

TRANSCRIPTION OF THE VIDEOTAPED  
BENICIA CITY COUNCIL  
CONTINUED REGULAR MEETING

Date: Wednesday, April 6, 2016

Transcribed by: Janet M. Taylor, RMR, CRR  
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2  
3 (Transcriptionist Note: Names are spelled  
4 phonetically except where listed in the minutes.)

5 (Bell ringing.)

6 MAYOR PATTERSON: Thank you for your courtesy.  
7 Can we have a roll call, please?

8 FEMALE SPEAKER: Council Members Campbell?

9 COUNCIL MEMBER CAMPBELL: Here.

10 FEMALE SPEAKER: Hughes?

11 Schwartzman?

12 COUNCIL MEMBER SCHWARTZMAN: Here.

13 FEMALE SPEAKER: Strawbridge?

14 COUNCIL MEMBER STRAWBRIDGE: Here.

15 FEMALE SPEAKER: And Mayor Patterson?

16 MAYOR PATTERSON: Here.

17 See, Chief Lydon, will you lead us in the  
18 Pledge of Allegiance to the flag, please?

19 (Pledge of Allegiance conducted.)

20 MAYOR PATTERSON: A plaque stating the  
21 fundamental rights of each member of the public is  
22 posted at the entrance to this meeting room per section  
23 4.04.030 of the City of Benicia's Open Government  
24 Ordinance.

25 If you are having a hard time hearing or are

1 distracted by the lights, if you could let staff know.  
2 We'll try to make reasonable accommodation for your  
3 needs. And in the future, you can call about 48 hours  
4 ahead of time to 746-4200, and we'll make reasonable  
5 accommodations ahead of time.

6           So this is a continuation of the public  
7 comment period, and, therefore, we have no  
8 announcements, proclamations, appointments,  
9 presentations. And our next item, then, is the adoption  
10 of the agenda.

11           COUNCIL MEMBER SCHWARTZMAN: Move to approve.

12           COUNCIL MEMBER STRAWBRIDGE: Second.

13           MAYOR PATTERSON: Call the roll, please.

14           FEMALE SPEAKER: Council Members Campbell?

15           COUNCIL MEMBER CAMPBELL: Yes.

16           FEMALE SPEAKER: Schwartzman?

17           COUNCIL MEMBER SCHWARTZMAN: Yes.

18           FEMALE SPEAKER: Strawbridge?

19           COUNCIL MEMBER STRAWBRIDGE: Yes.

20           FEMALE SPEAKER: And Mayor Patterson?

21           MAYOR PATTERSON: Yes.

22           So this is the time that we have an  
23 opportunity for public comment on any item that's not on  
24 the agenda. We generally advise we like to have you  
25 keep it within the general jurisdiction of the City of

1 Benicia.

2           And we do ask that you limit your remarks to  
3 five minutes. You don't need to take the full five  
4 minutes, although we are eager to hear your comments.  
5 And then if somebody has said exactly what you wanted to  
6 say, feel free to simply say "That's what I wanted to  
7 say," and it will be so noted.

8           We do ask that you not make personal attacks  
9 on council members, staff, or members of the public or  
10 make comments which are slanderous or which may invade  
11 an individual's personal privacy.

12           We also have received written comment, and  
13 the written comments submitted today prior to 3:00 p.m.  
14 have been uploaded to the city's website. Copies are  
15 also available on our side table over here, and these  
16 include Joseph Ragle -- I guess these are comments from  
17 Joseph Ragle, Madelyn Coster, Sheila Clyatt, Marilyn  
18 Bardet, Marilyn Bardet twice, Marilyn Bardet three  
19 times, Andrea Soto, two more form comments -- two more  
20 form comments, public comment re Valero Crude by Rail  
21 Project, appeal application number 16PLN00009 and one  
22 form comment, "I support the Valero Crude by Rail  
23 Project."

24           Written comments submitted between April 4th  
25 through April 5th have been uploaded to the city's

1 website, and multiple copies of these have not been made  
2 for the public tonight -- made available for the public  
3 tonight, but a binder of them is on the side table if  
4 anyone wishes to review them.

5           So a couple of comments I want to make before  
6 we launch into continuing the public comment on the  
7 consideration of Valero's request to continue the  
8 project while they allow the federal agency to make  
9 comments on local land use decision-making, the appeal  
10 of the Planning Commission's decision on the  
11 certification of the EIR and the denial of the project.

12           A couple of feedback comments that I did get:  
13 One was some folks observed on the Sacramento bus last  
14 night that they -- that I got some feedback that they  
15 thought that was sort of unfair.

16           And if you recall, for those who were here,  
17 we actually asked Chris Brown what he would like. He  
18 had a choice of each individual on the bus that had  
19 submitted a card waiting for their turn to be called, or  
20 they could take 15 minutes.

21           The result of doing it that way meant that  
22 about 90 percent of the people who had submitted cards  
23 were able to comment, and they didn't have to come back  
24 tonight. So that kind of struck me as a nice solution.

25           I want to apologize for not recognizing that

1 we had overflow rooms last night with people, and they  
2 never got acknowledged. And so just -- I just didn't  
3 click. I didn't think about recognizing them. And so I  
4 do want to apologize on behalf of the Council and just  
5 we note that we're very appreciative of the interest in  
6 this project and the comments, and we don't want anyone  
7 to feel overlooked.

8           And then before we get into this, I just want  
9 to remind everybody on the Council that we do the  
10 ex-parte contact information. This is where it's our  
11 responsibility to let you know if we have received  
12 information or had conversations or given advice to  
13 someone who -- or anyone or a body that you don't know  
14 about. Because at the end of the day, this has to be a  
15 transparent process, and you need to know that  
16 information.

