

COMMUNITY DEVELOPMENT AND SUSTAINABILITY DEPARTMENT

23 Russell Boulevard, Suite 2 – Davis, California 95616
530/757-5610 – FAX: 530/757-5660 – TDD: 530/757-5666



February 3, 2016

Via Certified Mail and Email

Amy Million, Principal Planner
City of Benicia
Community Development Department
250 East L Street
Benicia, California 94510

Re: Valero Benicia Crude by Rail Project Final Environmental Impact Report

Dear Ms. Million:

The City of Davis (“Davis”) submits the following comments on the Final Environmental Impact Report (FEIR) for the Valero Benicia Crude by Rail Project.

As the City of Benicia (“Benicia”) is aware, the City of Davis has a deep and immediate interest in the safety of rail shipments. The Valero Project proposes daily shipments of 70,000 barrels of crude oil to the Valero Benicia Refinery (RDEIR at 2-3.) in two daily 50-car trains. These trains will travel from Roseville to Benicia on the UPRR main railroad track which runs through the city of Davis, immediately adjacent to the Davis downtown area and to residential areas. The rail line also runs immediately adjacent to the University of California Davis campus.

Davis has previously submitted two letters to Benicia stating its concerns; the first letter, dated September 8, 2014, commented on the Draft EIR and the second letter, dated October 30, 2015, commented on the Revised Draft EIR. In addition, Davis has joined in the letters sent to Benicia by the Sacramento Area Council of Governments (SACOG).

Davis requests that Benicia reject the adequacy of the Final EIR (FEIR), decline to certify the FEIR, and send it back to staff to fully analyze mitigation measures for safety, as set forth in Davis’ and SACOG’s earlier letters and then to impose the measures suggested by SACOG and Davis, as well as any additional measures that are feasible. Finally, if, after the EIR is revised and recirculated, Benicia decides then to move forward with approval of this Project, the City should consider and adopt the feasible mitigation measures that will protect the safety and welfare of our communities. As we have seen occur in other communities, a derailment and the potential for fire, explosion, and train upset is real and should not be ignored. It is the obligation of public agencies to safeguard all their communities to the best of their abilities.

The history of our comments and the Project responses is laid out in SACOG’s letter on the Final EIR, which Davis joins in with SACOG as if set forth here in full.

Davis submits that the Final EIR is legally inadequate. Benicia, as the lead agency, is required to “review, evaluate, and prepare written response to comments on environmental issues received on an EIR.” (CEQA Guidelines, §15088.) Disposition of significant environmental issues raised should be described. When a lead agency disagrees with a comment, the response must address comment in detail. The lead agency must provide a good-faith, reasoned analysis; conclusory statements without facts are not adequate. The FEIR fails to meet this standard.

By way of example, Davis, along with SACOG provided significant analysis, including that of the California Attorney General, asserting that Benicia was not pre-empted by federal law from mitigating impacts of this Project and that Benicia has the legal authority to mitigate the adverse impacts of this Project. The FEIR fails to provide any new information or additional information on this issue. The FEIR responses to Davis’ and SACOG’s comments are not legally adequate and provide no substantial evidence to support why no measures to mitigate are feasible.

Similarly, the risk analysis in the Revised DEIR relies on national derailment rates correlated to track class, method of operation, and traffic density. However, as noted by SACOG and Davis, the analysis does not consider the location of classes of track more prone to derailment, including their proximity to highly populated areas, schools, hospitals, dangerous facilities, or sensitive lands or habitat. To this point, Davis is located on a curve in the railroad tracks. Both freight trains and passenger trains share the tracks. Oftentimes, freight trains, such as the proposed oil trains, traverse the City and the Davis Train Station when passenger trains are in the station. Accidents and derailments often occur at curves such as the one in Davis. The RDEIR forecasts potentially catastrophic events while noting that nearly one-quarter of our region’s population lives within one-half mile of the rail line that will be used for the crude oil shipments. The analysis in the FEIR needs to address the particular and known hazards on the tracks in Davis, including but not limited to the curve, safety measures and adequate emergency response preparedness. The FEIR does not address the safety issues and mitigation for these important safety impacts. The FEIR fails to provide any additional analysis and does not respond to our comments.

Benicia and Valero have the authority and ability to adopt measures that will be effective. The City of Davis again urges Benicia, for the safety of all the residents of this region, to reject the Final EIR as inadequate under CEQA and to analyze and adopt the feasible mitigation measures that are available in order to reduce the significant adverse impacts posed by this Project.

Respectfully,



Mike Webb, Assistant City Manager

City of Davis
Department of Community Development and Sustainability
23 Russell Boulevard, Suite 2
Davis, CA 95616

Phone: 530-747-5881
Fax: 530-757-5660
mwebb@cityofdavis.org

cc: Davis City Council
Harriet Steiner, Davis City Attorney
Kirk Trost, SACOG
Patrick Blacklock, Yolo County Administrator
Congressman John Garamendi