



**BENICIA CITY COUNCIL
CONTINUED REGULAR MEETING AGENDA**

**Council Chamber 250 East L Street
April 04, 2016
7:00 PM**

1. **CALL TO ORDER**

2. **The Times Set Forth For The Agenda Items Are Estimates. Items May Be Heard Before Or After The Times Designated.**

3. **CONVENE OPEN SESSION (7:00 PM)**

4. **ROLL CALL**

5. **PLEDGE OF ALLEGIANCE**

6. **REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC**

A plaque stating the fundamental rights of each member of the public is posted at the entrance to this meeting room per section 4.04.030 of the City of Benicia's Open Government Ordinance.

7. **ANNOUNCEMENTS**

8. **PROCLAMATIONS**

9. **APPOINTMENTS**

10. PRESENTATIONS

11. ADOPTION OF AGENDA

12. OPPORTUNITY FOR PUBLIC COMMENTS

This portion of the meeting is reserved for persons wishing to address the Council on any matter not on the agenda that is within the subject matter jurisdiction of the City Council. State law prohibits the City Council from responding to or acting upon matters not listed on the agenda. Each speaker has a maximum of five minutes for public comment. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. Speakers may not make personal attacks on council members, staff or members of the public, or make comments which are slanderous or which may invade an individual's personal privacy.

13. WRITTEN COMMENT

14. PUBLIC COMMENT

15. BUSINESS ITEMS

15.A REQUEST FOR CONTINUANCE AND PROCESS FOR APPEAL OF THE PLANNING COMMISSION'S DECISION TO NOT CERTIFY THE FINAL ENVIRONMENTAL IMPACT REPORT (FEIR) AND TO DENY THE USE PERMIT FOR THE VALERO CRUDE BY RAIL PROJECT

Open the public hearing and solicit public comment. After public testimony at this meeting:

1. Add an additional hearing date of April 18, 2016

At the following meeting(s), staff recommends that the City Council continue to take public comment, consider all appropriate documents and testimony, and then consider the following actions:

1. Consider and reject the applicant's request for continuance.
2. Deny the appeal and uphold the Planning Commission's unanimous decision to deny certification of the EIR and to deny the Use Permit; or
3. Decline to certify the EIR and provide specific comments on the deficiencies of the EIR and direction on what needs to be improved in the EIR and remand back to staff with direction to return to Council with the EIR and Use Permit; or
4. Uphold the appeal and

- i. Adopt the draft Resolution certifying the Final Environmental Impact Report, adopting CEQA findings for the Project and adopt the Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Program and
- ii. Uphold the appeal and adopt the draft Resolution approving the Use Permit for the Valero Crude by Rail Project, with the findings and conditions listed in the resolution.

[CBR Staff Report](#)

[PDO Procedure](#)

[2016-03-28 - Letter to Mayor Patterson and Members of the City Council from Valero attorney](#)

[Public Comment March 16-25, 2016](#)

16. ADJOURNMENT (11:00 PM)

Public Participation

The Benicia City Council welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The City Council allows speakers to speak on non-agendized matters under public comment, and on agendized items at the time the agenda item is addressed at the meeting. Comments are limited to no more than five minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council.

Should you have material you wish to enter into the record, please submit it to the City Manager.

Disabled Access or Special Needs

In compliance with the Americans with Disabilities Act (ADA) and to accommodate any special needs, if you need special assistance to participate in this meeting, please contact Anne Cardwell, the ADA Coordinator, at (707) 746-4200. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting.

Meeting Procedures

All items listed on this agenda are for Council discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action may be taken by the City Council.

Pursuant to Government Code Section 65009, if you challenge a decision of the City Council in court, you may be limited to raising only those issues you or someone else raised at the public

hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. You may also be limited by the ninety (90) day statute of limitations in which to challenge in court certain administrative decisions and orders (Code of Civil Procedure 1094.6) to file and serve a petition for administrative writ of mandate challenging any final City decisions regarding planning or zoning.

The decision of the City Council is final as of the date of its decision unless judicial review is initiated pursuant to California Code of Civil Procedures Section 1094.5. Any such petition for judicial review is subject to the provisions of California Code of Civil Procedure Section 1094.6.

Public Records

The agenda packet for this meeting is available at the City Manager's Office and the Benicia Public Library during regular working hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the City Manager's Office located at 250 East L Street, Benicia, or at the meeting held in the Council Chambers. If you wish to submit written information on an agenda item, please submit to the City Clerk as soon as possible so that it may be distributed to the City Council. A complete proceeding of each meeting is also recorded and available through the City Clerk's Office.

