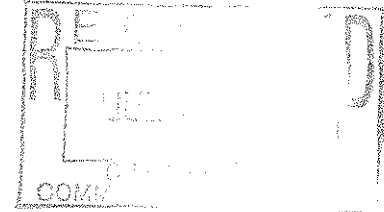


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July 10, 2014

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

Dear Ms. Million:

The Yolo-Solano Air Quality Management District (District) has received the Draft Environmental Impact Report (DEIR) for the Valero Crude by Rail Project (Project). The Project would allow the Benicia Valero Refinery to receive a portion of its crude via rail. The crude is expected to be transported to the Roseville Rail Yard, and then west through several counties to Benicia. We have reviewed the document and offer the following comments:

- The project would create new emissions of ozone precursors within the Sacramento Federal Nonattainment Area (SFNA), which includes Sacramento and Yolo counties, as well as portions of Placer, El Dorado, Solano, and Sutter counties. The SFNA is in nonattainment for the federal and State air quality standards for ozone. Consequently, while it is appropriate to evaluate the Project's impact in each air district, it is also important to evaluate the entire impact of the project on the SFNA. When the emissions generated by the Project in each air district are combined, a total of approximately 56 tons per year of nitrogen oxides will be generated in the SFNA.
- As pointed out in the DEIR, because the City of Benicia has no authority to impose emission controls on tanker car locomotives it is likely not feasible to mitigate the Project's emissions directly. However, the City should also look at the possibility of offsetting the Project's emissions by obtaining emissions reductions from elsewhere in the SFNA. Several regional programs are implemented in the SFNA to incentivize cleaner technologies that can accrue reductions of ozone precursor emissions. These programs could provide opportunities for the City to mitigate the overall impact of the Project in the SFNA.

The District appreciates the opportunity to comment on the DEIR for this project. If you have any questions about the comments included in this letter, please feel free to contact me at 530-757-3668 or email me at mjones@ysaqmd.org.

Sincerely,

A handwritten signature in black ink that reads "Matthew R Jones". The signature is written in a cursive, flowing style.

Matthew Jones
Supervising Planner, YSAQMD



COUNTY OF YOLO

Board of Supervisors

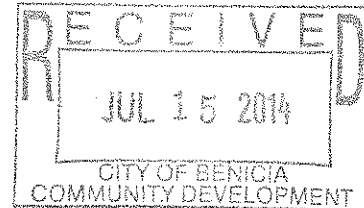
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County Administrator, Patrick S. Blacklock
Deputy Clerk of the Board, Julie Dachtler

July 15, 2014

VIA CERTIFIED MAIL AND E-MAIL



Amy Million, Principal Planner
Community Development Department
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RE: Valero Benicia Crude by Rail Project Draft Environmental Impact Report

Dear Ms. Million:

Yolo County has reviewed the City of Benicia's Draft Environmental Impact Report ("DEIR") related to the project at the Valero Oil Refinery that would result in the daily delivery of 70,000 barrels of oil by rail to the Refinery (the "Valero Project"). The Valero Project would move approximately 80% of Valero's crude deliveries from ocean tankers to railways that traverse through our local communities and sensitive environmental resources. Notwithstanding the change in where the oil is traveling, the DEIR pays little attention to the potential upstream effects of increased oil by rail shipments through Placer, Sacramento, Yolo, Solano, and Contra Costa counties.

As discussed below, the DEIR provides only a brief review of the environmental, safety, and noise effects on upstream communities. This DEIR justifies this cursory analysis because the effects are "indirect" and not in the Project's immediate vicinity.¹ Under the California Environmental Quality Act ("CEQA"), EIRs are required to discuss the area that will be directly and indirectly affected by the project.² This area must not be defined so narrowly that a significant portion of the affected environment is ignored in the analysis.³ For this reason, the relevant geographical area for CEQA purposes may be larger than the project area.

¹ See, e.g., DEIR, p. 4.0-3 ("Project impacts that are indirect and/or difficult to predict are discussed in less detail than direct impacts that can be predicted with reasonable certainty."); p. 4.10-5 ("The analysis of indirect noise impacts from trains herein considers impacts in the City of Benicia in detail. Indirect impacts outside the City are considered in general terms.").

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Here, the geographic effects from the Valero Project are not difficult to predict. If the Valero Project is approved, two 50-car trains loaded with 70,000 barrels of crude would travel along a pre-determined, immutable route from Roseville to Benicia every day. Every day, two empty 50-car trains will travel the same route back. Indeed, there is no more uncertainty about the effects on upstream communities as on the areas in Benicia surrounding the Valero Refinery. All areas along the route will have the same trains traveling through them. But the significance of these effects will be different depending on the individual circumstances of each community. Given the effects of approving the Valero Project, the DEIR should consider their significance and possible mitigation on all affected communities in its analysis, as required under CEQA.⁴

For these and other reasons mentioned below, the DEIR should be substantially revised and recirculated for further public review.

A. The DEIR Dismisses Safety Concerns Related to the Transportation of Oil By Rail

The DEIR's conclusion that transportation of oil by rail poses a less than significant hazard to upstream communities is unsupported by the evidence presented in the report. Specifically, the analysis in Appendix F, upon which this finding is based, is inaccurate and irrelevant, both in terms of conclusions and methodology.

First, the conclusion derived from the methodology undermines the frequency of oil spills that can result from a train derailment. The statistical analysis states:

The results show that the expected occurrence of a crude oil train release incident exceeding 100 gallons is approximately 0.009 per year, or an average of about once per 111 years. The portion of the route traversing the Suisun wetland area has an even lower annual risk of a release incident equaling 0.00381, which corresponds to an average interval between incidents of 262 years.

While a once in a 100 year event might seem infrequent, the report's calculations also show that there is a 10% chance that there will be of a crude oil train release incident on the Roseville-Benicia route in the next decade. The County finds that such probabilities pose a significant hazard, especially considering the majority of the route is through populated areas and environmentally sensitive natural resources such as the Suisun wetlands.

Furthermore, the DEIR concluded that the risk of a spill is insignificant based solely on the frequency of a possible event, without considering its possible magnitude. To provide meaningful information, a risk analysis must consider both factors. Here, the DEIR's risk analysis concluded that a spill would statistically occur every 111 years, but whether a hundred year event is significant or insignificant depends on the magnitude of that event. A catastrophic explosion and spill in a populated area is different from a 100 gallon spill in a shipyard that is quickly cleaned up. For this reason, agencies around the country take significant steps to protect against infrequent events, even if they are not expected to occur but once a century.⁵ Additionally, any such magnitude analysis must contemplate the chemical characteristics of the oil being transported. The flammability and volatility of Bakken crude oil and the high viscosity

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and toxicity of Canadian bitumen -- materials likely to be transported to the Valero Refinery -- both pose significant environmental hazards in the event of a derailment or other rail accident. Without considering the second half of the risk analysis, the DEIR cannot conclude that the risk of a spill is insignificant.

Additionally, the County contests the assumptions employed in the methodology and its failure to contemplate other factors which could increase the likelihood of a catastrophic accident:

- 1) The methodology assumes the exclusive use of the modern CPC-1232 tank cars. Current rail regulations mandate that the tank cars used to transport oil only adhere to the DOT-111 standards issued several decades ago. Those standards have proven to be insufficient, and are currently being revised. At numerous points, the DEIR describes Valero's "commitment" to use tank cars designed to the industry's CPC-1232 standards, rather than legacy DOT-111 tank cars.⁶ The DEIR does not describe how such a "commitment" would be binding on Valero and, consequently, it should not be considered in assessing the significance of related impacts. The DEIR does not consider the possibility that Valero might not have access to sufficient cars within the timeframe of the proposed project, a probable scenario in light of potential production capacity limitations and strong demand for modernized tank cars.⁷ Indeed, the DEIR acknowledges that as of April 2013, two thirds of all tank cars transporting crude oil in the United States are still the legacy DOT-111 tank cars.⁸ Without an explicit, binding guarantee from Valero that it will not ship oil in DOT-111 tank cars along the Roseville-Benicia route, any statistical analysis that ignores the risks associated with DOT-111 tank cars is insufficient and cannot be considered in evaluating potential environmental effects.
- 2) The DEIR ignores possible changes in safety regulations concerning oil tank cars. The DEIR also does not consider whether the industry CPC-1232 standards are sufficient to mitigate the risk of an oil spill. The Association of American Railroads ("AAR") recently indicated that federal regulations may impose new standards for crude oil tank cars that supersede the current specifications of the CPC-1232.⁹ The potential for regulatory uncertainty invalidates the DEIR's assumption of Valero's use of CPC-1232 cars in two ways. First, the federal government's implementation of more stringent guidelines suggests that the AAR-endorsed CPC-1232 standards may have not be adequate to safely transport crude oil. And second, regulatory uncertainty could delay Valero in acquiring a modern tank fleet and instead result in Valero using the only Federal Railroad

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Administration approved tank car, the antiquated DOT-111.¹⁰ Without certainty that Valero will only use a certain tank car, the DEIR must analyze the safety risks for the kinds of cars that Valero will likely use. Absent this analysis, the DEIR is legally inadequate.

- 3) The methodology fails to consider accidents that occur in yard or on track sidings. By only considering derailments along FRA Class I track and not derailments in train yards or off of mainline track on sidings, the methodology understates the risk profile of crude by rail transportation. An accident in a rail yard could also pose additional risks, especially in event of a large oil release, given the proximity of other toxic and volatile material and cargo present in the yard.
- 4) The methodology assumes a “just-in-time” supply chain (receiving oil shipments only as they are needed in the production process) with supply equal to refinery capacity/demand. As such, the methodology fails to consider risks associated with increased sidings due to refinery shut down due to accident or maintenance. In such an event, would oil shipments be held at the fields? Would they be held at the Roseville yard or other rail yard between Benicia and point of origin? Would they be sided along the Roseville-Benicia route? Increased storage of hazardous materials at sidings along the Roseville-Benicia route could pose an additional risk, especially the siding locations in urban areas and near the Sacramento River and Yolo Bypass.
- 5) The methodology may underestimate the risk posed by the various track class segments. Although a small portion of the overall route, FRA Track Class 1 segment mentioned in the DEIR needs to be specifically identified given the Track Class 1 train derailment rate per million train-miles is 15.5 times higher than that of the FRA Track Class 5.¹¹ Is this segment a curve, switch, or at grade crossing? Is it in or near an urban area? Furthermore, the geography of the Roseville-Benicia route is largely urban with trains passing through numerous at grade crossings in densely populated urban areas. Such geography may in fact pose a higher derailment given the increase risk factors (at grade crossings, curves, etc.) associated with urban areas, as opposed to the national average, which is a mixture of both rural and urban. Rather than ignoring the actual conditions along the route in question, the report should fully consider conditions along anticipated rail routes in characterizing the risks associated with the Valero Project.

B. The DEIR Ignores Impacts on Traffic and Emergency Response in Communities Outside of Benicia

The DEIR devotes several pages to traffic and emergency response impacts in Benicia directly around the Valero facilities. This analysis included detailed crossing data, review of existing traffic flows, and consideration of mitigation measures. In comparison, for communities outside of Benicia, the analysis consists of using Google Earth to count the number of rail crossings along the route.¹²

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The Valero Project will result in four additional fifty-car trains traveling through the upstream communities along the route every day -- two loaded trains to Benicia, and two empty trains back. The DEIR recognizes that the trains will travel across 33 at-grade crossings, but presumes that the traffic volumes at all but the six crossings in urban areas “most likely are low.”¹³ For the crossings in urban areas, the DEIR simply states, “the duration of the crossings would be short because Project trains would be travelling at a speeds [sic] faster than the 5 mph at Park Road” *Id.*

The DEIR’s assumptions about the Valero Project’s effects on traffic in communities outside of Benicia are unsupported by any evidence. Rather than simply concluding, without any support, that traffic at rural crossings “would be low” and that delays in urban crossings “would be short,” the DEIR should consider the actual traffic conditions at the crossings affected by the project. The DEIR should consider data and other evidence before dismissing the impacts the project will have on Benicia’s sister communities, just as it did for crossings near the project site in Benicia.

Similarly, the DEIR also does not consider the cumulative impacts the additional trains will have on upstream communities. In contrast, the DEIR devotes several paragraphs to the cumulative impacts in Benicia.¹⁴ Many of these impacts are minimized by the timing of the trains, which are to be scheduled to travel through Benicia at times when there is less traffic. The DEIR does not specify whether the same conditions will be true in the other communities along the trains’ route and whether the trains’ cumulative impact will be significant. All of this information should be included in the DEIR; there is no legal or practical basis for treating upstream communities differently than those near the refinery.

Finally, the DEIR describes mitigation measures to be implemented to minimize the Valero Project’s effect on public safety response times, but limits the measures to crossings in Benicia.¹⁵ According to the DEIR, “[t]he probability of an emergency incident occurring at the same time as a Project train crossing [near the Valero Refinery] is low” because there are only two incidents a month in the industrial areas near the Valero Refinery. The DEIR provides certain mitigation measures in order to reduce the effects to less than significant, without considering whether similar measures are necessary to mitigate effects elsewhere. Indeed, certain areas along the route will have more emergency incidents than the industrial areas near the Valero Refinery, making additional mitigation measures necessary there as well. These issues require further discussion and analysis in the DEIR.

C. Noise Effects Outside of Benicia Area Should be Analyzed

The DEIR analyzes the indirect noise impacts from trains in the City of Benicia, but impacts outside Benicia are only considered in general terms.¹⁶ The geographic distinction is not explained nor does it make sense. Noise impacts in Benicia are insignificant in large part because the rail lines in Benicia travel through industrial areas, with the closest residence thousands of feet away.¹⁷ In comparison, many upstream residential communities and other noise-sensitive areas are immediately adjacent to the rail line and crossings.

¹³ See DEIR, p. 4.11-11.

¹⁴ See DEIR, pp. 4.11-10 and 5-20.

¹⁵ See DEIR, p. 4.11-20.

¹⁶ See DEIR, p. 4.10-5 (“The analysis of indirect noise impacts from trains herein considers impacts in the City of Benicia in detail. Indirect impacts outside the City are considered in general terms.”).

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CEQA declares, "it is the policy of the state to . . . take all action necessary to provide the people of this state with . . . freedom from excessive noise."¹⁸ Further, the DEIR must "consider qualitative factors as well as economic and technical factors."¹⁹ The DEIR cannot eschew these requirements simply because the effects will occur beyond the political boundaries of the lead agency.²⁰

* * *

In conclusion, Yolo County finds that the current analysis of the impact of the transportation of oil by rail on upstream communities is insufficient. The County requests that the DEIR be revised and recirculated for additional public review for all of the reasons stated herein.

Sincerely,



Don Saylor
Chair, Yolo County Board of Supervisors

¹⁸ See Cal. Public Resources Code § 21001(b).

¹⁹ See Cal. Public Resources Code § 21001(g).

²⁰ See *Berkeley Keep Jets Over the Bay Committee v. Bd. Of Port Comm'ns of the City of Oakland*, 91 Cal. App. 4th 1344 (2001) ("Despite this outcry, the Port, in its draft EIR, does not even mention, much less analyze, Berkeley noise impacts because that city falls significantly outside the 65 CNEL corridor.").



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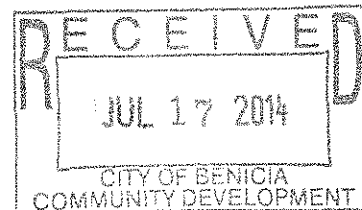
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County Administrator, Patrick S. Blacklock
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July 15, 2014

VIA CERTIFIED MAIL AND E-MAIL



Amy Million, Principal Planner
Community Development Department
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The Valero Project will result in four additional fifty-car trains traveling through the upstream communities along the route every day -- two loaded trains to Benicia, and two empty trains back. The DEIR recognizes that the trains will travel across 33 at-grade crossings, but presumes that the traffic volumes at all but the six crossings in urban areas "most likely are low."¹³ For the crossings in urban areas, the DEIR simply states, "the duration of the crossings would be short because Project trains would be travelling at a speeds [sic] faster than the 5 mph at Park Road" *Id.*

The DEIR's assumptions about the Valero Project's effects on traffic in communities outside of Benicia are unsupported by any evidence. Rather than simply concluding, without any support, that traffic at rural crossings "would be low" and that delays in urban crossings "would be short," the DEIR should consider the actual traffic conditions at the crossings affected by the project. The DEIR should consider data and other evidence before dismissing the impacts the project will have on Benicia's sister communities, just as it did for crossings near the project site in Benicia.

Similarly, the DEIR also does not consider the cumulative impacts the additional trains will have on upstream communities. In contrast, the DEIR devotes several paragraphs to the cumulative impacts in Benicia.¹⁴ Many of these impacts are minimized by the timing of the trains, which are to be scheduled to travel through Benicia at times when there is less traffic. The DEIR does not specify whether the same conditions will be true in the other communities along the trains' route and whether the trains' cumulative impact will be significant. All of this information should be included in the DEIR; there is no legal or practical basis for treating upstream communities differently than those near the refinery.

Finally, the DEIR describes mitigation measures to be implemented to minimize the Valero Project's effect on public safety response times, but limits the measures to crossings in Benicia.¹⁵ According to the DEIR, "[t]he probability of an emergency incident occurring at the same time as a Project train crossing [near the Valero Refinery] is low" because there are only two incidents a month in the industrial areas near the Valero Refinery. The DEIR provides certain mitigation measures in order to reduce the effects to less than significant, without considering whether similar measures are necessary to mitigate effects elsewhere. Indeed, certain areas along the route will have more emergency incidents than the industrial areas near the Valero Refinery, making additional mitigation measures necessary there as well. These issues require further discussion and analysis in the DEIR.

C. Noise Effects Outside of Benicia Area Should be Analyzed

The DEIR analyzes the indirect noise impacts from trains in the City of Benicia, but impacts outside Benicia are only considered in general terms.¹⁶ The geographic distinction is not explained nor does it make sense. Noise impacts in Benicia are insignificant in large part because the rail lines in Benicia travel through industrial areas, with the closest residence thousands of feet away.¹⁷ In comparison, many upstream residential communities and other noise-sensitive areas are immediately adjacent to the rail line and crossings.

¹³ See DEIR, p. 4.11-11.

¹⁴ See DEIR, pp. 4.11-10 and 5-20.

¹⁵ See DEIR, p. 4.11-20.

¹⁶ See DEIR, p. 4.10-5 ("The analysis of indirect noise impacts from trains herein considers impacts in the City of Benicia in detail. Indirect impacts outside the City are considered in general terms.").

¹⁷ See DEIR, p. 4.10-11.

CEQA declares, "it is the policy of the state to . . . take all action necessary to provide the people of this state with . . . freedom from excessive noise."¹⁸ Further, the DEIR must "consider qualitative factors as well as economic and technical factors."¹⁹ The DEIR cannot eschew these requirements simply because the effects will occur beyond the political boundaries of the lead agency.²⁰

* * *

In conclusion, Yolo County finds that the current analysis of the impact of the transportation of oil by rail on upstream communities is insufficient. The County requests that the DEIR be revised and recirculated for additional public review for all of the reasons stated herein.

Sincerely,



Don Saylor
Chair, Yolo County Board of Supervisors

¹⁸ See Cal. Public Resources Code § 21001(b).

¹⁹ See Cal. Public Resources Code § 21001(g).

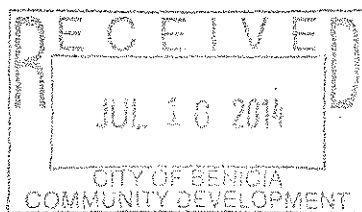
²⁰ See *Berkeley Keep Jets Over the Bay Committee v. Bd. Of Port Comm'ns of the City of Oakland*, 91 Cal. App. 4th 1344 (2001) ("Despite this outcry, the Port, in its draft EIR, does not even mention, much less analyze, Berkeley noise impacts because that city falls significantly outside the 65 CNEL corridor.").

STATE OF CALIFORNIA - CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION

DISTRICT 4
P.O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-6053
FAX (510) 286-5559
TTY 711
www.dot.ca.gov



*Serious Drought.
Help save water!*

July 16, 2014

SOL680059
SOL-680-R2.58
SCH# 2013052074

Ms. Amy Million
City of Benicia
250 East L Street
Benicia CA 94510

Dear Ms. Million:

Valero Crude by Rail / Draft Environmental Impact Report (DEIR)

Thank you for continuing to include the California Department of Transportation (Caltrans) in the environmental review process for the project referenced above. Please also reference our letter to you dated on 6/27/13 regarding the May 2013 Mitigated Negative Declaration.

Traffic Operations

We are concerned about crude oil deliveries by rail during peak commute hours. Please consider in your mitigation measures ways to reduce the impacts your project may have on Interstate (I-) 680. We are particularly concerned about how your project will impact I-680 / Bayshore Road interchange. For instance, the Level of Service (LOS) on I-680 Northbound off ramp degrades from LOS D to LOS F. Please find ways to mitigate impacts your project may have on this interchange. One possible mitigation measure is an at-grade rail separation at Bayshore Road.

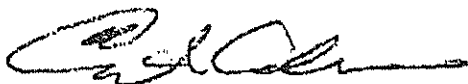
Hazmat

Please verify that there is a mechanism in place for either the railroad, or the refinery, to advise Caltrans directly of a spill or potential spill at the refinery, on the rail system, or near the State Highway System.

Ms. Amy Million, City of Benicia
July 16, 2014
Page 2

Should you have any questions regarding this letter, please contact Keith Wayne of my staff by telephone at (510) 286-5737, or by email at keith_wayne@dot.ca.gov.

Sincerely,



ERIK ALM, AICP
District Branch Chief
Local Development – Intergovernmental Review

c: Scott Morgan, State Clearinghouse

DEPARTMENT OF TRANSPORTATION

DISTRICT 4

P.O. BOX 23660

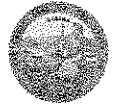
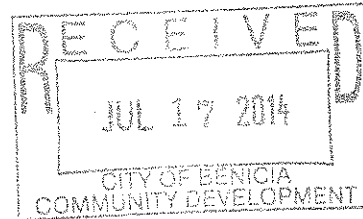
OAKLAND, CA 94623-0660

PHONE (510) 286-6053

FAX (510) 286-5559

TTY 711

www.dot.ca.gov



Serious Drought.
Help save water!

July 16, 2014

SOL680059
SOL-680-R2.58
SCH# 2013052074

Ms. Amy Million
City of Benicia
250 East L Street
Benicia CA 94510

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Hazmat

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Ms. Amy Million, City of Benicia

July 16, 2014

Page 2

Should you have any questions regarding this letter, please contact Keith Wayne of my staff by telephone at (510) 286-5737, or by email at keith_wayne@dot.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Erik Alm", with a stylized flourish at the end.

ERIK ALM, AICP

District Branch Chief

Local Development – Intergovernmental Review

c: Scott Morgan, State Clearinghouse



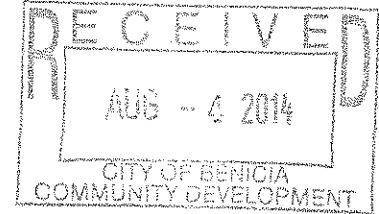
Edmund G. Brown Jr.
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Ken Alex
Director

August 1, 2014



Amy Million
City of Benicia
250 E. L Street
Benicia, CA 94510

Subject: Valero Crude by Rail
SCH#: 2013052074

Dear Amy Million:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on July 31, 2014, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures

cc: Resources Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL (916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Document Details Report
State Clearinghouse Data se

SCH# 2013052074
Project Title Valero Crude by Rail
Lead Agency Benicia, City of

Type EIR Draft EIR

Description The proposed project would allow the Valero Benicia Refinery (Refinery) access to additional North American-sourced crude oil for delivery to the Refinery by railroad. The project would involve the installation and modification of Refinery non-process equipment that would allow the Refinery to receive a portion of its crude oil deliveries by railcar replacing equal quantities of crude currently being delivered to the Refinery by marine vessel. Valero intends to replace up to 70,000 barrels per day of the crude oil currently supplied to the Refinery by marine vessel with an equivalent amount of crude oil transported by railcars.

Lead Agency Contact

Name Amy Million
Agency City of Benicia
Phone (707) 746-4280 **Fax**
email
Address 250 E. L Street
City Benicia **State** CA **Zip** 94510

Project Location

County Solano
City Benicia
Region
Lat / Long
Cross Streets 3400 East Second Street / Rose Drive
Parcel No. 0080110480
Township **Range** **Section** **Base**

Proximity to:

Highways I-680, 780
Airports No
Railways UPRR
Waterways Carquinez Strait
Schools Robert Semple ES
Land Use GP: General Industrial and Waterfront Industrial/Z: IG (General Industrial) and IW (Water Related Industrial)

Project Issues Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife; Landuse; Cumulative Effects

Reviewing Agencies Resources Agency; Department of Fish and Wildlife, Region 3; Department of Parks and Recreation; San Francisco Bay Conservation and Development Commission; Department of Water Resources; California Highway Patrol; Caltrans, District 4; Air Resources Board; Air Resources Board, Major Industrial Projects; Regional Water Quality Control Board, Region 2; Department of Toxic Substances Control; California Energy Commission; Native American Heritage Commission; Public Utilities Commission; State Lands Commission

Date Received 06/17/2014 **Start of Review** 06/17/2014 **End of Review** 07/31/2014

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN, Jr., Governor

DEPARTMENT OF TRANSPORTATION

DISTRICT 4

P.O. BOX 23660

OAKLAND, CA 94623-0660

PHONE (510) 286-6053

FAX (510) 286-5559

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CLEAR

7131114

5

Serious Drought.
Help save water!

July 16, 2014

RECEIVED

JUL 16 2014

STATE CLEARING HOUSE

SOL680059
SOL-680-R2.58
SCH# 2013052074Ms. Amy Million
City of Benicia
250 East L Street
Benicia CA 94510

Dear Ms. Million:

Valero Crude by Rail / Draft Environmental Impact Report (DEIR)

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Ms. Amy Million, City of Benicia

July 16, 2014

Page 2

Should you have any questions regarding this letter, please contact Keith Wayne of my staff by telephone at (510) 286-5737, or by email at keith_wayne@dot.ca.gov.

Sincerely,

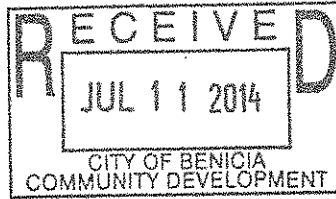


ERIK ALM, AICP

District Branch Chief

Local Development – Intergovernmental Review

c: Scott Morgan, State Clearinghouse



Madeline Koster
25 Corte Dorado
Benicia, CA 94510
(707) 746-7724

Amy Million, Principal Planner
Community Development Department
250 East L Street
Benicia, CA 94510

Re: Valero Crude by Rail Project, DEIR

Dear Ms. Million:

My major concern is along the lines of "Health is Wealth". The DEIR states that the "Operation of the Project would contribute to an existing or projected air quality violation." Also, "The Project could result in a cumulatively considerable net increase in criteria pollutant and ozone precursor emissions." No mitigation measures are available, therefore these issues are "Significant and Unavoidable." I would like to know exactly which gases or pollutants are involved. [I live within ½ mile of Valero.] Is benzene (a highly carcinogenic substance) one of them? What exactly is in the "fugitive emissions" that would occur with a daily unloading from 100 (80 feet each) rail cars? If this would contribute to an air quality violation, could the Benicia Planning Department possibly give a permit to such a thing?

As a citizen of the Benicia Highlands, the neighborhood bordering Valero, my other major concerns are concerning the nighttime noise: the sound of rail cars running and clanking to park and leave. In addition, horns would be blowing to prevent collisions with other vehicles.

"Silence is Golden."

Of course, I am also concerned about water usage. Also, how would my property value be affected? Would my Homeowner's Insurance rates go up?

Most of all however, "Health is Wealth" and "Better Safe than Sorry". Give the scientists and engineers time to research and reconstruct, and someday – when the Federal Transportation Safety Board regulates the "Crude by Rail" cars, the now "significant and unavoidable" negative impacts may be safely mitigated.

Respectfully submitted,

Madeline Koster

Madeline Koster

July 10, 2014

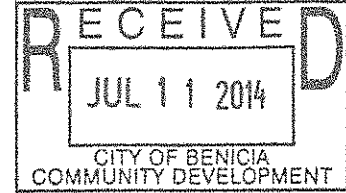
CONCERNS

1. Will there be ground vibration?
2. Toxic Emissions that will change environment
 - a) Death of trees
 - b) Death of animals
 - c) Death of people
3. Stress on rail systems that may result in accidents
4. Where does the waste go? How is it handled?

Submitted by: **Benicia Citizens on Corte Dorado**

Amy Million - meeting tonight EIR Valero

From: "Pamela Peck" <pampeck123@comcast.net>
To: <Amy.Million@ci.benicia.ca.us>
Date: 7/10/2014 4:11 PM
Subject: meeting tonight EIR Valero
Attachments: image001.jpg



Dear Ms Million,

I am forwarding this email on to you because it outlines some of my concerns about the crude by rail issues that we all are currently facing.

I teach a class tonight and cannot be at the hearing.

I am a resident of Rodeo, but your Planning Commission decision tonight will have far-reaching consequences for the entire Bay Area and beyond.

Please do not approve this project.

Thank You,
Pam

Pamela Peck
37 First Street
Rodeo, CA 94572
pampeck123@comcast.net
h: 510 799-3165
c: 510 691-6453

From: Pamela Peck [mailto:pampeck123@comcast.net]
Sent: Wednesday, July 9, 2014 3:30 PM
To: 'Judy Spencer'; '\$ALL'
Subject: RE: SP DIRECT - July 9, 2014

Dear Dr Laguerre,

I am writing in response to your statement below, which I have highlighted, regarding the Valero Refinery project EIR. It is alarming that you, as the spokesperson for SCC, are publicly stating support for this project when the growing consensus of many citizens in the Bay Area is in strong opposition to this and other harmful projects currently being proposed by Bay Area refineries.

If current project proposals by Valero, Phillips 66 in Rodeo/Santa Maria and Chevron are approved, they will all start importing and refining Bakken crude and/or very dirty tar sands from Canada. It will only create environmental harm not good. All of the refineries are proposing to increase the transportation of this crude to their refineries, although Phillips 66 in Rodeo continues to deny it as part of their current plan. As you may be aware, there has been a dramatic increase in train traffic and derailments of trains carrying highly flammable Bakken crude, which has devastated communities across the US and Canada.

If these projects go forward, the same trains will be crossing many of our most precious waterways. I recently attended a meeting in Dunsmuir, CA, which is located on the banks of the Upper Sacramento River. This meeting was about railroad safety, spill prevention and response. Union Pacific tracks run right next to the Upper Sacramento River on the stretch between Lake Shasta and Mt. Shasta City. The Union Pacific spokesperson stated that if the current Bay Area refinery projects are approved, their railroad company will increase its crude train car traffic by 25%. It was obvious by the end of the meeting that adequate spill prevention is not in place. The report on the outcome of the emergency response drill held along the river was frightening. There have been three derailments along the river in the past few month, one dumped a carload of paper into the river.

Any derailment of crude along the Sacramento River, especially its sensitive headwaters, would cause complete devastation to the environment and all who rely on it for clean water. I have been fishing this river since 1972. I witnessed the devastation to the river in 1991 when one tank car of soluble metam sodium spilled into the river at Canterra Loop, a few miles upstream from the town of Dunsmuir. Forty miles of every living thing in the river was killed as the toxic mess lingered in eddies and drifted downstream to Lake Shasta. People living along the river suffered contamination, pets died from the noxious fumes. The entire riparian habitat was effected and the river was closed to fishing for two years. Full recovery for some species is yet to be determined. Imagine ruptured tank cars spilling heavy crude or a series of exploding cars containing Bakken crude torching and contaminating the canyon.

These trains will also be rolling through the centers of all of our cities and towns. After assessing the risk, Berkeley and Richmond City Councils have officially stated their opposition to transporting this crude through their cities.

After reading the EIR for the Phillips 66 project, attend and speaking at public meetings, and following the projects of the other refineries, I believe that, taken collectively, these projects, Valero's included, will increase their profit margins at the expense of the health of our communities and the environment. The refinery reps will always try and make their projects look good at the public meetings, so it takes a great effort from all of us to stay informed and speak out against harmful projects. Current scientific studies have determined that if this crude is extracted, refined, and burned it will only help push our dangerously high CO2 levels over the top.

