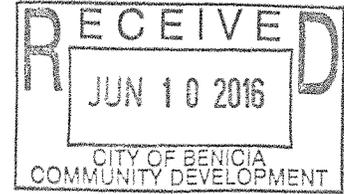


**Valero Crude by Rail Project
Public Comments received
June 8 - 24 , 2016**

Commenter	Date Received
Organizations	
Natural Resources Defense Council for Benicians, Safe and Healthy Community, San Francisco Bay Keeper and Stand	10-Jun-16
Councilmembers	
Elizabeth Patterson	9-Jun-16
Individual Comments	
Roger Straw	13-Jun-16
Marilyn Bardet	22-Jun-16
Idential Comments	
Public Comment re Valero Crude by Rail Project- Appeal Application No. 16PLN-00009	
Nathan Wolfson	13-Jun-16
Michele de la Rosa	14-Jun-16
Bonnie MacRaith	15-Jun-16
Celeste Anacker	15-Jun-16
David Boyer	15-Jun-16
Jack Coulehan	15-Jun-16

Amy Million

From: Prange, Jackie <jprange@nrdc.org>
Sent: Friday, June 10, 2016 11:25 AM
To: Heather McLaughlin; Amy Million
Subject: RE: STB filing re Valero project
Attachments: 2016_06_10 Order granting extension.pdf



Heather and Amy - Please see this STB order, served today, attached and linked below:

[http://www.stb.dot.gov/Decisions/readingroom.nsf/UNID/B760936F2BC5411C85257FCD006392AC/\\$file/45268.pdf](http://www.stb.dot.gov/Decisions/readingroom.nsf/UNID/B760936F2BC5411C85257FCD006392AC/$file/45268.pdf)

JACKIE PRANGE
Staff Attorney

NATURAL RESOURCES
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SAN FRANCISCO, CA 94104
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F 415.875.6161

JPRANGE@NRDC.ORG
NRDC.ORG

Please save paper.
Think before printing.

From: Heather McLaughlin [mailto:HMclaughlin@ci.benicia.ca.us]
Sent: Monday, June 06, 2016 4:53 PM
To: Prange, Jackie; Amy Million
Subject: RE: STB filing re Valero project

Thanks

Sent from the Samsung Galaxy Rugby Pro, an AT&T LTE smartphone

----- Original message -----

From: "Prange, Jackie" <jprange@nrdc.org>
Date: 06/06/2016 3:08 PM (GMT-08:00)
To: Amy Million <AMillion@ci.benicia.ca.us>
Cc: Heather McLaughlin <HMclaughlin@ci.benicia.ca.us>
Subject: STB filing re Valero project

Amy and Heather - Please see the attached document, which we filed with the STB today.

JACKIE PRANGE
Staff Attorney

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BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 36036

240867
ENTERED
Office of Proceedings
June 6, 2016
Part of
Public Record

REQUEST FOR EXTENSION BY BENICIANS FOR A SAFE AND HEALTHY
COMMUNITY, CENTER FOR BIOLOGICAL DIVERSITY, COMMUNITIES FOR A
BETTER ENVIRONMENT, NATURAL RESOURCES DEFENSE COUNCIL, SAN
FRANCISCO BAYKEEPER, SIERRA CLUB, AND STAND

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Attorney for Center for Biological Diversity

 GRANTED Office of Proceedings	DECISION ID NO.: <u>45268</u>
	DECIDED DATE: <u>6/9/16</u>
	SERVICE DATE: <u>6/10/16</u>
	APPROVED: <u>Reed D Campbell</u> Director
	<input checked="" type="checkbox"/> <u>Extension granted. Remaining issues pending.</u>

INTRODUCTION

Pursuant to 49 C.F.R. § 1104.7(b), Benicians for a Safe and Healthy Community, Center for Biological Diversity, Communities for a Better Environment, Natural Resources Defense Council, San Francisco Baykeeper, Sierra Club, and Stand (together, Benicians) request an extension until July 8, 2016, for any replies to the Petition for Declaratory Order filed by Valero Refining Company on May 31, 2016, STB FD No. 36036. In its Petition, Valero seeks a declaratory order that the Benicia Planning Commission's denial of a permit for Valero's proposed crude-by-rail offloading facility in Benicia, California, was preempted by the Interstate Commerce Commission Termination Act (ICCTA). Petition at 1. Benicians plan to participate as parties of record and file a reply or replies to Valero's Petition explaining, among other things, why the ICCTA does not apply to the denial of a permit for a non-rail carrier facility.

This request is timely, *see* 49 C.F.R. § 1104.7(b), and the requested extension does not allow Benicians more time than the schedule proposed by Valero in its Petition. Accordingly, Benicians respectfully request that the Board grant their request for an extension until July 8, 2016. For reasons that Benicians will set forth more fully in their reply, it would be inappropriate for the Board to institute a declaratory proceeding here, and thus the Board should not set a deadline for replies to the Petition based on the commencement of such a proceeding. Given the prohibition against replies to replies, 49 C.F.R. § 1104.13(c), and the need for expedited consideration of this matter, Benicians also request that the Board deny Valero's request to file "Rebuttal Comments."

DISCUSSION

I. Benicians' request for an extension is supported by good cause

Under the Board's Rules of Practice, "[a] party may file a reply . . . to any pleading within 20 days after the pleading is filed with the Board, unless otherwise provided." 49 C.F.R. § 1104.13(a). Because Valero filed its Petition on May 31, 2016, any replies to the Petition would be due on June 20, 2016, unless the Board provides otherwise. The Board may extend this reply period in its discretion, upon request and for good cause. *Id.* § 1104.7(b).