Contact Your Council Members

If you would like to contact the Mayor or a Council Member, please call the number listed below to leave a voicemail message.

- Mayor Patterson: 746-4212
- Vice Mayor Hughes: 746-4213
- Council Member Campbell: 746-4213
- Council Member Schwartzman: 746-4213
- Council Member Strawbridge: 746-4213

**AGENDA ITEM
CITY COUNCIL MEETING DATE – APRIL 4, 2016
BUSINESS ITEM**

DATE : March 25, 2016

TO : City Council

FROM : Community Development Director

SUBJECT : **REQUEST FOR CONTINUANCE AND PROCESS FOR APPEAL OF THE PLANNING COMMISSION'S DECISION TO NOT CERTIFY THE FINAL ENVIRONMENTAL IMPACT REPORT (FEIR) AND TO DENY THE USE PERMIT FOR THE VALERO CRUDE BY RAIL PROJECT**

Recommendation:

Open the public hearing and solicit public comment. After public testimony at this meeting:

1. Add an additional hearing date of April 18, 2016

At the following meeting(s), staff recommends that the City Council continue to take public comment, consider all appropriate documents and testimony, and then consider the following actions:

1. Consider and reject the applicant's request for continuance.
2. Deny the appeal and uphold the Planning Commission's unanimous decision to deny certification of the EIR and to deny the Use Permit; or
3. Decline to certify the EIR and provide specific comments on the deficiencies of the EIR and direction on what needs to be improved in the EIR and remand back to staff with direction to return to Council with the EIR and Use Permit; or
4. Uphold the appeal and
 - i. Adopt the draft Resolution certifying the Final Environmental Impact Report, adopting CEQA findings for the Project and adopt the Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Program and
 - ii. Uphold the appeal and adopt the draft Resolution approving the Use Permit for the Valero Crude by Rail Project, with the findings and conditions listed in the resolution included in the March 15, 2016 packet.

Executive Summary:

On March 15, 2016 the hearing for this item was opened and the Council heard presentations from the City including the Planning Commission and the applicant. The Council questioned Staff, the consultants, the Chair of the Planning Commission, and the applicant regarding the project. The applicant requested that the item be continued to allow them to request an opinion from the Surface Transportation Board (STB) regarding the issue of preemption. No public testimony was heard at the March 15th meeting.

BUDGET INFORMATION:

There is no budgetary impact if the request for continuance is denied. If the Council approves the request for continuance, there may be additional costs associated with potential re-noticing of the project, as well as additional staff time in reviewing any STB opinion, as well as additional staff time should updates or revisions to the EIR be necessary.

ENVIRONMENTAL ANALYSIS:

See the March 15, 2016 City Council staff report regarding the environmental analysis for the project. In regards to the applicant's request for continuance it does not affect the existing FEIR document. Should the project be continued for a substantial length of time, it is possible that new information could arise and the FEIR would possibly need additional studies and/or to be re-circulated.

DISCUSSION:

At the March 15, 2016 Council meeting, the applicant requested a continuance of their appeal to enable them to obtain an opinion from the Surface Transportation Board (STB). The requested option would address the issue of whether the City is preempted from imposing conditions on the project if those conditions impact rail operations. The applicant stated that they believed the response of the STB would provide additional information to the Council in making their determination. It is unclear how long the STB response would take, or if they would be willing to take the matter under consideration. An estimate is three to six months, but it could be longer. Information from the applicant is attached.

While it would be helpful to have the STB opinion it would not necessarily be a final determination. STB decisions could be appealed to court. In addition, there are not set time frames within which the STB must issue its opinion. Estimates for this opinion range from 3-6 months. It is expected that the STB would issue an opinion more quickly if it knew the Council were delaying action on the project in anticipation of the STB opinion. Considering the amount of public input on this project, it is highly likely that the STB would also receive a lot of public input. This could lengthen the time the STB would require to render an opinion.

If the STB takes a long time to render its opinion, the FEIR and its information may have to be refreshed to address new information. This could require additional studies, evaluation and recirculation. All of that would, of course, impact public participation in the process and require new review and comments.

However, if the Council would like to consider the opinion of the STB and that a decision on the EIR and Land Use Permit should be placed on hold until the STB makes its decision, staff recommends that the hearing be continued to a date certain. This not only reduces the required public noticing but also will help address concerns about the FEIR getting stale. Staff cautions against continuing the item past September.

Procedural Issues:

At the March 15th Council meeting, staff noted that Council would have to consider public comment before considering the request for continuance. This means that the Council has options regarding how to organize the process of public comment and the decisions before them at the April 4th meeting. These options are set forth below but staff recommends the Council take all public comment on the project and any continuance together.