It is your right to personally support this project, however, as the representative of our school, I do not believe that you can assume that the majority of the campus community would agree with you.

Many college campuses have divested their oil company stocks because of climate change. I hope that you will not continue to use SCC to publically promote Valero's project.

Most Sincerely,

Pam

Pamela Peck, MFA
Adjunct Faculty, Art
Solano Community College
pamela.peck@solano.edu
pampeck123@comcast.net

From: Judy Spencer [<mailto:Judy.Spencer@solano.edu>]

Sent: Wednesday, July 9, 2014 9:06 AM
 To: \$ALL
 Subject: SP DIRECT - July 9, 2014



OFFICE OF THE SUPERINTENDENT-PRESIDENT
SP DIRECT
July 9, 2014

Dear Colleagues:

Those Hazy Lazy Crazy Days of Summer

While the summer has been a bit quieter than usual, much continues to happen at the College.

Summer sessions are in full gear and as V.P. Ligioso reported recently, the numbers for summer school have increased over last year. That is a good sign of the recovery of our enrollment and will enhance our desired budget numbers in the years ahead. We have certainly undertaken a serious and effective effort in outreach to high schools and the community. Our staff and faculty have participated in various events and community activities. This kind of initiative is beginning to work, and will, in the long run, ensure even healthier enrollments.

We continue to explore strategic opportunities not only to grow enrollments, but to provide tailor-made opportunities for individuals in different county areas. For example, we are considering opportunities with Dixon that include the CAP program we presented to the Board, and also potential ESL programs there and elsewhere. We are looking at a couple of innovations with Benicia High School and the city of Benicia (I'll say more about this later). The Superintendent of Winters and I are scheduling a meeting to discuss better outreach and other ongoing activities. Leigh Sata has been working with Suisun City to firm up our presence there. Finally, the Vallejo City Unified School District and SCC have engaged in some substantive conversations as Dr. Ramona Bishop, Superintendent of the Vallejo City Unified School District, and I are examining long-term work in support of the Vallejo high school academies (see below). These efforts need to be followed up by ongoing communications to prospective students to actually enroll in classes. We are working to refine the enrollment process and to address the technology that we need to enhance our future efforts.

Working with the Vallejo City Unified School District

Dr. Ramona Bishop, Superintendent of the Vallejo City Unified School District (VCUSD), and I had a conference call recently to determine some preliminary steps for a major Solano Community College liaison with the VCUSD. We are looking at an arrangement similar to Dixon that will be tied to the academies of the high schools and are exploring the possibility of a tour of Dixon High School and a similar arrangement in Los Rios. We are inviting our respective Trustees to go on the tour also.

Additionally, Dr. Bishop and several members of her staff met with a group from the College to discuss strengthening the relationship between Solano Community College and VCUSD. We discussed the agreement between SCC and VCUSD that led to a \$6M grant. We intend to finalize the agreement, seek approval for it through the approval process, and publicize it so the community can be aware of the partnerships we are forging and the mutual work we plan to do. Our intention is to use the Vallejo Education and Business Alliance (VEBA) as a vehicle to cement this relationship and to publicize it as well. Finally, we discussed the potential for

the College and VCUSD to have joint facilities at Vallejo High School to make it easier for students to transition from the high school to the College and the potential of bringing the College closer to citizens in the vicinity of Vallejo High School with improved access to public transportation.

High School Liaison

With the many outreach activities happening over the next few years, I feel that there is a need to designate someone as the primary contact for our high schools, to whom they can call when they need something. This person will interact at a different level than our recruiters. He will be more concerned primarily with programming efforts, such as the activities we have in place with Dixon and the Middle College High School. Dr. Jose Ballesteros, who is the Director of MESA, will serve in this role for us at this time. As activities increase and our enrollment and budget picture improves, we will explore the possibility of a full-time person in that role.

Commencement Debrief

The Superintendent-President's Cabinet (SPC) engaged in a debriefing on Commencement. We talked about the effective aspects (and there were many), including Trustees handing out diplomas, faculty helping with the diplomas, the staff who volunteered for the event, and the live broadcast. We were concerned; however, with the chair count, the delay of the color guard, the restroom situation, and what we need to do to improve next year's Commencement. In all, the ceremony lasted longer than we wanted and we noted that several students left early. As the heat required extra hydration, we concluded that many simply had to use the restroom. Next year, we will encourage everyone to visit the restrooms before the ceremony, if at all possible. Overall, we were pleased with the ceremony and thank all who participated. We hope to promote greater participation from our faculty and will work to make it easier for them to participate.

Horticulture Club Social

The Horticulture program held its Spring Social recently. In attendance were Trustees Young, Martin, Chapman, Brown, and Thurston. The event was well attended and showcased the results of the fine work that Professors Ken Williams and Sandy Diehl (Outstanding Adjunct Faculty of 2014) are doing. It is worth stopping over to the Horticulture Building to see what is going on and also to get a glimpse of what we can do to relax--gardening is certainly a wise choice.

New Hires

Though we continue to have several interim positions, we are about to close on several hiring activities. I am optimistic about the number of talented individuals who are joining our College. I look forward to sharing with you the results of those hires at the Flex Cal speech on August 12.

Benicia High School Automotive

Janice Adams, Superintendent of Benicia Unified School District, and I have discussed the potential for SCC to offer College automotive courses at the high school beginning August 20. This project would provide a good opportunity for us to start serving Benicia High School students.

Juneteenth Activities

Shemila Johnson, Trustees Keith, Young, Thurston, as well as Jesse Branch, took part in the Juneteenth activities this past Saturday in Vallejo. Several potential students and parents visited the Solano Community College booth as Juneteenth celebrations usually emphasize education and achievement. The atmosphere was very festive, and it seemed that families and individuals had a great time.

Image Campaign Interviews

A group of faculty, administrators, and classified staff interviewed six companies to come up with three that could be further considered for SCC's campaign to enhance our public image. I am finalizing the process to choose the company that will work with us and a decision will be made toward the middle of July. I want to thank Curt Johnston, Terri Pearson-Bloom, Kathryn Kearns, Rachel Smith; Scott Ota, Rebecca LaCount, Jerry Kea,

Robin Darcangelo, and Shemila Johnson for the efforts they put into the process. Of note was the presence of Allison Clark, a student from Rhunette Alum's class, whose research into the College's public image confirmed we needed the image campaign. She served us well on the committee and offered an important student perspective.

Meeting with Academic Senate President

Academic Senate President Michael Wyly and I met recently to discuss a variety of issues and set out a plan to encourage us to improve communications and streamline our agenda for the year. High school outreach has become the largest item for many reasons, including the acknowledgement that we must invest in more emphasis on student success that should start with the high schools or with K-12. As we know, lawmakers have already put more emphasis on high school partnerships and have changed funding to allow for more regional activities. Finally, President Wyly and I discussed streamlining some processes, such as faculty involvement in College activities so as not to overtax some faculty members and to encourage more outreach to others who may wish to seek greater involvement.

Board of Registered Nursing (BRN) Program Discussions

Dr. Maurice McKinnon, Andrea Uhl, and I met with the BRN. Executive Officer Louise Bailey and Consultant Janette Wackerly welcomed us and praised the College's efforts to help international students get their nursing licenses. We discussed the format the College should follow to be in compliance with the Board. I presented a plan, and they gave feedback and then approved it. The program is being run through the United Heart Training Center, but the College needs to exercise greater oversight and ownership of the activities. A revised contract will be presented to the Board in July.

Meeting with Suisun City Manager

Suzanne Bragdon, City Manager of Suisun City, and members of her staff visited us last week to discuss the Harbor Theatre. The city and the College have long had a relationship involving the facilities. As we look to the future, and with redevelopment moving toward the sale of assets like the Theatre, we are working to maximize the relationship and make it beneficial to the city and the College. We discussed expanding the activities we have at the theatre and diversifying them. We look forward to having some discussions with the Dean and faculty involved in the Harbor Theatre.

Banking and Finance Discussions

Louise Walker is a proud alumna of Solano Community College. While attending the College, she had an opportunity to intern at a bank. She took courses in banking and today is the President of First Northern in Dixon. She credits SCC for giving her direction in life. She was recognized in May as an outstanding SCC alumna. That day I asked her what was needed to support the banking industry, and she told me that we should meet and discuss it. In the days following the event, she was attending a meeting of CEO bankers in California when someone expressed the concern that the banking industry is failing to prepare the next generation of bankers. Ms. Walker has jumped now at the opportunity to make a difference. Subsequently, Ms. Walker, Interim Dean Watkins, and Maureen Padden, CEO of the California Bankers Association, met to discuss how SCC could work with the banking industry to set up a curriculum to provide a pathway to the profession.

Valero Draft Environmental Impact Report

I attended a public meeting of Benicia residents and others interested in Valero Refinery's future at the Ironworkers Building in Benicia and was interested in learning about Valero's recent draft of their Environmental Impact Report. The refinery is in the process of reducing crude oil it receives via ships to make the shift to use rails and different sources to obtain the crude oil. This new approach will make the company more competitive and more environmentally friendly. John Hill, the current General Manager of Valero, is an SCC graduate. He was very happy to see me at the meeting. I look forward to sharing more with you as I continue to discuss these environmentally promising changes with Valero.

Makers Space and Hackers Space

I met with Constance Beutel, Vice Chair, Community Sustainability Commission-Benicia; and a couple of citizens from Benicia, who have been operating an organization that provides opportunities for manufacturers and technology experts to practice and innovate. They are seeking a working relationship with SCC. The idea fits perfectly with the innovation needed by our students in technology. We discussed several possibilities for cooperation. We settled on visiting the Harbor Theatre in Suisun City to see if we could forge a partnership to share space and expertise there.

Tennis is Doing Well

SCC's Phil Cello reports that hosting USTA Junior and Adults Tournaments at SCC have been very successful as demonstrated in the first phase of our plan to utilize the tennis court complex as a source of funding to provide tennis programs for SCC students and Solano county residents. With an additional eight tournaments scheduled, and with the filing of the Articles of Incorporation for the Chris R. Cammisa Tennis and Education Foundation, SCC will now be able to expand our fund-raising activities beyond running tournaments and outreach support from corporate and individual sponsors. The Foundations' first priorities are to fund men and women tennis teams and tennis classes for SCC students. For a more in-depth look at SCC's tennis future, take a look at this link from the Daily Republic.

<http://www.dailyrepublic.com/sports/cello-promoting-tournaments-to-benefit-scc-tennis/>

Boxing Potential

I met with Christian Wentworth and David James (Fairfield PD) to discuss the potential of the College collaborating with a boxing organization whose interest is in using our gym for some professional boxing title fights, focusing on local boxers. The organization has worked with the city of Fairfield in the past, but need a larger facility. The economic impact to the local community is substantial and the event has been well attended and well organized in the past.

Football and the Future

I know that some Trustees have been approached in regard to Football and its eventual return. The return of Football is predicated on many factors: funding, equipment, facilities, safety, and equity in regard to opportunities for men and women. Our first step has been to hire an Athletics Director (A.D.), Professor Erik Visser, a former student athlete, Coach, and Assistant Athletic Director in student support from the University of San Francisco, who has agreed to become our A.D. He is bringing some good talent, not only to sports, but also to "fund-and-friend" raising. We will get to work and update you as we initiate plans to move forward.

Accreditation Mid-Term Progress Report

Dr. Dambrosio convened the Accreditation Task Force Committee last week and shared with us the progress heretofore of the Mid-Term Report. She reported that the Commission expects that we will use the current Standards for our Reports, while the upcoming Self-Study for the visit in 2017 will be centered on the newly adopted ACCJC Standards. For our Mid-Term Report due this October, there are two areas of emphasis: a response to our 2011 planning agendas and two of the Recommendations where we need to demonstrate more progress. The planning agendas are items we told the Commission we would focus on in our last Self Study and are different from the Recommendations that we have reported on for the past few years. The two Recommendations for which we must continue to document progress are Equity (both Student Equity and Staff Equity) and Distance Education.

Reflecting Back on Five Years

The Governing Board and I will participate in a retreat this coming Friday. This retreat gives us an opportunity to focus on the performance of the Institution as a whole. We will review the past year and set up some direction for the future. We know that we have accomplished much over the past year and are poised to do even more

and better. However, the successes of the past year can never overshadow the bright promise of the future. It has been broadly reported, for example, that Solano County has the lowest attainment of bachelor's degrees per capita in the Bay Area. Here is an opportunity for us to grow SCC and to establish long-lasting partnerships, with other educational organizations to promote higher achievement from kindergarten to graduate school.

As we look toward the future, we now have an outstanding opportunity to make a major difference for Solano County and Winters. I urge us not to lose sight of that responsibility and to reach out to every community we serve. Many of the individuals who will not seek higher education are from families where education has not been a priority. For them, everything connected to education may be frightening. That is why it behooves us to partner at the local level as much as we can, and I am pleased that we have now have opportunities to partner with Winters, Dixon, Benicia, Suisun City--the places where we do not have a strong presence. The foresight that has propelled us to where we are today should continue to guide us. I know that this is not just a dream or focus of your President, but a shared dream of all of us who work for this College.

As I complete my five years of leadership at SCC, I reflect on what we have accomplished, and the list is impressive. I hope the next five years will be even more impressive, and that our College enters the year 2020 with a solid presence in our community; classes filled with those students who deserve the excellent education that Solano Community College has delivered for many years.

I hope you and yours had a "bang up" Fourth of July Holiday! SP Direct will resume weekly publications beginning in August.

Jowel C. Laguerre, Ph.D.
Superintendent-President

Here are some quotes from the Soccer [Football] World Cup being played in Brazil. It has been a great show. Some of these quotes about soccer are profoundly simple. Four teams are left; among them are Brazil and Germany who played each other in the semi-finals this week. On the other side are Argentina and the Netherlands. It could not have been set up better with two European teams and two American teams.

"The World Cup is not just a great global sporting event, it is also inscribed with much deeper cultural and political importance." — Martin Jacques

"Football is a simple game; 22 men chase a ball for 90 minutes and at the end, the Germans always win." — Gary Lineker

"Brazil goes into every World Cup expecting to win – so when it is in Brazil it is expected even more. You can't understand what the World Cup means to our country." — Ronaldinho

"Soccer is a great game, and the rich variety of styles and passions that come with being truly global makes the World Cup a nonpareil event in the universe of competitive sport." — Serge Schmemmann

"We lost because we didn't win." — Ronaldo

"There's nothing quite like a World Cup." — Michael Owen

"The boy can do anything, but to be the star of the World Cup you have got to get to the final and win it!" — Alan Hansen

"I love myself all the time. It's a little arrogant, but even in difficult moments and moments of joy I don't like to criticize myself. There are things I could maybe have done differently, but the 'Pat' of 2010 and the 'Pat' of 2014 – I love them both." *France defender Patrice Evra*

"That was just frustration as a result of how the game was going. They're not bad guys – on the contrary, they're friends. They're always having fun together." *Cameroon defender **Stephane Mbia** gives his insight into the altercation between Benjamin Moukandjo and Benoit Assou-Ekotto at the end of Cameroon's 4-0 loss to Croatia*

"It was a crazy game. We could have scored five... Oh right, we did score five, but we could have scored six, seven or eight." ***Robin van Persie** following the Netherlands' 5-1 dismantling of Spain*

"Eras end with defeats and this was a painful defeat. We haven't been able to maintain the same levels of conviction, of hunger. The success, the happiness of before is gone. We lost our solidity." *Spain midfielder **Xabi Alon***

"We came up against three of the best nations in the world. People were saying we weren't going to score a goal. Our aim was to ensure that, in four years' time, people will fear us before we go on the pitch as much as they fear us on there now." *Australia coach **Ange Postecoglou***

"My mind was clear. I kept my focus and just tried to put it in the back of the net. I've done it thousands of times in training and a few times in matches. If you think about it, it makes no difference if there's one person watching you or thousands in a stadium." ***Georgios Samaras** on his decisive penalty for Greece against Côte d'Ivoire*

"I think the culture of Japanese football and the special characteristics and technique of the players can cut it on the world stage, but physical strength is what is lacking." *Japan coach **Alberto Zaccheroni***

"If we beat Costa Rica I want a kiss, obviously on the cheek, from the UK Queen." *Italy striker **Mario Balotelli***
[They did not beat Costa Rica]

Judy Spencer

Chief of Staff

SOLANO COMMUNITY COLLEGE

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Fairfield, CA 94534

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judy.spencer@solano.edu

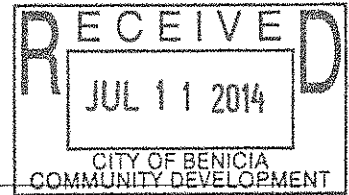
"When it rains I walk between the raindrops."

SCC Mission: Solano Community College's mission is to educate a culturally and academically diverse student population drawn from our local communities and beyond. We are committed to helping our students achieve their educational, professional, and personal goals centered in basic skills education, workforce development and training, and transfer-level education. The College accomplishes this three-fold mission through its dedicated teaching, innovative programs, broad curricula, and services that are responsive to the complex needs of all students.

SCC Vision: Solano Community College will be a recognized leader in educational excellence – transforming students' lives.

Amy Million - Valero Crude by Rail Project

From: "Rybarczyk, Thomas" <Tom.Rybarczyk@valero.com>
To: "amillion@ci.benicia.ca.us" <amillion@ci.benicia.ca.us>
Date: 7/10/2014 4:12 PM
Subject: Valero Crude by Rail Project
CC: "info@beniciaCBR.com" <info@beniciaCBR.com>



Dear Ms. Million,

I am a Valero employee and I support the CBR project.

It will make the Benicia refinery viable for the long term. It was not that many years ago that Valero was actively seeking a buyer for the refinery. Valero has sold or shut down distressed assets, as they should do, to meet the fiduciary duty for their stockholders.

As the Process Safety Manager at the refinery, I know how important Valero considers safety. It supersedes all other considerations. I have also been involved in reviews here at the refinery on this project and have no concerns with the proposed facilities or their operation.

A little background on me. I have worked for a number of oil companies at refineries all around the US as well as consulting companies to the oil and petrochemical industries. Valero Benicia has a stellar safety record and safety is engrained in everything we do. That is one of the primary reasons I decided to work for Valero and the Benicia refinery specifically.

Regards,

Tom Rybarczyk

PSM Manager
Valero Refining Co.-CA
3400 East Second Street
Benicia, CA 94510
ph 707-745-7934
cl 707-373-9587
fx 707-745-7347

Rick Stierwalt

6/8/14

402 Plymouth Ct.

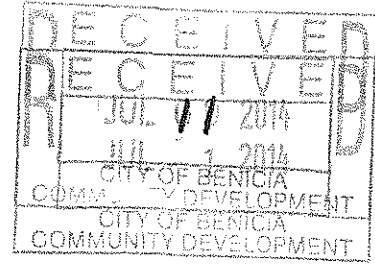
Benicia, CA. 94510 stierwalt1@hotmail.com

To: Amy Million – Principal Planner Community Development Department

City of Benicia 250 East L. St. Benicia, CA. 94510

Re: The Crude by Rail – Safety Issues – Benicia, Ca

To Amy Million -



If a major spill happens in Benicia, whose neck goes in the noose?; a) the Valero board, B) the City of Benicia Planning Commission, C) the oil industry and their lack of safety, D) the congressmen who are subdued by the oil industry's lobbyists. **Somebody should.** This will be labeled another "Safety Issue."

To say that a spill can never happen is a lie. Humans have shown since time began, in all industries, that humans make errors. We still have plane crashes, we still have automobile deaths, we still have crude by rail deaths. Human caused "crude by rail" accidents still occur at the rate of 156 (Pipeline + Hazardous Material Safety Administration – 2010-2012) in a 3 year period, or **once a week!!!!** Once a week occurrence for a crude by rail "accident" is totally unacceptable.

What is an acceptable rate of "accidents" in the crude by rail drama that does occur? A year ago 47 people died in the fiery crash in the Lac Megantic, Quebec explosion when the highly volatile crude by rail, was left unmanned and rolled away while they were "fixing the brake system." "Human error," "just another industry accident." Go away public voice, we have crude to make a profit. 47 died, 30 buildings leveled, thousands of gallons of oil spilled, billion dollars in damage. Nobody's neck went in the noose, so spills still happen. That same statistic could happen "through human error" in Benicia or when rolling through downtown Sacramento.

Do you want to bet there will be another major spill somewhere in America in the next year? I will give you three to one odds. What, are you afraid to bet me, why is that? The industry is in the crude by rail race. Peak Oil has occurred with cleaner oil, now the search/race is on for dirtier crude oil. Let me get this straight, Valero wants to roll over a million gallons of volatile crude oil, twice a day, into Benicia when the industry accepts big spills once a month. **What is wrong with this picture?**

The oil industry can't and won't **safely** regulate themselves, so somebody else has to. It's too expensive. The congressmen, delayed by lobbyists, are now starting to "talk" about "more safety laws" needed for crude by rail transport (July 1, 2014). So if the industry and the congressmen are slow on the draw about safety, then Benicia's public needs to lean on the City of Benicia Planning Department. **They have the power to say YES or NO to the DEIR.** This plea is NOT directed at Valero, it is directed to the industry. What is also desperately needed is more time needed for the Benicia Planning Commission and the citizens of Benicia to fully understand the 2,000 page DEIR presented by Valero. If a contract is written between two parties and one side doesn't have enough time to digest its contents, then the prudent thing to do is to reject the contract, ask any moral lawyer.

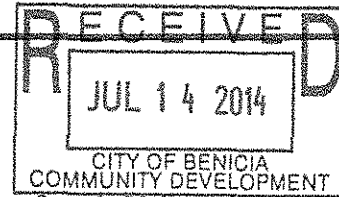
A time extension is desperately needed of at least 30 days to fully understand the DEIR. Valero will need to include in their DEIR, in my opinion, safety items which need to be 10-15 times stronger than industry standards. **Oil industry standards today are unacceptable.** If a 747 jetliner with 250 people crashed and people died once a week, would you fly? No. Crashes still happen, but at a far lesser rate, an acceptable rate, a safer rate. Please either reject the DEIR offer or give a time extension.

Thank you,

Rick Stierwalt

Amy Million - Crude by rail--The DEIR is deficient as it fails to disclose the source of crude Valero plans to ship by rail

From: Rick Slizeski <hobhob@pacbell.net>
To: "amillion@ci.benicia.ca.us" <amillion@ci.benicia.ca.us>
Date: 7/13/2014 3:49 PM
Subject: Crude by rail--The DEIR is deficient as it fails to disclose the source of crude Valero plans to ship by rail



Dear Ms Million,

The Planning Commission should reject the DEIR as it fails to adequately address all significant potential environmental impacts. The DEIR states that Valero has designated as confidential the sources of North American crude that it intends to purchase and ship by rail. The DEIR states that the City has determined that this information meets the definition of confidential business information and that its disclosure could subject Valero to legal liability under antitrust statutes.

This claim is not credible as Valero has previously disclosed the sources of crude that it intends to purchase and refine at other locations. On December 20, 2012, Valero spokesman Bill Day disclosed to *My SA, San Antonio's Home Page*, that Valero was shipping about 40,000 barrels of Bakken crude each day to its Memphis refinery. Day also disclosed that Valero would be shipping South Texas Eagle Ford Shale crude to its Quebec refinery and that its Three Rivers, Houston, Corpus Christi and Mereaux, La., refineries were already processing crude from that source. Finally, Day stated that Valero was considering shipping Bakken crude to its California refineries. In sum, Valero, through its own actions, has demonstrated that it does not consider confidential the sources of crude that it sends to specific refineries, including the number of barrels shipped per day from such sources to individual refineries.

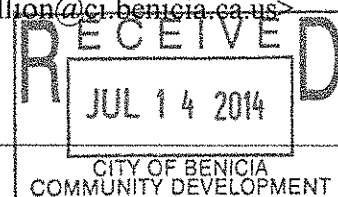
As Valero does not treat this information as confidential, it must be required to publicly disclose the sources of crude that it plans to ship to its Benicia refinery, including the number of barrels per day to be shipped from each source. The entire DEIR will need to be revised once this information is provided as crude varies in its chemical composition, depending on its source. For example, as is well known, Bakken crude is much more volatile than Alaskan North Slope and therefore much more dangerous to ship and refine. The public has a right to know the source of crude that will be shipped into Benicia so that it will be fully informed of the resulting health and safety risks, thereby allowing it to intelligently comment on the DEIR.

If Valero refuses to disclose this information, its permit application must be denied as in its absence it is simply impossible to evaluate the potential environmental impacts of the proposed project.

Rick Slizeski

Amy Million - Valero Crude by Rail Project

From: Christine Price <chrissythefearless@att.net>
To: "bkilger@ci.benicia.ca.us" <bkilger@ci.benicia.ca.us>, "amillion@xi.benicia.ca.us" <amillion@xi.benicia.ca.us>, "amillion@ci.benicia.ca.us" <amillion@ci.benicia.ca.us>
Date: 7/13/2014 4:48 PM
Subject: Valero Crude by Rail Project
CC: "info@beniciacbr.com" <info@beniciacbr.com>



To: Brad Kilger, City Manager, Amy Million, Principal Planner, Community Development Dept., Planning Commissioners via Amy Million

Please take note: As a resident and property owner in Benicia since May 2012, I **strongly oppose** Valero's Crude-by-Rail project. Below is my letter submitted to the Editor of the Benicia Herald which sets forth my opposition to this project. The results from existing research are already available for public viewing and spells out, in lay man's terms, Valero + Crude Oil Transport by Rail + derailment of a crude oil train/transporting vessel = danger for this community. You must consider the seriousness and detriment to this community should this project proceed. You must consider that in the event of a catastrophic event, how will Benicia's infrastructure and first responders be able to evacuate the residents of this community? Thank you for your respect and consideration to the heart of the people in this community.

Please add my comments to the public legal record on Valero's Crude By Rail Project and incorporate them as part of the DEIR review.

Christine Price

PS Ms. Million please forward this e-mail to the Planning Commissioners

Editor
 Benicia Herald
 820 First Street
 Benicia, CA 94510

Dear Editor:

Like a good neighbor (as a large insurance company advertises), Valero will NOT be there for the residents of Benicia if the derailment of a crude oil train occurs in our area resulting in a catastrophic oil spill. Benicia is in the immediate evacuation zone.

As a resident whose property backs onto Valero's open space, to date, Valero has not been a "good neighbor" to we residents concerning weed abatement along our adjoining property line. We are in a severe drought, fire danger critical, yet despite Valero's legal obligation and notices confirming same (i.e. to remove the weeds along the property line) Valero has knowingly refused to participate in weed abatement in a timely manner. If this entity has no conscious and/or concern about their legal obligation to actively remove weeds on their property (despite any fire danger to the homeowners), why would they be a "good neighbor" in the case of a tragic crude oil transportation accident? I think not.

Has corporate greed come to this? Profits over human life. Do NOT be fooled – Valero is not this community's friend in regard to this issue.

We residents, individually and as a community, must do everything we can to stop this project passing through our town and all other California towns. If you can pray – pray; if you can write letters – do so; if you can sign a petition – you must; and if you can attend a rally or meeting – rise up and voice your opinion/concerns. We can no longer trust politicians or big corporations to act in the interest of the people. They have lost all commonsense, care for the local community and the voice of the people. Residents, educate yourselves about this dangerous project and pending change coming to our community. Benicia will never be the same should this project proceed. Actively act NOW. This project must be stopped. Be passionate for this cause. Thank you.

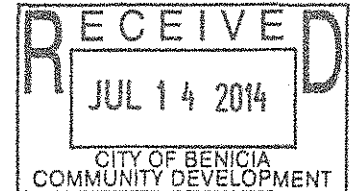
Respectfully submitted,

Christine Price

341 Columbia Circle
Benicia, CA 94510

Amy Million - Comments from a Davis resident on Draft EIR for the Valero Project

From: Elizabeth Lasensky <elasensky@yahoo.com>
To: "bkilger@ci.benicia.ca.us" <bkilger@ci.benicia.ca.us>, "amillion@ci.benicia.ca.us" <amillion@ci.benicia.ca.us>
Date: 7/13/2014 6:50 PM
Subject: Comments from a Davis resident on Draft EIR for the Valero Project
CC: Elizabeth <elasensky@yahoo.com>, Lynne Nittler <lnittler@sbcglobal.net>



July 9, 2014
 Brad Kilger, City Manager
 250 East L Street, Benicia, CA 94510
bkilger@ci.benicia.ca.us
 Fax: (707) 747-1637

Amy Million, Principal Planner
 Community Development Department
 250 East L Street, Benicia, CA 94510
amillion@ci.benicia.ca.us
 Fax: (707) 747-1637

Dear Mr. Kilger and Ms. Million;

Please add my comments to the public legal record on Valero's Crude By Rail Project and incorporate them as part of the review of its DEIR. *In addition*, please forward my comments to the Planning Commissioners.

I am a resident of Davis. I live in a senior mobile home park within a mile from the tracks for the proposed Valero rail project. Our park is approximately a mile from a 10mph left-handed cross-over between the main tracks that lie east of the Davis train station. I am also a member of the Yolo Basin Foundation, which provides funds and volunteers for the Yolo Basin Wildlife Refuge. The Yolo Basin is the beginning of the Delta, from which much of California gets its water. In addition, I am a frequent passenger on the Capitol Corridor, a commuter train jointly operated by Amtrak, Union Pacific and Caltrans.

The two 50-car trains will come across the Yolo Bypass, which includes our sensitive Yolo Basin Wildlife Preserve, will share tracks with Amtrak passenger trains and will parallel Interstate 80. They will pass within a mile of several senior housing complexes and our police station, pass through our downtown and several additional residential areas, and exit town along the edge of UC Davis, including the Mondavi Center complex. Needless to say, I am very concerned about the impact of crude oil trains rumbling through my community every day.

Right now we up-rail towns and cities have insisted on our right to comment on the EIR for the Valero Benicia Crude-by-Rail Project and in a few months on the Phillips 66 Santa Maria Rail Spur Project. According to the California Energy Commission, we can expect CA to import as

much as 25% of its crude oil by rail within the next few years, translating into five or six trains per day passing through our town. Given the cumulative impact of such increased crude-by-rail traffic, up-rail communities have much at risk and deserve a voice in the process.

The Draft EIR that you are considering does not include issues specific to uprail communities. Here are some of my concerns.

1. Air, noise and vibration pollution along the train route

As noted above, I live in a senior mobile home park, about a mile from the tracks. Across the street is a nursing home and in the other direction are two additional senior housing complexes. A high percentage of the residents have respiratory and ambulatory issues. Many residents will be connected to sensitive machines for which vibration might be a problem. Increased noise will be a factor for any residents living so close to the tracks.

What mitigation measures will be taken to offset the air pollution caused by increased particulate matter raised from the trains?

What measures will be taken to offset the air pollution caused by fumes escaping from the train cars?

What measures will be taken to offset vibration from the trains?

What measures will be taken to offset the increased noise from additional trains, cars and weight rolling through town at all hours?

2. Public safety

a. Currently the railroads are using 78,000 unsafe DOT 111A tank cars that are prone to rupture when they derail. Even cars that meet the 1232 standards from 2011 are prone to rupture. Although the industry says it could phase out the older cars over 10 years, that is not reassuring when you live within a mile of a crossover section.

b. There is a 10mph left-handed cross-over between the main tracks several hundred feet east of the Amtrak station.

Several derailments elsewhere in North America have been caused by human error when a train proceeds through a low speed crossover between two higher speed tracks and failing to reduce speed; one near Chicago and one in Canada caused fatalities.

The Davis cross over should be replaced with a cross over with a higher speed rating similar to others on the Capitol Corridor line.

Trains should slow down in populated areas

c. The Davis Enterprise reported that two train derailments have happened in Davis since 2003 and summaries of the articles are below.

Davis Enterprise, The (CA)-January 29, 2003
Author: Lauren Keene/Enterprise staff writer

People traveling by Amtrak trains experienced some service delays in Davis this morning, the result of a freight train accident that derailed four cars Tuesday night.

No injuries resulted from the derailment, which occurred at about 7:45 p.m. on the Union Pacific Railroad

tracks that run parallel to Second Street, near Cousteau Place.

Bob Jones, a general manager with California Northern Railroad, said the derailment was the result of an "overspeed impact" that occurred when a 48-car train coming from Woodland attempted to connect with another line consisting of 27 cars. The empty cars were then destined for Roseville.

