September 15, 2014

TO: AMY MILLION
FROM: SUSAN COHEN GROSSMAN
SUBJECT: COMMENTS ON Draft EIR for Valero Crude By Rail (VCBR) Project

The initial study and the EIR form the basis for public discussion of the project. The final EIR will become basis of any conditions that are applied to the use permit that has been requested by the applicant.

Questions. I am submitting the following questions pertinent to the DEIR:

1. Scope of DEIR. The project includes not only trains offloading at Valero, it would result in increased rail traffic carrying crude oil, from Roseville (or more accurately, from the source of the oil) to Benicia and the resulting transport of final products and/or waste products out of Valero to its final destination (overseas, outside CA, inside CA, etc.) possibly also via rail. In numerous parts of the DEIR, there is the statement that because the crude oil is being transported by rail, that the City of Benicia may not include mitigations for that which it doesn't regulate. To quote, for example, page ES-5, "Alternative 1 may be legally infeasible". The air basins to the east of the one that Benicia lies in would have negative environmental effects. Per the DEIR these are not the jurisdiction of this EIR; again, because the railroad is federally exempt from local regulating. Question: Since the City is preempted by federal law as to the geographic range of the project analysis, then which agency(s) are responsible for review of the changes that the increased transport might bring?

2. Effects. Refer to Table 2-1. Impact 4.11-4 and Its Mitigation Measure refer to that "Valero shall be responsible for the maintenance of the camera during the life of the Project." Question: What is the time (start and end) for the "life" of the project? This should be clarified so that results can be assured to be in line with expectations.

3. Transportation of Materials Out. The project discussed at length the product that will be transported into Valero. Questions: What product(s) will be transported out via rail as a result of this project? Will volumes of the transport of those products out be increased? Will they be different products than are currently being transported out? Currently, per the DEIR, Valero exports via rail the following: asphalt, petroleum coke, and LPG. Questions: Will there be more transportation of products beyond the ship port, i.e. will some of the exports go out via rail? Will the new tracks being installed be used to transport out product or only empty rail cars? Will the current uses of track 700 remain unchanged?

4. Changes Needed for New Product Coming In. Question: Does Valero plan to make any changes (other than described in the DEIR) to existing facilities or operations for the additional crude oil?

5. Hydrogen Plant. Valero has a permit from BAAQMD to construct a hydrogen plant. This permit expires 12/2014. Questions: Does Valero plan to request an extension of this permit? Does Valero plan to construct this plant at a future date? Page 5-5 refers to Page 3.3.3 for more details about the VIP Project? Where is page 3.3.3 or is this a typo? If it's a typo, which page was it meant to refer to?

6. Safety. Question: How does Valero plan to change its safety procedures with the addition of crude oil coming in by rail, if at all? The DEIR refers to the MOC Process (Management of Change) and MI Program (Mechanical Integrity). Question: Will they be revised with the changes in operations, specifically the bringing in of crude by rail?

7. PHMSA (Pipeline and Hazardous Materials Safety Administration) Regulations. When the PHMSA regulations call for use of DOT-111 cars, Valero has stated that they would use 1232 cars rather than legacy DOT-111's. Questions: Is this enforceable? Would Valero be compelled to do so or is this advisory? What if the car standards change in the future? How does the PHMSA assure the DEIR reader that this will be adhered to, now and into the future?

8. Tank Car Handling on Valero Property. The process of transporting the crude oil to Valero's unloading rack is described a bit vaguely. After the 50 car train gets to Benicia, somehow it is transported and broken up into two 25-trains that are positioned on the side of the unloading rack with UPRR locomotives attached to each. Valero is then in charge of the offloading. After UPRR/Valero inspections, then UPRR would move the 50 car train to the departure spur across Park Road and to the east. Questions: How does the 50 car train get broken into two 25-car trains and then reassembled? Can the details of this process be explained step by step, including the locations for each of the steps?