Option 1. Continue Council questions to staff and the consultants, then proceed with public testimony on the EIR, Use Permit and request for continuance.

The public notice for the project stated that staff presentations and the Valero presentation would occur on March 15, 2016 and that public comment would not occur until April 4, 2016. Staff is therefore anticipating a large public turnout for the meeting of the 4th and in deference to the public in attendance staff is recommending that the Council defer asking questions of staff and the consultants, provide questions to staff in writing throughout the hearing process; and begin public comment of the meeting on April 4, 2016. Staff will then provide a written response to all of the Council queries after the public hearing is concluded. Prior to deliberating on the EIR and the Land Use Permit, the Council will first make a decision on the continuance.

Option 2. Take initial public comment only on the request for continuance, and act on the request prior to hearing public comment on the EIR and Use Permit.

If the Council decides to first allow comment only on the request for continuance, then take action on the request for continuance; every member of the public who speaks during the period for comment on the request for continuance only, would also have the opportunity to speak on the EIR and Use permit, when the Council heard testimony on those topics.

While staff understands the importance of deciding on the question of continuance in a timely manner, we do not believe it is possible to separate comment on the request for continuance from the EIR and Use Permit, as the comment is regarding one application. Since staff anticipates public comment requiring more than one meeting, it may not be appropriate to limit the comment on the 4th to just the matter of the continuance. Therefore staff recommends that comment on the request for continuance, the EIR and the Use permit be heard together.

Option 3. The Council could decide to continue to question staff prior to taking public comment and then take comment on the request for continuance only.

The above options are not mutually exclusive, but for the reasons stated above, staff does not recommend this option.

Questions of Union Pacific Railroad (UPRR) and the applicant will be handled by the respective parties prior to the close of the public hearing.

Public Comment:

This project has generated a large amount of public interest, and staff would like to describe more fully the process going forward so as to give the public clear information and the opportunity to speak on the project.

Although it does not seem possible to come up with a completely "fair" way to hear speakers, and since having speakers sign up ahead of time did not work as well as hoped at the Planning Commission Meeting, staff recommends that the Council use an approach similar to the approached used by the San Luis Obsipo County Planning Commission for the Phillips 66 hearing. Under this approach, elected officials and agency representatives such as state elected representatives or their staff, mayors, council members, board of supervisors members and their staff would be allowed to speak first. After these people speak, the general public including spokespersons for various groups may speak.

As a reminder, speakers are only permitted to speak once during the hearing even though the hearing may last several meetings. If a speaker cannot say all they need to say within the 5 minute time, speakers are reminded that they may submit comments in writing up to the date of the Council's decision. Under the Council's rules of procedure, speakers are not permitted to give their time to another speaker. Spokespersons may be designated to represent those with similar views. A spokesperson has up to 15 minutes to speak. Please note that the purpose of the spokesperson is to represent the group and not to have each

member of the group speak as well. Speakers are also requested to avoid repeating the comments of other speakers. To maintain civility and decorum, the audience is requested to refrain from booing and cheering speakers. This also helps others from feeling intimidated if they want to express a different viewpoint. What seemed to work well at the Planning Commission was for audience members to raise their hand when agreeing with a speaker.

Note that the Council's rules provide that Council meetings typically start at 7 PM and end by 11 P.M. In Staff's experience it is not productive to continue the meetings much past 11 P.M. As in the past, the Council may want to gauge around 9 P.M. during the April meetings to see how many speakers would like to speak that night.

Code of Conduct

The City Council has adopted a Code of Conduct for itself and its boards and commissions. The overarching theme of the Code of Conduct is respect. The Council conducts its hearings in a professional manner that invites public comment and asks that everyone treat each other professionally and refrain from abuse and personal attacks. The City welcomes public comment but asks that speakers avoid slander and personal attacks.

Council Review:

The Council's consideration of the appeal of the Planning Commission's decision is de novo. This means that the Council can consider new information not presented to the Planning Commission but also that the Council should consider the Planning Commission's decision. Benicia Municipal Code Section 1.44.040 (D) states:

“D. An appeal hearing shall consist of a new (i.e., de novo) hearing on the matter by the person or body specified in BMC [1.44.100](#). The appeal hearing shall be based on the following evidence:

1. Any relevant evidence, including staff reports, etc., submitted at the time of the prior decision and at the appeal hearing, and
2. Findings, if any, and decision of the person or body whose decision is being appealed.”

In deciding whether to grant or deny the appeal, the Council must determine if Valero has met the burden of showing that the FEIR and Use Permit should be approved. See Benicia Municipal Code Section 1.44.040 (E).

