento on this grid, and we hope the city of Benicia
17 deliberates and considers this request as if the trains
18 run directly through their neighborhood and their
19 community and that your children's schools were also in
20 this blast zone. Thank you.

21 CHAIR DEAN: Thank you. Amber Manfree, 80. 82,
22 Rick Slizeski. I think he spoke earlier. Eric Lee, 85.
23 Cynthia Paper master.

24 Hi. Good evening.

25 MR. LEE: Good evening. Thank you, Mr. Chair.

1 It's a late night, and it's been a late week for you
2 guys so I'll try to keep my comments brief. My name is
3 Eric Lee.

4 I'm a planner with the city of Davis in the
5 community development department. I'm here to represent
6 the city and to speak to the comments that we have
7 provided on the draft EIR, the revised draft and the
8 final EIR. The city -- we've also joined in on comment
9 letters that the Sacramento city of council governments
10 have submitted on the project. I know the Planning
11 Commission has received these letters or been provided
12 access to the letters, but I just want to touch on a few
13 points, and I'll try to be brief.

14 As you are aware, the project would have
15 significant impacts on communities outside the city of
16 Benicia. We provided in our comment letters a list
17 of -- or detailed those adverse effects on the citizens
18 and community of Davis. The final EIR acknowledges that
19 those impacts would be significant and unavoidable, but
20 it fails to provide any mitigation measures that would
21 address them. As a result, we find that the EIR is
22 inadequate under CEQA. It does not provide for any new
23 additional information on those issues. It does not
24 respond to our comments with adequate detail or
25 evidence, and it does not provide for any feasible

1 mitigation measures that could be taken.

2 On the issue of preemption, which I want to
3 speak to briefly, you have heard that, and addressed it
4 in detail, but we have contended that it does not apply
5 to this project. And our comment letter provides the
6 justification and evidence to support that. You have
7 also heard from other testimony and received other
8 letters and legal opinions that shared that position.

9 Simply put, the city of Benicia does have the
10 local authority to impose feasible mitigation measures
11 on this project. We are, therefore, requesting that the
12 Planning Commission reject the adequacy of the EIR and
13 decline to certify it. Instead, the document should be
14 sent back to staff to address these issues more fully,
15 to analyze the potential mitigation measures so that all
16 of the feasible measures can be incorporated before the
17 project is considered for approval.

18 Thank you for your time. I commend your
19 dedication and your patience.

20 CHAIR DEAN: Thank you. Thank you for your
21 comments.

22 Cynthia Paper master. 87, Jane Miller. Francis
23 Burke, 89. Dana Stokes, 91.

24 MS. BURKE: Good evening. My name is Francis
25 Burke. I am from the city of Davis in Yolo County. It

1 was brought to your attention that Davis is an up-rail
2 community.

3 Oil mega-trains headed to the Valero refinery
4 will pass through our downtown and past my house. I
5 live in a UC Davis housing community and within 200 feet
6 of the Union Pacific rail tracks. I can see and hear
7 trains passing by all day and all night. With the
8 Valero refinery's acceptance of the crude by rail, I
9 will feel, smell and taste the additional fumes and
10 breathe the additional particulate matter from the
11 increased daily trains. I will hear and feel the
12 increased train traffic every time they signal at a
13 crossing, and I am a potential victim of a deadly
14 accident or explosion or train derailment.

15 I have followed this project closely and at
16 every point available I have submitted my concerns and
17 made comments before this commission. The final EIR
18 still fails to address the impacts of the project and a
19 final DIR still fails to adequately respond to our
20 letters. It has offered no mitigation for impacts from
21 the increased train traffic to the Valero refinery. The
22 railroads claim federal exemption and the final EIR
23 simply advises us to contact our congressional
24 representative.

25 My only conclusion is that up-rail communities

1 are considered collateral damage. Your decision to
2 approve or disapprove this project has consequences for
3 millions of Californians putting our lives, property and
4 health at risk. Fossil fuels are a dinosaur and I ask
5 the Commission not to build the future of their city on
6 a dying industry.

7 Please vote no on the FEIR and on the Valero
8 Refinery Project. It has failed to adequately address
9 or offer mitigation for the project impacts for everyone
10 from the state line to the Benicia city limits. Thank
11 you for your time and your endurance.

12 CHAIR DEAN: Thank you. 91, Dana Stokes. 92,
13 Carol Warren.

14 MS. RATCLIFF: Chair Dean. If I could just call
15 your attention to the time.

16 CHAIR DEAN: Yes. It's now 10:56. Typically --
17 hang on for a second.

18 We will get to you. I would like to hear all
19 the people who are here tonight. Are we willing to go
20 past 11:00 to do that? I am hearing -- all the
21 commissioners nodding yes? Okay. We will just continue
22 until we hear everybody.

23 Come forward, please.

24 MS. MAHEIS: Good evening. You called
25 Carol Warren. Carol Warren is actually not able to

1 appear, so I would like to read what she has prepared on
2 her behalf. My name is Jan Maheis, and I am a resident
3 of Benicia.

