

Valero Crude by Rail Project
Public Comments received DEIR Public Review Period
September 11 (2:01 p.m.)- September 15, 2014

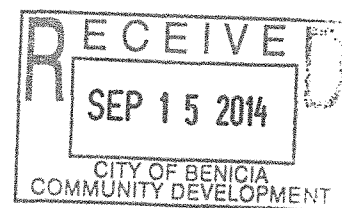
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Commenter	Date Received
Individuals	
Hadieh Elias	15-Sep-14
Brian Stone	15-Sep-14
Barbara Hopkins	15-Sep-14
Brian Harkins	15-Sep-14
Roger Straw	15-Sep-14
Terri Vacek	15-Sep-14
Leslie Swan	15-Sep-14
Shoshana Wechsler	15-Sep-14
Alan C. Miller	15-Sep-14
Cameron Wicklow	15-Sep-14
Joe Meuhlbauer	15-Sep-14
Myra Nissen	15-Sep-14
Giovanna Sensi-Isolani	15-Sep-14
Susan Vogt	15-Sep-14
Jan Cox Golovich	15-Sep-14
Karen Schlumpp	15-Sep-14
Thomas Schutz	15-Sep-14
Rebecca Sgmabati	15-Sep-14
Claudia Kirkpatrick	15-Sep-14
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Diana Walsh	15-Sep-14
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Diane Sinclair on behalf of Valero	15-Sep-14
Linda Lewis	15-Sep-14
Milton Kalish	15-Sep-14
Jerry Stumbo	15-Sep-14
Larry J Miller	15-Sep-14
Carole Sky	15-Sep-14
Bea Reynolds	15-Sep-14
Karen Berndt	15-Sep-14
Paul Reeve	15-Sep-14
Clark Driggars	15-Sep-14
Roger Straw	15-Sep-14
James Egan	15-Sep-14
Greg Imazu	15-Sep-14
Robert Adam	15-Sep-14
Sacramento Area Residents (Template Form) - 64 commenters	15-Sep-14

San Francisco Baykeeper Online Petition (Template Form) - 148 commenters	15-Sep-14
Michele Rowe Shields	15-Sep-14
Lynne Nittler	15-Sep-14
Roger Straw	15-Sep-14

Amy Million - DEIR Valero Refinery proposal to import crude oil by rail

From: "Hadieh Elias" <Hadieh.Elias@eseweb.com>
To: "Amy Million" <amillion@ci.benicia.ca.us>
Date: 9/15/2014 1:40 PM
Subject: DEIR Valero Refinery proposal to import crude oil by rail
CC: "Brad Kilger " <bkilger@ci.benicia.ca.us>



Amy,

Please see below my comments/concerns about Valero Refinery's proposal to import crude oil by rail. Please forward these comments to the Planning Commissioners.

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

I am a citizen of Benicia for last 33 years and I am local business owner of ESE Consulting Engineers, Inc. My firm is a professional service structural engineering company, located in the Benicia Industrial Park for more than twenty five years. My comments/concerns about the DEIR, as a long term resident of Benicia and as a long term local business owner, are as follows:

I am addressing the seismic design aspects of the DEIR and the potential risks / adverse safety impacts due to seismic related ground failures including liquefaction. Seismic design is basically ensuring that the "Demand" side of equation is always less than the "capacity" side of the equation. An EIR is not the review of the Demand" side only . It is also the review of reasonableness and realistic estimate of the "Capacity" side of the design. The DEIR has been silent on how Valero is proposing to achieve the capacity of the railroad cars/tracks to perform safely, while travelling or stationary, and being subjected to the large seismic acceleration and displacement demands due to the Geology and Soils of the site.

The DEIR discusses demand to limited extent but not how they are going to address that demand. So for us now, in terms of seismic design, this is a pie in the sky. Moreover, they refer in the DEIR to building code but there are no explicit provisions in the Code for a lot of things they are doing. For example, how they are going to address liquefaction and lateral spreading of rail in an earthquake.

Later on, if you allow this project to go forward, when they submit plans we are not going to be there, just the City plan checker and Valero representative, none of us Citizens and interested parties will be there; this short changes the democratic process as we will not see what they are submitting. Moreover, they can elect at that time as they have done in this DEIR to classify most of what they are doing as proprietary and thus not subject to review.

So if the solution to seismic problem is obvious, they should define it now – either as descriptive solution (ex. remove certain bad soil & replace it, etc.), or – prescribe criteria for the design to meet (ex. solution shall result in maximum differential settlements of 1/2", etc.).

If they do not provide criteria now, then later on they are going to bargain with the City on what is "appropriate or reasonable limit" and then we are left out of the democratic process. Moreover, the City will be pressured that City is delaying the project, etc. by asking for that. So the City will be in tough position & they are going to get into argument with The City on what is reasonable/customary/economical criteria thus forcing City to agree/comply to lower standards.

As citizens, we do not accept this process of removing this decision from more democratic review by citizens now and unloading it on to few city representatives in future. They have to give assessment now of what the quantitative criteria is for an acceptable solution for this non-standard project. The City will then have this criteria to check against in future to see if they meet that. The mechanism of design to satisfy these criteria will be in future but the specific criteria of acceptable limits needs to be set now.

It is also prudent for us now to keep in mind that there will be unknown hazards that will show up in the future when the project begins- ex. new harmful substances like with other projects for example Fukushima in Japan.

Who is going to bear the cost of that? Valero will say we did the best we can at time we did the project which was approved by the City, so the Society/Community as a whole will have to bear the cost, not Valero. Is the City going to be left holding the bag for these unforeseen future costs?

Benicia is a healthy beautiful community. We do not want it to become a heavy industrial polluted City with poor air quality, health risks, our homes dropping in value, at risk of major catastrophe in future due to this project.

As City Planning Commissioners, you are long term planners. You have to consider potential risks in future, not short term rosy scenarios by Valero.

- Valero is misrepresenting pollution picture for Benicia by looking at whole bay net increase in pollution. Is Valero going to put in writing a guarantee that the pollution/air quality in Benicia itself will stay the same? Or improve?
- Valero mentioned that their project makes US energy independent. Is Valero going to put in writing a guarantee that they will not export any of that oil?
- Valero dangled a promise of 20 full time jobs and increased tax income for Benicia. Is Valero committing local Benicia jobs and for how long? Is Valero committing how much more tax for Benicia? It seems their project will produce more jobs for the health insurance business/hospitals only as more citizens will suffer adverse health conditions due to more pollution.

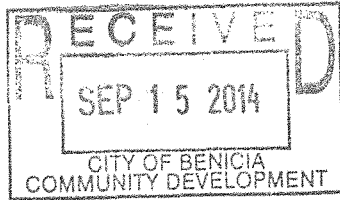
Lastly, City Planning Commissioners are reminded of what your own city attorney said in the public hearing meeting, that the City will have no control on the type of rail cars that will be used, what type of oil they will transport, or what schedule the trains/Railroad will decide to run on this project. The City can not make any requirements on any of that. Once you approve this and decide in favor of the project, the City will have no power to control/decide what Valero or the Railroad does.

So if you as the City Planners approve this project, then you will be giving away the store. It is as if you are allowing someone to come live permanently in your home when you have no power or control on what chemicals/noise/poison or harmful bad company he brings to your home, day and night. This is Benicia, our home and your home. Please decide against this project and protect Benicia as you would protect your own home.

Thanks

Hadieh Elias

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1060 Grant Street, Suite 3D
Benicia, CA 94510
hadieh.elias@eseweb.com
Tel. 707 747 1755
Fax 707 747 6538



Brian Stone
554 Cooper Drive
Benicia, CA 94510

Phone: 707 748-5660

15 September 2014

Benicia Planning Commission (a.million@ci.benicia.ca.us, bkilger@ci.benicia.ca.us)

re: Valero's Crude Oil by Rail Project

I support Valero's proposal to bring in crude oil from the Midwest by rail.

Reasons I support proposal:

Rail is less polluting than ship (current method). Shipping distances are considerable less.
Crude oil from the Midwest keeps capital in the US (versus current practice).
Jobs are created and maintained in the US (an improvement over current situation).

Volumes could be written - I don't have the time.

Replacing imported crude oil with domestically produced crude oil is a no-brainer.

Prevention of accidents and mitigation of any accidents is a lot easier and limited in impact when compared to ships and the affected environments.

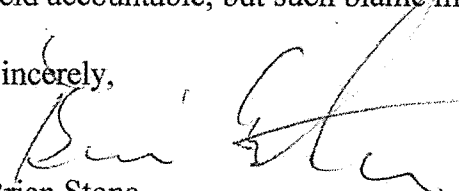
Rail shipments use existing infrastructure and would lead to better maintenance and improvements. Perhaps pipelines could replace some of the rail shipments in the future.

Valero's proposed activity occurs largely in the Benicia Industrial Park where traffic impacts, noise, and other related activities that might occur should be accepted as a normal situation. (Worrying about how long a rail crossing is used or impact on other businesses in the Park is bogus. If such businesses have a concern they should consider relocating, and other routes avoiding congested rail crossing can be used.)

The EIR process mandated by CEQA for documenting impacts and mitigation measures and should not be the tool to coerce change on how society uses energy and maintains itself.

It is unfortunate that those that abuse CEQA causing delays and additional expenses can not be held accountable, but such blame must be assigned to politicians.

Sincerely,


Brian Stone
Retired Forester

ps: Public Access TV of the Thursday, Sept 11, Planning Commission Hearing was excellent, and many others made my concerns more eloquently.

cc: info@beniciaCBR.com

Amy Million - Comments on RAIL Project of Valero Crude DEIR

From: Barbara Hopkins <barbhopkins2@yahoo.com>
To: <amillion@ci.benicia.ca.us>, <bkilger@ci.benicia.ca.us>
Date: 9/15/2014 1:38 PM
Subject: Comments on RAIL Project of Valero Crude DEIR

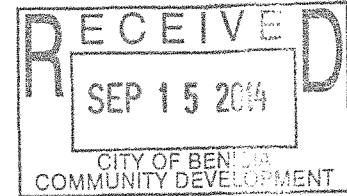
Barbara Amelia Hopkins

100 Bicentennial Circle # 313

Sacramento, California 95826

September 15, 2014

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

Re: Valero Crude by Rail Project- Comments DEIR

Dear Mr. Kilger and Ms. Million

As a Sacramento resident I am very concerned the health and welfare of people who live in homes or who are homeless and sleep in greenway along railway where Valera Crude Oil transport will be increased to 100 crude oil shipments regularly. Also the estimate of malfunctions is small percentage it will destroy the lives and well-being of those directly impacted and require others in community to pay for repairs. Concerns about the adverse impact on the total environment are also major concerns

I urge the Benicia government leaders heed the comments submitted by our regional leaders of SACOG (Sacramento Area Council of Government) and support their concerns about the specific inadequacies listed in the DEIR Report below that I support:

- The DEIR fails to consider the risk of fire and explosion as a threshold of significance.
- The Project poses a significant hazard to the public and the environment through reasonably foreseeable upset and accident conditions.
- The Release Rate Analysis is flawed as a tool to assess the potential environmental impacts of the project.
- The DEIR fails to analyze the potential environmental impacts of crude oil transport beyond the Roseville to Benicia alignment.
- The DEIR fails to analyze the cumulative impacts of the project.
- The DEIR improperly conflates its description of the project with measures intended to reduce or avoid the clear impacts of the project.

Thank you and I look forward to hearing about how Benicia is responsive to concerns of their neighbors about the impact of their rail shipment of potentially volatile crude oils along our residential railways.

Sincerely,

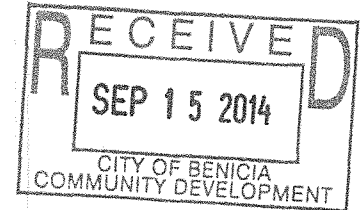
Barbara Hopkins
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Sacramento, CA 95826
barbhopkins2@yahoo.com
[916-388-0785](tel:916-388-0785)

September 15, 2014

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

ATTN: Amy Million

Sent via e-mail: AMillion@ci.benicia.ca.us



SUBJECT: Comments on DEIR -VALERO CRUDE BY RAIL PROJECT

Dear Ms. Million,

We should approve this project because it is consistent with local and State sustainability goals, good for the California and Benicia economy, and good for our national security; while any added safety risks compared to alternative marine transport are manageable or negligible.

The decision is about alternatives. Without this project Valero will simply use more foreign crude oil, and pay more for the same domestic crude oils. Under that scenario, domestic crude would eventually reach the Bay Area including Valero anyway, delivered by competitors by rail to Vancouver or some other distant port, transferred to marine tankers shipped to California by less efficient routes. Denying the project will not end use of fossil fuels.

Most discussions I've heard about this project and the DEIR focus at the local or regional levels. To illustrate just view signs and posters at recent meetings. Those in support of the project say "Good for Benicia" while those against the project say "Good for Valero". I propose both signs are correct and yet there is significant resistance to the project.

The reasons to approve the project would be clarified in the EIR by more direct comparisons of the proposed project with the most likely alternative. Specifically on global environmental impacts and crude oil economics. That increased focus would likely show the project is "Good for Planet Sustainability" and "Good for the California Economy", and that those needs are as important as our local concerns about rail safety, traffic, and air emissions.

To better highlight how this project benefits sustainability, for example, a summary table could be added comparing the global carbon equivalent emissions saved by the project, to the carbon equivalent emissions saved by say the solar electric projects recently installed by the City, and the spending for those savings.

While the DEIR acknowledges Global Climate Change is happening due to use of fossil fuels and associated carbon emissions(ref. 4.6.2.1), and shows the current marine tanker arrangement results in three times (3x) the global carbon equivalent emissions compared to using rail (ref. Table 4.6-7 and 6.4.1), it does not directly show how those savings compare to local efforts. To put that in perspective, this project alone saves 226,000 tons, or 37 times the total from City's 6,000 tons (ref. above). So even if we could eliminate all City activities resulting in carbon emissions, we would only save 2.5% of the savings offered by the Valero Crude by Rail

Project alone. These and similar comparisons are not sufficiently highlighted in the DEIR which may explain why related discussions are lacking in the public forums.

Also many people do not seem to be aware that it is about alternatives. If we continue to focus on local and regional concerns, largely ignoring the global carbon emissions and other global environmental and social impacts, then how can we expect others in say Mexico or China to compromise their local concerns and do the right thing to help solve global climate problems in the future? Particularly if our decision to reject this project is based on local politics much of which is not supported by data and an EIR?

Similarly the DEIR contains very little substantive discussion about domestic crude oil price impacts on the California and Benicia economy. To better highlight how this project benefits the economy compared to the alternative, I suggest more information, discussions and conclusions be added about the economics of domestic crude oils on California refineries, and the California State and Benicia City economy directly and indirectly.

There is significant price pressure to bring domestic crude oils to California refineries long term (15-20% compared to benchmark crudes ref. Reuters), directly by rail to Benicia as proposed by Valero, or alternatively by rail to Vancouver then marine tanker to California as proposed by Tesoro, or by some other circuitous route determined by market forces. Denying Valero a rail unloading station only serves to place Valero (and by extension California and Benicia) at a competitive disadvantage in the crude oil economy. And when domestic crude eventually comes to California by an alternative project (i.e. rail to Vancouver then marine tanker) or using existing infrastructure, we lose global carbon equivalent emissions reductions, and the most efficient mode of transportation (direct by rail) in the process. How is that a good outcome?

Finally I suggest discussions be added regarding how increasing use of domestic crudes impacts national security and indirectly the environment on a more global level. Our country and community have been concerned for decades about dependence on foreign oil and resulting conflicts up to and including our country's participation in wars. Likewise, I suspect a more thorough global analysis in the EIR would show that substituting domestic crude oil results in lower environmental impacts given the more stringent regulations in the USA, less handling and shorter travel distances. Unfortunately the DEIR lacks meaningful data and discussions about these important and likely significant issues.

Thank you for considering my comments.

A handwritten signature in dark ink, appearing to read "Brian Harkins", written in a cursive style.

Brian Harkins

527 McCall Drive, Benicia

From: <rogrmail@gmail.com>
To: "Amy Million" <amillion@ci.benicia.ca.us>
CC: "Brad Kilger" <bkilger@ci.benicia.ca.us>, <dmarks@ci.benicia.ca.us>
Date: 9/15/2014 11:54 AM
Subject: Emergency readiness and response - Spill Response Corporation
Attachments: MSRC_MPA_Membership.xlsx

Planning staff, consultant and Planning Commissioners:

Thank you for the opportunity to offer comments and questions for the record regarding Valero's Crude By Rail proposal. Please enter the following into the public record:

Regarding Emergency readiness and response

I am concerned about the disparate agencies and resultant probability of hastily assembled and potentially poor coordination in the event of a major catastrophic oil train derailment, spill, fire and explosion. [DEIR Table 2.1, p. 2-9, Mitigation Measure 4.11-4]

Land-based local and regional fire departments and emergency management operations currently have nothing to compare with the Marine Spill Response Corporation (MRSC). See excerpt below describing MRSC (from <https://www.msrc.org/about/history/>) followed by funding information and finally, several questions for the consultant.

Marine Spill Response Corporation was formed in 1990 to offer oil spill response services and mitigate damage to the environment. These services are available to organizations, including those involved in the handling and transport of oil and other substances.

The capabilities of MSRC are also intended to help members of the Marine Preservation Association (MPA) satisfy their facility and vessel response planning requirements mandated by the Oil Pollution Act of 1990 (OPA 90) and various state laws. OPA 90 requires that those who transport petroleum and petroleum products in U.S. coastal waters ensure by contract the resources necessary to respond to a worst case discharge to the maximum extent practicable. Today, MSRC's response planning services include citation in U.S. Coast Guard, Bureau of Safety and Environmental Enforcement, and various state plans.

MSRC offers response capability intended to help satisfy the following response planning requirements:

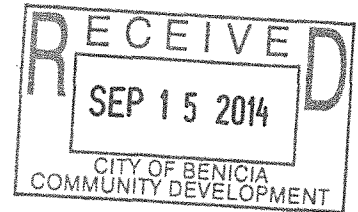
- . Average Most Probable Discharge (arranged as appropriate)
- . Maximum Most Probable Discharge
- . Worst Case Discharge
- . Shallow Water Response Capability
- . Shoreline Protection and Cleanup
- . Dispersants

These services are provided in the following Coast Guard operating environments on the U.S. East, Gulf, and West coasts, and the U.S. Caribbean and Hawaiian Islands:

- . Oceans
- . Inland
- . Rivers and Canals

With an extensive inventory of response equipment in its arsenal, this equipment is stored and maintained at MSRC's pre-positioned equipment sites across the U.S. MSRC's capabilities are augmented by its Spill Team Area Responders (STARs) contractor network. This nationwide network includes over 100 companies at over 200 locations.

Having the right equipment is only half the story. MSRC, with the support of the MPA membership, is committed to providing a comprehensive management system that includes:



- . Safe operating practices
- . Personnel and subcontractor training
- . Communications support
- . Electronically managed parts and equipment maintenance with a corporate audit capability

Response readiness is tested through an internal quality assurance program, including no notice drills and peer driven quality control inspections.

Funding of MSRC by Marine Preservation Association (MPA) (from <https://www.msrc.org/mpa/>)

The Marine Preservation Association (MPA) was established in 1990 as a privately funded, not-for-profit membership corporation. Working on behalf of petroleum transportation and energy industries, MPA's exclusive purpose is to help these industries address the problems caused by spills of oil and petroleum products on water.

MPA oversees broad policy issues that affect its members industries by:

- . Providing a planning forum for maintaining efficient and effective oil spill response capabilities
 - . Establishing funding objectives, as well as mechanisms for MPA member participation in support of these capabilities
- MPA member companies recognize the importance of maintaining a high quality, dedicated spill response capability to ensure protection of the environment. As such, MSRC's independent spill response resources and capabilities are funded entirely by MPA.

While the two organizations operate independently, they maintain well established communications. MPA members interface directly with MPA regarding overall membership, funding and related policy issues. On an individual basis, these MPA Members (who are also customers of MSRC) work directly with MSRC to support their individual facility and vessel response and planning obligations.

Only MPA members may enter into a Service Agreement with MSRC that allows them to cite MSRC resources in vessel and facility response plans.

Related Links

<<https://www.msrc.org/becoming-a-customer/>> Read More About Becoming a Customer of MSRC

<https://www.msrc-org-documents.s3.amazonaws.com/mpa/MSRC_MPA_Membership.xls

x> View a Complete List of MPA Members

<<http://www.mpaz.org/>> Visit the MPA Website

For more information on becoming a member of MPA and a MSRC customer please contact:

Judith Roos

Vice President Marketing, Customer Services & Corporate Relations

Marine Spill Response Corporation

220 Spring St, Suite 500

Herndon, Virginia 20170

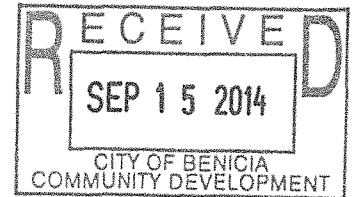
(703) 326-5617

<<mailto:roos@msrc.org>> roos@msrc.org

Note that I am attaching here a current list of membership of MPA, including nearly 600 agencies and businesses involved in the marine and oil trade.

Questions for the Consultant:

1. How does current emergency preparedness for oil by rail compare to emergency preparedness for marine shipment of oil, including an evaluation of the services provided by MSRC, including dedicated oil emergency vehicles and equipment on standby 24/7/365?



2. How much time and money would it cost for industry parties to form and fund a land-based Spill Response Corporation?

3. Can the City of Benicia require a more carefully coordinated readiness plan - in place, not promised in some future time - before permitting Valero's project?

4. I note that Mitigation 4.11-4, p. 2-9 is written in future tense. My understanding of CEQA is that mitigation plans are required in place rather than promised sometime in the future. This mitigation and indeed the entire DEIR handling of emergency response needs significant revision and recirculation.

Thank you for your consideration of my comments and questions.

Roger Straw

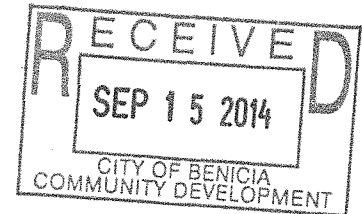
Benicia, CA

September 15, 2014

Amy Million, Principal Planner, Community Development

Benicia Planning Commission

Reference: DEIR Valero Crude-by-Rail



Ms. Million,

As a Journalism and Political Science major completing my undergraduate program and a resident of Benicia, I have researched extensively issue of Crude-by-Rail transportation of crude oil. In a proposal for a full investigative report on this issue, there are thoughts that I desire to share. Understand that the paper from which the excerpts are taken is now being used by my university as a sample investigative approach to the subject; therefore, my credibility should be supported by such.

In my research, which included both sides of the issue, the primary concern of all of the oil companies involved in the Bay Area is, of course, profit margins and shareholders. Regardless of proposed safety regulations as cited by Valero, the safety of the citizens along the railroad line is not of the utmost concern as excerpted by my research below:

In the San Francisco Bay Area, there are five major oil companies with refineries that will be receiving the transported crude oil and that provide much needed revenue to the Bay Area. Once the oil is refined, it is exported to countries whose demand for oil is higher than the supply available exhibited in the latest numbers that show exports in 2010 reaching \$7.8 billion, up \$726 million from the previous year (Glantz, 2012).

(Vacek, 2014)

The city political leaders, in this case the Benicia Planning Commission, is charged with maintaining the economic health of the community while acting in the best interests of the health and well being of the community and its citizens. The state political actors on this stage have stated their concerns related to the transportation of one of the most volatile crudes available, and the idea of this crude in our neighborhood is more than concerning.

As reported by Tony Bizjak and Curtis Tate of *The Sacramento Bee*, Congresswoman Doris Matsui is one of the main characters in the debate, and is the most outspoken (Bizjak & Tate, 2014). In addition, Kirk Trost, an attorney that represents the Sacramento Area Council of Governments which includes six counties and 22 communities and cities in the Sacramento Area is a front-runner on the stage demanding transparency and safety improvements to protect the communities. Governor Jerry Brown's office and California Assemblyman Roger Dickinson, D-Sacramento, have entered the stage by demanding increased safety

legislation. Added to the mix, the National Transportation and Safety Board and the Federal Department of Transportation are critical for information on regulations and adherence to policy (Bizjak, 2014).

(Vacek, 2014).

What has created the maelstrom is that the majority of the crude oil proposed to be transported to the Bay Area is from the Bakken Shale in North Dakota, purported to be more flammable than “traditional oil” (Bizjak & Tate, 2014, para. 5).

After a train carrying crude oil from tar sands derailed in Lac-Mégantic, Quebec destroying half of the downtown area and killed 47 (McDiarmid, 2014) and subsequent derailments in North Dakota and Virginia that resulted in fires and evacuations, the likelihood of future disasters exists (Bizjak, 2014). As communities learn of the proposed increased transports of this crude, serious fears are present that must be answered. That Valero alone is seeking permission to increase its transports to 100 train cars per day which increases the possibility of accidents increases a notable concern of community safety (Bizjak & Tate, 2014). These concerns of the fall to the issue of safety and the likelihood of lack of adherence to regulations based on past experiences with the oil companies (Rogers, 2014).

A major question needs to be asked of Valero that has not been fully addressed. Local oil refineries are fully aware of the dangers of transporting the crude by rail, particularly the volume, but are they hiding the dangers to maintain profit margins? The reality that the danger is very real and that economic factors do not outweigh safety and health. At this point in time, the physical health and well being of the community and its citizens far outweighs profit margins. All of the profits that could be gained do not mount to much if the community and its citizens are affected in a major disaster that could destroy the community.