Since Valero filed its Petition, Benicians have been diligently reviewing the legal and factual issues raised. Valero's Petition raises statutory preemption issues of potential national significance that require substantial research and analysis. Granting Benicians an additional 18 days would facilitate coordination between the various organizations and increase the chances of them filing one, coordinated reply. In addition, Valero's Petition implicates matters of significant public interest, and the extension would allow time for other organizations and government entities that may have an interest in the Petition to file comments.¹

A Board order granting the requested extension would also provide clarity regarding the deadline for replies. In its proposed procedural schedule, Valero did not set forth any date-certain deadline for replies to its Petition. *See* Petition at 21. Rather, Valero proposed that replies be due within 30 days of an "STB order instituting a

¹ The California Attorney General and many local and regional governments submitted comments to the City of Benicia expressing the view that the ICCTA does not preempt denial of the permit.

declaratory proceeding.” *Id.* For reasons that Benicians will set forth more fully in their reply, it would be inappropriate for the Board to institute a declaratory proceeding here because it is clear that ICCTA does not apply to a project proposed by a non-rail carrier. “Where the law is clear, the Board may decline to institute a proceeding and instead provide guidance on the preemption issue presented” Decision, *SEA-3, Inc., Petition for Declaratory Order*, STB FD No. 35853, 2015 WL 1215490, at *4 (Mar. 17, 2015).

Accordingly, Benicians submit that it would be unworkable to set deadlines based on the commencement of such a proceeding.

Finally, Valero would not be prejudiced by Benicians’ requested extension, as Valero itself proposed a period of at least 30 days, and likely significantly more, for the filing of replies. *See* Petition at 21.

II. The Board should not authorize Valero to reply to any replies

The Board’s Rules of Practice clearly state that “[a] reply to a reply is not permitted,” 49 C.F.R. § 1104.13(c), and a reply to a reply to a petition for a declaratory order is no exception, *see, e.g.,* Decision, *Cal. High-Speed Rail Auth., Petition for Declaratory Order*, STB FD No. 35861, 2014 WL 7149612, at *4 (Dec. 12, 2014) (denying motion for leave to file a reply to a reply to a petition for a declaratory order). Despite this explicit prohibition, Valero provided for the submission of “Rebuttal Comments” in its proposed schedule. Petition at 21. Because such “Rebuttal Comments” to the reply filed by Benicians (or any other replies) would violate the Board’s prohibition on “[a] reply to a reply,” 49 C.F.R. § 1104.13(c), the Board should deny Valero’s proposal to submit “Rebuttal Comments.”

Allowing Valero to file a reply to Benicians' reply would, moreover, be inequitable and prejudice Benicians. After the Benicia Planning Commission denied Valero's permit, Valero appealed the Commission's decision to the Benicia City Council. Thereafter, on March 15, 2016, Valero requested that the City Council delay its decision so that Valero could obtain declaratory relief from the Board. On the same day, Valero's attorney informed the City Council that Valero would file a petition within 30 days.² Valero then failed to file a petition within 30 days.

Subsequently, on April 18, 2016, Valero's attorney again told the City Council that Valero would file a petition within 30 days.³ The City Council voted to defer its decision on the permit until September 20, 2016, on the basis of this representation. And, once again, Valero failed to file a petition within 30 days. It was not until May 31, 2016—77 days after Valero first requested that the City Council defer deciding Valero's appeal—that Valero actually filed its Petition before this Board.

Allowing Valero to file a reply to Benicians' reply would unjustifiably further delay a decision on Valero's Petition—a delay caused by Valero's own, unexplained delays in filing its Petition. It would leave the Board with much less time to reach a

² Transcription of the Videotaped City of Benicia - City Council Meeting, at 114 (Mar. 15, 2016), *available at* http://www.ci.benicia.ca.us/vertical/sites/%7BF991A639-AAED-4E1A-9735-86EA195E2C8D%7D/uploads/City_Council_March_15_2016_Transcript.pdf.

³ Reporter's Tr. of Recorded Proceedings, *In re Valero Crude by Rail Project*, Hearing and Public Comments, at 138 (Apr. 18, 2016), *available at* http://www.ci.benicia.ca.us/vertical/sites/%7BF991A639-AAED-4E1A-9735-86EA195E2C8D%7D/uploads/City_Council_April_18_2016_Transcript.pdf.

decision on Valero's Petition before September 20, 2016, when the City Council is scheduled to decide Valero's appeal.

REQUEST FOR RELIEF

Benicians respectfully request that the Board: (1) grant an extension until July 8, 2016, for any replies to Valero's Petition; and (2) deny Valero's proposal for the submission of "Rebuttal Comments" in reply to any replies.

June 6, 2016

Respectfully submitted,



Jaclyn H. Prange
Margaret T. Hsieh

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Community, Natural Resources Defense Council,
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Clare Lakewood

Attorney for Center for Biological Diversity

Roger Lin

*Attorney for Communities for a Better
Environment*

Devorah Ancel

Attorneys for Sierra Club

VERIFICATION

I, Jaclyn H. Prange, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this pleading.