"For some reason they didn't slow as anticipated," Jones said, adding that the longer train was traveling an estimated 5 to 6 mph. "They needed to be under four (mph)."

http://docs.newsbank.com/s/InfoWeb/aggddocs/NewsBank/105D11605DB00D87/105FF707937F67E5?p_multi=DVEB&s_lang=en-US

Davis Enterprise, The (CA)-November 4, 2009
Author: Jonathan Edwards

Enterprise staff writer

A freight train derailed Tuesday afternoon in downtown Davis and threatened to snap power lines, crush fences and roll into back yards.

The tracks collapsed under a 12-car train and two cars toppled, said Capt. Richard Moore with the Davis Fire Department. A third car's wheels came off the rails, but the car itself stayed upright.

No one was injured in the accident, which was reported to fire crews at 4:18 p.m.

Each of the two downed cars carried 90 tons of lime, a chemical used in construction, Moore said. A hazardous materials crew was not called in.

http://docs.newsbank.com/s/InfoWeb/aggddocs/NewsBank/12BC77A26EEE1578/105FF707937F67E5?p_multi=DVEB&s_lang=en-US

YouTube footage of the train derailment on November 6, 2009 can be seen at:

<http://www.youtube.com/watch?v=1FKkOoitQgw>
<http://www.youtube.com/watch?v=gQSLplkzPWs>

- c. Bridge and track inspections should happen regularly and be reported to the public.
- d. What evacuation plans have been prepared for Davis when a spill and/or explosion occurs?
What evacuation plans have been prepared for transporting injured, ill and infirm residents from senior housing complexes and nursing homes?
- e. What plans have been prepared for dealing with catastrophic loss of life and property after a spill and/or explosion occurs?
- f. What plans have been prepared to transport injured residents and responders to hospitals after a spill/explosion has occurred?
- g. What plans have been prepared for rerouting Interstate 80 in Davis when a spill and/or explosion occurs?
- h. What plans have been prepared for alternate headquarters and emergency response for the Davis Police Department should a spill and/or explosion occur? Will our emergency responders have access to information on what exactly is being transported in the train cars?

i. What plans have been prepared for protecting passengers on Amtrak from the risks of spills and/or explosions? What contingency plans are in place to reroute Amtrak trains after a spill and or/explosion?

3. Environmental damage

The water in the Yolo Bypass is the beginning of the Delta. Any spills in this area will have enormous implications for the entire state, including drinking water, rice growing, bird migration and drought relief.

a. Rail tracks and bridges need to be inspected regularly, particularly after extreme weather events, to be sure they are supporting the axle load of the long, heavy, and frequent oil trains. This is especially true regarding the additional weight loads as the heavier updated tank cars with shielded hulls are put into service.

b. What plans have been prepared for remediation after potential spills/explosions in Yolo Basin? How will the spill/explosion be contained?

c. What plans have been prepared to protect endangered species from pollution caused by oil trains?

4. Liability

Should there be a spill/explosion on the scope of the Lac Megantic (Canada) explosion in Davis, who carries the liability? That Canadian town has yet to be compensated. What can we expect in Davis? Should there be a spill in Yolo Basin, what compensation is possible when a state's water supply is at risk?

Lastly and most importantly, moving this highly volatile, flammable and toxic crude across thousands of miles of rivers, forests, bridges and communities is sheer madness. Each trainload is a disaster waiting to happen. Each ton of crude is a ton for climate change.

Should this project be approved, the City of Benicia and its residents carry at least a moral liability for any disasters that happen along the thousands of miles of track to Benicia. The 25% of your General Fund that comes from Valero taxes to your city comes at a price to the planet.

The fossil fuel industry is literally and figuratively a dying industry. The City of Benicia can reject this project and redirect its focus to renewable energy. That is the future.

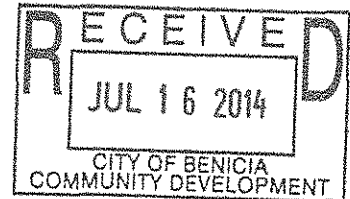
Thank you,
Elizabeth Lasensky
187 Full Circle
Davis, CA 95618

211 E D St, Apt 121
Dixon, CA 95620

July 15, 2014

Brad Kilger, City Manager
250 East L Street
Benicia, CA 94510

Amy Million, Principal Planner
Community Development Department
250 East L Street
Benicia, CA 94510



Dear Mr. Kilger and Ms. Million,

Please add my comments to the public legal record on Valero's Crude by Rail Project and incorporate them as part of the review of its DEIR. In addition, please forward my comments to the Planning Commissioners.

I live in Dixon, perhaps 80 yards from the railroad track. I am in an apartment community housing approximately 100 senior citizens. There are two schools within three short blocks, one of them an elementary school. The downtown area of Dixon is also along the railroad, a short distance away. I am greatly concerned about the threat the increased number of trains carrying crude oil will present to my community.

According to the California Energy Commission, the increase in crude by rail operations planned by both Valero and Phillips 66 will eventually mean five to six trains carrying oil through town each day. The cumulative impacts of these trains present many risks to uprail citizens. Therefore, we should have a voice in the decision process, particularly as we stand to gain no benefit from these increased risks.

My chief concerns are the following:

1. **Safety.** As a former resident of West Virginia, I have witnessed areas of that state where gas and oil explosions have taken place over the last five years. These products are extremely volatile, and when there is an explosion, no "emergency plan" that could be devised is sufficient. People and homes are simply incinerated. The fireball at the April 30, 2014 accident in Lynchburg, VA was 200 feet high. The number of responders and their level of funding will in no way save the people in proximity to an accident. I am concerned that the project's DEIR does not contain any information about the numbers of people being put at risk all along this project's proposed route. Citizens have a right to know how many lives are threatened. A study by the National Resources Defense Council (NRDC) suggests that at least 2,000,000 people live and work within half a mile of the tracks that will be used to carry crude, and 3,800,000 within one mile. In

Sacramento alone, there are over 250,000 within one mile of the tracks.
<http://www.nrdc.org/energy/ca-crude-oil-by-rail.asp>

It also seems reasonable to conclude that the increased number of trains is likely to increase the risk of accidents. I believe the data supplied in the DEIR is inaccurate in its projection that the risk of accident/derailment is minimal. The same NRDC report states that in 2008, there were an average of 9,500 crude oil cars on the rails in the United States annually. In 2013, there was an average of 434,000, representing a 40-fold increase. With both Valero and Phillips 66 and possibly others wanting to move crude through California, it can hardly be credible that the chance for accident here will not increase considerably. If derailment is truly something that happens so rarely as to be discounted, how is it possible that there have been two relatively recent derailments in Davis – one in 2003 and one in 2009? Both occurred in populated areas. *Accidents do happen.* www.youtube.com/watch?v=gQSLplkzPWs

The railroads are currently using over 78,000 cars (DOT 111A) that do not meet current standards and have a record of rupturing when in a collision or derailment. Use of train cars of this type should not be permitted. Valero should be required to run only cars designed or retrofitted to hold crude oil. If the industry cannot replace the cars quickly, then public safety dictates that the project wait until they do. Valero should also be required to remove the most volatile materials (flammable natural gas liquids) from the crude prior to shipment. This is being done in Texas, and can certainly be done here. It may cost the company a bit more, but it could save thousands of lives. Four California Congress members including Rep. John Garamendi have asked that this step be taken and that the U.S. Department of Transportation issue regulations to this effect.

Even in less populated areas there is risk of property loss and public safety. What measures are being taken to insure that responders are prepared for wild fires and toxic chemical spills that could take place in case of accident? Are responders prepared to deal with toxic accidents involving water supplies?

Will the companies be required to share with local first responders the nature of the crude they are carrying? Will the public's Right to Know be respected? The DEIR suggests that Valero is not required to release information about the type of crude they are transporting, even though the Department of Transportation suggests that rail information is not a national security issue. Why should the public not be informed of what is passing through their communities?

In addition, the increasing number of crude oil trains poses safety issues with regard to other trains, both Amtrak and Capital Corridor that share these tracks. Any collisions could be horrific. What measures are being taken to insure the safety of passengers in any emergency (release of toxic materials, for example)?

2. Liability. These dangers represent hazards to life and property. Who will be liable for such losses? Who will be responsible for compensating families for loss of life? For loss of homes? Businesses? Crops? Property? Publicly protected places, such as the Yolo Basin Wildlife Refuge? Public water supplies? An accident in a populated area could

result in hundreds of millions of dollars in liability claims. Will Valero accept liability and be willing and able to compensate in such an amount? The railroad? The cities that allowed the crude to pass through their boundaries? It is safe to assume that many lawsuits would be filed against any or all these various entities and that legal defense will be required, even if some of the suits are eventually disallowed. Who will bear the legal costs? What agency or agencies will process the multitude of claims that could result?

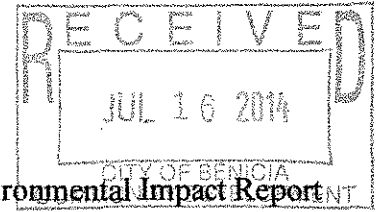
3. Context This DEIR focuses only on the 67 miles of track from Roseville to Benicia. However, this area of California does not exist in a vacuum. This project will have an impact on people and property all the way from the North Dakota tar sands, Canada, and everywhere the rail shipments are traveling. It subjects every community and environmentally noteworthy area to the hazards of tar sands oil and Bakken crude, both of which are extremely difficult, if not impossible, to clean up in the event of an accident. Citizens and their homes and businesses in a considerable portion of the country are potentially endangered. These oil shipments will not increase U.S. energy independence one iota – they are targeted for export. When one studies the entire context, it seems that the risks to millions of people far outweigh the moderate benefits to the city of Benicia.

Thank you for the opportunity to comment.

Sincerely,

Carol Warren
(707) 693-5113

To Whom It May Concern



I have a few concerns regarding the Valero Crude by Rail Project Draft Environmental Impact Report (DEIR):

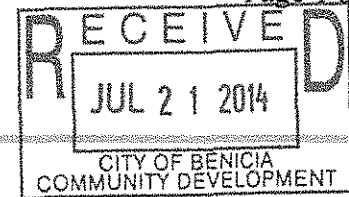
The model given to derive the probability of derailments of tank car trains that result in releases of crude oil of greater than 100 gallons is given in Appendix F of the report as:

$$P(\text{release of more than 100 gallons}) = \sum_{i=1}^n P_i(\text{derailment per train-mile}) * \# \text{trains}_i * \# \text{miles}_i * P_i(\text{release of more than 100 gallons given derailment})$$

It would be helpful if there were a link to the data behind the model given in the DEIR for the probability of oil release of more than 100 gallons or some other way of getting access to this data. Without being able to see the data it is more difficult to assess the correctness of the model. The model implies that the number of trains is independent of the number of miles of track. This seems counter-intuitive. It seems that the number of miles of track and the number of trains should be proportional, not independent. Assuming this, the model of assuming that there is a certain derailment probability per train-mile that you multiply by the number of trains by the number of miles would only be correct if the number of derailments is proportional to the square of the number of miles or the square of the number of trains. I need to see the data to see if this is the case.

In addition, the report states that the number of derailments resulting in releases counts only releases of greater than 100 gallons. I question whether this is the valid number to use. I should think a more valid number would be the number of derailments that result in any release of fluids at all, in contrast to the number of derailments that do not result in any release of fluids. It would be desirable to know how much including derailments that result in releases of less than 100 gallons would change the derived probability of derailments that result in the release of fluids. I would also like to know the probability of having a leaky tanker that releases fluid even without derailment.

Michael Karsh, Ph.D. (Statistics)



Amy Million - Comments/questions on Vero Crude By Rail DEIR

From: Paul Karsh <paul_karsh@yahoo.com>
To: "amillion@ci.benicia.ca.us" <amillion@ci.benicia.ca.us>, "bkilger@ci.benicia.benicia.ca.us" <bkilger@ci.benicia.benicia.ca.us>
Date: 7/18/2014 10:12 AM
Subject: Comments/questions on Vero Crude By Rail DEIR

Please add my comments to the public legal record on Valero's Crude By Rail and incorporate them as part of the DEIR review

Question/comment about training and readiness of emergency responders to respond specifically to Bakken crude incidents. Will additional training and/or equipment and supplies be needed to deal specifically with incidents involving Bakken crude?

The DEIR suggests in many places that Bakken crude is qualitatively more hazardous than the varieties of crude currently being processed in the Valero refinery. Section 4.7 in the DEIR discusses the handling of hazardous materials and the management of incidents involving hazardous materials in general. It does note that Bakken crude should be reclassified as Packing Group I or II material (Section 4.7.2.3, page 4.7.10) and that "DOT-111" tank cars currently in use are inadequate for the safe transport of Bakken crude. The DEIR does not state whether emergency responder training and equipment needs to be "upgraded" as well.

Appendix G of the DEIR describes existing procedures and equipment for the Valero Fire Department but does not specify whether additional training and/or equipment is needed to handle Bakken crude. Similarly, Appendix H addresses existing emergency response plans by UPRR but does not specify whether or not additional preparation is needed to prepare for the more hazardous Bakken crude.

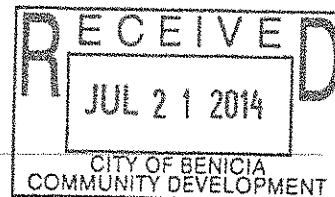
The report "Oil By Rail Safety in California Interagency Working Group Preliminary Findings and Recommendations", published by the State of California Interagency Safety Working Group, dated June 10, 2014, discusses many of the safety issues around the shipment of crude oil by rail. Among their recommendations, Section 2 (pp. 7 - 10) discusses a need to improve Emergency Preparedness and Response Programs. Subsection f (p. 10) is entitled "Increase Emergency Response Training". This section states that "California firefighters and first responders lack training in the specialized areas of oil rail safety and flammable liquid...". The DEIR, in Section 4.7.2.3, page 4.7.10, states that the U. S. Department of Transportation (USDOT) and the American Association of Railroads (AAR) have agreed that one of the actions needed to reduce the risk of crude by rail is to increase emergency response training. Does this general concern specifically hold true for the Benicia Fire Department, the Valero Refinery Fire Department, and the Union Pacific Railroad (UPRR) emergency responders as well?

Will Valero pay for any additional training and equipment that may be needed for the Benicia Fire Department to handle the greater risk that Valero's use of Bakken crude will impose, or will the public be expected to bear this additional cost?

Paul Karsh

Amy Million - About crude-by-rail

From: "Steve Yang, P.E." <scyang@wattminder.com>
To: <amillion@ci.benicia.ca.us>
Date: 7/20/2014 6:27 AM
Subject: About crude-by-rail



Dear Ms. Million,

I believe:

1. Crude oil should be classified as a hazardous material
2. Appropriate Environmental Reports should be required
3. A set of mitigation resources should be required on the train, along the train track, and end points

Thanks for your attention and public response.

-Steve

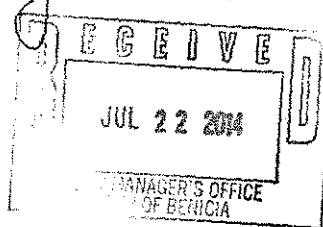
July 22, 2014

Dear Mayor Patterson,

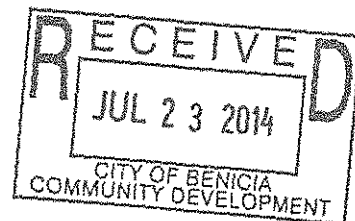
I very much appreciate having received the enclosed letter from the City of Benicia — since I live on Corte Dorado, which is within the "Evacuation Zone" for a Crude Oil Train Derailment.

Please extend the next notice of Public Hearing — for August 14th — to every household in that zone — since 300 feet or even 500 feet, does not include many, many Benicians at risk!

Please (in that coming notice) also do include the "Summary of Significant Impacts on the Environment" as you did in the Public Notice that I received on June 30, 2014. That was Great!

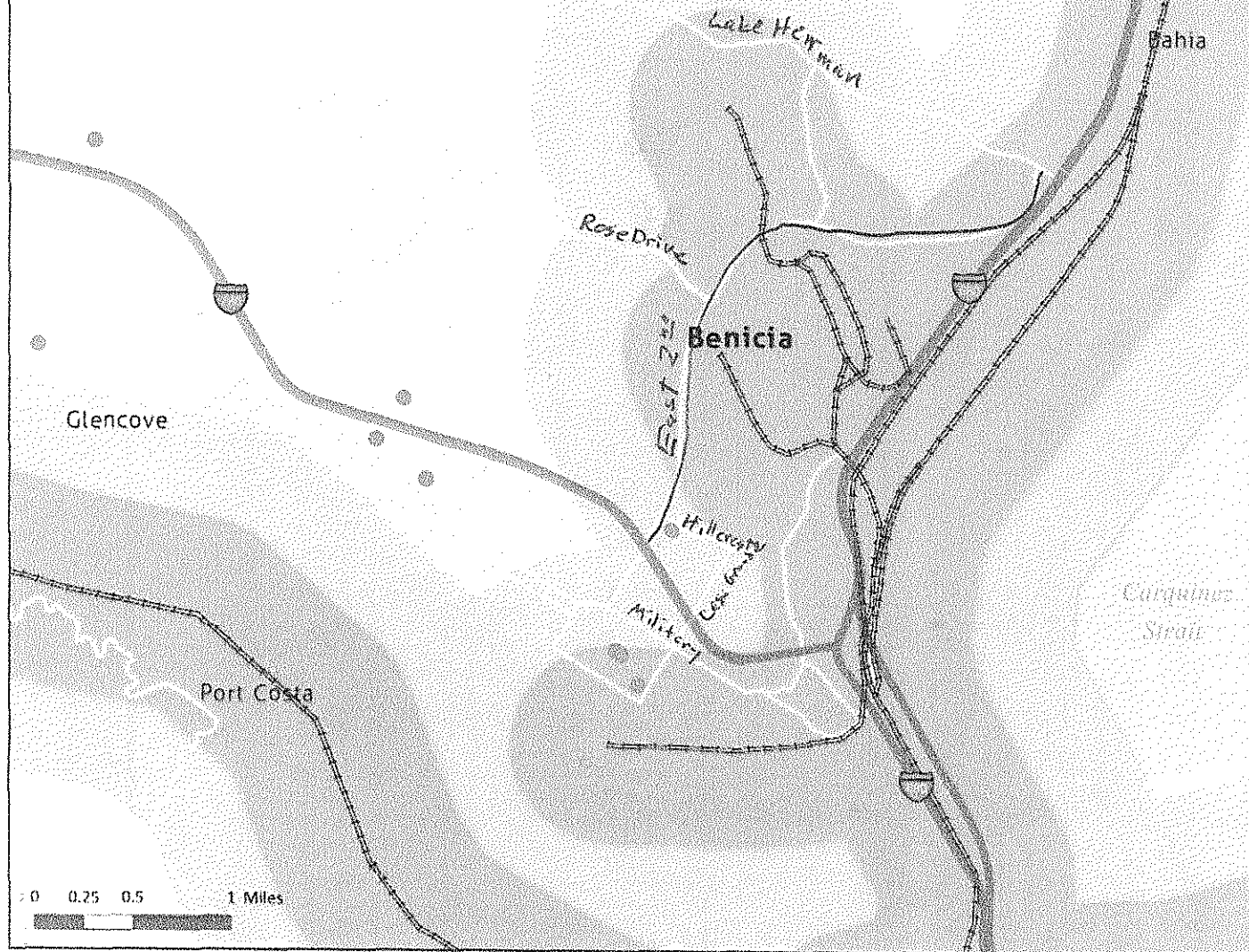


Many thanks,
Madeleine Koster
25 Corte Dorado (30 yrs)
Benicia. (707) 746-7724



Crude Oil Train Derailment Risk Zones in Benicia, CA

• An improved version of this map will be E-mailed to you by Kate Black.



Benicia Population at Risk*

0.5 mile	5,308
1.0 mile	12,436

*The number of residents of the City of Benicia living within these impact zones

Legend

- Schools (K - 12)
- +++ Active rail lines
- 0.5 mile US DOT Evacuation Zone for Crude Oil Train Derailments
- 1.0 mile US DOT Potential Impact Zone in case of Crude Oil Train Fire

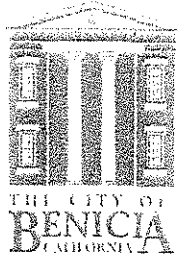
Sources:

Population (2010): Estimates based on US Census 2010 Block Centroid Populations. Estimates were calculated within buffers located within US Census "Place" boundary (not shown).

Schools: <http://portal.gis.ca.gov/geoportal/catalog/main/home.page>

NTAD Rail Lines: 2013 National Transportation Atlas Database http://www.nta.dot.gov/bts/sites/nta.dot.gov/bts/files/publications/national_transportation_atlas_database/2013/polyline.html

Rail Line Buffers: Zones indicating risks around rail lines in the event of crude oil tanker car derailments based on the US Department of Transportation Emergency Response Guidebook used throughout North America. This guidebook recommends a standard evacuation zone of 800 meters (0.5 miles) for accidents involving railcars filled with flammable liquids and gases and an isolation zone of 1600 meters (1 mile) in all directions around any railcar filled with those materials if they are on fire. <http://phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/Files/Hazmat/ERG2012.pdf>



City of Benicia

Community Development Department
Planning Division

Public Notice Notice of Availability of Draft Environmental Impact Report and Notice of Public Hearing

Valero Crude by Rail Project

The City of Benicia announces the Draft Environmental Impact Report (DEIR) for the Valero Crude by Rail Project is available for review.

The proposed project would allow the Benicia Valero Refinery located at 3400 East Second Street to receive a portion of its crude by rail. These crudes are currently inaccessible to the Benicia Refinery. The Project involves the installation of a new railcar unloading rack, rail track spurs, pumps, pipeline, and associated infrastructure at the Refinery. The crudes would originate at sites in North America. Union Pacific Railroad would transport the crudes in railcars using existing rail lines to Roseville, California, where the cars would be assembled into a train for shipment to the Refinery. The Project would allow Valero to receive up to 70,000 barrels per day of the crude oil by rail and reduce its shipments of crude by marine vessel by the same amount. The project site is listed as an inactive tiered permit by the Department of Toxic Substances Control under Government Code §65962.5, including, but not limited to, hazardous waste facilities, hazardous waste property, or hazardous waste disposal sites.

The analysis and information provided in the DEIR is based upon Valero's Project application, along with supplemental materials submitted to the City of Benicia and the Bay Area Air Quality Management District (BAAQMD). The DEIR reflects all of the public comments received since the release of the Initial Study Mitigated Negative Declaration on May 30, 2013 through the end of the EIR scoping period on September 13, 2013.

SUMMARY OF SIGNIFICANT IMPACTS ON THE ENVIRONMENT:

The DEIR discusses the Project's potential for significant impacts on the environment in the following subject areas: air quality and greenhouse gases, traffic and transportation, hazards and hazardous materials, biological resources, energy conservation, geology and soils and hydrology and water quality. The DEIR concluded that there would be a significant and unavoidable impact associated with air quality. The impacts associated with all other environmental issues would be reduced to below a level of significance with the incorporation of mitigation measures.

AVAILABILITY AND PUBLIC REVIEW PERIOD:

The DEIR has been released for a 45-day review period beginning on June 17, 2014 and ending at 5:00 p.m. on Friday, August 1, 2014. The DEIR is available for review at the locations listed below during normal business hours. The DEIR may also be reviewed and downloaded at the City of Benicia website: www.ci.benicia.ca.us.

Benicia City Hall
Community Development Department
250 East L Street
Benicia, CA 94510

Benicia Public Library
Reference Desk
150 East L Street
Benicia, CA 94510

PUBLIC HEARING:

The City of Benicia Planning Commission will hold a formal public hearing to receive comments on the DEIR on July 10, 2014 at 7:00 p.m. in the City Council Chambers, Benicia City Hall, located at 250 East L Street, Benicia, CA 94510. Comments on the DEIR may be provided at the public hearing, or may be submitted in writing, no later than 5:00 p.m. on Friday, August 1, 2014.

The final EIR will include official responses to all comments, made orally during the public hearing or in writing, that are submitted during the DEIR comment period and comments on the scope of the EIR submitted after September 13, 2013, the end of the EIR scoping period. Any comments submitted after the close of the public comment period until the City's final action on the project (approval or denial of the Use Permit and the Environmental Documents) will become part of the administrative record.

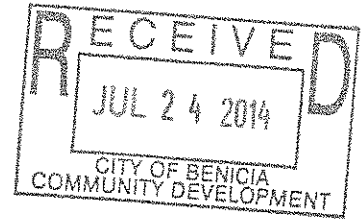
All written comments should be provided to:

Amy Million, Principal Planner
Community Development Department
250 East L Street
Benicia, CA 94510
amillion@ci.benicia.ca.us
(707) 747-1637 (fax)

833 Clifton Court

Benicia, Ca. 94510

July 24, 2014



Subject: Valero Crude By Rail Infrastructure Project

Benicia Planning Commission
250 East L Street
Benicia, California 94510

Some of our citizens have expressed concerns about this project, having to do with the volatility of some types of petroleum products being brought in, and the use of rail to get it here. These are fair questions, and deserve answers. To begin, many types of petroleum products are volatile, and have always been so. That is the nature of the product. They are being brought in now to refineries by many means, including trains. It is Valero's intent to bring in two more trains of 50 cars each per day, rather than by ship, with no increase in gallons. It is the Refinery's job to safely and efficiently blend and manage its process. Valero does this well, and has done this in our town safely for many years. They want to include a third rail on their property to help make their work even more efficient to serve the customer and better meet competition.

The favorite example used by those opposed to this project, seems to be the terrible accident that took place in Lac Megantic in Canada last year. As we know, an unmanned train got loose, ran down a hill reaching speeds of 60 to 70 miles per hour, derailed and blew up. Tragically, it killed 47 people. However, I am curious about the Canadian tragedy being used so often as an example, in that the circumstances are so unrelated to our Benicia project.

Valero's third rail project will be built on level land on their property, (no hills and no chance for an inadvertent 60-70 miles per hour runaway downhill). The speed limit on their property is ten miles per hour which would probably mean 5, 6, or 7 miles per hour much of the time. If a derailment happens at that speed and on level ground, rail cars are going to do exactly what they did do several months ago-they just sat down on the road bed with no rollover or significant damage. As I recall, they were back in business in about half a day. In addition, Valero has committed to buy or lease only the new style upgraded heavily reinforced tank cars (unlike the ones in the Canadian accident), that are a significant improvement.

The draft EIR says that an oil train release accident exceeding 100 gallons (about 6 or 7 average size American cars tank capacity) from Roseville to here, is a probability of once every 111 years! In the Suisun marsh, the factor is once every 262 years! These are probability factors pretty much off the charts! The hauler, the Union Pacific Company, has a long and distinguished record in our countries history.

This project to go by rail rather than ship will also help us get less dependent on foreign oil from some unfriendly and unstable regions in the world. This fact is vital to our country's safety and economic stability. Some of us may recall the 1970s, when the "OPEC" countries almost brought this country to its knees, by deciding to "turn off the spigot". Crude sources now from within our borders, plus Mexico and Canada are far more reliable and controllable than from somewhere half way around the world.

Now, who is this, our long time neighbor Valero Petroleum? They are people just like you and me. They care about this town, they care about doing their jobs responsibly, and they do that. Beyond that, the real owners are the stockholders, many of whom are also people like you and me.

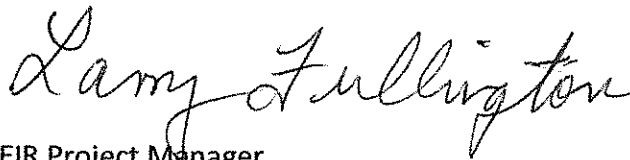
This company has won an especially prestigious safety award not just once, but three times! Other oil companies would love to have just one of those awards.

Let's look at some of the residual benefits that Valero brings to our town:

1. Creating 20 full time good paying jobs. Benicia needs these jobs.
2. 120 skilled craftsman jobs during the construction phase.
3. Generating millions in taxes, wages, and economic benefits.
4. Allowing us to reduce our dependence on foreign oil. This is vital!
5. Ensuring the city can continue to provide vital services. As I recall, Valero pays over 20% of our General Fund. If no Valero, we will need to find some other source to help pay for our amenities and other services. We could perhaps reduce them, or pay for them ourselves. (an amount that could truly get your attention).
6. In the last decade, Valero and its employees have donated 13.7 million dollars to local charities. These are good citizens.

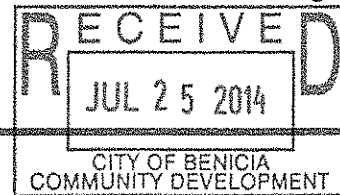
Valero is a responsible, safety oriented company, and we are fortunate to have them as a good corporate neighbor and partner! I urge you to support this project

Sincerely Yours,
Larry Fullington



cc: Ms. Amy Million -DEIR Project Manager
Mr. Brad Kilger – City Manager
Ms. Sue Fisher-Jones, Valero Refining Company

Amy Million - CBR



From: Silvano Preciado <waxpepper@yahoo.com>
To: "amillion@ci.benicia.ca.us" <amillion@ci.benicia.ca.us>, "bkilger@ci.benicia.ca.us" <bkilger@ci.benicia.ca.us>
Date: 7/25/2014 3:07 PM
Subject: CBR
CC: "info@beniciaCBR.com" <info@beniciaCBR.com>, "Preciado Silvano (SIPR)" <waxpepper@yahoo.com>

Dear Sir/Madam:

As a Benicia resident for over 20 years, I would like to express my support for the rail project proposed by Valero. I am not an employee or employed by a company contracted with Valero, but a citizen who views Valero as a responsible and important member of our community.

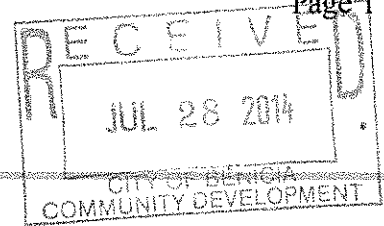
I urge you to reject the claims of the traveling fear-mongers (CBE and others) who have nothing to lose and spend their efforts opposing any progress all around the Bay Area. I also encourage our city leaders not to take the existence of Valero for granted. If this small change is what is needed to keep them as a long-term community asset, all I ask is that they do it a responsible manner as they have demonstrated over their years of operation.

Refinery closures are not as far-fetched as we may think. In the past several years, there have been several refineries shut down due to profit margins, with the most recent here in southern California, and it would be a shameful loss to the community if that happened here.

I would like to make a final comment regarding concerns of rail switches: when I first heard of this project, I had a mental picture of rail cars being moved in and out all day and night. I attended one of the community meetings and what I understood from that meeting is there would be two rail switches a day of only 50 rail cars. I don't understand why this would be an issue for an industrial area zoned for this activity.

Thank you for your attention.

Silvano Preciado, Benicia Resident



Amy Million - Positive Train Control - important condition

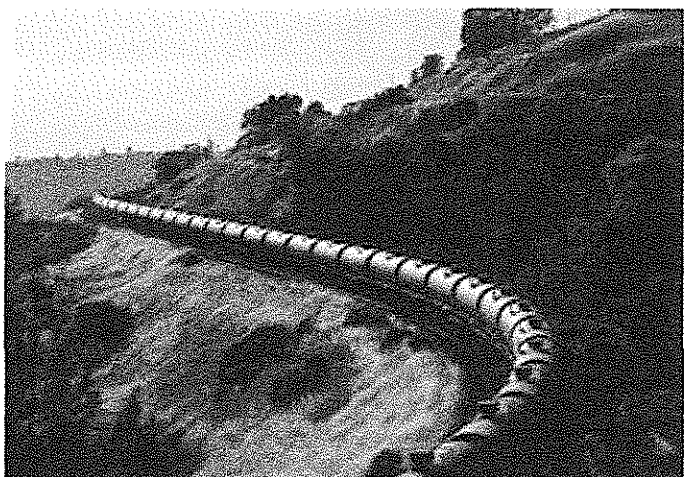
From: <rogrmail@gmail.com>
To: "Amy Million" <AMillion@ci.benicia.ca.us>, "Brad Kilger" <bkilger@ci.benicia.ca.us>
Date: 7/28/2014 8:34 AM
Subject: Positive Train Control - important condition
CC: "Belinda Smith" <bsmitgo@hotmail.com>, "Don Dean" <donaaldjdean@sbcglobal.net>, "George Oakes" <oakes@earthlink.net>, "Stephen Young" <escazuyoungs@gmail.com>, "Susan Cohen Grossman" <susancg@pacbell.net>, "Suzanne Sprague" <Suzanne@solanolawgroup.com>, <aschwartzman@ci.benicia.ca.us>, "Christina Strawbridge" <cstrawbridge@ci.benicia.ca.us>, "Mayor of Benicia Elizabeth Patterson" <epatterson@ci.benicia.ca.us>, <mhughes@ci.benicia.ca.us>, <tcampbell@ci.benicia.ca.us>
Attachments: image001.jpg

Amy – please include the following San Francisco Chronicle article on Positive Train Control in the public record on Valero Crude by Rail, in support of my previous submission of December 3, 2013 on the same subject. Until California is fully covered by a state-of-the-art collision-avoidance system, Valero should not be issued a use permit for crude by rail. Significant quote from the article: "In the four-plus decades since the federal safety board began urging that the technology be installed, 139 crashes that could have been prevented with collision-avoidance systems have occurred on U.S. rail lines, resulting in 288 deaths and 6,500 injuries, according to internal records of the safety agency examined by Hearst Newspapers." Reference: <http://www.sfchronicle.com/nation/article/System-can-prevent-train-accidents-rail-industry-5650550.php?t=0f7e9c29f4>.