4 CHAIR DEAN: Okay.

5 MS. MAHEIS: This is Carol's words: "My name is
6 Carol Warren, and I am representing the Yoloano Group of
7 Sierra Club, but mostly I'm representing myself because
8 I live in Dixon, perhaps 50 yards from the tracks that
9 carry the oil trains. There are 100 senior citizens
10 living in my apartment complex. There is a trade school
11 across the street and an elementary school a block away.
12 The tracks go right through downtown Dixon where there
13 are stores, businesses, a fairground and churches. We
14 are all in the blast zone for any accident in the Dixon
15 city area.

16 In our Power Point we have tried to show how
17 vulnerable towns like Davis and Dixon are to the oil
18 trains coming through. The slides are focused on the
19 possibility of spill or explosion and the underlying
20 fear that those of us near the tracks will carry all
21 day, every day. I understand from the scientific
22 presentations at the San Luis Obispo hearings that even
23 the returning cars with residential gas and fumes are
24 hazardous and potentially explosive. Our fears are very
25 well-founded.

1 Many people choose to live in places like Davis
2 and Dixon to avoid the downtown Sacramento or Bay Area
3 air pollution. So anything that increases the
4 cumulative pollution is noticed. All our local
5 government agencies, the city of Davis, Yolo County, the
6 seven local air quality air districts and the city of
7 Sacramento Council of Governments -- that's 22 cities
8 and six counties -- believe they are reasonable
9 mitigations possible that are not preempted. This is
10 heartening. I am inclined to believe their position
11 rather than that those writing the EIR. In this EIR
12 every suggestion for mitigation in the municipal and
13 agency letters is acknowledged and then dismissed
14 because of the presumption of preemption. None of the
15 mitigation suggestions is even examined by the EIR.

16 The Sacramento Municipal Air Quality Management
17 District specifically offered staff to work with Valero
18 to develop a mitigation plan to address the air quality
19 issues. The offer was not accepted. The people like me
20 who live in the blast area feel very vulnerable.
21 Suppose that, God forbid, there is an accident up rail
22 in which hundreds, even thousands of people are killed.
23 I trust that you realize that every single one of those
24 people's families will sue the city of Benicia, Valero,
25 the railroad and anyone else they can find to blame.

1 Perhaps the hundreds of thousands of suits would
2 eventually be dismissed, but the city could be placed in
3 serious financial jeopardy, if not bankrupted by having
4 to hire attorneys to respond even minimally to the
5 suits. And you know how there are risks that cry for
6 mitigation in the" -- pardon me -- "in the EIR for you
7 list and acknowledge them all. However, reading your
8 staff report, it seems that the city feels it need not
9 address the concerns of up-rail communities because of
10 the federal preemption of the railroads. You assert
11 that the up-rail communities are not your sphere of
12 concern. Instead, you wish to focus on the tax revenue
13 and the small number of jobs this project will bring to
14 Benicia.

15 I urge you to think that this is not just about
16 Benicia but about the up-rail communities that will be
17 absorbing the risks of the trains going through
18 populated areas as well as health impacts of the air
19 pollution being generated. We all share the quality of
20 life in our state. Even if you double" -- pardon me --
21 "even if you decide you have no legal responsibility
22 toward us, your up-rail neighbors do not, you do have a
23 moral one."

24 And, "finally," she says, "Thank you for
25 listening with your hearts as well as your desire for

1 the economic wellbeing of Benicia. There are many past
2 your economic security, and I believe it is always
3 wisest to remain congruent with your higher values.
4 Thank you."

5 CHAIR DEAN: Thank you. Brent Posy. Richard
6 McAdams. 96, Kathy Williams.

7 Hi. Good evening.

8 MS. WILLIAMS: Good evening. Thank you for
9 letting me speak. My name is Kathy Williams Fosdoll,
10 and I live at 718 Oeste Drive, Davis, California, and
11 I'm the treasurer for the Wildgoose Oil Company, LLC
12 that operated in Oklahoma from 2007 to 2008. So I've
13 had some experience with oil as a very -- only 13 oil
14 wells with me and my husband.

15 We transported our oil by trucks certified for
16 safe transport. I felt very comfortable with those
17 trucks transporting our oil to the destination. I
18 object to the current Valero proposal to use oil
19 transport cars that are not certified to safely carry
20 the extremely volatile crude oil chosen for transport.
21 I understand that this oil is exceedingly volatile.
22 It's not your usual kind of oil. Like my oil wells were
23 very non-volatile oil, but this is very volatile oil.
24 Davis is placed in great danger for an accidental
25 explosion since the railroad tracks pass right downtown

1 area. The danger is exponentially increased since
2 transport is proposed to increase from two transport
3 trains with about four or five oil tanker cars to seven
4 trains a week with 100 of these unsafe, uncertified oil
5 carrying cars.

