

October 30, 2015

Amy Million,
Principal Planner
Community Development Department
amillion@ci.benicia.ca.us

Re: Comments on the Valero Crude-By-Rail Project DEIR

Dear Ms. Million,

Please enter the following comments on the Benicia Valero Refinery Project RDEIR into the public record.

2.5.1 DEIR Section 4.0.5 Geographic Scope of Analysis

Importing Bakken crude and Tar Sands bitumen is far too dangerous to transport on the proposed routes into California.

The RDEIR establishes that the public cannot know the sources of the crude delivered to Valero as this critical information is “confidential.” In the second paragraph of this section, the text mentions the crude delivered “will be extracted from various sites within North America.” The next paragraph states, “*As indicated in Section 1.7, Confidential Business Information and Appendix D. discussion of Confidential Business Information, Valero considers the specific North American crudes that would be shipped to the Refinery to be confidential under Public Resources Code 21160.*”

Given the remarks above, any public discussion of the nature of the crude oil and its dangers in transport by rail through our land and communities is denied. Hidden behind the protection of “Confidentiality” lies the obvious truth that the crude will be primarily one of two highly flammable and dangerous forms of crude: North Dakota Bakken crude and Alberta tar sands bitumen, and in the future possibly tar sands from Utah. The Alberta tar sands are extracted at the expense of 125,000 square miles of boreal forest and the contamination of three watersheds to rivers that flow to the Arctic. The bitumen contains toxic heavy metals and is nearly impossible to clean up when it spills into waterways. The Bakken crude is notorious for its high volatility.

Such extreme hazardous materials have never before traveled on our CA rail system through our sensitive habitat, across our waterways, and right through the centers of small towns and large cities along the train route. The delivery of 70,000 barrels a day of highly hazardous crude oil puts irreplaceable habitat, sources of clean water, and lives constantly at risk. At the least, the topic, including the nature of the particular crude oil being transported, deserves open public scrutiny rather than being kept as a trade secret, as if only company profits are at stake.

It should be the public who decides if the benefits of refining the crude are worth the daily risks they are being forced to accept. Instead, if the Valero proposal is accepted, the public bears the substantial risks without even the assurance of insurance coverage in the event of a disaster. Clearly, the RDEIR proposes that two industries – Valero and UPRR - be able to pursue their project with few safeguards in place for the protection of the public, including its health and its lands.

Furthermore, while there are possible helpful mitigations, no offers of mitigation are included because the *federal preemption* of the railroads frees them from any regulations or responsibility. While the refineries claim confidentiality to avoid revealing what crude they are moving, and the railroads claim federal preemption to avoid all responsibility for mitigations, we the people and our lands must accept daily, life-threatening risks and share none of the financial gain. By any standards, this is unacceptable.

Section 2.5.1. On routes from the CA border to Roseville

The document indicates the three northern routes to transport the crude from North America to the hub in Roseville. To evaluate them properly, we need to know what kinds of terrain each passes through. Such essential information is missing from the RDEIR. I offer a few details about each route below, but a thorough description of each route and the dangers each poses should be provided in the RDEIR in order to evaluate each route thoroughly.

In 2014, the Interagency Rail Safety Working Group under the Governor’s Office oversaw the creation of a detailed interactive map of “CA Crude by Rail Areas of Concern” you can explore here:

<http://sd27.senate.ca.gov/sites/sd27.senate.ca.gov/files/Oil%20By%20Rail%20Safety%20in%20California.pdf>

The cover photo shows an oil train on the trestle tracks over the Sacramento River! The map on the last page includes the rail system with high risk sections in red, the sparse placement of Hazmat teams (Types 1 & 2, 3, and non-certified Hazmat), earthquake faults, etc. (On the map, zoom in for increasing detail such as purple fault lines. Use the hand to navigate around the map. Be patient as layers come up slowly.) All rail routes are carefully coded to indicate high risk segments. All three of the routes named from the north contain significant stretches of rail marked as “high risk.” Furthermore, all three involve remote, mountainous, often winding sections of track.

The route from Oregon running south (297 miles) includes the treacherous section outside Dunsmuir where a train derailed spilling 19,000 gallons of herbicide that killed everything in the Upper Sacramento River for 38 miles in 1991. It took years to recover, and some say amphibians never did.

