

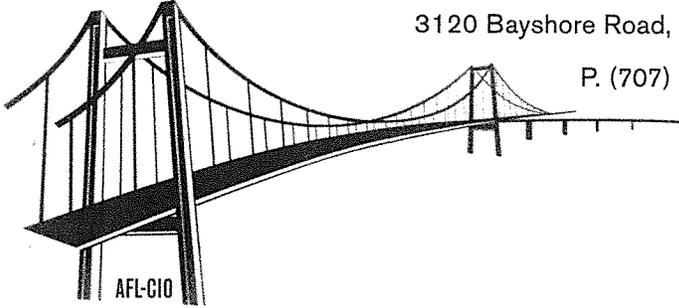


# IRON WORKERS LOCAL 378

UNION OFFICE OF BRIDGE, STRUCTURAL, ORNAMENTAL AND REINFORCING

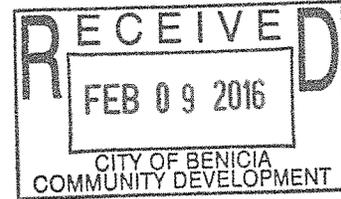
3120 Bayshore Road, Benicia CA 94510 | [www.ironworkers378.org](http://www.ironworkers378.org)

P. (707) 746-6100 | F. (707) 746-0979



February 8, 2016

City of Benicia Planning Commission  
250 East L Street  
Benicia, CA 94510



**Robert J. Lux**  
*President  
Business Agent*

**Jeff McEuen**  
*Business Manager  
Financial Secretary-  
Treasurer*

**Jason Gallia**  
*Vice President/  
Business Agent*

**Ken Miller**  
*Business Agent/  
Organizer*

To whom it may concern,

My name is Jeff McEuen. I am the Business Manager of Iron Workers Local Union 378; we are a neighboring property owner to the rail line and the Valero facility and we are within the immediate vicinity to this proposed project.

I am here to state that Iron Workers Local 378 is withholding support to this project until we receive more information and assurances from Valero as to the safety of the 1,250 Apprentices being trained at our Iron Workers Apprenticeship Training Facility at this time.

Sincerely,

  
Jeff McEuen  
Business Manager  
Financial Secretary/Treasurer

JM: ab  
opciu-29/afl-cio

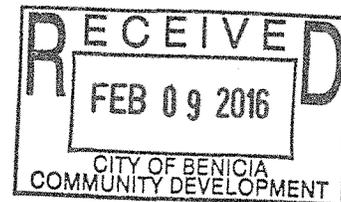
# 350

s a c r a m e n t o

PO Box 161677 • Sacramento, CA 95816 • info@350sacramento.org

February 8, 2016

City of Benicia  
250 East L Street  
Benicia, CA 94510



Dear Mayor Patterson and Members of the City Council,

Please accept these comments on the Valero Benicia Crude by Rail Project on behalf of 350 Sacramento. We are writing to add our voices to those of others from uprail communities, including the Sacramento Area Council of Governments (SACOG), the County of Yolo, and innumerable individuals and organizations. We urge you to deny approval to this project.

350 Sacramento, a local grassroots nonprofit organization, works to address the threat of climate change. We are extremely concerned about this project, which would transport 70,000 barrels of volatile crude oil by rail through our community each day. These trains pose a great danger to hundreds of thousands of people along their route, including the 13,000 students at 17 SCUSD schools located within the 1-mile evacuation/blast zone. We are also very concerned about the pollution that will result from these trains, and the long-term climate effects from the fossil fuels being transported.

The FEIR is inadequate, and has done a minimal job in addressing the concerns so thoughtfully expressed by agencies and public alike, or the significant and unmitigable impacts identified in the FEIR. By dismissing the risks posed to uprail communities with the claim of preemption, the City of Benicia shrugs off all responsibility for the potential horrors that could result from your decision.

Imagine, if you will, a 100-car unit train filled with volatile crude oil traveling through Sacramento along 19th Street. It would not take much—a texting driver who doesn't stop, a warped track, an earthquake, or any number of unanticipated occurrences—to cause the train to derail and explode. Would this explosion be near a school (imagine the terror!) or the Capitol with legislators in session, in a peaceful neighborhood or a business district? How many hundreds or thousands of people would be burned, poisoned, traumatized, their lives destroyed? Lac-Megantic, a town of only 6000 people, lost 47 to a fiery death due to an oil train derailment, plus the downtown had to be relocated due to contamination, with a cost of over \$2 billion. What would happen in a highly populated city like Sacramento? Do you in Benicia have responsibility for this? Would you be able to sleep at night, knowing you had made the decision that allowed

such a tragedy to happen?

It is time to fully consider such decisions, to think about the morality and responsibility of allowing hundreds of thousands of people to be subjected to extreme danger every day, to live in fear every day, all for one city's short-term economic gain and 20 jobs. And it is time to fully consider the long-term climate effects of your decisions—drought, flooding, melting icecaps, sea level rise... We urge you to protect your neighbors and future generations.

While your attorney may advise you that such moral questions are not in your purview, indeed they are the very core of the issue in front of you under CEQA. The FEIR identifies 11 impacts that are significant and unmitigable. As the people designated by law to decide whether Valero can go ahead with these unmitigable activities, knowing full well the possible consequences, you will be responsible for them.

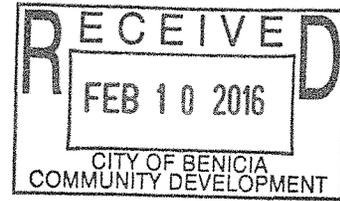
It is in your power to deny the permit for this project. We urge you to find the courage to do so.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Litman". The signature is written in black ink and includes a long horizontal flourish at the end.

Laurie Litman  
President, 350 Sacramento

**Feb. 9, 2016 — Planning Commission hearing on Valero Crude By Rail Project FEIR  
BSHC Presentation**



**Good evening, Chair Dean and Commissioners,**

I appreciate your service to the community during this arduous CEQA process and the difficulties and pressures of your duty now. I also appreciate the many Benicians and the public from communities uprailand who have or will testify and/or submit written comments on this document, including major venerable environmental organizations, public agencies, Sacramento Area Council of Governments and the City of Davis. There are too many to credit here for their tremendous efforts, but I thank all for their collective concerns and valued input.

In these hearings, your deliberations on the Final EIR — a serious and difficult task — must determine if this document passes the CEQA test for adequacy.

The judgments of this commission will be far-reaching, *and in perpetuity*. The Project will put at risk tens of thousands of Californians and populace in other states, 365 days a year in rural, suburban and urban communities. It will put at risk wildlife, precious wetlands, waters and forest — spectacularly vulnerable landscapes. It has no end date, and once in place may continue for generations. CEQA is imposed in this process BECAUSE of the risks to health, safety and the environment. It is the City's responsibility to get this decision Right.

As a local old-timer has aptly remarked, "Not since WWII has a decision made in Benicia been as important as the one to be made on this Project." And the first decision to be resolved in this process is the CEQA issue.

You must analyze the adequacy of the EIR, not by your standards, but by the standards imposed by CEQA — that is the law.

I urge you to put aside any personal opinion on the validity of the Project moving forward — CEQA is not about a PRO or CON vote on the Project. The standards for certification reside with CEQA.

I — and many of the Public — have determined that the EIR fails this test. I am confident that upon your careful examination, each of you will reach this same conclusion.

The Final EIR fails as previous drafts fail. The FEIR cannot be certified "as is". The FEIR's flaws remain striking and fundamental.

The majority of the Responses refute, reject or evade commenters' concerns by re-asserting stock claims, limited analyses and narrow, conclusory arguments provided in the Draft EIR and Revised EIR.

Most damaging are the Lead Agency's and Valero's legal opinions on the scope and breadth of federal Preemption and Trade Secret Law. Those opinions undermine the legitimacy of the FEIR under CEQA and cause its ultimate failure. Such opinions are deployed throughout the discussions "as fact" intended to settle public concerns. The impact of these opinions leave the City with no feasible Project Alternatives—let me repeat — with NO FEASIBLE PROJECT ALTERNATIVES — and no feasible and enforceable mitigations, and, leave City decision-makers without options to regulate significant aspects of the Project.

Those same legal opinions force an "all or nothing" choice — "up or down" — a choice between the Project "as is" or the "No Project Alternative."

The FEIR does not support how the Project overall reflects the Benicia General Plan's overarching goal for sustainable development, nor how the Project comports with the California Global Warming Solutions Act, AB32.

Let's talk about the one environmental benefit of the Project — a purported GHG reduction. However, those claimed "savings" are not based on the full facts. The analysis did not account for the number of ship deliveries eliminated by the Project. It didn't measure GHG emissions resulting from the Refinery's processing of the oils imported by the Project. Project-related GHG emissions from all sources, direct and indirect, must be calculated and were not.