Executed: June 6, 2016



Jaclyn H. Prange

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Request for Extension was filed electronically today with the Surface Transportation Board and served by express mail upon the following:

Kevin M. Sheys
John J. Flynn III
Benjamin Z. Rubin
Justin J. Marks
Nossaman LLP
1666 K Street, NW, Suite 500
Washington, DC 20006

Elizabeth Bourbon
Rita Diane Sinclair
Valero Companies
One Valero Way
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Chief, Section of Administration
Surface Transportation Board
395 E. Street, SW
Washington, D.C. 20423
(original plus 10 copies)

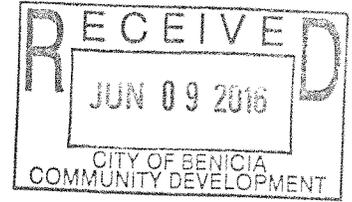
Dated: June 6, 2016



Jaclyn H. Prange

Amy Million

From: Elizabeth Patterson <elopato29@gmail.com>
Sent: Thursday, June 09, 2016 1:11 PM
To: Amy Million; Christina Ratcliffe
Cc: Heather McLaughlin
Subject: Please add to record for Valero CBR



<http://pacificsun.com/feature-crude-awakening/>

Elizabeth Patterson
707-590-3536

elopato29@gmail.com

Feature: Crude awakening

Feature Jun 8, 2016

Dirty Canadian tar sand oil may be headed to Bay Area refineries



An emissions cap to stop a dramatic increase in regional tar sands production (and tar sands exports from local ports) has been proposed.

By Will Parrish

In recent years, oil corporations have intensified their push to make the San Francisco Bay Area and other areas of the West Coast into international hubs for refining and shipping of one of the world's most carbon-intensive and polluting fuel sources: The Canadian tar sands.

In April, that long-standing effort spilled into Santa Rosa mailboxes. Constituents of 3rd District supervisor Shirlee Zane received a letter, addressed to Zane herself, from a group called Bay Area Refinery Workers.

"As a member of the Bay Area Air Quality Management District," the letter read, "you'll soon vote on a proposal that will impact our jobs, our refineries and the important work we do refining the cleanest gasoline in the world."

It asked that Zane “please remember that the Bay Area refineries provide more good-paying union jobs than any private sector employer in the region.”

Twelve refinery employees provided signatures, but the letter was produced and mailed by an organization called the Committee for Industrial Safety, which is bankrolled by the oil giants Chevron, Shell, Tesoro and Phillips 66. According to state and federal records, each corporation annually provides the group between \$100,000 and \$200,000 to advocate on their behalf.

The letter’s apparent aim was to influence Zane’s upcoming vote on a little-known but potentially far-reaching Bay Area Air Quality Management District (BAAQMD) regulation called Refinery Rule 12-16 that’s aimed at reducing greenhouse gas (GHG) emissions. If enacted, the measure would make the BAAQMD the nation’s first regional air district to go beyond state and federal mandates in regulating refinery GHG emissions, the pollutants that fuel global climate change.

Zane is one of the BAAQMD’s 24 directors, along with elected officials from nine Bay Area counties extending from Santa Clara in the South Bay to Sonoma and Napa. They will determine the measure’s fate at a yet-to-be-scheduled meeting later this year.

Staff members at the BAAQMD have proposed four alternative forms of Refinery Rule 12-16. But only one has the support of a coalition of environmental groups and the unions that represent refinery employees: A quantitative limit, or cap, on GHGs.

Processing the tar sands would dramatically increase greenhouse gas pollution at the refineries under the BAAQMD’s jurisdiction, and advocates from groups like Oakland’s Communities for a Better Environment (CBE), an environmental justice organization, say an emissions cap would turn back what they call the “tar sands invasion” from the San Francisco Bay Area.

Critics warn that without the cap, the oil industry will continue pursuing new tar sands infrastructure on the West Coast at a frenetic pace. “We’ve seen them come at us at a 10 times faster rate in the last few years,” says CBE senior scientist and refinery expert Greg Karras. “Up and down the refinery belt, refineries are retooling for the tar sands and creating infrastructure for export of refined tar sands products overseas.”

Experts have warned of the effects of a significantly expanded production of the tar sands—a sticky mixture of sand, clay and bitumen trapped deep beneath Canada’s boreal forest. It would lock in dramatic increases in global temperatures and result in devastating impacts to ecosystems and human societies throughout the globe. A 2015 report in the journal *Nature* found that trillions of dollars’ worth of known and extractable coal, oil and gas reserves (including nearly all remaining tar sands and all Arctic oil and gas) should remain in the ground if global temperatures are to be kept under the safety threshold of 2 degrees centigrade that’s been agreed to by the world’s nations at the Paris climate summit last year.

In an ecologically minded region like the Bay Area, an emissions cap to stop a dramatic increase in regional tar sands production (and tar sands exports from local ports) might seem like a political no-brainer. But staff and some members of BAAQMD say they are concerned that GHG emissions averted in the Bay Area

would simply occur somewhere else, since the oil industry would increase production elsewhere. Doing so would render Refinery Rule 12-16 ineffectual in curbing climate pollution because other regions might not be so attentive.

Karras and other advocates believe the opposite is true. The cap offers local elected officials a rare opportunity, they say, to make a significant contribution to heading off the catastrophic impacts of global warming.

Refinery row

The San Francisco Bay Area has been a core oil-refining area for over a century. In 1881, the Pacific Coast Oil Company opened California's first refinery on the island of Alameda. Pacific Coast Oil Company went on to become Chevron, rated by *Forbes* as the world's 16th wealthiest corporation.