The “Nevada to Roseville” route (229 miles) being used presently for the twice-a-week oil trains headed to Kinder-Morgan follows the Feather River Canyon along a narrow canyon with high trestle bridges and steep canyon walls where 11 cars of corn spilled down to the river below on Nov. 14, 2014, causing much fearful speculation about what would have happened to our water supply had it been an oil train.

The third route over Donner Summit (119 miles) is well known for its treacherous route at high altitudes over the snowy mountains where storms can come up suddenly.

None of the three routes is easy or safe for 100 tank cars pulled by four locomotives and two buffer cars per train. The terrain is rough and remote in many sections. On winding, mountainous tracks, once one car derails, others are likely to follow.

The Office of Spill Prevention and Response (OSPR) has placed 14 hazmat teams strategically (including Type 1&2, 3, and uncertified teams in italics at the following locations: Redding, above Willows, *Willows*, Oroville, Marysville, Yuba City, *east of Marysville/Yuba City*, just inside CA border with Nevada on Feather River Canyon route, Roseville, 2 in Sacramento, W. Sacramento, *Davis*, and Fairfield), but obviously the chances of a spill or derailment happening at a team location along the miles of track are slim. If the recent years of oil train accidents are any indication, the derailed tank cars are likely to explode and catch fire, and in steep mountainous areas the chances of a hazmat team being able to even reach the site quickly are slim.

Tar sands dilbit must be captured immediately or it sinks with its heavy metals. The 2010 tar sands spill into the Kalamazoo River is still not restored! The 3 routes to Roseville follow rivers critical to the fresh water supplies for population centers and agriculture, and a spill would be devastating. Worse yet, in years of drought the trees and vegetation are dry and flammable themselves if a derailment starts a fire, as is often the case. We simply cannot afford the risk of dangerous trains moving at fast speeds (UPRR plans to go 50 mph) through equally dangerous terrain.

Note: Most of the previous oil train accidents happened on flat terrain, not the challenging landscape of these three routes! It is entirely possible the incidence of accidents will increase in the CA terrain.

It is also of concern that the RDEIR indicates there are 27 criteria that UPRR will use to determine which route they select for a given train. None of those criteria are listed for public review, but the state (its first responders, OSPR, its Cal Trans workers who know a lot about mountain conditions, etc.) are not involved in the decision-making. The public is left to worry that moving the trains as fast as possible might well be the main criteria rather than taking into account the climate or weather conditions or which route is least treacherous for highly flammable speeding oil trains. Or perhaps which route risks the fewest lives or crosses the least fresh water sources. It's high time the railroads learned to cooperate with knowledgeable

agencies within the states where they operate instead of claiming federal preemption, especially when safety is involved. The route in use so far for twice-a-week deliveries of tar sands to Kinder-Morgan is the Feather River Canyon route that crisscrosses the important river multiple times in the high, narrow canyon.

Recently, we have all seen that the railroad claim to “Federal Preemption” really means railroads get their own way. A point in case would be the federal law that positive train control be installed by 2015. After years of time to complete the implementation that will dramatically improve safety and save lives, the railroads are demanding an extension, as they have still **not** installed PTC. Can we believe the RDEIR when it states that UPRR has mostly installed PTC in CA, when we know from common news sources that nationwide that is not the case? We need solid proof in numbers to believe the claim.

Similarly, railroads have known for decades that the DOT111 tank cars are unsafe for most cargo, yet they have kept them in use. The public has little reason to trust that the railroads have public safety at heart.

Note: Referencing DEIR 2.12 The OSPR interactive map marks earthquake faults throughout the state. The surprise 4.1 Napa quake in 2014 alerted us to previously unsuspected quake areas. The map shows fault lines along the UPRR lines from Fairfield to Benicia, so the two daily trains would be traveling regularly over seismically active ground. There are other parts of the three routes with earthquake faults overlapping the tracks as well. Who knows when another earthquake might strike and of what magnitude. Do we want the additional risk of oil trains in the picture?

Part 2.6 DEIR Section 4.1 is entirely inadequate.