On top of the erroneous GHG calculation, Valero's future intended use of its port has a serious consequence for emissions. When you take away a number of ships coming into Valero that would be eliminated by importing crude by rail, you would open up the port and shipping lanes for outbound ships exporting refinery products. **Such a shipping enterprise envisioned for exporting product overseas, including gasoline, would be dependent on freeing up significant port capacity, which a rail project would achieve.**

This must be analysed with respect to the EIR's misleading Project Objectives #1 and #2, which appear to narrowly stress the desire to access North American-sourced crudes. But given the plunged price of oil, that emphasis is now misplaced. Low priced crude can be accessed anywhere in the world for the indefinite future, by ship. Yet the important, basic subject of port utilization, as related to the Project, wasn't disclosed in the Project Description. Is this a much larger Project being segmented into sequential phases?

I propose that Valero would want to maximize port use to the extent possible in this economy if the Rail Project were to be permitted, thus allowing for ships exporting product. Valero's successful bid in 2010 to have their port designated a "Free Trade Zone" evidences their intent.

A rail project would enable Valero to increase exports via the port. This is an indirect consequence of the Project and offsets the EIR claim of GHG savings under the Project. And, a ramped up *export* operation would allow greater production above current levels. In any case, the export option should have been disclosed as a potential, foreseeable future contributor to

cumulative emissions impacts of the Project “in perpetuity.” Shipping gasoline and emissions overseas would hardly reduce the Refinery’s carbon footprint.

A discussion of this potential scenario was outlined in the Petra Pless Letter submitted as Attachment B of the the Adams Broadwell law firm’s submission written on behalf of SAFER California. [FEIR p. 3.5-117] I urge each commissioner to go back and carefully read this Pless report because it is crucial.

Other failures to disclose include projects in planning stages that would foreseeably contribute to cumulative impacts of the Project:

- Seeno development plans for 527 acres north of the Refinery have been on the City’s radar since at least April 2015. Staff received an application from West Coast Home Builders for initiating a general plan zoning amendment to permit residential as part a mixed use business park.
- The ORCEM development application for a cement plant at Mare Island in Vallejo, a project subject to CEQA. That EIR raised serious concerns regarding Air Quality and traffic impacts anticipated on I-780 and I-680.

Why were these projects not identified and discussed?

**I will summarize basic failures of the document is inadequate for CEQA certification:**

- Failure of misleading and limited Project Objectives that do not disclose all the reasons or intentions of the Project and thus undermine everything else that flows from them.
- Failure of the Project Description, causing all other claims, evaluations and conclusions of impact analyses to fail.
- Failure to provide feasible, effective and enforceable mitigations for significant impacts in Benicia including to the industrial park and port, and to uprail communities associated to Air Quality, Biological Resources, Hazards and Hazardous Materials, Soil & Geology, Hydrology and Water Quality, Cultural Resources, and GHG Emissions.
- Failure to disclose specific information crucial to assessing potential risks and impacts resulting from the Project’s operations — rail transport of oil and, indirectly, the processing of Project-related changed crude slates potentially impacting local and regional Air Quality and public safety.
- Failure to provide feasible and reasonable Project Alternatives that would effectively reduce significant, direct and indirect impacts, as well as cumulatively considerable impacts.

- Failure to discuss “urban blight” owing to perceptions of the industrial park becoming a “rail yard”, a “Local Undesirable Land Use” with increased risk affecting other surrounding businesses and driving other prospective businesses away.

Thank you for your attention and consideration of these comments.

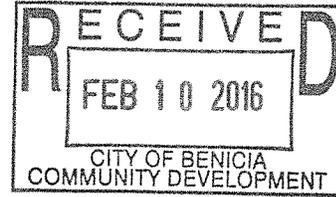
Marilyn Bardet  
on behalf of Benicians For a Safe and Healthy Community

333 East K Street  
Benicia

February 10, 2016

*Via email to*

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



Re: The Valero Benicia Crude-by-Rail Project

Dear Ms. Million and Planning Commissioners,

We appreciate the careful attention the Planning Commission has given the Valero Benicia Crude-by-Rail Project (the Project) during the public hearing that began on February 8, 2016. In light of the issues raised at the hearing on February 8 and 9, we submit the following comments. Further, to the extent that the Commission needs additional time to consider this Project in light of the significant number of public comments, the complex legal issues, and the Project's numerous significant impacts, it should continue the hearing to a later date.

As we have previously explained in our February 8, 2016, October 30, 2015, September 14, 2014, and other letters, the Environmental Impact Report for this Project is inadequate under the California Environmental Quality Act (CEQA). The Project is also inconsistent with the City's General Plan and the Benicia Municipal Code. Nothing in federal law preempts the City from declining to certify the EIR and denying the use permit for the Project. Accordingly, the Planning Commission should:

1. Decline to certify the EIR
2. Deny the use permit for the Project
3. Adopt findings similar to those described below

According to the staff report and the EIR, the Project will have 11 significant and unavoidable impacts related to rail, listed on page 30 and 31 of the staff report. Although we disagree that these are the only significant impacts from the Project and that they cannot be mitigated, at the very least, the City should find that the 11 impacts listed on those pages require denial of the permit for the Project. The City is not preempted from denying the Project based on concerns about rail impacts.

**NATURAL RESOURCES DEFENSE COUNCIL**

111 SUTTER STREET | SAN FRANCISCO, CA | 94104 | T 415.875.6100 | F 415.875.6161 | NRDC.ORG

The City should also find that there are other impacts—**completely separate from and unrelated to the 11 significant rail-related impacts listed above**—that require, on their own, denial of the permit for the Project.

- **Air Quality – Refinery Emissions**
  - The Project would increase refinery emissions by increasing refinery throughput. Because the proposed reduction in crude from ships is not an enforceable condition of approval for the Project, the City must assume continued ship traffic at current levels. NRDC September 14, 2014 letter at 4-5, 33-34; NRDC October 30, 2015 letter at 1-2, 11; NRDC February 8, 2016 letter at 1-2.
  - The Project would increase refinery emissions, including emissions from storage tanks, by increasing the proportion of dirty and/or volatile crudes. NRDC September 14, 2014 letter at 5-20, 33-34; NRDC October 30, 2015 letter at 2-4, 11; NRDC February 8, 2016 letter at 1-2.
  
- **Air Quality – Non-rail Transportation Emissions**
  - The Project would not reduce ship traffic at the port, so there will be no “offset” of marine transportation emissions. Nothing in the proposed Project or conditions of approval require ship traffic to decrease. NRDC September 14, 2014 letter at 20-21, 33-34; NRDC October 30, 2015 letter at 11; NRDC February 8, 2016 letter at 1-2.
  
- **Air Quality – Construction Impacts**
  - The Project would have significant construction emissions. NRDC September 14, 2014 letter at 24-26, 32-33.
  
- **Environmental Justice**
  - The Project would have a disproportionate impact on low-income communities and communities of color due to the increase in refinery emissions. *See, supra*, sections re air quality; NRDC October 30, 2015 letter at 7.
  
- **Hazards – Crude Unloading and Other Activities on Valero Property**
  - The Project would pose a significant hazard risk due to the risk of a spill or accident during the offloading process or other activities on Valero property. These risks are similar in nature and severity to the risks posed along the rail line. *See* NRDC September 14, 2014 letter at 34-36, 37-46; NRDC October 30, 2015 letter at 12-15.

- **Water Quality**
  - o The Project would pose a significant risk of oil spills, especially to the Sulphur Springs Creek riparian corridor, during offloading or other activities on Valero property. *See* NRDC October 30, 2015 letter at 10.
  
- **Biological Resources**
  - o The Project would pose a significant risk to wildlife, especially special-status species in the Sulphur Springs Creek riparian corridor, due to the possibility of spills during the offloading of crude or other activities on Valero property. *See* NRDC October 30, 2015 letter at 26.
  
- **Noise**
  - o The Project will have significant noise impacts due to unloading and other activities on Valero's property. *See* NRDC September 14, 2014 letter at 50-51.

Under Benicia Municipal Code section 17.104.060, the Planning Commission cannot approve a use permit unless it can make the following findings:

1. That the proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located;
2. That the proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will be consistent with the general plan and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of such use, nor detrimental to properties or improvements in the vicinity or to the general welfare of the city;
3. That the proposed conditional use will comply with the provisions of this title, including any specific condition required for the proposed conditional use in the district in which it would be located.

As explained above, for reasons both related to rail and not related to rail, the Project will be “detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood,” will be “detrimental to properties or improvements in the vicinity,” and will be detrimental “to the general welfare of the city.”

Furthermore, the Project is inconsistent with the City's General Plan, both because of rail-related and non-rail-related impacts:

- **GOAL 2.5:** Facilitate and encourage new uses and development which provide substantial and sustainable fiscal and economic benefits to the City and the community while maintaining health, safety, and quality of life.