It is up to the local political leaders, the middle men so to speak, to protect the community and demand that these questions be answered and demanding that safety regulations and technology available be required in spite of the cost to Valero.

Sincerely,

Terri Vacek

Resources cited:

Bizjak, T. (2014, Jun. 22). Crude oil transports to run through Sacramento region. *Sacramento Bee*. Retrieved from <http://www.sacbee.com/2014/06/07/6465172/crude-oil-rail-transport-to-run.html>

Bizjak, T. & Tate, C. (2014, Apr. 2). Refinery plans to ship 100 train cars of crude oil through Sacramento. *Congresswoman Doris Matsui*. Retrieved from

<http://matsui.house.gov/articles/refinery-plans-to-ship-100-train-cars-of-crude-oil-through-sacramento/>

Glantz, A. (2012). East Bay Oil Exports Have Become Huge Business. *The New York Times*. p. A19A. Retrieved from <http://search.ebscohost.com.proxy-library.ashford.edu/login.aspx?direct=true&db=edsgov&AN=edsgcl.282480996&site=eds-live>

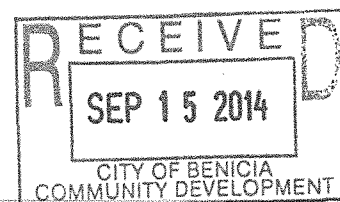
McDiarmid, J. (2014, Jul. 7). A year after Lac Mègantic, Canadians still know little about dangerous rail shipments. *TheStar.com*. Retrieved from http://www.thestar.com/news/gta/2014/07/07/a_year_after_lac_mgantic_canadians_still_know_little_about_dangerous_rail_shipments.html

Rogers, R – MediaNews Group. (2014, March 18). Huge increase in crude oil by rail to Bay Area concerns local leaders. *Times-Herald (Vallejo, CA)*. Retrieved from <http://search.ebscohost.com.proxy->

Vacek, T. (2014). Investigate Report Plan – Environmental Issue – Crude Oil Transportation. Ashford University.

Amy Million - Comment for the record - Valero Crude By Rail

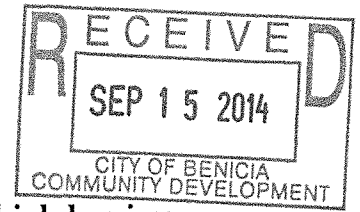
From: Leslie Swan <d.maunafrau@sbcglobal.net>
To: "amillion@ci.benicia.ca.us" <amillion@ci.benicia.ca.us>
Date: 9/15/2014 11:41 AM
Subject: Comment for the record - Valero Crude By Rail



This project will fatten the wallets of a few, while ruining the quality of life, and very possibly the safety, of many. It will reduce the very lovely and unique community of Benicia to a place that's considered a hazard zone. New families will not want to move to a place that is right along a train route carrying enormous amounts of deadly materials all year long, placing people, animals and the environment in danger. It is ludicrous to even spend time thinking about granting Valero rights to this project....it is corporate greed, and nothing more! PLEASE do NOT let this happen to thousands of innocent people who stand to gain NOTHING by it, and stand only to lose on property values, traffic increases, noise, and mostly, the very likelihood of toxic accidents that will be costly and dangerous. Please do not cave into corporate greed!

Our family will think seriously about leaving our beloved Benicia, our home for almost thirty years, and I believe we will not be alone in that line of thinking. I have extended family wanting to join us here, but they are waiting to see what the decision will be before thinking of buying here. Benicia, and the other communities along the railway line, will be tremendously diminished. Do NOT let Valero get away with this outrageous project they so greedily are pushing, all for the sake of the almighty dollar. Protect the quality of life that Benicia still maintains, despite being surrounded by so much industry. Any more potentially dangerous additions to our surroundings will be too much!!!

Leslie Swan



Members of the Planning Commission, good Citizens of Benicia,

I thank you for this opportunity to comment on Valero's proposal, which has immense consequences for all of us living in the Bay Area, throughout northern California, and, in reality, the entire spinning planet.

I was born and raised in Solano County and currently live in west Contra Costa, a few miles from the Chevron refinery. I'm here to ask you to do the hard, but ethically necessary thing, and veto the project that Valero proposes. The City of Benicia has set admirable community-wide Greenhouse Gas reduction goals. But all your local mitigation measures will mean absolutely nothing if you vote on the side of quick profit and extreme gas and oil extraction.

The World Meteorological Organization just announced that greenhouse gasses in the atmosphere reached a record high in 2013. And CO₂ levels increased more between 2012 and 2013 than during any other year since 1984.

According to the DEIR, Valero's project will somehow miraculously buck this negative trend. Section 4.6 assures us the project is GHG-neutral. "Trains travelling between the Refinery and North American oil fields [will] generate locomotive emissions," but "to understand the Project's net impact on climate change . . . one must consider . . . maritime emissions . . . the Project would eliminate."

The DEIR is not an objective scientific document, however. It's a carefully constructed, extended argument that employs cherry-picked evidence—and the careful use of omissions—to argue, baldly, that the substitution of rail for marine transport eliminates worrisome GHG emissions.

But is that really the end of the story? And what about the beginning of the story, the place where that transported oil is extracted?

Perhaps some of you have seen those amazing NASA satellite images of the U.S. at night. The eastern seaboard blazes with light and then plunges into the darkness of the Great Plains. But in the northwest corner of the plains is a sudden explosion like neon fireworks that eclipses even Chicago and New York.

These are the fracking fields of North Dakota. The light we see comes from gas flares from thousands of shale oil rigs planted all over the Bakken formation. That's right—the flaring of natural gas, methane, shooting into the atmosphere because the industry on the ground has decided it's just too expensive to capture it. The real prize is the light, sweet oil that's loaded onto trains and is coming soon to Benicia, if Valero has its way.

So what's wrong with this picture? Well, it's this. Methane is an extremely powerful greenhouse gas that's far more potent than CO₂. It disappears relatively quickly—its power to trap heat is concentrated in a short, intense burst. But within a 25-year period—the period in which we get our act together or lose the climate game—methane has its greatest effect, trapping 86-times more solar radiation than CO₂ can. For this and other reasons unique to fracking, Bakken crude is highly carbon-intensive. And yet nowhere in the DEIR is the carbon intensity of the oil itself, before refining, factored into GHG calculations. On this crucial subject the DEIR remains silent.

An honest assessment would account for the entire process, from beginning to end, from extraction to refining to burning. Climate impacts don't begin and end at the California border, or at the margins of the Bay Area basin. Nor is the carbon-intensive fracked oil carried by rail identical to the conventionally extracted oil arriving by ship. Again, let's remember the warning of the WMO. Last year, in 2013, concentration of CO₂ in the atmosphere was 142% of the pre-industrial amount. Methane was 253%. We're moving in exactly the wrong direction.

The eye-dazzling blaze from North Dakota's fracking fields is as glorious as Vegas when seen from the aerial view. But do we really want to gamble with the very future of our planet in order to conduct business as usual?

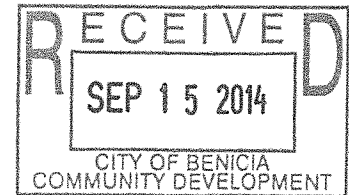
Shoshana Wechsler

9/11/2014

Alan C. Miller
PO Box 747
Davis, CA 95617

September 12, 2014

To: Amy Million, Principle Planner
250 East L Street
Benicia, CA 94510



Subject: Valero Refinery - City of Benicia Draft EIR on Oil by Rail

Dear Ms. Million:

The City of Benicia has released a draft EIR that includes the shipment of oil into the Valero Refinery in Benicia by rail. The scope of rail shipping described is limited to a short section of the route oil will travel on, from Roseville to Benicia only. The area of California potentially impacted by rail shipments is much greater, as the oil trains will originate beyond Roseville.

UNLIKELY BUT CATASTROPHIC EVENT: WHEN, NOT IF

The shipment of oil by rail in these quantities through numerous populated areas is dangerous. DEIR Impact 4.7-2 identifies the need for mitigation for rail transport between Roseville and Benicia as "None". I will present a fair argument below that shipping large quantities of oil, especially Bakken oil with higher levels of volatiles, is inherently risky to human populations living near the tracks, and more likely to occur at specific populated locations, using examples of real situations that occurred in and near the City of Davis that could have caused a release and explosion were an oil train involved. The EIR has not accounted for these actual events in calculating the risk at specific locations, therefore these omissions must be corrected and the associated mitigations properly addressed.

The EIR claims rail is a "statistically safe" method of shipment. However, the probability of release increases with the number of train miles (a function of the number of trains), the number of rail cars, and, at a given location, the increased hazards due to the existence of certain types railroad infrastructure at which derailments are more likely to occur. The probability of an accident increases in proportion to the number of train miles and car miles, both factors of the number of trains. The probability of a release and explosion further increases with each new oil-by-rail project adding more trains to a given rail line.

The Lac-Mégantic derailment occurred at a slower-speed curve in the rail in the center of town as the rails entered the town from a higher-speed stretch of tracks, similar to configurations in towns uprail from Benicia/Valero, for example the city of Davis. Valero's EIR in 4.7 (18) states that the circumstances necessary to create a similar derailment could not occur between Roseville and Benicia, blaming that accident on "human error". Perhaps Valero believes human error is strictly a Canadian trait.

While it may be true that a runaway train scenario is not as likely in a relatively-flat valley, there are grades on the Union Pacific rail line. Train wrecks, like air crashes, happen when everything fails simultaneously or when someone of responsibility misses something critical. Though rare, rail accidents and near misses are not so rare that they are never seen. Over the last 25 years in Davis I have seen the aftermath of several derailments and witnessed two near-derailments that could have resulted in a disaster. All of these were caused in various ways by human error. Due to the human error factor, it is simply unwise to move numerous, massive oil trains through our populated areas.

Examples of such human error caused incidents are:

- 1) A westbound passenger train in the early 1990's that hit an automobile at the Road 32-A crossing just east of Davis, causing the train to derail and the automobile's gas tank to explode, creating an ignition source that burned the locomotive. Had this been an oil train, the fire could have ignited the oil.
- 2) A westbound liquid petroleum gas unit train in 2006 that passed through a mainline track crossover just east of downtown Davis at 47 m.p.h. when that crossover is posted for 10 m.p.h., at nearly five times the posted speed and nearly derailed. Had this train derailed, or had it been a oil train, there could have been a catastrophic release and explosion.
- 3) An eastbound manifest train containing flammable placard tank cars that passed through the same mainline track crossover at mainline speed before pulling the air on the brake line and coming to an emergency stop. The estimated excess in speed was about three times that posted. Same consequences as above.
- 4) An eastbound freight train in the early 2000's that partially lost a truck bogie off the side of the train in central Davis that in turn scraped the entire side of another train on the adjacent track. Had the waiting train been an oil train, a tank car or cars could have been punctured and the scraping created a spark for ignition.
- 5) A train being switch in the "West Pass" siding had a hard coupling that knocked a bulkhead flatcar across both main lines. Had an oil train been passing by, similar to the incident just outside Casselton, North Dakota, the train would likely have derailed, puncturing the tank cars, thus causing a catastrophic explosion.

The tendency of derailling trains to puncture and explode is not mere speculation; in a recent one-year period, four trains actually did so in North America. When human beings are within the blast zone, they die en masse; whether that happens in a town or not is largely chance, although rail infrastructure such as switches, crossovers, curves, grade crossings, siding tracks, rail yards, and bridges have a higher incidence of derailment than straight main line track. Because these features are often located adjacent to populated areas (see Davis, Suisun and Sacramento as examples), the odds of mass casualties increase more than would be predicted by exposure to large populations. Thus, Valero is simply rolling the dice on when and where, not if, the next catastrophic disaster will take place.

Because a "spill", however unlikely in a given location, has a meaningful probability of an accompanying catastrophic explosion with a significant probability of human incineration and death, large volumes of oil should not be routinely shipped by rail through the population centers of Northern California. Congress has in the past ordered the railroads to route hazardous and flammable cargo around populated areas, such as via the Federal Railroad Administration Rail Hazmat Routing Rule of 2008. The problem with the rule is, were a given train routed away from one set of populated areas, in almost all real-world cases it would instead be routed through other populated areas.

ALTERNATIVE 1: PROPOSED NEW RAIL ROUTE to MITIGATE COMPLETELY the CHANCE of SPILL or EXPLOSION in a POPULATED AREA of NORTHERN CALIFORNIA

As feasible mitigation for the hazard of transporting crude by rail on existing train lines in proximity to Sacramento Valley population centers, I propose a new route, the Northern California Hazardous Cargo Rail Bypass (the Bypass) for oil train shipments through the Sacramento Valley (see attached map). The route takes advantage of three abandoned rural rail routes for much of its length, and elsewhere parallels linear features such as roads and canals when possible to minimize necessary land takes for right-of-way. This route avoids all cities, towns and densely populated areas. The shipment of unit oil trains on routes currently proposed puts tens-of-thousands of people within the oil train blast zone in Oroville, Marysville, Roseville, Sacramento, West Sacramento, Davis, Dixon, Fairfield and Suisun. This route avoids all populated areas.

The route is approximately 125 miles in length. The cost is roughly \$1.5 - \$3.0 billion (in the range of the estimated final cost of cleanup and litigation in the Lac-Mégantic derailment and fire). The route could also be used for trains carrying other flammable and hazardous cargo, taking those materials out of population centers as well.

INVESTING in the FEDERAL HAZMAT ROUTING RULE for NORTHERN CALIFORNIA

Regulators should consider the advantage of constructing this route. Using this Bypass, oil trains coming from sources to the east via Utah, or from sources to the north through Oregon, would travel through the whole of northern California to the Benicia refinery without ever coming within the blast zone reach of a populated area. This mere 125 miles of new rail would achieve the intent of the FRA Hazmat Routing Rule for northern California, for the first time anywhere.

In addition, by building the short branch from east of Suisun City to a rail bridge over the Carquinez Straight north of Pittsburg, BNSF unit oil trains currently routed through downtown Sacramento and Stockton could use this Bypass line to avoid those Cities as well. To avoid North Bay Cities such as Martinez and Hercules, a transload facility (train to pipeline) could be built in the industrial area of Pittsburg for a pipeline to Richmond. This would allow trains to avoid all population centers in the North Bay as well as the Sacramento Valley.

THE FLEXIBILITY of RAIL is RETAINED

A major argument made for shipping oil by rail is the flexibility available for changing the refinery's domestic oil source. Because a transcontinental pipeline runs from a fixed location, a new pipeline must be constructed if the oil source changes. With minor improvements to the rail infrastructure, however, a new oil source can be tapped for the refinery.

By building the Bypass, the flexibility of rail is retained. Trains may be routed from the north, east or even the south or southwest (from Texas via southern Colorado). This is no different under this plan than without it. The difference is no Northern California population centers are threatened with incineration.

BYPASS ROUTE DESCRIPTION

This route assumes all hazardous trains would in the future enter Northern California via the Feather River Canyon, either via the BNSF Inside Gateway from the north where current and planned oil trains through Sacramento's downtown run, or from the east on UPRR. This would require the cooperation of both railroads.

The proposed route would come off the UPRR in the Campbell hills just north of Oroville, utilize an old Sacramento Northern rail route from west of Oroville to south of Live Oak, where it could bypass Live Oak to the east or west, head west to follow a canal to the crossing of the Sutter Bypass, connect to the length of an old Southern Pacific branch line to a point south of Knights Landing where it would turn west to cross the Sacramento River and then turn south to roughly follow Road 103 east of Woodland, Davis and Dixon west of the Yolo Causeway, crossing I-80, I-5 and Putah Creek before connecting to an old Sacramento Northern Railroad right-of-way for the run to a junction point east of Suisun.

The West Branch would reconnect with the UPRR line south of Suisun after crossing Suisun Slough for Benicia oil trains. The South Branch would continue south along the Sacramento Northern right-of-way and cross the Carquinez Straights at a narrow point in the Bay and terminate at rail yards north of Pittsburg. At Pittsburg this proposal would require a trans-load facility for a pipeline west to Richmond, this to avoid any oil train rail movement through Bay Area urban areas such as Bay Point, Martinez and Hercules.

This new rail route literally bypasses all incorporated populated areas, fully mitigating the hazard to human life in all densely populated areas of the Sacramento Valley.

ALTERNATIVE 2: BUILD a NORTH of OROVILLE RAIL to PIPELINE TRANSLOAD FACILITY and an ASSOCIATED PIPELINE to BENICIA and PITTSBURG to MITIGATE COMPLETELY the CHANCE of SPILL or EXPLOSION in a POPULATED AREA of NORTHERN CALIFORNIA

While the railroad bypass fully mitigates the hazard to human populations in the Sacramento Valley, a pipeline alternative also fully mitigates the hazard of oil trains to human populations, at much lower cost.

An oil transload facility north of Oroville in the low Campbell Foothills would allow oil trains to transload their cargo to an approximately 125 mile new oil pipeline, following the same general route as shown on the attached map for the railroad Bypass. All oil trains would terminate north of Oroville at this new transload facility after utilizing the Feather River from the east or Inside Gateway from the north to bring oil to California.

Oil from the rail-pipeline transfer terminal would utilize the pipeline to reach the northern California refineries. This is a viable option that avoids the cost of full rail infrastructure and keeps oil trains out of all urban areas of the Sacramento Valley. This option preserves the flexibility of rail transport sources, just as with the proposed rail Bypass.

Oil from all North American sources can be transported to this trans-load facility, and with an investment in a modest (approximately 150 miles) Northern California pipeline network, oil can reach all major refineries. An added plus is that a few hundred miles of additional pipeline could continue parallel to the I-5 right-of-way to proposed oil train receiving refineries in the Bakersfield area, fully mitigating ALL proposed oil trains from contact with densely populated areas of Northern and Central California.

INVESTMENT METHOD and TAX on OIL by RAIL SHIPMENTS

The proposed rail bypass or pipeline/transload facility is a large investment in infrastructure benefitting the people of Northern California. This investment will allow oil transport to multiple refineries. The people of the State of California are the recipient of the safety and job benefits, and therefore municipal bonds could be sold to finance this infrastructure, paid for by a tax on all oil shipments by rail to the Oroville North transload facility or directly to the refineries via the rail Bypass.

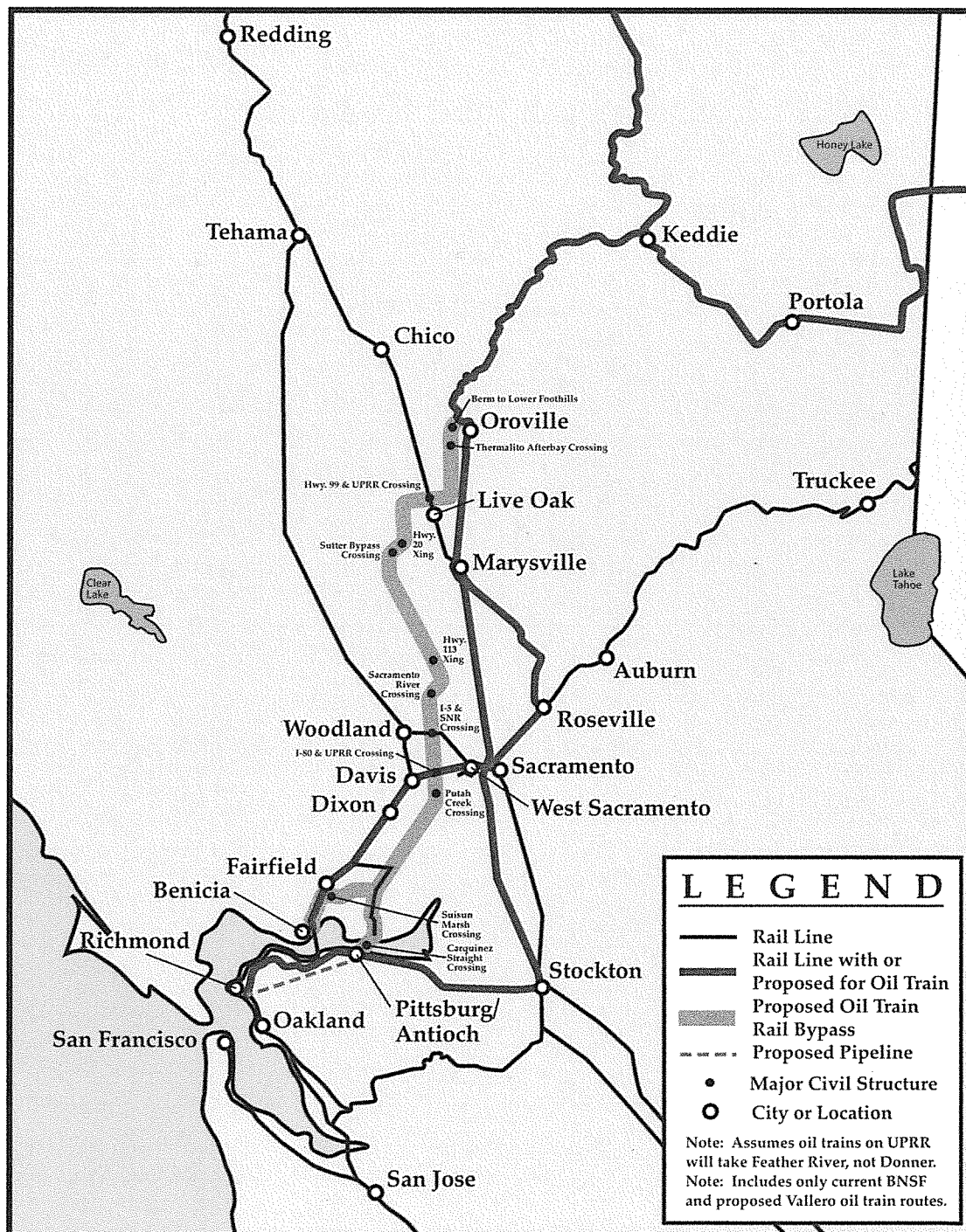
IN CONCLUSION

While jobs in Benicia are important; asking Sacramento Valley residents within ¼-mile of rail lines to support this by gambling with personal incineration and our towns' incineration is not acceptable. The alternative transport methods presented here will allow the refineries to receive oil from multiple sources while keeping all California urban areas safe.

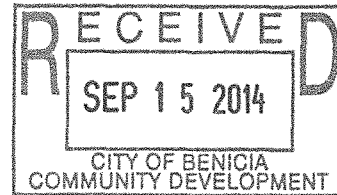
Submitted in Safety and Sincerity,

Alan C. Miller

Oil, Flammable & Hazardous Cargo Northern California **RAIL BYPASSES** of Populated Areas



Cameron Wicklow
1630 Saint Francis Ct.
Benicia, CA 94510
8/14/14



City of Benicia Planning Commission
C/O Amy Million (amillion@ci.benicia.ca.us)
250 East L Street
Benicia, CA 94510

Dear City of Benicia Planning Commission:

I've lived in Benicia most of the last 15 years. I support the project because of what it means for Benicia. It's rare to have a project that has so many benefits to energy independence, reducing greenhouse gasses, local job creation, and emissions reductions.

I am an engineer who has worked in or with all areas of the refinery including the environmental, safety and operations departments. My first hand experience with the policies, procedures, and people in these areas and the rest of the refinery, give me the confidence to live in Benicia and to raise my children here. I have lived across the street from the fence-line, just a few houses down from two other Valero employees who live there. I also know of engineering and legal employees from another local refinery that chose to buy houses on the Valero fence line.

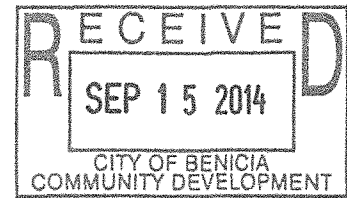
As an engineer in this industry for over 15 years, I may have additional understanding of the EIR than the average resident, but I know that I will never, personally be an expert in all areas covered by the EIR. I am also happy to know that both sides have good intentions. However, as an engineer, I can not use anecdotes, rumors, or emotion, to make my decisions; we have to use real data and rely on the experts. I'm pleased that the city has done this. In fact, the city has gone to the next level, further validating the initial assessment by pursuing a full EIR, which consulted many more experts over most of the last year.

As commissioners, you should feel confident that the city has done everything and more than is necessary to evaluate the environmental impacts of the project. As a citizen of Benicia, I am urging you to move forward to capture the many benefits to the community and environment as soon as possible.

Sincerely,

Cameron Wicklow

Benicia Planning Commission Members,



My name is Joe Muehlbauer, I am a Benicia resident, member of the Benicia Community Sustainability Commission, and a Valero employee. I also tutor at Benicia High School through the Valero program that my wife started (she is also a Valero employee). I coach Little League Baseball, and frequent the James Lemos pool for swimming lessons with my kids. Just as you, I am an involved member of this community because I value this community.

The crude by rail project is an investment in our community. It is an investment in our safety and allows the refinery to continue to bring revenue to our police and fire departments which is then used for staffing, state of the art equipment, and training. There have been comparisons made to Mare Island and Vallejo this evening and I offer one more...according to the Times Herald, Vallejo is at the highest crime rate in 27 years with 14 homicides in 2013. Whereas Benicia, with much credit to our police chief and officers, is at the lowest crime level in the past 27 years and hasn't had a homicide since 2011. A strong police department saves lives.

This project is an investment in our environment. As a state, we set a target in 2006 to reduce our GHG emissions to year 2000 levels by 2010. As a city, we took this to heart and developed a climate action plan to achieve the goal. So how are we doing? Not so hot. In accordance with the City of Benicia 2010 GHG Emissions Inventory Report, in that period where the goal was to reduce emissions, Benicia increased its GHG emissions from 487 kMTCO_{2e} to 689 kMTCO_{2e} – a 41% increase. But there is hope, as the experts have verified through the DEIR, the Crude by Rail project reduces emissions by 255 kMTCO_{2e}. If this reduction were applied to Benicia's AB32 target, this single project would allow us to achieve our goal.