Roger Straw
 766 West J Street, Benicia, CA 94510
 707.373.6826

System can prevent train accidents, rail industry slow to adopt

New technology prevents accidents, but rail industry is dragging its feet



Jake Mille, Special To The Chronicle *A procession of tanker cars transporting Bakken crude oil travels on a railroad line near James (Butte County).*

Bill Lambrecht

July 27, 2014

Washington --

Faced with a huge increase in hazardous oil-carrying trains, California is urging quicker implementation of technology that would prevent train accidents caused by human error. But after pushing back against the idea for nearly half a century, the rail industry is far from ready to adopt the safety measure.

The technology monitors and controls train movements with a digital communications network that links locomotives with control centers. It's designed to prevent collisions by automatically slowing or stopping errant trains that are going too fast, miss stop signals, enter zones with maintenance workers on the track or encounter other dangers.

Yet 45 years after the National Transportation Safety Board first recommended such a system, the technology, known as positive train control or PTC, operates only on a tiny slice of America's rail network - including a segment of the Metrolink commuter rail line in Southern California, which has become a leader in adopting the technology after a crash near Chatsworth (Los Angeles County) killed 25 people and injured 102 in 2008. It is also coming soon to Caltrain in the South Bay and on the Peninsula.

In the four-plus decades since the federal safety board began urging that the technology be installed, 139 crashes that could have been prevented with collision-avoidance systems have occurred on U.S. rail lines, resulting in 288 deaths and 6,500 injuries, according to internal records of the safety agency examined by Hearst Newspapers.

During that time, the safety agency issued 75 PTC-related recommendations - formal advice to the industry and its federal regulator that has grown increasingly strident.

Railroad resistance

But the Hearst investigation found that even after early successes with the technology, its development has met continuous resistance from railroads unwilling to sacrifice profits for the safety that the system would provide.

The Federal Railroad Administration, charged with regulating the U.S. rail system, has frequently defied the safety board's recommendations to install PTC. At times, it has joined with industry to push back against implementation.

Finally, shortly after the Chatsworth accident, in which one of the engineers was distracted while texting, Congress passed legislation mandating the installation of the control system on key portions of the nation's rail network by the end of 2015.

Caltrain and Metrolink are among the few commuter lines in the country that say they expect to meet that deadline. But rising concern about trains hauling crude in the North American oil boom has put California at odds with the federal government about the pace of PTC and railroad safety in general.

Ten derailments

Since last year, 10 oil trains have derailed in the U.S. and Canada, including the catastrophic wreck a year ago in Quebec that killed 47 people in the small town of Lac-Mégantic.

The amount of oil arriving into California by rail jumped last year by 506 percent to 6.3 million barrels, a state interagency working group on rail safety reported last month.

The report predicted that by 2016, the amount of crude oil coming to California by train could increase by 150 million barrels if California's five major refineries operate at capacity.

California recently learned that a Burlington Northern Santa Fe crude-carrying train is making weekly runs through the Feather River Canyon, into downtown Sacramento and south to Stockton, before turning toward the Bay Area and ending up at the Chevron refinery in Richmond.

State officials are raising an array of concerns with the federal government about the sluggishness of implementation of the safety measures.

Congress and the Federal Railroad Administration are proposing delays in PTC deadlines, but the report last month from nine California agencies recommended just the opposite: accelerating the installation.

Heading off disaster

"We're trying to do something before an accident happens instead of looking at a catastrophe and figure out how it could have been prevented," said Kelly Huston, deputy director of the Governor's Office of Emergency Services. "A train with better technology to prevent it colliding with another train is safer than a train that doesn't have that technology."

Metrolink began running the collision-avoidance technology earlier this year on the line that runs from Los Angeles to Riverside.

"Our biggest challenge has been the fact that we're out front as much as we are, so we're the ones experiencing the bugs," said Metrolink spokesman Jeff Lustgarten.

"The deadline was seven years out," he added. "It wasn't as if it were an unreasonable deadline."

Caltrain is installing its \$231 million safety system along the San Francisco-to-Gilroy line.

The Government Accountability Office and rail safety advocates have questioned whether the Federal Railroad Administration is prepared for the inspections and approvals for PTC. Caltrain echoes those concerns.

"I think they will be challenged from a resource point of view to get this done, and it seems likely that that is going to be a constraint on all of us," said Karen Antion, a consultant who is directing Caltrain's transition to the system.

Human factor

The collision-avoidance technology is designed to minimize the number of train disasters caused by human error, the cause of roughly 40 percent of derailments.

In the 1980s, Burlington Northern, plagued by a series of fatal accidents, was the first to act on a recommendation that the National Transportation Safety Board had issued nearly two decades before, calling on railroads to adopt an avoidance system. The railroad's technology plotted the speed and positions of trains within 30 feet. If trains got too close and an engineer didn't slow after warnings flashed on a locomotive computer screen, the system took over.

It became more than an experiment: For five years, Burlington Northern's system operated on 17 locomotives on 300 miles of tracks in Minnesota. There were no accidents.

"All of the components worked as expected," said Steven Ditmeyer, who was Burlington Northern's research director at the time. "We had acceptance by train crews, dispatchers and maintenance people. There was no fear of the system and people could see its benefits."

Momentum lost

The federal safety board soon turned up the heat, advising the Federal Railroad Administration in the early 1990s to establish a "firm timetable" for installing train control along America's tracks.

But the opposite occurred. The 1990s were a time of upheaval in the industry, with mergers set in motion by deregulation. Amid the reorganizing and subsequent cost-cutting, railroads lost interest in train control.

In 1993, the Association of American Railroads prepared a 91-page study that laid out a case for benefits of the technology beyond avoiding wrecks: savings in fuel and labor costs, better traffic control, a means to monitor the condition of locomotives and "a better-rested and safer workforce."

But rather than use the study to rally its members, the leaders of the railroad trade group ordered the study destroyed. The railroad association argued in 1995 that the new technology "must be justified on the basis of safety benefits only."

The Federal Railroad Administration went along with what the industry wanted. Ditmeyer headed the agency's Office of Research and Development after being deeply involved with the Burlington Northern project. In 1996, he testified at a congressional hearing that technical issues with the system still needed to be addressed.

In a recent interview, Ditmeyer recalled that testimony as "one of the things I regret most in my life. ... I was forced to say it was not ready to implement."

Congress acts

After 9/11, the railroads' focus shifted to protecting against terrorist attacks, and collision-avoidance technology was pushed even further down the priority list.

Finally, after the Chatsworth crash, Congress passed a measure requiring implementation of PTC and President George W. Bush signed it into law. But the delays were far from over.

In 2010, the Association of American Railroads filed suit challenging federal rules for installing the new technology, arguing that "while the costs of PTC are tremendous, the benefits are relatively few." Four years later, the suit drags on.

Michael Rush, associate general counsel of the Association of American Railroads, said his members are committed to the technology, but that key components are still in a developmental stage.

"It is a work in progress. We're trying to do something that's not been done before," he said.

In the run-up to the 2015 deadline, Americans don't have the opportunity to measure progress in installing the technology. The federal railroad agency rejected a National Transportation Safety Board recommendation to post railroads' updates online.

"To publish this information would likely mislead and confuse the public," agency administrator Joseph Szabo said in a letter, adding that it would "waste valuable agency resources."

Robert Sumwalt, a member of the federal safety board, said in an interview that the railroad agency's "response to this was, frankly, appalling."

Drop in accidents

The railroad agency defends its safety record, pointing to a 50 percent drop in rail accidents over the past decade. The agency also touts a voluntary agreement that went into effect July 1 under which oil trains reduce speed in urban areas and take pains to identify routes with the fewest risks.

The Federal Railroad Administration favors a plan to deal with railroads' plans to install the safety system incrementally, not setting any overall deadline. Testifying at a Senate hearing this spring, Szabo said the open-ended plan would set milestones for individual railroads and "achieve the benefit of PTC as much as possible as soon as possible."

Other proposals in Congress would delay the technology beyond 2015.

"Pure trouble" is how Grady Cothen, the agency's former associate administrator for safety, sums up the agency's open-ended deadline proposal. "There is a place for FRA discretion, but there has to be a framework," he said.

Sumwalt said he and other federal safety board members "were feeling good" after Congress ordered the collision-avoidance technology six years ago.

"And now we're finding that it's going to be delayed even further," he said. "It's frustrating to see accidents continue to happen that we know PTC would have prevented."

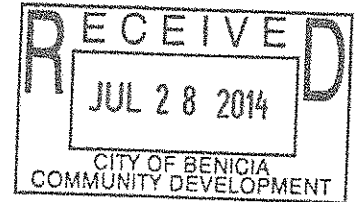
Bill Lambrecht is a reporter in the Hearst Newspapers Washington bureau.

Frances Burke PO Box 72955 Davis CA 95617

To: Brad Kilger, City Manager
250 East L Street, Benicia CA 94510

July 24, 2014

To: Amy Million, Principal Planner
Community Development Department
250 East L. Street Benicia CA 94510



Dear Mr. Kilger and Ms. Million,

Please add my comments to the public legal record on Valero's crude by rail project and incorporate them as part the public record. In addition please forward my comments to the planning commissioners.

I am a resident of The City of Davis and live within 100 yards of the train tracks that crude by rail trains will travel to the refinery in the City of Benicia. Davis is a city of nearly 70,000 with 25,554 people living within one half mile of the rail 45,000 people living within a mile distance from the rail tracks. This includes the University of California at Davis campus, the Mondavi Performing Arts Center and Hwy 80 . If the Valero refinery is approved our community will experience increased train traffic and with it the increased traffic congestion, noise, vibration, and risk from derailment and the accompanying possibility of explosion and fire. We will be severely impacted by this project and our concerns have not been addressed by the DEIR. No consideration is given to up rail communities that will bear the impacts of the increased number of tank cars traveling in 50-100 car unit trains daily through our downtown's, residential districts, and over our waterways while carrying a very volatile load.

My questions concern liability insurance. James Beardsley, global rail practice leader for Marsh & McLennan Cos. Insurance Brokerage unit, says. "There is not currently enough coverage in the commercial insurance market anywhere in the world to cover the worst case (train derailment) scenario."

- 1) Last year trains hauled 400,000 carloads of oil up from 9,500 in 2008
- 2) Railcar accidents spilled 1.15 million gallons of crude oil in 2013
- 3) Pipeline and Hazards Material Safety Administration issued a rare safety alert, saying "Recent derailments and fires indicate that the type of oil transported from the Bakken fields may be more flammable than traditional Heavy crude oil".

- 3) National Transportation Safety Board and Canadian equivalent The Transportation Safety Board of Canada warned "That an oil train accident could result in Major loss of life"
- 4) Railroads self-insure against accidents over a certain threshold.
- 5) Presently railroads are using unsafe legacy DOT-111 tank cars.
- 6) Industry experts went on record with the Wall Street Journal and detailed the inadequacy of Insurance railroads carry for catastrophic events.
- 7) BNSF Railroad went on record as saying "Insurance is not commercially available to cover us against catastrophic loss
- 8) Following the accident, fire, and explosion in Lac-Mégantic, a small town in Quebec, US based oil service companies are presently in court fighting the Quebec Government and wrongful death suits filed in behalf of the towns residents, and estimates for clean up cost alone were \$180 million and may take a decade to accomplish with liabilities estimated at \$2 billion.

As an affected resident of Davis I ask the City of Benicia and the DEIR to ask hard questions regarding who in the event of an accident, derailment, or spillage is the responsible party, and does that party carry enough insurance to cover an accident along the train route and in a metropolitan area. An example is Washington State where law requires transporters of petroleum products to demonstrate that they have the resources and insurance to take financial responsibility for their mishaps. The Benicia refinery is the point where it must be determined if there is adequate insurance carried by Valero, the railroads delivering the crude oil and train car leasing companies. Vagaries in deterring responsibility cannot happen. Accidents will happen and determining responsibility and the ability to pay restitution prior to the incident is absolutely necessary.

My community and all communities along the rail route have lives and property at increased risk. The FEIR needs to adequately answer these questions for all parties involved.

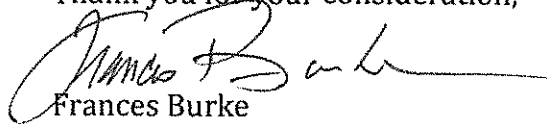
Who will be liable for a rail accident resulting in a derailment, explosion and fire in my community?

Who will be liable for a derailment and spillage into the Yolo causeway a wildlife sanctuary and water source for the State of California?

Does the liable party carry adequate insurance to guarantee clean up and restitution for parties damaged in the event of a spill, derailment or explosion?

Can and will the City of Benicia require Valero to put up a \$20 billion bond in advance?

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "Frances Burke", with a long horizontal flourish extending to the right.

Frances Burke

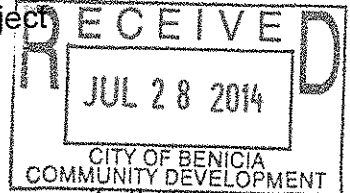
frances_brk@yahoo.com

TO: Brad Kilger, City Manager, Amy Million, Principle Planner, Community Development Department

FROM: Constance M. Beutel, EdD, 1501 Shannon Ct, Benicia, CA 94510

SUBJECT: Questions regarding the DEIR, Valero Crude by Rail Project

DATE: July 28, 2014



Dear Brad and Amy,

The mounting evidence indicates this is an unsafe project for our Community that has tremendous adverse consequences for community and business continuity should a serious crude by rail accident. Please submit my questions for the Draft Environmental Impact Report regarding the Valero Crude by Rail Project.

Thank you,

Constance M. Beutel

1) Does Valero commit to never increase the amount, 70,000 barrels imported daily? (executive summary, p. 1)?

If no, for How long is this commitment?

2) How will Valero certify to the Benicia public every time a DOT 111 tanker car is used that it is CPC1232 (p.3)?

3) What are the current air quality limits imposed by the BAAQMD? Where does Valero stand now? How will they be monitored and the public alerted that the permitted standards are being met (p.4)?

4) How will ground water wells be monitored to insure and certify to the public that no contaminants are causing a public danger (p.4)?

5) On p.5 it indicates that there is no project alternative, i.e., that Valero would not be able to achieve most of its project objectives. Why not? As the project objectives are virtually the same as with marine delivers (re: pps 1-2)

- a) 70,000 barrels a day
- b) replace marine with train
- c) mitigate project impacts – no project, no impacts
- d) no change to the refinery process
- d) meet existing rules and regulations

6) How will Valero mitigate or pay for the costs of street repair and reconditioning?

7) How will Valero fairly compensate businesses and individuals for lost opportunity and operation costs of idling cars, trucks caused by rail delays?

8) What additional water requirements will be needed to process Bakken crude and tar sands oil? How will this water use impact water quality and availability for Benicians (residential, commercial, industrial)?

9) How will the public know whether the mix of crude oil is being changed . . .or will we be assured that with each delivery of crude that no changes have occurred? (Chapter 1, p.5)

10) In this severe drought, how many gallons of water would be needed by this project to dampen dirt during the construction project?

a) Would Valero or it's contractors purchase this water separately from what the City of Benicia must provide?

b) What will be done to severely conserve water if this project proceeds?
(Chapter 2, table 2-1)

11) What specific efforts will be made to mitigate toxic dust blowing to local businesses/residences? As dust travels further than a "publicly visible sign with the telephone number" and the wind blows 24/7/365, how will the public be alerted?

12) impacts 4.1-1b How will resultant illness or death warnings be given continuously to the public and compensation be handled? Will Valero take a health census before and then be tracked after this project?

13) impact 4.1-4 objectionable odors: less than significant: What will Valero do if objectionable odors are significant? Will there be compensation for illness, loss of work, loss of business paid for by Valero?

14) impact 4.2-1 adverse effect on nesting birds/sulphur springs creek riparian corridor: potentially significant.

Will the construction avoid nesting season?

How will the public be notified and certification made of buffer zones?

What inventory of plant and wildlife has been made to date and analyzed for appropriate protective buffers?

Are there any endangered species identified that would stop this project?

15) impact 4.2-7/8/9 train accident spillage: Why wouldn't spillage be significant to natural communities and special species?

16) impact 4.4-1 increased energy during construction: the pumping of water and processing of wastewater takes energy,

How would water usage and energy required for it be lessened by mitigation measure 4.1-1?

17) impact 4.5-3 mitigation effort 4.5-1 What will actually be done and when to assure railroad tracks will withstand an earthquake?

18) mitigation effort 4.5-2: How soon after any temblor and before any train shipments would tracks be inspected?

How will the public be assured and inspection certified that inspection has occurred and the tracks are safe before resuming crude by rail shipments?

19) impact 4.6-1 ghg emissions: How will the public know and how will Valero certify that ghg emissions are not significant from the project?

20) impact 4.7-1/2/3/4/5/6/8 hazardous materials: How will the public know and how will Valero certify that hazardous materials are or are not significant?

21) impact 4.8-1: water quality: When would erosion and storm water control measures be installed? How would water quality be measured and certified and the public continuously informed of the data?

22) How is the public to be assured of the veracity of statements in table 2-1, i.e., that there are "less than significant" impact?

23) impact 4.11-4 emergency access: How many emergency vehicles are required for a 'typical' tanker emergency? How would 'E 2nd street accommodate emergency response and residential, BIP workers escape access?

24) impact 4.11-5: public transit, bicycle, pedestrian:
How would pedestrians, cyclists be protected from off-gassing of emissions during crude deliveries?

Chapter 3 - project description

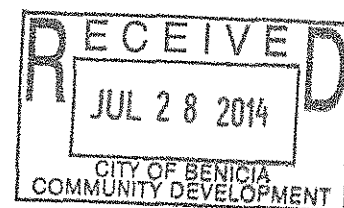
25) p. 1; 'Where would 'trains would not be scheduled to arrive or depart between the hours of 6-9am/4-6pm? be parked if awaiting off loading or return?
If the parked trains cause traffic delays, how will that be addressed?

26) Why doesn't Benicia's General Plan have anything about energy conservation for industrial development?

Finally,

27) What was the formula used to base the 'fate and transport' incident of potential oil spill accidents as once in 100 + years? What would be done by Valero to make the City whole if that once in 100+ years accident happened in 2015?

From: AnnPrivateer <annprivateer@att.net>
To: <bkilger@ci.benicia.ca.us>, <amillion@ci.benicia.ca.us>
Date: 7/28/2014 3:47 PM
Subject: Re: Public Safety



Dear Mr. Kilger and Ms. Million,

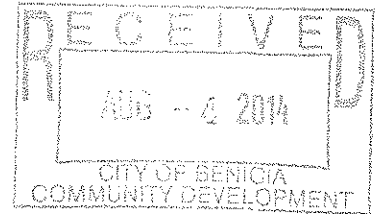
Please add my comments to the public legal record regarding Valero's Crude By Rail Project and include them in the review of its DEIR. Also, please forward my comments to the Planning Commissioners.

I am a resident of Davis, CA and live two blocks from the railroad tracks and therefore two blocks from the two 50 car trains that would cross the Yolo Bypass which contains our sensitive Yolo Basin Wildlife Preserve, pass through our downtown and pass very near to several residential areas. I am therefore very concerned about these trains carrying crude oil through my community every day.

I am a retired individual on a fixed income. What do I have to do to feel safe? Or the better question is how can Valero guarantee my safety and along with the more than 50 thousand residents of Davis and our wildlife some of which are endangered species.

Thank You,
Ann Privateer
1314 Hemlock Lane
Davis, CA 95616
530-756-5123

July 28, 2014



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

Re: Comment in Support of the Valero Crude by Rail Project

Dear Ms. Million:

I am a Benicia resident of 24 years and I support the Valero Crude by Rail Project ("the Project"). I worked in Risk Management for over 20 years, and worked in local government for 15 years. My background gives me insight into the issues spelled out in the Draft EIR ("the Report").

I attended the public meeting on July 10, 2014, but I had to leave and did not get an opportunity to speak in favor of the Project. I have read the Report, and make the following written comments in support of the Project:

1. The Report is an imposing document, but appropriate for this technically complex project. If the Report were any shorter, it would be insufficient to address the risk factors and regulatory realities of the Project.
2. The Bakken crude oil is needed to help improve U.S. energy independence. But, refining the Bakken crude in the Dakotas requires an infrastructure that is years away, thus, in the near term, by necessity, the oil must be transported by pipe, truck or rail to existing refineries.
3. "Rail transport is much less spill-prone than hauling oil by truck or pipeline" according to information supplied by Dagmar Etkin of the Environmental Research Consulting Group ("ERC"), a firm specializing in environmental impacts of oil spills (www.environmental-research.com). ERC analyzed rail, truck and pipeline oil spills into waterways from 1980 to 2003, and found spillage rates for truck to be nearly double the spill rates by rail. This information does not even take into account the use of the safer 1232 tank car specified in the Report.
4. Stabilization of crude oil should be addressed in the Final EIR. This process is currently under regulatory discussion. Stabilization is identified as a process to remove the volatile "top end" elements in crude oils, such as the Bakken light crude, and results in a product that is much safer to transport by rail. Stabilization is extensively used in the Texas oil fields where similar crude oil safety issues were found and where the crude oil had to be transported by rail.

The one Stabilization plant in the Bakken Field that is due to come on line soon, is not of sufficient size to handle all of the demand. Reports state that there would likely be construction of additional Stabilization facilities if there were regulatory pressure on the industry to do so.

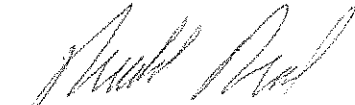
5. The Report takes into account the risks, regulatory environment and mitigation factors for transporting crude by rail. The Report also identifies the dynamic nature of the regulatory and legislative agencies overseeing oil transport by rail.
6. Valero's offer to reduce incoming crude by marine source is an important benefit. Reducing the amount of crude oil transported through the North Bay and Sacramento River inherently lowers the risk to the inland waterways.
7. Benicia needs the economic stimulus of the new jobs and added tax revenue attached to the Project, something of significance that should not be overlooked.

In conclusion, some West Coast refinery somewhere will get the Bakken crude to refine it into needed products. I would much rather see the crude sent to a refinery with a safety record and reputation such as Valero, Benicia, than a refinery where the transportation and refining would not be done with the same degree of safety. There is an opportunity for Benicia to be a frontrunner in setting standards for handling Bakken sweet light crude.

Perhaps the City of Benicia should make recommendations to state and national regulatory agencies as well as local and state legislators in favor of Crude Oil Stabilization. Such recommendations would carry more weight if Benicia were the home of one of the safest Bakken crude refineries in the nation, with a model EIR.

We should all recognize that rejection of the Project will not stop Bakken crude from being shipped by rail; it will just go elsewhere, and likely without the safety mitigation offered by Valero. Permitting the Project to move forward assures Valero's history of safety will be integrated with the shipment of crude by rail.

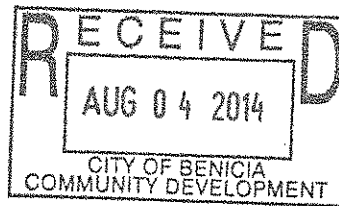
I am in favor of the Project and want it to move forward.



Ron Dial
690 Primrose Lane
Benicia, CA 94510

cc: Elizabeth Hansell

Benicia Planning Commission



8/4/14

I believe the draft EIR finds that the Valero Refinery project meets all the requirements to proceed with the current project being considered. Valero is not requesting any changes in the environmental or volume outputs allowable under the permits by the many agencies that oversee the refinery operations.

The rail road has updated the tracks recently with heavy duty rails throughout the industrial park as well as installing new switching to allow more efficient movement in and out of the site.

Valero needs to have the ability to take advantage of North American crude to remain competitive and help the U.S. become energy independent.

Valero is a major factor in making Benicia the place we as citizens and businesses enjoy. 25 percent of the City General Fund, the many philanthropic donations, the jobs supported, generosity and time committed by their employees make them an extremely valuable asset to keep the city prosperous.

I would encourage the Planning Commission to vote to allow this project to go forward.

Jack Bell

A handwritten signature in black ink that appears to read "Jack Bell".

SUBA MFG INC

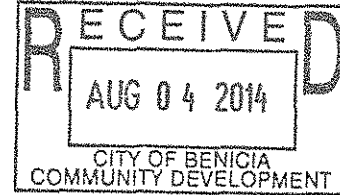


SUBA MFG., INC.
921 Bayshore Road
Benicia, CA 94510 (707) 745-0358

FAX #(707) 745-2985

Brad Kilger, City Manager
250 East L Street,
Benicia, CA 94510
Bkilger@ci.benicia.ca.us

Amy Million, Principal Planner
Community Development Department
250 East L Street, Benicia, CA 94510
amillion@ci.benicia.ca.us



August 3, 2014

Dear Mr. Kilger and Ms. Million,

Please add my comments to the public legal record on Valero's Crude by Rail Project and incorporate them as part of the review of its DEIR. In addition please forward my comments to the Planning Commissioners.

I am a resident of Davis, up-rail from the proposed Valero rail project and have concerns about the two 50-car trains that Valero wants to send through the Central Valley to Benicia. My first concern is about the potential for an accident of major proportions. On July 24 an oil train going five miles per hour derailed in Seattle. The tank cars were 1232 Tank Cars and no spill occurred, but two-thirds of oil tank cars are the DOT-111 Legacy Tank Cars, which regulators deem unsafe because their thin walls make them prone to puncture. Carrying enormous amounts of highly explosive flammable liquids in unsafe train cars that can derail even at slow speeds should not be allowed. California is a highly populated state and has a fragile environment, subject to massive fires.

The traffic section of the DEIR indicates that Valero has or may purchase upgraded tank cars for their use between Roseville and Benicia, but DOT will not even begin to phase in the newer model until the end of 2015, and given that there is already a shortage of tank cars and the industry is rapidly expanding, the DOT 111A Legacy cars are likely to stay in operation. Furthermore, even the 1232 cars may not be safe enough. In the accident on April 14, 2014 in Lynchburg, Virginia, a 1232 tank car derailed at 23 mph and ruptured. Some rail experts are concerned that the upgraded tank cars will be too heavy for some of the older bridges and more treacherous areas of track. The improved tank cars are not a panacea.

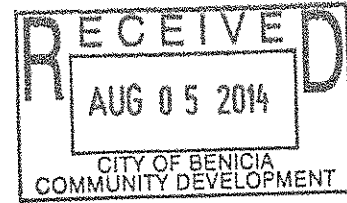
My second concern with the DEIR is that I can find no mention of train congestion for up-rail cities, yet clogged railways is becoming a major problem in the Northwest where oil trains use the same tracks as trains carrying grain. In a Seattle Times report on July 27th it stated that only about two loaded oil trains a day go through Seattle, but the railroad failed to anticipate the train patterns and now each week grain orders from the Midwest on their way to the port are delayed by 20 to 30 days in part due to the oil trains. The disruption has become an economic burden to farmers. In California we have the Capitol Corridor, a commuter train between San Jose and Sacramento, as well as freight trains. There are sixteen Capitol Corridor trains a day into Sacramento. I, myself, have frequently used the Capitol Corridor to commute to work in Sacramento along with many others. Businesses and the government would be impacted if train patterns change. The oil trains would be sharing the same routes, but

obviously they should be going at much slower speeds. Train delays discourage the use of public transportation and if employees are chronically late, worker productivity is reduced. In light of the experience in the Northwest, rail traffic patterns for freight and Amtrak through all the up-rail communities should be studied.

Thank you for your consideration.

Diane Swann
2526 Oakenshield Rd.
Davis, CA 95616

To: City of Benicia
Community Development Department
250 East L Street
Benicia, California 94510
Mr. Charlie Knox Community Development Director:



RE: DEIR, EIR, NEPA and Environmental Justice Studies for Valero Benicia Refinery crude by Rail Project. Include the following statements, questions and exhibits in the administrative record OF ANY AND ALL LOCAL, STATE AND FEDERAL AGENCY INVOLVED IN REGULATION OR SITING OF THIS PROJECT.

Respond in writing in accordance with the California Environmental Quality Act (CEQA) to all comments and questions presented. Failure to answer in writing as required by law is denial of my rights to participate in this proceeding and a denial of due process. Use of discriminatory State and Federal laws is a denial of my right to participate in this proceeding in a meaningful manner and a denial of due process under the law as granted to all Citizens of the United States of America by our Constitution and The Declaration of Independence.

Pursuant to “Citizens for Ceres v The Superior Court of Stanislaus County (July 8, 2013) 217 Cal.App.4th 889” provide ALL correspondence between applicant, applicant’s advisors to the City of Benicia, City of Benicia advisers, Planning Commission, Planning Commission advisers, Benicia Fire Department and all elected and appointed officers there in.





July 6 2013 Lac Mégantic, Québec Canada, 47 never found, \$400,000 million in losses and climbing

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Declaration of Independence

“IN CONGRESS, July 4, 1776.

The unanimous Declaration of the thirteen united States of America, When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation. We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, --That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.--Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government.”

The opportunities a decision maker gets to change the destiny of humanity are rare. To have the insight to grasp it when presented is even rarer. And the rarest opportunity of them all is to accomplish this with a simple yes or NO.

Summary: Valero Acknowledges Their Intent to Use Discriminating Federal law to Deny Benicia, the State of California and Concerned Citizens Their Regulatory and Civil Rights

Applicant postulates the City of Benicia is powerless to control its destiny due to Commerce Clause of the United States Constitution. At 7/10/2014 Paining Commission meeting Valero was quite “adamant” in their belief that any conditions placed on project will be summarily overturned. Unfortunately I have to agree with them not on Constitutional grounds but on it must be nice having friends in high places. There is nothing in the Constitution or in special interest reinterpretations that forbids after long and thoughtful consideration of all facts in hand, after giving applicant due process a rejection of project in its entirety.