9. Air Quality. Questions: At any site (including a nearby residence) would NAAQS (federal air standards) be exceeded? Does BAAQMD do any ongoing testing as part of the annual renewal of the permit to Valero? Are the 2010 BAAQMD thresholds of significant being applied to this project or does this project follow the December 1999 CEQA Guidelines? Were permits issued in connection with the prior CEQA (for air quality) for the maximum allowable levels of equipment operation or for the 3 year average levels? If for the 3 year average levels, was this for the period 12/09-11/12? If so, were there any unusual occurrences, such as a turnaround project which would skew the data for this particular 3 year period?

10. Air Quality to Neighboring Air Districts. Questions: If Yolo-Solano and Sacramento Municipal Air Quality Management Districts both have unavoidable <u>significant</u> impacts and Benicia has no jurisdiction because rail is federally regulated, does this put Benicia in the position of being a bad neighbor? Isn't this counter to the spirit of cooperativeness between cities that Benicia would also expect from its neighbors?

11. Level of Emissions. Rail v Ship. It's stated in the DEIR that locomotives generate more emissions than ships per miles transited for ROG, NOX, CO, PM10 and PM2.5. It goes on to state that the DEIR cannot evaluate effect of the project because it cannot predict the length of the train trips if the project is approved, nor can it predict the length of the ship's journeys if it's not approved. Therefore, it uses very broad estimates to conclude that rail pollutes less than ship and the entire report is based on these rough numbers. Questions: Isn't there a more quantifiable way to measure the differences? What about time idling for ships and trains? With the differing procedures for offloading and handling the crude, would train emissions as idling be a factor to be considered? Some ports have electrification process so ships "plug in" while in port rather than burn fuel and create emissions with vast improvement in air emissions for port area. Question: Do trains have similar options or options for fuel sources with different emission levels?

12. Federal Railroad Administration (FRA). Questions: What is the role of this agency? Since the project has impacts that are not regulated by Benicia or the State of California, but which are federally regulated, why does the DEIR state (page 4.4-2) that the project does not require FRA approval? Which federal agency(s) regulates the project where it's outside the authority of the city, regional air quality management district or the state?

13. Energy Efficiency. Pages 4.4-8 through 4.4-9 discuss the energy efficiency of transport by rail as compared to by ship and that ship uses 340 person miles per gallon as compared to rail which uses 190 person miles per gallon. Question: How does this project affect the bottom-line? The DEIR states that the Refinery would continue to be a net exporter of energy to the marketplace. Thus using the less efficient method of transport (rail) would be a less-than-significant effect. Question: How is this conclusion logically derived?

14. Track Inspections. Refer to page 4.5-9. Question: Will this project increase the percentage of track being inspected?

15. Geotech. Questions: When will this project's site be evaluated by California Geological Survey? Is the geotech analysis part of the EIR?

16. Seismic. Mitigation Measure 4.5-2 (refer to page 4.5-17) refers to seismic incidents. Questions: What is meant by "a seismic incident with the potential for track damage"? What will happen if a train is on the track during such an incident?

17. Greenhouse Gases (GHGs). Question: What are the effects of idling trains on GHGs?

18. Carbon Emissions. Footnote 5 on page 4.6-13 states that it would be overly speculative to estimate emissions from tugboats, slower cruising speeds, etc. Question: Does this mean that therefore, the estimate of 6,726 more tons of emissions (as discussed on the prior page) is not accurate?

19. Hazardous Materials. The refinery would have to modify its SPCC and FRP for crude (page 4.7-2). Questions: Which agency(s) review the SPCC and FRP? Who reviews Valero's Emergency Management Plan? If this is done by the Environmental Health Division of the County Department of Resource Management what resources do they have to assist and lend expertise to this type of business? (They probably don't have an in-house oil expert since the County doesn't have many refineries.)