The crude by rail project represents an investment in our top-notch school system and the stable housing values that we all enjoy.

I support this investment in our community.

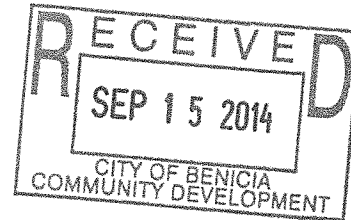
A concerned citizen,

Joe Muehlbauer

September 15, 2014

Myra Nissen
454 E E Street
Benicia, CA 94510

The Honorable Brad Kilger
City Manager, City of Benicia
250 E L St.
Benicia, CA 94510



CC: Amy Million, Principal Planner, Community Development Department

Dear Mr. Kilger,

I am writing to say that I am against bringing the dangerous Bakken crude oil into Benicia by trains. We have seen horrendous resulting explosions following the recent massive increase in transport of crude oil from Bakken shale fields in North Dakota and tar sands mines in Alberta. The California Attorney General and the National Transportation Safety Board have sent out alarms about this dangerous new method of transporting these unconventional crudes.

The negative track record of the derailment of trains in our local area demonstrates the cause for concern. Additionally, these cars carrying their dangerous cargo will threaten other municipalities such as Davis and Sacramento and major waterways that flow to the San Francisco Bay on their way to Benicia. They will back up traffic in the Industrial Park and onto the freeway. These shipments pose a huge increase in volume of hazardous materials to our community. I am not certain our community infrastructure has the emergency preparedness it needs to handle the threat that the transportation of the material or that the material itself poses our community and surrounding communities.

I do not want to be a victim nor do I want my neighbors and community to be victim to the health and environmental dangers of this proposal. It is irresponsible to put the community at such risks with little gains.

Please do the right thing for our community and stop the shipment of crude oil into Benicia by trains.

Please do the right thing for our community and stop the shipment of crude oil into Benicia by trains.

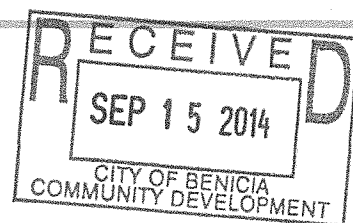
Sincerely yours,

Myra Nissen

I am a health care professional and I have an MA in environmental studies.

Amy Million - Vallero crude-by-rail DEIR

From: giovanna sensi-isolani <fiber-frolics@att.net>
To: "amillion@ci.benicia.ca.us" <amillion@ci.benicia.ca.us>
Date: 9/15/2014 2:09 PM
Subject: Vallero crude-by-rail DEIR
CC: "beniciaherald@gmail.com" <beniciaherald@gmail.com>, "opinion@timesherald.com" <opinion@timesherald.com>



To: Amy Million Community Development Department. (Please forward to Planning Commission)

From: Giovanna Sensi-Isolani, Benicia resident and small business owner

RE: Valero Crude-by-rail DEIR

Thank you for letting me speak with you at a public meeting regarding Valero's plan to bring crude by rail to Benicia. Please add my comments to the public legal record on Valero's Crude by rail project and incorporate them as part of review of its DEIR

As I mentioned before I have several concerns

The condition and oversight of the railway tracks and the bridges. There is just one inspector who oversees all California's railroad bridges and there is no other State Oversight. We must demand with certainty that the tracks and bridges have been inspected in the last year, that any necessary repairs have been made and that the tracks and bridges have been found safe to carry this volatile oil.

Because of Federal laws there is no other oversight of the railroads and even though Valero promises to bring the trains in during non-business hours the railroad does not have to keep to that promise thus impacting the flow of traffic in the industrial park. Some local businesses have already commented that they would not be able to stay if this plan is approved.

The safety of the railway cars that will be carrying this volatile oil has been seriously questioned and the federal government has ordered all the cars to be replaced within two years. The safety of the new cars is also seriously questioned since a recent derailment caused explosions of the new supposedly safer cars as well. Valero must not transport this volatile oil into our community until cars can be provided that are safe.

The issue of insurance also concerns me. In Canada just a year ago at Lac-Magantic the railroad went bankrupt after destroying a town and killing over 40 people and the town was left to cope with reconstruction by itself. I ask that the Commission investigate the issue of insurance and publicly post the results and allow for further public comments on this issue before considering this DEIR

The DEIR reports that air quality in the entire San Francisco Bay will improve if the oil comes in by train instead of coming in by boat. I demand that a new air quality study be conducted that evaluates the change in air quality in Benicia. (I am not so concerned with the air quality for boaters in the middle of San Francisco Bay) Will Valero assure us that it will not just become a hub for the transportation of the volatile oil by boat out of the country thus adding the pollution from the trains to the current pollution from the boats? The planning commission must get a commitment from Valero that none of this oil will be exported thus keeping their promise to make the U.S. more energy independent.

Did we really listen to all the other communities that this decision would impact? I know that speakers came to the commission meetings and voiced their concerns, but did the commission elicit any input from communities that would be impacted by this decision? The planning commission must send letters to all communities up the track and give them a time to make public comments.

We must also look at some recent new development as citizen groups like the Sierra Club and Forest Ethics are suing the department of transportation over the shipment of volatile crude oil in older railroad tanker cars. Is Benicia ready to defend Valero in such a lawsuit if some citizen group or community up the track should file one? Would we become liable if we accept this project?

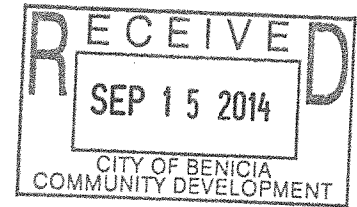
My last concern is the message that we would be sending to our young people. It is obvious that the burning of fossil fuels is affecting our climate. This impact will continue to escalate as long as we use fossil fuels as our major energy source. It is time for us to focus on developing alternative renewable energy sources if we want to leave our children and grandchildren with a viable future here in Benicia. We must work towards developing a community that relies on solar, wind and even tidal energy and not one that is held hostage by a dying fossil fuel industry. It is going to take strength and bravery from you in the planning commission to look into the future for us and our grandchildren and to vote to start looking up into the skies for future energy and not down into the earth to bring up passed living things to power our planet.

I commend you for all your hard work and thoughtful questions and thoughts at the last commission meeting and I pray that you will make the right decision regarding the Valero's Crude By Rail project DEIR

From: "Susan Vogt" <tsvogt@att.net>
To: <amillion@ci.benicia.ca.us>
Date: 9/15/2014 2:16 PM
Subject: Valero Crude-By-Rail Project DEIR

Dear 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.



As a resident of Davis, I live up-rail from the proposed Valero rail project. The two 50-car trains will come across the Yolo Bypass, which includes our sensitive Yolo Basin Wildlife Preserve, pass through our downtown and several dense 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 moving through my community every day.

We up-rail towns and cities have exercised our right to comment on the DEIR for the Valero Benicia Crude-By-Rail Project, and in the fall we will weigh in on the Phillips 66 Santa Maria Rail Spur Project which will travel along the Capitol Corridor. 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 perday 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 DEIR submitted by Valero regarding the proposed 100 tank car crude-by-rail project concludes that while a crash or spill could be catastrophic, the likelihood of an incident is "very low" with the probability of a spill of 100 gallons or more along the 69 miles between Roseville and Benicia is calculated at once very 111 (one hundred eleven) years (Sac Bee 6/19/2014).

Here are my concerns.

1) There is a 10 mph cross-over between the main tracks several hundred feet east of the Amtrak station in Davis. This requires trains traveling at 45 to 50 mph to suddenly slow to 10 mph. This is a recipe for disaster. In fact, there have been two documented derailments in Davis in the last twelve years (2003; 2009). Fortunately, in neither case were the trains carrying crude oil.

2) According to the NRDC Fact Sheet (June 2014), there were 12 significant oil train derailments in the United States and Canada between March 2013 and May 2014. Two examples come to mind.

a) The horrific explosion of derailed oil tank cars in Lac Megantic, Quebec, killing 47 people and destroying thirty buildings in town (6/6/2013).

b) The seventeen car derailment in Lynchburg, VA, spilling 29,000 gallons of oil into the James River, threatening the Richmond, VA water supply (4/30/2014).

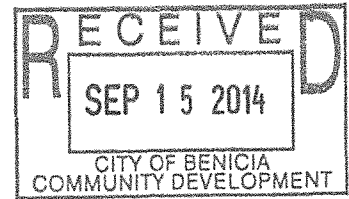
The conclusion reached by Valero regarding a 'once in one hundred eleven year' major oil spill in our region is implausible at best. The increase in shipment of crude oil by train and the increase in derailments during the last year were not taken into account in the DEIR submitted by Valero. Increased crude-by-rail traffic increases the chance of collision/derailment and potentially catastrophic consequences in our communities that straddle the railroad lines this crude oil will travel.

We need to replace the 10 mph cross-over in Davis with a cross-over with a higher speed rating. And we need to transport the crude oil in the safest tanker cars engineered with thicker shells and pressure-relief devices to help prevent puncture/spills/explosions upon derailment or collision.

We should all be on board for the SAFEST rail transport of this volatile crude oil.

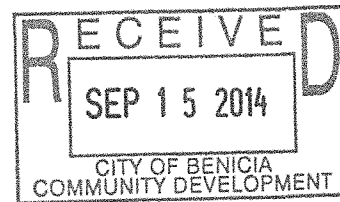
Thank you.

Susan Vogt
2090 Alta Loma St.
Davis, CA 95616
(530) 753-0116
tsvogt@aatt.net



15 September 2014

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



Dear Ms. Million,

Please accept the following as formal comments to the Valero CBR DEIR. As many other government agencies, NGO's and citizens have already pointed out, the DEIR in its present form, does not meet legal standards for certification. The DEIR must be fully revised and recirculated.

In addition to the grave deficiencies of the DEIR, I am very surprised that the City is even considering this project in light of the fact that the Department of Transportation has declared crude-by-rail an "imminent hazard"; as such, the City cannot issue a use permit as it would be detrimental to the public health, safety, and welfare of persons in Benicia as well as all other people along the rail route in the "Blast Zone." The City is wasting a lot of valuable public resources on a project that violates your own Municipal Code 17.104.060.

Comments Draft Environmental Impact Report- Valero Crude-By-Rail Project.

1. The DEIR assumption that the railroad and oil industries will follow the DOT voluntary guidelines from May 7, 2014 Emergency Order is false.

An official report/update on the status of the railroads compliance with the voluntary guidelines of the Emergency Order has been requested by four northern-California Congressman. None has been forthcoming.

BNSF recently announced that speed limits would increase because of their freight backlog in direct defiance of DOT Emergency Order.

<http://www.desmogblog.com/2014/08/13/rail-ceos-investors-bomb-trains-safe-at-almost-any-speed>

<http://www.investorideas.com/news/2014/renewable-energy/09031.asp>

<http://www.nfu.org/news/297-miscellaneous/2586-fargo-forum-nfu-guest-editorial-rail-delays-in-the-dakotas-staggering-unacceptable>

The California Office of Emergency Services has complained that they are not getting timely reports of incoming explosive oil trains. The reporting is coming in after the fact. Legislation passed in California to require that railroads disclose their freight contents; this does not apply to crude by rail routes outside of California.

<http://www.sacbee.com/2014/06/25/6512502/state-seeks-more-disclosure-from.html#storylink=cpy>

<http://www.reuters.com/article/2014/08/30/us-usa-california-oil-train-idUSKBN0GU03820140830>

The City of Benicia must judge project on based on present regulations that Feds have admitted are inadequate. Proposed regulations are in the process of public comments, but they are being opposed by the railroad and oil industries. Even *if* they are adopted, there would be a time lag of least 18 months before they could be fully implemented. For example, if the Feds adopted the proposed regulations, the phase out of DOT-111 tankers wouldn't be completed until the end of 2017.

http://www.businessweek.com/articles/2014-08-20/public-data-sheds-light-on-secret-rail-movements-of-crude-oil#rshare=email_article

The DEIR must be amended to measure impacts based on current regulatory conditions not voluntary guidelines, industry promises or assumptions of future adopted Federal regulations.

2. The DEIR assumption that Valero will abide by its pledge to use only updated CP1232 tankers is unsupported by evidence.

The draft DEIR states that Valero is committed to utilizing updated CP 1232 tankers. Their commitment is far from guaranteed. There is no evidence that Valero has purchased 5,000 tanker cars as they stated at a public meetings. There is evidence that BNSF has ordered 5,000 tankers for a cost of between \$800,000- \$1,200,000; the tanks are currently being manufactured and the date of their delivery is unknown. Five thousand tankers are not sufficient to replace the estimated 76,000 DOT-111 tankers that are now on our railroads system.

<http://daily.sightline.org/2014/09/10/canada-vs-the-usa-on-oil-train-standards/>

The DEIR has no narrative describing the procedure in that would used at the source of the Bakken Crude and/or Tar Sands sites to load extreme crude onto upgraded tankers that are designated specifically to the Valero Refinery in Benicia.

The replacement for the DOT-111 tank cars, CP-1232 tankers, are also susceptible to explosion.

<http://daily.sightline.org/2014/05/01/new-safer-tank-cars-were-involved-in-the-lynchburg-oil-train-fire/>

The DEIR must be amended to provide a concise and accurate account of the acquisition, use and effectiveness of CP 1232 upgraded tankers.

3. The DEIR Risk Assessment that concludes this project is safe is absurd.

California had 139 freight train derailments in 2013, up from 62 in 2010.

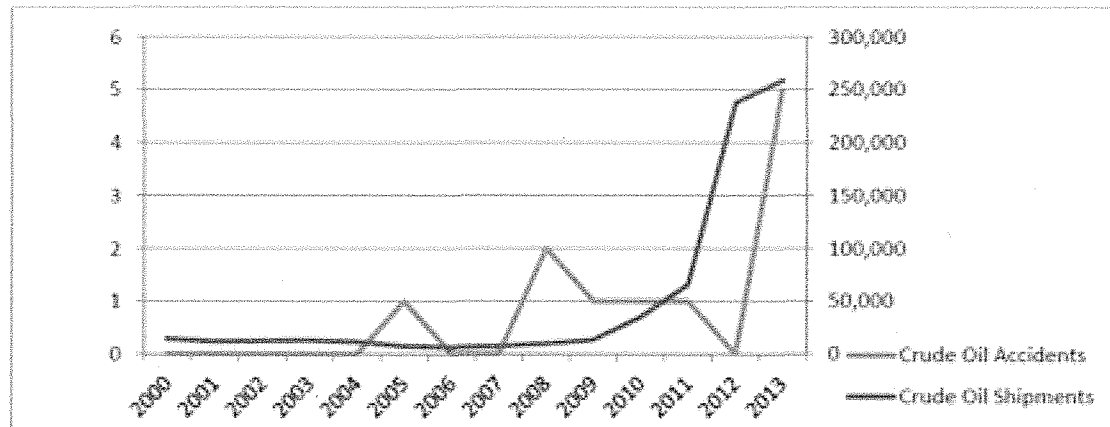
<http://mrtenvgrp.com/2014/08/11/chances-of-a-crude-oil-train-fire-are-low-but-mounting-in-sacramento/>

Canada has experienced a rash of derailments in recent years.

<http://railroaded.wordpress.com/2014/08/10/rash-of-canadian-national-railway-derailments/>

The Feds have already made the determination that crude-by-rail is not safe; the DOT issued an Emergency Order declaring transport of crude-by-rail an "imminent hazard".

Figure ES5. Carloads of Crude Oil Shipped and Rail Accidents (Derailments) 2000-2013



Source: STB Waybill Sample and PHMSA Incident Report Database

Rail tank cars being used to ship crude oil from North Dakota's Bakken region are an "unacceptable public risk," and **even cars voluntarily upgraded by the industry may not be sufficient," member of the National Transportation Safety Board.**

<https://drive.google.com/file/d/0B8hiAmg709OUdTdydmQzaVV5Q2M/edit?usp=sharing>

<https://us-mg6.mail.yahoo.com/neo/launch?.rand=2pad0dicq7p0m#3723361365>

The data used in the DEIR for the risk assessment was before explosive crude by rail was operating (2009). But there has been a 4000% increase in transportation of extreme crude since 2008.

https://www.youtube.com/watch?v=WpXfQMFR_Qs

The DEIR risk assessment did not take into account the lack of safety measures in place. For example, there is only one Federal rail inspector for eleven states and there are no road bridge inspectors in California.

<http://contracostatimes.ca.newsmemory.com/publink.php?shareid=004ece31c>

There have been three train derailments in Benicia in the past year. The same derailments of tankers filled with extreme crude can explode.

<http://beniciaindependent.com/union-pacific-investigates-benicia-derailment/>

Spills and accident as a result of crude-by-rail transport have increased eight-fold since 2008.

<http://www.investorideas.com/news/2014/renewable-energy/09031.asp>

The DEIR must be amended to provide an accurate risk assessment.

4. The DEIR assumption that current rail freight transportation delivery system is adequate and will remain static is false.

The transportation section of the DEIR fails to take into account the projections of increased transport of extreme crude in the next ten years.

[http://e360.yale.edu/digest/
rail_transport_of_us_oil_up_by_9_percent_creating_rail_car_shortage/4233/?
utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+YaleEnvironment360+
%28Yale+Environment+360%29](http://e360.yale.edu/digest/rail_transport_of_us_oil_up_by_9_percent_creating_rail_car_shortage/4233/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+YaleEnvironment360+%28Yale+Environment+360%29)

The DEIR does not take into account AMTRAK's plan to expand in the next ten years or the current crisis of backlogged agricultural freight as a result of increased crude by rail transport.

[http://www.popularresistance.org/oil-before-food-as-oil-trains-roll-food-rots/
http://www.powerpastcoal.org/?post_type=news&p=2726
http://chi.streetsblog.org/2014/08/14/oil-laden-freight-trains-delaying-amtrak-commuter-trains-across-u-s/](http://www.popularresistance.org/oil-before-food-as-oil-trains-roll-food-rots/)

<http://www.nfu.org/news/301-rural-life/2578-nfu-calls-ability-to-deliver-grain-shipments-by-rail-at-harvest-substantially-inadequate-warns-surface-transportation-board-farmers-may-be-forced-to-dump-grain>

<http://online.wsj.com/news/articles/SB10001424052702304914904579437680173044774>

The transportation impact section of the DEIR must be amended to consider the current rail backlog and future projections of freight on the railroads.

5. The DEIR account of the current air pollution impacts of the Valero Refinery is inaccurate and inadequate.

There are no air monitors in Benicia; most data is self-reported by Valero. Further, there is no disclosure of the volatile mix of chemicals from the proposed project. Therefore, this is not accurate account of either the baseline or the future air emissions from this project.

The DEIR makes no mention of Valero's numerous air quality violations.

<http://www.sfgate.com/science/article/Valero-to-pay-fine-for-air-quality-violations-4917926.php>

The DEIR does not address any health impacts upon residents from air emissions from this project.

[http://www.heraldextra.com/news/local/harvard-draws-link-between-autism-and-air-pollution/
article_53b6a81e-91ac-58f8-8556-70e6eac70cd1.html](http://www.heraldextra.com/news/local/harvard-draws-link-between-autism-and-air-pollution/article_53b6a81e-91ac-58f8-8556-70e6eac70cd1.html)

The DEIR inaccurately measures emissions from shipped oil compared to emissions from rail because it only measures emissions from a portion of the rail line and not the entire route.

The fact that Valero claims they cannot disclose the new types of crude being brought in due to trade secrets should only count **against** the project, not be a green light for approval.

The DEIR must be amended to include the full range of current (baseline) and future air emission impacts due to refining of extreme crude.

6. The assumption that the City of Benicia has no control over the project due to "Federal Exemptions" is false.

The City of Benicia has the authority through its zoning and use permits issuance to mitigate some impacts of the project.

<https://us-mg6.mail.yahoo.com/neo/launch?.rand=2pad0dicq7p0m#3723361365>

The DEIR must be amended to include mitigations that the City of Benicia can implement as a result of the impacts of this project.

7. The assumption that first responders are prepared for a derailment, accident or explosion is false. Discussion of the (local, state and national) response, clean-up and long-term effects of accidents and explosions is a glaring omission.

First responders from around the country have expressed their frustration and concern that they are not prepared for an emergency.

<http://beniciaindependent.com/union-pacific-investigates-benicia-derailment/>

The DEIR has no comprehensive spill response plans for any rail lines transporting explosive crude-by-rail.

<http://railroaded.wordpress.com/2014/09/10/canadian-national-railway-train-derails-and-spills-load-near-edmonton-alberta/>

The DEIR must be amended to include a thorough discussion of procedures for response, clean-up and effects of long-term environmental damage from accidents and/or explosions caused by crude-by-rail shipments in Benicia and along the rail route.

8. The assumption that earthquake hazards do not pose a significant impact along the rail lines is false.

Earthquake fault maps and geological estimates of seismic episodes and their impact on rail lines, rail transport and accidents or derailments is absent in the DEIR.

<http://www.climatecentral.org/news/epic-drought-in-west-is-moving-mountains-17924>

The DEIR must be amended to include a thorough analysis of seismic hazardous through the entire rail line route.

9. The DEIR study area from the rail line from Benicia Sacramento/Roseville is arbitrary and does not reflect the true size of the project; as a result, the DEIR leaves out analysis of many important environmental impacts.

9 a. The DEIR does not consider the health and safety impacts to oil and railroad workers or residents along the rail route

In 2007, the Implementing Recommendations of 9/11 Act tasked the Department of Homeland Security to establish a base-line training program for mass transit, rail and bus employees. But the DHS has yet to publish rules to set up the program, which would prepare employees for handling security threats and emergency conditions.

<http://ecology.iww.org/node/600>

Exposing to fracking chemicals and processes expose workers and residents to increased health risks.

<http://www.desmogblog.com/2014/07/24/after-rancher-s-death-calls-fracking-health-study-grow-stronger>

<http://stateimpact.npr.org/pennsylvania/2014/08/28/new-study-shows-gas-workers-could-be-exposed-to-dangerous-levels-of-benzene/>

Railroad companies are considering going to one-man crews

<http://www.desmogblog.com/2014/07/22/bnsf-nears-shift-one-member-crews-possibly-even-dangerous-oil-trains>

Exposure to toxic chemicals

<http://readersupportednews.org/news-section2/312-16/25099-frackers-spill-olympic-pools-worth-of-hydrochloric-acid-in-oklahoma>

Rail workers cite fatigue

<http://ecology.iww.org/node/592>

Poor EPA oversight

<http://www.truth-out.org/news/item/25323-report-criticizes-epa-oversight-of-injection-wells>

9 b. The DEIR does not consider the impacts of water due to fracking.

<http://readersupportednews.org/news-section2/312-16/25595-fracking-has-contaminated-pennsylvanias-drinking-water-243-times>

<http://readersupportednews.org/news-section2/312-16/25304-new-research-shows-oil-companies-fracking-into-drinking-water-sources>

9 c. 9. "Oil Stabilization" at the extraction site as a mitigation factor is missing from the DEIR.

<http://www.desmogblog.com/2014/09/05/safety-citizens-bomb-train-blast-zones-hands-north-dakota-politicians>

<http://www.reuters.com/article/2014/05/12/us-davegrailways-safety-crude-analysis-idUSKBN0DS18620140512>

<http://www.desmogblog.com/2014/08/08/regulators-ignore-one-proven-way-eliminate-bakken-bomb-trains-oil-stabilization>

The DEIR study area needs to be expanded to reflect the true nature of the project; it must include the all rail routes from extraction source to the Valero Refinery in Benicia.

The DEIR needs to be amended to include the environmental impacts of worker safety, water contamination, and mitigation measures that include oil stabilization.

Map: http://climate-connections.org/2014/08/29/find-your-community-on-us-oil-train-blast-zones-map/?utm_source=rss&utm_medium=rss&utm_campaign=find-your-community-on-us-oil-train-blast-zones-map

10. The DEIR does not address the impacts of this project on AB 32 or its overall impact on Climate Change.

California State Law requires that greenhouse gases be reduced by 80% by 2050. The DEIR does not address how this project moves us towards that goal.

<http://www.commondreams.org/news/2014/08/27/severe-pervasive-irreversible-ipccs-devastating-climate-change-conclusions>

http://www.ipcc.ch/pdf/press/140826_pr_syr_%20Final_Draft.pdf

The oil industry has also attempted to undermine AB 32

<http://www.huffingtonpost.com/preeti-vissa/big-oil-attacks-california-5672875.html>

Scientists have warned that the ramped up extraction and burning of extreme crude takes us on a trajectory of climate change that cannot be reversed.

The DEIR must be amended to included the impact of the project on AB 32 goals.

11. The DEIR fails to address sabotage or terrorism.

The railroad and oil industry have consistently claimed danger of sabotage/terrorism as a reason for not disclosing rail lines, however, there is no evaluation of this danger in the DEIR.

<http://www.desmogblog.com/2014/08/20/big-rail-cites-bin-laden-al-qaeda-to-fend-off-oil-rail-routing-transparency>

12. The DEIR does not address the lack of enforcement of Positive Train Control that is a Federal Regulation that has not been enforced.

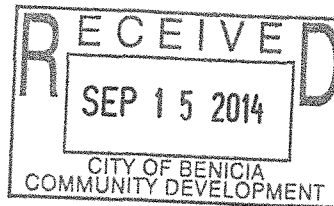
Positive Train control was supposed to be implemented by the end of 2014, but no rail lines have been to utilize the technology.