- For reasons both related and unrelated to rail impacts, the Project does not maintain the health, safety, and quality of life of the community.
- **GOAL 2.6:** Attract and retain a balance of different kinds of industrial uses to Benicia.
  - Policy 2.6.4:** Link any expansion of Industrial land use to the provision of infrastructure and public services that are to be developed and in place prior to the expansion.
  - Policy 2.6.5:** Establish and maintain a land buffer between industrial/commercial uses and existing and future residential uses for reasons of health, safety, and quality of life.
    - The Project does not contribute a “balance” of different kinds of industrial uses. Instead, it increases Benicia’s reliance on one oil company, an industrial use that will inevitably face decline as the country moves away from fossil fuels.
    - There is already an inadequate buffer between the refinery and existing residential uses; this Project does nothing to improve the buffer.
- **GOAL 4.1:** Make community health and safety a high priority for Benicia.
- **Policy 4.1.1:** Strive to protect and enhance the safety and health of Benicians when making planning and policy decisions.
  - Increasing the ability for a refinery to import dirty and dangerous crudes does not protect and enhance the safety and health of Benicians. The Project hinders, not furthers, this goal.
- **GOAL 4.7:** Ensure that existing and future neighborhoods are safe from risks to public health that could result from exposure to hazardous materials.
- **GOAL 4.8:** Protect sensitive receptors from hazards.
  - Policy 4.8.1:** Evaluate potential hazards and environmental risks to sensitive receptors before approving development.
    - The risks of this Project are clear. In fact, the City’s own EIR claims that they are significant and unavoidable as to rail impacts. Furthermore, the refinery air quality impacts of the Project are also significant, even though they remain unanalyzed. Thus, approval of the Project conflicts with these goals entirely.
- **GOAL 4.9:** Ensure clean air for Benicia residents.
  - The City’s EIR has steadfastly refused to even consider the air quality impacts this Project will cause, either by increasing throughput at the refinery or increasing the proportion of dirtier or more volatile crudes. The Project fails entirely to meet this goal.

- **Climate Action Plan Analysis/Consistency.**
  - The Project is inconsistent with the City's Climate Action Plan because it will increase greenhouse gas emissions, both from the refinery and from the transport of the crude by rail.

In sum, the City cannot approve the Project because the EIR is inadequate under CEQA. The City should deny the use permit for the project because the benefits of the project do not outweigh the significant impacts (both related to rail and not related to rail), as required by Public Resources Code section 21081. The City should also deny the Project because it is inconsistent with the General Plan and Benicia Municipal Code section 17.104.060, both because of impacts related to rail and impacts not related to rail. The City can, should, and *must* deny the permit for this Project.

Sincerely,

Jackie Prange, Staff Attorney

Natural Resources Defense Council

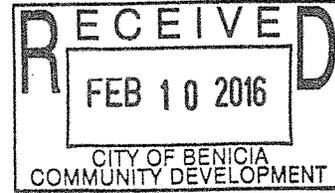
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Francisco J. Castillo, Jr.  
Director, Public Affairs  
Corporate Relations

February 10, 2016

Members of the Planning Commission  
City of Benicia



Mr. George Oakes, Sr.  
Ms. Belinda Smith  
Ms. Susan Cohen Grossman  
Mr. Rod Sherry  
Ms. Suzanne Sprague  
Mr. Don Dean  
Mr. Steve Young

Attn: Ms. Amy Million  
250 East L Street  
Benicia, California 94510

**Re: Valero Crude by Rail Project**

Dear Commissioners:

The Union Pacific Railroad Company (Union Pacific) appreciates this opportunity to comment on Valero's Crude by Rail Project. Union Pacific has enjoyed a longstanding and strong relationship with the community of Benicia and greatly appreciates the cooperation extended to us over the years. As the largest Class I railroad in the United States, we make safe operation of our trains our highest priority.

During the hearing on Monday February 8, 2016, one of the Commissioners asked me a number of questions I was not able to answer so I requested more time to respond. I promised to come back the next evening with responses. However, on Tuesday evening I was not called upon to provide those answers. The questions were important ones and merit a response, which I now provide in this letter.

**Insurance**

One question related to who will pay for cleanup in the event of a spill, and whether Union Pacific has adequate insurance to cover such costs. The "who pays" question depends on who is at fault. However, both Valero and Union Pacific are Fortune 500 companies with sufficient assets to cover the cost of the worst case spill, as defined by the State of California.

Union Pacific is self-insured. Union Pacific's net worth is \$21 billion. The Company has \$52 billion in US assets. This information is on file with the Securities and Exchange Commission and is available on Union Pacific's website. [http://www.Union Pacific.com/investor/sec\\_filings/](http://www.Union Pacific.com/investor/sec_filings/)



As required under SB 861, Union Pacific has submitted its Inland Oil Spill Contingency Plan and an application for Certificate of Financial Responsibility to the State of California. The financial responsibility submission uses the State's process for estimating the cost of cleaning Union Pacific a worst case spill and demonstrates that Union Pacific has sufficient financial resources to pay for cleanup.

The Inland Oil Spill Contingency Plan and the Certificate of Financial Responsibility will become readily available once they've been approved by the State of California.

More information can be found at

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140SB861](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB861)

### **Track Classification**

Track classification is based on quality of track, and considers the track:

- Roadbed
- Geometry
- Structure
- Appliances and track-related devices
- Inspections

More information can be found at <https://www.law.cornell.edu/cfr/text/49/part-213/subpart-A>

The better the roadbed, track geometry, appliances and inspections, the higher maximum speed is allowed. The Martinez Sub is a double track railroad with segments that are designated FRA Class 3, 4 and 5, which can accommodate freight speeds as high as 70 mph, and passenger speeds as high as 79 miles per hour. But Union Pacific does NOT operate oil trains at that speed—our crude trains never exceed 50 mph, even though this is high quality track.

There is one segment (0.8 miles) of FRA Class 1 track on this route. That track connects the Martinez Sub to the Sacramento Sub. The 10 mph speed limit is based on sharpness of the connecting curve in that area, not the condition of the track.

### **Notification Requirements (PHMSA and SB 380)**

Commissioners asked several questions about notification in the event Union Pacific is hauling crude oil, and in particular Bakken crude. Although Union Pacific does not currently haul Bakken crude in California, if requested to do so by a customer, Union Pacific would be required to do so if the commodity was properly packaged, due to Union Pacific's status as a railroad common carrier. In that event, notice to the State and local authorities would be required.

- **Federal Regulations:** Union Pacific notifies the State Emergency Response Commission (SERC) for each state, in accordance with the Federal Emergency Order issued on May 7, 2014, if it is shipping a certain amount of Bakken crude. We will fully comply with the emergency order, which also requires notification of any material change. More

information can be found at <https://www.transportation.gov/briefing-room/emergency-order>

- **PHMSA and FAST:** In addition, the recently promulgated PHMSA rules and the FAST Act control our actions relative to notice regarding shipments of hazardous materials and crude. At the end of 2015, Congress enacted the “Fixing America’s Surface Transportation Act,” commonly referred to as the FAST Act, which requires that rail carriers to provide extensive notice and emergency response information to state and local authorities, including generating accurate, real-time, and electronic train information, such as the identity, quantity, and location of hazardous materials on a train; the point of origin and destination of the train; emergency response information and resources and identification and a description of the Class 3 flammable liquid being transported on such trains. More information can be found at <https://www.congress.gov/114/bills/hr22/BILLS-114hr22enr.pdf>

Similar information is required under PHMSA regulations, which require trains carrying large volumes of flammable liquids to operate at reduced speeds, employ enhanced braking systems and adhere to special routing requirements. More information can be found at <http://www.phmsa.dot.gov/DOT-Announces-Final-Rule-to-Strengthen-Safe-Transportation-of-Flammable-Liquids-by-Rail>

These laws also recognize the importance of maintaining the confidentiality of this information for security purposes.