Conclusion:

Staff's recommendation for the Valero Crude by Rail Project FEIR and Use permit has not altered. See the March 15, 2016 staff report, with attachments for a full discussion of the project. Staff recommends that the request for continuance be denied for the reasons stated in this report.

Procedurally, staff recommends that the Council open the public comment period and take comment on the EIR, the Use Permit and the request for continuance together. Then direct staff to track Council questions as they occur during the public hearing and to respond to those questions in full at the conclusion of public comment.

Attachments:

- Letter from Valero's attorney, March 28, 2016
- Valero's PowerPoint
- Public comments received March 16 – 25, 2016
- Link to March 15, 2016 Council Report:
https://docs.google.com/gview?url=https%3A%2F%2Fs3.amazonaws.com%2Fgranicus_production_attachments%2Fbenicia%2F90fd64a30dbec1e5bb2b94e7c97.pdf&embedded=true

The following was submitted by
Valero on March 28, 2016

STB Petitions for Declaratory Order

- The Board has discretion to issue declaratory judgments to eliminate controversy and remove uncertainty. 5 U.S.C. § 554(e); 49 U.S.C. § 1321.

STB Petitions for Declaratory Order

- A party initiates Board action by filing a petition requesting that the Board issue a declaratory order.

STB Petitions for Declaratory Order

- If the Board institutes a proceeding then:
 - The Board first issues a decision establishing a schedule for parties to respond to the petition.
 - For example, interested persons may file substantive replies to the petition within 20 days.
 - Next, after receiving comments and considering the issues raised in the petitioner's request, the Board issues a decision granting or denying the petition for declaratory order.
 - See, *California High-Speed Rail Authority-Petition for Declaratory Order*, STB Finance Docket 35861 (STB served Nov. 10, 2014).

STB Petitions for Declaratory Order

- If the Board does not institute a proceeding then:
 - The Board may provide guidance based on the record on the nature and extent of the controversy at issue to assist parties in any future proceedings.
 - See, *United States Environmental Protection Agency—Petition for Declaratory Order*, STB Finance Docket No. 35803, slip op at 5-6 (STB served Dec. 30, 2014).

STB Petitions for Declaratory Order

- On petitions for declaratory order in preemption matters, the Board is under no statutory or regulatory time limit.
 - A best estimate suggests a decision in 3-6 months.
- The Board generally will accept briefs in support or in opposition from outside parties with an interest.
 - This could include Union Pacific Railroad Company, other railroads, the City of Benicia, or environmental groups.

March 28, 2016

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

Re: Appeal of Planning Commission Resolution No. 16-1, Denying Use Permit Application 12PLN-00063 and Declining to Certify Final Environmental Impact Report for the Valero Benicia Crude-by-Rail Project (SCH #2013052074)

Dear Mayor Patterson and Members of the Council:

As you know from past correspondence, this law firm represents Valero Refining Company – California (“Valero”) in connection with the processing of Valero’s application for a use permit, for construction and operation of a rail car unloading facility at Valero’s Benicia Refinery.

My primary purpose in submitting this letter is to put to rest the misconceived and misleading arguments presented by a few Project opponents who contend that the City must analyze the impacts of changes in crude slate on refinery processing and storage emissions. In making the argument, the Project opponents rely on the cases of *Communities for a Better Environment v. SCAQMD* (2010) 48 Cal.4th 310, and *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70. Neither of those cases is relevant, however. **Both** those cases involved upgrades/modifications to refinery processing operations, by ConocoPhillips and Chevron, respectively. In **this** case, the City and the Bay Area Air Quality Management District (“BAAQMD”) approved the Valero Improvement Project (“VIP”), a refinery upgrade project, in 2003 and 2008. The statute of limitations for challenges to the VIP EIR ran many years ago. In other words, while the two cited cases may have been relevant in 2003 and 2008 (a point not conceded for this letter), they are not relevant now.

Valero, as you know, is not now proposing to modify **any** of those long-ago approved processing operations as part of the Project. Instead, the Project proposes only to install an unloading rack that will permit delivery of crudes that Valero **already** has the right to process and **store** pursuant to the prior City and BAAQMD approvals. Cases involving changes to refinery processes, like the ConocoPhillips and Chevron cases, are therefore irrelevant as a matter of law to the environmental review of Valero’s CBR project. Arguments to the contrary

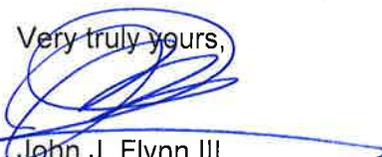
have only one obvious purpose: to re-open the VIP approvals long after the statutes of limitations have run.