6 All this expediential risk lies in the pockets
7 of Valero and not the residents along the tracks. We
8 don't get anything from this oil. We just get exposed.
9 It sounds like Valero is not being held accountable for
10 an explosion that happens. No, they are not
11 responsible. The people who own the tracks, they are
12 responsible. And I don't even know who they are. But
13 Valero holds very little accountability for this whole
14 proposal, but they are making a lot of money.

15 Because these oil railroad cars are not
16 certified for carrying a flammable -- the highly
17 flammable crude oil, I don't understand why Valero is
18 being allowed to do this. The cars are not certified,
19 yet they are going to be used and they are going to be
20 multiplied from, what, 10 oil tanker cars a week to
21 seventy seven hundred oil tanker cars a week, and they
22 are all uncertified. They are not qualified to carry
23 this highly flammable fluid.

24 I'm really horrified. I'm horrified that the
25 you are thinking of going ahead and allowing this. I

1 can't understand it. You're letting -- I don't know --
2 it's like having a car that's dangerous, like the gas
3 turns on by itself for no reason and then people die and
4 then the car company retracts all those cars. Well, you
5 know, this is a much higher risk situation. We're
6 talking about, not just a few people dying, a little car
7 damage, but a whole town could be damaged. Anyway, I
8 really hope you will turn down this EIR and this
9 extremely risky Valero proposal. Thank you.

10 CHAIR DEAN: Thank you. Nancy Price. Richard
11 Machechny.

12 MS. PRICE: Good evening. Thank you very much
13 for this opportunity to speak to you as an up-rail Davis
14 resident. I'm just going to shorten my remarks because
15 so much has been said by people who are asking you not
16 to certify the EIR, FEIR and to not approve the Valero
17 project.

18 My remarks actually expand a bit on the remarks
19 of Tom Rosell in that -- first of all, I would just like
20 to emphasize that the broad claim of preemption exposes
21 the extent to which community rights and local democracy
22 are trumped by corporate rights and the failure of
23 federal regulatory agencies to protect communities from
24 harm, while in effect protect corporate profits at all
25 costs to people and the planet.

1 The significant and unavoidable impacts, impacts
2 without mitigation measures should not be the price that
3 Benicia and up-rail communities have to pay for
4 certification of this final EIR. In following on with
5 Tom Rosell's comments, I would like to place the Valero
6 project into a wider context regarding the Paris Cop21
7 United Nations climate agreement, which was signed in
8 Paris recently.

9 The climate agreement headlines from Paris were
10 celebratory mainly because 195 countries managed at all
11 to come to any kind of an agreement. Many analyses of
12 the Paris agreement, however, point out that the main
13 text of the agreement is long on rhetoric and short on
14 action. Keep in mind that the agreement does not take
15 effect until 2020 and is not legally binding. It is
16 entirely voluntary.

17 In regard to the Valero project, we are told
18 that marine tanker shipment is being replaced by
19 railroad shipment. As Mr. Rosell pointed out, there's
20 really nothing to prevent Valero from creating this new
21 import project to an import/export project. The
22 question is our foreign suppliers currently supplying
23 the refinery being entirely replaced by the rail import.
24 What prevents them from increasing marine shipment in
25 the future specifically for export to the Pacific.

1 I call your attention to the fact that carbon
2 pollution from international shipping doesn't count as
3 greenhouse gas emissions, according to the Paris
4 agreement. What does that mean in terms of Bay Area and
5 state GHG calculations, air quality, local and state
6 climate action plans? And in my comments I gave you the
7 reference to a document. What's important here too, is
8 to consider the transpacific partnership free trade
9 agreement known as the TPP recently signed by President
10 Obama that must still be ratified by Congress.

11 And to call your attention the number -- the
12 many numbers of local national and Pacific brim groups
13 that are trying to stop the TPP from being finalized and
14 ratified by Congress. First, the TPP fails to mention
15 the words climate change or United Nations framework,
16 the Cop21 framework. Second, at the end of 2015, as
17 Mr. Rosell pointed out, the 40-year ban of most US crude
18 oil export was lifted. Should the TPP pass, nothing
19 will prevent acceleration of fossil fuels and fracking
20 and crude oil in the US for export to these Pacific brim
21 countries. And keep in mind that the TPP has a docking
22 provision allowing any country to join the TPP whether
23 in the Pacific brim area or not, thus expanding
24 countries globally and the extent of ocean transport.

25 I just want to remind you that the carbon

1 pollution from shipping doesn't count as greenhouse gas
2 emissions in the agreement. And what you are calculated
3 to quadruple by 2050 at the time when climate scientists
4 say 80 percent of fossil fuels should be left in the
5 ground. So in regard to the TPP, maybe some of you know
6 about the ISDS, the International Settlement Dispute
7 System that is used by foreign multi or should Valero
8 create a foreign subsidiary to be used to challenge
9 local, state and federal laws that protect our health
10 and environment.