Imagine if:

- Ralph Abernathy (1926–1990) clergyman, activist, Southern Christian Leadership Conference (SCLC)
- Susan B. Anthony (1820–1906) Women's suffrage leader, speaker, inspiration
- Ella Baker (1903–1986) SCLC activist, initiated Student Nonviolent Coordinating Committee (SNCC)
- James Baldwin (1924–1987) essayist, novelist, public speaker, SNCC activist
- Daisy Bates (1914–1999)
- Dana Beal (1947–) pro-hemp activist, organizer, speaker, initiator
- Jeremy Bentham (1748–1832) British philosopher, writer, and teacher on civil rights, inspiration
- James Bevel (1936–2008) SCLC's main strategist, organizer, and Action leader
- Claude Black (1916–2009)
- Antoinette Brown Blackwell (1825–1921) - founded American Woman Suffrage Association
- Julian Bond (1940–) activist, politician, scholar, lawyer, NAACP chairman
- Lenny Bruce free speech advocate, comedian, satirist
- Lucy Burns (1879–1966) women's suffrage/voting rights leader
- Stokely Carmichael (1941–1998) SNCC and Black Panther activist
- Carrie Chapman Catt (1859–1947) suffrage leader, president National American Woman Suffrage Association, founder League of Women Voters and International Alliance of Women
- Cesar Chavez (1927–1993) Chicano activist, organizer, trade unionist
- Claudette Colvin (1939–) Montgomery Bus Boycott pioneer, independent activist
- Marvel Cooke (1903–2000), journalist, writer, trade unionist
- Humberto "Bert" Corona (1918–2001) labor and civil rights leader
- Dorothy Cotton (1930–) SCLC activist, organizer, and leader
- Norris Wright Cuney (1846–1898), Texas politician
- Eugene Debs (1855–1926) organizer, campaigner for the poor, women, dissenters, prisoners
- Frederick Douglass (1818–1895) abolitionist, women's rights, writer, organizer
- W. E. B. Du Bois (1868–1963) writer, scholar, founder of NAACP
- Charles Evers (1922–) Civil Rights Movement activist
- Medgar Evers (1925–1963) NAACP official
- James Farmer (1920–1999) Congress of Racial Equality (CORE) leader and activist
- Louis Farrakhan (1933–) Minister, National Representative of the Nation of Islam
- James Forman (1928–2005) SNCC official and activist
- Marie Foster (1917–2003) activist, local leader in Selma Voting Rights Movement
- Betty Friedan (1921–2006) writer, activist, feminist
- Mohandas Gandhi (1869–1948) activist, writer, philosopher, inspiration
- William Lloyd Garrison (1805–1879) writer, organizer, feminist, initiator
- Dick Gregory civil rights movement, free speech advocate, and comedian
- Olympe de Gouges (1748–1793) women's rights pioneer, writer, beheaded after French Revolution
- Prathia Hall (1940–2002) SNCC activist, civil rights movement speaker
- Fannie Lou Hamer (1917–1977) activist in Mississippi movements

- Harry Hay (1912–2002) early leader in American LGBT rights movement, founder Mattachine Society
- Lola Hendricks (1932–) activist, local leader in Birmingham Movement
- Jack Herer (1939–2010) pro-hemp activist, speaker, organizer, author
- Gordon Hirabayashi (1918–2012) Japanese-American civil rights hero
- Myles Horton (1905–1990) teacher of nonviolence, pioneer activist, Highlander Folk School
- T.R.M. Howard (1908–1976) founder of Mississippi's Regional Council of Negro Leadership
- Julia Ward Howe (1818–1910) writer, organizer, suffragette
- Dolores Huerta (1930–) labor and civil rights activist
- John Peters Humphrey (1905–1995) author of Universal Declaration of Human Rights
- Jesse Jackson (1941–) clergyman, activist, politician
- Nellie Stone Johnson (1905–2002) labor and civil rights activist
- Abby Kelley (1811–1887) abolitionist and suffragist
- Coretta Scott King (1927–2006) SCLC leader, activist
- Martin Luther King, Jr. (1929–1968) SCLC co-founder/president, activist, author, speaker
- James Lawson (1928–) teacher of nonviolent, activist
- Bernard Lafayette (1940–) SCLC and SNCC activist and organizer
- John Lewis (1940–) Nashville Student Movement, SNCC activist, organizer, speaker, politician
- Joseph Lowery (1921–) SCLC leader and co-founder, activist
- Clara Luper (1923–2011) sit-in movement leader, activist
- James Madison (1751–1836) introduced and lobbied for the U.S. Bill of Rights
- Nelson Mandela (1918–) South African statesman, leading figure in anti-apartheid movement
- George Mason (1725–1792) wrote Virginia Declaration of Rights, influenced U.S. Bill of Rights
- Rigoberta Menchú (1959) - Guatemalan indigenous rights leader, co-founder Nobel
- James Meredith (1933–) independent student leader and self-starting activist
- Mamie Till Bradley Mobley held open casket funeral for son, Emmett Till; speaker, activist
- Charles Morgan, Jr. (1930–2009) attorney, established principle of "one man, one vote"
- Harvey Milk (1930–1978) politician, gay rights activist
- Bob Moses (1935–) leader, activist, and organizer
- Diane Nash (1938–) SNCC and SCLC activist and organizer
- Edgar Nixon (1899–1987) Montgomery Bus Boycott organizer, civil rights activist
- James Orange (1942–2008) SCLC activist and organizer, trade unionist
- Emmeline Pankhurst (1858–1928) one of the founders and the leader of the British Suffragette Movement
- Rosa Parks (1913–2005) NAACP official, activist, Montgomery Bus Boycott inspiration
- Alice Paul (1885–1977) major women's suffrage/women's rights leader, strategist, and organizer
- Thomas Paine (1737–1809) English-American activist, author, theorist, wrote Rights
- Elizabeth Peratrovich (1911–1958) Alaska activist for native people
- A. Philip Randolph (1889–1979) socialist, labor leader
- Amelia Boynton Robinson (1911–) voting rights activist
- Jo Ann Robinson (1912–1992) Montgomery Bus Boycott activist.
- Eleanor Roosevelt (1884–1962) women's rights, human rights activist in United Nations
- Bayard Rustin (1912–1987) civil rights activist

- Al Sharpton (1954–) clergyman, activist, media
- Charles Sherrod civil rights activist, SNCC leader
- Judy Shepard (1952–) gay rights activist, public speaker
- Kate Sheppard (1847–1934) New Zealand suffragist in first country to have universal suffrage
- Fred Shuttlesworth (1922–2011) clergyman, activist, SCLC co-founder, initiated Birmingham Movement
- Elizabeth Cady Stanton (1815–1902) women's suffrage/women's rights leader
- Gloria Steinem (1934–) writer, activist, feminist
- Lucy Stone (1818–1893) women's suffrage/voting rights leader
- Thich Quang Duc (1897–1963) Vietnamese monk, freedom of religion self-martyr
- Desmond Tutu (1931–) South African anti-apartheid organizer, advocate, inspiration
- Karl Heinrich Ulrichs (1825-1895) writer, organizer, pioneer of the modern gay rights movement
- C.T. Vivian (1924–) American student civil rights leader, SNCC activist
- Wyatt Tee Walker activist with NAACP, CORE, and SCLC
- Ida B. Wells (1862–1931) journalist, women's suffrage/voting rights activist
- Walter Francis White (1895–1955) NAACP executive secretary
- Elie Wiesel (1928–Present) Jewish rights leader
- Roy Wilkins (1901–1981) NAACP executive secretary/executive director
- Frances Willard (1839–1898) women's rights, suffrage/voting rights leader
- Hosea Williams (1926–2000) civil rights activist, SCLC organizer
- Robert F. Williams (1925–1996) organizer
- Victoria Woodhull (1838–1927) suffragette organizer, women's rights leader
- Malcolm X (1925–1965) author, activist
- Andrew Young (1932–) clergyman, SCLC activist and executive director
- Whitney M. Young, Jr. (1921–1971) Exec. Director National Urban League, advisor to U.S. Presidents
- William Wilberforce (1759-1833) leader of English abolition movement
- Authors and signers of The Declaration of Independence
- Alexander Fred MacDonald (1920-2006) printer, union leader, civil rights activist, my father

Imagine if all these people said “Oh... let’s go home ladies and gentlemen the law says its ok for them to discriminate and deny us due process.” **Use of discriminatory State and Federal laws is a denial of citizen’s right to participate in this proceeding in a meaningful manner and a denial of due process under the law as granted to all Citizens of the United States of America by our Constitution and The Declaration of Independence.** Hg.org: Civil rights law deals with the protections and liberties enjoyed by the American people. These rights are designed to ensure that people are treated equally and without respect to their ethnicity, gender, or other such attributes. They also guard against overly intrusive conduct by the government. Government actors are not permitted to make decisions arbitrarily, or to deprive individuals of their lives or property without affording them **due process of law**.

Summary: States' Constitutional Tenth Amendment Regulatory Authority over Commerce

The Commerce Clause of the United States Constitution was designed to eliminate an intense rivalry between the groups of **those States** that had tremendous commercial advantage as a result of their proximity to a major harbor, and **those States** that were not near a harbor. That disparity was the source of **constant economic battles among the States**. The Commerce Clause authorizes Congress to regulate commerce in order to ensure **NO STATE** enjoyed an economical advantage over other States based on their access to a centralized shipping point. Example of this was the inspection of fruit and vegetables before produce could enter State. Some States were making the process so lengthy the produce would rot before getting entry into the State. If a State wishes a higher level of safety on commerce it can do so. With the consent of the shipping State it can require a higher level of safety on incoming commerce. It is when the shipping, intervening and receiving States disagree on standards does the Commerce Clause of the United States Constitution applies. **The commerce clause of the Constitution is about State's rights not citizen's or railroad rights.** Although the U.S. Constitution places some limits on State power, the **States enjoy guaranteed rights by virtue of their reserved powers pursuant to the Tenth Amendment. The Tenth Amendment was to stop cooperation tyranny. A State has the inherent and reserved right to regulate its domestic commerce.** The Constitution recognizes State solvency over commerce therein. The project is on privately owned lands of Valero under State regulation. Federal regulations do not apply until goods from such facilities cross State lines and States take issue over other States regulation of goods shipped therein. Valero is not a state (yet) and enjoys no such rights as such. At 7/10/2014 Planning Commission meeting staff and lawyers talked a lot about what the Planning Commission can't do, very little about what it can do and said nothing about States Constitutional Tenth Amendment Regulatory Authority over Commerce.

Powers not granted to the federal government by the Constitution, nor prohibited to the States, are reserved to the States http://en.wikipedia.org/wiki/Tenth_Amendment_to_the_United_States_Constitution

Their goal was to prevent the growth of the type of government that the British has exercised over the colonies.

<http://tenthamendmentcenter.com/about/about-the-tenth-amendment/>

Federal authorities needed to get 7 State's permission to move radioactive waste from Three Mile Island disaster to Idaho. What Constitutional Amendments since then have changed States authority?

Summary: Change of Lead Agency

Applicant postulates the City of Benicia is powerless to control its destiny due to Commerce Clause of the United States Constitution. At 7/10/2014 Paining Commission meeting Valero was quite "adamant" in their belief that any conditions placed on project will be summarily overturned.

If the City of Benicia does not have the legal authority to put into action any fair and just finding derived from the meaningful involvement of the people as applicant so "adamantly" claims these proceedings are meaningless, just a smoke screen for a decision that has already been made. Lead agency for certifying project should be moved to the agency possessing the power to affect Benicia's future.

15052. SHIFT IN LEAD AGENCY DESIGNATION

(a) Where a Responsible Agency is called on to grant an approval for a project subject to CEQA for which another public agency was the appropriate Lead Agency, the Responsible Agency shall assume the role of the Lead Agency when any of the following conditions occur:

(1) The Lead Agency did not prepare any environmental documents for the project, and the statute of limitations has expired for a challenge to the action of the appropriate Lead Agency.

(2) The Lead Agency prepared environmental documents for the project, but the following conditions occur:

(A) A subsequent EIR is required pursuant to Section 15162,

(B) The Lead Agency has granted a final approval for the project, and

(C) The statute of limitations for challenging the Lead Agency's action under CEQA has expired.

(3) The Lead Agency prepared inadequate environmental documents without consulting with the Responsible Agency as required by Sections 15072 or 15082, and the statute of limitations has expired for a challenge to the action of the appropriate Lead Agency.

(b) When a Responsible Agency assumes the duties of a Lead Agency under this section, the time limits applicable to a Lead Agency shall apply to the actions of the agency assuming the Lead Agency duties. : Section 21083, Public Resources Code; Reference: Section 21165, Public Resources Code

Summary: Lead Agency to Select Alternatives for Discussion in EIR

CEQA guidelines 15126.6(a) "The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason. (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553 and Laurel Heights Improvement Association v. Regents of the University of California (1988) 47 Cal.3d 376".

Summary: Misrepresentations of CEQA's Intent

Applicant postulates; "ES7: Issues to be resolved, including a choice among alternatives, and whether and how to mitigate potential significant impacts, also must be identified in an Executive Summary (CEQA Guidelines Section 15123). The main issue to be resolved in this EIR is which among the alternatives would meet most of the basic Project objectives with the least environmental impact. Balancing sometimes competing environmental values can be challenging because it rests on assumptions of relative value. Decision-makers may elect to balance relative values of environmental resources and, thereby, resolve the issues considered in this EIR with a different conclusion than the one summarized in Section ES-6 and discussed in Section 6.4.4, Environmentally Superior Alternative."

Here is CEQA section 15123.

"15123. SUMMARY

(a) An EIR shall contain a brief summary of the proposed actions and its consequences. The language of the summary should be as clear and simple as reasonably practical.

(b) The summary shall identify:

- (1) Each significant effect with proposed mitigation measures and alternatives that would reduce or avoid that effect;
 - (2) Areas of controversy known to the Lead Agency including issues raised by agencies and the public; and
 - (3) Issues to be resolved including the choice among alternatives and whether or how to mitigate the significant effects.
- (c) The summary should normally not exceed 15 pages.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21061, Public Resources Code.”

15123 clearly states brief summary shall contain (b1) mitigation and alternatives (b2) areas of controversy known to lead agency including raised by other agencies and the public (b3) Issues to be resolved including choice among alternatives (Valero is to state their choice of alternatives and mitigation). It says nothing about letting Valero choose what is or is not the main issue and it does not say lawmakers must choose between alternatives that Valero wants.

Summary: Cost or Impedance of Project Objective in not a Factor in Alternatives

15126.6. CONSIDERATION AND DISCUSSION OF ALTERNATIVES TO THE PROPOSED PROJECT.

(b) Purpose. Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, **even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.**

Summary: EIR needs to be Circulated with Feasible Alternatives

Applicant postulates the City of Benicia is powerless to control its destiny due to Commerce Clause of the United States Constitution. At 7/10/2014 Paining Commission meeting Valero was quite “adamant” in their belief that any conditions placed on project will be summarily overturned. Alternative 1 and 2 may be legally infeasible as applicant “adamantly” claims. DEIR must be recirculated with alternatives that are feasible so meaningful input and discussion by the People and a fair and just finding can be made.

15126.6. CONSIDERATION AND DISCUSSION OF ALTERNATIVES TO THE PROPOSED PROJECT. (a) Alternatives to the Proposed Project. An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives.

There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553 and *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376).

(b) Purpose. Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.

(c) Selection of a range of reasonable alternatives. The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. The EIR should briefly describe the rationale for selecting the alternatives to be discussed. The EIR should also identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency's determination. Additional information explaining the choice of alternatives may be included in the administrative record.

Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts.

(d) Evaluation of alternatives. The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project.

A matrix displaying the major characteristics and significant environmental effects of each alternative may be used to summarize the comparison. If an alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed (*County of Inyo v. City of Los Angeles* (1981) 124 Cal.App.3d 1).

(f) Rule of reason. The range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project.

The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making.

(1) Feasibility. Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent). No one of these factors establishes a fixed limit on the scope of reasonable alternatives. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; see *Save Our Residential Environment v. City of West Hollywood* (1992) 9 Cal.App.4th 1745, 1753, FN).

Summary: City of Benicia Can Adopt its Own Definition of Significance

“15064.7. THRESHOLDS OF SIGNIFICANCE

(a) **Each public agency is encouraged** to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.

(b) Thresholds of significance to be adopted for general use as part of the lead agency’s environmental review process must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence.

(c) When adopting thresholds of significance, a lead agency may consider thresholds of significance previously adopted or recommended by other public agencies or recommended by experts, provided the decision of the lead agency to adopt such thresholds is supported by substantial evidence.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21000, 21082 and 21083, Public Resources Code.”

Since the State Legislature finds and declares any further deterioration in preservation and enhancement of the environment is unacceptable, Benicia should adopt this as THRESHOLD OF SIGNIFICANCE.

Summary: Insignificant Finding for Environment may be Significant for Economic and Social Effects

“15131. ECONOMIC AND SOCIAL EFFECTS

(b) Economic or social effects of a project may be used to determine the significance of physical changes caused by the project. For example, if the construction of a new freeway or rail line divides an existing community, the construction would be the physical change, but the social effect on the community would be the basis for determining that the effect would be significant. As an additional example, if the construction of a road and the resulting increase in noise in an area disturbed existing religious practices in the area, the disturbance of the religious practices could be used to determine that the construction and use of the road and the resulting noise would be significant effects on the environment. The religious practices would need to be analyzed only to the extent to show that the increase in traffic and noise would conflict with the religious practices. Where an EIR uses economic or social effects to determine that a physical change is significant, the EIR shall explain the reason for determining that the effect is significant”.

Summary: Applicant Acknowledges Proposal Is a New Use of Facilities

DRAFT EIR 1.1 Overview the Project would install a rail car unloading rack, repurpose an existing tank to include crude oil service,

2.2 Tank 1776 Service Change

2.2.1 Current Operations... is currently permitted to store primarily Jet”A” or mogas as well as less volatile...

Summary: Transportation Study Infer Past Injustice Justifies Continued Injustice

Applicant acknowledges citizen ability to receive emergency help is already compromised by current refinery and railroad practices, possible delays in emergency help have been observed up to 24 minutes and 50 seconds long. Applicant also acknowledges City of Benicia Fire Department fails to meet NFPA response standards. Persons with health problems are more likely to need emergency health care during an emergency due to the additional stress they are under. Persons living near or workings in an industrial zone have more health problems. Using emergency response and needs during normal everyday life is meaningless.

5 Ways Stress Can Affect a Pregnancy

<http://health.howstuffworks.com/pregnancy-and-parenting/pregnancy/issues/5-ways-stress-can-affect-pregnancy.htm>

Yet Another Reason to Avoid Stress: Sudden Death

<http://www.webmd.com/balance/stress-management/news/20000117/yet-another-reason-avoid-stress-sudden-death>

Summary: Noise Study Infer Past Injustice Justifies Continued Injustice

Noise study only compares existing noise level to projected noise level. New sound sources are just as bad as existing sources. When sound levels are evaluated on their own merit are they loud enough to cause temporary or permanent hearing loss in children? How close will children be to sound sources and at what level of sound going to and from school, riding bikes, playing at parks or open spaces? Can sound levels be classified as annoying, lowering the standard of life for residents? Can noise level disrupt sleep? What authoritative sources did you use to make your assumption?

Summary: Applicant's Postulation Air Sampling in Vallejo is the Same as Benicia is Implausible Applicant's Testimony:

4.1-1 The climate is determined largely by a high-pressure system that is almost always present over the eastern Pacific Ocean off the west coast of North America. High-pressure systems are characterized by an upper layer of dry air that warms as it descends, restricting the mobility of cooler marine-influenced air near the ground surface, and resulting in the formation of subsidence inversions.

4.1-1 The air pollution potential is lowest for those regions closest to the Bay, due largely to good ventilation and less influx of pollutants from upwind sources.

4.1-1 The occurrence of light winds in the evenings and early mornings occasionally results in elevated pollutant levels.

4.1-1 Prevailing winds in the Project area are from the southwest

4.1-2 During the summer and fall months, high pressure offshore coupled with low pressure in the Central Valley causes marine air to flow northeastward

4.1-2 Sometimes atmospheric conditions cause air to flow from the east. East winds usually contain more pollutants...are usually accompanied by low wind speeds, shallow mixing depths, higher temperatures, and little or no rainfall.

4.1-3 Background ambient concentrations of pollutants are determined by pollutant emissions in a given area, and wind patterns and meteorological conditions for that area. As a result, background concentrations can vary among different locations within Solano County

4.1-4 The closest BAAQMD monitoring station to Benicia is the Tuolumne Street station in Vallejo. The Vallejo station is located about 5.5 miles northwest of the Refinery

4.1-4 “The fact” (my quotation marks, not another’s) that the results from the Vallejo monitoring station are representative of emissions in Benicia is confirmed by the results of an air monitoring study conducted just west of the Refinery from 2007-2008

Applicant acknowledges Vallejo monitor was about 5.5 miles Northwest of Benicia’s monitor which was located just West of project up in the hills of Benicia away from Delta. Vallejo’s monitor is not in the wind stream (from the Southwest to the Northeast) applicant acknowledges as being prevailing in Benicia. Vallejo’s monitor is closer to sea level and the bay receiving what applicant acknowledges as having good ventilation and less influx of pollutants from upwind sources. Benicia monitor’s elevation was higher and further away received less marine air because of restricted mobility of cooler marine-influenced air near the ground. Benicia monitor was subject to subsidence inversions and influx of pollutants from upwind sources. Applicant acknowledges background concentrations can vary among different locations within Solano County.

Summary: Dangers of Volatile Liquids Storage Known Since 1947

Hugh Harvey, J.Chem. Educ, 1947, 24(4), p 197, DOI 10.102/ed024p197 Publication Date: April 1947 STORAGE OF VOLATILE LIQUIDS by Hugh Harvey, Shell Oil Company, New York City. As far back as 1947 the petroleum industry new of the dangers associated with volatile liquids and chooses to ignore them. Hugh Harvey “By far the best closed container for handling volatile liquids is obtained by using spherical construction”.

Summary: Rail Car Accidents and Derailment Common

Center for Disease Control and Prevention (CDC) Hazardous Substances Released During Rail Transit
<http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5622a2.htm>

HSEES Surveillance of Rail Events from 17 States 2002--2007

State health departments participating in HSEES collect data on acute hazardous-substance events from various agencies, including the National Response Center, U.S. Department of Transportation, and state environmental and response agencies. The data are immediately entered into a secure Internet database, from which they can be accessed by ATSDR and the states. Of the 42,359 hazardous-substance releases reported to HSEES by 17 state health departments during 2002--2006, a total of 11,383 (26.9%) were transportation related, including 1,051 (9.2%) that involved rail transport. Among the rail transport events, 78 (7.4%) involved a chemical release and an area of impact that extended ≥ 200 feet from the point of release. The most common primary contributing factor in these 78 events was equipment failure (49 events [62.8%]); human error contributed to 24 (30.8%) events. A total of 103 different substances were released in the 78 rail transport events. The most common substances were diesel fuel (released along with a hazardous chemical substance) (seven events), chlorine (five), and hydrochloric acid (five); 61 (78.2%) events involved release of a single chemical. Injuries were reported from 11 (14.1%) of the 78 rail events; a total of 144 persons were injured (Table). Among those injured, 101 (70.1%) were members of the general public, 27 (18.8%) were employees of the railroad or companies at the sites of releases, and 16 (11.1%) were responders. Of the 210 total injuries sustained by the 144 persons, the most commonly reported were respiratory irritation (104 [49.5%]) and eye irritation (33 [15.7%]). Among the 143 persons for whom medical outcome was known, 101 (70.6%) were treated at hospitals and released, and 23 (16.1%) were treated on the scene.

Nine (6.3%) persons were admitted to a hospital, five (3.5%) were examined at a hospital but not treated, and two (1.4%) had symptoms but were not treated. Three persons died; a railroad employee died from trauma, and two members of the general public died from respiratory injuries. In the 78 events, a total of 314,336 residents (range: zero to 25,480 persons; median: 2,765) lived within 1 mile of the release sites. In 63 (80.8%) of the events, residences were located within 0.25 mile of the release, affecting a total 16,074 residents (range: 0--1,820 persons; median: 123). Sensitive sites located within the 0.25-mile range included day care centers (eight), schools (eight), and nursing homes (three) (Table). Seventeen (21.8%) rail events were associated with mandatory evacuations. A total of 10,002 persons (range: seven to 8,000 persons; median: 48) were known to have been evacuated. Durations of evacuation ranged from <1 hour to 13 days (median: 5.8 hours). For 58 (74.4%) rail events, no orders were issued to evacuate or shelter in place.

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National Transportation "SAFETY"???Board, Railroad Accident Reports

https://www.nts.gov/investigations/reports_rail.html

Wikipedia's list of rail accidents

http://en.wikipedia.org/wiki/Lists_of_rail_accidents

Here are just a few.

April 28, 1973-United States-Roseville, CA: Train fires and munition explosions over 32 hours, 48 injured, 24 million in damages. Hot brake shoe starts fire.

August 26, 2000 – United States – Brookings, South Dakota: A Dakota, Minnesota, and Eastern train bound for Central South Dakota was derailed killing the conductor and severely injuring the engineer. The accident was caused intentionally. The suspect called it a 'prank'.

May 15, 2001 – United States – Toledo, Ohio: A CSX #8888 freight train of 47 cars, including hazardous molten phenol acid, runs away in the yard at Toledo with no engineer aboard. The engineer had stepped out to reset a switch but had improperly applied the dynamic brake. It runs for 66 miles (106 km) to Kenton, Ohio before being stopped by a railroad worker who jumps aboard and manage to stop it. CSX had slowed the train down to 10 mph (16 km/h) by coupling an engine onto the end. This incident was dubbed the "Crazy Eights" incident in reference to the lead locomotive's number. The incident inspired the Tony Scott film Unstoppable.

July 18, 2001 – United States –Baltimore, Maryland: A 60-car CSX train carrying chemicals and wood products derails in a 1.7-mile-long (2.7 km) Howard Street tunnel under Baltimore causing water contamination and a fire that burns for six days.

September 11, 2001 – United States – Marshall, TX: Amtrak Texas Eagle Derails derailed in a collision with a Union Pacific freight train.

September 13, 2001 – United States – Wendover, Utah: Westbound California Zephyr Derails after striking a coal train, no fatalities but several injuries.

January 18, 2002 – United States – Minot, North Dakota: A Canadian Pacific Railway train derails at 01:40 CST near a residential area west of Minot. The derailment results in a massive anhydrous ammonia leak. Seven of 15 tank cars rupture, releasing more than 750,000 liters (200,000 US gallons) of anhydrous ammonia which vaporizes in the sub-zero air, forming a toxic cloud that drifts over much of Minot. One man dies and numerous others are treated for chemical exposure.

April 18, 2002 – United States – Crescent City, Florida: 21 cars of an Amtrak Auto-Train derail near Crescent City, 4 deaths and 142 injured. The National Transportation Safety Board initial accident report finds that the ECP brakes purchased for the train were not functioning. The final report determines that the accident was caused by a hot-weather "sun kink" misalignment of the track due to inadequate CSX maintenance-of-way, equipment and track damages totaled about \$8.3 million.

April 23, 2002 – United States – Placentia, California: A BNSF Railway freight train collides head-on with a Metro link train in Placentia, near Atwood Junction at the intersection of Orange Thorpe Avenue and Van Buren Street. Two people die in the crash and twenty-two are seriously injured.

May 30, 2002 – United States – Hempfield Township, Pennsylvania: A freight train of mostly empty cars strikes a vehicle at a non gated crossing, killing two teenagers and injuring two others. Crossing is permanently closed after the accident.

July 29, 2002 – United States – Kensington, Maryland: Eastbound Amtrak Capitol Limited, train 30, while traversing a CSX route strikes a sun kink at 1:55 PM traveling at 60 mph (100 km/h) near milepost 11.78. Several cars go down an embankment and four Superliner cars overturn against trees. 16 people are seriously injured and 79 people suffer from minor injuries. The misalignment was determined to be caused by an improperly stamped ballast and excessive speed in the 96 °F (35 °C) sunny weather. "Slow orders" were imposed on passenger trains in the area on very hot days following this accident.

September 15 – United States – Farragut, Tennessee: A Norfolk Southern freight train derailed resulting in a hazardous materials release of fuming Sulfuric acid. An evacuation of more than 2,600 nearby residents is ordered for nearly three days. Damage was estimated at just over one million Dollars.

September 27, 2002 – United States – Jamaica, New York: Three cars of a JFK Air train test derail near Federal Circle. The train's lone occupant, a train operator testing the automated equipment is crushed to death by the cement blocks inside the first car. The cement blocks were used to evenly distribute the weight inside the car simulating the weight of customers when in passenger service.

June 20, 2003 – United States – Commerce, California: A runaway Union Pacific freight train carrying lumber derailed in the Los Angeles suburb destroying several homes and rupturing natural gas lines.

October 12, 2003 – United States – Chicago, Illinois: A Metra train carrying 350 passengers derailed after its engineer ignores warning signals telling him to slow down for a track change and continues travelling at 73 miles per hour (117 km/h) over a 10-mile-per-hour (16 km/h) switch. Front locomotive rolls onto its side and catches fire, 45 injured. The engineer is not terminated and continues to work for Metra. This occurred in the same spot and for the same reasons as the 2005 Metra crash.

June 28, 2004 – United States – Macdona near San Antonio, Texas: 4 people die and 51 are injured when a Union Pacific Railroad train fails to stop at a signal and collides with another train causing lethal chlorine gas to leak out of a train car. The UP driver and two local residents living near the tracks die. Several other residents and many visiting an area SeaWorld theme park are injured seriously by the gas.

November 11, 2004 – United States – San Antonio, Texas: A Union Pacific Railroad train derailed off the tracks in an industrial district, killing one man working in a warehouse office and injuring others.

November 29, 2004 – United States – Richland, Florida: Two CSX freight trains collide in early morning fog at Vitis Junction, killing one and injuring three.

January 6, 2005 – United States – Graniteville, South Carolina: 9 people (including the engineer) die and 250+ are injured when a 42-car Norfolk Southern freight train collided head-on with a parked local train near the Avondale Mills plant in Graniteville. 16 cars derail in the accident, including a tank car that ruptures releasing 90 tons of chlorine gas into the air leading to 9 deaths and 250+ injuries. The NTSB determined that the cause of the accident was the failure of the local crew members to reline the switch for mainline operations.

January 26, 2005 – United States – Glendale, California: In a planned suicide attempt in which the suspect changes his mind, a southbound Metrolink double-deck commuter train collides with the man's vehicle that he has driven onto the tracks and then abandoned. The southbound train derailed and strikes both a moving northbound Metrolink train on the adjacent track as well as a parked Union Pacific Railroad freight train on a siding. 11 people die, about 100 injured.

March 6, 2005– United States –Salt Lake City, Utah: Approximately 6,500 gallons of phosphoric, sulfuric, acetic, and hydrofluoric acids corroded the inside of a stationary railcar and began leaking, causing an orange vapor cloud. The corrosion was attributed to improper combination of the acids because of human error. A member of the general public approximately 0.25 mile away experienced respiratory irritation and was treated on the scene. Approximately 8,000 persons downwind from the release were evacuated for 5 hours, and a shelter-in-place order to 6,000 people was issued for a five-block area near the evacuation zone.

May 5, 2005 – United States – Galt, Illinois: A Union Pacific train derailed and destroys the 140-foot (43 m) transcontinental mainline bridge at Elkhorn creek.

July 10, 2005-United States-Anding, Mississippi: Two Canadian National freight trains collide head on after the northbound train fails to stop at a red light, both crews die upon impact.

August 2, 2005 – United States – Raleigh, North Carolina: Two people are killed when their truck is hit by an Amtrak train. The driver bypassed safety barriers.

September 17, 2005 – United States – Chicago, Illinois: A Metra commuter train traveling into Chicago derailed killing two and injuring 83.

October 15, 2005 – United States – Texarkana, Arkansas: Union Pacific train rear-ends another train derailling and puncturing a tank car containing propylene. The leak reaches an ignition source at a nearby house, causing a massive explosion and subsequent fire. A 1-mile (1.6 km) radius is evacuated and one resident is killed.

January 6, 2006 – United States – Possum Point, Virginia: a broken CSX rail causes Railway Express Train #304 to derail. NTSB finds that CSX failed to post speed restrictions and repair/replace the track in a timely fashion.

March 13, 2006 – United States – Austin, Texas: Tara Rose McAvoy (deaf) is killed by the snowplow on a 65-car Union Pacific freight train. The train sounds its horn repeatedly and attempts to apply the emergency brakes but did not stop in time. She was text-messaging her parents at the time.

April 5, 2006 – United States – Indian Orchard, Massachusetts: Patrick Deans, 18 is struck and killed by a CSX freight train. Two CSX trains were passing at the time. Patrick escapes one train and is struck by the other.

May 2006– United States –St. Paul, Minnesota: approximately 5,000 gallons of hydrochloric acid were released from a stationary rail tanker at a chemical wholesaler. The rubber liner in the tanker had become displaced, allowing the acid to corrode and rupture the bottom of the tanker. A vapor cloud drifted from the site, and approximately 150 gallons of acid traveled through a storm sewer to a nearby river. 7 injured and a 2 hour shelter-in-place order given in a 1-square mile area.

June 14, 2006 – United States – Madera, California: Two BNSF Railway freight trains collide head-on due to one of the trains running a red signal. One crew member of train that ran the red is suspected to be high on cocaine. There was a camera on board one of the locomotives involved in the collision. The video of the collision is widely available on YouTube and related sites.

July 1, 2006 – United States – Abington, Pennsylvania: Two passenger trains collided on a single track, injuring three dozen.

October 20, 2006 – United States – New Brighton, Pennsylvania: A Norfolk Southern unit train of DOT-111 tank cars containing ethanol derailed on a bridge over the Beaver River. The resulting fire burns for days and forces evacuations.

November 9, 2006 – United States – Baxter, California: Six cars of a runaway maintenance train derail killing two of the crew.