Putting aside the irrelevance of crude slates to the environmental review of the Project, changes in crude slate, as already conclusively established, will have no impact on refinery emissions since any crudes imported by rail must be blended to within the very same operational parameters that **now** constrain Valero's processing operations. Further, there are so many variables involved in refinery emissions that it would be impossible to isolate crude slate and determine whether any change in crude resulted in a change in emissions, and **none** of the Project opponents has produced **any** evidence to the contrary. CEQA, as you know, does not require or permit speculation.

Finally, any air quality impacts resulting from the operations previously authorized by the VIP approvals have already been the subject of conditions of approval requiring Valero to fully offset such impacts. The emissions limitations for processing and storage imposed by BAAQMD and the City on the VIP approvals do not rise or fall depending upon the crude that is being blended and processed. In other words, such limitations apply regardless of the source of the crude. The source of the crude is therefore irrelevant. Yet, despite the absence of any crude-based restrictions on the VIP approvals, the Project opponents now contend that the import of North American crudes means that the VIP environmental review must be **repeated** and that Valero, to use the opponents' "logic," must apparently provide new offsets for the **very same** impacts already reviewed and fully offset. There is no basis for that obviously absurd assertion, in CEQA or any other law applicable to Valero's Project. Common sense "is an important consideration at all levels of CEQA review." (*Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 175, citations omitted.)

As always, thank you for your consideration of my letter. I will appear at the hearing of April 4, 2016, and will gladly make myself available to answer any questions that any of you might have.

Very truly yours,

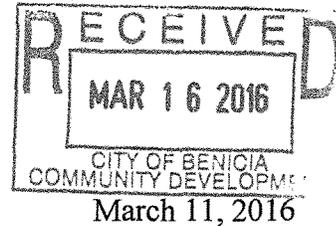


John J. Flynn III
of Nossaman LLP

JJF:rrg

cc: Heather McLaughlin, City Attorney
Bradley R. Hogin, City Special Counsel

John L. Potter
290 West K St
Benicia, Ca. 94510



To:
Benicia City Council
250 East L St
Benicia, Ca. 94510

City Council Members:

I responded almost a year ago in the local newspaper to an opponent of the Crude-By-Rail project by saying that his statement did nothing more than attempt to make Valero a hostage for an issue of national system rail delivery, for which Valero is not responsible. This application is rightfully local and not regional/national. The national rail system is primarily a federal/state mandated jurisdiction.

No matter the product being provided for refining-----whether crude, old tires, old shoes or their sources----Valero is only responsible to ensure that emissions are compliant with state refining regulations. Furthermore, the refinery is the terminus of delivery and only encounters slow speed rail traffic.

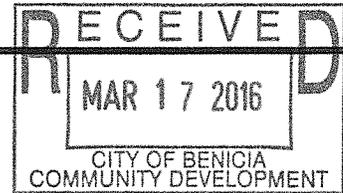
The city Planning Commission's unanimous vote to deny the EIR seems erroneous, especially when the city staff recommended approval. I encourage the council to primarily consider the local nature of the application when judging this application in the appeal process.

Sincerely,



John Potter

Amy Million



From: Jan Cox Golovich <janlcg@gmail.com>
Sent: Thursday, March 17, 2016 10:20 AM
To: Brad Kilger
Cc: Heather McLaughlin; Amy Million; Elizabeth Patterson; Tom Campbell; Christina Strawbridge; Mark Hughes; aschwarteman@ci.benicia.ca.us
Subject: Benicians for a Safe and Healthy Community: Seeking Clarification on Public Hearing for Valero's Appeal

Dear City Manager Kilger,

I am writing on behalf of Benicians for a Safe and Healthy Community to seek clarification as to the process and procedures that will be in place for the upcoming April 4, 2016 City Council meeting as it relates to the request by Valero for a delay of their project appeal and the scheduled public hearing on that same appeal.

Can you please provide clear guidance to members of the public who wish to participate and testify at the scheduled Pubic Hearing on Valero's appeal on April 4th?

Specifically:

- 1) will the City Council first consider Valero's request to delay the appeal *before* the public hearing on the appeal begins?
- 2) will the public have the opportunity to comment on Valero's request for delay of the appeal?
- 3) If the request to delay the appeal is granted, will the scheduled public hearing on the appeal be cancelled?
- 4) If the request to delay the appeal is denied, will the public hearing then proceed as scheduled?

Please understand from our perspective the inherent unfairness of the possibility that the City's scheduled public hearing would be cancelled without any prior notice when many members of the public will have made considerable effort to attend and prepare their testimony.

Thank you very much for your attention to this very important matter.