<https://drive.google.com/file/d/0B8hiAmg709OUNkdjdW4zbXZEU1k/edit?usp=sharing>

The DEIR must be amended to address the lack of enforcement of Positive Train Control as a safety precaution for transporting Crude By Rail/

Respectfully submitted,
Jan Cox Golovich

179 Harbor Vista Ct.
Benicia, CA 94510



Valero Crude by Rail Project, Draft Environmental Impact Report (DEIR)

September 15, 2014

Attention: Amy Million, Principal Planner, City of Benicia
Planning Commission of Benicia

I am a resident of Benicia and a volunteer with Benicians for a Safe and Healthy Community.

I have attended the three public hearings planned by the City of Benicia and attended the informational meeting hosted by the Valero Refinery. I am one of the 400+ members of the Benicia Emergency Response Team (BERT).

It is clear to me that a revised and recirculated edition of the DEIR needs to be formulated.

This is based upon issues and questions posed to date by citizens; local, state and federal governing bodies; and other organizations concerned with public health and safety issues, air quality and the other environmental impacts of this Project.

Customarily a DEIR raises issues and provides for a written plan(s) to address any mitigating issues, setting forth both measures and defined timeframes for implementation. Responsible parties are named with formal agreements in place, either made part of the DEIR document or made available upon request. This DEIR does not address many important considerations.

Over the past year, we have learned about proposed and final rulemaking from the State of California and Federal Government as well as other emerging orders and voluntary agreements that are critical to the safety of this type of crude oil transport. The California Attorney General and National Transportation Safety Board are on record about this dangerous new method of transporting unconventional crudes. It seems that Valero and others in the Oil Industry have prematurely started the "train rolling" without assuring that appropriate safety measures are in place together with formal agreements for implementation. The magnitude of this project and others like it goes beyond the borders of Benicia and warrants serious attention.

With that being said, I request that the following questions be addressed as part of this DEIR process:

-Railroad tracks are within close proximity to Travis Air Force Base. In the event of a derailment from any cause including earthquake, explosion and/or a terrorist act what are the risks to the operation of the base and to National Security?

-Union Pacific Railroad speaks to the voluntary measures they have begun to implement. What is the status? and in particular for the Valero Project, what is the written plan for UPR's notification to the State Emergency Response team of its contents, and the plan for track inspection and maintenance? What is the Federal Plan for oversight and what agreements with the States are in place or will need to be put into place to coordinate this effort?

-In the case of an earthquake what is UPR's current advance warning system to slow the trains? What is the plan and timeframe for implementing positive train technology? What safeguards are in place to mitigate hacking of remote systems and terrorist acts?

-What role will Benicia Emergency Response Team (BERT) volunteers have in supporting the Benicia Fire Department and others? What new information and/or training will need to be incorporated for BERT? When will this training be implemented? How will citizens of Benicia be warned/notified of danger? and if necessary what is the evacuation plan?

-What primary and tertiary hospitals are named in the Valero and Benicia Emergency Disaster Plan/Evacuation Plan? Have they been formally notified about the Valero Project? Have they been advised of the contents/ingredients being transported so as to be able to plan and respond with appropriate medical teams? Have any mock rehearsals been staged? Where are the current air evacuation locations? In the case of an explosion that may impact this access, what alternate air evacuation locations have been identified? What ground transportation crews will be needed to support air evacuation effort? Are they named in the Plan(s)?

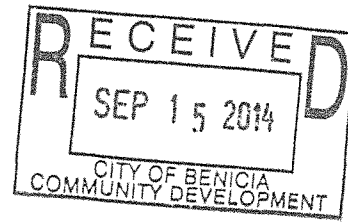
Thank you for the opportunity to share my thoughts and concerns. Again, I reiterate the need for a revised and recirculated DEIR. I also request that the City of Benicia develop a communication plan to notify all residents and businesses about the Valero Crude by Rail Project.

Respectfully submitted,

Karen Schlumpp

September 15, 2014

City of Benicia
Attn: Amy Million and Brad Kilger
250 East L. Street
Benicia, California
94510



Re: Valero Benicia Crude by Rail Project Draft Environment Impact Report

Dear Ms. Million and Mr. Kilger:

Crude by Rail (CBR) will increase our RISK OF LEUKEMIA.

As outlined in the report by Dr. P. Fox, and elsewhere, there the CBR project will lead to an increase in emissions of BENZENE, a known carcinogen, strongly linked to leukemia.

Numerous articles in the medical literature report higher cancer risk living near refinery. For a few examples, read:

Wiley. "Higher cancer incidences found in regions near refineries and plants that release benzene." ScienceDaily. ScienceDaily, 29 July 2013. <www.sciencedaily.com/releases/2013/07/130729083350.htm>.

Leukemia: The price of living close to an oil

refinery? Mar 05, 2009 Barregard L, E Holmberg and G Sallsten. 2009. ***Leukaemia incidence in people living close to an oil refinery. Environmental Research 109:985-990. Synopsis by Negin P. Martin, Ph. D Swedish scientists have discovered a remarkable increase in the incidence of leukemia in people living close to an oil refinery.***

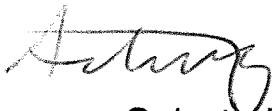
Now to be fair, many people, including my own family, moved to Benicia after the refinery was built. In doing so, we tacitly accepted the health and safety risks of living near the refinery, but believe that the benefits of living in Benicia outweigh these risks. No one, or almost no one, has been asking for the refinery to be shut down.

However, we can justifiably demand that the refinery not FURTHER INCREASE our health risk. The policy of Benicia should be to demand the health and safety risks to remain as they currently are, OR GET BETTER.

Despite the proposed mitigation measures, there is no way to avoid the fact that CBR will make health and safety risks WORSE for Benicia residents, and people living along rail corridors.

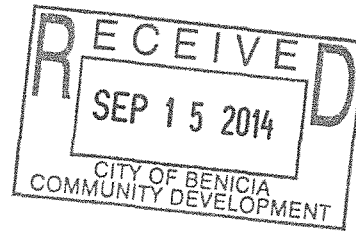
Personally, I think that even one person dying of leukemia or another malignancy cannot be justified by any of the economic benefits proponents of CBR claim will materialize.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas Schutz', written in a cursive style.

Thomas Schutz MD
640 Robinson Way
Benicia, CA
94510

Rebecca Sgambati
3400 East Second St.
Benicia, CA 94510
9/15/14



City of Benicia Planning Commission
C/O Amy Million (amillion@ci.benicia.ca.us)
250 East L Street
Benicia, CA 94510

Dear City of Benicia Planning Commission:

I am the Technical Services Director at the Valero Benicia Refinery and a member of the Refinery Leadership Team. I have worked as an Engineer, Manager, and Director at the Refinery for almost my entire 18 year career with the exception of two years spent at Valero Headquarters in San Antonio, TX.

The Valero Crude By Rail Project provides the refinery with crude feedstock flexibility which allows us to remain one of the strongest regional refineries that produce clean burning California fuels.

This project ensures the refinery is able to:

Employ over 450 local workers with over 250 additional contractors. This project will fuel the local economy with an additional 120 construction jobs and another 20 full time jobs upon completion.

In total, Valero's activities create or support 3,900 jobs in the region, creating \$1.6 billion in additional compensation in the region (2006- 2013)

Annually, the direct and indirect employee compensation Valero generates in the region is comparable to Solano County's entire Professional, Scientific and Technical industries combined.

Since 2006, Valero has paid over \$3.0 billion to contractors, with over two-thirds of that to businesses in the region and \$400 million to contractors in Benicia, generating \$4.3 billion in economic activity (2006-2013)

9/15/14

Page 2

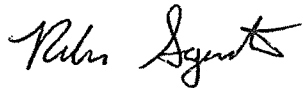
To put this in perspective, these payments to contractors are the equivalent of completing the recent Carquinez Bridge Upgrade fifteen times over!

The Valero Benicia Refinery's various tax contributions represented approximately 25% of Benicia's General Fund in 2013. This \$7.7 million is enough to fully fund the entire Fire Department, the City Council, City Attorney, and City Clerk with hundreds of thousands of dollars left over.

Valero is vested in this community on a charitable level as well donating hundreds of hours to our high school tutoring program and \$13.7 million dollars have been donated to local charities over the last decade, including children's charities and the local food bank (2004-2013).

As commissioners, you should feel confident that the city has done everything and more than is necessary to evaluate the environmental impacts of the project. As a professional in the Refining Industry for over 18 years and an employee of the Benicia Refinery, I urge you to move forward to capture the many benefits to the community and environment as soon as possible.

Sincerely,

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

Rebecca Sgambati

Sept. RECEIVED
2014
SEP 15 2014
CITY OF BENICIA
COMMUNITY DEVELOPMENT

Dear 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.

As a resident of Sacramento, I live uprail from the proposed Project. The two 50-car trains of volatile, toxic crude oil will come right through our downtown, passing close to schools, residences, and businesses. Here are my main concerns:

1. How will Valero guarantee that tank cars meet the DOT standards currently under review immediately (not phased in over years), plus implement the previously mandated Positive Train Control technology, so uprail communities are protected?
2. What are the daily and cumulative impacts and risks of transporting two extreme crude oils, tar sands and Bakken crude, through our cities, through our sensitive habitats, and over our water supplies?
3. What are the cumulative impacts of the Valero daily trains in the context of the additional 3 daily oil trains being approved currently in Bakersfield and the one daily train to San Luis Obispo, all possibly traveling through Sacramento? Include the increased potential for spills, accidents, greenhouse gas emissions, conflicts of interest on the rails, etc.
4. What is Valero's liability should there be a spill or accident on the oil trains en route to Benicia? Who carries enough coverage for a catastrophic incident? Will the taxpayers ultimately be responsible?
5. Why are the boundaries of the DEIR limited only to travel from Roseville to Benicia and not extended at least to the borders of CA if not all the way to the extraction sites? The impact and risk analysis area should be considerably extended.

Thank you,

Name: Cecilia Kirpatsich

Address: 3160 Carly Way City Sacramento, CA Zip 95816



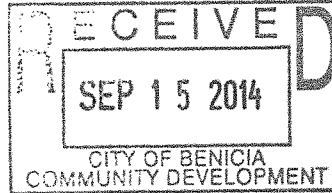
ATTORNEYS AT LAW

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John J. Flynn III
D 949.477.7634
jfflynn@nossaman.com

Refer To File #: 290396-0017

VIA E-MAIL AND U.S. MAIL



September 15, 2014

Amy Million, Principal Planner
Community Development Department
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**Re: Comments on Draft Environmental Impact Report for the Valero Benicia
Crude by Rail Project (SCH #2013052074)**

Dear Ms. Million:

1. INTRODUCTION.

On behalf of Valero Refining Co. - California ("Valero"), we submit the following comments on the draft environmental impact report ("DEIR") circulated for public comment by the City of Benicia ("City") regarding the Valero Benicia Crude-by-Rail Project (SCH #2013052074) ("Project"). The Project involves the installation of rail spur tracks, a tank car unloading rack, pumps, connecting pipelines, and related infrastructure. The Project would enable the Benicia refinery to receive up to 70,000 barrels per day of crude oil by tank car. A fuller description of the Project is set forth in the DEIR itself.

We would like to note at the outset that, despite the scope of federal preemption as discussed below, we have cooperated fully in the City's use permit process, and related CEQA review, because of the City's interest, an interest shared by Valero, in providing a vehicle for public disclosure and discussion of our Project and the effects of our Project. Nevertheless, we do so with the reservation of our rights to invoke the full scope of federal preemption. Precisely because of the scope of preemption, we can state with confidence that the City's draft EIR goes far above and beyond what the law requires for review of the Project.

Before we comment further, a few additional introductory thoughts on preemption are in order. First, federal preemption of rail operations has been unfortunately depicted by some as a merely negative reality, when in fact federal preemption has an entirely positive purpose, one that benefits all of us, regardless of where we live and do business. As we have stated in other contexts, we decided as a nation a long time ago that the movement of people and goods from place to place in the United States was so important that it could not be subject to a patchwork of laws that change from state to state, county to county, or city to city. In that obvious respect, railroads have been binding us together for many decades, and only because of federal preemption have we been able to achieve the goals for which the laws were intended.

Neither is it the case, contrary to what some others have also implied, that federal preemption means that a kind of regulatory vacuum has been created, as if railroads can operate without accountability. Of course, nothing could be further from the truth: The federal government has led the way in the regulation of rail safety, and continues to do so even now, as the DEIR itself reveals.

Having established the affirmative and beneficial purposes of federal preemption, we would like in this letter to also discuss in brief the scope of federal preemption, combined with a request that its scope be unqualifiedly acknowledged for all impacts of rail operations pertaining to the development and operation of the Project, for both direct and indirect effects.

As noted in an excellent letter recently submitted by Union Pacific Railroad ("UPRR"), specifically by Melissa B. Hagan, to the Sacramento Area Council of Governments ("SACOG"), Union Pacific is dedicated to rail safety, a dedication proven not only by its encouraging words, but by actions, programs, and significant investment. (A copy of UPRR's letter to SACOG is enclosed herewith.) The letter also does an excellent job of describing recent federal regulatory action concerning the rail transport of hazardous materials, including crude oil.

2. FEDERAL PREEMPTION OF STATE AND LOCAL RAILROAD REGULATIONS.

A. Interstate Commerce Commission Termination Act of 1995.

Under the United States Constitution, Congress has the power to regulate interstate commerce. U.S. Const. art. I, § 8, cl. 3. Pursuant to this power, Congress passed the Interstate Commerce Commission Termination Act of 1995, 49 U.S.C. § 701 et seq. ("ICCTA"). The ICCTA created the Surface Transportation Board ("STB"), which oversees the operation of railroads in the United States. The STB has broad authority to regulate railroad operations, including exclusive jurisdiction over "(1) transportation by rail carriers...and (2) the construction, acquisition, operation, abandonment, or discontinuation of...tracks, or facilities, even if the tracks are located or intended to be located, entirely in one State." 49 U.S.C. § 10501(b). The ICCTA contains an express preemption clause,¹ indicating Congress' intent to preempt all state and local regulation of railroad operations.

Referring to the scope of the federal preemption, one court has stated: "It is difficult to imagine a broader statement of Congress's intent to preempt state regulatory authority over railroad operations." *CSX Transp., Inc. v. Georgia Public Serv. Com'n* (N.D.Ga. 1996) 944 F.Supp. 1573, 1581 (CSX). The ICCTA also reflects congressional intent to continue the historical federal regulation of railroads. (*Fayard v. Northeast Vehicle Services, LLC* (1st Cir. 2008) 533 F.3d 42, 46; see *Chicago & N.W. Tr. Co. v. Kalo Brick & Tile* (1981) 450 U.S. 311, 318 ("The Interstate Commerce Act is among the most pervasive and comprehensive of federal regulatory schemes.")).

Congress has stated that federal preemption of railroad regulation "is intended to address and encompass all such regulation and to be completely exclusive. Any other construction would undermine the uniformity standards and risk the balkanization and

¹ 49 U.S.C. § 10501(b) states that "the remedies provided under this part with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law."

subversion of the Federal scheme of minimal regulation for this intrinsically interstate form of transportation." H.R. Rep. No 104-311, 104th Cong., 1st Sess., at 96 (1995).

As discussed further below, Congress has accordingly established federal preemption of rail operations by means of "diverse sources of statutory authority . . . with which to address rail safety issues," and therefore "preemption had to apply to regulations issued" under any of those sources, for "otherwise, the desired uniformity could not be attained." Brief for United States as Amicus Curiae at 6, *Public Util. Comm'n of Ohio v. CSX Transp., Inc.*, 498 U.S. 1066 (1991) (No. 90-95), available at <http://www.justice.gov/osg/briefs/1990/sg900560.txt>; see also H.R. Rep. No. 1194, 91st Cong., 2d Sess. 19 (1970) ("[S]uch a vital part of our interstate commerce as railroads should not be subject to [a] multiplicity of enforcement by various certifying States as well as the Federal Government.")

B. Federal Railroad Safety Act.

As already briefed by UPRR to SACOG, Congress directed in the Federal Railroad Safety Act ("FRSA") that "[l]aws, regulations, and orders related to railroad safety and laws, regulations, and orders related to railroad security shall be nationally uniform to the extent practicable." 49 U.S.C. § 20106(a)(1). To accomplish that objective, Congress provided that a State may no longer "adopt or continue in force a law, regulation, or order related to railroad safety" once the "Secretary of Transportation . . . prescribes a regulation or issues an order covering the subject matter of the State requirement." *Id.* at § 20106(a)(2). State or local hazardous material railroad transportation requirements may be preempted under the FRSA regardless of whether such state and local requirements might be consistent under the Federal hazmat law. *CSX Transportation, Inc. v. City of Tullahoma*, 705 F. Supp. 385 (E.D. Tenn. 1988); *CSX Transportation, Inc. v. Public Utilities Comm'n of Ohio*, 701 F. Supp. 608 (D. Ohio 1988), affirmed, 901 F.2d 497 (6th Cir. 1990), cert. denied 111 S.Ct. 781 (1991).

Section 20106(a)(2) compels the conclusion that DOT regulations and orders preempt state and local regulations relating to the same subject matter. Section 20106 states clearly that its terms govern the preemptive scope of all DOT regulations and orders relating to rail safety. DOT has acknowledged that "[t]hrough [the Federal Railroad Administration] and [the Pipeline and Hazardous Materials Safety Administration], DOT comprehensively and intentionally regulates the subject matter of the transportation of hazardous materials by rail These regulations leave no room for State . . . standards established by any means . . . dealing with the subject matter covered by the DOT regulations." 74 Fed. Reg. 1790 (Jan. 13, 2009).

C. Pipeline Safety Improvement Act.

The Pipeline Safety Improvement Act, which created the Pipeline and Hazardous Materials Safety Administration ("PHMSA"), expressly preempts any state or local agency purporting to regulate "the designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce." 49 U.S.C. §5125. Accordingly, any project mitigation measure or condition of approval attempting to restrict or specify the type of equipment to be used in transporting crude-by-rail is expressly preempted.

E. Federal Preemption of Rail Operations Applies to State and Local Environmental, Land Use and Tort Laws.

The breadth of federal preemption under the ICCTA encompasses environmental laws such as CEQA. *City of Auburn v. United States*, 154 F.3d 1025 (9th Cir. 1998); *People v. Burlington N. Santa Fe R.R.*, 209 Cal.App.4th 1513, 1528 (Cal. Ct. App. 2012). In *City of Auburn*, the Burlington Northern and Santa Fe Railway (BNSF) sought to reacquire a segment of a rail line, make repairs and improvements, and reinstitute service. The Ninth Circuit held that BNSF's proposed project could not be subjected to environmental review pursuant to a Washington state statute that is similar to CEQA because the ICCTA precludes such review. *City of Auburn v. United States*, 154 F.3d at 1030.

Many other courts, and the STB itself, have added to the articulation of federal rail preemption. See *Norfolk S. R.R. Co. v. City of Austell*, 1997 WL 1113647, *6 (N.D. Ga. 1997) ("ICCTA expresses Congress' unambiguous and clear intent to preempt [the local jurisdiction's] authority to regulate and govern the construction, development, and operation of the plaintiff's intermodal facility."); *Soo Line R.R. v. City of Minneapolis*, 38 F.Supp.2d 1096, 1101 (D. Minn. 1998) ("The Court concludes that the City's demolition permitting process upon which Defendant has relied to prevent [the railroad] from demolishing five buildings...that are related to the movement of property by rail is expressly preempted by [the ICCTA]"); *Village of Ridgefield Park v. N.Y., Susquehanna & W. R.R. Corp.*, 750 A.2d 57 (N.J. 2000) (complaints about rail operations under local nuisance law preempted); *Village of Big Lake v. BNSF*, 382 SW 3d 125 (2012) (claim that BNSF's build-up of its railway bed violated floodplain management ordinance preempted by ICCTA); *City of Cace v. Norfolk Southern Ry. Co.*, 391 SC 395 (2011) (claim that Norfolk Southern Railway was allowing a public nuisance because of rust and graffiti on bridge preempted by ICCTA); *Ass'n of Am. R.Rs. v. S. Coast Air Quality Mgmt. Dist.*, 622 F.3d 1094, 1096 (9th Cir. 2010) (holding that ICCTA preempted South Coast Air Quality Management District rule requiring railroads to report emissions from idling trains); *Waubay Lake Farmers Ass'n v. BNSF Ry. Co.*, No. 12-4179-RAL, 2014 WL 4287086 (D.S.D. Aug. 28, 2014) (state-based tort claim preempted).

The STB itself has found that, for the proposed construction of a high-speed rail line, "state permitting and land use requirements that would apply to non-rail projects, such as [CEQA], will be preempted." *DesertXpress Enterprises, LLC – Petition for Declaratory Order* (STB, June 27, 2007, No. FD 34914) 20007 STB Lexis 343, p.11.

A recent CEQA decision by a California appellate court confirms the breadth of the ICCTA's preemption. See *Town of Atherton v. California High-Speed Rail Authority*, No. C070877, 2014 Cal. App. Lexis 670 (July 24, 2014). In *Town of Atherton*, the Court recognized two broad categories of state and local regulations that are categorically preempted by the ICCTA, regardless of the context in which the state seeks to apply the regulation: **(1) any form of state or local permitting or preclearance that, by its nature, could be used to deny a railroad the ability to conduct some part of its operations or to proceed with activities that the [STB] has authorized**; and **(2) state or local regulation of matter directly regulated by the [STB] – such as the construction, operation, and abandonment of rail lines; railroad mergers, line acquisitions, and other forms of consolidation; and railroad rates and service.** *Id.* at 20 (emphasis added). Thus, it is clear that CEQA preclearance and environment permitting requirements are preempted by federal law and do not apply to railroad operations.

The ICCTA does allow states to regulate railroads pursuant to their traditional police powers, but this constitutes a very narrow and restricted exception to the ICCTA's preemptive effect. This is because states may regulate railroads only when the state regulations "are settled and defined, can be obeyed with reasonable certainty, entail no extended or open-ended delays, and can be approved (or rejected) without the exercise of discretion on subjective questions." *Green Mountain R.R. Corp. v. State of Vermont*, 404 F3d 643, 643 (2nd Cir. 2005). Environmental permitting and pre-clearances do not meet this test when "the railroad is restrained from development until a permit is issued; the requirements for the permit are not set forth in any schedule or regulation that the railroad can consult in order to assure compliance; and the issuance of the permit awaits and depends upon the discretionary ruling of a state or local agency." *Id.* Because CEQA by definition only applies when an agency is making a discretionary decision over whether to approve or disapprove a project, it does not meet this test, and it is federally preempted by the ICCTA. Cal.Code.Reg. tit. 14, §§ 15002(i)(2), 15357, 15378.

F. California Recognizes That Federal Law Preempts the Regulation of Railroads.

The State of California has long accepted that federal law preempts the application of state environmental regulations to rail carriers and rail operations. For example, instead of attempting to enforce California law, the California Air Resources Board has negotiated with the railroads for voluntary reductions in locomotive emissions and in emissions from rail yard activities. See Memorandum of Mutual Understandings and Agreements, South Coast Locomotive Fleet Average Emissions Program, July 2, 1998; ARB/Railroad Statewide Agreement, Particulate Emissions Reduction Program at California Rail Yards, June 2005, available at <http://www.arb.ca.gov/railyard/ryagreement/ryagreement.htm>. The 2005 agreement summarizes federal preemption as follows:

It has been widely recognized that railroads need consistent and uniform regulation and treatment to operate effectively. A typical line-haul locomotive is not confined to a single air basin and travels throughout California and into different states. The U.S. Congress has recognized the importance of interstate rail transportation for many years. The Federal Clean Air Act, the Federal Railroad Safety Act, the Federal Interstate Commerce Commission Act and many other laws establish a uniform federal system of equipment and operational requirements. The parties recognize that the courts have determined that a relatively broad federal preemption exists to ensure consistent and uniform regulation. Federal agencies have adopted major, broad railroad and locomotive regulatory programs under controlling federal legislation.

2005 ARB/Railroad Statewide Agreement, p. 25.

In the *Town of Atherton v. California High Speed Rail Authority* case referred to above, the California Attorney General asserted that the ICCTA preempts CEQA as applied to the California High-Speed Rail train system. The Attorney General stated:

Courts and the STB uniformly hold that the ICCTA preempts state environmental pre-clearance requirements, such as those in the California Environmental Quality Act (CEQA). The ICCTA preempts these requirements because they can be used to prevent or delay construction of new portions of the interstate rail network, which is exactly the sort of piecemeal regulation Congress intended to eliminate.

Supplemental Letter Brief filed August 9, 2013, in the matter of *Town of Atherton v. California High Speed Rail Authority*, Court of Appeal of the State of California, Third Appellate District, No. C070877, at p. 3.

G. Federal Law Preempts Local Permitting Authority for Rail Car Unloading Facilities.

As stated above, Valero shares fully in the City's interest in providing a procedural vehicle for disclosure and discussion related to Valero's crude-by-rail Project, and Valero has participated fully in the City's effort to provide such a vehicle, including cooperating in the City's permitting and CEQA review process. The benefits of the process cannot be denied. Nevertheless, the scope of federal preemption precludes not only City authority over mainline rail operations, but also over the unloading facilities to be located on the refinery property. Our participation in this process, it must be understood, is subject to a full reservation of rights under federal law.

Section 10102(9) of the ICCTA defines "transportation" broadly, so as to include not only a "locomotive, car, [or] vehicle," but a "property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, by rail."