11 You are probably aware of the \$15 billion suit
12 that trans Canada has now against the KXL pipeline. But
13 my point here is that should Valero expand its
14 import/export, there's nothing to prevent them from
15 perhaps -- first of all, they produce extended
16 greenhouse gases that aren't calculated. And second of
17 all, nothing presents them from using the TPP --

18 CHAIR DEAN: I'm sorry. You have used up your
19 time.

20 MS. PRICE: I have used up my time. Sorry.
21 Thank you very much.

22 CHAIR DEAN: Thank you. Richard Machechny. Jay
23 Wolf. Ally Benson. Good.

24 MS. BENSON: Good evening. I'm an attorney with
25 the Sierra Club.

1 We have over 145,000 members in California many
2 of whom would be impacted by this project. And we have
3 submitted, along with our allies, several comment
4 letters during the environmental review process. And as
5 we have explained in these letters, the EIR for this
6 project is inadequate under CEQA, and the project is
7 also inconsistent with the general plan and municipal
8 code.

9 According to the staff report in the EIR, the
10 project would have 11 significant and unavoidable
11 impacts related to rail. We disagree that these are the
12 only significant impacts from the project that none can
13 be mitigated and you can't even consider these impacts.
14 Nothing in federal law preempts the city from declining
15 to certify the EIR and the denying the use permit for
16 the project, including denial based on these rail
17 impacts.

18 In fact, CEQA requires consideration of these
19 impacts. To quote the statute, the lead agency shall be
20 responsible for considering the effects, both individual
21 and collective, of all activities involved in a project.
22 Nothing in federal law requires that you abandon these
23 principals under CEQA simply because the federal
24 government plays a role in regulating railroads. It
25 does not mean that the states and local governments are

1 powerless when an oil company's project involves rail.

2 As you know, on October 20, 2014, the attorney
3 general of California submitted comments in the draft
4 EIR for this project. The very first comment in that
5 letter was that the draft EIR failed to adequately
6 analyze the project's impacts to up-rail communities.
7 The AG found that the draft EIR violates CEQA by not
8 analyzing these foreseeable impacts.

9 The attorney faulted the draft EIR for giving,
10 quote, little consideration to the potentially serious,
11 even catastrophic impacts that release highly volatile
12 and flammable crude oil would have on communities and
13 the environment. End quote. These are the serious
14 catastrophic impacts that you are now being told you are
15 legally required to ignore. I know you are aware of the
16 San Luis Obispo Planning staff report. Also, I point to
17 our comment letter dated February 8, which lays out some
18 of the relevant case law. You also heard from the
19 gentleman from Davis about the Sacramento area
20 government letter that lays out some of the relevant
21 laws as well on preemption.

22 I urge you to reject this idea that you cannot
23 consider these impacts or deny this proposal based on
24 the significant unavoidable rail impacts. Even if you
25 were to accept this position that federal regulation

1 that precludes position of all mitigation measures along
2 the rail line and precludes even taking the rail impacts
3 into account in your decisionmaking, a position that has
4 no solid basis. Regardless, there are other impacts
5 separate from the rail impacts that require denial of
6 this permit. I just want to discuss a few of those
7 right now.

8 The first involves air quality as it relates to
9 the refinery emissions. The project would increase the
10 refinery emissions by increasing refinery throughput
11 because the proposed reduction crude from ships is not
12 an enforceable condition of approval. The project would
13 increase emissions by increasing the proportion of dirty
14 volatile crudes being processed. There will also be air
15 quality impacts from non-rail transportation emissions.
16 The project would note reduce ship traffic at the port
17 so we know offset the marine transportation emissions.

18 Construction impacts, air quality impacts from
19 that, environmental justice, the project would have a
20 disproportionate impact on low income communities and
21 communities of color due to the increase of refinery
22 emissions. The project would pose a significant hazard
23 risk due to the risk of a spill or an accident during
24 the offloading process or other activities. And all of
25 these I'm referring to on Valero property, not up-rail

1 impacts.

2 The project proposes significant risk to water
3 quality and to wild life especially in the Sulphur
4 Springs repair creek corridor due to the possibility of
5 spill during offloading of crude or other activities on
6 Valero property. The project has significant noise
7 impacts due to unloading and other activities on Valero
8 properties.

9 Under Benicia municipal code the Planning
10 Commission cannot approve a use permit unless it makes
11 several findings, one of which is that the proposal will
12 not be detrimental to the public health, safety or
13 welfare of persons residing in, working in, or adjacent
14 to the neighborhood of such use nor detrimental to
15 properties or improvements in the vicinity or to the
16 general welfare of the city.

17 So for the reasons I have already explained, I
18 think both those impacts related to rail and unrelated
19 to rail, the project would be detrimental in those ways.
20 I'm running out of time, but I will say that there are a
21 lot of inconsistencies with the general plan as well
22 involving both rail and non-related impacts, and I
23 direct you to the letter that NRDC submitted this
24 afternoon. Thank you.

25 CHAIR DEAN: Thank you. You were Eli Benson; is

1 that right?

2 MS. BENSON: Yes.

3 CHAIR DEAN: Thank you. Claudia Antocio. You
4 can correct me on your pronunciation.

5 MS. ANTOCIO: No problem. Thank you,
6 Commissioners, and thank you for your patience this
7 evening. My name is Claudia Antocio. I'm here with the
8 Stanford Mills Legal Clinic on behalf of the Center of
9 Biological Diversity, and I apologize that the lawyers
10 are a bit stacked up here at the end. I'm also here to
11 talk about federal preemption.