- **California Law:** Union Pacific must submit to the State Office of Emergency Services (OES), on a quarterly basis, estimates of the amount of hazardous materials being shipped through each county. It must also provide a summary report of its hazardous materials emergency response plan to local authorities. More information can be found at [http://www.leginfo.ca.gov/cgi-bin/displaycode?section=hsc&groUnion Pacific=25001-26000&file=25547-25547.8](http://www.leginfo.ca.gov/cgi-bin/displaycode?section=hsc&groUnion%20Pacific=25001-26000&file=25547-25547.8)

## **Emergency Response Plan**

A number of questions were also asked about emergency response planning. As you know, preparation is critical to an appropriate incident response, that’s why our Hazardous Materials Management Group develops the Union Pacific Hazardous Materials Emergency Response Plan (HMERP). The HMERP is a performance-based plan that provides guidance about reporting a release as well as a list of training requirements for those responding to an incident. More information can be found at Appendix H to the Final Environmental Impact Report, [http://www.ci.benicia.ca.us/vertical/Sites/%7B3436CBED-6A58-4FEF-BFDF-5F9331215932%7D/Union Pacificloads/Appendix H MMRP.pdf](http://www.ci.benicia.ca.us/vertical/Sites/%7B3436CBED-6A58-4FEF-BFDF-5F9331215932%7D/Union%20Pacificloads/Appendix_H_MMRP.pdf)

If local communities seek assistance with their response planning, we provide a number of resources such as TRANSCAER (Transportation Community Awareness and Emergency Response). TRANSCAER is a voluntary national outreach effort that focuses on assisting communities to prepare for and to respond to a possible hazardous material transportation incident. More information can be found at <https://www.transcaer.com/> Union Pacific also provides an annual snap shot of all hazardous materials commodity shipments to first responders Union Pacific on request. In our experience, most local first responders consider that

information to be sufficient for purposes of their emergency response planning. Additionally, Union Pacific develops business response plans that are specific to facilities that receive certain types of commodities. More information can be found at <https://www.UnionPacific.com/media/cbr/prevention/index.htm>

### **Federal Oil Spill Liability Trust Fund (OSLTF)**

Although we were not asked about the Oil Spill Liability Trust Fund, one of the Commissioners made a number of incorrect statements about the fund. The fund was established in 1986 and provides an immediate source of federal funding to respond to oil spills in a timely manner. Monies from the fund can be used to respond to a wide variety of oil types, including oil-sands-derived crude oils. Costs that can be covered by the fund include:

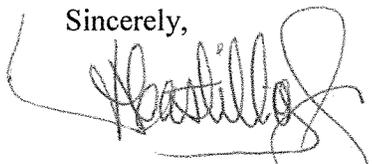
- Removal costs incurred by the Coast Guard and EPA;
- State access for removal activities;
- Payments to federal, state, and Indian tribe trustees to conduct natural resource damage assessments and restorations;
- Payment of claims for uncompensated removal costs and damages; Research and development; and
- Other specific appropriations.

The fund has current assets of approximately \$3.5 billion and is projected to reach \$4 billion in 2016.

The Commissioner testifying on this topic may have been confused by uncertainty over whether tar sand producers must pay into the fund. The fund is primarily financed by an 8-cents per-barrel tax on domestic crude oil and imported crude oil and petroleum products. The Internal Revenue Service apparently does not consider tar sand to be oil and therefore does not require payment of the tax on this source of oil. HOWEVER, this does NOT mean that the fund cannot be used to clean up spills of oil derived from tar sands. In fact, the statute governing expenditures from the fund (the Oil Pollution Act) defines oil very broadly, and includes tar sands. More information can be found at [http://www.uscg.mil/npfc/About\\_NPFC/osltf.asp](http://www.uscg.mil/npfc/About_NPFC/osltf.asp)

Once again, Union Pacific appreciates this opportunity to clarify the record with respect to some of the questions and testimony offered by the Commissioners.

Sincerely,



Francisco J. Castillo, Jr.

**To City of Benicia: Valero's crude by rail 2/8/2016**

**Congressional Leaders Agree to Lift 40-Year Ban on Oil Exports.**

<http://www.naturalgasintel.com/articles/104707-congress-agrees-to-end-oil-export-ban-but-analysts-question-near-term-uplift>

**Many new fossil fuel transport projects proposed for Pacific coast.**

<http://www.sightline.org/series/northwest-coal-oil-gas-exports-thin-green-line/>

<http://www.foe.org/projects/oceans-and-forests/oceangoing-vessels/shipping-campaign>

[https://law.lclark.edu/centers/northwest\\_environmental\\_defense\\_center/projects/oil-transport-in-the-pacific-northwest/](https://law.lclark.edu/centers/northwest_environmental_defense_center/projects/oil-transport-in-the-pacific-northwest/)

**Coal shipping facility proposed for Port of Oakland.**

<http://www.latimes.com/nation/la-na-sej-utah-coal-20151211-story.html>

**Industry's need for expansion of Pacific shipping facilities.**

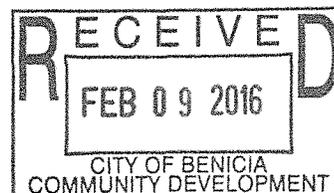
<http://cchealth.org/hazmat/hmc/pdf/CA-Transportation-Fuel-Overview-Crude-Oil-Trends-HMC-Retreat.pdf>

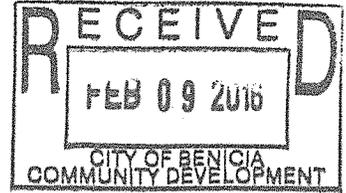
Contra County supervisors pass resolution to support dragging of upper bay for sea going ships.

Valero's original DEIR called for the construction of storage tank with flanges for pipeline hookup, only referring to their need as possible future refinery needs. Why spend 10's of thousands on something you do not know you will need? Why even mention it? So they can say you already knew and approved expiation when you approved DEIR? DEIR acknowledges Valero's existing facilities for ships.

It is reasonably foreseeable Valero will expand its operation to capitalize on the billions to be made transferring crude oil to sea going ships. It is reasonably foreseeable crude oil train will come and go 24 hours a day. It is reasonably foreseeable sea going ships will come and go 24 hours a day. It is reasonably foreseeable there will be millions of ton of additional pollution and damage to the environment. The National Environmental Policy Act. (NEPA) applies whenever a proposed activity or action will affect the air or water quality that is regulated by federal law. Valero insists you can not regulate train emission due to federal regulation. NEPA Sec. 1503.4 (a)2. Response to comments. Develop and evaluate alternatives not previously given serious consideration by the agency. CEQA guidelines 15126.6(a) the lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives

Sincerely;  
James Brian MacDonald  
Jbmd56@yahoo.com





Valero Final EIR comments

Benicia Planning Commission Meeting

February 8, 2016

Good evening

My name is Greg Yuhas, I live at 790 West J Street.

I want to thank the City of Benicia staff; its contractors and the Planning Commission for diligently implementing its procedures, General Plan Goals, rules and regulations pertaining to the Valero Crude by Rail Project permit application.

I am here tonight to encourage you:

1. To certify the Final Environmental Impact Report for the Project,
2. The Statement of Overriding Considerations
3. And the Mitigation Monitoring and Reporting Program;
4. and to approve the Use Permit for the Crude by Rail Project.

I have followed the review and approval process for nearly three years and am satisfied that the Final EIR fully informs the Commission of the potential environmental impacts associated with the project and identifies appropriate mitigation, monitoring and reporting requirements.

Many important actions have been taken during this period, by the Federal government, to improve the safety of crude oil shipments by rail. The Federal government has also stopped approval of the Keystone XL pipeline and Saudi Arabia has flooded the world market with cheap oil, in an effort stop production by us and its competitors. However, the American public has not cut back on our use of oil and the Federal government has not raised gasoline taxes to finance alternate forms of transportation.

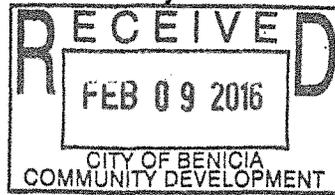
It is not the purview of this Planning commission to dictate the consumptions habits of Benicia citizens, but it is your responsibility to evaluate the environmental impact on global warming resulting from Valero's refining process. The City staff and contractors have concluded that approval of the proposed project may actually reduce greenhouse gas emission.

Therefore, I urge you to complete your deliberations and move forward to approve the Valero Crude by Rail project.

Thank You

A handwritten signature in black ink that reads "G. Yuhas". The signature is written in a cursive style with a long, sweeping underline.

Gmail - To the Planning Commission: my view of the Final EIR for Valero's Crude by Ra... Page 1 of 1



Craig Ritts <craigterryritts@gmail.com>

**To the Planning Commission: my view of the Final EIR for Valero's Crude by Rail Project**

Craig Ritts <craigterryritts@gmail.com>  
To: amillion@ci.benicia.ca.us  
Bcc: Craig Ritts <craigterryritts@gmail.com>

Mon, Feb 8, 2016 at 12:26 PM

To the Planning Commission:

The Final EIR does not address adequately the extreme dangers to the Citizens of Benicia and those up rail from Benicia that are possible

with Valero's Crude by Rail Project.

These dangers of train derailment should be stressed: fire, explosions, loss of human life, and damage to property.

As a Benicia citizen, I respectfully ask the Benicia Planning Commission to reject the permit for Valero's Crude by Rail Project.

Thank you,  
Theresa Ritts  
Craig Ritts  
2086 Casa Grande St., Benicia

COVERING PAGE: 7 PAGES (SEVEN)

VALERO CBR PROJECT: COMMENTS

FROM LEWIS HANSON, 446 WARWICK DR.

MAIL ADDRESS: LEWIS HANSON  
836 B-SOUTHAMPTON RD. #221  
BENICIA, CA 94510

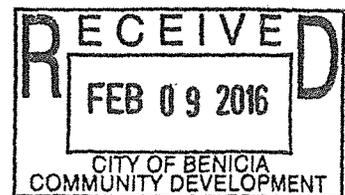
EMAIL ADDRESS: lew1930@icloud.com

PHONE: 510 325-2262

TO: AMY E. MILLON  
PRINCIPAL PLANNER  
COMMUNITY DEVELOPMENT DEPT.  
BENICIA, CALIF

MESSAGE: I'M AGAINST IT.