Very sincerely,

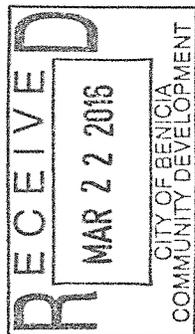
Jan Cox Golovich
Benicians for a Safe and Healthy Community
707.319.0876



21 March 2016

AN ECONOMIC ALTERNATIVE TO CRUDE-BY-RAIL SAFETY CONCERNS

Shipping Bakken crude oil by rail car has become a controversial issue across America. Many Americans perceive a threat from oil train derailments and the attendant spills and possible explosions. This perception has come to the attention of public officials who have made many comments on the topic.



- Minnesota Gov. Mark Dayton “is concerned primarily about the **safety of people along oil train routes**, and in particular about the fact that [Bakken] is a **very volatile oil.**” (13 Oct 2014)
- “The **safety** of our city and state are what is ultimately important here.” Seattle Mayor Ed Murray (3 Mar 2014)
- “We request your agency issue rulemaking that requires stripping out the most volatile elements from Bakken crude before it is loaded onto rail cars.” California Rep. John Garamendi (1 Jul 2014)
- “The transportation of hazardous materials, like Bakken crude, **poses a significant risk to public safety.**” Washington Gov. Jay Inslee (Sep 2014)

The concern of the American public about the risks associated with shipment of crude by rail (CBR) is real. Shipping crude oil by rail could be suspended or terminated should another serious accident occur, with nation-wide economic repercussions. The fiery derailments in Casselton, ND and loss of human life in Quebec, Canada, demonstrate the need for safety for the communities located along the railroad tracks transporting crude oil.

Rail transport is governed at the federal level. Many states and cities, however, have been considering imposing more stringent regulations in an attempt to reduce the risk to their communities. We have suggested to various civic leaders to establish a (MCS) Minimum Characteristics Standard for crude oil being transported by rail. The most important component in measuring volatility is Vapor Pressure. As you will see in the attachment, our 3rd party verification reflects results at 2 psi or lower. With that, some experts speculate the recent Virginia incident would not have had the fiery explosions,

There is a readily available economic solution to address safety concerns with shipping crude by rail. Catalytic Resources (CR) out of Seattle, WA has developed a new technology that mitigates the volatility of light crude shipped on America’s rail system. CR’s technology significantly reduces the most hazardous components of Bakken crude oil to below current and newly proposed standards before it is loaded into railcars. CR has proven this innovative technology which utilizes a revolutionary process to improve the characteristics of the crude oil while leaving the “high value” constituents of the crude alone.

The State of North Dakota’s rules limit the maximum vapor pressure to 13.7 psi before loading into railcars. That limit is actually higher than the published average vapor

pressure results for Bakken crude. More importantly, economical technology now exists that can make even greater safety improvements. CR's system offers an economic solution that reduces the volatility of crude oil to well below the new North Dakota standards. Instead of treatment at each wellhead, CR conditions crude oil at the railcar loading terminal prior to shipment. This is a more economical and practical solution when considering the daily volumes of crude by shipped by rail.

The challenge to the perception of safety of crude by rail is the volume of crude shipped in unit trains. These trains are 100 to 110 railcars in length and carry an average of over 3,000,000 gallons each. Reducing the volatility, measured by Reid Vapor Pressure, also reduces the VOC (volatile organic compounds) another concern of safety conscious persons. CR's technology effectively changes the characteristics of Bakken crude oil from a Category III Packing Group I liquid to a Category III Packing Group III liquid, essentially, from high danger to low danger. CR's process dramatically improves the safety of the final product by significantly improving the flash point, dramatically reducing the vapor pressure, and almost doubling the initial boiling point, all at a nominal cost to producers.

There are billions of dollars of rail infrastructure in America. And, the Federal Railroad Administration has implemented new rules that address the physical attributes of the railcars. **We maintain that to improve safety, you don't have to change the existing infrastructure, instead, change the product being transported on that infrastructure.**

This information is being provided for the City Council as it considers Valero refinery's plan to ship crude oil by rail. We have not been in contact with Valero nor any of its potential sites that would be filling up the unit trains. We wanted to share this information because there are avenues to address safety concerns that, for the most part, are unknown. We all want to enhance the safety of our citizens, protect our environment, increase state revenues, and create jobs. Please feel free to contact us jlotzgesell@terrenusresources.com for any additional