November 30, 2006 – United States – North Baltimore, Ohio: 15 cars carrying steel derail when the train inadvertently switches to a side track. These cars then impact a coal train on a parallel set of tracks causing four of its cars to also derail. The PUCO blames the accident on a chain hanging from one of the rolling stock, which engaged a switch handle on the tracks, causing a shift of the rails. Three people who were in vehicles waiting for the train to pass are injured as a result of the accident.

January 15, 2007– United States –Irvine, Kentucky: Four runaway train cars rolled approximately 20 miles before colliding with two unoccupied engines. One of the four cars carried butyl acetate, a flammable solvent, which ignited on impact and resulted in an explosion. Approximately 3,000 Irvine residents were advised to shelter in place. Approximately 320 employees of nearby businesses were evacuated for 2 days.

January 16, 2007 – United States – Brooks, Kentucky: A CSX freight train derailed with tank cars containing 1,3-butadiene, cyclohexane, methyl ethyl ketone, and maleic anhydride were allowed to burn throughout the night to destroy the hazardous materials, 53 injured. Approximately 350 persons from homes, schools, and businesses within a 1-mile radius of the release site were evacuated for 2 hours. Thirty-five residents of 15 homes were prohibited from returning home for approximately 6 weeks until contaminated plastic water lines (penetrable by released chemicals) were replaced. Approximately 300 persons from outside the evacuation area but within the path of the plume were ordered to shelter in place. In addition, an 8-mile stretch of an interstate highway approximately 0.5 mile from the release site and in the path of the plume was closed for 12 hours

July 16, 2007 – United States –Lakeland, Florida: Amtrak Silver Star train derailed four people in automobile die.

July 17, 2007– United States – Plant City-Florida: Amtrak Silver Star train derailed one in automobile dies.

October 3, 2007 – United States – Port Wentworth, Georgia: Amtrak Silver Meteor collided into a tractor-trailer after it attempted to cross a grade crossing.

October 10, 2007 – United States – Painesville, Ohio: A CSX train Q380-09 carrying ethanol and butane derails causing an evacuation and fire that takes several days to burn out. Broken rail is suspected as the cause.

October 22, 2007 – United States – Middlebury, Vermont: Train carrying gasoline derails causing an evacuation. At least one car catches fire and several others leak gasoline into Otter Creek (Vermont).

October 29, 2007 – United States – Clara City, Minnesota: Two BNSF Railway trains derail causing a hydrochloric acid spill that prompts the evacuation of 350 people.

November 9, 2007 – United States – District of Columbia: CSX train derailment dumps 10 railcars of coal in the Anacostia River. Improperly secured hoppers roll onto an out-of-service bridge which collapses.

November 30, 2007 – United States – Chicago, Illinois: Amtrak train No. 371, strikes the last car of COFC freight train on the Norfolk Southern (ex-PRR) line near. Two people in the cab of P42DC No. 8 are injured and many passengers are injured, including three critical. The engineer was running at approximately 40 mph (64 km/h) in a 15 mph (24 km/h) zone due to confusion about the meaning of a signal.

February 5, 2008 – United States – Boswell, Indiana: Two people die and one is injured in a chain reaction accident involving six vehicles and a 50 car train at a fog-obscured rail crossing. The rural crossing has seen five other crashes, two of which were fatal, since 1984, October 10, 1984 and February 7, 1986 trains hit trucks both truck drivers and the truck's passenger in the 1984 crash died.

March 17, 2008 – United States – Marysville, Washington: A BNSF Railway train crashes into a big rig causing some of the locomotives to derail.

March 25, 2008 – United States – Canton, Massachusetts: A MBTA train crashes into a runaway box car at Canton Junction station injuring 150 people on board.

May 28, 2008 – United States – Newton, Massachusetts: Boston MBTA Green Line D Train crashes into the rear of another train on the same line between Woodland and Waban "T" stops. The driver of rear train dies, 12 others are injured.

September 12, 2008 – United States – Chatsworth, California: A northbound Metrolink double-deck commuter train runs a red light and collides head-on with a Union Pacific Railroad freight train pulled by three engines at about 60 mph. The 220-ton Metrolink engine is knocked 30 feet backwards into a 119-ton passenger car, crushing it in half. 25 people are killed and about 135 are injured in the accident.

October 14, 2008 – United States – Decatur, Alabama: A late night CSX Transportation train derails killing its conductor.

November 22, 2008 – United States – Clarendon, Texas: A BNSF freight train derails east of U.S. Highway 287.

December 15, 2008 – United States – Marysville, Washington: An Amtrak train headed southbound to Portland, Oregon, struck a Honda Accord and put the driver in critical condition.

January 7, 2009 – United States – Queens gate, Cincinnati, Ohio: A half-mile radius area is evacuated after a derailment of a CSX Transportation train.

June 19, 2009 – United States – Rockford, Illinois: A major downpour of rain causes 14 of the 114 ethanol tankers of a Canadian National freight train to leave the track and explode into flames. One person dies, several others are burned.

June 22, 2009 – United States – Northeast Washington, D.C.: On the Washington Metro, an electronic track-circuit module fails, causing a train to go undetected by the automatic train control system. A second train crashes into it, killing 9 people, the deadliest incident in the subway system's 33-year history.

July 9, 2009 – United States – Canton Township, Michigan: The Amtrak Wolverine hits the side of a car near Detroit. All five people in the vehicle die.

November 24, 2009 – United States – Houston, Texas: 116 cars of a Union Pacific Railroad train derail forcing the closure of several lanes of Alternate U.S. Highway 90 for several days.

February 12, 2010, – United States –Washington, D.C.: A train derails in the pocket track just north of Farragut North Washington Metro station when the front car leaves the tracks, one person was taken to hospital.

March 15, 2010 – United States – Houston, Texas: A metro bus collides with a light rail metro train injuring nearly 20 people.

May 13, 2010 – United States – Mebane, North Carolina: A northbound Amtrak Piedmont collides with a truck towing a low loader, 11 are injured.

September 10, 2010 – United States – Fontana, California: A conductor loses his arm when two trains collide.

September 30, 2010 United States – Two Harbors, Minnesota: Two Canadian National ore trains collides head on injuring all five crew members.

March 13, 2011 – United States – Northern California: Two cars of a ten car BART train derail, three back injuries are reported.

March 28, 2011 – United States – Newton Falls, Ohio: A CSX train with an estimated 100-cars of mixed freight (including hoppers and tank wagons), suffers a 12-car derailment. Three rail cars fall off a bridge and onto Center Street. Several of the tank cars are carrying chlorine; none are involved in the derailment. Initial reports indicate that at least one car may have leaked ammonia. Residents within 150 meters of the incident are evacuated, and most roads leading into town are closed

April 17, 2011 – United States – Red Oak, Iowa: A Burlington Northern Santa Fe Railway train hauling 130-cars of coal from Wyoming to Chicago rear-ends another train hauling maintenance equipment. The lead locomotive on the coal train derails and fire engulfs the cab. The crew of two, the conductor and engineer, on the coal train are killed. Ten cars on the maintenance train derail. The two crew members on the maintenance train are not injured. The line is heavily trafficked and is shut down for 24 hours, with trains re-routed.

June 3, 2011 – United States – Chicago's Union Station: A Burlington Northern commuter train from Aurora, Illinois and an Amtrak train heading to Carbondale, Illinois collide at Chicago's Union Station injuring at least five people. One of the trains derails.

June 24, 2011 – United States – Reno, Nevada: A semi driving on a rural stretch of U.S. Route 95 near Reno strikes one of the cars of a westbound California Zephyr Amtrak passenger train, killing at least six people.

July 11, 2011 – United States – North Berwick, Maine: An Amtrak Down-easter passenger train from Boston, Massachusetts heading to Portland, Maine is struck by a dustbin lorry at a crossing killing the driver of the lorry and setting the locomotive and one passenger car on fire.

October 7, 2011 – United States – Tiskilwa, Illinois: 26 cars of a 131-car freight train derail and explode approximately 160 kilometers (99 mi) west of Chicago. No injuries are reported; 800 people are evacuated.

October 12, 2011 – United States – Oakland, California: A southbound Amtrak San Joaquin train passes a red signal and collides with a stopped Coast Starlight train at low speed, injuring seventeen people.

January 6, 2012 – United States – Porter County, Indiana: Three CSX freight trains collide in a remote section of county resulting in a fire. Two injuries are reported.

January 17, 2012 – United States – Montana: A BNSF freight train collides with a tractor trailer in northeast Montana, causing ten rail cars to derail, including four locomotives and blocking the traffic on the rail line.

February 1, 2012 – United States – Leoni Township, Michigan: Amtrak Wolverine train from Pontiac, Michigan to Chicago, carrying 71 passengers and 5 crew strikes a stalled tractor trailer, 6 injured.

June 24, 2012 – United States – Goodwell, Oklahoma: Three crew members are killed when two Union Pacific trains slammed into each other 480 kilometers northwest of Oklahoma City. The crash triggered a diesel-fueled fireball welding the locomotives together.

July 4, 2012 – United States – Glenview, Illinois: A Union Pacific coal train heading to Wisconsin derails, collapsing an overpass on Shermer Road a day later, a couple, having been crushed by the falling coal and cars, are found dead in their car buried beneath the rubble.

July 11, 2012 – United States – Columbus, Ohio: A Norfolk Southern train with 2 locomotives and 98 cars derails near the Ohio State Fairgrounds. The resulting explosion of 76,000 liters (17,000 imperial gallons) of ethanol causes a mile-wide evacuation, injuring 2.

July 21, 2012 – United States – Barton County, MO: A Kansas City Southern freight train collides with a BNSF coal train & derails, injuring two railway workers.

August 21, 2012 – United States – Ellicott City, Maryland: Two women celebrating the night before their return to university on a railway bridge die shortly after midnight when a CSX coal train derails on the bridge in downtown, burying the women under coal.

October 1, 2012 – United States –Hanford, California: Amtrak Train 712, travelling from Oakland, CA to Bakersfield, CA, is hit by a lorry carrying cotton at a gated level crossing. Three of the train's five cars as well as the trailing GE P42DC locomotive, #94, derailed. No deaths, 50 injuries.

October 29, 2012 – United States – West Point, Kentucky: Thirteen cars of a 57-car Paducah & Louisville (P&L) freight train derail. A tank car loaded with butadiene leaked and later caught fire while workers were repairing the track. No deaths, 5 injured. On October 31, the train derailment exploded evacuations to be ordered in a 2 kilometer radius and an 8 kilometer radius to stay indoors. 3 were seriously burned in the explosion.

November 15, 2012 – United States – Midland, Texas: four people die and 16 others are injured when a Union Pacific train strikes a parade float headed to an event honoring wounded veterans.

November 30, 2012 – United States – Paulsboro, New Jersey: One of three daily trains that cross an old style swing bridge derails resulting in one car leaking vinyl chloride into the air. More than 40 people were treated for breathing problems in the immediate area. The bridge buckled after having been rebuilt in 2010 after a similar 2009 crash.

December 17, 2012 – United States – Everett, Washington: A BNSF intermodal train from Chicago derails when a landslide strikes it, this event is captured on video.

April 26, 2013 – United States –Pittsburgh, Pennsylvania: At a rural Buffalo & Pittsburgh Railroad crossing an Allegheny Valley Railroad freight train carrying asphalt (with 2 locomotives, 29 cars traveling at the 25 mph limit) strikes a Transit Authority bus carrying impaired seniors and younger adults at the Maple Street intersection, 1 death, and 11 injured.

May 17, 2013 – United States – Fairfield, Connecticut: Sixty people are injured (five critically) and rail traffic from New York to Boston is shut down after a Metro-North commuter train derails and plows into a second train.

May 25, 2013 – United States – Scott City, Missouri: Seven people are injured when two freight trains collide early in the morning at a rail intersection in southeast Missouri causing a highway overpass to collapse. The accident occurs when a Union Pacific train T-bones a Burlington Northern Santa Fe train. One of the trains derails sending rail cars smashing into an overpass support pillar. Five of the injured are in automobiles and two are on the train.

May 28, 2013 – United States – Rosedale, Maryland: A freight train derails just outside Baltimore after colliding with a garbage truck. Fifteen cars from the CSX train Q409 derail and two catch fire. An explosion damages nearby buildings. Only the truck driver is injured. Those within a 20-block radius of the crash site are asked to evacuate

August 5, 2013 – United States – Lawtell, Louisiana: More than 20 cars of Union Pacific train derail, 100 evacuated.

September 16, 2013 – United States – Seville, Illinois: A freight train derails when a bridge over the Spoon River collapses under it.

September 19, 2013 – United States – Southampton County, Virginia: A CSX train derails injuring two engineers and starting a fire.

September 30, 2013 – United States – Forest Park, Illinois: An out-of-service Chicago Transit Authority train crashes head-on into a stopped train, injures 33 people.

October 11 2013 – United States – Randolph County, West Virginia: A truck carrying logs collides with a Durbin and Greenbrier Valley Railroad Train carrying 63 people. The driver of the truck dies and 23 on the train are injured, six of them seriously.

October 24, 2013 – United States – Sanford, Florida: One person dies when four freight cars loaded with gravel derail at the Sun Rail station on State Road 46.

November 8, 2013 – United States– Pickens County, Alabama: A 90-car freight train carrying crude oil from the Bakken shale patch in North Dakota to a refinery in Walnut Hill, Florida, derails and explodes, the flames shot upward 300 feet high, were left to burn themselves out, burning 24 hours. Montreal Maine & Atlantic blamed on a train engineer for not braking sufficiently on an incline.

November 30, 2013 – United States – Silver City, New Mexico: Train derails resulting in the death of Three, was on a 6% slope when it experiences braking failure, traveled out of control for miles before locomotive eventually leaves the track on a curve and slides into an arroyo (creek). Eight cars heavily loaded with magnetite continue on the track a short distance before stopping. The female ride-along passenger was not an employee.

December 1, 2013 – United States – New York City, New York: A Metro-North Railroad passenger train from Poughkeepsie to Grand Central Station derails just outside Spuyten Duyvil station in the Bronx. 4 dead and 63 injured. The train's black box data recorded train traveling at 82 mph (132 km/h), well above the 30 mph (48 km/h) speed limit.

December 5, 2013 – United States – Two Harbors, Minnesota: A runaway Canadian National ore train rear-ends an ore train. Two crew members jumped clear and two crew members were hospitalized when they stayed in a trailing locomotive.

December 30, 2013 – United States – Casselton, North Dakota: Several grain cars from a westbound train derail and strike an eastbound train carrying crude oil on an adjoining tract. Several crude oil cars explode resulting in large clouds of black smoke which forced an evacuation of the area.

January 7, 2014 –United States – Chicago, Illinois: A CTA Yellow Line passenger train derails in the Rogers Park neighborhood.

January 13, 2014 – United States – Kent, Washington: A BNSF train derails after a landslide. The landslide also disrupted Amtrak and Sound Transit passenger rail service.

January 17, 2014 –United States – Williston, North Dakota: A BNSF train hauling fruits, vegetables and empty intermodal cars derails. The derailment also disrupted Amtrak passenger rail service between Minot, North Dakota and Havre, Montana.

January 17, 2014 –United States – Dunnellon, Florida: A CSX train carrying coal derails twelve cars of the 100-car train derailed in a rural area.

January 19, 2014 – United States – Caledonia, Wisconsin: A Union Pacific train carrying coal derails 19 of the 135-cars. The cause is believed to be cracked rails.

January 20, 2014 – United States – Philadelphia, Pennsylvania: A CSX train carrying crude oil derails 7 cars of 101-cars on a bridge over the Schuylkill Expressway causing the road to be shut down for brief periods of time as emergency crews drained the tankers.

January 22, 2014 – United States – St. Louis, Missouri: A BNSF train transporting 18 empty intermodal rail cars derails inside the Lindenwood.

January 23, 2014 – United States – Ross, North Dakota: A BNSF train carrying corn derails 11 cars disrupting transportation of crude oil from the Bakken oil formation to ports in Montana.

January 25, 2014 – United States – Morrow, Louisiana: A Union Pacific freight train derails.

January 27, 2014 –United States – Pollard Flat, California: A Union Pacific train carrying scrap paper derails. The derailment caused disruption to Amtrak Passenger rail service, resulting in riders being transported via buses between Oregon and California.

January 28, 2014 –United States – Mundelein, Illinois: A CN train carrying plastic pellets derails resulting in disruptions of service over two days for several passenger and freight services as trains needed to be rerouted.

January 28, 2014 –United States – McDavid, Florida: A CSX train carrying phosphoric acid derails, 23 of the 69 cars derailed, resulting in the destruction of the tracks and bridge over Fletcher Creek and chemicals leaking into the water.

January 30, 2014 – United States – Jewell Ridge, Virginia: A NS train transporting 179 empty coal cars derailed.

January 31, 2014 – United States – New Augusta, Mississippi: A CN train carrying crude oil, methane and liquid fertilizer derails, 18 to 24 cars of the 85-car train derailed and began leaking. 12 families evacuated and four lanes of U.S. 98 closed.

May 10, 2014 - United States - La Salle, Colorado: A train derails and spills 6,500 US gallons (25,000 l; 5,400 imp gal) of oil.

Department of transportation (DOT) expects 15 mainline derailments in 2015.

<http://www.argusmedia.com/News/Article?id=917541>

Without the new rules, DOT agency the Pipeline and Hazardous Materials Safety Administration (PHMSA) expects about 15 mainline derailments to occur in 2015, falling to about five per year by 2034. The US could also experience over the next 20 years an additional 10 safety events of higher consequence, with **nine having environmental damages and injury and fatality costs exceeding \$1.15bn each, the DOT predicts. One future accident over the next 20 years would cost over \$5.75bn.**

Summary: 1973 Roseville Ammunition Train Explosions Could Happen in Benicia

This train was on its way to Concord Naval Weapons Station and would have passed right through Benicia on the very same track Valero wants to use today. While the CNWS is decommissioned the The Military Terminal Concord (MOTCO) is still receiving ammunition over the very same rails.

Summary: Promise of Safer Transportation Already Broken

Applicant postulates new “safer” railcars, slower speeds and regulations will answers any safety problems. The Federal Surface Transportation Board has failed in its fiduciary responsibilities to all U.S. commerce and the Nation. The Federal Surface Transportation Board equates what ever big rail wants must be good for the smooth and efficient movements of goods throughout the U.S. The Federal Surface Transportation Board has single handedly cost the economy billions of dollars in lost commerce and the competitive edge once enjoyed by the U.S. FSTB has not required TRUE train controls, rail right of ways capable of carrying heavy high speed freight, fail/run or fail/safe safety protocols. Instead they have acted only in the best SHORT TERM INTEREST of the railroads which has milked the rail system dry for short term profits. Neglecting maintenance let alone any improvements that could have made goods move faster, safer, using less trucks and with less pollution. When History looks back on the final collapse of the American Economy the Federal Surface Transportation Board’s lack of integrity will be among the top four causes.

This is the transportation system The Federal Surface Transportation Board has built, is so very proud of and continues to insure us as safe.

This is not a slow-motion video, Note home right next to track

http://www.youtube.com/watch?v=ZZnVDc3_1kM

Can you image a rapid transit system were the operator had to stop the train, get out, through a switch, a switch that has No safety indictors rail is locked in and will stay lock in? How long do you think that commute would be?

Wind River Canyon Derailment, Call for Help!

<https://www.youtube.com/watch?v=wiREoxHbzkQ>

Head-on 2012 Goodwill Oklahoma

<https://www.youtube.com/watch?v=4t67iF9FgYI>

Head-on

<https://www.youtube.com/watch?v=9LpCIiwarOk>

Unstoppable Locomotive

<https://www.youtube.com/watch?v=HM4WrIFm0d4>

Smoking Train

<https://www.youtube.com/watch?v=RHsp0Q6ISBo>

Tracks from Hell

<https://www.youtube.com/watch?v=skfalqhzpkU>

Now that is “The American Way” in action. The list of FSTB failures just goes on and on and on and on and....

Department of Transportation is proposing “dropping” speeds down to 40MPH when they can not even keep them on the track at 10MPH. Updating railcars and rails over 20 year to railcars and control systems that have already been shown to be ineffective. DOT’s lack of integrity will put its’ name right next to FSTB name in the history books. At least they are suggestion to put tens of thousands of American back to work updating the rail system. I am sure the railroads will protest loudly about having to put so many **Americans back to work**. Phrases like” The economy can’t afford sending money on infrastructure!” will be echoing off Congress’s walls. With the internet just a click away how can DOT and FSTB officials not know how pathetic our nation’s rail system has become? At what point dose their actions constitute “**Recklessness**”, “**Willful blindness**”, “**criminal negligence**” or worse?

Summary: Hydrocarbon Tank Failures Common

June 5th 2006 Mississippi USA

Dec 11th 2005. Burchfield oils storage, Hertfordshire

Sep 3rd 2005 Louisiana USA

Oct 25th 2004 Belgium

June 4th 2003 Brisbane, Australia

July 20th 2002 Nigeria

May 2002 Poland

August 21st 2001 five tanks go up Kansas USA

July 17th 2001 Delaware USA

2000 Ohio USA

1999 Michigan USA

USEPA 1990 to 2000 312 tank farm accidents USA

1997 Iowa USA

Oct 16th 1995 Pennsylvania USA

Aug 10th 1990. Three river Texas 30 are burned as small crude oil tank goes up USA

Dec 21st 1985 Naples, Italy

Losses due to earthquake

1964 Alaska; 1960 Chile; 1960 two in Japan: 1964 Niigata; 2003 Tokachi 1980 rupture of one 100000 bbl crude oil storage tank did extensive damage to four block area, damage 8.5 million.

Summary: Applicant Acknowledges Evaporative Losses of Highly Detonable hydrocarbons Into the Atmosphere from Existing Tanks

Applicant acknowledges evaporative losses of hydrocarbons into the atmosphere from existing tanks section 2.2.1, a vapor that is routinely ignited by lightning strikes worldwide and a major source of tank farm fires. In the EIR for the construction of refinery did applicant reveal this fact? Did applicant misrepresent the potential danger of explosions? How did applicant characterize the danger? As air pollution? Did applicant inform the City of the dangers of Hydrogen sulfide (formula H₂S)? A colorless gas with the characteristic foul odor of rotten eggs; it is heavier than air, very poisonous, corrosive, flammable, and explosive? Did or will applicant claim trade secret laws allow them to withhold information vital to the safety and protection of citizens? Did applicant give this information to City officials as long as it was kept confidential? Should EIR be redone if applicant knowingly put persons in danger by not informing the City of dangers? Were schools noticed of dangers? Provide any and all correspondence between applicant and the city of Benicia before approval of refinery.

Pursuant to “Citizens for Ceres v The Superior Court of Stanislaus County (July 8, 2013) 217 Cal.App.4th 889” and the Freedom of Information Act, provide all correspondence between applicant, applicants advisors to the City of Benicia, City of Benicia advisers, Planning Commission, Planning Commission advisors, Benicia Fire Department and all elected and appointed officers therein for current proposal and all correspondence before original refinery approval. **If applicant withdraws project or fails to go through with EIR provide information by 11/22/2014, pursuant to “Citizens for Ceres v The Superior Court of Stanislaus County (July 8, 2013) 217 Cal.App.4th 889” and the Freedom of Information Act.**

Executive Summary: Sighting and Construction Concerns, Applicant Acknowledges Liquefaction and Settling Will Occur During an Earthquake

Many hydrocarbon tank farm built over the last 50 years were built on very poorly compacted soil which is highly susceptible to liquefaction and settling. Many earthquake faults are nearby with an estimated 98.51% probability of a 5.0 quake, 74.37% probability of a 6.6 quake, and an 8.3 quake predicted as max in next 50 years. Many existing tanks are made of what is now known to be the wrong metals and used outdated welding techniques. This leaves these tanks very susceptible to major failure due to brittle metal fractures. Computer modeling and on site inspection of tanks failures have confirmed that current tank specifications and secondary containment strategies are not sufficient. It is reasonably foreseeable that the hydrocarbon storage tank farm could experience an 8.3 earthquake; hydrodynamic loads on tanks during an earthquake will be 25 percent higher than current code specification. Floating roof top systems will collapse and sink to bottom allowing contents of tank to from a detonable air/ fuel mixture over tanks. Tanks may experience an almost instantaneous rupture alone welds and seams. This sudden release of Potential energy around the bottom tank weld has been seen to propel entire tank shells straight up into the air, leaving the hydrocarbons behind to achieve high outward velocities overtopping secondary containment and flooding near by residents. Tanks that spit down the side have been seen to set off a chain reaction as one tank is propelled laterally into an adjacent tank. This combined with a near total loss of hydrocarbon tank foundation because of not having reinforced foundation support down to bedrock and tank strength built 25% below reasonably foreseeable loads during a earthquake will result in a minimum of 25% of tank farm contents flooding retail and commercial business, homes, a train yard full of industrial tank cars and the Delta. The project seats in a low lying area surrounded by hills on three sides. Is in a 100 year flood zone, can be negatively affected by sea level change and can experience flash flood. In as little as 2 feet of water tanks have been seen to pop loose from their foundation, oil being lighter than water it wants to float.

Summary: State of the Art Monitoring

Water build up in tanks can rust out tank causing weld failures or lead to a very dangerous and uncontrollable condition known as a boil over during firefighting of tank fire. Water in tanks can lead to micro organisms in the oil producing hydrogen sulfide. Hydrogen sulfide (formula H₂S) is a colorless gas with the characteristic foul odor of rotten eggs; it is heavier than air, very poisonous, corrosive, flammable, and explosive. Hydrogen sulfide is released from hydrocarbon storage facilities. Tank bottoms must be monitored constantly for any deformation that could collect water at bottom of tank. Tank foundation monitored for any ground subsidence that might compromise the integrity of the tanks. Tanks monitored for excessive pressures, vacuum, temperatures and over fill. Hydrogen sulfide monitors need to be installed at near by homes, parks and schools.

Summary: Nitrogen Replacement of Atmosphere

It is common practice to introduce 21% oxygen (atmosphere) into tanks, ships and rail cars as hydrocarbons are removed. If 21% oxygen is not allowed in holding tank it would be crushed by the powerful vacuum that is applied too them as the pumps try to remove hydrocarbons. This is not an uncommon event as work crews forget to open inlet valves or pumps are run at too high of a speed.

21% oxygen mixes with the vapors inside storage containers making an air/fuel mixture that is detonable. In this video of a crude oil tanker ship fire you can see the result as fire finally reaches the air/fuel mixture in a mostly empty holding tank. A 20 ton hatch is blown clear across the harbor and badly damages two other ships. If this ship was equipped with a Nitrogen Replacement System designed to be able to flood ship as needed and holding tanks as hydrocarbons are removed, the original fire could have been put out with the push of just one button and the air/fuel detonation would not have accrued. Ironically if the storage tanks had been completely filled with crude oil an air/fuel detonation could not have happen. NOTE THE LARGE NUMBERS OF FIREFIGHTERS

Oil Tanker Explosion

<http://www.youtube.com/watch?v=BFq9RoF4eok>

Wikipedia inert gas system

http://en.wikipedia.org/wiki/Inert_gas

Inert gas systems on ships

Two inert gas systems, flue gas system or kerosene inert gas generators have been proposed. The problem with both is they produce an extensive amount of air pollution, need extensive maintenance to work properly and need ships engine operational.

Summary: Fires, Explosions and an AIR/FUEL DETONATION are the Biggest Immediate Threat to Life and Property during a Hydrocarbon Spill

The hydrocarbon railcars and storage facility are very vulnerable to fire, explosions and an AIR/FUEL DETONATION due to the extremely flammable nature of the hydrocarbons inside. As devastating and toxic as the hydrocarbons are to the environment and the human body, the biggest immediate threat to human life and property are fire, explosions and an AIR/FUEL DETONATION. Within 15 minutes of a hydrocarbon spill an extremely explosive condition can result as the released hydrocarbons vaporizes and mixes with the 21% oxygen in the air. This condition is referred to by the U.S. military as an air/ fuel bomb, and is a highly effective weapon. Industry standards require hydrocarbon spills to be completely foamed in 15 minutes to prevent this catastrophic explosion from happening. Each rail car must be stored and unloaded in its own blast bunker, similar to how Concord Naval Weapons Station loaded rail cars of expositive materials. All vapors from all scores must be collected and not released into the environment where it might be detonated. If you have a vapor release point into the environment you have a 21% oxygen introduction point into the system. **This condition of 21% oxygen being pulled under floating roof systems and through vents has been the cause of many tank explosions. This is so common floating roofs are built with a weak seam weld that will rupture to relieve pressure and hopefully stop total tank destruction.** All tanks, lines, pumps and equipment has to be able to withstand extreme temperatures, total loss of foundation stability do to liquidation, magnitude 8.3 earthquake (built 25% stronger than current code) and complete flooding of the facility (10 feet or more) from storm runoff and tidal action. Nitrogen replacement of atmosphere into tanks, pipes, double halls and rail car as hydrocarbons are removed. This will significantly lessen but not stop the chance of an air/fuel condition forming of 21 % oxygen and hydrocarbon vapor. **Each rail car needs to have its own automated foaming system in case of derailment. Automotive air bag technology and computer controls could easy be redesign for this use. Firefighter's response would be to a manageable helping of victims, spill containment and cleanup.**

Summary: Secondary Barrier Must Contain Shock Wave and Extreme Heat

Secondary barrier must contain shock wave and extreme heat not just hydrocarbons as the applicant and others would have you believe. In this video you can see a relatively small amount of fuel is first dispersed into the air creating an air/ fuel mixture, then detonated with the result of total destruction of 2-story structure from the shock wave and the release of a massive fireball. This is a 2000 pound bomb, roughly equal to 20 barrels of crude oil vaporized into an air/fuel mixture then detonated.

2000lb air/ fuel bomb=to 20 Barrels Crude Oil

http://www.youtube.com/watch?v=fP1l2sl-U_0

BBC news: "Fuel-air weapons exploit the devastating effects of detonating volatile vapor in air. The explosion caused by igniting a fuel air mixture produces a fireball and a rapidly-expanding blast wave many times greater than that from conventional explosives. The effects are similar to those from a small nuclear weapon, without the radiation."

BBC News. The effects are similar to those from a small nuclear weapon, without the radiation

http://news.bbc.co.uk/1/hi/english/static/in_depth/world/2001/fuel_air/default.stm

This is not a game but the lives of men, women and children Valero is playing with.

Not a Game

<http://www.youtube.com/watch?v=Ttl9FDxtnm8>

These games use the same physics engines that scientist use to model real live events. If a spill is not foamed within the industry standard of 15 minutes an air/ fuel detention can occur. Once an air/fuel cloud has formed the only thing firefighters can do (decides gather up children around them and run for their lives) is to pray the wind blows it away before it is detonated.

Summary: Damage Caused By Oil Spill More Than Just Cleanup

July 6, 2013 Lac-Mégantic train disaster much of the 69,000 cubic meters of soil contaminated in the impact zone is beyond use in its current state. Preliminary tests revealed higher than accepted levels of benzene, metals including copper, arsenic and lead. Two other low-lying downtown areas were also deeply contaminated. Oil had seeped into the soil underneath a restaurant near the marina, and an ice cream store close to the river. Both buildings had to be demolished. The damage to some buildings still goes unseen, but could prove just as devastating as explosions and flames. If enough oil seeps into the foundation of a building, it becomes too dangerous to inhabit. Over time, it will release toxic vapors, such as benzene, or methane, an explosive gas.

Summary: Drinking Water Supply for .5 Million Customers of Contra Costa Water District

In a response letter to WesPac hydrocarbon facility in Pittsburg, Ca CCWD stated because of tidal action an oil spill at the Pittsburgh facility could work its way miles upstream jeopardizing the States and CCWD water supply. The Valero project is just down river from WesPac site.


CCWD .5 million
water users

Summary: Protection of Delta's Scenic, Wildlife, Recreational Habitats and Antioch Dunes National Wildlife Refuge

Project is very near to Grizzly Island Wildlife Area, Pine Lake, Puddy Lake, Sulphur Springs Creek, Turn bull Park, Benicia Point, Lake Herman, Roe island, Ryer Island, Carquinez Strait Regional Shoreline, Martinez Regional shoreline, Benicia State Recreation Area, Point Edith Wildlife Area, Joice Island State Game Refuge, Pittsburg point, Browns Island Regional Shoreline, Riverview Park, Dow Wetland land Persevere, Sherman Island Waterfowl Management Area and Antioch Dunes National Wildlife Refuge. All have endangered plants and animals. All sites will be adversely affected by a hydrocarbon spill. Their scenic, wildlife habitat and recreational value destroyed. All could be permanently lost just buy one minor hydrocarbon spill. These areas will need permanent hydrocarbon barriers install and maintained, tons of hydrocarbon dispersant, miles of movable containment booms, dozens of hydrocarbon skimmers on site and manned 24 hr a day. What studies did applicant do to verify the presents of endangered plants and animals?