The additional 100-car daily trains will contribute significantly to air pollution which our air quality management districts are striving to reduce to meet state standards. The RDEIR is truthful in admitting the trains passing through the various counties from the CA border to Roseville and on to Benicia will impact nearly all of them with “significant and unavoidable” air quality emissions increases, specifically Nitrous Oxide. However, table 4.1-16 is incomplete. It compares only the train option from North American sources through CA to Benicia against marine sources from Alaska, South America, and the Middle East. By this comparison, the train route reduces total emissions because of the huge distance the marine tankers must travel, even though marine tankers are more efficient mile by mile.

What is missing is the new Port of Vancouver USA rail entrance in Washington State. Valero can receive crude directly from Vancouver in marine shipments, which would be far less emissions than emissions from rail delivery through California! Arguably, Valero should return to marine deliveries and drop the idea of oil trains traveling over treacherous routes in Northern or southern CA.

The analysis is discouraging in terms of mitigations. The analysis carefully establishes that mitigations could include requiring the ultra low-emitting locomotives (the new Tier 4 interstate line haul locomotives) which would truly reduce emissions or compensation which could in turn be used to fund emission reduction of diesel vehicles by purchasing natural gas vehicles, such as the \$650,000 award made to the Sacramento Metropolitan Air Quality Management District just this week which will be used to replace three diesel-powered refuse trucks with natural gas-fueled vehicles, and to replace up to six non-road diesel-powered agricultural tractors with cleaner models. If we must endure more emissions, we could at least use the mitigations! But once again, federal preemption frees UPRR from any requirement to offer mitigations of either type. Mitigations are labeled “infeasible.”

Once again, the process we are being forced to accept clearly favors industry profits over the people’s health and welfare. Preemption has the effect of cutting off any discussion and options, leaving the public exposed to risks and impacts but with no recourse to much-needed mitigations to offset the additional air pollution. Yet mitigations were established to protect the public from just such projects as the Valero crude-by-rail proposal. How can railroads continue to get away with claims of federal preemption at the expense of the public good? Why would the Benicia Planning Commission or City Council approve a plan that submits Benicia and all uprail communities and lands to dangers and increased air pollution that could be mitigated but isn’t offset?

2.7, 2.7.1, and 2.7.2 Biological Resources Impacts

While the RDEIR recognizes that the project could have a substantial adverse effect on candidate, sensitive, or special –status wildlife species or migratory birds, including injury or mortality to protected wildlife and migratory bird species resulting from collisions with trains along the North American freight rail lines as a result of increased frequency (high traffic volumes) of railcars, the railroad federal preemption once again makes any mitigation such as slowing near wetlands or near critical zones or areas “infeasible.” In every case, federal preemption allows railroads to ignore public needs or concerns and avoid responsibilities for their impact on public lands. This “free pass” granted to the railroads needs revision to favor our biological resources over industry. It is our duty to protect the biodiversity around us. It’s time for the railroads to lose their clout and for our federal government to regulate them tightly so they no longer take advantage of public concerns. Until then, the Benicia Planning Commission and City Council owe it to the public to deny the Valero Project request.

2.11 Greenhouse Gas Emissions

California is working hard to reduce its greenhouse gas emissions in many arenas, and the Valero project takes us in the opposite direction. Worse, it offers no mitigations to offset the severity of the increase in emissions that will contribute to global warming which is the greatest threat civilization has ever faced. Once again, federal preemption allows UPRR to operate without the

payment of carbon emission offset fees other polluting industries must pay. That industry should profit over protection of the public and the health of the planet is inexcusable. Federal preemption was granted to the railroads, but it needs to be reevaluated in light of the public good.

There is another critical factor in section 2.11. The RDEIR neglects to mention the new Port of Vancouver USA rail entrance in Washington State. Right now, Valero can receive the same crude directly from Vancouver in marine shipments, which would be far less emissions than the carbon footprint from rail delivery through California!