Most respectfully,

John W. Lotzgesell
Member, Catalytic Resources Board of Directors
425.750.0337

Enclosure: Stabilization of Bakken Crude Oil

Enhanced Catalytic Stabilization of Crude Oil

A New Process Created by



CATALYTIC RESOURCES

TERRENUS
RESOURCES



CPT HOLDINGS, LLC

The Problem



- Numerous recent catastrophic derailments have created a public perception that light crudes demonstrate a higher volatility than expected for Crude-By-Rail (CBR) transport and that CBR is dangerous
- This perception is driving a political response
- Federal legislation has been submitted to the US Senate
 - **The Crude-by-Rail Safety Act of 2015**
- This bill proposes to enact minimum characteristic standards for all crude oil transported via rail nationwide, including Bakken crude
 - Interim standards will be imposed 180 days after bill passage
 - A study will commence setting permanent standards within 3 years
 - The Senate bill did not pass, yet the debate over CBR continues

There is a Safer, Cost Effective Way



- **It is possible to economically reduce the volatile content of light crude via a proprietary catalytic process and create a more stable crude oil**
- Bakken crude has been processed through an Enhanced Catalytic Stabilization (ECS) reactor to create a crude with:
 - Improved flash point
 - Decreased vapor pressure
 - Increased initial boiling point
 - Improved API gravity
 - These changes result in REDUCED VOLATILITY
- **A simple process that is modular, scalable, designed for low emissions, and can be quickly incorporated into existing infrastructure**

The ECS Process



- Creates no new compounds in resulting ECS crude
- No additives are used
- Operating parameters are easily reached and maintained
 - 150-170° F
 - Less than 10 psi
 - Continuous flow
- Catalyst has expected lifecycle of at least 10 years
- Process creates a stream of safer, higher value crude oil plus a secondary stream of high value, plant condensate / diluent
- Operates at LOW TEMP and LOW PRESSURE
- Uses proven technologies in a different way