In 2014, the Bay Area's five refineries, including Chevron's flagship Richmond facility, processed an average of 754,000 barrels of oil per day (45.5 percent of California's production total) into gasoline, jet fuel, propane and other products. California, in spite of its reputation as a haven for tree huggers, is the third leading oil producer among U.S. states, much of it exported to surrounding states.

The Bay Area refinery corridor in Contra Costa and Solano counties constitutes the country's second largest oil production center west of Houston. The largest is in Southern California, particularly the south Los Angeles areas of Wilmington and Carson, where the population is more than 90 percent Latino, black and Asian-Pacific Islander. Most people downwind of the Contra Costa and Solano refineries are also people of color.

As with the tar sands, some of California's petroleum sources—including the oil fields in Kern County—are much denser than more conventional, lighter forms of crude. California refineries have developed a unique capacity to refine heavy crudes.

A little more than 8 percent of oil produced in the U.S. comes from the tar sands. Due to opposition to the Keystone XL pipeline, however, the tar sands industry has been unable to expand its production in the Louisiana–Texas Gulf Coast. Without the pipeline, say industry experts, it's left to the West Coast to provide the infrastructure for the tar sands' specialized production requirements on a large scale.

“The tar sands are potentially very cheap, and a lot of refineries in California are already optimized to process it,” says Joshua Axelrod, a policy analyst at the Natural Resource Defense Council (NRDC). Axelrod is a tar sands expert who co-authored a 2015 report called “West Coast Tar Sands Invasion.”

Oil consumption in Central and Latin America is starting to outstrip production, another factor driving the tar sands industry's West Coast ambitions. California producers could make up the difference via shipments from nearby ports. The 2015 NRDC report concluded that West Coast tar sands refining could increase eightfold—from 100,000 barrels per day in 2013 to 800,000 over the next decade.

One argument in favor of the tar sands, repeated by most leaders of the Republican Party and some Democrats, is that greater tar sands production would wean the U.S. from oil sources in more politically hostile regions. Environmental advocates counter that the oil industry already receives more than \$1.5 trillion in government subsidies, according to a 2015 International Monetary Fund study, that should instead be dedicated to low-carbon transportation and renewable energy.

Over a barrel

Growing public opposition has slowed the tar sands' entry into the U.S. in recent years, including the grassroots campaign largely responsible for convincing President Obama last year to veto the Keystone XL pipeline. The pipeline would have carried tar sands crude from Canada to the Gulf Coast. Indigenous people in Western Canada have played a decisive role in delaying two pipelines through British Columbia that would enable large-scale shipments to Washington and California via tanker, barge and train.

In 2013, Valero announced its intention to bring large volumes of tar sands crude oil into Los Angeles and the Bay Area by rail, and applied for permits to the South Coast Air Quality Management District and the BAAQMD. The pipeline proposals were already in limbo, so the company saw railway shipments—up to 70,000 barrels a day, according to the company's permit application—as an alternative. Both the Bay Area and Southern California air districts have granted the permits; the Benicia City Council is set to make a ruling on the Bay Area spur of the project sometime this year.

Phillips 66 already receives a small volume of tar sands via an elaborate delivery system that involves a railroad line to Bakersfield, truck deliveries to a pumping station and a pipeline extending between its refineries in Santa Maria and Rodeo, with the latter processing it into jet fuel. The company now proposes new Southern and Northern California rail projects that would bring a far greater quantity of tar sands to each facility.

Other possible projects include a Bakersfield rail hub that would bring tar sands crude to existing California pipelines and rail-to-ship projects in Portland and Vancouver, Washington.

A coalition of environmentalists and refinery employees have opposed the oil industry's push to refine dirtier fuels. The tar sands are a major focus in their efforts, along with Bakken shale oil from North Dakota and other U.S. sources. Among the organizations are the Bay Area chapter of [350.org](http://www.350.org), the Sierra Club, the Asian Pacific Environmental Network, Richmond Progressive Alliance, CBE and Steelworkers Union Local 5—which represents 80 percent of the workers at three refineries.

While climate change impacts are a major focus of this opposition, these groups also oppose the threat that increased tar sands refining poses to public health. Oil refineries have imposed an especially large pollution burden on the low-income people and people of color who have been disproportionately forced, by historical and economic circumstance, to live alongside them.

The same combustion processes that release climate pollution also emit toxic effluents that cause cancer and neurological damage, as well as particulate matter that penetrates lungs and clogs arteries, as the federal Environmental Protection Agency and state and regional air districts have acknowledged.

In a conversation at a restaurant on San Pablo Avenue in southeast Richmond, CBE community organizer Andrés Soto, who has lived downwind of Chevron for most of his life, described his community's struggles with cancer, autoimmune disorders and other health problems, and linked local struggles to eliminate pollution to the broader climate-change fight.

"You can either move and hope to get away from it, or you can try to fight back and try to help everybody's lives," Soto says. "And I'm not just talking about fighting for people in Richmond or Benicia or Martinez. Because of global warming, I'm talking about the whole planet."

This merging of climate change and environmental-justice activism solidified following a 2012 episode when a crack in a steel pipe at Chevron's Richmond refinery caused a fireball to ignite inside the facility. Nineteen workers escaped with their lives. For several hours, the flame was visible throughout the Bay Area. A toxic plume spread over Richmond and San Pablo, and prompted 15,000 residents to seek medical treatment.

In response, the BAAQMD proposed a set of refinery regulations geared toward monitoring refinery emissions and requiring further health studies. By 2014, the BAAQMD board of directors unanimously passed a resolution directing staff to "prepare a strategy to achieve further emissions reductions from petroleum refineries which shall include as a goal a 20 percent reduction in refinery emissions, or as much emissions reductions as are feasible."