Accordingly, preemption also applies to local approval authority over facilities such as Valero's crude-by-rail Project, which receive goods moved by rail. In *Norfolk Southern Railroad Company v. City of Alexandria*, 608 F.3d 150 (2010), the City of Alexandria, in an attempt to regulate an ethanol transloading facility, the purpose of which was to transfer bulk shipments of ethanol from rail cars onto surface tanker trucks for local distribution and delivery, adopted an ordinance purporting to regulate the transportation of bulk materials, including ethanol, within the city. The city also unilaterally issued a permit to Norfolk Southern that purported to limit the materials that could be hauled, the routes, times of day, etc. The city argued that preemption should not apply because the ordinance and permit related to distribution of the cargo by trucks, rather than to the trains or the transloading operation.

The court rejected the city's argument, holding that the ordinance and permit were preempted because they "directly impact Norfolk Southern's ability to move goods shipped by rail." Because a limit on the number of trucks exiting the facility directly affected the number of rail cars that could be unloaded, which in turn could affect the movement of trains in Norfolk's yard, and throughout its rail system, the Fourth Circuit concluded that the conditions restricting ethanol distribution by truck "necessarily regulate the transloading operations." 608 F.3d at 159. The court further found that the ordinance and permit imposed an unreasonable burden on rail transportation because "the city has the power to halt or significantly diminish the transloading operations by declining to issue haul permits or by increasing the restrictions specified therein." *Id.* at 160.

H. CEQA Does Not Apply to Rail Operations Because of the Federal Preemption.

CEQA applies only to discretionary approvals. *San Diego Navy Broadway Complex Coalition v. City of San Diego*, 185 Cal.App.4th 924, 933-934 (2010); *Friends of Westwood, Inc. v. City of Los Angeles*, 191 Cal.App.3d 259, 266-267 (1987); *Mountain Lion Foundation v. Fish and Game Commission*, 16 Cal.4th 105, 117 (1997). Because of federal preemption, the City's discretion does not reach either mainline rail operations, or the unloading operations at the refinery site itself.

3. COMMENTS RE DEIR ALTERNATIVES ANALYSIS.


Concerning Section 6.4.2.2, Alternative 2: First, the alternative relates to impacts of train crossings at Park Road, a potential effect that is subject to federal preemption. Second, a condition restricting deliveries and departures to nighttime hours, because of the nature of the offloading procedure, the time consumed for both unloading and return of the rail cars, and the compressed time frame for two trains to arrive, offload and return, could have more significant effects on train crossings at Park Road than delivery of the rail cars without such nighttime restriction.

4. CONCLUSION.

The DEIR, as we have stated elsewhere, is one of which the City can be proud, going far above and beyond what the law requires, and even permits. We commend the City's efforts to promote disclosure and discussion related to the Project, and we have participated vigorously and openly in that process. Nevertheless, as stated above, we do so while reserving all rights under federal law.

Thank you very much for your consideration of our comments.

Very truly yours,



John J. Flynn III
of Nossaman LLP

JJF:rg

Enclosure

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Re: Union Pacific – Valero Refinery Project

Dear Mr. McKeever:

Union Pacific Railroad Company (UP) appreciates this opportunity to comment on the draft Comment Letter on Valero Crude by Rail Project Environmental Impact Report, Item #14-8-4, which we understand will be considered by the Sacramento Area Council of Governments (SACOG) on August 21, 2014.

UP understands the concern about the risks associated with crude-by-rail and we take our responsibility to ship crude oil, as mandated by federal law, very seriously. UP follows the strictest safety practices and in many cases, exceed federal safety regulations. UP's goal is to have zero derailments and it works closely with the federal Department of Transportation (DOT), the Federal Railroad Administration (FRA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), the Association of American Railroads (AAR) and our customers to ensure it operates the safest railroad possible.

Safety is UP's top priority. The only effective way to ensure safety is through comprehensive federal regulation. A state-by-state, or town-by-town approach in which different rules apply to the beginning, middle, and end of a single rail journey, would not be effective. Congress agrees. Federal regulations completely preempt the application of the California Environmental Quality Act (CEQA) and the mitigation measures proposed in the comment letter drafted by SACOG staff. We encourage SACOG and its member agencies to participate in this rulemaking process.

I. Union Pacific is working closely with other stakeholders to ensure the safety of crude transportation.

Union Pacific is working diligently with federal, state and local authorities to prevent derailments or other accidents. UP spent more than \$21.6 billion in capital investments from 2007-2013 continuing to strengthen our infrastructure. By doing so, it is continuously improving safety for our employees, our communities and our customers.



UP has decreased derailments 23% over the last 10 years, due in large part to our robust derailment prevention and risk reduction process. This process includes, among others, the following measures:

- Union Pacific uses lasers and ultrasound to identify rail imperfections.
- UP forecasts potential failures before they happen by tracking the acoustic vibration on wheels.
- UP performs a real-time analysis of every rail car moving on our system each time it passes a trackside sensor, equaling 20 million car evaluations per day.
- UP employees participate in rigorous safety training programs on a regular basis and are trained to identify and prevent potential derailments.

Union Pacific also reaches out to fire departments as well as other emergency responders along our lines to offer comprehensive training to hazmat first-responders in communities where we operate. Union Pacific annually trains approximately 2,500 local, state and federal first-responders on ways to minimize the impact of a derailment in their communities. UP has trained nearly 38,000 public responders and almost 7,500 private responders (shippers & contractors) since 2003. This includes classroom and hands-on training.

These efforts have paid off. The overall safety record of rail transportation, as measured by the FRA has been trending in the right direction for decades. In fact, based on the three most common rail safety measures, recent years have been the safest in rail history: the train accident rate in 2013 was down 79 percent from 1980 and down 42 percent from 2000; the employee injury rate was down 84 percent from 1980 and down 47 percent from 2000; and the grade crossing collision rate was down 81 percent from 1980 and down 42 percent from 2000.

II. The Federal Government is imposing more stringent requirements for safe transportation of crude oil.

As federal rail authorities recently explained, DOT, through the FRA and PHMSA, “continue[s] to pursue a *comprehensive, all-of-the-above approach* in minimizing risk and ensuring the safe transport of crude oil by rail.” Department of Transportation, *Federal Railroad Administration’s Action Plan for Hazardous Materials Safety* at 1 (May 20, 2014), available at <http://www.fra.dot.gov/eLib/details/L04721>. These efforts include not only scores of regulations governing the safe transportation of hazardous materials, including oil products, found in 49 C.F.R. Parts 171 to 180, but also a host of equipment and operating rules promulgated by FRA, as well as voluntary agreements and Emergency Orders issued over the past year in response to oil spills.

Voluntary Agreement

On February 21, 2014, the nation's major freight railroads and the DOT agreed to a rail operations safety initiative that established new operating practices for moving crude oil by rail. Under the industry's voluntary efforts, railroads are:

- Increasing the frequency of track inspections using high-tech track geometry readers.
- Equipping crude trains with either distributed power or two-way telemetry end-of-train devices. These technologies allow train crews to apply emergency brakes from both ends of the train in order to stop the train faster.
- Using new rail traffic routing technology (the Rail Corridor Risk Management System (RCRMS)) to aid in the determination of the safest and most secure rail routes for trains with 20 or more cars of crude oil.
- Lowering speeds to no more than 40 miles-per-hour in the 46 federally-designated high-threat-urban areas and no more than 50 miles per hour in other areas.
- Working with communities to address location-specific concerns that communities may have.
- Increasing trackside safety technology by installing additional wayside wheel bearing detectors if they are not already in place every 40 miles along tracks with trains carrying 20 or more crude oil cars, as other safety factors allow.
- Increasing emergency response training and tuition assistance.
- Enhancing emergency response capability planning.

These voluntary actions are already being implemented.

Emergency Orders

In a February 25, 2014 Emergency Order, the DOT ordered certain changes in the way petroleum crude oil is classified and labeled during shipment, emphasizing that "with regard to emergency responders, sufficient knowledge about the hazards of the materials being transported [is needed] so that if an accident occurs, they can respond appropriately." February 25, 2014 Emergency Order at 13. And in its May 7, 2014 Emergency Order, the DOT ordered railroads transporting large quantities of crude oil to notify state authorities of the estimated number of trains traveling through each county of the State, provide certain emergency response information required by federal regulations (49 C.F.R. Part 172, subpart G) and identify the route over which the oil will be transported.

Proposed Regulations

On July 23, 2014, the PHMSA proposed enhanced tank car standards, a classification and testing program for crude oil and new operational requirements for trains transporting such crude that include braking controls and speed restrictions. PHMSA proposes the phase out of older DOT 111 tank cars for the shipment flammable liquids, including most Bakken crude oil, unless the tank cars are retrofitted to comply with new tank car design standards. We encourage SACOG to participate in this rulemaking process.

The federal proposal includes:

- Better classification and characterization of mined gases and liquids
- Rail routing risk assessment
- Notification to State Emergency Response Commissions
- Reduced operating speeds
- Enhanced braking
- Enhanced standards for both new and existing tank cars

As the federal government's existing regulations, recent emergency orders, the voluntary agreements and the new regulatory proposals make abundantly clear, regulation of crude transportation is extremely detailed and complex. Union Pacific is actively participating in the efforts to finalize the new regulations and encourages SACOG and its member agencies to do the same. By jointly working to enhance safety we can ensure that the most effective regulations are adopted.

III. A uniform federal regulatory program is essential to ensure the safe transportation of crude oil.

As the complex regulatory program described above illustrates, clear and uniform federal regulation is needed to ensure that crude oil continues to be transported safely. With respect to rail transportation, federal law preempts most state and local regulation of rail activities.

Uniform standards and rules for railroad operations allow the efficient movement of goods among the states. If each state or local community were allowed to impose its own regulations on railroad operations, rail transportation could grind to a halt, because train crews would need to apply different rules or perhaps use different equipment as they move from place to place.

As stated by the U.S. Congress:

Subjecting rail carriers to regulatory requirements that vary among the States would greatly undermine the industry's ability to provide the "seamless" service that is essential to its shippers and would weaken the industry's efficiency and competitive viability.

The U.S. Congress went on to state that

federal regulation of railroads is intended to address and encompass all such regulation and to be completely exclusive. Any other construction would undermine the uniformity of Federal standards and risk the balkanization and subversion of the Federal scheme of minimal regulation for this intrinsically interstate form of transportation.

Congress has therefore established federal preemption under several statutes governing rail transportation. As the U.S. Solicitor General has explained, Congress recognized that the federal government has "diverse sources of statutory authority . . . with which to address rail safety issues," and therefore "preemption had to apply to regulations issued" under any of those sources, for "otherwise, the desired uniformity could not be attained." Brief for United States as Amicus Curiae at 6, *Public Util. Comm'n of Ohio v. CSX Transp., Inc.*, 498 U.S. 1066 (1991) (No. 90-95), available at <http://www.justice.gov/osg/briefs/1990/sg900560.txt>; see also H.R. Rep. No. 1194, 91st Cong., 2d Sess. 19 (1970) ("[S]uch a vital part of our interstate commerce as railroads should not be subject to [a] multiplicity of enforcement by various certifying States as well as the Federal Government.")

Preemption under ICCTA

In 1996, Congress passed the Interstate Commerce Commission Termination Act (ICCTA), which broadened the preemptive effect of federal law and created the federal Surface Transportation Board ("STB"). The driving purpose behind ICCTA was to keep "bureaucracy and regulatory costs at the lowest possible level, consistent with affording remedies only where they are necessary and appropriate." H.R. Rep. No. 104-331, at 93, reprinted in 1995 U.S.C.C.A.N. 793, 805 (emphasis added).

Congress vested the STB with broad authority over railroad operations. Indeed, STB has "exclusive" jurisdiction over "(1) transportation by rail carriers . . . and (2) the construction, acquisition, operation, abandonment, or discontinuance of . . . tracks, or facilities." 49 U.S.C. § 10501(b).

"Transportation" by rail carriers broadly includes:

(A) a locomotive, car, vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, by rail, regardless of ownership or an agreement concerning use; and

(B) services related to that movement, including receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, and interchange of passengers and property. 49 U.S.C. § 10102(9)(emphasis added).

Further, ICCTA contains an express preemption clause: “the remedies provided under this part with respect to the regulation of rail transportation are exclusive and preempt the remedies provided under Federal and State law.” 49 U.S.C. § 10501(b). “It is difficult to imagine a broader statement of Congress’s intent to preempt state regulatory authority over railroad operations.” (*CSX Transp., Inc. v. Georgia Public Serv. Com’n* (N.D.Ga. 1996) 944 F.Supp. 1573, 1581 (CSX).) This provision continues the historic extensive federal regulation of railroads. (*Fayard v. Northeast Vehicle Services, LLC* (1st Cir. 2008) 533 F.3d 42, 46; see *Chicago & N.W. Tr. Co. v. Kalo Brick & Tile* (1981) 450 U.S. 311, 318 [“The Interstate Commerce Act is among the most pervasive and comprehensive of federal regulatory schemes.”].)

Over the years, many courts have addressed challenges by state and local authorities seeking to regulate some aspect of rail operations. The courts have consistently upheld Congress’s intention that no such regulation can be allowed. As one court stated, “freeing the railroads from state and federal regulatory authority was the principal purpose of Congress” in adopting ICCTA. *Wisconsin Central Ltd. v. City of Marshfield*, 160 F.Supp.2d 1009, 1015 (W.D.Wis. 2000).

Preemption under the Federal Railroad Safety Act

Congress directed in the Federal Railroad Safety Act (“FRSA”) that “[l]aws, regulations, and orders related to railroad safety and laws, regulations, and orders related to railroad security shall be nationally uniform to the extent practicable.” 49 U.S.C. § 20106(a)(1). To accomplish that objective, Congress provided that a State may no longer “adopt or continue in force a law, regulation, or order related to railroad safety” once the “Secretary of Transportation . . . prescribes a regulation or issues an order covering the subject matter of the State requirement.” *Id.* § 20106(a)(2). State or local hazardous material railroad transportation requirements may be preempted under the FRSA without consideration of whether they might be consistent under the Federal hazmat law. *CSX Transportation, Inc. v. City of Tallahoma*, No. 4-87-47 (E.D. Tenn. 1988); *CSX Transportation, Inc. v. Public Utilities Comm’n of Ohio*, 701 F. Supp. 608 (D. Ohio 1988), affirmed, 901 F.2d 497 (6th Cir. 1990), cert. denied 111 S.Ct. 781 (1991).

Under Section 20106(a)(2), these DOT regulations and orders preempt state and local regulations relating to the same subject matter. The text of § 20106 is unambiguous. It plainly states that the terms of § 20106 govern the preemptive force of all DOT regulations and orders related to rail safety. DOT has recognized that “[t]hrough [the Federal Railroad Administration] and [the Pipeline and Hazardous Materials Safety Administration], DOT comprehensively and intentionally regulates the subject matter of the transportation of hazardous materials by rail

These regulations leave no room for State . . . standards established by any means . . . dealing with the subject matter covered by the DOT regulations.” 74 Fed. Reg. 1790 (Jan. 13, 2009).

Preemption under the Pipeline Safety Improvement Act

The Pipeline Safety Improvement Act, which created the PHMSA, includes an express preemption provision prohibiting any state or local agency from regulating “the designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.” 49 U.S.C. §5125. Thus, any mitigation measure restricting or specifying the type of equipment to be used in transporting crude by rail is expressly preempted.

DOT has stated that “[t]hrough [the Federal Railroad Administration] and [the Pipeline and Hazardous Materials Safety Administration], DOT comprehensively and intentionally regulates the subject matter of the transportation of hazardous materials by rail These regulations leave no room for State . . . standards established by any means . . . dealing with the subject matter covered by the DOT regulations.” 74 Fed. Reg. 1790 (Jan. 13, 2009).

IV. Neither SACOG nor its member agencies has authority to impose the mitigation measures or conditions proposed in the draft Comment Letter on Valero Crude by Rail Project Environmental Impact Report.

The courts have found that ICCTA preempts state and local environmental, land use and planning regulations. For example, in *City of Auburn*, the Ninth Circuit affirmed STB’s ruling that local environmental review regulations could not be required for BNSF’s proposal to reacquire and reactivate a rail line. 154 F.3d 1025, 1031 (9th Cir. 1998). The court found that the State of Washington’s environmental review statute – a statute that is similar to CEQA – could not be applied to a rail project. Similarly, the Second Circuit found that ICCTA preempted a state requirement for a railroad to obtain a pre-construction environmental permit for a transloading facility because it would give the local governmental body the ability to deny or delay the right to build the facility. *Green Mountain Railroad Corporation v. State of Vermont*, 404 F.3d 638, 641-45 (2d Cir. 2005). In effect, the court found that if a permit allowed the state or local agency to exercise discretion over the rail project, that permit requirement would be preempted.

The California Court of Appeal laid out this same logic in its recent decision in *Town of Atherton v. California High Speed Rail Authority* (filed July 24, 2014), stating:

[S]tate actions are ‘categorically’ or ‘facially’ preempted where they ‘would directly conflict with exclusive federal regulation of railroads.’ [Citations.] Courts and the STB have recognized ‘two broad categories of state and local actions’ that are categorically preempted regardless of the context of the action: (1) ‘any form of state or local permitting or preclearance that, by its nature, could be used to deny a railroad the ability

to conduct some part of its operations or to proceed with activities that the [STB] has authorized' and (2) 'state or local regulation of matters directly regulated by the [STB]—such as the construction, operation, and abandonment of rail lines; railroad mergers, line acquisitions, and other forms of consolidation; and railroad rates and service.' [Citations.] Because these categories of state regulation are 'per se unreasonable interference with interstate commerce,' 'the preemption analysis is addressed not to the reasonableness of the particular state or local action, but rather to the act of regulation itself.'

The California Attorney General endorsed this application of the law and specifically argued that "[c]ourts and the STB uniformly hold that the ICCTA preempts state environmental pre-clearance requirements such as those in the California Environmental Quality Act (CEQA)." Letter dated August 9, 2013 from Attorney General Kamala Harris to the Hon. Vance W. Raye, Presiding Justice, California Court of Appeal for the Third District at 3.

Additional cases and STB decisions that have struck down state and local environmental and land use regulations include: *Norfolk Southern Railway Company v. City of Austell*, 1997 WL 1113647, *6 (N.D.Ga. 1997) ("ICCTA expresses Congress's unambiguous and clear intent to preempt [city's] authority to regulate and govern the construction, development, and operation of the plaintiff's intermodal facility"); *Soo Line R.R. v. City of Minneapolis*, 38 F.Supp.2d 1096, 1101 (D. Minn. 1998) ("The Court concludes that the City's demolition permitting process upon which Defendants have relied to prevent [the railroad] from demolishing five buildings . . . that are related to the movement of property by rail is expressly preempted by [ICCTA]."); *Norfolk S. Ry. v. City of Austell*, 1997 WL 1113647 (N.D. Ga. 1997) (local zoning and land use regulations preempted); *Village of Ridgefield Park v. New York, Susquehanna & W. Ry.*, 750 A.2d 57 (N.J. 2000) (complaints about rail operations under local nuisance law preempted); *Burlington Northern and Santa Fe Ry. v. City of Houston*, S.W.3d, 2005 WL 1118121 (Tex. App. 2005) (interpretations of state condemnation law that would prevent condemnation of city land required for construction of rail line preempted).

The *Atherton* court noted that state and local agencies may exercise authority over the development of railroad property to the extent that such regulations:

can be approved (or rejected) without the exercise of discretion on subjective questions. Electrical, plumbing and fire codes, direct environmental regulations enacted for the protection of the public health and safety, and other generally applicable, non-discriminatory regulations and permit requirements would seem to withstand preemption.

The limited exception for routine, non-discretionary permits to meet building and electrical codes is not relevant here. Instead, the cases have clearly established that state and local agencies have no authority to impose permitting or land use requirements that "would give the local governmental body the ability to deny or delay the right to build the facility."

V. Conclusion

Like the transloading facility in the *Green Mountain* case and the intermodal facility in the *Norfolk Southern* case, the proposed loading rack and tracks at the Valero Refinery are essential components of rail transportation. As noted above, "transportation" includes a "yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, by rail, regardless of ownership. . ." as well as "receipt, delivery, elevation, transfer in transit, . . . storage, [and] handling" of goods. Valero's proposed project falls squarely within the scope of this definition and the Congress and the courts have made it abundantly clear that "no state or local governmental agency may delay or deny the right to build" such a facility.

As noted above, Union Pacific supports the federal regulatory efforts to ensure that crude transportation is carried out safely. We encourage SACOG and its member agencies to participate in the rulemaking process. Neither SACOG nor its member agencies can go it alone—federal law and common sense demand that a uniform national approach be adopted and applied to ensure safety.

Regards,

UNION PACIFIC RAILROAD COMPANY

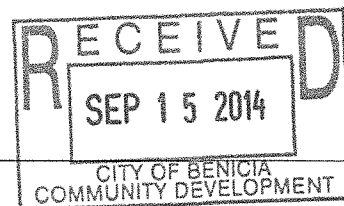
A handwritten signature in black ink, appearing to read "Melissa Hagan", with a long horizontal flourish extending to the right.

Melissa B. Hagan

cc: Ms. Amy Million, City of Benicia Planning Commission

Amy Million - Comment for the record - Valero Crude By Rail

From: Diana Walsh <isohappy@rocketmail.com>
To: "amillion@ci.benicia.ca.us" <amillion@ci.benicia.ca.us>
Date: 9/15/2014 3:13 PM
Subject: Comment for the record - Valero Crude By Rail



Dear Ms. Million:

Crude by Rail is an almost criminally irresponsible undertaking given the prospects for a disastrous accident, and the lack of public and private resources to fight any explosions, the increased noise, pollution, traffic and the damage to property values in Benicia --it will lose its appeal --who will want to move to a dangerous, smelly, noisy town? That's not why I bought property here.

How many more people have to die and property and waterways destroyed before this ill-advised risky experiment is ended? I hope you will do whatever it takes to keep us safe. As it is being presented now, we are not safe nor are all those who are exposed to risk on the way here..

All the best,

Diana Walsh DC
707 745 3802
707 720 4999

"In theory there is no difference between theory and practice. In practice there is." - Yogi Berra

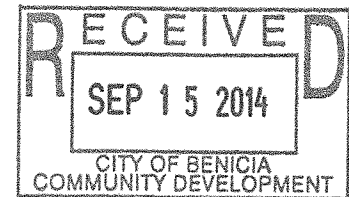
From: Yahoo <tracemelissa@yahoo.com>
To: "AMillion@ci.benicia.ca.us" <AMillion@ci.benicia.ca.us>
Date: 9/15/2014 3:04 PM
Subject: Valero Benicia Crude by Rail Project Draft Environment Impact Report

Dear Ms. Million:

As a frequent visitor to the city of Benicia, I have been following Valero's crude by rail project and reviewing the DEIR. I have friends that work in the industrial park and I am concerned about their safety due to the lack of an adequate emergency response plan.

I am also concerned about the safety of Valero employees due to the lack of separation between the proposed unloading area and other refinery infrastructure.

Sincerely,
Melissa Trace



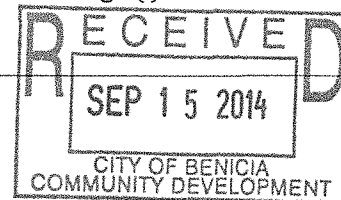
**If viewing this online comments from
Diane Sinclair on behalf of Valero
are provided as a separate document.**

Please refer to the following documents available on the City's webpage for the Valero Crude by Rail Project at www.ci.benicia.ca.us:

Diane Sinclair Comments on DEIR

Amy Million - Comments regarding Draft EIR for Valero Refinery

From: Linda Lewis <llewis7716@yahoo.co.uk>
To: "amillion@ci.benicia.ca.us" <amillion@ci.benicia.ca.us>, "bkilger@ci.benicia.us" <bkilger@ci.benicia.us>
Date: 9/15/2014 3:39 PM
Subject: Comments regarding Draft EIR for Valero Refinery



Planning staff, consultant and Planning Commissioners

Regarding the Draft EIR, I would like to include the comments I made at the Planning Commission meeting on Thursday Sept. 11, 2014.

In addition, I do think the DEIR needs to explore the gap in information on the effects of flaring on this project. How will the two combined, effect each other in relationship to pollution as well as additional fire and explosion possibilities of increases in the events? Also, will refining the new oil lead to more flares or make the combination create more dangerous situations? This should be explored and evaluated.

This is important as I do remember when Valero had to be evacuated when they thought the refinery would "blow". I had to pick up my daughter at Mathew Turner school, the newest school, and it was shocking to see why the refinery needed to be evacuated (not so long ago). Do we want additional fire and explosion possibilities?

When it is said an incident has a possibility of happening 100+ years.

Present _____ 100+
years
timeline

Does that mean a fire or explosion can happen in 3 or 5 years, and that is within the 100+ time frame? Is that acceptable if it actually occurs in 3, 5, 10 years?

Again, will the EIR guarantee the safety of the community or will we learn by losing lives as in the PG&E explosion or the Kinder Morgan explosion?

I agree with the two people who brought up the earthquake issue as well as the terrorist issue as being important issues to address and to evaluate in detail.

Thank you for your time and hard work,

Linda Lewis
282 West I Street
Benicia, CA 94510

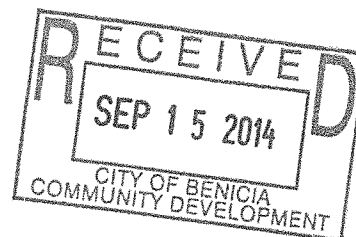
Amy Million - Comments on the Valero Crude By Rail Project DEIR

From: Milton Kalish <milton@miltonkalish.com>
To: Brad Kilger <bkilger@ci.benicia.ca.us>, Amy Million <amillion@ci.benicia.ca.us>
Date: 9/15/2014 3:45 PM
Subject: Comments on the Valero Crude By Rail Project DEIR

September 15, 2014

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
 Re: Comments on the Valero Crude By Rail Project DEIR



Dear Mr. Kilger and Ms. Million,

Please add these comments on behalf of 350 Sacramento 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.

