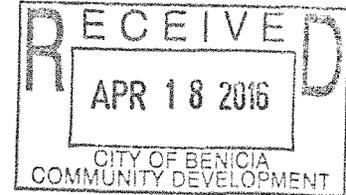


April 16, 2016

Mayor Patterson, City Council Members, and Staff
City of Benicia
250 L Street
Benicia, CA 94510



Re: Valero Crude by rail project

Dear Honorable Major Patterson, City Council Members, Staff, Valero workers, and Project Supporters,

It appears there are two fundamental choices to make. One choice is to deny the project and then attempt to mitigate any financial repercussions that such a denial would have on the city and community. The other choice is approve the project and deal with unmitigable health and safety factors that will affect not only the Benicia community, but will affect hundreds and thousands of people living near the crude by rail delivery routes throughout California and beyond.

With regard to the first choice, I believe we can work together as a community to help the city remain financially solvent and growing. For example, I would be happy to help find additional businesses to locate here, work with current businesses, and do whatever I can to help broaden the financial base of the city.

With regard to the second choice, because this hearing is on the record, and since a decision to approve this crude by rail project will forever affect hundreds of thousands of people here and all along the rail lines in California and beyond, and will adversely affect other opposition efforts concerning crude by rail in the state, please ponder the following questions:

Benicia City Council members: For those council members that decide to approve the project, **are you concerned** about the fact that your name is and will be inexorably tied forever to any disaster that befalls this project and **How will you respond** when someone is killed or injured and society, and the victim's family, look to you as being culpable for allowing the project to proceed without mitigating local health and safety issues you have jurisdiction to control?

Moreover, **how will you respond** when someone is injured or killed due to this project and the community and society ask you why you **did not uphold your fiduciary duty** by heeding our California Attorney General's legal directive that "[i]n fact, for Benicia to turn a blind eye to the most serious of the Project's environmental impacts, merely because they flow from federally-regulated rail operations, would be contrary to both state and federal law ..." and "[w]here, as here, an oil company proposes a project that is not subject to STB regulation and over which a public agency retains discretionary permitting authority, it would be a prejudicial abuse of discretion for that agency not to consider all of the project's foreseeable impacts in exercising its authority."

Benicia Staff, **are you concerned** about the fact that your name is and will be inexorably tied forever to any disaster that befalls this project if it is approved, and **how will you respond** when someone is killed or injured and the victim's family and society looks to you as being culpable simply to support a revenue stream that could be replaced and/or supplemented without endangering lives?

Benicia City Attorney and attorney contract staff, are you concerned about the fact that your name is and will be inexorably tied forever to any disaster that befalls this project if it is approved, and **how will you respond** when someone is killed or injured and society, and the victim's family, look to you as being culpable for allowing the project to proceed without deferring to the legal advice from our **California Attorney General**, who stipulates that "the City's denial of Valero's Use Permit is not categorically preempted, because it would neither (1) deny Union Pacific the ability to conduct its operations or proceed with activities the SIB has authorized; nor (2) regulate matters directly regulated by the STB. The City's action with respect to Valero's Project does not "regulate" Union Pacific or interfere with STB-authorized activities or STB-regulated operations."

Moreover, **how will you respond** when a disaster occurs and you could have helped to prevent the disaster by working more closely with the California Attorney General's office, other cities, agencies, and attorneys to mount a cohesive defense against potential litigation that will likely arise?

Supporters of the project, are you concerned about the fact that your name is and will be inexorably tied forever to any disaster that befalls this project if it is approved, and **how will you respond** when someone is killed or injured and society, and the victim's family, look to you as being culpable when your support seems to show a lack of concern for the health and safety of others, including those outside our community, all to support one business endeavor?

Valero workers, especially project engineers and management, are you concerned about the fact that your name is and will be inexorably tied to any disaster that befalls this project forever if it is approved here in Benicia and beyond, and **how will you respond** when someone is killed or injured and society, and the victim's family, look to you as being culpable when you could have designed a safer project, or looked to safer alternatives such as expanding ship operations and using and/or adding additional crude delivery by pipeline?

Valero workers, especially design engineers who designed this project, are you concerned about the fact that your name is and will be inexorably tied forever to any disaster that befalls this project if it is approved, and **how will you respond** when someone is killed or injured and society, and the victim's family, look to you as designing a dangerous transloading facility when safer alternatives are currently available.

In addition, **how will you respond** when people learn too late that you designed a transloading facility that does not comply with safe industry practices by building in too small a space thereby increasing the risk of chain reaction explosions, which could kill or injure hundreds, if not thousands, of Benicia residents and children?

Moreover, **how will you respond** when people learn too late that the design does not include adequate oil spill containment increasing the risk of environmental disasters, is not flood or earthquake safe, and includes rail switching changes that will interrupt the free flow of services and traffic to many businesses in the industrial park on a daily basis?

Reflecting on the above questions, the issues concerning the EIR, and testimony from dozens of individuals, experts, agencies, and the California Attorney General, I personally believe that the Valero crude by rail project is a flawed design, which if approved poses a safety risk and negative fiscal impact on our community and businesses.

Moreover, I believe that based on the sheer amount of design issues on the record pointed out by experts in the field such as setbacks, loss of safety access, increased potential for chain reaction explosions due to infrastructure overcrowding, flooding, impacts on community health and safety, and the preservation of wildlife points to the fact that the current design should be abandoned and safer alternatives proposed.

If the city council denies the project, I further urge the Benicia city Attorney and staff to reach out and work with **other attorneys, agencies, and the California Attorney General's Office** to provide a unified front against potential litigation.

I also ask and encourage the **California Attorney General's Office** and **all attorneys, agencies** interested in preserving their community's health and well being to reach out to help Benicia legal staff and the city legally defend against litigation if the need arises.

Please keep in mind that Valero has said on the record that they **do not need this project today**, as they already have means to deliver the crude oil by ship and pipeline. They are asking for a **third delivery alternative**, if and when needed, for the future. This means that denial of the project will not affect Valero in the present, which means that **we have time to work with Valero** to find better solutions for not only this project, but to help them remain a strong and viable part of our community.

I believe there are many ways we as a community and city can work together with Valero. For instance, I believe that we can perhaps use our business resources and community ties to help Valero negotiate a better price for the crude oil to be delivered by ship; We can work with Valero to redesign the project to lessen or eliminate the impact on local business in the industrial park; We can work with Valero to help utilize pipelines to deliver the oil more safely, etc.

Therefore, due to the serious impact on business and the health and welfare of our citizens, and since this is **not a critical project need for today**, I urge the Benicia City Council to affirm the planning commission's ruling and deny this project.

I firmly believe as a community we can work together with Valero to help them design better safer alternatives and help them find ways to remain competitive without unnecessarily endangering the citizens of Benicia and beyond.

Sincerely,

C. Bart Sullivan
1543 Sherman Drive
Benicia, CA 94510