C.S.A.



LEWIS HANSON  
836 B-SOUTHAMPTON RD. #221  
BENICIA, CA 94510

LEWIS HANSON  
SOUTHAMPTON RD. #221  
BENICIA, CA 94510

①

OVERVIEW: CLIMATE CHANGE REQUIRES  
LESS CARBON AND MORE CLEAN ENERGY -  
FROM THE U.N. CLIMATE CONFERENCE:

## President pushes energy agenda

2-7-16-COT

*White House to ask  
Congress for more  
money for research*

**By Darlene Superville**  
*Associated Press*

WASHINGTON — President Barack Obama said Saturday that he will ask the Republican-led Congress to double spending on research and development into clean energy by 2020. But the request is unlikely to be fulfilled.

GOP lawmakers scoff at the science behind climate change and dismiss Obama's pleas for the issue to be dealt with urgently. In an unusual twist in Obama's final year in office, the Republican leaders of the House and Senate budget committees have said they will not hold a customary hearing on the president's budget proposal the day after they receive it.

Obama on Tuesday plans to send to Congress the spending blueprint for

the budget year that begins Oct. 1. The release will come on the day when New Hampshire voters get their say in the first presidential primary of the 2016 race to succeed him.

"Rather than subsidize the past, we should invest in the future," Obama said in his weekly radio and Internet address, outlining his wish for the increased spending.

Federal spending on research and development of clean energy would jump from \$6.4 billion this year to \$12.8 billion by 2020 under Obama's proposal, administration officials said.

Spending would increase by about 15 percent in each of the five years of the pledge. If approved, the budget that takes effect Oct. 1 would provide \$7.7 billion for clean energy research and development across 12 federal departments and agencies for the 2017 fiscal year.

Obama's proposal is part of an initiative he announced at last year's U.N. climate conference in Paris.

THE VALERO-BENICIA PLAN TAKES US IN  
THE WRONG DIRECTION. LET VALERO BUILD  
WINDMILLS.

LEWIS HANSON  
836 B-SOUTHAMPTON RD. #221  
BENICIA, CA 94510

(2)

VALERO AND BIG OIL ARE MUCH MORE POWERFUL  
THAN BENICIA. ORDINARY CITIZENS CAN'T COMPETE  
WITH THE MONEY AND INFLUENCE OF VALERO AND  
BIG OIL.

I RECEIVED  
A BROCHURE  
FROM VALERO  
ASKING ME TO  
GIVE VALERO  
PERMISSION TO  
USE MY NAME  
AS A SUPPORTER  
OF VALERO'S  
CRR PROJECT.

NO COUNTERING  
SOLICITATIONS HAVE  
BEEN MAILED TO  
ME BY OPPONENTS.

(SEE NEXT PAGE.)

Sacramento 2-3-16 COT

## Big Oil donated \$250,000-plus to lawmakers

*Companies persuaded legislators to drop part of climate change bill*

By Jessica Calefati  
jcalefati@bayareanewsgroup.com

SACRAMENTO — Oil companies that persuaded California lawmakers last year to abandon part of a landmark bill to fight climate change donated more than \$250,000 to their campaigns for re-election in the second half of 2015 — with more money going to Democrats than Republicans.

Since the state Senate bars its members from accepting campaign checks in the final weeks of the legislative session, a large share of the money went to lawmakers in the Assembly, with five assembly members receiving more than \$10,000 each from Chevron, Exxon and Tesoro, campaign finance statements show.

ments the governor made in the fall when he said one of the bill's virtues was smoking out the industry's supporters.

Tobacco giant Philip Morris, now called Altria, also scored a big win in the final days of last year's legislative session when the Assembly declined to take action on a sweeping package of anti-tobacco bills, including a key proposal to regulate e-cigarettes for the first time.

Altria distributed more than \$225,000 to dozens of Democrats and Republicans in the second half of 2015, including a \$25,000 check to a campaign committee controlled by Assemblyman Adam Gray, D-Merced, the chairman of the Assembly Governmental Affairs Committee, which typically reviews tobacco-related legislation for the Legislature. Gray could not immediately be reached for comment on the donation.

Candidates in high-profile races also filed their

2-3-16 COT

LEWIS HANSON  
836 B-SOUTHAMPTON RD. #221  
BENICIA, CA 94510

**To Benicia City Leaders:**

Please vote to certify the city of Benicia's Final Environmental Impact Report and approve the Conditional Use Permit for Valero's Crude by Rail Infrastructure Project. It will create new jobs, generate significant additional tax revenues for local services and reduce global Greenhouse gas emissions. That's a win-win for Benicians, benefitting the environment and economy.

3

**Additional comments:**

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With thanks,

Signature

Print Name

Job Title

Organization

Street Address

City

State

Zip Code

Phone

Email

**Yes, you may list me publicly as  
SUPPORTING the Valero CBR Project.**

**Yes, I will attend the Monday, February 8th  
Planning Commission meeting. Please send  
me additional details.**

11-8-11



**VALERO**  
**BENICIA REFINERY**

We'd like you  
to get involved —  
mail this card  
back today!

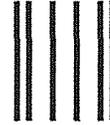
*11/20/11 Benicia CA*

*www.51-BENICIA.CA*

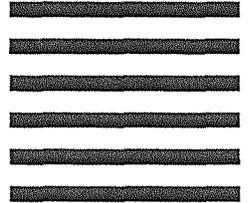
**BUSINESS REPLY MAIL**  
FIRST-CLASS MAIL PERMIT NO. 14 BENICIA, CA

POSTAGE WILL BE PAID BY ADDRESSEE

VALERO BENICIA REFINERY  
VALERO CRUDE BY RAIL INFRASTRUCTURE PROJECT  
P.O. BOX 845  
BENICIA CA 94510-9915



NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES



MY PERSONAL CONCERN IS THAT SINCE (2)  
I LIVE AT 446 WARWICK DRIVE THE  
REFINERY WILL AFFECT MY HEALTH AND  
PROPERTY VALUES NEGATIVELY MORE THAN  
IT DOES NOW. I AM 85 AND HAVE  
NEUROPATHY. FREQUENTLY I GET  
WHIFFS OF REFINERY FUMES, ESPECIALLY  
AT NIGHT AND HAVE TO CLOSE MY WINDOW.

I DON'T TRUST THAT THERE IS PROPER  
PUBLIC OVERSIGHT OR ADEQUATE MONITORING.  
VALERO SHOULD NOT  
MONITOR ITSELF.

I WOULD  
APPRECIATE  
THE CITY OF  
BENICIA TO  
RESPOND AS TO  
HOW BENICIA  
AND VALERO ARE  
RESPONDING TO  
THE NEW EPA  
RULES.

LEWIS HANSON  
836 B-SOUTHAMPTON RD. #221  
BENICIA, CA 94510

## EPA lists new rules for oil refineries

By Matthew Daly  
Associated Press

WASHINGTON — The Environmental Protection Agency announced new rules Tuesday to reduce toxic air pollution from oil refineries by forcing operators to adopt new technology that better monitors and controls emissions.

The rules will require for the first time that refineries install air monitors along "fence lines" where pollution enters neighboring communities. The monitors will measure levels of benzene and other dangerous pollutants. Corrective action will be required if levels exceed established limits.

EPA Administrator Gina McCarthy said the rules would protect the health of more than 6 million people who live within 3 miles of a refinery. The rules will serve as a kind of "neighborhood watch for toxic pollutants" near the nation's 140 petroleum refineries, including dozens across the coasts of Texas, Louisiana, Mississippi and



McCabe

New York and Chicago.

Facing a court-ordered deadline, the EPA is expected to act by Thursday to set a new ozone standard. Officials are expected to set a limit of 70 parts per billion or less in the atmosphere, down from the existing standard of 75.

A top EPA official said Tuesday the current ozone limit "is not adequate to protect the public health."

Janet McCabe, the EPA's top air regulator, told Congress that a new, stricter standard is needed to cut dangerous ozone pollution and prevent thousands of asthma attacks, emergency room visits and even premature deaths.

Alabama, McCarthy said. Refineries also are located near major cities such as Los Angeles, Philadelphia,

5

BENICIA SHOULD MODEL ITSELF WITH THE INTERNATIONAL, FEDERAL AND STATE CLIMATE CHANGE SCIENCE AND POLICIES. THANKFULLY THE STATE OF CALIFORNIA HAS PROBABLY THE STRONGEST ENVIRONMENTAL PROGRAM IN THE COUNTRY AS WELL AS A WELL FUNCTIONING GOVERNMENT I HOPE BENICIA AND/OR THE STATE WOULD PROVIDE US WITH INFORMATION ABOUT THESE GREEN EFFORTS GREAT NOW CAN COMPETE WITH FOSSIL FUELS MONEYWISE. THANK YOU;

*L. Hanson*

LEWIS HANSON  
836 B-SOUTHAMPTON RD. #221  
BENICIA, CA 94510

SUPPORTING CLIPPINGS

## Keep Dangerous Crude-by-Rail Out of Benicia

BY ANDRÉS SOTO,  
STEERING COMMITTEE, BENICIANS FOR A SAFE AND HEALTHY COMMUNITY

Just as Lac Megantic, Quebec was destroyed by a derailed train hauling dangerously explosive fracked Bakken crude oil, we in Benicia learned that Valero Benicia had applied for a conditional use permit to build out a rail expansion facility at the refinery to bring in both Bakken crude and Alberta Tar Sands.