12 The staff report before you today finds that
13 project benefits don't outweigh its significant and
14 unavoidable impacts, yet the report nonetheless
15 concludes that the city has to lay down and accept
16 Valero's proposal because the ICCTA preempts the city
17 from denying the project based on rail related impacts.

18 In presenting this issue to you on Monday, the
19 City Council characterized federal preemption as a
20 settled black and white area of the law. It's not.
21 It's a complicated, fact-specific issue that must
22 necessarily begin with the supreme court's preemption
23 precedent, but the staff report and the City Council
24 failed to walk you through that precedent, a precedent
25 that's been carefully crafted to preserve the federal

1 state balance on which our country is built. And that
2 precedent plainly shows the staff report and the City
3 Council's conclusions are wrong.

4 As an initial matter, there's two forms of
5 federal preemption; express and implied. Express
6 preemption occurs when Congress clearly conveys its
7 intent to preempt a particular exercise of state law.
8 Implied preemption, on the other hand, occurs when state
9 law stands as an obstacle to the goals Congress sought
10 to achieve.

11 In assessing the existence and scope of any
12 preemption, courts are guided by two cornerstones of
13 preemption law. First, preemption is fundamentally a
14 question of Congressional intent. Namely what range of
15 activities Congress sought to sweep into its orbit.
16 Second, preemption analysis always begins with the
17 presumption that states and localities retain their
18 historic police powers. The ICCTA does not expressly
19 preempt the city's traditional land use authority or
20 environmental review laws. What the ICCTA does
21 expressly preempt are local remedies with respect to the
22 regulation of rail transportation. But the city's use
23 permit and responsibilities under CEQA don't regulate
24 rail transportation. Instead, they are generally
25 applicable background laws that are directed at

1 community health and welfare.

2 Congress did not intend to displace these
3 traditional local health and safety laws in passing the
4 ICCTA, a statute that's primarily aimed at economic
5 regulation of railroads and fairness of the interstate
6 system. Hence, the ICCTA does not result in implied
7 preemption -- excuse me -- express preemption of the
8 city's authority. And for similar reasons, it doesn't
9 result in implied preemption of the city's authority.

10 The city's land use and environmental review
11 laws are intended to protect the public health, public
12 safety and the environment from the impacts of land use
13 activities regardless of who is proposing them. They
14 don't target the railroads, and they don't frustrate
15 Congress's purposes of a fair and an economically sound
16 rail industry. Rather, there are tools that the city
17 can use to protect its land and citizens.

18 To deny the city the right to use these tools is
19 to strip your quintessential local authority over health
20 and safety. Federal preemption law as dictated by the
21 US Supreme Court, does not allow this result absent a
22 clear Congressional intent, intent that is entirely
23 lacking in the ICCTA. Finally, in this case, the staff
24 report's preemption conclusions are particularly
25 misplaced due to the nature of the proposed project.

1 The project, at issue here, is an exclusively private
2 rail spur and unloading facility that's going to be
3 constructed and operated on non-railroad land for use
4 exclusively by a non-railroad carrier.

5 The ICCTA is virtually irrelevant for the purely
6 local facility because it is only concerned about
7 transportation by rail carriers. Valero is a private
8 oil refinery and it does not meet the definition of a
9 rail carrier because it's not providing common carrier
10 services to the public. For these reasons, among
11 others, the ICCTA does not have the exceedingly broad
12 reach that several have contended that it does. Thus,
13 Valero can't escape local oversight, and the city can't
14 skirt its responsibilities to regulate simply by
15 claiming that the project's rail related impacts deprive
16 the city of any meaningful control. Thank you.

17 CHAIR DEAN: Thank you. The next speaker.

18 Is Riley Kutcher here? Good evening.

19 MS. KUTCHER: Good evening, Commissioners. My
20 name is Riley Kutcher, and I'm also here with the
21 Stanford Mills Legal Clinic on behalf of the Center of
22 Biological Diversity. I'm going to discuss three ways
23 the staff report mischaracterizes the scope of federal
24 preemption and the city's corresponding permeating
25 authority.

1 First, the staff report incorrectly claims the
2 ICCTA's preemption language prohibits the city from even
3 considering the offsite impacts that directly flow from
4 the project. As my colleague explained, the ICCTA has
5 nothing to do with this private non-rail carrier
6 facility at the project approval phase. Thus, the city
7 is required to consider all potential project impacts,
8 including off-site impacts. CEQA guidelines
9 specifically state that the city must consider all
10 direct, indirect and cumulative impacts, including those
11 impacts further removed and distanced from the project.