The RDEIR assumes all marine deliveries come from Alaska (2,000 miles), South America (4,000 miles), and the Middle East (8,500 miles), thus they have high carbon footprints due to the huge distance they must transport the crude oil. Vancouver Washington is only 644 miles from the Bay Area. In the RDEIR, they calculated the baseline emissions using the project locomotive distance at 1,500 miles. Since Vancouver is less than half that distance, and marine travel emits less than rail travel, it follows that marine delivery from Vancouver would be at least half the greenhouse gas emission the project proposes in the RDEIR. Why is this option not explored in the DEIR? Other North American or Canadian ports may open as well. Arguably, Valero should return to marine deliveries and drop the idea of oil trains over treacherous routes in Northern or Southern CA.

A final point on greenhouse gas emissions. Before importing crude oil at all, we must ask the question whether we need to refine as much crude oil as in the past. In California in particular and in the US overall, oil consumption has been dropping since 2005, although it rose a little in 2014, perhaps due to the decline in gasoline price. Californians consumed 14.5 billion gallons of gas in 2012, but 14.57 billion gallons of gasoline in the fiscal year ending June 30, 2014 (both figures from the San Diego Tribune include aviation fuel). With programs under AB 32, CA is deliberately converting to more efficient and electric cars, improving transit, promoting carpooling, and creating bike and walk-friendly cities to decrease the use of individual car driving. It's working! As our usage declines, so should the amount of extreme crude we refine, thus sparing the environmental damage at the point of extraction as well as the carbon emissions caused by transportation and refining! We're moving away from a fossil fuel economy and that should be reflected in downsizing the amount of crude processed at our refineries. The crude is best left in the ground so that precious resource can be used sparingly into the future even as we transition to clean, renewable energy. It is unethical to extract extreme crude and refine it for sale to foreign markets as fast as we can; the process exacerbates global warming for the sake of industry profits and undercuts the conservation efforts we are making to combat climate change.

2.12 Hazards and Hazardous Materials

The content of tables 4.7-1 and 4.7-2 is enough to make anyone vote against allowing oil trains to travel through California or any other state. The possibilities for human error, equipment failure, system or procedural failure, or external events are all too plausible, especially for the

Valero project of a daily train of 100 cars on the tracks 365 days a year. Added to that is the sobering real data for train accidents in the nation and in California, grim data that does not yet even include data regarding 100-car trains of ethanol or crude oil, as very few such trains are coming into California yet. Presently, only two oil trains a week travel the Feather Canyon route through Roseville to Kinder-Morgan, sometimes with far fewer than 100 cars, making far less impact than the proposed seven 100-car trains a week for the Valero project.

It is easy to imagine that accidents may well increase as these long trains of heavy tank cars hauling highly flammable loads may experience more accidents, particularly since the three proposed routes into California each involve high hazard sections of track, as identified on table 4.7-3. This table mirrors the OSPR interactive map (See attached/referenced above map) submitted as evidence for the DEIR comment period. Altogether, 168.7 miles of track are considered “high risk” on the chosen routes for oil trains headed to Roseville! 17% of all derailments have occurred on these stretches of track in the past, highlighting the danger of bringing such excessively heavy and long trains on those same tracks.

The existence of risk management programs and federal regulations is small comfort. Most of the promises on Table 4.7-4 offer too little, too late.

For example:

- a) The recent more stringent regulations on tank car design do not take effect until 2020, and already some accidents involving those very designs (i.e. Lynchburg, Ap. 30, 2014) indicate the new designs are still prone to rupture.
- b) The speed limits of 50 mph are not slow enough to avoid serious accidents.
- c) The efforts of Congressman John Garamendi to have the Bakken crude “conditioned” (some of the gases removed) before the crude is shipped by rail, thus considerably reducing its high flammability, have been resisted.
- d) The public is not informed of the 27 safety and security factors that supposedly will contribute to the selection of a safe route, and thus we cannot tell how that critical decision is made. We do know that local experts on the terrain and climate (Cal-trans workers, hazmat team members, OSPR consultants, etc.) are not involved in decision-making.
- e) Railroads are not responsible to notify anyone of their plans to transport hazardous materials. Instead, State and/or regional centers and officials must contact the railroad to receive notification of hazardous materials moving through their jurisdictions! If they forget or don’t suspect such materials are coming, the railroads will **not** contact them! This is a completely backwards policy! Many towns have been taken by surprise to discover oil trains moving through their communities because of this lack of notification. Ignorance of dangerous oil trains coming through communities could prove deadly.