Summary: Mutual Aide Too Little too Late

In the response letter to WesPac crude oil facility in Pittsburg Ca the Contra Costa Fire Department acknowledge they do not have the manpower and equipment to put out hydrocarbon fires, mutual response would be too little too late. CCFD is part of the mutual aide that this report says Benicia can rely on for help, an agency on record saying they and the surrounding fire agencies do not have the ability to react in time. It is simply ludicrous to believe hometown fire departments are capable of handling industrial emergencies. Emergency response personnel to the Richmond refinery fire and Lac Mégantic, Québec Canada train derailment even through well trained made the disasters worse. In Quebec firefighters shut down the smoking locomotive that was parked uphill from the town but did not realize the train had been deliberately kept running by the railroad. Firefighters inadvertently deactivated the train's air-brake system by doing so. Firefighters did not know air pressure to brakes would bleed down without engine running, to lock down the train's manual brakes, block the tracks or pull up rail down hill of train so train would be stopped if it started to move. Ten minutes after the firefighters left the train **unattended** the first bleve explosion (but not a worst case scenario of an air/fuel detonation) where heard as the train derailed. **Is the city of Benicia prepared to pay out some 400 million dollars in settlements simply because of firefighter negligence?** In accepting the responsibility to respond to such disasters Benicia will have to accept the responsibility for mistakes as well. It makes sense to do what many other cities require applicants to do, supply man, equipment and trains its own firefighters and response crew? Mistakes made by the company would be at the company's expense, NOT THE TAXPAYERS OF BENICIA. Has the city of Benicia informed its insurance carriers of a 400 million dollar + liability it may incur if this faculty is built? BNSF is trying to buy off local fire departments with free training and equipment. Training that consists of putting out small butane fires, a barrel of oil spilled or simulation very small storage tank fire. The equipment, water and foam are already on site, on a big open field and ready to go. One rail car can hold from 287 to 611 barrels of oil or 15800 to 33600 gallons. Will firefighter be given a hands-on demonstration on how to fight/survive an air/fuel detonation of just 20 barrels of crude? Will they vaporize into the air 20 barrels of crude oil then detonate it so firefighters (standing .5 miles away) can see and **feel** what they might face? Will they get an after earthquake demonstration: Buildings and overpasses down, fires, gas line ruptures, roads congested and blocked.

Emergency calls from citizens, schools, churches, commercial, retail and industrial sites, health care facilities AND NOW THE CALL FOR HELP FROM REFINERY; FULLY INVOLVED RAILCARS AND STORAGE TANK FIRE, COME PUT IT OUT? What is the priority list of what will be responded to first? Who will be abandoned in the middle of rescue so firefighter can fight the hydrocarbon fire if left unattended too could destroy Benicia? If the fire department does not respond to refinery will the City be hit with a negligence lawsuit from Valero claiming fire department was under staffed, under trained and under equipped and city should pay for damages? (How ironic, they could point to the many statements made in response to their DIER of this fact. "It was reasonably foreseeable that city could not respond to a disaster yet you still approved our project. Pay up"). Does the City of Benicia have any comprehensive fire fighting plans other than mutual aid? Will they be trained on treating men women and children who are severely burned? Survivors with concussion, blindness, ruptured eardrums, seared lungs, flying debris injuries, multiple internal hemorrhages, internal organ displaced and ruptures? Will there be specially built bomb shelters through out the City fully equipped to help victims? How much of the \$5 billion BNSF says they will spend on upgrades, training and equipment will Benicia get? At 7/10/2014 Planning Commission meeting City and company fire chiefs talked proudly of their theoretical knowledge of crude oil fire fighting but said nothing about actually fighting a large tank or derailment fire.

CCC Fire Protection District <http://www.mediafire.com/view/6ytzyt6jlp9m62l/CCCFPD.pdf>

Iowa emergency responders say they don't have enough supplies to fight a fire from even one tank car, much less a unit train carrying 35 cars of extra-flammable crude. Winneshiek County Emergency Manager's advice to communities facing a Derailment **"Make sure your tennis shoes are on and start running,"** <http://thegazette.com/subject/news/few-iowa-emergency-responders-ready-for-crude-oil-train-derailment-20140629#sthash.74kFwT5F.dpuf>

The deal with other local oil facilities like Chevron, Suncor and Shell is the facility will fight its own fire, while the department protects the surrounding community.

<http://www.burnabynews.com/news/burnaby-fire-department-wants-kinder-morgan-to-fight-its-own-fires-1.1200135#sthash.ICi40K0I.dpuf>

Aurora has nine fire engines and 195 firefighters, including a 27-member hazardous-materials team. Chief Jim Lehman **"We could do all the training in the world and have all the equipment in the world, but if one of those (trains) comes off the rails and creates an issue in a very densely populated area, our exposure would be very significant". "Our ability to deal with an incident of that magnitude would be very taxing".**

http://articles.chicagotribune.com/2014-05-25/news/ct-railroad-tankers-foam-met-20140525_1_foam-aid-box-alarm-system-fire-chief

Summary: Special Assessment Proposition 218

Under Proposition 218 Benicia can form a Commercial/Industrial firefighting district for all businesses needing foam firefighting equipment or pass an ordinance firefighters' respond to such fires only to protect nearby retail and residential properties.

Summary: Urban Water Management Plan

Urban Water Management Plans (UWMP) is prepared by California's urban water suppliers to support their long-term resource planning and ensure adequate water supplies are available to meet existing and future water demands. Every urban water supplier that either provides over 3,000 acre-feet of water annually or serves more than 3,000 or more connections is required to assess the reliability of its water sources over a 20-year planning horizon considering normal, dry, and multiple dry years. This assessment is to be included in its UWMP, which are to be prepared every 5 years and submitted to the Department of Water Resources. DWR then reviews the submitted plans to make sure they have completed the requirements identified in the Urban Water Management Planning (UWMP) Act (Division 6 Part 2.6 of the Water Code §10610 - 10656). With the major shortage of water how is Benicia going to supply fire fighting water in an emergency? What other communities are requiring is for applicant to impound firefighting water on premises. This water will be available even after an earthquake has taken out local water supplies. State regulation requires new projects within California to certify a 20 year supply of water. Where is applicant's certification?

Summary: Onsite Safety Equipment to Protect Life and Property

Research studies have confirmed the current staffing and equipment requirement should be raised 6 to 10 time current standards. It is reasonably foreseeable that in place safety equipment and trained personnel will be needed: backup power supply capable of running the entire facility even if facility is completely under water. Self contained foaming rings around each tank top, foaming into double wall constructed tanks, a secondary blast containment structure around each hydrocarbon tank and railcars equipped with self contained foaming rings and capable of stopping any lateral blast of complete storage tank assembly or railcar into another storage tank, railcar or the community. A third outer containment barrier with yet another self contained foaming ring and automated water/foam monitors manned by a dedicated 24 hour firefighting crew. In addition to the 24 hour firefighting crew, 24 hour skimmer and spilled hydrocarbon recover crew, the facility needs to maintain a minimum 5 man operation crew 24 hours a day. The facility must be equipped with state of the art computer controls, sensors and redundant back up pumps, pipes and tanks. There must be enough redundant pumps, pipes and tanks to transfer the entire hydrocarbon storage if needed in an emergency. Limits placed on maximum pressures/vacuum and velocities of hydrocarbon transfers. High volume, pressure, vacuum and mixing of different hydrocarbons have set off hydrocarbon explosions within tanks and pipes due to static electricity build up. Blast shelters and walls need to be built at near by schools, churches and community accessible places. Blast shelters equipped to handle multiple severely burned and injured patients. School personnel and community members trained on how to treat severely burned children and adults. It is reasonably foreseeable Firefighters response will not be in time to prevent multiple blocks of Benicia burning to the ground in the event of fire if the aforementioned safeties are not in place.

Summary: Security and Vulnerability Analyses, Terrorist/Employee Sabotage; Security at Refinery Routinely Breached

Because of heightened concerns of intentional releases due to terrorism or sabotage by employees, **The California Accidental Release Prevention Program** gives local regulators the authority to require such studies. It also requires considering mechanical, earthquakes, flooding, lightning and weather related events. Applicant has already acknowledged security at the refinery is routinely breached by UPRR trains entering and exiting facility to get to other industrial areas and vice versa. (Page 12 Draft Transportation impact Analysis). Officials with BNSF, the nation's largest shipper of crude by rail, claimed in testimony that detailed disclosure would put it at odds with the Homeland Security Department, based on security and terrorism concerns. Bay Area deputies will join a delegation of West Coast law enforcement executives for the weeklong terrorism prevention and training program taught by top Israeli National Police and Israel Defense Forces commanders. Answer the following **Environmental Justice** questions. How much money does Homeland Security spends on protecting the lives of people who can afford an airplane ticket at SFO air port? How much money within Benicia to protect the lives of Benicia residents living near terrorist targets?

Summary: Need for 24 Hour Protection against Terrorist Attack

The extreme flammability, easy access to facility by already existing public access, rail cars full of flammable and toxic materials, military ammunition trains movement through area, possibly with nuclear warheads (neither confirmed nor denied by the U.S.) makes this project reasonably foreseeable as an ideal target for terrorist attack. Hydrocarbon and rail facilities are routinely targeted for terrorist attack worldwide. This project will have NO defense against such attacks.

Bay Area Sheriff Prepare for Terrorist Attacks

<http://claycord.com/2013/10/06/bay-area-sheriffs-officials-taking-part-in-anti-terrorism-training-in-israel/>

Summary: Draft EIR Does Not Include Worse Case Scenarios

Applicant acknowledges many train collisions with motorists. What effect would derailment at crossings with hydrocarbon spill and air/fuel detonation and subsequent total refinery fire have on traffic flow and commerce in the area? Include any flammable substances in near by faculties and railcars. What effect would this have on emergency response time? What effect would accidental or by sabotage vaporization of hydrocarbons into the atmosphere near freeways, surface roads and then detonated have? How many months/years would freeways and surface roads be down. What effect would this have on commute times and California's commerce? How many railroad customers rely on the rail way through Benicia to do business? What are their names and locations? Where they informed of project and asked to give comments? With derailment and release of hydrocarbons on to city streets what streets would be affected? How many months to clean up? What effect on vehicle movements and the ability for local commerce to ship and receive goods? How long before customers and employees could get back to businesses? How would any of the above scenarios affect the thousands of Amtrak riders that use the same rails? What would happen to freeway and surface road traffic if all of Amtrak's riders had to use cars? What would happen to freeways and local roads if all rail freight through the area had to be shipped by trucks? What effect would the estimated 1500+ responders; cleanup and reconstruction crews have on local roads and freeway in the years to come following a major disaster?

The equipment needed to put out a crude oil fire, not just trying to control further damage until fire burns itself out requires a caravan of semi trucks full of equipment, acres of land and time to assemble it. Where is this equipment stored and how moved where needed? Where are the assembly sites and what will be the affect on local traffic? How would emergence response teams get to these sites if a hydrocarbon disaster blocks routes to sites? Include in study everything within one mile burning or exploding.

Summary: Need For \$1.15 billion, (DOT low EST) Californian Certificate of Financial Responsibility

There are several federal laws governing compensation in case an oil spill including Title 33 (Navigation and Navigable Waters), 40 (Protection of Environment), and 46 (Shipping) of the Code of Federal Regulations (CFR), and the Oil Pollution Act (OPA) of 1990, which includes a \$1 billion Oil Spill Liability Trust Fund. In addition, the state of California has a program requiring parties who handle petroleum products to file a Certificate of Financial Responsibility with the State establishing the party's financial wherewithal to respond to and cleanup a worst case spill. In the July 6, 2013 Lac-Mégantic train disaster operators only had 50 million in insurance and are filing bankruptcy to get out from under clean up cost. With cost in the July 6, 2013 Lac-Mégantic train disaster approaching \$500 million it is reasonable foreseeable a clean up bill in Benicia could be as or even more costly. As bad as the July 6, 2013 Lac-Mégantic train disaster was it was mostly the hydrocarbons burning, not an air/fuel detonation. Where is Certificate of Financial Responsibility? Who is the underwriter? What is their ability to pay or are they a corporation shell that will declare bankruptcy when presented with the bill? Department of transportation (DOT) expects 15 mainline derailments in 2015.

<http://www.argusmedia.com/News/Article?id=917541> Without the new rules the Pipeline and Hazardous Materials Safety Administration (PHMSA part of DOT) expects about 15 mainline derailments to occur in 2015, falling to about five per year by 2034. The US could also experience over the next 20 years an additional 10 safety events of higher consequence, with nine having environmental damages and injury and fatality costs exceeding **\$1.15bn each**, the DOT predicts. One future accident over the next 20 years would **cost over \$5.75bn**.

Summary: No Verifiable Statistical Analysis Models Were Used In EIR

What statistical models were used in study? Why was statistical models chosen best for this study? What are the bases of theorem for each statistical model used? What were your step by step analyses in choosing models? What verification methods for models were used? What other verification methods are available? How do models chosen determine relevant or irrelevant data? How would other statistical models determine relevant or irrelevant data? What is the percent of error in your studies and how did you arrive at that conclusion? What factors were chosen to determine the study area boundaries? How would other models determine study areas? Was Bayesian, Fisher or Loannidis theorems used to verify your models, if so how? How many persons both living in and travelling through the DOT Risk Zone have existing health problems that may need emergency response? What is the death, asthma, chronic diseases, have/had cancer rates in the DOT Risk Zone by Census block? What is the studies definition of a low-income/minority community? How are low-income/minority community geographic boundaries determined in your studies and their locations in the DOT Risk Zone? By census block show low-income/minority statistics within DOT Risk Zone?

Why was data from worse case scenario not applied to models? Why was data on children behavior and health needs not included in your models? Why was the data on the health of persons living near an industrial zone not used in your models? Why no studies on the effects of project on the homeless and consistence fisherman? What steps were taken to identify homeless and consistence fisherman? Why was data on health effect of stress during a crisis not included in models? Why was Census block information on low-income/minority communities within DOT Risk Zone not used? Why no studies on near by sensitive receptors like parks, schools and churches? How did your statistical models miss the some 12,436 citizens of Benicia at risk the Department Of Transportation statistical models picked up? How did your statistical models miss the 4 sensitive school receptors the DOT statistical models picked up? Why was the School Board denied involvement, an elected government body with the fiduciary responsible to look after the health and educational needs of the children of Benicia? Did Valero choose alternatives for DEIR or the City of Benicia? Did city staff make a unilateral decision on alternatives? Did elected officials make decision on alternatives, when and how and if not why not? On or before 7/10/2014 did City staff inform elicited officials of State, Federal and Constitutional laws, regulations, guidelines, acts, findings and legal alternative available to elected officials? Some of which are quoted in this document, if not why not? Has any City staff or advisor received training from or gone to any seminars sponsored by California Energy Commission? If so what dates, on what topics and was any materials provided?

Summary: Why Most Published Research Findings Are False

John P.A. Ioannidis, C. F. REHNBORG PROFESSOR IN DISEASE PREVENTION IN THE SCHOOL OF MEDICINE AND PROFESSOR OF HEALTH RESEARCH AND POLICY AND, BY COURTESY, OF STATISTICS, Stanford School of Medicine. From his published essay, Why Most Published Research Findings Are False. “Most research findings are false for most research designs and for most fields” “There is increasing concern that most current published research findings are false. The probability that a research claim is true may depend on study power and bias, the number of other studies on the same question, and, importantly, the ratio of true to no relationships among the relationships probed in each scientific field. In this framework, a research finding is less likely to be true when the studies conducted in a field are smaller; when effect sizes are smaller; when there is a greater number and lesser preselection of tested relationships; where there is greater flexibility in designs, definitions, outcomes, and analytical modes; when there is greater financial and other interest and prejudice; and when more teams are involved in a scientific field in chase of statistical significance. Simulations show that for most study designs and settings, it is more likely for a research claim to be false than true. Moreover, for many current scientific fields, claimed research findings may often be simply accurate measures of the prevailing bias. In this essay, I discuss the implications of these problems for the conduct and interpretation of research”.

<http://www.plosmedicine.org/article/info%3Adoi%2F10.1371%2Fjournal.pmed.0020124>
<https://med.stanford.edu/profiles/john-ioannidis>

Summary: Statistical Analysis; Science or Pseudoscience?

The age-old dispute (science or Pseudoscience?) on statistical analysis has irrevocably been settled with the advent of the Fukushima Daiichi nuclear disaster. Statistical analysis for what is most likely to happen, even when done by the best engineers and researchers in a Country world renowned as the leaders in earthquake engineering have once again been shown to be fundamentally flawed! The question is not what is most likely to happen but what can happen, a question of where and to whom. Residents should not be made to put their health and the lives of their families on the line so the applicant can save a few bucks. Of course there will always be persons that believe there is no global warming, the world is flat, destruction of native lands and high power tension lines string across our nation is the only solution to global warming, Santa Claus, the Easter Bunny Rabbit, the trip to the moon was faked, little green men from Mars and the Holocaust never happened. **Everything in this report has already happened and is reasonably foreseeable will happen once again.** Daily if not hourly we see disaster after disaster from unforeseen and human errors. **Things going wrong is the current state of affairs for mankind.** Statistical Analysis Mystics try to obscure this fact in a toxic cloud of smoke.

Summary: Cumulative Impact

It is reasonably foreseeable project will lead to higher PM10 and PM2.5 concentrations, air pollution, greenhouse gases, explosions, an air/fuel detonation, exposure to carcinogenic compounds and poisonous chemicals, higher illness and asthma rates and deaths within Benicia. Higher illness rates among students and family members have been shown to be a major detriment to student learning. This project will have no significant impact on reducing air pollution. It is reasonably foreseeable Project may become a target for terrorist attack. Experience a tank failure within the next 50 years due to earthquake alone. This does not include other causes of failure such as poor design and containment strategies, lightning strike, metal cracking or rusting, water in tanks, flooding, wrong construction materials used, poor welds, lack of inspection and repair, subsidence, high winds, terrorists, boil over, broken pipes, floating roof collapse, operator or human error is very likely. It is reasonably foreseeable a nearby facility failure could easily cause major tank and railcar facility failures. These include but are not limited to underground pipelines, near by industries and storage of flammable materials. The barbeques in the backyards of some of the homes are close enough to set off tank fumes. It is reasonably foreseeable a fire anywhere around the site could quickly spread. Everything within 1 mile could be destroyed, a major electrical blackout of the area, major rail line and freeways destroyed, major release of toxins, local industry unable to receive or ship supplies, millions of barrels of crude oil in the Delta and bay with substantial loss of life. Remember San Bruno?

Summary: Project Does not Conform to the Mandate of State Legislature

Johnston-Baker-Randal-Boatwright Delta Protection Act of 1992

29701. The Legislature finds and declares that the Sacramento-San Joaquin Delta is a natural resource of statewide, national, and international significance, containing irreplaceable resources, and it is the policy of the state to recognize, preserve, and protect those resources of the delta for the use and enjoyment of current and future generations.

29702. The Legislature further finds and declares that the basic goals of the state for the Delta are the following:

(a) Achieve the two co equal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.

(b) Protect, maintain, and, where possible, enhance and restore the overall quality of the Delta environment, including, but not limited to, agriculture, wildlife habitat, and recreational activities.

29705. The Legislature further finds and declares that the delta's wildlife and wildlife habitats, including waterways, vegetated unlevered channel islands, wetlands, and riparian forests and vegetation corridors, are highly valuable, providing critical wintering habitat for waterfowl and other migratory birds using the Pacific Flyway, as well as certain plant species, various rare and endangered wildlife species of birds, mammals, and fish, and numerous amphibians, reptiles, and invertebrates, that these wildlife species and their habitat are valuable, unique, and irreplaceable resources of critical statewide significance, and that it is the policy of the state to preserve and protect these resources and their diversity for the enjoyment of current and future generations.

29706. The Legislature further finds and declares that the resource values of the delta have deteriorated, and that further deterioration threatens the maintenance and sustainability of the delta's ecology, fish and wildlife populations, recreational opportunities, and economic productivity.

29708. The Legislature further finds and declares that the cities, towns, and settlements within the delta are of significant historical, cultural, and economic value and that their continued protection is important to the economic and cultural vitality of the region.

CHAPTER 1. Policy [21000 - 21006] (Chapter 1 added by Stats. 1970, Ch. 1433.) 21000.

The Legislature finds and declares as follows:

(a) The maintenance of a quality environment for the people of this state now and in the future is a matter of statewide concern.

(b) It is necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of man.

(c) There is a need to understand the relationship between the maintenance of high-quality ecological systems and the general welfare of the people of the state, including their enjoyment of the natural resources of the state.

(d) The capacity of the environment is limited, and it is the intent of the Legislature that the government of the state take immediate steps to identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds being reached.

(e) Every citizen has a responsibility to contribute to the preservation and enhancement of the environment.

(f) The interrelationship of policies and practices in the management of natural resources and waste disposal requires systematic and concerted efforts by public and private interests to enhance environmental quality and to control environmental pollution.

(g) It is the intent of the Legislature that all agencies of the state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian. (Amended by Stats. 1979, Ch. 947.)

The Legislature does not use the words significant or less than significant; avoidable or unavoidable but the word FURTHER, (as in any deterioration threatens). Applicant has already acknowledged negative effects they call Significant. This is more than what Californian State Legislators have mandated as fair or just for The Citizens and The Environment of The Great State of California. "Every citizen has a responsibility to contribute to the preservation and enhancement of the environment." Local and State agencies do not have the legal authority to countermand Legislative intent.

Summary: Less Discriminatory Alternatives

1: Build a pipeline out to sea so that ships can unload outside of the bay, less air pollution, less ship traffic and less chance of invasive species contaminating the bay and delta. No rail export of raw or partially refined crude. The existing pipeline from refineries to the Central Valley used to transport products to and from a rail facility away from residential housing. Here is a link to a map of The Gulf Mexico showing some of the 25,000 miles of pipeline in the Gulf.

<http://stateofthecoast.noaa.gov/energy/gulfenergy.html>

2: Move refinery and this time do not allow greedy landowners to build residential and retail around it. Phase out fuel production and start making trillions of dollars manufacturing space age materials to replace wood products for construction.

3: Remove all existing development and create a 1 mile deep green zone around refinery and rail right of ways. China has moved over 1.3 million citizens to fill Three Gorges Reservoir and are moving them yet again because of unforeseen environmental consequences.

Letting them drown would have been just too obvious. It's not like the Petroleum Industry where you can just poison them slowly, shorten their lifespan and reduce their quality of life all in the name of shareholders.

4: Build a fleet of electric ships to meet incoming ship at the point in the bay oil tankers are already "lightening" their load onto other ships before being able to enter the shallow upper bay. Ships could receive transfers from train facilities at Sacramento and Stockton Ports.

5: Have the State of California use it's States' Constitutional Tenth Amendment Regulatory Authority over Commerce rights. Require crude oil handlers to supply Firefighter trains (FFT) equipped with enough water, foam, men and equipment to foam any release of hydrocarbons within industry stand of 15 minutes and able to apply foam continuously for 1.5 hours. Trains to meet incoming crude oil (and other hazardous shipments) and follow that train to its destination.

Trains required for other hazardous shipments within the state as well. This does not create an unfair advantage for California commerce over out of state commerce and is within the states right to enact without federal intervention or permission. All the equipment already exists it is just a matter of loading it up on flat cars, water tank cars and crew cars, a few weeks at most. Finding and training firefighter will be the biggest problem, but look at all the skilled, full time jobs you will be creating.

Have applicant supply on site enough equipment with water, foam and men to foam any release of hydrocarbons within industry stand of 15 minutes and able to fight any fire for two days.

Summary: Environmentally Superior, Less Discriminatory Project Alternative

We should accept the battle over preserving the “natural” environment of the Delta and the Bay” has failed, it is long gone. This does not mean we have to accept continued destruction, the inevitable silting in and housing developments to come. There is nothing about the Delta and the Bay’s interconnected ecosystems that can in all honesty be termed natural. They are now nothing more than toxic man made cesspools. And the very few acres that you may be able to argue as being natural are soon to be “destroyed” by sea level rise, whether or not global warming is caused by man. **Hansen still argues 5m 21st C sea level rise possible** <http://www.resilience.org/stories/2012-01-03/hansen-still-argues-5m-21st-c-sea-level-rise-possible> Short sighted decision makers(that includes the public) allowed an infinitely more valuable fishing, wildlife and recreational hebetate, one that was one of the world's most productive fishing hebetate to be turn into a cesspool so farmers could make a few cents growing turnips and landowners could make billions off of uncontrolled growth. If decision makers had insight into the future they would of realized their was much more money to made by protecting the fishing, wildlife and recreation resources of Bay and Delta and used other land resources for drought tolerant crops and future controlled development. We need to focuses our gaze on the certain demise of the Farallon Islands ecosystem that is now well under way. The Farallon Islands ecosystem is the third interconnected environment of the Delta and Bay. It is dependent on nutrients delivered by spring floods washing down through the Delta, Bay and out to the Farallon Island. So the questions are: How do we restore the flow of nutrients to the Farallon Islands? How do we restore the S.F. Bay and Delta to a near as possible pristine fishing, wildlife and recreation environment (of any kind) leaving behind we must have what once was? How do we prevent sea level rise from destroy all that we do. And **most importantly how do we put America back to work in an eco friendly way?** The California State Legislature finds and declares “Every citizen has a responsibility to contribute to the preservation and enhancement of the environment.” To this end and in this spirit I offer the following comments. We can start to put America back to work, address EJ issues and clean up the environment starting here, now, with this project and not stopping until it goes nationwide. Remove all existing development and create a 1 mile deep green zone around refineries, industry and rail right of ways. Support displaced residents by building new, clean, beautiful communities and educating them how to build this for themselves. Build electric cars, trucks, ships and a modern electric railroad with the capacity to safely deliver high speed heavy freight nationwide. Build a pipeline out to sea so that ships can unload outside of the bay. Build a fleet of electric ships to Transfer goods from SF and Oakland Ports to Sacramento and Stockton Ports. Having all goods moving into or out of the Bay Area using these facilities will reduce both rail and truck traffic and pollution. With refineries phased out of fuel production they can turn their greedy gaze on the trillions of dollars to made producing new building materials to replace wood products (would not want the petroleum industry to do anything on moral or just grounds).

A tidal dam built under the golden gate could:

1 Control the salinity of bay by controlling how much sea water enters bay.

2 During potential flooding the gates can be closed at low tide, blocking high tide waters and leavening room for flood waters to accumulate. Central California can see a flood scenario of biblical proportion (ARkStorm). U.S. Geological Survey (USGS) has predicted that such a storm could hit Central California, a storm not seen in modern times but no less likely to hit us.

USGS Overview of the ARkStorm Scenario <http://pubs.usgs.gov/of/2010/1312>

3 A freshwater reservoir created behind the dam.

4 Shipping lock to allow passage.

5 Waters backed up on the bay side to max levels then at low tide gates opened at bottom of dam to allow sediments to be flushed out to Farallon Island. A series of tidal dams may be needed to flush out the upper Delta and Bay of sediments. Possible locations San Pablo strait, Carquinez Bridge, Antioch Bridge, Reo Vista and Bay Bridges. Each using the same process to flush silt out, and built to accommodate mass transit.

6 Gates and ladders to best allow aquatic live to move.

7 Provide power, there are many new technologies for producing power from tide surge that do not rely on shredding up every living thing in the ocean with high speed turbines. One that comes to mind is a design with a long very slow moving arm that is push back and forth by tidal forces acting on a rudder.

8 Investigate constructing an oxygenated cold water conduit running from tidal dam to the upper reaches of the delta and possible beyond, this conduit to be used by migratory fish. You can see an example of a totally man made environment along highway 37, built upon the mud flats laid down by placer mining in the Sierra. Dragged, leveled and diked by heavy equipment, populated by both “native” and “non native” species of plants and animals. Environmentalists like to call this man made ecosystem a restoration. How do we pay for this? First let’s not forget about the good will of taxpayers that are already supporting industry in a big way. Make sure support goes to cleaning the environment, creating jobs, correcting environmental injustices of the pass. Support corporations that believe they have a moral obligation to act in the best interest of The UNITED STATES. Corporations that recognize they have a legal responsibility to look after the long term interest of their stockholders, not short term gains at the expense of long term profits and sustainability. Taxpayers have shown the willingness to bring in the future only to be disappointed again and again by poor leadership and special interests unduly capitalizing on such dreams; high speed rail?, Really? How many problems are you going to solve with that? At least name it what it is, Special Interest Rail. Secondly fill the thousands of miles of green zones with solar cells, allowing the removal of high power lines, power plants and windmills. Answer these **futures of mankind** questions. How many hundreds of thousands of job would this create nationwide? How many billions of tons of pollution would this reduce (assuming all new construction and equipment are state of the art)? How many tens of thousands of lives saved due to less health problems associated with pollution? How many gigawatts of electricity produced? We can already surmise the improvement in quality of live. How many billions of dollars would be pumped back into the economy? How many decades of full employment would the American Economy enjoy? Please compare this to current project proposals. Some will say the economy can’t support spending trillions of dollars on the environment. The majority of which is money in paychecks to hard working Americans.

What these “economist” are really saying is the Economy can’t afford to put Americans back to work. Is this not what a good economy is- Americans working? Losing control of Power and exploiting the American workers are their only real concerns.

Summary: Reckless Disregard for Human Life

Reckless disregard for human life defined: Wikipedia: Definition of terms, criminal law recognizes recklessness as one of the mens rea elements to establish liability. It shows less culpability than intention, but more culpability than criminal negligence. The test of any mens rea element is always based on an assessment of whether the accused had foresight of the prohibited consequences and desired to cause those consequences to occur. The three types of test are: Subjective where the court attempts to establish what the accused was actually thinking at the time the actus reus was caused; Objective where the court imputes mens rea elements on the basis that a reasonable person with the same general knowledge and abilities as the accused would have had those elements, although *R v Gemmell and Richards* deprecated this in the UK; or hybrid, i.e. the test is both subjective and objective. The most culpable mens rea elements will have both foresight and desire on a subjective basis. Recklessness usually arises when an accused is actually aware of the potentially adverse consequences to the planned actions, but has gone ahead anyway, exposing a particular individual or unknown victim to the risk of suffering the foreseen harm but not actually desiring that the victim be hurt. The accused is a social danger because they gamble with the safety of others, and the fact they might have acted to try to avoid the injury from occurring is relevant only to mitigate the sentence. Note that gross criminal negligence represents such a serious failure to foresee that in any other person, it would have been recklessness. Hence, the alternative phrase “willful blindness” acknowledges the link representing either that the accused deliberately engineered a situation in which they were ignorant of material facts, or that the failure to foresee represented such a danger to others that it must be treated as though it was reckless. Criminal systems of the civil law tradition distinguish between intention in the broad sense (*dolus directus* and *dolus eventualis*), and negligence. Negligence does not carry criminal responsibility unless a particular crime provides for its punishment.

wiseGEEK:Reckless “disregard is a somewhat redundant legal term that is used in many courts to discuss the intent of a person who is charged with a crime. Intent or mens rea generally has to be established in order for a criminal case to be successfully prosecuted, and one of the ways to establish this is to propose that a person was reckless. They can also have done something purposefully, negligently or knowingly. Each description means slightly different things — when someone acts with reckless disregard, they commit an act they know is probably illegal and that could harm people, but they don’t have an actual intent to harm a person or people.”

How many train derailments, tank farm fires, deaths before a person can be held accountable for their continued action as **recklessness** under the law? Is it the first, second, tenth, hundredth, thousandth person to die by their pursuing invariably the same object evinces? What standard do you hold professionals or experts in their field? With modern communication world wide is it acceptable for cooperation board members, stockholders, professionals, government and elected officials to claim they have no knowledge of any problems, injuries or deaths from crude oil shipments? Is it **recklessness** for a corporation to hide behind trade secrets laws when it is reasonably foreseeable people will die not having the information they are withholding?