We formed a group called Benicians for a Safe and Healthy Community (BSHC), to fight this project. We were appalled when we learned the city staff was recommending that the project be approved with a Mitigated Negative Declaration ("Neg Dec"), on the grounds that environmental impacts were so minor that there was no need for a Environmental Impact Report (EIR) under the California Environmental Quality Act (CEQA)!

BSHC organized a series of community forums and mobilized residents and allies up and down the rail lines first to advocate, and then to achieve a thorough CEQA review process for the project. This process continued at subsequent Benicia Planning

"Dangerous Crude" cont. on page 3

S.C. FEB. MARCH 16

SIEGREN CLUB

1-27-16

# Clock ticks on conflicts, climate change

*Tensions between nuclear-armed states stir 'doomsday' fears*

By Sudhin Thanawala

Associated Press

STANFORD — Rising tension between Russia and the U.S. North Korea's recent nuclear test and a lack of aggressive steps to address climate change are putting the world under grave threat, scientists behind a "Doomsday Clock" that measures the likelihood of a global cataclysm said Tuesday.

The Bulletin of the Atomic Scientists announced that the minute hand on the metaphorical clock remained at three minutes-to-midnight. The clock reflects how vulnerable the world is to catastrophe from nuclear weapons, climate change and new technologies, with midnight symbolizing apocalypse.

"Unless we change the way we think, humanity remains in serious danger," said Lawrence Krauss, chair of the bulletin's Board of Sponsors.

Krauss said the Iran



JEFF CHIU/ASSOCIATED PRESS

California Gov. Jerry Brown, from left, former U.S. Secretary of State George Shultz and former U.S. Secretary of Defense William Perry attend the unveiling of the "Doomsday Clock."

nuclear agreement and Paris climate accord were good news. But the good news was offset by nuclear threats, including tension between nuclear-armed states India and Pakistan, and uncertainty that the Paris accord will lead to concrete action to reduce greenhouse gas emissions.

The scientists behind the bulletin adjusted the clock from five minutes-to-midnight to three minutes-to-midnight last year. They cited climate change, modernization of nuclear weapons and outsized nuclear weapons arsenals as "extraordinary and undeniable threats to the contin-

ued existence of humanity." The clock was previously at three minutes-to-midnight in 1984, when the bulletin said talks between the U.S. and Russia virtually stopped.

From a climate change perspective, if midnight on the clock represents the disappearance of humanity, three minutes-to-midnight is overly dire, said Michael Oppenheimer, a professor of geosciences and international affairs at Princeton University who is not affiliated with the bulletin.

On the other hand, Oppenheimer said if midnight means humans have emitted so much greenhouse

gas that dangerous climate change is inevitable, then three minutes is a "fair analysis."

"I think the jury is out as to whether the Paris agreement will make a significant difference," he said. "The key is whether countries over the next couple of years are able to agree on some important details that were left out."

California Gov. Jerry Brown joined former U.S. Secretary of State George Shultz and former U.S. Secretary of Defense William Perry for a discussion at Stanford University after the unveiling of the clock.

Perry raised concerns about rhetoric from Russia about the use of nuclear weapons and said the threat of nuclear disaster was greater today than during the Cold War. Shultz said the U.S. needs to engage Russia and China. Brown warned about "tipping points" in the fight against climate change.

The closest the clock has come to midnight was two minutes away in 1953, when the Soviet Union tested a hydrogen bomb that followed a U.S. hydrogen bomb test.

SUPPORTING CLIPBINES

LEWIS HANSON  
R36 R-SOUTHAMPTON RD #221  
BENICUM CA 94510

6

# Around the Bay

Benicia revises draft environmental report

## Crude oil plan has potential 'hazards'

### Public hearing on Valero proposal is set for Sept. 29

By Irma Widjojo  
*Vallejo Times-Herald*

BENICIA — The city has released its revised draft environmental report for Valero's proposal to deliver crude oil by rail.

The new version of the report, released Monday, includes "potential impacts" that could occur between a crude oil train's point of origin outside the California state border and Roseville, which is home to a major rail yard. It also addresses potential consequences of accidents involving crude oil trains based on more re-

cent information about the project, according to a city news release.

The draft of the report was first released June 17, 2014. However, following public comments and concerns, the city decided to revise portions of the report and resubmit them.

The updated parts are subject to another 45-day public comment period.

The Planning Commission will hold a formal public hearing Sept. 29 to receive comments on the updated report.

In anticipation of the number of speakers, additional Planning Commission meetings to receive comments on the report are scheduled for Sept. 30,

Oct. 1, and Oct. 8. These additional meetings will only be held as necessary to hear public comment. All meetings will begin at 6:30 p.m. in the City Council Chambers, Benicia City Hall, 250 E. L St. No action on the projects will be taken at these meetings, staff said.

Comments on the report may be provided at the public hearing or submitted in writing no later than 5 p.m. on Oct. 16.

Written comments should be submitted to [amillion@ci.benicia.ca.us](mailto:amillion@ci.benicia.ca.us) or Principal Planner Amy Million at the Community Development Department.

If the project is approved, Valero Benicia Refinery will be allowed to transport

crude oil through Benicia via two 50-tanker car trains, rather than shipping the crude oil by boat. It will not replace the crude that is transported by pipeline.

According to the report, the project has the potential "to result in significant impacts to the environment" in terms of air quality and greenhouse gases, traffic and transportation, hazardous materials, biological resources, energy conservation, geology and soils, hydrology and water quality, cultural resources, land use and planning, and noise.

An environmental analysis also indicated that there would be "a significant and unavoidable impact associated with air quality and

greenhouse gas emissions, hazards and hazardous materials, and biological resources."

Valero applied for a permit to extend Union Pacific Railroad lines for the crude transportation in early 2013, and has since garnered public concerns about rail safety and environmental impact.

Valero officials have contended that the railroad addition would make the refinery more competitive by allowing it to process discounted North American crude oil.

For further information about the revised environmental report and the public hearing, contact Million at 707-746-4280.

LEWIS HANSON  
836 B-SOUTHAMPTON RD. #221  
BENICIA, CA 94510

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SUPPORTING THE CLIPPING

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9 February 2016

*Via email to*

Chairperson Don Dean

City of Benicia Planning Commission

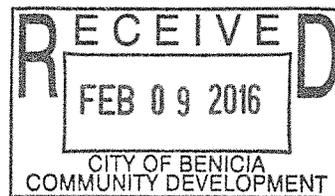
c/o Amy Million, Principal Planner

Community Development Department

250 East L Street

Benicia, CA 94510

[amillion@ci.benicia.ca.us](mailto:amillion@ci.benicia.ca.us)



Re: The City of Benicia's Final Environmental Impact Report for the Valero Benicia Crude-by-Rail Project

Dear Chairperson Dean:

The Planning Commission appears to be on track to certify the Final EIR and recommend approval to the City Council of expansion of refinery technology of the Valero Refinery to handle more environmentally hazardous product.

Given that the EIR identified 11 impacts that are significant and unmitigable, this is a disturbing outcome of the environmental review process. It is as if the Commission is recommending that the City give minor heed to the significant environmental, climate and human health impacts that such an expansion of the refinery will entail; as if the Commission is recommending that the city "throw its hands in the air" and say - we, the City of Benicia, are forgoing taking a stand on expansion of the refinery to handle more hazardous material and placing our community and those uprail from Benicia at significant risk because there is some question about federal pre-emption for permitting transport of raw material by rail.

In my heart I doubt that the claims I've made above are in fact what decision-makers in Benicia are thinking and are ready to do . . . but this is how it appears to those of us who will be affected by the decisions for years to come. Rather than certifying the EIR and recommending permit approval, please advise the City Council to join with uprail communities to seek funding and technical assistance to transition away from the processing and combustion of fossil fuels. Hydro-carbon/carbon-based tangible materials will play an important role in future economic development. The era of dependence on fossil fuel combustion, however, is over. Please turn towards the future.

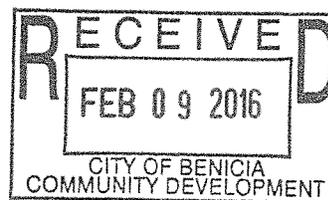
Sincerely,

Martha Turner

417 24<sup>th</sup> St.