12 In this case, those impacts undoubtedly included
13 effects along the Union Pacific main line. While the
14 city is likely preempted from imposing mitigation
15 directly on main line rail operations, it's certainly is
16 not required to ignore the impacts of those operations
17 all together. In contrast to the ICCTA, some federal
18 acts do contain language expressly preventing localities
19 from considering particular issues in the field's
20 heavily regulated by the federal government. For
21 instance, the telecommunications act specifically
22 prohibits localities from considering the environmental
23 effects of radio waves when regulating wireless
24 facilities.

25 The ICCTA, however, contains absolutely no

1 language preempting consideration of impacts.
2 Therefore, the city must consider all impacts, including
3 off-site impacts in reaching its decision. Second, the
4 city has full authority to deny the project based on the
5 environmental health and safety concerns caused by
6 on-site and off-site activities. Denial need not solely
7 be based on impacts at the project site. For instance,
8 denial can be based on the 11 significant and
9 unavoidable impacts identified in the environmental
10 impact report even if the impacts are due rail
11 operations.

12 The city also has authority to deny Valero's
13 application based on the health and safety risks posed
14 by rail operations as well as the use permit findings
15 related to off-site aspects of the project. The staff
16 report is incorrect that denial can only be based on
17 non-rail impacts. To the contrary, if the city agrees
18 with the staff that the benefits of the project do not
19 outweigh the unavoidable significant impacts, the city
20 must deny the project.

21 Third, if the city instead decides to approve
22 the project, it has the authority and responsibility to
23 require Valero to take reasonable mitigation measures,
24 even if those measures incidentally affect
25 transportation by rail carriers. For example, permit

1 conditions directed at activities and operations on-site
2 are not preempted by federal law. Everything is related
3 to everything else. So of course mitigation measures
4 imposed on Valero will have consequences on railroad
5 activities upstream, just like it will impact other
6 related activities like marine shipment and oil
7 production.

8 While the city cannot impose measures directly
9 on Union Pacific, it is not preempted from regulating
10 what happens on non-rail carrier land. Since the
11 federal surface transportation board has no authority to
12 regulate construction operation of Valero's proposed
13 project, the city must be able to regulate or there
14 would be absolutely no oversight of private construction
15 related to rail activity. Congress did not intend to
16 create a gapping hole in regulatory authority when
17 enacting the ICCTA.

18 In conclusion, the city, one, must consider all
19 project impacts, including off-site impacts. Two, has
20 the authority to deny the project based on these impacts
21 and three, if the city does mistakenly approve the
22 project, it must make the required use permit findings
23 and impose mitigation measures as required by law. A
24 rail spur and unloading facility is a local development
25 project just like any other. The city has the authority

1 to decide what gets built in its community. There is no
2 reason for the city to voluntarily and incorrectly
3 restrict its governing powers. The city has a
4 responsibility to regulate local land use decisions. If
5 the city doesn't properly use its authority to speak up
6 on behalf of its citizens, no one will. Thank you.

7 CHAIR DEAN: Thank you. We're at 108. Rick
8 Carpenter.

9 We're now at the point where we are back to 110
10 on the list, is where we started the evening. People
11 are still waiting to speak. This gentleman. Why don't
12 you come forward. Is there anyone else that is still
13 waiting to speak?

14 Good evening.

15 MR. HERGETH: Hi.

16 CHAIR DEAN: Thank you for your patience.

17 MR. HERGETH: And yours. Thank you everyone for
18 really taking the time to be here and stick this out.
19 My name is Aaron Hergeth. I'm a married father of three
20 boys here in Benicia. Go to bed. I'm also a homeowner.
21 I'm an advocate for domestic energy production. My
22 grandfather started the first in-house oil analysis
23 program for PIE trucking in 1958. My father and uncle
24 have been deeply involved in oil analysis for over
25 40 years. I personally am one of about a thousand

1 people worldwide that are certified lubrication
2 specialists, and I'm a former chairman and current
3 member of the society of tribologics and lubrication
4 engineers.

5 Oil has afforded me a great childhood in Vallejo
6 and to be able to support my family here in Benicia for
7 the last eight years. I currently work as an evaluator
8 in an independent oil laboratory in Vallejo. I have
9 managed the laboratory. I have done field work. I've
10 climbed the towers. I have done all that.

11 I'm also an advocate for the community as well,
12 which is why I am here tonight. I personally have
13 tested tens of thousands, if not hundreds of thousands
14 of oil samples from various properties such as Elemental
15 Analysis, VOCs, Flash Point, et cetera. I have tested
16 samples from nuclear power plants, wind turbines,
17 vehicles, jet fuel, aviation hydraulic fluid and
18 everything else you can possibly imagine.

19 I was responsible for setting up crude oil
20 testing in our facility, and I wrote procedures directly
21 related to crude oil testing based on AMSD methods.
22 Different types of crudes have different types of
23 hazards. They are all wildly different. Based on
24 available AMSDs, Bakken crude has a flash point of about
25 73 degrees Farenheit, which is a beautiful day in

1 Benicia. It contains percentages of volatile organic
2 compounds, VOCs, such as toluene, benzene, hexane.
3 Having tested a large number of crude oils in the
4 laboratory environment, I can say that they are highly
5 toxic, volatile by nature.