Three years after the Chevron fire, the U.S. Chemical Safety Board pinpointed managerial negligence as one cause. But the main factor was the refinery's reliance on oil with high sulfur content, which caused rapid corrosion of the pipe. The tar sands contain even more toxic metals and chemicals than Chevron's existing crude sources, as well as a higher concentration of sulfur,

the BAAQMD notes, and thus threaten more frequent spills, fires and explosions.

Frustrated by the BAAQMD staff members' slow progress, numerous environmental groups demanded last year that the agency impose a refinery-wide numerical cap on particulate matter and greenhouse gases. The tar sands are more carbon-intensive and more toxic to refine than conventional crude. Tar sand bitumen is heavy and takes more energy than conventional crude to refine into usable products. The refining process also leaves behind large quantities of petcoke, the only fossil fuel the EPA regards as dirtier than coal.

The 2015 "Tar Sands Invasion" report noted that tar sands oil production causes about three times the carbon pollution of conventional crude, and that 800,000 barrels per day of the sticky substance—the amount the oil industry is pushing to bring to California in the next decade—equals the annual emissions of 33.7 million vehicles.

Meanwhile, existing BAAQMD regulations have reduced smog, but have failed to reduce emissions of very fine, extremely small particles, which are greatly increased in tar sands refining. Particulate matter is already causing an estimated 2,000 to 3,000 deaths in the Bay Area—it's the region's most lethal pollutant. Refineries are the largest industrial source of GHGs and particulate matter pollution alike, with refined products—namely, gas and diesel burned in vehicles—being the biggest source overall.

Yet BAAQMD staff declined to include the particulate matter emissions-cap proposal as part of Refinery Rule 12-16. Instead, they proposed four possible means of regulating GHG pollution: A refinery-wide emissions cap; limits on GHG emissions from specific pieces of refinery equipment; restricting refinery emissions of methane; and a two-pronged regulatory structure like the one in Washington state that requires refineries either to increase their energy efficiency or reduce GHG emissions by a set amount by 2025.

At a June 1 BAAQMD committee meeting in San Francisco, Executive Officer Jack Broadbent acknowledged that three of the measures would take years to study and implement. The only option that could happen quickly is a cap.

But Broadbent and other BAAQMD staff members were strongly critical of the cap idea and asserted that they had no legal authority to implement it. Staff member Eric Stevenson said in an interview that the biggest flaw in the emissions-cap proposal is that it would “cause production to go somewhere else to meet the demand in California, so that you don’t end up achieving an overall reduction in emissions.”

About 50 proponents of an emissions cap attended the meeting and several said the BAAQMD should adopt all four of the proposals. Some noted that the cap would be a first step in meeting the air district’s long-range goal of reducing regional GHG emissions by 40 percent by 2030 and 80 percent by 2050. Refineries are responsible for roughly 15 percent of Bay Area GHGs.

“It’s really absurd, in the truest sense of the word, that these folks from communities alongside refineries have to be here to implore you to not allow emissions to be going up in an era of declining emissions, and given what the air district’s job is,” said Jed Holtzman of 350 Bay Area. “Preventing an increase is part of reducing. If you know you’re going the wrong way, then arguing about how fast you’re going, or whether you know everything you could about your tires, is not a smart move, and it’s not what you’re here for.”

Tip of the cap

Ironically, one of the main bulwarks against the emissions cap so far has been the California Air Resources Board (CARB), the agency that implements California’s climate change programs. In a letter to the BAAQMD last September, executive officer Richard Corey flatly stated that “a local cap on Bay Area refinery emissions will have no effect on overall GHG emissions . . . Any emissions reductions from a Bay Area refinery cap would likely be compensated by emissions increases (also called emissions leakage) in other parts of the state. This emissions leakage would likely be associated with shifts in business activity outside the Bay Area.”

Corey’s reasoning is tied to a state-level greenhouse gas reduction program that applies to stationary pollution sources like refineries and power plants: Cap and trade. The program caps carbon emissions from these entities, with yearly reductions in allowable levels of pollution. From 2015 to 2020, for example, the cap is dropping by 3 percent per year.

But the program is aimed at providing maximum flexibility to the oil industry, so it allows them to buy credits, or offsets, from carbon-saving projects elsewhere in the United States, or in Quebec, or to sell credits themselves if they've reduced their own emissions.

Environmental-justice advocates have criticized the program for allowing polluters to buy their way out of reducing emissions at the source—and thereby allowing them to continue burdening communities with pollution. Chevron is a case in point. The company was California's second-largest greenhouse gas emitter in 2013, according to CARB data. But it was also the largest purchaser of offsets under the cap-and-trade program in its inaugural two years between 2013 and 2014, according to a recent study by the Oakland-based California Environmental Justice Alliance.

The company used forests in Maine, Michigan, South Carolina, Willits and Humboldt County—and an Arkansas-based project to destroy ozone-depleting substances—to offset its pollution, which mainly occurred in Richmond. As a result, its emissions were undiminished. If the facility were to increase emissions through full-tilt tar sands processing, it could purchase additional credits. Another state program, the Low Carbon Fuel Standard, also creates an incentive to reduce at-source refinery emissions but does not require it.