Sacramento, CA 95816

February 8, 2016  
Amy Million  
Principal Planner,  
Benicia Community Development Department  
[amillion@ci.benicia.ca.us](mailto:amillion@ci.benicia.ca.us)



Dear Planning Commission Members,

Good evening Commissioners,

Thank you for this opportunity as an up-rail Davis resident to speak.

As the final speaker among of Davis residents numbered 91-99 and a former City of Davis Planning Commissioner during the early 1990s, I have the utmost respect for the immense time, energy and attention to detail on a broad range of critical issues you have already spent on the EIR process for the Valero Benicia Crude-by-Rail project (the Project).

Your due diligence, combined with that of concerned Benicians, up-rail communities and counties, and local, regional and state agencies and authorities, as well as members of Congress, has consistently exposed the scope of problems to be addressed, researched and debated.

And still, there are serious issues to be addressed as laid out in the February 8 letter from the National Resources Defense Council. Most significantly, that the EIR does not meet the requirements of California Environmental Quality Act (CEQA) and does not resolve the contested claim of pre-emption under the U.S. Commerce Clause by the railroads and Valero.

This broad claim of pre-emption exposes the extent to which community rights and local democracy are trumped by corporate rights and the failure of Federal regulatory agencies, for whatever reason, to protect communities from harm, while, in effect, protecting corporate profits at all cost to people and the planet.

**The Significant and Unavoidable Impacts (impacts without Mitigation Measures) should not be the price to pay for certification of this Final EIR.**

**First**, I would like to express my support for the statements by my Davis colleagues.

**Second**, I would like to place the Valero project into a wider context recognizing that the Paris COP 21 UN Climate Agreement was signed and that we are in the midst of debate over the Trans-Pacific Partnership (TPP) Free Trade Agreement.

**In brief: First:** The Climate Agreement: headlines from Paris were celebratory, mainly because 195 countries managed at all to come to any kind of agreement.

Many analyses of the Paris Agreement, however, point out that the main text of the agreement was long on rhetoric and short on action. Keep in mind, the agreement does not take effect until 2020 and is not legally binding -- it is entirely voluntary.

In regard to the Valero project, we are told that marine tanker shipment is being replaced by railroad transport. Two questions: Is marine shipment, even from foreign suppliers of oil to the refinery, being entirely replaced? And, what is to prevent Valero from increasing marine shipment in the future specifically to export oil and gas to the Pacific?

I call to your attention to the fact that carbon pollution from international shipping doesn't count as greenhouse gas emissions according to the Paris Agreement. What does this mean in terms of Bay Area and state ghg calculations, air quality and local and state climate action plans? (You may read a good analysis, "Seven Wrinkles in the Paris Climate Deal," by Oscar Reyes, Institute of Policy Studies:  
<http://www.commondreams.org/views/2015/12/15/seven-wrinkles-paris-climate-deal> .)

**Second**, let's be clear about the impact of the TransPacific Partnership trade agreement recently signed by Pres. Obama that must still be ratified by Congress.

**First:** The TPP text fails to mention the words "climate change" or the UN Framework Convention on Climate Change the international treaty that all TPP countries are party to.

**Second:** At the end of 2015, the 40-year ban of most U.S. crude oil export was lifted. Should the TPP pass, nothing will prevent acceleration of fossil fuel development in the U.S. for export to the Pacific TPP countries.

I remind you that the TPP has a "docking provision" allowing any country to join the TPP, whether in the Pacific area or not, thus expanding the number of countries globally and the extent of ocean transport for export.

Remember, as I mentioned above, carbon pollution from shipping doesn't count as ghg emissions and shipping emissions are calculated to quadruple by 2050 – at a time when 80% of all fossil fuels should be left in the ground.

**Third:** There is nothing to prevent foreign fossil fuel corporations in TPP countries, such as a foreign Valero subsidiary, from challenging climate and environmental safeguards in a secret international tribunal that bypasses our national court system: the so-called International Settlement Dispute System. Either the law, rule or regulation must be overturned or a huge fine paid to the corporation using taxpayer dollars. As you may know, TransCanada is suing the US under NAFTA for \$15 billion for failure to approve the KXL pipeline and therefore as claimed denying TransCanada of present and future profits. An excellent Sierra Club analysis, The TPP Would Increase Risks to Our Air, Water, and Climate, may be read at:

<https://www.sierraclub.org/sites/www.sierraclub.org/files/uploads-wysiwig/INITIAL%20ANALYSIS%20-%20ENVIRO%20IMPLICATIONS%20TPP.pdf>

**In conclusion**, I would like to point out the City Council of Richmond, your neighbor, has passed two resolutions (Feb. and Nov. 2015) against the TPP with emphasis on the impact on climate and the cost of adaptation and mitigation on the city budget as well as the cost of extreme weather events, and on local democratic rule-making and community rights (available to read at <http://www.thealliancefordemocracy.org/pdf/richmondCAtp.pdf> and <http://www.thealliancefordemocracy.org/pdf/richmond2.pdf> ).

In the context of the non-binding Paris Climate Agreement and the legally-binding TransPacific Partnership Free Trade Agreement that can be used by foreign multi-national corporations and subsidiaries of U.S. corporations to pre-empt local, state and federal laws that protect communities and the environment, it is crucial that Benicia preserve and carry out its duty to protect Benicia's public health, safety and welfare and the environment and the rights of up-rail communities.

The issue of the scope of pre-emption must be resolved to clarify the extent to which the city can regulate this project. The adequacy of the CEQA analysis and the deficiencies raised in the NRDC, as well as other letters submitted, must be addressed.

I urge you to not certify the EIR and to not approve the Valero project.

Respectfully,  
Nancy Price  
1223 Sequoia Place, Davis, CA 95616  
530-758-0726

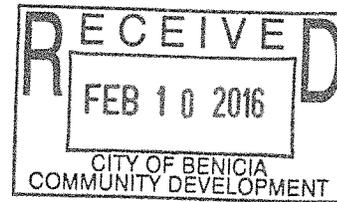
Dear Benicia City Leaders,

We attended the Planning Commission Meeting on Monday, February 8th to voice our strong support for the Valero Crude by Rail Project. Unfortunately, early-on agenda items were examined longer than expected, and an opportunity was not presented for public comment.

While had hoped to voice our support in-person before the Planning Commissioners, we are unable to attend tonight's hearing. Instead, we wish to submit this letter to emphasize how critically important the Crude by Rail Project is for our city and its surrounding communities. We urge you to stand with Planning Commission staff in approving the Final EIR and certifying a Conditional Use Permit so that we can move forward toward a better Benicia.

Thank you,

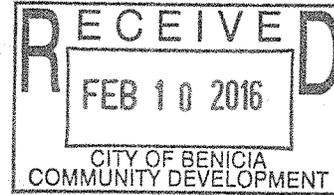
Pierre Bidou  
Dennis Crawford  
Sophie Elliot  
Herbert Forthuber  
Robert Hayward  
Robert Hayward, Jr.



2/8/2016

Pat Toth-Smith

315 west k St. Benicia, ca. 94510



I'm Pat Toth-Smith, Benicia resident, small business owner and homeowner. Thank You planning commission for a very thorough investigation of this process, yesterday.

I am recommending that the Final Environmental Impact Report (FEIR) not be certified. There are serious inaccuracies contained within it, especially the limited traffic study and the absence of many mitigation measures.

On August 4<sup>th</sup> 2014, I sat in this council chamber and saw a video presented by Ed Ruzzel of cars backed up from the Bayshore Rd. exit onto I-680 north, caused by a train crossing at the Park Ave. intersection. Clearly, the cars had backed up the exit lane of I-680 onto the freeway's third lane, which I will call the merge lane. This merge lane is where cars coming from I-780 east, merge into one lane from two lanes, and then merge into the main traffic of I-680, coming from the Benicia Bridge. This merge lane becomes the Bayshore Rd exit lane if you do not funnel into the I-680 bridge traffic. Smartly, many cars in the video had pulled onto the shoulder of this I-680 merge lane to prevent an accident.

I commented on the draft environmental impact report (DEIR) about this potential serious problem. Not only did the FEIR not address my comments, but they threw out the whole issue. They replied to my comment with this statement, the Ruzzel video didn't show cars backed up onto the two mainline lanes of the I-680 freeway, so they were not backed up onto I-680.

(Apparently, the third merge lane I sited previously and the shoulder of I-680 does not count in the FEIR reviewer's eyes as being part of I-680.)

With the new Department of Transportation (DOT) rules of slower speeds, in populated areas for crude oil trains, and the 50 to 100 tank cars, coming in or out of the refinery 4 times a day, the traffic study, did not accurately address the amount of time the Park Ave intersection will be blocked. The longest car train in the flawed traffic study, captured during the week of the study was a 35 car train. The majority of the times captured during this week were not the morning or evening commute times. Unfortunately, with the 50 or more tank cars and their 4x a day

frequency, the back up onto I-680 could evolve into a serious traffic hazard, because there are only so much shoulder lanes on I-680 that the cars can pull onto, before they are blocking the I-780/ I-680 merge lane.