6 Some Bakken stocks have been found to have high
7 levels of hydrogen sulfide, H₂S, that will kill a human
8 being of 500 PPM. OSHA, if you read on their site, has
9 some pretty strict standards when it comes to H₂S
10 exposure. When a sample comes into my laboratory with
11 H₂S levels over 15 PPM, I won't test that sample. I
12 will send it back to the client. I won't subject my
13 technicians to that type of hazard.

14 It's important to remember that the oil being
15 carried is not motor oil. It's appropriative chemicals
16 and hydrocarbons prior to refinement. Every other
17 transport of hazardous goods is highly regulated, and
18 this should be no different. The amount of regulation
19 we have to deal with as a laboratory in disposing of
20 hazardous material is quite immense, and it should be.
21 I'm talking chain of custody, cradle to grave
22 documentation of hazardous wastes that is required by
23 local and federal agencies. Crude by rail should be no
24 different.

25 The amount of crude oil carried by each car

1 varies, but it can be over 30,000 gallons. Multiply
2 that number by 100 railcars, and you have a major safety
3 issue. The DOT-111 or DOT-3, however you want to call
4 it, railcars do not have a good track record when it
5 comes to structural integrity if derailment occurs. If
6 one tanker spills and ignites, you can imagine that many
7 other tankers will also ignite. So to have rail tanks
8 that are not designed to carry this type of material
9 should be the main factor on the minds of the city.

10 Other proven methods of transport still work
11 quite effectively, and they are shown to be safe, which
12 makes this proposal seem a little desperate. One other
13 means of revenue for Benicia, like shopping or land
14 development have been denied or dismissed outright.
15 It's great that this would create 20 full-time jobs, but
16 at what cost? Also, if crude by rail is replacing crude
17 by ship, where are those jobs going? It's really a
18 benefit -- is that really a benefit?

19 In closing, I urge the commission to vote no on
20 the current proposal and revisit it when all the
21 railcars and railroads can assure to be at the highest
22 standards of safety, because one accident is too many.
23 Thank you.

24 CHAIR DEAN: Thank you. Is there anybody else
25 who would like to speak on this issue? Okay. I am

1 seeing nobody come forward.

2 So before we close the public comment period,
3 typically we give the applicant a chance -- a
4 five-minute rebuttal period.

5 Mr. Cuffel, are you ready to go?

6 MR. CUFFEL: I am. Are you?

7 CHAIR DEAN: Yes.

8 MR. CUFFEL: Okay. You have a tough job before
9 you, obviously. And I think the most difficult part is
10 going to be discerning fact from fiction. Tonight you
11 heard elaborate speculation about Valero exporting crude
12 oil. As I have explained to you that not only is that
13 not going to happen, it cannot happen. That would be an
14 entirely different project requiring a permit from the
15 air district.

16 Would the audience have the courtesy to step
17 outside if you have a conversation. Thank you.

18 CHAIR DEAN: A little respect for the speaker,
19 please. The commission would like to hear what he has
20 to say.

21 MR. CUFFEL: You also heard passionate people
22 testify that you have to let the fires burn out. And
23 you heard our first responder, our fire chief explain,
24 no, that's not true. In fact, it was Valero who put out
25 the Lac-Magantic fire with foam. So the real challenge

1 for you is how you discern fact from fiction.

2 In the few minutes I have I want to speak, not
3 just to the commission, but also to anyone in the public
4 who really wants to understand the air quality impacts,
5 I think this is important because once again the
6 language that is used in CEQA is very specific to CEQA.
7 So when something is significant and unavoidable, that
8 has meaning within the context of CEQA. But the real
9 question is, what does it mean for public health?
10 That's what matters at the end of the day. So let's
11 look at the railroad emissions once again.

12 In all of the up-road counties, in every single
13 one, the railroad emissions for organic compound, CO,
14 SOX and particulate matter are below the threshold of
15 significance. The one that is above in every county is
16 NOX. NOX is a precursor to ozone, right, so that's
17 something we don't want. Let's put that in perspective.
18 The threshold that the county said -- they differ from
19 county to county, but what do they really equate to? If
20 you do the math using carbs air emissions factor, the
21 amount of NOX on a daily basis that we are talking about
22 from having the trains go through is equivalent to 10 RV
23 trips, 10 roundtrip RV trips from Benicia to Tahoe.
24 Think about the traffic on Interstate-80 and how
25 consequential or inconsequential 10 roundtrip, RV trips

1 per day is.

2 While technically this is a significant impact
3 in the language of CEQA, it's not a significant health
4 impact. How do we know that? There's a health risk
5 assessment that was done by ESA, experts in this field
6 that I am not. But what I can read is that the cancer
7 risk is below 10 in a million, which is the threshold in
8 every upstream, up-rail community. The chronic hazard
9 index is way below one. It's fractions -- it's in the
10 one-ten-thousandth of a point versus one. There is no
11 health consequence. So while the emissions are higher
12 than you would like to see from a CEQA perspective, they
13 don't pose a public health risk. So what would we be
14 mitigating? Reducing 10 RV trips per day, round trips
15 to Tahoe.