The proposed Bay Area emissions cap would have no trading component. While some sources say that CARB may be reconsidering its stance, the oil industry's chief regional lobbying group, Western States Petroleum, has seized on the agency's current position. In a statement for this story, lobby president Catherine Reheis-Boyd noted that "if BAAQMD is considering a local greenhouse gas cap on refinery emissions, [Western States Petroleum] strongly encourages the District to take into account the California Air Resources Board's concerns. CARB has clearly stated that a local cap will: (1) not reduce statewide GHG emissions; (2) reduce cap-and-trade efficiencies; and (3) undermine statewide efforts to reduce GHGs."

Environmentalists describe these arguments as right-wing and defeatist. "Cap and trade is being used as a barrier to creating a simple limit on refinery pollution," Karras says. "Tell me if their argument doesn't sound a lot like what the Republicans are saying about why we shouldn't have a climate policy, which typically goes something like, 'China will just pollute more anyway, so we might as well get the economic benefits.'"

Big oiled

The oil industry has been California's biggest spender on lobbying and elections for years, with much of their effort aimed at climate-change legislation, California secretary of state data reveals. California mandates GHG emissions reduction by 20 percent from 2005 levels by 2020. Last year, the state moved beyond that goal with SB 350, which requires that 50 percent of electricity generation must come from renewable sources, and that energy efficiency of buildings double, both by 2030.

In the run-up to the adoption of SB 350, oil companies unleashed a gusher of cash. The industry spent more than \$31 million lobbying California legislators in 2015, according to data on the California secretary of state website. The effort appeared to pay off, as moderate Democrats agreed to strip a provision from SB

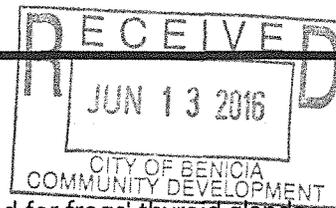
350 that would have required a 50 percent reduction in petroleum use by California's cars and trucks by 2030.

Gioia says he has never seen anything quite like the industry's recent Bay Area Refinery Workers mailer. At the June 1 BAAQMD meeting, he noted that it has become well known in Sacramento that the oil industry will attempt to pass legislation to limit the authority of local air districts if Refinery Rule 12-16 goes forward. Proponents say that a regional refinery emissions cap will enable the BAAQMD to fulfill its role in a struggle to starve the tar sands beast, and to stand up to the power of the oil industry. In that way, the agency would fill a regulatory gap not addressed by state climate programs, such as cap and trade and the California Low Carbon Fuel Standard.

But proponents say the cap is also a pragmatic approach to the tar sands invasion the Bay Area faces. The full BAAQMD board of directors will hear a staff presentation on Refinery Rule 12-16 at a San Francisco meeting on June 15. Expect it to be well attended. "Oil refining is the largest industrial emitter of GHG and [particulate matter] in the Bay Area," reads a recent letter from 13 regional community groups who are tracking the tar sands invasion, "and yet refineries here have no facility-wide limits on these emissions, though other industries do. Keeping emissions from increasing would not require any change in current operations of any refinery."

To read the full story, visit pacificsun.com.

Amy Million



From: rogrmail@gmail.com
Sent: Sunday, June 12, 2016 12:18 PM
To: Amy Million
Subject: FW: Composition of firefighting foams - not so good for frogs' thyroid glands

For the public record on Valero Crude by Rail:

I recall at the Planning Commission meeting of 2/8/16, Commissioner Radke questioned Fire Chiefs Lydon and Bateman at length about the chemical composition of foam, and its possible effects on Sulphur Springs Creek in the event of a fire response at the offloading rack. They weren't able to give an adequate answer – see transcript below. I thought of this when I came across a relevant bit of info today...

PURDUE RECEIVES RESEARCH GRANT TO STUDY FIREFIGHTING FOAM CHEMICALS

06/10/2016 <http://www.fireengineering.com/articles/pt/2016/06/purdue-receives-research-grant-on-firefighting-foam-chemical-s-effect-on-amphibians.html>

The Defense Department has granted a team of Purdue University researchers \$2.5 million to fund their research on the effects of perfluoroalkyl, a chemical used in common commercial products and firefighting foams, on amphibians.

The study aims to find the impact of different levels of perfluoroalkyl substance exposure throughout an amphibian's lifespan, Purdue said Wednesday.

Marisol Sepulveda, a Purdue forestry professor, said the chemical is known to mainly affect the thyroid gland and could thus cause developmental delays among amphibians.

The chemical, which is a component of firefighting foams used by the military, raises concern as firefighting foams are used repeatedly in training and testing sites, Purdue said.

Excerpt from transcript, Benicia Planning Commission 2/8/16:

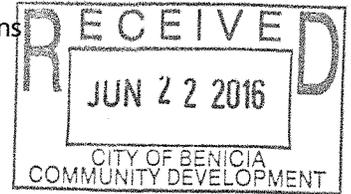
13 COMMISSIONER RADTKE: Continuing on the foam
14 thought.
15 What is actually made up of foam? How do you
16 clean it up? And depending on where you might have to
17 use it, how do you prevent it from escaping into like
18 Sulfur Creek Springs or the local area, local marshes?
19 CHIEF LYDON: Repeat your question a little
20 bit so I can --
21 COMMISSIONER RADTKE: Okay. So let's say you
22 have to react and use foam somewhere within the City of
23 Benicia because of a Crude by Rail issue. It doesn't
24 necessarily be in the refinery, it may be outside the
25 refinery.
(p. 139)
1 What is actually in this foam? How do you
2 clean it up and how do you prevent it from escaping
3 into, say, local marshes or like Sulfur Creek Springs?
4 CHIEF LYDON: Chairman Dean, I would like to
5 have the Valero fire chief come in and speak
6 specifically to the form product.
7 CHAIR DEAN: All right. Why don't you come in
8 and use the microphone at the podium.
9 Do you want to introduce yourself?
10 CHIEF BATEMAN: Yeah. My name is Joe Bateman
11 and I'm the fire chief for the refinery.