The DEIR is inadequate in countless ways. Clearly it was conducted by parties predisposed to favor Valero's view, rather than by parties representing the broad range of viewpoints of the parties involved, including those of us who live in up rail communities.

I want to go on record in support of the comments made by SACOG (Sacramento Area Council of Governments):

- The DEIR fails to consider the risk of fire and explosion as a threshold of significance.
- The Project poses a significant hazard to the public and the environment through reasonably foreseeable upset and accident conditions.
- The Release Rate Analysis is flawed as a tool to assess the potential environmental impacts of the project.
- The DEIR fails to analyze the potential environmental impacts of crude oil transport beyond the Roseville to Benicia alignment.
- The DEIR fails to analyze the cumulative impacts of the project.
- The DEIR improperly conflates its description of the project with measures intended to reduce or avoid the clear impacts of the project.

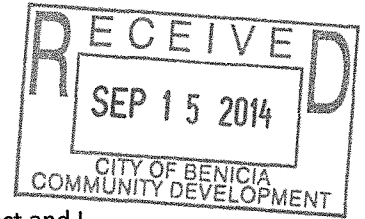
These oil trains are extremely dangerous, as evidenced by the many derailments, fires, and the great tragedy in Lac Megantic. Although there are ways to make the oil trains less dangerous, such as more frequent inspection of rail tracks and bridges, slower speeds, higher standard tank cars, removal of the more volatile chemicals before transport, safer routes that avoid waterways and populated areas, Positive Train Control, etc., none of these safeguards have been implemented or guaranteed. I advocate that all safety measures and guarantees must be in place *before* the project is allowed to go forward.

The DEIR neglects to acknowledge that each train is gambling with the communities and the environment all along the whole rail route, from the extraction site to the refinery. In addition, the great increase in oil trains through our community (expected to be up to 6 or 8 100-car per day trains in the next few years) increases the threat exponentially through increased traffic on the rails, increased wear on the rails, increased chance of derailments, increased risk of collisions with people or vehicles, etc. The cumulative effects of this increase in oil train traffic were not adequately addressed in the DEIR, or in the so called statistical analysis that falsely concluded the chances of an accident as 1 in 110 years. The effects of such a spill on wildlife would be equally disastrous and have not been adequately addressed in the DEIR.

In addition, the DEIR fails to provide an adequate No Action alternative. No Action means maintaining the status quo, i.e., not doing the project. If the crude by oil project does not go forward, the additional risk to people and the environment will not occur. In a cost/benefit analysis the great benefit of the No Action alternative to the vast majority of the population is apparent. Another major omission is the question of Valero's liability should there be a spill or accident on the oil trains en route to Benicia.

Sincerely,
 Milton Kalish,
 975 Zaragoza St.
 Davis CA 95618

Privileged and Confidential Communication: This message is not encrypted and may not be confidential. This message and any attached files contain information intended for the exclusive use of the recipient to whom it is addressed and may contain information that is proprietary, privileged, confidential or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any viewing, copying, disclosure or distribution of this information may be subject to legal restriction or sanction. Please notify the sender, by electronic mail or telephone, of any unintended recipients and delete the original message without making any copies.



Benicia Planning Commissioners,

First, thank you for the opportunity to voice my opinion on Valero's Crude by Rail Project and I appreciate you taking the time to read my response. Hopefully you will consider my response when making your decision about this very important project.

My family and I have lived in Benicia almost continuously since 2003. We currently live approximately one mile from Valero. My wife and I have three boys whom all attend the Benicia School System. We live in Benicia, we work in Benicia, we shop in Benicia, and we play in Benicia. Benicia and the families that make up this city are extremely important to us and Valero is a big part of this town. I have reviewed the city's draft environmental impact report (DEIR) for Valero's Crude by Rail Project and based on the city's own assessment that this project has "no significant impact" in Benicia that cannot be mitigated and after careful consideration of all of the impacts listed in the report I feel this is the right project for Valero and the right project for Benicia for the following reasons.

Environmental and Safety Considerations

As per the city's draft environmental impact report, this project will have the following positive impacts in the areas of environment and safety :

1. This project will result in beneficial impacts to air quality in the Bay Area
2. This project will reduce the risk of accidental release by replacing up to 82% of the crude oil currently processed at Valero and delivered through its marine terminal with crude delivered by rail, which is statistically much safer
3. This project will employ safety standards which exceed mandatory compliance measures, including the use of 1232 rail cars instead of DOT-111 legacy cars
4. This project will not significantly change refinery operations, the overall characteristics of the crude it process, or the amount of crude it process, which will allow the refinery to continue to operate in a safe and environmentally responsible manner

Economic Considerations

The positive economic impact that the Valero Benicia Refinery has on this city cannot be overstated. Valero provides 25% of the city's general fund tax revenue. They are a huge economic driver for this city and region not just as a tax base, but as an economic engine providing hard-to-find manufacturing jobs that pay head-of-household wages. Benicia is very fortunate to have the benefit of the industrial park and the Valero Benicia Refinery is the cornerstone of this area. This project not only allows Benicia the opportunity to protect this economic engine but we are allowing it to grow and provide more head-of-household type jobs and provide more desperately needed tax revenue.

Finally, after review of the city's draft environmental impact report, I believe the city performed an thorough job of exploring all aspects of this project. This project is good for Benicia. I ask that you

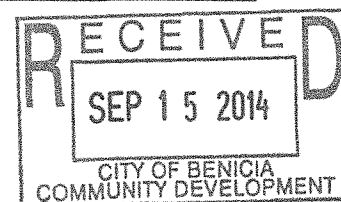
please consider the importance of this project to our largest local business and to our town when making a thoughtful, informed decision.

Regards,

Jerry Stumbo

Amy Million - Valero's Crude by Rail proposal

From: "Larry J Miller" <Larry@Larry-J-Miller.com>
To: <epatterson@ci.benicia.ca.us>, <bkilger@ci.benicia.ca.us>, <amillion@ci.benicia.ca.us>
Date: 9/15/2014 4:15 PM
Subject: Valero's Crude by Rail proposal
CC: <tcampbell@ci.benicia.ca.us>, <mhughes@ci.benicia.ca.us>, <aschwartzman@ci.benicia.ca.us>, <cstrawbridge@ci.benicia.ca.us>
Attachments: image003.jpg



Mr. Brad Kilger & Ms. Amy 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.

Valero's Crude by Rail proposal

I have been listening and reading both the pros and cons of the Valero's Crude by Rail proposal. There are always pros and cons to every project, but I don't see enough pros to overcome the cons!

There have been an increasing number of accidents in the last year all over our country. While it is true that most have not caused any human fatalities, the destroyed eco-systems and loss of animal and bird life is huge! Migrating birds will not be able to stop and rest and get food and water because their usual stop overs are either destroyed or polluted!

Who know what Mother Earth will do? She could deliver "the big" earthquake just as Valero gets a shipment of crude oil cars and "BOOM". Seeing as we live about a half mile of where the new tracks will be installed, our house could be gone in a heartbeat – and us too if we happened to be home. This project is like playing Russian roulette – You just never know when the "BOOM" is coming.

All over the country as cities find out the real deadly story about the trains transporting volatile crude oil, they are passing resolutions stating they do not want to be a part of it. But that is all they can do. You can actually do more! We would hope that our representatives will be able to see through all the "smoke and mirrors" in this project and vote "NO" on the rail extension. That is a stronger statement than just a resolution.

Do you really want your legacy to be that you were the one who voted in the project that destroyed a large portion of the town of Benicia and killed some of its citizens? I would think not!

Vote "NO" on the Valero's Crude by Rail proposal while we still have a town for you to help govern!

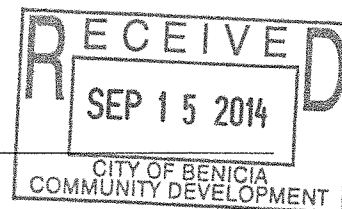
Larry J Miller
 146 Carlisle Court
 Benicia, CA 94510

CC:

- 1.) Brad Kilger, City Manager: bkilger@ci.benicia.ca.us
- 2.) Amy Million, Principal Planner, Community Development Department: amillion@ci.benicia.ca.us.
- 3.) Planning Commissioners via Brad Kilger and Amy Million
- 4.) Mayor Elizabeth Patterson: epatterson@ci.benicia.ca.us
- 5.) Vice Mayor Tom Campbell: tcampbell@ci.benicia.ca.us
- 6.) Council Member Mark Hughes: mhughes@ci.benicia.ca.us
- 7.) Council Member Alan Schwartzman: aschwartzman@ci.benicia.ca.us
- 8.) Council Member Christina Strawbridge: cstrawbridge@ci.benicia.ca.us

Amy Million - Valero's Crude by Rail proposal

From: Carole Sky <carolesky@gmail.com>
To: <epatterson@ci.benicia.ca.us>, <bkilger@ci.benicia.ca.us>, <amillion@ci.benicia.ca.us>
Date: 9/15/2014 4:16 PM
Subject: Valero's Crude by Rail proposal
CC: <tcampbell@ci.benicia.ca.us>, <mhughes@ci.benicia.ca.us>, <aschwartzman@ci.benicia.ca.us>, <cstrawbridge@ci.benicia.ca.us>



Mr. Brad Kilger & Ms. Amy 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.

Valero's Crude by Rail proposal

I think it's essential to respect the issues so many people in so many cities have raised concerning the Valero Crude by rail project.

Countless citizens feel unsafe, and, in fact, are unsafe already due to other projects of this kind. Bad accidents have caused damage, heartbreak, loss of habitat and so on.

Therefore, I oppose the Valero Crude by Rail Project and hope that health & safety take precedence over financial benefits: if we don't have our health and safety, we have no need of high finances!

Thank you for your consideration of the concern of so many citizens all over this state.

Sincerely,

146 Carlisle Court
Benicia, CA 94510

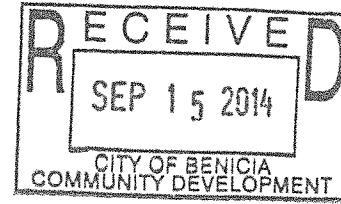
CC:

1.) Brad Kilger, City Manager: bkilger@ci.benicia.ca.us

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

3.) Planning Commissioners via Brad Kilger and Amy Million

- 4.) Mayor Elizabeth Patterson: epatterson@ci.benicia.ca.us
- 5.) Vice Mayor Tom Campbell: tcampbell@ci.benicia.ca.us
- 6.) Council Member Mark Hughes: mhughes@ci.benicia.ca.us
- 7.) Council Member Alan Schwartzman: aschwartzman@ci.benicia.ca.us
- 8.) Council Member Christina Strawbridge: cstrawbridge@ci.benicia.ca.us



Date: 9/15/2014

Amillion@ci.benicia.ca.us

To: Amy Million, Principal Planner - Community Development Department

From: Bea Reynolds
433 Heather Court Benicia, 94510

Re: VALERO PROPOSED PROJECT – Crude by Rail

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.

I wish to thank the Planning Commission for extending the deadline for community member's opinions to be heard, considered, and registered concerning this grave proposal brought to you by our neighbor, the Valero refinery.

The DEIR, as lengthy and convoluted as it is, does not address the pressing questions articulated and posed during this public review; safety of ourselves, safety for our neighboring communities, safety of our environment, and the impact an accident, spill and/or fire and explosion would have on our delicate eco-system and our immediate community.

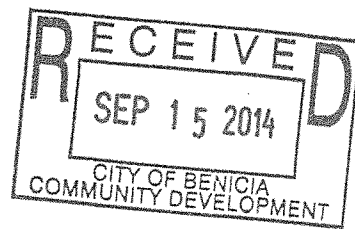
As it stands now, there is mounting evidence. Evidence that now you, Planning Commissioners have also articulated and made public – this is an unsafe project for our community and for Northern California communities and environment.

Valero Crude By Rail Project has the potential for a tremendous catastrophe and compounding disasters with far reaching consequences.

I urge you to Vote NO on the DEIR.

This project's liabilities far outweigh the 25% Valero contributes to our general fund....the 20 – 25 jobs promised will be negligible in the face of Haz Mats Contamination and costs to clean up and impact to potential loss of life....just to make Valero happy as they continue making more, and more money.

414 Solano Drive
Benicia, CA 94510
September 14, 2014



City of Benicia
250 East L Street
Benicia, CA 94510

Attention: Benicia Planning Commission

Subject: Valero Refining Company's Crude by Rail Project
Draft Environmental Impact Report Review/Public Comment

Honorable Commissioners:

Thank you for the opportunity to share my opposition to the proposed Crude by Rail Project (CBR) and to share my opinion that the draft environmental impact report (DEIR) provided by Valero is inadequate. Furthermore, I tried to express my comments via the public hearing held on Thursday, August 14, 2014. Briefly stated, I was disappointed by this experience because of the following reasons:

- 1) The meeting agenda and the on-line DEIR/link to download (via the City's web site) were difficult to locate resulting in a phone call for assistance from the Planning Commission.
- 2) There were many interested parties in attendance; I was instructed "to sit" in the court yard area with limited viewing capacity to the visual presentations.
- 3) There were many "scheduled speakers" – including attendees from the first public hearing. Listening to the public comments was a good learning opportunity. I left at 10:30 p.m. without having an opportunity to voice my opinion regarding the DEIR.

Moving forward, here are my comments focused on the DEIR. I am starting with information provided by the City of Benicia. Regarding section 1-4, Key Areas of Environmental Concern where it is stated the City has determined the following:

"Based on the results of the Initial Study, the City has determined that the Project would not result in impacts to the following topics and these criteria have not been carried forward for further analysis in the EIR: Agriculture and Forestry Resources and Mineral Resources."

May you please advise as to how this referenced "Initial Study" and the result/finding were approached?

There are many sections detailing the scheduled transport of the crude product (i.e., I am not considering the various crude alternatives or barrels per day count for this point). A major flaw in the DEIR is the lack of focus on safe transport of highly flammable crude. For the readers of this letter, I am referring to crude from North Dakota's Bakken region (i.e., Bakken crude). According to the DEIR, Valero will be purchasing specific North American crude described as light sweet.

Here is the link to access the article and others:

- <http://www.sacbee.com/2014/08/28/6659775/sacramento-leaders-question-benicias.html#storylink=cpy>

As I listened to many of the speakers the night of August 14, 2014, I was impressed by their passion and professional conduct. There is much at stake with the CBR Proposal as you know. I am looking forward to learning more about how the public comments will be addressed in the near future. Thank you, Honorable Commissioners, for this opportunity to share my concerns.

Sincerely,

A handwritten signature in cursive script, reading "Karen Berndt". The ink is dark and the signature is fluid.

Karen Berndt

Attachment (1):

Referenced Article – *"Public Data Reveal Secret Rail Movements of Crude Oil"*

Bloomberg Businessweek

Politics & Policy

<http://www.businessweek.com/articles/2014-08-20/public-data-sheds-light-on-secret-rail-movements-of-crude-oil>

Public Data Reveal Secret Rail Movements of Crude Oil

By Matthew Philips August 20, 2014

(Corrects reference to restarted refinery in Yorktown, Va.)

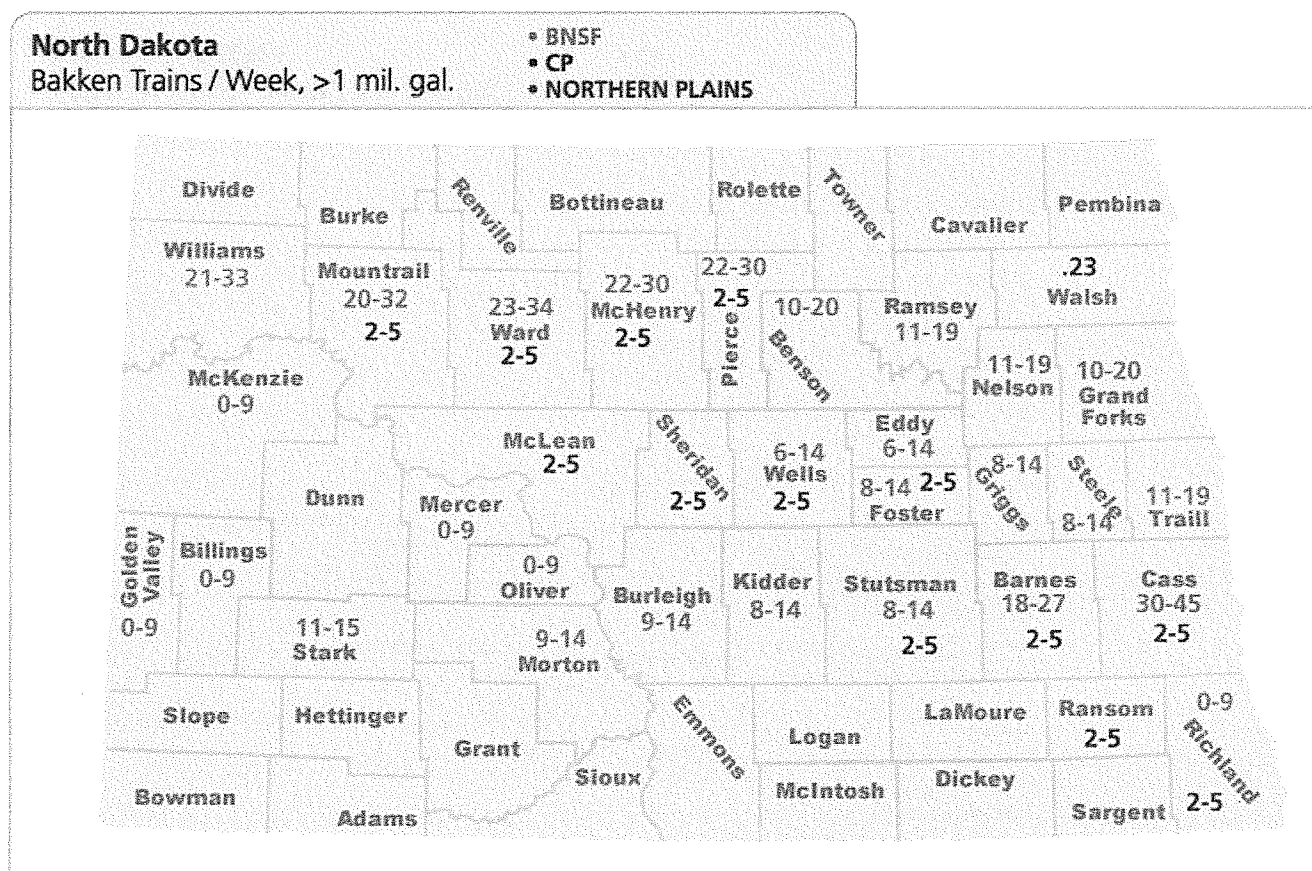
It's been almost four months since the Obama Administration ordered railroads to start giving state emergency officials details about their shipments of crude oil. The idea was that since these trains have a tendency to explode, and since they're often rolling right through the middle of towns and cities, the least they could do would be to tell local firefighters when they're coming. Not that municipal departments necessarily have the tools or resources to deal with 400-foot fireballs—but hey, knowing's half the battle. Right, kids?

The railroads immediately tried to get states to sign nondisclosure agreements, arguing that information detailing the movements of oil trains is dangerous and needs to be kept out of the hands of terrorists. Some states agreed to sign the nondisclosure documents (Arkansas, Kansas, Louisiana), but a lot didn't. Washington, California, and Wisconsin all refused, citing state sunshine laws that prohibit them from keeping public data secret.

Though some local officials say they're still having a hard time getting the data, enough of the info is being collected and released to the public to piece together some details on where these trains are headed. Some things we already knew: Almost all the trains originate in North Dakota, and many of them go east to refiners in the Mid-Atlantic, which have become dependent on taking cheaper U.S. crude rather than the pricier imported stuff. But other things are becoming newly apparent, such as how much oil gets railed through National Parks.

One environmental group, Forest Ethics, has used the data to figure out how many people are “in the blast zone” and at risk of exploding oil trains. The answer: 25 million. This week, Genscape, an oil surveillance business, released a white paper detailing the volumes of crude being railed around some of the most crowded corridors. This is the same company that flies helicopters over oil tanks in Oklahoma and uses infrared cameras to collect intelligence on oil movements across the country.

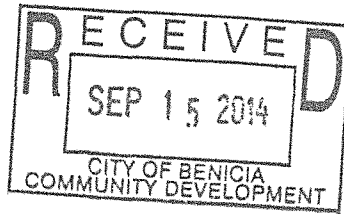
The Genscape report focuses on North Dakota and New York, two of the biggest hubs for oil trains in the U.S. Here's its map of the number of oil trains that move through each county in North Dakota each week, sorted by the railroad that moves them:



GenscapeBNSF moves by far the most oil out of North Dakota

According to Genscape's analysis of the public data, oil trains go through 32 of North Dakota's 53 counties each week. BNSF (BNI) is by far the biggest carrier, sending as many as 45 trains a week through Cass County, in the southeastern part of the state. About 18 terminals load crude onto trains in North Dakota. Genscape calculates that 522,383 barrels of oil per day were loaded onto trains in the state during the third week of July. That's actually down from the nearly 600,000 bpd that were loaded in there in January 2014.

A lot of the oil that leaves North Dakota arrives in Albany, N.Y., 1,800 miles east, which has emerged over the past year as a key oil hub, from which eastbound trains are diverted south. The biggest carriers there are CSX (CSX) and Canadian Pacific (CP). Genscape estimates that every week, CSX moves 20 to 35 trains through Albany County. A giant new rail terminal in Albany operated by Global Partners (GLP) handled about 105,000 barrels per day during the third week of July, according to Genscape's calculation. In the map below, the routes are apparent by the county volume numbers.



Sept 15, 2014

830 West L St.

Benicia, CA 94510

City of Benicia Planning Commission

Some Items I Dispute in the ESA DEIR Prepared for the City of Benicia:

Respected members of Benicia's Planning Commission, I feel moved to say that the ESA – generated DEIR contains statements that seem deliberately to ignore facts and probabilities, both, to define situations of Less than Significant Impact, to and to define mitigation measures. Furthermore, it characterizes biological environmental conditions without citing specific biological studies, authors, dates, or recognizing cited threatened species seen in the proximal areas. It flatly states that there could be mitigation of accidental release of materials into the Suisun Marsh without regard to season, without regard to unique species in that marsh, the last section of the greater natural marsh that existed in this area before modifications by agriculture, and so that in case of catastrophic accident and release of materials (stating nothing about risk of explosion or major fire) there should be no significant impact (because of undefined mitigation measures?).

I was arrested in reading this document by what some psychologists call "cognitive dissonance," a term that applies to the idea that what I am hearing, reading, or seeing (in the DEIR) does not comport well with what I think is reality. I'll merely list sections in which this occurred, and which I marked them; the listing is not to be considered exhaustive, but rather where I started before giving up on the utility of this DEIR:

1.6, items 2 and 6 not adequately addressed in body or appendix, I thought.

1.7 seems like a smokescreen to shield information that may be viewed unfavorably, which information may be available through other means, but would be expensive and time-consuming to obtain.

Table 2-1, Impacts 4.1-1b and 4.1-2 !

Impacts 4.1-3 ...long term operations in project...exposures to benzene, ethylbenzene, hexane, hydrogen sulfide, toluene, xylene, from fugitive equipment leaks. (focuses on workers, not on those down-wind, especially during easterly breezes. Not happy with what would blow toward my family up by St. Dominic's Cemetery, and do understand that the recently modified equipment does not capture all of these light fractions from crude, for I have seen periods during which they are burned off. The focus is understandably more on what would be emitted by the diesel locomotive transport, rather than on what would be equipment leakage, and stack emissions, for that and its inherent safety or lack of safety appears to be what this proposal is about. None-the-less, the hugely increased radius of opportunities for leakage is not reassuring.

Page 1 of 2

More in section 4.2: I do not find a map or a definition that declares that rail line adjacent to the Jepson Prairie in the NE corner of the Suisun Marsh to be off-limits to these trains. I do find a note that describes a three miles distance between the propose transportation RR rails and the sensitive areas in the NE Corner of the Suisun Marsh where threatened species are found. I refer to species in Table 4.2-1.

4.2-2,

4.2-3

4.2-6

4.2-7

5.2 ..."the probability of such a release is quite low."...recent events lead a prudent person to question the low probability evaluation for accidental release, or for that matter, a catastrophic accident.

5.4.3.11 Do not find any assurances that there are adequate pathways for emergency crews and vehicles to enter all refinery zones in case of spill or catastrophic accident if train were blocking key crossings. Urge that the report not be accepted without detailed mapping of emergency crews access (fire departments with foam, presence of adequate foam stock on site accessible, and assurances that the paths are sufficient for emergency crews mutual aid from other venues beyond the refinery and City of Benicia FD. Without specific knowledge of available routes, stocks of immediately available foam or other suitable fire retardants and mutual aid trainings, I could not say that I am confident.

The phasing in of future safer transport cars would overlap the proposed starting period of the deliveries of the new stocks by rail. I do not see that there would be adequate rail stock of safer tankers of DOT 1232 type for three years. I'm thinking that the cars used to transport the light crudes should be as robust as those used to transport PTFE etching solutions a couple of decades ago. Those had steel tubing cages around the tanks and had very special valves to contain the contents under pressure. I recall that the very volatile material attacked many organs of the body if contact resulted, so special handling of the materials was required, from tank car to pint bottle (refrigerated upon opening). I do not think that the State of California and Benicia have the authority to specify the type of car that must be used, and am left wondering how much material has already been delivered in type DOT 111 cars.