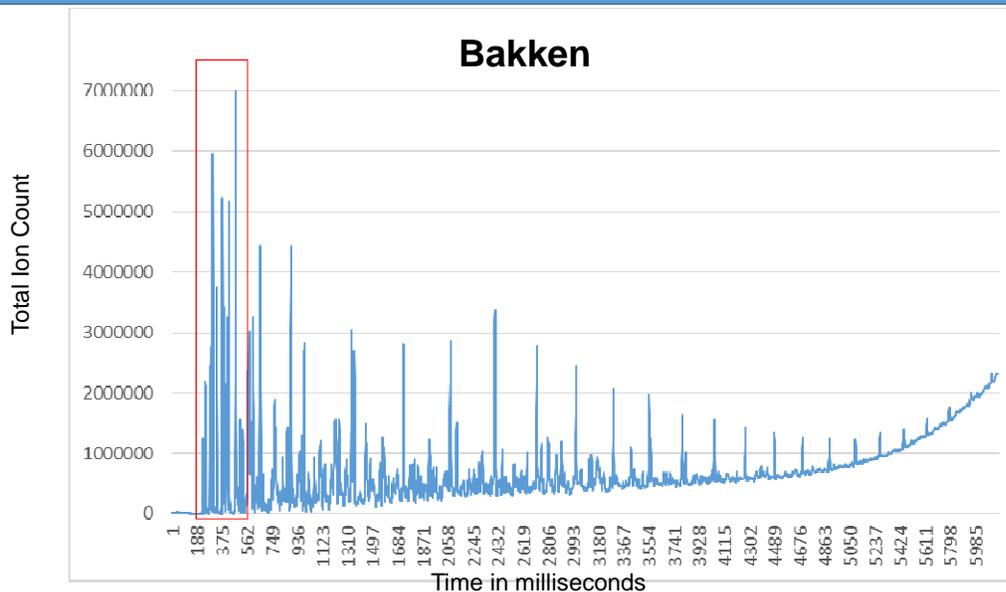
ECS Process Results



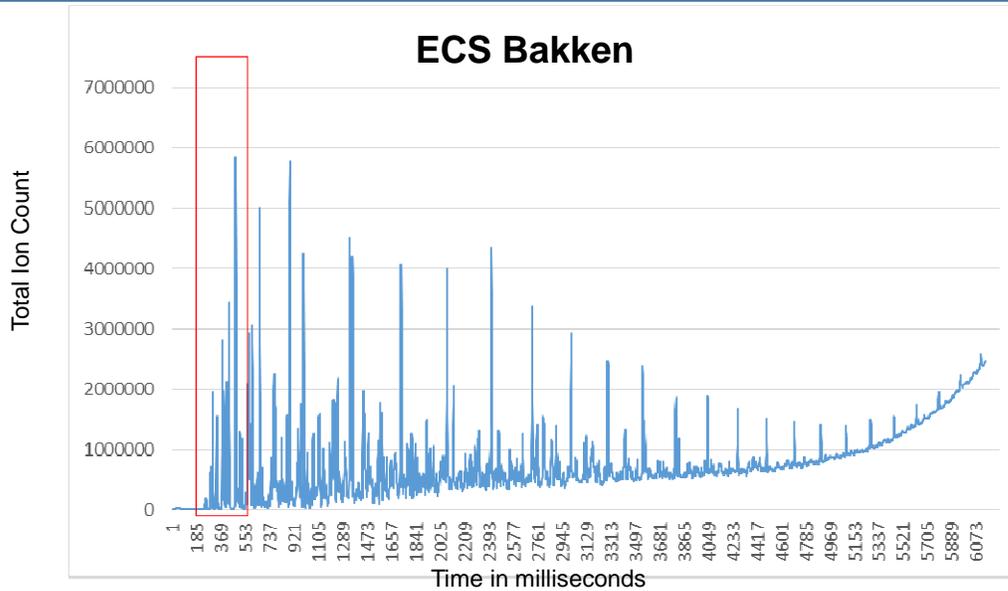
Test	Bakken Crude Feedstock	ECS Bakken Product
API (D1298)	43	37.2
Flash point (D93)	16° C (61° F)	25° C (77° F)
Vapor Pressure (D6377)	8.5 psi (58.5 kPa)	0.5 psi (3.5 kPa)
D86 IBP	39° C (102° F)	83° C (181° F)
D86 T50	243° C (470° F)	270° C (518° F)
D86 T90	<300° C (65%)	<300° C (60%)
BS&W (D4007)	0	0
Sulfur ppm (D4294)	632	733

Third party independent laboratory test results using ASTM standards

Process Analysis - GCG



Process Analysis - GCG



Safer and More Marketable



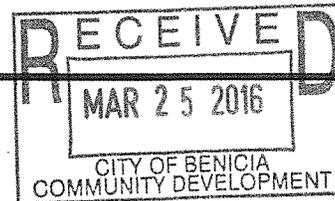
- ECS Bakken is safer
 - We improve all key characteristics involved in volatility, including reducing the vapor pressure to well below the proposed standards
- ECS Bakken is more marketable
 - Increase in high value constituency of crude
 - Near identical characteristics to WTI crude
 - Safer product may open new markets
- ECS Bakken should have lower logistics cost
 - Safer crude should cost less to transport

The ECS System



- There are numerous technologies under development to stabilize light crudes more than what is currently being done at wellheads
- We offer a different method for stabilization at a different location: at rail trans-loading facilities
- Our system eliminates the need to change any existing wellhead infrastructure or gathering procedures
- ECS reactors are a plug-in module at rail trans-loading facilities
- Reactors are skid-mounted and modular with low CAPEX and low OPEX
- Our conservative estimated processing cost is between \$1 and \$2 a barrel, which we expect to be cost-neutral

Amy Million



From: KnowWho Services <noreply@knowwho.services>
Sent: Thursday, March 24, 2016 5:20 PM
To: Amy Million
Subject: Public Comment re Valero Crude by Rail Project - Appeal Application No. 16PLN-00009

Dear Benicia City Council,

I'm writing to urge the Benicia City Council to back the Planning Commission's unanimous decision to reject Valero's proposal to transport explosive crude oil by rail through California communities to its refinery in Benicia, and to reject Valero's attempts to delay a final decision on this project.

The Planning Commission rightfully rejected this dangerous project because it "would be detrimental to the public health, safety, or welfare" of Benicians and communities along the oil train routes. The project's impacts include increased air pollution from refinery emissions (which could disproportionately affect low-income communities and communities of color) and oil spills during the offloading process (which could harm the Sulphur Springs Creek riparian corridor).

Furthermore, increases in the transportation of crude by rail has corresponded with an alarming increase in the number of derailments, spills, and explosions. More than five million Californians live in the blast zones of oil train routes, and this project would significantly increase the number of unsafe oil trains rolling through our communities.

As Attorney General Kamala Harris pointed out, the U.S. Department of Transportation found that rail shipments of highly volatile crude oil represent an "imminent hazard," such that a "substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur." I agree with regulators, elected officials, local residents, nurses, and the the many thousands of Californians who have sounded the alarm about the unacceptable risks posed by this project.

For these reasons, I again urge the City Council to reject Valero's oil train project, as well as its attempts to delay resolution of this issue.

Thank you for your consideration.

Sincerely,

Brooke Prather
902 Del Paso Blvd Spc 31
Sacramento, CA 95815-
fleshwoundranch@yahoo.com
(707) 513-6364