12 CHAIR DEAN: Did you hear the question? It
13 was --
14 CHIEF BATEMAN: I heard most of it. Can you
15 repeat it one more time?
16 CHAIR DEAN: Sure.
17 CHIEF BATEMAN: Sorry.
18 COMMISSIONER RADTKE: Sure I think I'm getting
19 it under control now as I'm going.
20 So my question is: What is in the foam? How
21 do you clean it up? And if you respond near a marsh or
22 sulfur -- near Sulfur Creek Springs, how do you prevent
23 it or the cleanup of it escaping into the environment?
24 CHIEF BATEMAN: Well, I answer that in two
25 ways.
(p. 140)
1 First off, foam is in laymen's terms is very
2 similar to dish soap. Our foam has a surfactant in it.
3 And what that surfactant does is it separates and makes
4 sure that water does not drop into the fuel. It keeps
5 that foam on top because foam is basically a vapor
6 suppression so it does its job. And this surfactant
7 will keep the bubbles floating on top of the fuel.
8 So if it gets into Sulfur Springs or into a
9 water way, what we would do is boom that, keep that
10 isolated the best we could.

Roger Straw
Benicia, California

Amy Million

From: Marilyn Bardet <mjbardet@comcast.net>
Sent: Wednesday, June 22, 2016 3:04 PM
To: Amy Million
Cc: Christina Ratcliffe; Heather McLaughlin; Elizabeth Patterson; Mark Hughes; Christina Strawbridge; Alan Schwartzman; Tom Campbell
Subject: Updates on Mosier derailment and fire-fighting conditions



Hello Amy,

Please enter the following video link into the record on Valero CBR/appeal.

The video offers an aerial view of the derailment and fire, with Fire Chief's updates on the conditions under which the fire burned, what was threatened if normal winds had blown, etc. One pertinent detail: it took 4 hours to assemble enough water trucks to wet down the surrounding area; the Columbia River was reported to be approx. 2 miles from the derailment, so water had to be trucked from as far away as Portland. A school was very near the tracks, as were residences. . .

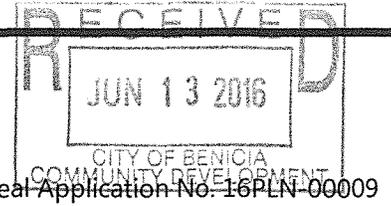
<http://www.kgw.com/news/local/mosier-fire-chief-oil-train-crash-could-have-incinearated-school/234586594>

Thank you,

Marilyn

Amy Million

From: KnowWho Services <noreply@knowwho.services>
Sent: Monday, June 13, 2016 9:43 AM
To: Amy Million
Subject: Public Comment re Valero Crude by Rail Project - Appeal Application No. 16PLN-00009



Dear Benicia City Council,

I live close to a situation like this too, so I'm writing to urge the Benicia City Council to back the Planning Commission's unanimous decision to reject Valero's proposal to transport explosive crude oil by rail through California communities to its refinery in Benicia, and to reject Valero's attempts to delay a final decision on this project.

The Planning Commission rightfully rejected this dangerous project because it "would be detrimental to the public health, safety, or welfare" of Benicians and communities along the oil train routes. The project's impacts include increased air pollution from refinery emissions (which could disproportionately affect low-income communities and communities of color) and oil spills during the offloading process (which could harm the Sulphur Springs Creek riparian corridor).

Furthermore, increases in the transportation of crude by rail has corresponded with an alarming increase in the number of derailments, spills, and explosions. More than five million Californians live in the blast zones of oil train routes, and this project would significantly increase the number of unsafe oil trains rolling through our communities.

As Attorney General Kamala Harris pointed out, the U.S. Department of Transportation found that rail shipments of highly volatile crude oil represent an "imminent hazard," such that a "substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur." I agree with regulators, elected officials, local residents, nurses, and the the many thousands of Californians who have sounded the alarm about the unacceptable risks posed by this project.

For these reasons, I again urge the City Council to reject Valero's oil train project, as well as its attempts to delay resolution of this issue.

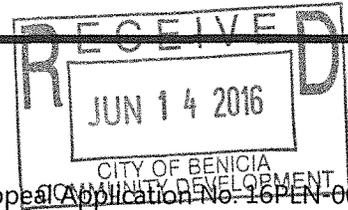
Thank you for your consideration.

Sincerely,

nathan wolfson
907 coe ave
san jose, CA 95125-
nathan_wolfson@yahoo.com
(408) 409-4209

Amy Million

From: KnowWho Services <noreply@knowwho.services>
Sent: Monday, June 13, 2016 10:56 PM
To: Amy Million
Subject: Public Comment re Valero Crude by Rail Project - Appeal Application No. 16PEN-00009



Dear Benicia City Council,

I'm writing to urge the Benicia City Council to back the Planning Commission's unanimous decision to reject Valero's proposal to transport explosive crude oil by rail through California communities to its refinery in Benicia, and to reject Valero's attempts to delay a final decision on this project.