I have read and understood the statistician's analysis of release rates and probability of release of amounts in excess of 100 gallons due to accidents, etc. The statistical math is good, and uses the methods that one learns in first semester college statistics. It's basic. What is harder to parse is whether or not the conditions or rail transport used as premises in the application of the formula match the alternative paths the trains would take, and why they are limited merely to the corridor sections from Roseville to Benicia. It is most understandable that those up-track towards the mountain routes would be so concerned!

Sincerely,
Paul M. Peave Page 2 of 2

Sept 15, 2015
Clark Driggars

City of Benicia Planning Commission

Valero 3 Rail Project - Yes

Clark the planning commission and the city council to decide the permitting process on a basis of the most factual information available, not vague score tactic generalities.

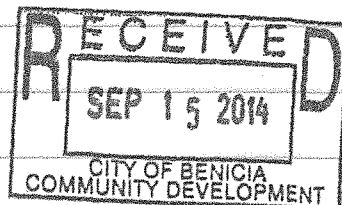
Fact: The railroad would be liable for accidents, mitigation and cleanup.

The Valero Benicia Refinery is a Cal/OSHA Voluntary Protection Program Star Site.

Benicia Valero will use D.O.T. - 1232, not D.O.T. - 111 Tank Cars.

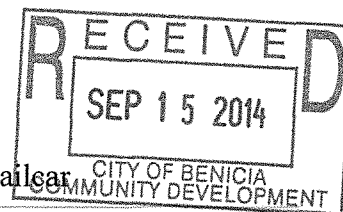
Not one of the governmental permitting agencies will be raising emission limits because of this project.

Thank you:
Clark Driggars, a green person, who has lived at 58 Buena Vista 64 years.



Amy Million - Valero CBR - fugitive emissions during connecting / disconnecting a railcar

From: <rogrmail@gmail.com>
To: "Amy Million" <amillion@ci.benicia.ca.us>
Date: 9/15/2014 4:17 PM
Subject: Valero CBR - fugitive emissions during connecting / disconnecting a railcar



Amy – an expert source on crude by rail offloading procedures who prefers to remain anonymous sent me the following comments on the Valero CBR DEIR. Please enter these remarks and my questions that follow into the public record for consideration by the consultant:

The DEIR on fugitive emissions when connecting / disconnecting a railcar

The impact on fugitive emissions misdirects the reader with use of "dry disconnect couplings." This fails to identify the need to prove the bottom valve with a secondary closure. The standard required procedure calls for cycling the valve and partly cracking the secondary closure. When the valve is closed and the partly cracked secondary closure stops draining liquid, the valve is proven. Only then the secondary closure can be removed and a hose connected. The drained liquid is exposed to atmosphere and is a direct source of hydrocarbon emissions.

Counting of valves, flanges, and other fittings to quantify emissions is several orders of magnitude lower than 200+ connections/disconnections of 4" hose and 200+ connections of 2" hose each day. The valve stems, flange gaskets, and pump seals are normally tight and emit very little hydrocarbons. Use of "dry disconnect" couplings implies no losses (exposure) of hydrocarbons. This is not representative of railcar offloading.

Questions:

1. Were fugitive emissions from valve and hose connect/disconnect operations included in air impact analyses?
2. Does the DEIR presume that there will be "dry disconnect couplings" with no cycling to prove the bottom valve as required in standard industry procedures? If so, please cite the new standard and safeguards applicable under such procedures.
3. Were fugitive emissions from 100 tank car connect operations and another 100 tank car disconnect operations per day compared to fugitive emissions from a single ship connect/disconnect every 5 days or so? If not, why not?
4. Please describe in detail the methods and procedures that will be used for opening and closing valves and connector hoses 200 times every day.
5. How would Valero guard against worker boredom and error on this dangerous and repetitive procedure?

Roger Straw
 Benicia, CA

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

Brad Kilger, City Manager

Benicia Planning Commissioners

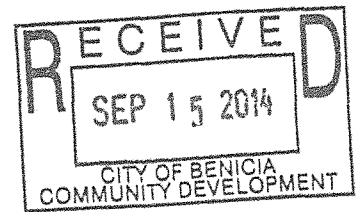
Benicia City Council

Mayor Elizabeth Patterson

City of Benicia

250 East L Street

Benicia, California 94510



September 14, 2014

Ms. Million, Mr. Kilger, Commissioners, Council Members and Madam Mayor;

Please accept this addition to the Public Comments on the Valero Crude By Rail Draft Environmental Impact Report (DEIR).

In the interest of time I will focus my comments on the following project Impact areas:

- I. 4.7 Hazards and Hazardous Materials
- II. 4.11 Transportation and Traffic
- III. 4.1 Air Quality
- IV. 4.6 Greenhouse Gas Emissions

I. Hazards and Hazardous Materials 4.7.

According to 4.7.3, based on CEQA Guidelines a project would cause adverse impacts related to hazards and hazardous materials if it would create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. Paragraph 4.7.3.1 states that the risk of release of hazardous materials is subject to a qualitative evaluation, meaning that a quantitative threshold has not been established. The analysis concludes that an accidental release of crude oil from a train travelling from Roseville to Benicia can be considered insignificant. Neither the

weak evidence provided in the analysis nor a growing literature on the safety of crude transfer by rail support this opinion.

The central tenet of this conclusion is that the risk of release of crude oil from a tank car on this route would be very low, based on an analysis found in Appendix F by C.P.L Barkan, PhD and colleagues. This document has been criticized by many, most recently by the Sacramento Area Council of Governments, and I will not reiterate. Basically the analysis is felt to be simplistic and based upon historical data preceding the explosive growth of crude by rail in California, which increased by 506% in 2013. The wording of the document at times appears biased toward the applicant and the comparison in section 3.4 of train to motor vehicle accident rates is laughable, making it appear as if we are contemplating transferring the crude from Roseville in private vehicles rather than by train.

On the other hand we have a wealth of non-biased public literature on the dangers of transport of crude by rail from many sources.

On March 6, 2014, the Honorable Christopher A Hart, Vice Chairman on behalf of the National Transportation Safety Board, in addressing a United States Senate subcommittee, stated that "...DOT-111 tank cars, or tank cars of any successor specification, that transport hazardous materials should incorporate more effective puncture-resistant and thermal protection systems".

The May 25th, 2014 edition of the Benicia Herald quoted U.S Rep Mike Thomson on Valero's CBR project as saying, "I want to make sure it's done safely, so damage is minimal, if not nonexistent." Regarding the tank cars that transport crude he stated "They do need to be as safe as they possibly can, to protect public safety and the environment and wildlife."

Later Thomson and Reps George Miller, John Garamendi and Doris Matsui wrote DOT secretary Anthony Fox stating "We are especially concerned with high risks involved with transporting lighter, more flammable crude in densely populated areas" and asking to "tighten regulations on crude oil by rail" according to the Martinez News-Gazette. July 6, 2014.

The State of California Interagency Rail Safety Working Group released a report on June 10, 2014 reviewing crude transport by rail, tabulating major train accidents related to oil by rail transport prior to May 9, 2014 and documenting 90 rail incidents nationally up to that point in 2014 alone. They conclude that "...while the federal actions taken to date are significant, they do

not go far enough to address the risks of increased oil by rail transit." A number of specific recommendations are made for improving the safety of crude transport by rail, including implementation of Positive Train Control on routes that crude oil trains are expected to run on and the use of electronically-controlled pneumatic brakes (ECP).

In response to nationwide concern with the risk of rail transportation of crude oil following a series of derailment-related catastrophic fires and explosions, the U.S. Department of Transportation has released a comprehensive rulemaking proposal designed to improve the safety of transfer of flammable materials by rail. These proposals are now open to public comment and final rules are expected by early 2015. They include considerations toward enhanced standards for new and existing tank cars (which may exceed those of the 1232 cars that the applicant proposes to employ), enhanced braking, reduced operating speeds and rail routing risk assessment, among others. It has been estimated that 80,000 DOT-111 cars built before 2011 may require upgrades or scrapping within two years.

According to an article in the Denver Post of August 17, 2014 by Bob Tita of Dow Jones Newswires "With production capacity for new tank cars at about 35,000 cars annually, industry analysts say the car industry could have difficulty expanding production fast enough to accommodate the short time frames proposed by regulators for ushering older tank cars out of flammable liquid service. Meanwhile the capacity for conducting extensive retrofits on cars is even murkier". Mr. Tita also states that the current delivery date for new cars is 2016.

In a prior DEIR public comment by James Bolds August 14, 2014 he states that "My role for Valero in the acquisition of these CPC-1232 tank cars is to development (sic) and recommend tank car specifications, review construction drawings for new tank cars, and inspect the tank cars through the fabrication and construction process." This conveys the impression that Valero may be in the early phases of completing its fleet of 1232 cars and would therefore be vulnerable to the potential delays in providing these cars as outlined by the Post article.

Based on these considerations and those outlined by many others, I believe that the weight of the evidence suggests that the current DEIR underestimates the likelihood of the project creating a significant hazard to the public and the environment through reasonably foreseeable upset and

accident conditions involving the release of hazardous materials into the environment and should be revised.

Furthermore, the DEIR should find this hazard beyond mitigation by the applicant at the present time on the following basis:

Union Pacific Railroad (UPRR) says in their Preemption Statement (Appendix L) that the city of Benicia will have no control over "..... the volume of product it ships or the frequency, route or configuration of such shipments". Moreover, in a letter to the Sacramento Area Council of Governments (SACOG) dated August 14, 2014, written in reaction to SACOG's DEIR response letter, Melissa B Hagan, on behalf of UPRR, writes "Neither SACOG nor its member agencies has authority to impose the mitigation measures or conditions proposed in the Draft Comment Letter on Valero Crude By Rail Project Environmental Impact Report". She goes on to quote California Attorney General Kamala Harris as stating that the Interstate Commerce Commission Termination Act (ICCTA) "preempts state environmental preclearance requirements such as those in the California Environmental Quality Act (CEQA)."

In summary, any language in the DEIR that purports to mitigate potential environmental damage related to rail transportation of crude by local, regional or state regulatory agencies, requests by Valero or voluntary measures by UPRR will be meaningless and should not become a part of the final DEIR. The only avenue for mitigation of these risks would be through federal regulations.

The transport of crude by any means necessarily involves risk, but that risk should be reduced to the greatest extent possible before this project is approved. This will require the finalization and implementation of pending new federal guidelines for high hazard flammable trains, design of new, safer tank cars (such as the Greenbrier HM-251, which has been described as twice as safe as a fully jacketed and insulated CP-1232 as judged by probability of release of cargo in a derailment), and possible pre-treatment of the crude oil to reduce its explosive potential. The implementation of Positive Train Control on routes that crude oil trains are expected to run on and the use of electronically-controlled pneumatic brakes (ECP) may also help reduce the risks of crude oil transportation.

Beyond regional, national and international concerns with crude by rail, we have a significant local issue that the DEIR should also discuss which is that of UPRR train derailment in Benicia.

On November 4, 2013 three train cars leaving the refinery derailed at Park Road, on the same spur line that is proposed to convey flammable/explosive North American crude. At the time it was described as a “sobering incident” by Diane Bailey of the Natural Resources Defense Council. Not sobering enough, apparently as two more cars left the UPRR track near the refinery on May 17, 2014. Stunningly a third derailment in Benicia occurred on September 7, 2014 when two locomotives derailed near the Benicia port.

The odds of three separate train derailments in such a small geographic area over such a brief period of time should be extremely small, suggesting the possibility that they occurred other than by chance alone. Is there an issue with track quality in Benicia ? If human error was involved will the same humans be supervising the oil trains ? These derailments, their causes and a detailed plan from UPRR for preventing any future similar derailments should form a part of the DEIR as they relate directly to 4.7.3.

II. Transportation and Traffic 4.11

I believe the DEIR to be inaccurate in assessing Significance criteria 4.11.3 'a' and 'b'.

The analysis is tainted by assuming that Valero's unit trains will be scheduled to cross Park Road only between 9:00 AM and 4:00 PM and 7:00 PM to 6:00 AM based upon the statement that Valero "would ask" UPRR to schedule their trains to cross Park during other than commute hours. My understanding of UPRRs Preemption Statement (Appendix L) is that in reality Valero may have no control over when the trains cross Benicia, and neither will the city of Benicia.

Under these circumstances it would seem more appropriate for the analysis to assume the worst case scenario in assessing significance, specifically the impact of the first daily train crossing between 7:15 and 8:15 and the second between 4:00 PM and 5:00 PM.

III. Air Quality 4.1

I don't believe that the DEIR adequately assesses the impact of the Project on local air quality. Although the study carefully lays out the baseline levels of air pollutants in Benicia based upon the Tuolumne Street monitor in Vallejo there is no direct discussion of how these levels would change if the Application were approved and what the incremental effect on air quality in Benicia would be. This omission has resulted in the widespread misconception that the Project will improve air quality here. It will not. Reading closely, emissions from the new unloading rack alone will generate 1.88 tons of fugitive ROG emissions yearly. Locomotives transporting the crude will generate another 1.7 tons of ROG, 33.04 tons of NO_x, 5.6 tons of CO, and smaller amounts of PM₁₀, PM_{2.5} and SO_x. These amounts, when averaged over the 6,000 square mile Bay Area Air Basin, are generally offset by a decrease in maritime emissions, but they will not be when averaged out over the 12.9 square land miles of Benicia. No data are provided on the current level of maritime pollutants reaching Benicia so it is not possible to say what the net effect of the project would be on local air quality. Logic would suggest that our exposure from a source within the city limits will be substantially greater than that from the downwind shipping lanes.

Without specific information on the effect of the Project on local air quality it will not be possible to exclude the possibility that it violates the City of Benicia General Plan (4.8.1 and 4.91). By the same token, Significance Criterion 4.1.3 may be met. According to the DEIR one of the three primary goals recommended by the BAAQMD for a lead agency evaluating a project is "reduce population exposure and protect public health".

Additionally the DEIR should include the negative contribution to air quality by vehicles queued up at the five intersections most likely to be affected by train crossings. As mentioned in section II, the estimation of the length of these queues should be based on a worst case scenario as the scheduling of the trains is beyond Valero's or Benicia's regulatory reach.

Lastly, I believe that it is wrong to designate people working or travelling in the Industrial Park area as a "buffer zone" rather than Sensitive Receptors, one definition of which is people that may have a significantly increased exposure to contaminants by virtue of proximity to the

contamination These people should not be ignored when the potential effects of new emissions due to the locomotives and the loading equipment are tallied. The expected long lines of people in vehicles waiting 8+ minutes for the trains to pass deserve the same consideration.

The DEIR should be revised to reflect the net effect of the Project on air quality in Benicia and offer any mitigation possible.

IV. Greenhouse Gas Emissions 4.6

I am concerned with a possible contradiction on this topic within the DEIR. On page 4.6-12, table 4.6-5 indicates that as a result of the Project, California CO2 Emissions would **increase** by 6,726 metric tons/year compared to the existing baseline levels. The City of Benicia has determined this to be acceptable despite the fact that it would seem contrary to its Climate Action Plan.

Yet Executive Summary 5, on page ES 5, states that "Compared to the Project, the No Project alternative would result in higher emissions of criteria pollutants and greenhouse gasses within California. Global greenhouse gas emissions would be higher with the No Project alternative than with the project. "

ES-5 would appear to be in error and should be revised in the next version of the DEIR.

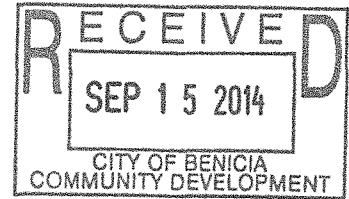
Thank you for your consideration;

James Egan

836-B Southampton Road, #271

Benicia, California 94510

September 15, 2014



Honorable members of the Planning Commission,

I am a resident of Benicia, a chemical engineer at the Valero Benicia Refinery & support the findings of the Draft EIR for the Valero Crude By Rail project.

Valero Benicia Refinery has a very strong safety culture, as evidenced by implementation of the Voluntary Protection Program (VPP) to enhance refinery and personnel safety.

Valero also is a solid community partner & is very committed to enhance education at Benicia Unified schools. Working with classroom teachers for more than 10 years, I personally have taught Junior Achievement classes (Consumer Economics, America Works, etc.) at Mary Farmer Elementary School, Benicia Middle School and Benicia High School. During this 2014 / 2015 school year, I will be teaching Junior Achievement Consumer Economics at Ms. Wildasin's class at Benicia High School.

In summary, I believe the Draft EIR for the Valero Crude By Rail project addresses the major issues and support its findings. The Valero Benicia Refinery has a strong safety culture & is a solid community partner.

Respectively submitted,

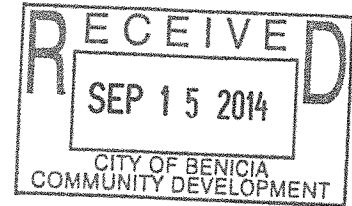
Greg Imazu

Amy Million - Crude By Rail

From: "Adam, Robert" <Bob.Adam@valero.com>
To: "AMillion@ci.benicia.ca.us" <AMillion@ci.benicia.ca.us>
Date: 9/15/2014 4:56 PM
Subject: Crude By Rail

Robert Adam
3400 East Second St.
Benicia, CA 94510
9/15/14

City of Benicia Planning Commission
C/O Amy Million (amillion@ci.benicia.ca.us)
250 East L Street
Benicia, CA 94510



Dear City of Benicia Planning Commission:

I am the Mechanical Engineering Manager at the Valero Benicia Refinery and assuring the safe execution of projects is my top priority each and every day. In my 31 years of engineering and management, 22 years have been in oil refining, leading projects where the selection of the project team was the key to the safe installation and operation of the facility.

The team selected to design, construct, and operate the new rail facilities for the Valero Crude By Rail Project are a collection of professionals, experts in their specific field, with track records of completing work safely. Valero's commitment to safety continues after the project is completed. Valero's recent re-certification by Cal-OSHA as a VPP Star Site demonstrates Valero's continuous commitment to safe operation.

You should feel confident that the new facilities will be built and operated to the approved design specifications that meet all regulatory and environmental compliance requirements. I urge you to vote favorably to support the Crude By Rail Project.

Sincerely,

Robert Adam



Community Development Department
MEMORANDUM

Date: September 15, 2014
To: **Valero Crude by Rail Project File**
From: Amy Million, Principal Planner
Re: Sacramento Area Residents Comment on DEIR

Template forms providing comments on the Valero Crude by Rail DEIR were submitted for the public record September 12 –15, 2014. Attached are a copy of the names and a sample of the template forms. Eight of these forms were submitted separately with space to provide additional comments on line #6. All remaining forms with comments numbered 1-5 are identical.

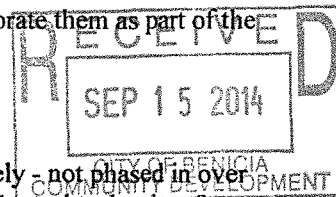
The individual completed forms are on file and available for review in the Community Development Department.

<u>Name</u>	<u>City</u>		
1. Karen Newton	Davis	33. Dorothy E. Orolin	Sacramento
2. Martha Pearson	Dixon	34. Cheryl Lynn Kraus	Sacramento
3. Terry Ermini	Sacramento	35. David Fontaine	Sacramento
4. Allegra Silverstem	Yolo County	36. Kathy Fontaine	Sacramento
5. Joan Saltzen	Davis	37. Joan Kelly	Sacramento
6. Lourdes T. Sadanaga	Davis	38. John Hanson	Carmichael
7. Rhodes	Davis	39. Janet Del Carlo	Carmichael
8. Cathy Cretser	Vacaville	40. Paul Harrington	Sacramento
9. Rita and Scott Decker	Elk Grove	41. Kayla Shadd	Citrus Heights
10. Michael Winslow	Sacramento	42. Dustin Harrison	Citrus Heights
11. River Nobles	Auburn	43. Gary Hall	Granite Bay
12. Nicole Martinez	Sacramento	44. Terry Ermini	Sacramento
13. Kim Moore	Sacramento	45. Michael Shimek	Sacramento
14. Diana Wallace	Sacramento	46. Earl Withycombe	Sacramento
15. Richard Harroun	Sacramento	47. Ganeze Trujillo	n/a
16. Dale Schuck	Sacramento	48. Dean Meadolera	Sacramento
17. Kiera Jordan	Auburn	49. Grant Baker	Orangevale
18. David S. Baker	Sacramento	50. Angelica Barcena	North Highlands
19. Roberta Jan-Johnson	Sacramento	51. Rita Simmersbach	Sacramento
20. Ngawang Gyayso	El Sobrante	52. Joyce Rietz	Sacramento
21. David Tiopan	El Dorado	53. Valerie J Martin	Sacramento
22. Paul Fong	Sacramento	54. Mary Olswang	Sacramento
23. Erijoli Johnson	Sacramento	55. Valerie Lerman	Sacramento
24. J. Haney	West Sacramento	56. Ruth Lindahl	Sacramento
25. Tara Sheen	Rio Linda	57. James Lerner	Sacramento
26. Barbara Steinberg	Sacramento	58. Eric Poston	Fair Oaks
27. Bridgitte Rivers	Sacramento	59. Nicolas A Carpio Ramos	Sacramento
28. Lenore Harrington	Orangevale	60. George Krigas	Sacramento
29. Paul Harrington	Orangevale	61. Chris Brown	Sacramento
30. Martha Turne	Sacramento	62. Carol Bailey	Pilot Hill
31. Cat Xia	Sacramento	63. Elizabeth O'Hara	Roseville
32. Abraham Martin	Sacramento	64. Linda Hunt	Roseville

Dear 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.

As a resident of Davis, here are some of my main concerns.



1. Will Valero guarantee that tank cars meet the DOT standards currently under review immediately - not phased in over years - so uprail communities are protected, plus implement the already mandated Positive Train Control technology?
2. What are the daily and cumulative impacts and risks of transporting two extreme crude oils - tar sands and Bakken crude - through each of our cities, through our sensitive habitats and over our water supplies?
3. What are the cumulative impacts of the Valero daily train in the context of the additional 3 daily oil trains being approved currently in Bakersfield and the one daily train to San Luis Obispo Co., all possibly traveling through Sacramento? Include the increased potential for spills, accidents, ghg emissions, conflicts of interest on the rails, and traffic congestion, etc.
4. Who carries the liability should there be a spill or accident of the oil trains en route to Benicia? Who carries enough coverage for a catastrophic incident? Will the taxpayers ultimately be responsible?
5. Why are the boundaries of the DEIR limited only to travel from Roseville to Benicia? Shouldn't the impact and risk analysis be extended at least to the borders of CA if not all the way to the extraction sites?

6. I'm very concerned about burning dirty crude.

Thank you,

Name: Karen Newton

Address:

Email: karen-luddite@comcast.net

Dear 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.

As a resident of Dixon, CA, here are some of my main concerns.

1. Will Valero guarantee that tank cars meet the DOT standards currently under review immediately - not phased in over years - so uprail communities are protected, plus implement the already mandated Positive Train Control technology?
2. What are the daily and cumulative impacts and risks of transporting two extreme crude oils - tar sands and Bakken crude - through each of our cities, through our sensitive habitats and over our water supplies?
3. What are the cumulative impacts of the Valero daily train in the context of the additional 3 daily oil trains being approved currently in Bakersfield and the one daily train to San Luis Obispo Co., all possibly traveling through Sacramento? Include the increased potential for spills, accidents, ghg emissions, conflicts of interest on the rails, and traffic congestion, etc.
4. Who carries the liability should there be a spill or accident of the oil trains en route to Benicia? Who carries enough coverage for a catastrophic incident? Will the taxpayers ultimately be responsible?
5. Why are the boundaries of the DEIR limited only to travel from Roseville to Benicia? Shouldn't the impact and risk analysis be extended at least to the borders of California if not all the way to the extraction sites?

6. WHEN do we get to use less oil instead of more?

Thank you,

Name: Martha Pearson

Address:

260 E. Mayes St.
Dixon, CA. 95620

Email: mentpear@yahoo.com

Dear 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.

As a resident of Sacramento, here are some of my main concerns.

1. Will Valero guarantee that tank cars meet the DOT standards currently under review immediately - not phased in over years - so uprail communities are protected, plus implement the already mandated Positive Train Control technology?
2. What are the daily and cumulative impacts and risks of transporting two extreme crude oils - tar sands and Bakken crude - through each of our cities, through our sensitive habitats and over our water supplies?
3. What are the cumulative impacts of the Valero daily train in the context of the additional 3 daily oil trains being approved currently in Bakersfield and the one daily train to San Luis Obispo Co., all possibly traveling through Sacramento? Include the increased potential for spills, accidents, ghg emissions, conflicts of interest on the rails, and traffic congestion, etc.
4. Who carries the liability should there be a spill or accident of the oil trains en route to Benicia? Who carries enough coverage for a catastrophic incident? Will the taxpayers ultimately be responsible?
5. Why are the boundaries of the DEIR limited only to travel from Roseville to Benicia? Shouldn't the impact and risk analysis be extended at least to the borders of California if not all the way to the extraction sites?

6. Be a forward thinking company and switch from fossil fuels to renewables or new energy.

Thank you,

Name: Terry Ermini

Address: 2443 Fair Oaks Bl. # 206
Sacramento, CA 95825

Email: Savitermini@yahoo.com

Dear 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.

As a resident of Yuba County, here are some of my main concerns.