20. Railcars. The DEIR has a description of the desired qualities for the stronger railcars and a list of what's in place now on the 1232s. Question: Do the 1232 cars have bottom outlet valves that will remain closed during accidents?

21. Type of Crude. The crudes are classified as packing group I, II, or III with various boiling points and flash points. Questions: What packing group oils will be brought into Benicia? What about the flammability and combustibility? Who assures that they are corrected categorized? As of 3/6/14, US DOT requires all crude to be I or II and FRA/PMSA performed "operation classification". Questions: What were the results to date? Will these unannounced inspections continue?

22. Unattended Trains. The DEIR says that trains will not be unattended unless "specifically authorized" (page 4.7-15). Question: When would this be?

23. Transport/fires. Page 4.7-20 states that the risk of an accidental release of crude from Roseville to Benicia is insignificant and that one of the reasons is that "the transport of Bakken crude to the Refinery, if any, will be subject to the new, more stringent requirements" (extracted from third bullet). Question: Are the words "if any" incorrect since this DEIR is all about that there would be transport of crude by rail to the Valero Refinery?

24. Spills Off of Valero Property. The DEIR states that these could be handled by UPRR. Questions: What if the oil is being transported by UPRR onto Valero's property so is still under UPRR's control and there's a spill ON Valero property? Have any changes been made by UPRR with the huge increase in transport of the last 5 years of crude by rail?

25. SWPP. If the project starts after 12/31/14 there would need to be a new SWPP issued to Valero. Questions: Is it expected to be unchanged from the current SWPP if there is crude by rail being handled at the Refinery? Will content remain unchanged from the current SWPP?

26. Use Permit. Questions: Would Valero be changing any of the refining procedures with the crude by rail as part of the operation? Would a new/revised use permit be sought? Would this come to the Planning Commission?

27. Noise. Questions: What are the expected increases to the residential neighbors when winds are from the east or the north (as happens during the winter)?

28. Transportation. Questions: How many freight trains currently cross Park Road now? How would the Bus Hub be affected by the project? If the Level of Service (LOS) goes from A to D or F at 5 intersections, how can the project be classified as no impact? The DEIR states that "any" driver (page 4.11-4) that crosses Park Road is traveling to or from an industrial use. Question: The word "any" presumes a study; was one done?

29. Park Road and Iron Workers Rail Crossing Delays. Question: If there is, on average, no increase in the length of delays, are there, however an increase in the number of delays due to the increased number of trains?

30. At-Grade Crossings. The DEIR states that there are 24 at grade crossings along public roads and 9 along private. Of the 24, 6 are within urban areas. It states that most likely traffic is low at all but the 6 urban crossings. It goes on to state that the duration of the crossings would be "short" because the train would be going faster than 5 mph. Questions: Shouldn't the urban at-grade crossings be done at slower speeds, i.e. 5 mph? If this is correct, then would there be delays at the urban crossings due to the transport of crude by rail?

31. Emergency Response. The DEIR states (page 4.11-12) "The probability of an emergency incident occurring at the same time as a Project train crossing is low." Question: Can this be conclusion be explained?

32. Alternatives. CEQA has standards for alternatives analysis. Questions: How does this DEIR compare to the expectations in CEQA for alternatives? For example, does the 50% reduction plan get analyzed to CEQA standards or is it dismissed because of the increased air quality that would result if half of the ships continue to deliver? Is this an assumption that could be discussed in more detail? The volume of crude by rail discussion assumes that it must be a 1:1 change from crude by ship to crude by rail. Is this an adequate reason to dismiss this alternative?

33. Effects Found Not to Be Significant. On page 5-20 it states: "All identified environmental effects of the Project would be less than significant, or less than significant after implementation of the identified mitigation measures". Question: Is this an accurate concluding statement in light of the fact that numerous times in the DEIR it stated that it was noting items that are beyond the jurisdiction of the City of Benicia, thus, those items could not be evaluated. Does this means they are not significant?