The Planning Commission rightfully rejected this dangerous project because it "would be detrimental to the public health, safety, or welfare" of Benicians and communities along the oil train routes. The project's impacts include increased air pollution from refinery emissions (which could disproportionately affect low-income communities and communities of color) and oil spills during the offloading process (which could harm the Sulphur Springs Creek riparian corridor).

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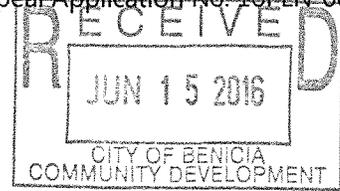
Thank you for your consideration.

Sincerely,

Michele de la Rosa
87 Roundelay Lane
Santa Rosa, CA 95407-
hummingrose6@cs.com
decline to provide

Amy Million

From: KnowWho Services <noreply@knowwho.services>
Sent: Tuesday, June 14, 2016 9:19 PM
To: Amy Million
Subject: Public Comment re Valero Crude by Rail Project - Appeal Application No. 16PLN-00009



Dear Benicia City Council,

Protect our communities from dangerous crude-by-rail!

I'm writing to urge the Benicia City Council to back the Planning Commission's unanimous decision to reject Valero's proposal to transport explosive crude oil by rail through California communities to its refinery in Benicia, and to reject Valero's attempts to delay a final decision on this project.

The Planning Commission rightfully rejected this dangerous project because it "would be detrimental to the public health, safety, or welfare" of Benicians and communities along the oil train routes. The project's impacts include increased air pollution from refinery emissions (which could disproportionately affect low-income communities and communities of color) and oil spills during the offloading process (which could harm the Sulphur Springs Creek riparian corridor).

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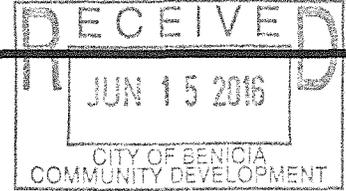
Thank you for your consideration.

Sincerely,

Bonnie MacRaith
2592 Maple Ln.
Arcata, CA 95521-
bmacraith@reninet.com
(707) 822-5413

Amy Million

From: KnowWho Services <noreply@knowwho.services>
Sent: Wednesday, June 15, 2016 12:04 AM
To: Amy Million
Subject: Public Comment re Valero Crude by Rail Project - Appeal Application No. 16PLN-00009



Dear Benicia City Council,

I'm writing to urge the Benicia City Council to back the Planning Commission's unanimous decision to reject Valero's proposal to transport explosive crude oil by rail through California communities to its refinery in Benicia, and to reject Valero's attempts to delay a final decision on this project.

The Planning Commission rightfully rejected this dangerous project because it "would be detrimental to the public health, safety, or welfare" of Benicians and communities along the oil train routes. The project's impacts include increased air pollution from refinery emissions (which could disproportionately affect low-income communities and communities of color) and oil spills during the offloading process (which could harm the Sulphur Springs Creek riparian corridor).

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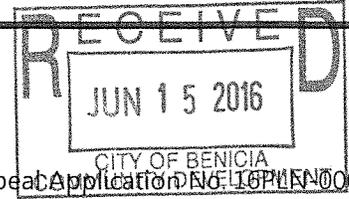
Thank you for your consideration.

Sincerely,

Celeste Anacker
2814 Miradero Drive,
Santa Barbara, CA 93105-
celesteanacker@gmail.com
8052312731

Amy Million

From: KnowWho Services <noreply@knowwho.services>
Sent: Wednesday, June 15, 2016 8:46 AM
To: Amy Million
Subject: Public Comment re Valero Crude by Rail Project - Appeal Application No. 16-PLN-0009



Dear Benicia City Council,

I'm writing to urge the Benicia City Council to back the Planning Commission's unanimous decision to reject Valero's proposal to transport explosive crude oil by rail through California communities to its refinery in Benicia, and to reject Valero's attempts to delay a final decision on this project.

The Planning Commission rightfully rejected this dangerous project because it "would be detrimental to the public health, safety, or welfare" of Benicians and communities along the oil train routes. The project's impacts include increased air pollution from refinery emissions (which could disproportionately affect low-income communities and communities of color) and oil spills during the offloading process (which could harm the Sulphur Springs Creek riparian corridor).

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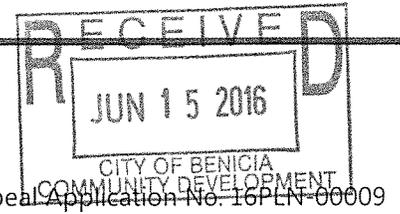
Thank you for your consideration.

Sincerely,

David Boyer
135 Mosher Way
Palo Alto, CA 94304-
david.boyer@stanfordalumni.org
(650) 498-8385

Amy Million

From: KnowWho Services <noreply@knowwho.services>
Sent: Wednesday, June 15, 2016 1:07 PM
To: Amy Million
Subject: Public Comment re Valero Crude by Rail Project - Appeal Application No. 16PLN-00009



Dear Benicia City Council,

I'm writing to urge the Benicia City Council to back the Planning Commission's unanimous decision to reject Valero's proposal to transport explosive crude oil by rail through California communities to its refinery in Benicia, and to reject Valero's attempts to delay a final decision on this project.

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For these reasons, I again urge the City Council to reject Valero's oil train project, as well as its attempts to delay resolution of this issue.

Thank you for your consideration.

Sincerely,

Jack Coulehan
804 North Berlyn Avenue
Ontario, CA 91764-
zamak5@yahoo.com
6614967019