1. Will Valero guarantee that tank cars meet the DOT standards currently under review immediately - not phased in over years - so uprail communities are protected, plus implement the already mandated Positive Train Control technology?
2. What are the daily and cumulative impacts and risks of transporting two extreme crude oils - tar sands and Bakken crude - through each of our cities, through our sensitive habitats and over our water supplies?
3. What are the cumulative impacts of the Valero daily train in the context of the additional 3 daily oil trains being approved currently in Bakersfield and the one daily train to San Luis Obispo Co., all possibly traveling through Sacramento? Include the increased potential for spills, accidents, ghg emissions, conflicts of interest on the rails, and traffic congestion, etc.
4. Who carries the liability should there be a spill or accident of the oil trains en route to Benicia? Who carries enough coverage for a catastrophic incident? Will the taxpayers ultimately be responsible?
5. Why are the boundaries of the DEIR limited only to travel from Roseville to Benicia? Shouldn't the impact and risk analysis be extended at least to the borders of CA if not all the way to the extraction sites?

6. Don't put lives at risk - think safety - first!

Thank you,

Name:

Allegra Silberstein

Address:

Allegra Silberstein
1248 Drummond St.
Davis CA 95618

Email: allegra@den.org

Dear 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.

As a resident of DAVIS, here are some of my main concerns.

1. Will Valero guarantee that tank cars meet the DOT standards currently under review immediately - not phased in over years - so uprail communities are protected, plus implement the already mandated Positive Train Control technology?
2. What are the daily and cumulative impacts and risks of transporting two extreme crude oils - tar sands and Bakken crude - through each of our cities, through our sensitive habitats and over our water supplies?
3. What are the cumulative impacts of the Valero daily train in the context of the additional 3 daily oil trains being approved currently in Bakersfield and the one daily train to San Luis Obispo Co., all possibly traveling through Sacramento? Include the increased potential for spills, accidents, ghg emissions, conflicts of interest on the rails, and traffic congestion, etc.
4. Who carries the liability should there be a spill or accident of the oil trains en route to Benicia? Who carries enough coverage for a catastrophic incident? Will the taxpayers ultimately be responsible?
5. Why are the boundaries of the DEIR limited only to travel from Roseville to Benicia? Shouldn't the impact and risk analysis be extended at least to the borders of California if not all the way to the extraction sites?
6. _____

Thank you,

Name: JOAN SALTZEN

Address: 3223 MORRO BAY
DAVIS, CA 95616

Email: j.saltzen@cal.net

Dear 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.

As a resident of DAVIS, CA, here are some of my main concerns.

1. Will Valero guarantee that tank cars meet the DOT standards currently under review immediately - not phased in over years - so uprail communities are protected, plus implement the already mandated Positive Train Control technology?
2. What are the daily and cumulative impacts and risks of transporting two extreme crude oils - tar sands and Bakken crude - through each of our cities, through our sensitive habitats and over our water supplies?
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5. Why are the boundaries of the DEIR limited only to travel from Roseville to Benicia? Shouldn't the impact and risk analysis be extended at least to the borders of California if not all the way to the extraction sites?
6. _____

Thank you,

Name: LORDEB T. SADANAGA

Address: 1307 SERKOVIA PL.
DAVIS, CA 95611

Email: LORD51@dcn.org

Dear 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.

As a resident of Davis, CA, here are some of my main concerns.

1. Will Valero guarantee that tank cars meet the DOT standards currently under review immediately - not phased in over years - so uprail communities are protected, plus implement the already mandated Positive Train Control technology?
2. What are the daily and cumulative impacts and risks of transporting two extreme crude oils - tar sands and Bakken crude - through each of our cities, through our sensitive habitats and over our water supplies?
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5. Why are the boundaries of the DEIR limited only to travel from Roseville to Benicia? Shouldn't the impact and risk analysis be extended at least to the borders of CA if not all the way to the extraction sites?

6. I am very concerned about the safety of these oil and bomb trains!

Thank you,

Name:

Address:

3011 Corona Dr.
Davis, CA 95616

Email: rhodos4764@att.net

Dear 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.

As a resident of Vacaville, CA, here are some of my main concerns.

1. Will Valero guarantee that tank cars meet the DOT standards currently under review immediately - not phased in over years - so uprail communities are protected, plus implement the already mandated Positive Train Control technology?
2. What are the daily and cumulative impacts and risks of transporting two extreme crude oils - tar sands and Bakken crude - through each of our cities, through our sensitive habitats and over our water supplies?
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5. Why are the boundaries of the DEIR limited only to travel from Roseville to Benicia? Shouldn't the impact and risk analysis be extended at least to the borders of California if not all the way to the extraction sites?
6. _____

Thank you,
Name:

Address:

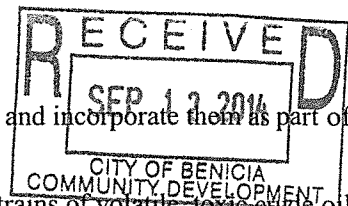
Cathy Cretser
7829 Tres Ranchos Ln.
Vacaville, CA 95688

Email:

cretsersc@hotmail.com

Dear 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.



As a resident of Sacramento, I live up-rail from the proposed Project. The two 50-car trains of volatile, toxic crude oil will come right through our downtown, passing close to schools, residences, and businesses. Here are my main concerns.

1. How will Valero guarantee that tank cars meet the DOT standards currently under review immediately - not phased in over years- so uprail communities are protected, plus implement the previously mandated Positive Train Control technology?
2. What are the daily and cumulative impacts and risks of transporting two extreme crude oils – tar sands and Bakken crude - through our cities, through our sensitive habitats and over our water supplies?
3. What are the cumulative impacts of the Valero daily train in the context of the additional 3 daily oil trains being approved currently in Bakersfield and the one daily train to San Luis Obispo, all possibly traveling through Sacramento? Include the increased potential for spills, accidents, ghg emissions, conflicts of interest on the rails, etc.
4. What is Valero's liability should there be a spill or accident on the oil trains en route to Benicia? Who carries enough coverage for a catastrophic incident? Will the taxpayers ultimately be responsible?
5. Why are the boundaries of the DEIR limited only to travel from Roseville to Benicia and not extended at least to the borders of CA if not all the way to the extraction sites? The impact and risk analysis area should be considerably extended.

Thank you,

Name: RITA & SCOTT DECKER

Address: 9152 LOCUST ST. City ELK GROVE, CA Zip 95624

Email: order-farie@yahoo.com



Community Development Department
MEMORANDUM

Date: September 15, 2014
To: **Valero Crude by Rail Project File**
From: Amy Million, Principal Planner
Re: San Francisco Baykeeper Online Petition

Template comments on the Valero Crude by Rail DEIR were submitted via email September 11-15, 2014. Attached are a copy of the names and a sample of the template email. All emails provided are identical.

The individual emails are on file and available for review in the Community Development Department.

<u>Name</u>	<u>City</u>	<u>Name</u>	<u>City</u>
1. Ken Lamance	San Francisco	46. Armarion's	San Francisco
2. Kevin L.	San Francisco	47. Francesca Bannerman	San Francisco
3. Jan Ellen Rein	San Francisco	48. Karen Hay	Petaluma
4. Jan Blum	San Francisco	49. Debra Seibel	San Francisco
5. Birgit Young	San Francisco	50. Susan Hampton	El Cerrito
6. Matt Richardson	San Francisco	51. Joseph Richman	Santa Clara
7. Dale Riehart	San Francisco	52. Lynn	San Francisco
8. Patricia Roca	El Sobrante	53. Cheryl Watson	Sacramento
9. Suzie Dods	San Rafael	54. Goordy	San Rafael
10. Bernard H.	San Rafael	55. Ayesha	Oakland
11. Karin	Graton	56. Laura Willoughby	El Cerrito
12. Susan	Belmont	57. Jen	Sausalito
13. Lynn	San Francisco	58. Mary Etta Moose	San Francisco
14. Eileen David	Daly City	59. Alicia Kern	Palos Verdes Peninsula
15. Dian	San Francisco	60. Lydia Choy	San Francisco
16. Elizabeth Kantor	San Francisco	61. Gretchen Whisen	Santa Rosa
17. Rebecca Geffert	San Francisco	62. Kent Smith	Sacramento
18. Brian Rush	Redwood City	63. Tom	Pepperell
19. Nel Benningshof	Richmond	64. Townsend	San Francisco
20. Sadie McFarlane	San Francisco	65. Dave Seaborg	Walnut Creek
21. Casey Strong	Berkeley	66. Maria	Newark
22. Matthew Cunharigby	Berkeley	67. Joseph	San Francisco
23. David Wolfson	Berkeley	68. Jack Brobbins	Berkeley
24. Paula Zerzan	Sonoma	69. Ellen	San Francisco
25. Wendy Oser	Berkeley	70. Valerie	San Carlos
26. Elizabeth	Davis	71. Patrick Kelley	Oakland
27. Danielle Jamine	Mill Valley	72. Freda (Los Altos, CA)	Los Altos
28. Kiana Ward	Richmond	73. Melinda Hawk	San Francisco
29. J.P. Sidney	San Francisco	74. Elizabeth	Berkeley
30. Dan Katzman	Clayton	75. Sharon	Mill Valley
31. Denise	San Francisco	76. Mike	Novato
32. Susan Kuehn	San Francisco	77. Arden	South San Francisco
33. Teresa	Redwood City	78. Kimberly	Oakland
34. Jason Sutton	Oakland	79. Chris Wilson	Oakland
35. Bonnie	Oakland	80. Gregg	Los Gatos
36. Rebecca Haseltine	San Francisco	81. David Rich	San Francisco
37. Steve	Kensington	82. Bev	San Francisco
38. Jess Dervin-Ackerman	Oakland	83. Leslie Swan	Benicia
39. James Kuhns	Sonoma	84. Melissa Davis	San Francisco
40. Jan	Benicia	85. Mary	Berkeley
41. Matthew Jennings	San Francisco	86. Nancy Carey	Benicia
42. Sally Howlett	Berkeley	87. Hilary Rand	San Francisco
43. Tandy Solomon	Piedmont	88. Susan Moore	San Leandro
44. Jon	Cazadero	89. Thomas	Palo Alto
45. Felix	San Francisco	90. Adrian Cotter	Oakland

Name

91. Michelle Gregor
92. Ri
93. Jennifer
94. Douglas Ferguson
95. Tamhas
96. Sheilah
97. Ian and Janeane Moody
98. Katrina Child
99. Karyl Hendrick
100. Azyadeth
101. Veronique
102. Shoshana Wechsler
103. Robert Most
104. Michael Andrew
105. Susan Harman
106. Patricia Young
107. Michele Rowe Sheilds
108. Sherri
109. Laurie Kossoff
110. Eduardo Martin
111. Nick
112. Lucy Ruszel
113. Leana
114. Judith
115. Kirk
116. Nathan
117. Gemevovee
118. Ali
119. Melanie

City

San Francisco
San Jose
Santa Margarita
Greenbrae
Martinez
Moraga
Sausalito
San Francisco
Fairfield
Pittsburgh
Berkeley
Kensington
Menlo Park
Richmond
Oakland
Oakland
Benicia
Davis
El Cerrito
Richmond
Richmond
Hayward
Oakland
Oakland
Menlo Park
Santa Cruz
Benicia
San Francisco
Sacramento

Name

120. Mary
121. Kellie Karkanen
122. Kathy
123. Carole
124. Susan Latham
125. Janel Hol
126. Hagen
127. Amy Meeussen
128. Nissa Kreidler
129. Jennifer
130. Kirsten Schwind
131. Jeff
132. Natalie Zarchin
133. Charles Freschl
134. Paula
135. Liz Martin
136. Jennifer Steele
137. Jennie
138. Guille
139. Nancy Wakerman
140. Lisa
141. David
142. Carole
143. Theresa Rettinghouse
144. Denise Lyons
145. Andria
146. Patty
147. Alan
148. Andrea Nyberg

City

Alameda
Walnut Creek
Winfield Park
San Lorenzo
San Francisco
San Francisco
Pacifica
Redwood City
San Francisco
Oakland
Pacifica
Foster City
El Cerrito
Walnut Creek
Mill Valley
Redwood City
Berkeley
San Francisco
Walnut Creek
San Francisco
Benicia
Albany
Hercules
Alameda
Berkeley
Oakland
San Francisco
San Jose
San Francisco

*** SAMPLE ***

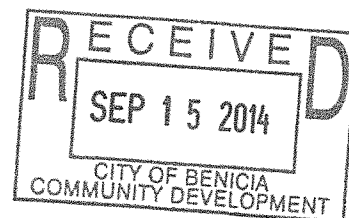
From: "Brian" <Briankang@icloud.com>
To: <amillion@ci.benicia.ca.us>
Date: 9/15/2014 3:59 PM
Subject: Please reject the EIR of the Valero Crude by Rail Project

September 15, 2014

Visitor

Palo Alto, CA

Amy Million
Principal Planner, City of Benicia, Community Development Department



Dear Ms. Million,

I respectfully urge the City of Benicia to reject the Draft Environmental Impact Report for the proposed Valero Crude by Rail project.

The Draft Environmental Impact Report should be rejected because it underplays numerous environmental and public safety risks of bringing in new crude oil by rail to the Valero refinery. For example, the report claims that the worst case scenario for simultaneously unloading 50 tank cars is that the contents of one tank will spill. The actual worst case could be far worse.

The draft report also projects that an oil spill in Suisun Marsh is unlikely, without supporting this assertion. In fact, the railroad tracks along Suisun Bay are built on loose sediment that could liquefy in a significant earthquake, causing the rails to buckle or collapse, and lead to a serious oil spill if a train were on the rails at the time.

Nationwide, the risk of oil spills from trains is high. Last year in the US, more than a million gallons of crude oil was spilled as a result of rail accidents. If the expansion of the Valero rail yard goes through, the residents of Benicia and the birds and other wildlife of Suisun Bay will be under threat of oil spills.

Moreover, the threat of an oil spill or explosion extends far beyond the community of Benicia. The Draft Environmental Impact Report completely leaves out impacts to San Francisco Bay's upper watershed, even though Union Pacific trains would be carrying oil through the hair-pin turns of river canyons that are home to salmon and many species of concern. The Valero refinery's proposed rail yard expansion puts San Francisco Bay, Suisun Bay, Suisun Marsh, our shorelines, and our upper watershed under threat of oil spills.

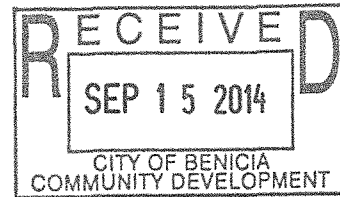
Every resident in the Bay Area has a stake in what the City of Benicia decides. Please reject the Draft Environmental Impact Report for the Valero Crude by Rail project, and please do not allow the expansion of the Valero refinery rail yard to go forward.

Sincerely,
Visitor

September 15, 2014

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



Dear Amy 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 Draft Environmental Impact Report (DEIR). In addition, please forward to the Planning Commissioners.

The project would allow Valero to accept up to 100 tank cars of crude oil daily in two 50-car trains. A typical tank car holds as much as 30,000 gallons of crude oil. This is the equivalent of two million sticks of dynamite or the fuel in a wide body jet liner, according to National Environmental Safety Board.

The DEIR fails to contemplate fully the risk factors of a catastrophic accident from transporting crude by rail on a daily basis from North Dakota to Benicia.

ES-4 and 3.4.1.3 Tank Cars

Current standards set by the Pipeline and Hazardous Material Safety Administration (PHMSA) regulate that crude oil shipped by rail must be shipped in tank cars built to DOT 111 specifications. These standards are inadequate and the United States Department of Transportation in July proposed revised standards that likely will not be in place until later next year.

DEIR states that Valero is committed to using only CPC 1232 tank cars-- the upgraded version of DOT 111 cars. In 2011 American Association of Railroads voluntarily imposed more stringent standards on the design of the DOT 111 tank cars—the CPC 1232 cars that Valero has “committed” to using. The new 1232 tank cars have thicker minimum ½ inch shells, higher tensile steel, protective head shields at both ends, consolidated top fittings under protective housing, and reclosing pressure relief valves.

The CPC 1232 tank cars are in short supply—only 14,000 new 1232 cars have been built since 2011—and demand is high among oil refineries rushing to bring crude oil to market. Industry admits that it will take 10 years to meet demand. The 1232 cars are have also proven inadequate and unsafe as 10 of 13 tank cars that derailed in Lynchburg VA in April 2014 were CPC 1232 tank cars and one of the three that exploded and spilled oil into the James River was a 1232 car.

In March 2014, the American Association of Railroads reversed its position and now recommends that the Department of Transportation require new tank cars to be built to meet specifications exceeding the CPC-1232 standard (as proposed by Edward Hamberg, President and Chief Executive Officer of AAR, speaking to the Senate

Commerce, Science, and Transportation Subcommittee on Surface Transportation and Merchant Marine Infrastructure in March 6, 2014).

The DEIR does not take into account that Valero might not have access to sufficient CPC 1232 cars. *How can Valero guarantee to use only 1232 cars when insufficient numbers exist and new cars are not being produced fast enough?*

Valero ultimately will have no legal control on what type of tank cars are used. Only the rail carrier, Union Pacific, will have ultimate control per Federal Exemption that provides all rail transportation carriers with the ultimate control of volume of product it ships, or the frequency, route, or configuration of such shipments. (Appendix L).

The DEIR fails to take into account the high risk that Union Pacific will use the legacy DOT 111 cars due to its increased availability and the limited supply of CPC 1232 tank cars. DOT 111 cars account for about 80% of crude oil by rail, according to the report Oil by Rail Safety in California, State of California Interagency Rail Safety Working Group, June 10, 2014. The non pressurized DOT 111 tank cars with their thin steel shells of less than ½ inch, head shields that are prone to puncture by couplers in collisions, valves on bottom of the car that may burst during an accident, and top valves and fittings poorly shielded that may open in a derailment or rollover are prone to rupture and explode when carrying hazardous crude oil. The original DOT 111 tank car was designed in the 1960s to carry corn syrup. Its safety flaws were pointed out in early 90s. In April 2014 Deborah Hersman, then Chair of the National Transportation Safety Board, asserted the DOT 111's design flaws "create an unacceptable public risk." DOT 111 cars have been responsible for most of the catastrophic cascade of accidents and explosions of transported crude oil that have occurred in North America over the last 14 months.

The DEIR needs to analyze the safety and environmental risks for the kinds of cars that Union Pacific will likely use transporting crude oil from North Dakota to Benicia.

Finally, the DEIR concludes that crude oil shipments by rail pose no "significant hazard." However, this conclusion is fundamentally flawed. The Department of Transportation on May 7, 2014 declared that crude oil shipments by rail pose not merely a significant hazard but an "imminent hazard":

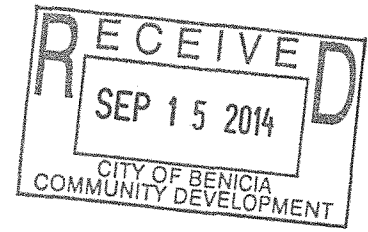
.....Specifically, a pattern of releases and fires involving petroleum crude oil shipments originating from the Bakken and being transported by rail constitute an imminent hazard under 49 U.S.C. 5121(d).

An "imminent hazard" is further defined as "*...the existence of a condition relating to hazardous materials that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable future...*".

I urgently urge the City of Benicia to substantially revise the DEIR for this project to address my concerns noted above.

Michele Rowe-Shields
560 Capitol Drive

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



Dear 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.

I wish to address the issue of "trade secrets" and how claiming secrecy prevents the real dialogue that must happen in Benicia and every community the oil trains pass through from the points of origin of the crude oil purchased by Valero refinery if this project is to be fairly considered. Despite the "trade secret" status, we know that Valero is likely to purchase Bakken Crude from North Dakota and tar sands from Alberta Canada, two extreme crudes with devastating environmental impacts that should make every Californian wary. We do not need to know the particular amounts or locations, the "secret" recipe that another refinery might wish to mimic or steal, only the general categories Valero is planning to bring in via rail for the real discussion to begin.

From there, we can examine the risk of spills that cannot be cleaned up as the heavy tar sands bitumen sinks within hours into rivers and pollutes the water. All three proposed routes crossing the borders into California involve crossing our major rivers and sources of agricultural and drinking water, especially precious during drought years. The example of the Kalamazoo River spill comes to mind, which after over one billion dollars and four years is still not nearly cleaned up.

Or we can study the massive amounts of by-product pet-coke that is produced that is worse than coal to burn, which our government will not allow to be burned in this country but is willing to let refineries sell it to markets such as China to burn in "their" atmosphere. It is stored in uncovered piles while awaiting shipment, and often blows particulates into the air of surrounding neighborhoods, which has caused some recent law suits.

We can also study the impacts of importing Bakken Crude through communities large and small all across the country with its high volatility as evidenced by numerous accidents and resulting fires and explosions in the last 18 months. Lac-Megantic was not even close to a worst case scenario as it was a small town at night, yet 47 people lost their lives.

Valero has graciously offered to move its Bakken crude only in 1232 tank cars, which are presumably safer than the older DOT 111 tank cars. We don't yet even know what the results of the DOT proposed safety rule-making will be, but we do know that none of the tank cars proposed will prevent the breaching and subsequent explosions for cars of Bakken crude going 30, 40, and 50 miles per hour on the tracks. There are no safe tank cars. So far, the railroads are only willing to lower their speeds in large populated areas to 40 miles per hour, leaving smaller communities at higher speeds.

There is a solution that would lessen the volatility and therefore the danger considerably. In Texas it is required before the shale gas there is shipped. It requires infrastructure which costs money. The stabilizer towers strip out the top 3% of liquid natural gases, the most volatile ones, and ship them by pipeline for other uses. The remaining gas is far less flammable, and their trains are not exploding.

In N. Dakota the industry is unwilling to consider the needed infrastructure and neither our federal government nor N. Dakota is holding them accountable to this safety measure to protect millions of lives. In short, we the people are acceptable collateral damage so the gas companies can maximize their profits. If this were happening in a third world country, we would label this immoral.

Valero chooses the crude it purchases, presumably purchasing the best buy on the market day to day and apparently not taking into consideration the ethics of the gas companies. This is part of the conversation this DEIR should allow. Valero is choosing to bring dangerous shipments of Bakken crude through our neighborhoods and communities without our consent by pretending "trade secrets" won't allow them to tell us what they are importing. All the communities deserve a chance to discuss this important decision carefully, especially in light of there being a solution to the high risk. What if a train derailed in any of the highly populated areas uprail from Benicia and an explosion resulted? The City of Davis in particular has a configuration in its track that is particularly dangerous making it a likely spot for such a derailment right in the center of our downtown and neighborhoods. At the very least, the DEIR must be revised to accommodate a thorough examination and discussion of these serious issues. Throwing a bit of money at emergency preparedness training does little to address the true risks involved.

A follow up issue, is whether there is in place clear proof of insurance for various kinds of disasters that could reasonably happen as the trains come over mountain passes and old bridges and through cities and towns. We have seen already that the coverage has been inadequate in some places in the country, and in Lac-Megantic the railroad went bankrupt immediately. The DEIR should include the concrete plans not only for Benicia but for uprail communities and habitat.

Is it possible that bringing the crude by marine delivery is actually the best mode of transport? The promise that overall there are emission reductions seems shaky. Are they comparing a boat trip from Saudi Arabia to Benicia with a train trip from Roseville to Benicia? What if they compared a trip from Alaska to Benicia by boat instead? Boats emit far less emissions in general, unless the trip is much longer. Please study this option more carefully.

Finally, what assurance is there that the total amount of crude processed at the Valero plant will not increase now or in the near or long term future? The state of California has been dramatically dropping its consumption of gas each year through conservation, so we need less, not more of this product. We do not need Valero to have in its plans an expansion. For this DEIR Valero has very carefully promised this is only trading marine delivery for rail delivery. Can Valero assure us that is all they plan, that there will not be requests for additional trains shortly once the door is open? We need a firm commitment that there will be no gradual increase in trains making their way to Benicia as the Valero plant ramps up production.

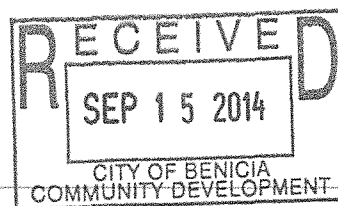
Thank you for your consideration of these points.

Sincerely,

Lynne Nittler
2441 Bucklebury Road
Davis, CA 95616
lnittler@sbcglobal.net

Amy Million - Please incorporate by reference...

From: <rogrmail@gmail.com>
To: "Amy Million" <amillion@ci.benicia.ca.us>
Date: 9/15/2014 4:54 PM
Subject: Please incorporate by reference...



Amy – Please incorporate by reference for the record and for the consultant to answer as part of the DEIR process all of my comments and questions on Valero Crude By Rail previously submitted (during consideration of the IS/MND, the EIR Scoping period, and between Scoping and opening of public comments on DEIR).

Please also incorporate by reference, all comments and questions offered during those same periods by others critical of Valero's proposal and the DEIR, including but not limited to:

- Marilyn Bardet
- Jan Cox-Golovich
- Kat Black
- Kathy Kerridge
- Constance Beutel
- Pat Toth-Smith
- Dan Smith
- Nancy Steele
- Bea Reynolds
- Sabina Yates
- Larnie Fox
- Mary Frances Kelly Poh
- Nikki Basch-Davis
- Priscilla Whitehead
- David Jenkins
- Donna Fernandez
- Jennifer Cimaglio
- Dana and Jim Green
- Lynne Nittler and other residents of Davis, Sacramento and Roseville
- Diane Bailey
- The Natural Resources Defense Council
- Dr. Phyllis Fox
- The Goodman Group

Thank you.

Roger Straw
Benicia, CA