The other serious hazard not addressed accurately by this flawed study is the businesses whose driveways will be blocked as these trains slowly snake past. The blocked driveways effectively trap people, from leaving their businesses, and also prevent access to their businesses; thankfully, this was addressed very thoroughly yesterday. Again, to reiterate, this is serious, because of the potential need for an emergency response in the case of an industrial accident, a heart attack, and/or a fire. The Park Ave crossing times need to be as accurate as possible, to evaluate how safe this proposal is for the industrial park and the emergency responders.

The study needs to be redone of the Park Ave. intersection to include 50 or more train cars going at the speeds recommended by the DOT and focus more on the morning and evening commute times. A comparable area to the Park Ave intersection should be used when the study criteria is not met. This is important, because of Union Pacific's pre-emption clause. U.P. can schedule trains at any time of day and any amount of tank cars they deem necessary for their continued profits, not Valero's profits. This all has to be done before the certification of the FEIR, to protect the people in the businesses on Bayshore Rd. and the drivers on I-680 and I-780 from a potential, fatal, reasonably foreseeable accident.

Finally, The FEIR states that the No Project Alternative (not going forward with the project) is the Environmentally Superior Alternative. The FEIR also states that there are significant hazards to the public through a reasonably foreseeable accident and I could not find any substantial mitigations measures presented in the FEIR to prevent these foreseeable accidents. So Again, I am recommending this FEIR not be certified...

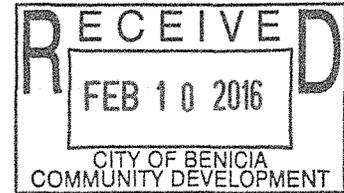
## Amy Million

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**From:** Teresa Olson  
**Sent:** Wednesday, February 10, 2016 7:09 AM  
**To:** Amy Million  
**Subject:** FW: comment for Planning Commission

Public Comment received

**From:** erika@studio113.com [mailto:erika@studio113.com]  
**Sent:** Tuesday, February 09, 2016 6:31 PM  
**To:** Teresa Olson  
**Subject:** comment for Planning Commission



Dear Planning Commissioners,

I only made it to the first 9pm break in Monday's meeting. After all that testimony, I'm simply grateful for the Planning Commission's time and attention to this pickle.

In a perfect world, we would assess ALL greenhouse gasses and other climate forcers, not just the ones released within artificial borders of the "Bay Area" or even California. I think it's worth commenting that in addition to much greater energy efficiency, ship transport is preferable to rail transport hands down by a large margin per mile traveled for a few other subtle reasons, according to Life Cycle Analysis experts.

Ships release sulfates that actually have a cooling effect on the climate, plus the albedo effect of spreading a trail of white over the dark sea. Out at sea, there's no downside of people breathing the sulfates, but this is a fine point that's difficult to argue because it doesn't sound politically correct. I don't know the comparison of miles traveled, so I can't even guesstimate how the math might look on this project.

It may take time and effort to change the laws in the direction of full emission responsibility, considering the somewhat logical stranglehold of rail preemption laws. Perhaps the discussions that spring from this issue can help set the stage for such changes in future years, in a ripple sort of way, as it prompted me to ask these questions of LCA experts and learn something new.

At any rate, I appreciate your massive efforts.

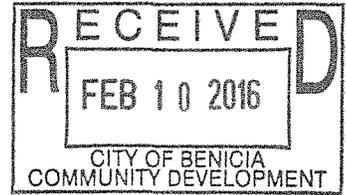
Erika Von Zoog

## Amy Million

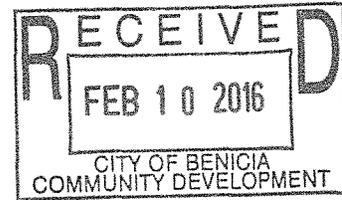
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**From:** pattothsmith@aol.com  
**Sent:** Wednesday, February 10, 2016 7:29 AM  
**To:** Amy Million  
**Subject:** Valero Crude by Rail presentation from 2/9/16

Hi Amy, I'd like you to put this information into the comments for the planning commission hearings re: certification of the FEIR. for the Valero Crude by Rail project. Also, I would like this information shared with the seven planning commissioners as soon as possible. The statement about "car not backed up on I-680" that I referred to in my comments on 2/9/16 were taken from the FEIR volume 2 of 3, comments from the August 14, 2014 Planning Commission Meeting comments, pg 2-9-236 section G1-4. starting with the term.. (Ruszel)  
Thank you, Pat Toth-Smith



Amy Million  
Principal Planner,  
Benicia Community Development Department  
[amillion@ci.benicia.ca.us](mailto:amillion@ci.benicia.ca.us)



Re: Public Comment delivered at Feb. 9, 2016 Planning Commission meeting. This is my written version of comments regarding the FEIR and the Valero Crude-by-Rail Project. Please note I have submitted letters to earlier drafts as well.

Good evening Commissioners. Thank you for your public service, dedication and endurance. My name is Jean Jackman and I am your neighbor from Davis.

I am terrified at the prospect of 1.5 million gallons of oil rolling through my town twice a day.

The people of Benicia should be terrified too. The air pollution will increase cancer deaths. There is noise pollution. Your water supply is at risk. Imagine the result of an oil spill in the Sacramento River, your water source. In 2010, a spill of crude from a pipeline into a small creek in Michigan that flowed into the Kalamazoo River resulted in such a mess that the river had to be closed for 25 miles and they are still cleaning up the mess six years later. The cost of cleanup was 1.2 billion and if the company would have filed bankruptcy, taxpayers would have paid.

The trains would go right through Davis, 50 feet from residents, one block from heart of Downtown Davis, through densely populated neighborhoods, past our UC Davis Mondavi Performing Arts Center. And yet we have a dangerous, higher than average chance for a derailment. Why? Because of a low speed crossover between the main lines. This crossover is right next to our Amtrak passenger depot. This crossover is so dangerous that it is rated at just 10 mph. And yet a railroad expert, has personally observed trains passing through the cross-over high speeds—one at 47 mph nearly having an accident, "tank cars whipping from side to side on their wheels."

I am certain that weak links, much like our 10 mph cross-over, can be found all along the routes if we did investigations.

I am a retired teacher. I taught for 14 years in the Vacaville School system in the town of Elmira. At one point, we had more than 1000 students. The building I taught in is right across the street from the railroad tracks. Now, the building houses a small, private school for special education students. But it makes me wonder, how many schools, hospitals and environmentally sensitive areas like the Suisun Marsh along the route are threatened by these bomb trains...accidents waiting to happen.

Your neighbors in San Luis Obispo County hit the nail on the head when their planning staff said they do not believe the economic benefits from the project outweigh the unavoidable negative environmental impacts the project would cause, in San Luis Obispo and elsewhere in California. Thanks to them for thinking of their neighbors.

Please go to Wikipedia and look at the increases in train accidents and derailments since 2010. Then imagine those trains were carrying 1.5 million gallons of highly flammable crude. Is that the future you want? The number of spills here is climbing: from 98 in 2010 to 182 in 2013, according to the California Office of Emergency Services (OES).

We don't have the emergency response capability. We don't have a nimble railroad agency ready to upgrade trains. We only have accidents waiting to happen and increasingly so

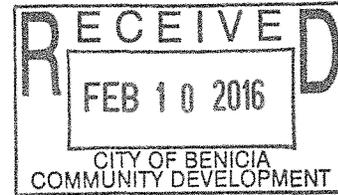
Please, consider the health of your town of Benicia. But also be good neighbors, moral people, and consider the health of hundreds of thousands of people up rail. Please do not approve this projects until all impacts are mitigated.

Thank you,

Jean Jackman

JeanJackman@gmail.com

1/9/16  
Rich McChesney  
North Coast General Manager  
Performance Mechanical, Inc.



I am speaking in favor of the Crude by Rail project. My comments are related to the safety, quality and integrity of Valero.

PMI has been involved in many projects at the Valero refinery since they purchased it in the year 2000. PMI has performed over 1.6 million man-hours on various projects and turn-arounds with the largest being the Flue Gas project. I can tell you first hand that Valero's highest concerns are the safety of its employees, construction workers and the community and in the quality and reliability of the refinery. The VPP (Voluntary Protection Program) accreditation, which teams OSHA, Labor and Valero, is a by-product of the seriousness that Valero takes in their safety program. PMI knows very well it is no easy feat to achieve this and maintain it after receiving VPP status at our shop in Gardena California. When it comes to safety and quality, Valero is second to none. Each time we are fortunate enough to enter the refinery to do work we are utilizing the most skilled union craftsmen to install the best technology and materials available to insure safe and reliable improvements to the refinery. At a previous informational meeting, the Valero management said it best, "You want Valero running this refinery". We at PMI are in agreement. Keeping the refinery viable with projects like "Crude by Rail" enables maintenance and improvements to be planned and executed employing our community and making it safer for our environment. We are excited to be working with Valero on the Crude by Rail project and look forward to its start and successful completion. Please approve this project.