Is it **recklessness** when a researcher reasonably foreseeable knows sound levels are high enough to do damage to children's hearing but does not acknowledge it because other sound sources nearby are damaging their hearing as well? Is it **recklessness** for professionals hired by the city to withhold information on alternatives, regulations and laws that may be available to elected officials when such information could reasonably foreseeable lead to a safer environment? Is it **recklessness** for a researcher to claim more delays in emergency help are acceptable because current practices already cause delays in emergency response? Is it **recklessness** for Fire Chiefs to say they can handle crude oil fire when it is reasonably foreseeable they do not have the men, the equipment, training or the ability to arrive in time to stop major loss of life and property? Is it **recklessness** for an elected official to act in a way where it is reasonably foreseeable their action will endanger life and property? Is it **recklessness** for decision makers to ignore reasonably foreseeable dangers, condemning a small part of the population to live under absolute despotism so others can profit off of it? "We hold these truths to be self-evident, that all men are created equal, that they are endowed by **their Creator** with certain unalienable Rights that among these are Life, Liberty and the pursuit of Happiness." Is it **recklessness** for mere mortal men to unilaterally dismiss evinces rights given to humanity by their creator and the bases for the legal form of government we now "enjoy" today? At what point do the above action constitutes "**Willful blindness**" or "**criminal negligence**" under the law? Has the Board members of Valero informed its' stock holders, employees, associate, advisors and their employees, local, state and federal agencies and their employees they may be though their actions of "**Recklessness**", "**Willful blindness**", "**criminal negligence**" may be faced with civil and criminal charges of infringing on Constitution rights of Citizens solely for the propose of cooperate greed? Would Valero's board members be guilty of conspiring to defraud stock holders by not giving such a notice? Our founding fathers clearly states these right are from "their Creator". Laws that permit others to pollute the creators land, air and water are denial of religious freedoms and Constitutional rights. **These rights use to be recognized by our government and Constitution, why not now?**

Summary: The American Corporation

It was the Constitutional intent of the Founding Fathers that cooperation only be chartered by Congress, with limited rights, only for the public good, constructing publics' works and then dissolved when project was completed. After all we just declared our independence from Britain and cooperation tyranny.

Getting the History Right. Tracking the real history of corporate rights in American constitutional

http://www.slate.com/articles/news_and_politics/jurisprudence/2014/03/hobby_lobby_and_corporate_personhood_here_s_the_real_history_of_corporate.html **By Naomi Lamoreaux and William Novak**

Dissenting in the case *Liggett v. Lee* in 1933, Justice Louis Brandeis famously expressed frustration with some popular constitutional misconceptions surrounding the nature of corporations and their historic rights. In a well-documented and characteristically fact-laden opinion, Brandeis chastised his contemporaries for acting "as if the privilege of doing business in corporate form were inherent in the citizen." Such a deferential view, he argued, understated the power of a democracy to hold corporations accountable and encouraged public apathy toward corporate abuses as an "inescapable price of civilized life ... to be borne with resignation." Brandeis protested otherwise: "Throughout the greater part of our history a different view prevailed." And indeed it did.

But you'd be hard-pressed to know that, given the summary renderings of the corporate past on display in the Supreme Court's famous 2010 decision *Citizens United v. FEC*, in which both the dissent and a concurrence relied on a limited set of historical sources to support opposing visions of the history of corporations. This week, the court will revisit and perhaps remake the history of corporate rights in America when it hears arguments in the widely watched case *Sebelius v. Hobby Lobby Stores Inc.* Hobby Lobby, a for-profit business corporation, has argued for a further break with the constitutional past in order to escape its current legal obligations under the Affordable Care Act. The chain of craft stores argues that corporations are entitled to the same religious freedom protections as people. With so much at stake in the current debate over corporate rights, we should not be surprised to find enterprising advocates rewriting history to create a useable past. But we should demand more rigorous thinking from the court. The court itself, and especially Justices Antonin Scalia and Clarence Thomas, have been telling us for decades that American history deserves significant difference. So it seems reasonable that before altering the balance of power between corporations and the American people, the court should carefully consider recent scholarship in history. Contrary to present efforts to depict corporations as simple and natural entities—like persons—entitled to constitutional rights, a different view prevailed for most of American history. Until the mid-20th century, the corporation was seen as a special and artificial creature of the government. It has never been seen as entitled to the same array of rights guaranteed to citizens. This view was held not only by lay people and legislators but by the justices of the court itself. Chief Justice John Marshall did not equivocate in *Dartmouth College v. Woodward* in 1819: "A corporation is an artificial being, invisible, intangible, and existing only in contemplation of law. Being the mere creature of law, it possesses only those properties which the charter of its creation confers upon it." In 1839, Chief Justice Roger Taney agreed wholeheartedly in *Bank of Augusta v. Earle*: "A corporation can have no legal existence out of the boundaries of the sovereignty by which it is created. It exists only in contemplation of law and by force of the law. ... It is indeed a mere artificial being." These two powerful architects of original Supreme Court authority insisted upon this artificial status in order to hold early American corporations particularly accountable to the state and to the public at large. Most of America's first corporations—bridge companies, water companies, transportation companies, banks, and insurance companies—were viewed as essentially public service corporations or public franchises. In addition to grants of property and public financing, the state usually accorded such entities special privileges like monopoly power, the power of eminent domain, or toll-taking authority. In return for those benefits, the government insisted on the special public obligations of corporations. Not only were corporations not exempted in any way from generally applicable regulatory laws, but they were routinely held to higher standards of public service, public accountability, social responsibility, and public trust. Even after the proliferation of general incorporation laws and even after most state constitutions prohibited legislatures from granting privileges to particular corporations, states continued to treat corporations as artificial entities with special obligations to the states that created them. As late as 1911, just before the ratification of the 16th Amendment legitimated the personal income tax, the court in *Flint v. Stone Tracy Co.* upheld the corporate income tax on the grounds that it was properly an excise tax on the privilege of doing business as a corporation. From internal governance to broader disclosure rules, corporations are subject to more oversight than are individual citizens.

And for most of American history, nothing in a corporation's legal status was construed to protect it from generally operable police power statutes passed by the legislature in the interest of the public's health, safety, comfort, and welfare. Through most of our history, when the Supreme Court did discuss the constitutional rights of corporations, it only reinforced these principles of artificial status and public obligation. Despite a certain gauzy mythology of corporate rights that has grown up around the 1886 case *Santa Clara v. Southern Pacific Railroad*, the court carefully parsed the different clauses of the 14th Amendment, granting corporations equal-protection and due-process rights when necessary to protect the property interests of the human persons who constituted their shareholders but denying corporations the privileges and immunities of citizens or due-process protections for life and liberty. In 1906 in *Hale v. Henkel*, for example, it denied a corporation Fifth Amendment protections against self-incrimination on the grounds that governments had to be able to monitor the artificial entities they created. Until the last quarter of the 20th century the few exceptions involved media companies defining the freedom of the press (*Grosjean v. American Press Co.*, 1936) and nonprofit voluntary associations defending the civil rights of African-Americans (*NAACP v. Button*, 1963). The court's move toward extending liberty rights to corporations is even more recent. In 1978, the court held in *First National Bank of Boston v. Bellotti* that citizens had the right to hear corporate political speech, effectively granting corporations First Amendment speech rights to spend money to influence the political process. But even then, the decision was contentious. Chief Justice William H. Rehnquist, in dissent, reminded the court of its own history: Though it had determined in *Santa Clara* that corporations had 14th Amendment property protections, it soon after ruled that the liberty of the due-process clause was "the liberty of natural, not artificial persons." And just as Rehnquist pointed to the lack of historical basis for according liberty rights to corporations in 1978, Scalia also conceded the "recency" of First Amendment jurisprudence generally in his concurring opinion in *Citizens United*, noting that "we did not invalidate a state law on First Amendment grounds until 1931 ... and a federal law until 1965." Corporate First Amendment rights would not come until even later. Justices from both ends of the political spectrum, from Brandeis to Rehnquist, were clear on the historic limitations on corporate rights and equally clear on the reasons those rights needed to be limited. Before further experimenting with the radical expansion of corporate constitutional rights as contemplated in *Hobby Lobby*, we urge the court to reconsider the well-established American tradition of controlling corporations and extending rights only sparingly. There is a reason America and our Supreme Court jurists have long struggled to hold corporations especially accountable to our democracy. Those reasons are as compelling today as ever. Naomi Lamoreaux is Stanley B. Resor Professor of Economics and History and chairwoman of the history department at Yale University, and recently co-wrote an amicus brief to the Supreme Court in *Sebelius v. Hobby Lobby Stores Inc.* William Novak is the Charles F. and Edith J. Clyne Professor of Law at the University of Michigan Law School and recently co-wrote an amicus brief to the Supreme Court in *Sebelius v. Hobby Lobby Stores Inc.*

Our Hidden History of Corporations in the United States

<http://reclaimdemocracy.org/corporate-accountability-history-corporations-us/>

When American colonists declared independence from England in 1776, they also freed themselves from control by English corporations that extracted their wealth and dominated trade. After fighting a revolution to end this exploitation, our country's founders retained a healthy fear of corporate power and wisely limited corporations exclusively to a business role. Corporations were forbidden from attempting to influence elections, public policy, and other realms of civic society. Initially, the privilege of incorporation was granted selectively to enable activities that benefited the public, such as construction of roads or canals. Enabling shareholders to profit was seen as a means to that end. The states also imposed conditions (some of which remain on the books, though unused) like these*: Corporate charters (licenses to exist) were granted for a limited time and could be revoked promptly for violating laws. Corporations could engage only in activities necessary to fulfill their chartered purpose. Corporations could not own stock in other corporations nor own any property that was not essential to fulfilling their chartered purpose. Corporations were often terminated if they exceeded their authority or caused public harm. Owners and managers were responsible for criminal acts committed on the job. Corporations could not make any political or charitable contributions nor spend money to influence law-making. For 100 years after the American Revolution, legislators maintained tight control of the corporate chartering process. Because of widespread public opposition, early legislators granted very few corporate charters, and only after debate. Citizens governed corporations by detailing operating conditions not just in charters but also in state constitutions and state laws. Incorporated businesses were prohibited from taking any action that legislators did not specifically allow. States also limited corporate charters to a set number of years. Unless a legislature renewed an expiring charter, the corporation was dissolved and its assets were divided among shareholders. Citizen authority clauses limited capitalization, debts, land holdings, and sometimes, even profits. They required a company's accounting books to be turned over to a legislature upon request. The power of large shareholders was limited by scaled voting, so that large and small investors had equal voting rights. Interlocking directorates were outlawed. Shareholders had the right to remove directors at will. In Europe, charters protected directors and stockholders from liability for debts and harms caused by their corporations. American legislators explicitly rejected this corporate shield. The penalty for abuse or misuse of the charter was not a plea bargain and a fine, but dissolution of the corporation. In 1819 the U.S. Supreme Court tried to strip states of this sovereign right by overruling a lower court's decision that allowed New Hampshire to revoke a charter granted to Dartmouth College by King George III. The Court claimed that since the charter contained no revocation clause, it could not be withdrawn. The Supreme Court's attack on state sovereignty outraged citizens. Laws were written or rewritten and new state constitutional amendments passed to circumvent the (Dartmouth College v Woodward) ruling. Over several decades starting in 1844, nineteen states amended their constitutions to make corporate charters subject to alteration or revocation by their legislatures. As late as 1855 it seemed that the Supreme Court had gotten the people's message when in Dodge v. Woolsey it reaffirmed state's powers over "artificial bodies." But the men running corporations pressed on. Contests over charter were battles to control labor, resources, community rights, and political sovereignty. More and more frequently, corporations were abusing their charters to become conglomerates and trusts. They converted the nation's resources and treasures into private fortunes, creating factory systems and company towns.

Political power began flowing to absentee owners, rather than community-rooted enterprises. The industrial age forced a nation of farmers to become wage earners, and they became fearful of unemployment—a new fear that corporations quickly learned to exploit. Company towns arose and blacklists of labor organizers and workers who spoke up for their rights became common. When workers began to organize, industrialists and bankers hired private armies to keep them in line. They bought newspapers to paint businessmen as heroes and shape public opinion. Corporations bought state legislators, then announced legislators were corrupt and said that they used too much of the public’s resources to scrutinize every charter application and corporate operation. Government spending during the Civil War brought these corporations fantastic wealth. Corporate executives paid “borers” to infest Congress and state capitals, bribing elected and appointed officials alike. They pried loose an avalanche of government financial largesse. During this time, legislators were persuaded to give corporations limited liability, decreased citizen authority over them, and extended durations of charters. Attempts were made to keep strong charter laws in place, but with the courts applying legal doctrines that made protection of corporations and corporate property the center of constitutional law, citizen sovereignty was undermined. As corporations grew stronger, government and the courts became easier prey. They freely reinterpreted the U.S. Constitution and transformed common law doctrines. One of the most severe blows to citizen authority arose out of the 1886 Supreme Court case of Santa Clara County v. Southern Pacific Railroad. Though the court did not make a ruling on the question of “corporate personhood,” thanks to misleading notes of a clerk, the decision subsequently was used as precedent to hold that a corporation was a “natural person.” This story was detailed in “The Theft of Human Rights,” a chapter in Thom Hartmann’s recommended book Unequal Protection. From that point on, the 14th Amendment, enacted to protect rights of freed slaves, was used routinely to grant corporations constitutional “personhood.” Justices have since struck down hundreds of local, state and federal laws enacted to protect people from corporate harm based on this illegitimate premise. Armed with these “rights,” corporations increased control over resources, jobs, commerce, politicians, even judges and the law. A United States Congressional committee concluded in 1941, “The principal instrument of the concentration of economic power and wealth has been the corporate charter with unlimited power....” Many U.S.-based corporations are now transnational, but the corrupted charter remains the legal basis for their existence. At Reclaim Democracy!, we believe citizens can reassert the convictions of our nation’s founders who struggled successfully to free us from corporate rule in the past. These changes must occur at the most fundamental level — the U.S. Constitution. We are indebted to our friends at the Program on Corporations, Law and Democracy (POCLAD) for their research, adapted with permission for this article. Sources include: Taking Care of Business: Citizenship and the Charter of Incorporation by Richard L. Grossman and Frank T. Adams (published by POCLAD) was a primary source TransforThementation of American Law, Volume I & Volume II by Morton J. Horwitz.

New York Times Motivating Corporations to Do Good JULY 15, 2014

<http://www.nytimes.com/2014/07/16/business/the-do-good-corporation.html>

Is it naïve to expect corporations to assist in addressing the social, economic and environmental challenges of the day? In 1929, several years before Social Security and the National Labor Relations Act cemented pensions and labor rights in law, workers at the Eastman Kodak Company already enjoyed profit-sharing, retirement bonuses and a pension plan.

They had sickness benefits and accident insurance. In 1914, Henry Ford decided to raise wages to \$5 a day, doubling, in one stroke, most of his workers' pay. "We were building for the future," he later explained. "A low-wage business is always insecure." Almost half a century later, Coca-Cola's chairman, William E. Robinson, argued that a corporate executive served not just stockholders, but also workers, customers and the community. "The neglect of the customers and his labor relations will seal his doom far faster than an avaricious quick-dollar stockholder or director," he said. Today, we live in a different world. Energy companies both recognize that climate change is a problem and actively lobby against efforts to combat it. The nation's half a million fast-food cooks earn, on average, \$9.07 an hour, which even on a full-time basis is not enough to keep a family of four out of poverty. Yet fast-food behemoths like McDonald's and Wendy's fight tooth and nail against efforts to raise wages. Coming out of World War II, corporate America enthusiastically draped itself in the American flag. As General Motors' Charles E. Wilson famously told a Senate committee in 1953, "for years I thought that what was good for our country was good for General Motors, and vice versa." G.M.'s star-spangled jingoism sits in awkward contrast to Pfizer's recent efforts — along with those of other companies — to rid itself of its status as an American corporation to avoid taxes. "Overall, there is no question that the ethos of corporate America has changed dramatically over the past 40 years," said Rick Wartzman, executive director of the Drucker Institute at Claremont Graduate University, who is writing a book about how the social contract between workers and employers has changed since World War II. The belief that business must serve multiple constituents, he argued, has given way to an imperative "to make the shareholder king." Milton Friedman, the economic thinker from the University of Chicago, argued that this was exactly as it should be. The social responsibility of business is to increase its profits, he stated in an essay published in *The New York Times* 44 years ago. For executives to devote resources to anything else would amount to doing charity with other people's money. Friedman's maxim arrived just in time for the era of the hostile takeover and the leveraged buyout, when corporate raiders sold themselves as saviors liberating shareholders from misguided managers who paid too little attention to the stock price. Though legally dubious, the argument that it is an executive's fiduciary duty to maximize the company's share price became a mantra from the business school to the boardroom. And it was nailed down with money. In 1993, some 20 percent of executive compensation was based on stock, according to Lynn Stout of Cornell Law School. Today, equity accounts for about 60 percent of the remuneration of executives at companies in the Standard & Poor's 500-stock index. With so much money tied up in stock options and the like, it is not surprising that executives will do almost anything to give their share price a boost regardless of what costs this might incur after their options have vested. These changes responded to economic forces. The 1970s and 1980s were an era of high inflation, high interest rates and low returns on investment. Globalization was exposing American companies to much greater competition from abroad, putting pressure on margins and redoubling executives' attention on cost cutting and short-term profitability. George Eastman had a vested interest in maintaining a trained and motivated work force in Rochester. Steve Jobs did not have much of a factory work force to think of. Another company halfway around the world made most of Apple's devices. Is there any hope that corporate ethics might swing back to something resembling the earlier era? Corporate executives jumping on the "corporate social responsibility" bandwagon certainly want you to think so. In 2000, 44 businesses signed up to the United Nations' global standards on human rights, workers' rights, environmental stewardship and anti-corruption policies.

By last year, 7,717 had signed. Companies, of course, are not charities. Their main responsibility is to remain profitable. Still, there is a case to be made that attending to workers' rights or environmental degradation might help the business in the long term. The housing bubble and subsequent financial crisis served as a stark reminder of the consequences of compensating bankers based on short-term returns regardless of whether their business would blow up a couple of years down the road. More broadly, company executives are under a new form of pressure. George Serafeim of Harvard Business School points out that the information age has brought greater transparency to corporate operations. Customers, investors and employees know more about what businesses do around the world and can exert influence to change their behavior. Some prominent businesses, like the American retailer Costco, the Danish pharmaceutical multinational Novo Nordisk or the Anglo-Dutch food conglomerate Unilever appear to take a serious stand on broader social and environmental issues. Nonetheless, it would be wise to temper expectations that corporate ethics are about to turn the corner. After all, the motivations go only so far: Notably, pressure to "do good" from investors, customers and employees is not likely to encourage much good-doing in domains that investors, customers and employees cannot readily see. Remember Enron? A report by Jean Tirole of the Toulouse School of Economics and Roland Bénabou of Princeton University notes that even as the company was quietly cooking the books, it was visibly giving money to all sorts of philanthropies. "Companies may behave better where it is most visible and not where it is less visible," Professor Bénabou told me. Corporations of an earlier era were just as motivated by self-interest. Eastman Kodak's mini-welfare state came about in part to keep unions at bay. Henry Ford wanted to encourage his workers to be more productive and hoped that many would ultimately be able to afford Model T's for themselves. But he also wanted to limit the dividend he would have to pay to the Dodge brothers, Ford shareholders who needed the money to set up a rival carmaker. Wilson's patriotic take on G.M.'s interests occurred at a confirmation hearing in which he was trying to convince senators that he could be a fine defense secretary and still keep his G.M. stock. Indeed, there is a corollary to Milton Friedman's proposition: You can trust a business that merely wants to turn a profit in a way that you cannot quite trust one that wants to change the world, too. "I don't think we would get very far in addressing large social concerns if we left them to corporations," said Margaret Blair of Vanderbilt Law School. "The ethic of shareholder values is just too strong, and our social problems are just too big." Elected governments are certainly imperfect. But to address our most intractable ills, they are the better tool. *Writing by Eduardo Porter.*

Department of Justice/ history of criminal intent

http://searchjustice.usdoj.gov/search?q=storage+of+crude+oil&btnG=Search&btnG.x=0&btnG.y=0&sort=date%3AD%3A%3Ad1&output=xml_no_dtd&ie=iso-8859-1&oe=UTF-8&client=default_frontend&proxystylesheet=default_frontend&ulang=en&entqr=0&entqrm=0&ud=1&site=default_collection&ip=76.103.225.217%2C10.4.146.65%2C10.14.5.32&access=p&start=20

Summary: A Republic

In a Republic WE, The people, The Citizens vote for persons who will make decisions on our behalf. If Congress feels it cannot live up to its fiduciary regulatory responsibilities to the nation and requires relief from such duties, agency's thus formed and empowered by the Congress to make designations on the behalf of the people, will have elected officials leading them, with the rights of the people to elect new leadership every 4 years for such bodies.

Citizens will be afforded the right to due process and the right to petition such bodies with their grievances respected, if grievance is rejected by such body, petitioner have the right to forward their grievances to Congress and for Congress to give a aye or nay vote on petition in its entirety, with out modification or add on within 365 days. If Congress fails to give an aye or nay vote within 365 days, petitioner's request will become the law of the land.

Wikipedia; A republic is a form of government in which power resides in the people,^[1] and the **government is ruled by elected leaders run according to law** (from Latin: *res publica*), rather than inherited or appointed (such as through inheritance or divine mandate). What Congress and the Supreme Court has established and is practicing is a **Meritocracy** form of government. Not a republic. Under the Constitution the Supreme Court and the Congress do not enjoy the right to abandon U.S. sovereignty, due process, or its' Constitutional fiduciary regulatory powers to other agencies either foreign or domestic, which seems to be a growing trend; NAFTA and the Patriots Act. Nor dose the Supreme Court or Congress enjoy a divine mandate. **Only the citizens of the United States working under State Rights to ratify changes in Constitutional governance can give away U.S. sovereignty, relieve the Congress of its fiduciary regulatory powers, Citizens of their civil rights or the right to do process.** This argument of what takes priorities; State, federal, corporation, civil or meritocracy rights reminds me of an argument that pops up on the internet from time to time. A woman wakes up late at night to use her bathroom only to fall into commode because boyfriend left it open. Whose fault is it, the man's for not putting the seat back down as he found it or the woman's for not looking first? I believe one young lady gave the definitive answer "If they wanted it to stay open they would not have put a lid on it." (Sorry guys) If the Founding Fathers wanted our nation to be about federal, corporation, civil or meritocracy rights they would have named our Nation the United Federation of America or The United Corporation of America or The United Citizens of America or the United Meritocracy of America not the UNITED STATES OF AMERICA. Delineate on Constitutional amendments that allowed a nation that had thrown off British and corporate tyranny for State rights, reinforced that belief in State rights with the 10th amendment, declared constitutional only Congress has limited authority to form corporations for the public good, gave the Supreme Court a mandate the federal Government only had rights expressly granted in writing and all other concerns are in States jurisdiction. Too a nation without any Constitutional amendments and consent of the people that now allows self interest corporate greed? How constitutionally is Valero's Non-congressional approved corporation charter is legal?

Summary: Hypothetical Case Study Bighorn Medicine Wheel in Wyoming, 7000 years of Native American Law

In Native American spirituality the Big Horn Medicine Wheel in Wyoming represents harmony and connections to the spiritual word. It is considered a major symbol of peaceful interaction among all living beings on Earth. The natives had divided up the circle into pie shape areas, aligned to astrological events (they were very intelligent) and denoted by lines of small rocks. In spiritual reverence for peaceful interaction among all living beings on Earth the circle may have been at times within a teepee for spiritual gathering and worship. Each member having equal rights and duties could use their space for worship while respecting the rights of others. Each had a uniquely different consequences to those rights based solely on the physical location of their area in relation to the opening.

Those at the opening could come and go without crossing over another's area but would have to give passive consent to others crossing to get to their areas in the circle. The person directly across from opening would not need to give passive consent for no one would need to cross to be seated but would need passive consent from half seated to pass over their areas to be seated. This passive consent did not mean they had to accept someone damaging or overturning their goods. Person crossing over had to respect the rights and property of others in doing so (peaceful interaction among all living beings on Earth). Passive consent did not mean they could come and go as they chose as this may be disruptive to all. Rules of order would be adopted as to when and why such movements were acceptable, observing respect for others as they did so. They could not put up obstacle to block movement through their space then claim person crossing was not respectful of their property when overturned. Neither could they put up screens that would block line of sight and communication. Or act in a manner that was disruptive to others communication or worship. Let's take the case where a member seated on the far side from the opening suddenly got a call from nature and not wanting to leave an embarrassing unsightly stinky mess in the tent dashed out. In doing this he disrupted communication and worship, overturned goods and bruised a member. Should this person be banished from the group for his violations? It was noted by others while upsetting as it was to them it was not his intention to have to dash out the opening, he tried to show respect for the rights and property of others as best he could under the circumstances and while some of the damage could not be immediately undone; bruises and broken baskets, the action was deemed justified and in the best interest of the group. The consequences to the group would have been much more damaging and unpleasant if he had stayed. This was the law of the land in America 7000 years before the European land grab (might makes right), common law doctrines, The Continental Congress, The Declaration of Independence, Articles of Confederation and The Constitution of The United States. Is the applicant acting in the best interest of humanity or self-interest? Should deliberately "polluting" others' water, air, food and exposing them to harm be considered peaceful interaction among all living beings on Earth? Will humanity suffer unjustified consequences if Valero's project is denied? States and places have been named after Native American words.

American Indian Place Names <http://www.infoplease.com/spot/aihmnames1.html>

First People <http://www.firstpeople.us/glossary/States-With-Indian-Names.html>

Alabama - *Thicket Clearers*, **Alaska** - *Great Land*, **Arizona** - *Silver Slabs*, **Arkansas** - *Down Stream People*, **Connecticut** - *Upon The Long River*, **Dakota** - *Related People*, **Idaho** - *Sunrise, It Is Morning*, **Illinois** - *Men Or Great Men*, **Indiana** - *Land Of The Indians*, **Iowa** - *Drowsy People*, **Kansas** - *People Of The South Wind*, **Kentucky** - *Hunting Ground*, **Massachusetts** - *Great Hill*, **Michigan** - *Great Water*, **Minnesota** - *Sky Tinted Water*, **Mississippi** - *Father Of Water*, **Missouri** - *Long Canoe People*, **Nebraska** - *Flat Water*, **New Mexico** - *Aztec God Mexitili*, **Ohio** - *Beautiful Valley*, **Oklahoma** - *Land Of The Red Man*, **Oregon** - *Beautiful Water*, **Tennessee** - *From Chief Tannassie*, **Texas** - *Tejas Or Allies*, **Utah** Those - *Who Dwell High Up*, **Wisconsin** - *Where Waters Gather*, **Wyoming** - *Great Plain*

Summary: America, you have forgotten yourself

America, discover your heritage, the reasons for the Declaration of Independence, the Constitution and why citizens found it necessary to amend it 27 times. Rediscover your unalienable Rights to be the final authority of the meaning of the Constitution through State ratification of amendments to the Constitution. Are corporation lawyers and government employees' stands up in front of your elected officials belligerently dressing them down in public, informing them they have no rights except to do as they say the type of respect for your rights and property you have come to believe in? The final two entries in the history books come here. Out of all the failings of public education this has to be the most grievous, failing to educate America of its heritage, equally to blame is the American free press in failing its fiduciary responsibilities to the nation. I use the words fiduciary responsibilities even thou the press is self elected it is specifically named in the first amendment, an act of faith.

Is There a Difference Between Speech and Press

http://www.law.cornell.edu/anncon/search/display.html?terms=first%20amendment&url=/anncon/html/amdt1bfrag2_user.html

Summary: Conclusion

Video of a very, very small crude oil tank boil over going up, 30 burned, Texas USA March 02 2011

<http://www.youtube.com/watch?v=DhVXnNvaudQ>

These firefighters were well trained in fighting such fires but were not able to control it. With the aforementioned safety equipment and blast walls this fire could have been easily controlled by just one person with the push of just one button.

The concept of using innovation to solve today's problems is referred to as progress, moving forward, not living in the past or just common good since; It use to be called "The American Way", it could be called "The American Way" once again. Let's put America back to work doing what The United States of America was second to none in doing and made you proud to be an American: Building It Right.

Valero has no Congressional approved corporation charter thus has no standing in this proceeding; proceedings should be dismissed.

City of Benicia needs to get out of commercial and industrial fire frightening. Benicia fire department to respond to such fires only to protect nearby retail and residential properties, City to form commercial/industrial fire fighting assessment district, Proposition 218.

I would like to acknowledge the help of my mother, Iola MacDonald (born 1924): without her help in spelling this document it would have never, ever been produced.

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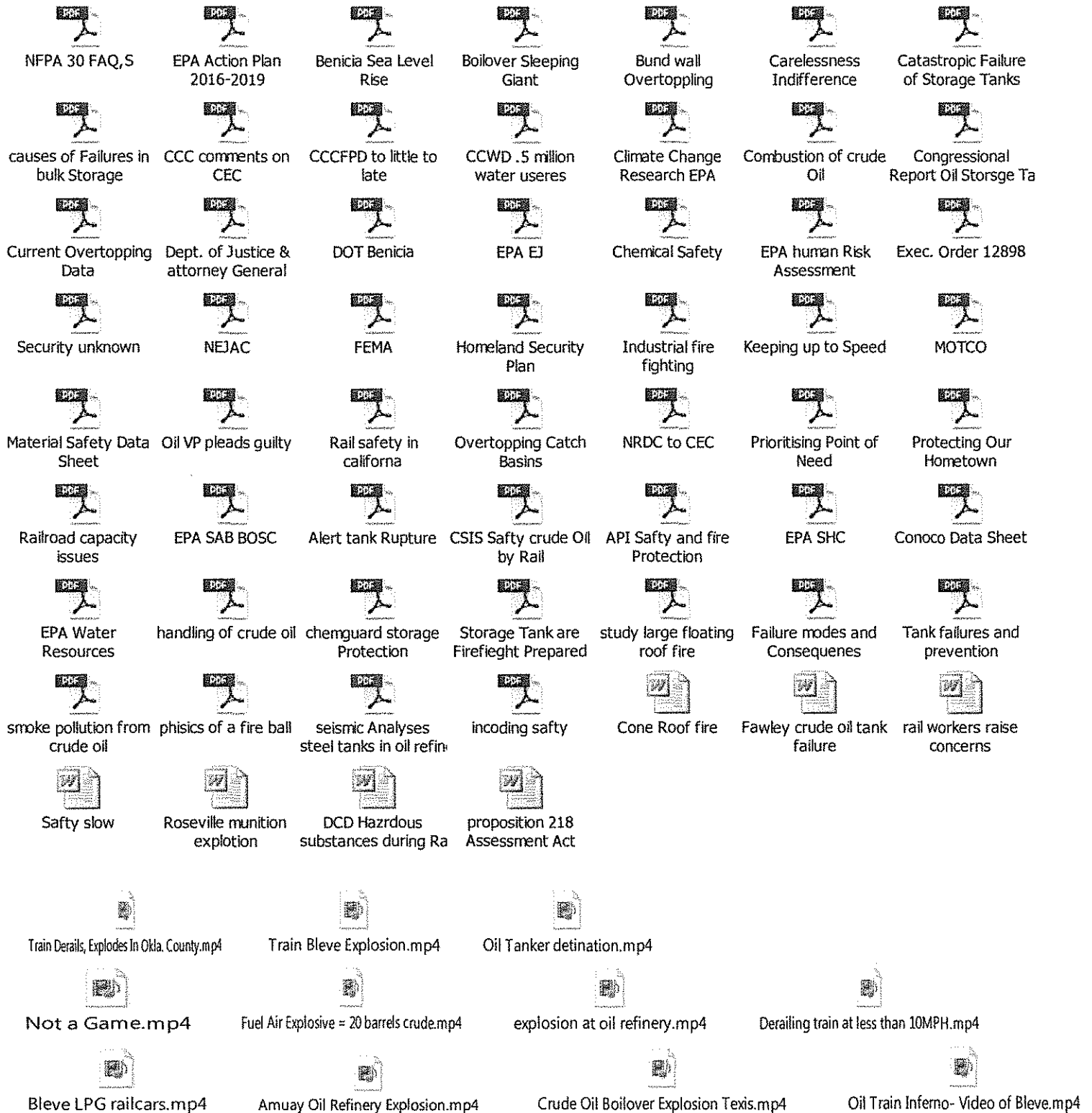
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