16 I guess the other point I would like to make is
17 that no one can guarantee that there won't ever be a
18 consequence. Everything has a consequence. But what
19 Valero tries to do, and I think what we have
20 demonstrated to you, is that we get out ahead of the
21 problem. When DOT-11 cars were the standard, we went
22 right to CPC-1232. And someone's glasses are here too.
23 You can debate the adequacy of those, but we have now
24 gone to CPC, the 1232 jacketed cars. The jacketed cars
25 are insulated so that if the worse happens and it is

1 derailed, it's less likely to be punctured. And if
2 there's a fire, it can withstand a longer time in that
3 fire before there is any further release. That's a step
4 towards the 117 cars, which I understand will eventually
5 be the new standard. We will always seek to be ahead of
6 the requirement, not doing the minimum, because our goal
7 is to keep the oil in the cars and then in our refinery
8 and have it be safely refined.

9 Again, we can't export. That's fallacy. You
10 don't have to let the fires burn out. That's fallacy.
11 There's been a lot of other very passionate testimony in
12 the last two days. I don't think for a minute that the
13 people giving that testimony don't believe it, but I ask
14 that you discern fact from fiction. Thank you.

15 CHAIR DEAN: Thank you. Okay. So with that, we
16 completed the public comment portion. I'm going to
17 close the public comment portion of the hearing. The
18 next step would be to bring it back to the commission
19 for discussion.

20 I'm thinking the late hour, we should probably
21 think about our next meeting tomorrow, set up for that,
22 and then adjourn. I'm seeing nodding heads with the --

23 MS. RATCLIFF: Sorry. Through the Chair. Staff
24 would suggest if you are going to -- if we are going to
25 come back tomorrow on this for a commission discussion,

1 we do have some material to hand out that is rather
2 thick. We have copies for you, and it will be up on the
3 website tomorrow for the public. It's in support --
4 it's background information for staff to discuss the
5 preemption issue more tomorrow, as well as we wanted to
6 bring back specific answers to questions that the
7 commission had posed previous in these few days. We
8 wanted to do that tomorrow.

9 One thing I did want to ask you, just seeing --
10 not knowing how long you would want to discuss this, if
11 you could bring your calendars tomorrow in case we do
12 have to schedule another meeting, we could then continue
13 the hearing to a date certain. I see you smiling. I
14 just don't want to delay it, but I do want to allow the
15 commission to be able to do that should that be
16 necessary.

17 CHAIR DEAN: Thank you for your foresight.

18 So we'll be back tomorrow starting at 6:30.
19 Before we go, I want to make sure that the commission
20 communicates to the staff. You have already mentioned a
21 number of things. Preemption was one issue that you
22 have on your mind. If there are any additional
23 questions that the staff might be able to research
24 between now and tomorrow's meeting, I want to make sure
25 those are on the table so that we don't come up with a

1 question tomorrow that we then have to say, well, we
2 don't have that information before us.

3 So if we could do it quickly, if we could come
4 up with a short list. Probably at the top of my short
5 list would be this whole preemption issue. I understand
6 the city attorney is going to address that in the
7 written material that we are going to get from the
8 planning director. Okay.

9 Other issues? Commissioner Radtke? Do you
10 have a --

11 COMMISSIONER RADTKE: I would like a check or
12 more information on the Sulphur Springs setback and the
13 area between the project area. If you could give us the
14 one turned in by Mr. Furaz.

15 CHAIR DEAN: Commissioner Birdseye?

16 COMMISSIONER BIRDSEYE: Mr. Furaz makes a lot of
17 great points. If we could just look through his letter.
18 I don't know specifically, but if we -- he brings up a
19 lot of good issues that raised a lot of red flags for
20 me.

21 Commissioner Young, do you have anything
22 specific on that memo that you want to point out? Okay.

23 If I can read it in the morning and send you an
24 e-mail on specific issues, I will.

25 MS. RATCLIFF: Thank you. That would be great.

1 CHAIR DEAN: Commissioner Oakes? No? Okay.
2 Commissioner Young? No? Okay.

3 I want to thank everybody for their
4 participation, particularly the people who travelled to
5 come here tonight to provide us with their comments and
6 the people who stayed probably since Monday night --
7 Monday, Tuesday, Wednesday night -- in order to wait for
8 their turn to make comments to the commission. We
9 really appreciate that. We appreciate your perseverance
10 and your patience, and we will continue this meeting
11 until tomorrow at 6:30 in the same location. We'll see
12 you then. Thank you.

13 * * *

14 End of video

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REPORTER'S CERTIFICATION

I, Josie C. Gonzalez, a Certified Shorthand Reporter in and for the State of California, do hereby certify:

That the foregoing video file was reported by me stenographically to the best of my ability and later transcribed into typewriting under my direction; that the foregoing is a true record of the audio file.

IN WITNESS WHEREOF, I have subscribed my name this 25th day of February, 2016.

JOSIE C. GONZALEZ
CSR No. 13435