17           We -- all of us made comments about who we  
18 had seen and talked to at the first public -- or at the  
19 first meeting, so this is the opportunity for Council,  
20 before we launch into the actual business item, to -- to  
21 talk about ex parte.

22           I'll start with my right.

23           COUNCIL MEMBER STRAWBRIDGE: I have not had any  
24 discussion with anyone since our meeting.

25           MAYOR PATTERSON: I had lunch with Jan

1 Cox-Golovich today. I consider that ex parte.

2 COUNCIL MEMBER SCHWARTZMAN: I have not had any  
3 meetings with anybody nor conversations.

4 COUNCIL MEMBER CAMPBELL: I talked to someone  
5 named Dan Glaze, who is sort of a consultant for the oil  
6 industry maybe a week ago, and that's about it.

7 MAYOR PATTERSON: Did you learn anything that we  
8 haven't heard before?

9 COUNCIL MEMBER CAMPBELL: No, not really.

10 MAYOR PATTERSON: Pardon?

11 COUNCIL MEMBER CAMPBELL: No, not really.

12 MAYOR PATTERSON: Okay. Thanks.

13 So now we're into the -- our business item  
14 for which we're having the public comment time. Let me  
15 see. I have one other note. We have compiled a list of  
16 everyone who submitted cards for -- that was Monday;  
17 right? And they have been put into a typed format, so  
18 I'm going to read the names slowly so people have a  
19 chance to get to the podium.

20 If I don't see someone responding, I'll mark  
21 it. And at the end of calling all the names and the  
22 people who here come up and testify, then I'll recall  
23 those names, and that will be their last chance to  
24 comment.

25 I know that we have some people traveling

1 long distances to get here. I'm not too sure it's going  
2 to work for them, but we'll do what we can do under the  
3 circumstances.

4 (Discussion indiscernible on recording.)

5 MAYOR PATTERSON: I did what? Oh, I'm sorry.  
6 That's -- that's correct.

7 And then the last bit of information I have  
8 from staff is they're asking can you please take your  
9 trash with you when you leave. So, actually, as you  
10 know, we're supposed to not really have trash, so we  
11 want to control at the source.

12 So let's take the time. Thanks for Council  
13 Member Strawbridge's reminder for the public comment on  
14 any item that's not on the agenda.

15 Okay. Seeing no one come forward, then this  
16 is -- the business item for tonight is the continuation  
17 of the public comment. It's a request for continuance  
18 and process for appeal of the Planning Commission's  
19 decision to not certify the final Environmental Impact  
20 Report and to deny the use permit for the Valero Crude  
21 by Rail Project.

22 Staff has directed that we continue the  
23 public hearing and solicit public comment. I encourage  
24 the Council that if you have a question -- you're being  
25 asked to write your questions out. But if you want to

1 summarize your question because I think you all are  
2 pretty hard-pressed for time, that feel free to do that.  
3 I think the public would like to hear your thinking and  
4 your concerns. So that would be very helpful tonight.

5 All right. Without further ado the first  
6 name I have on my typed list is Valerie Love.

7 MS. VALERIE LOVE: Good evening, Council Members.  
8 Thanks so much for all your patience in this process.  
9 My name is Valerie Love. I am with the Center for  
10 Biological Diversity. And I want to speak on a couple  
11 issues, first of which is federal pre-emption.

12 And so on the issue of whether the City  
13 Council has the power to deny the project considering  
14 the main line rail impacts.

15 The City Council --

16 MAYOR PATTERSON: I'm sorry. Can you just stop?  
17 I'll -- I'll back up here.

18 I mentioned on Monday that we can hear your  
19 conversations out there. You may not be able to hear  
20 us, and I -- that's the speaker system. But we can hear  
21 you. So it's actually very distracting.

22 And so if you do want to have a conversation,  
23 just step outside, have the conversation, and then come  
24 back in. And that's a courtesy to the speaker so that  
25 we can actually hear the speaker. So thanks for your

1 cooperation.

2 Thank you. Okay. There you go.

3 MS. VALERIE LOVE: All right. Thank you.

4 The City Council does have the power to deny  
5 the project considering main line rail impacts, and that  
6 is not pre-empted by federal law. The Interstate  
7 Commerce Commission Termination Act, ICCTA, applies only  
8 to, quote, transportation by a rail carrier. This  
9 project is proposed and would be carried out by Valero,  
10 who is not a rail carrier. So the project is entirely  
11 outside the scope of ICCTA.

12 At the March 15th, 2016, hearing, the city  
13 attorney stated that the Attorney General has not  
14 weighed in on pre-emption. But the Attorney General  
15 urged the city to revise its environment review  
16 documents to include a section on main line rail  
17 impacts.

18 Why would she do this if she thought that the  
19 city had no authority to consider these impacts in  
20 making the decision? Her letter specifically noted that  
21 the city's ability to lessen rail impacts depend on,  
22 among other factors, whether Valero is a rail carrier.

23 The city attorney also represented that  
24 the San -- that San Luis Obispo County staff had  
25 determined that the county could not deny a similar

1 project based on the main line rail impacts.

2           While the EIR for the San Luis Obispo project  
3 found significant on sign -- on-site impacts as well,  
4 nothing in the staff recommendation said the county  
5 could not deny the project on the basis of rail impacts.

6           In fact, the staff report recommended denying  
7 the project because it would result in significant and  
8 unavoidable impacts with regard to the main line rail  
9 operations throughout the state.

10           Next, on Valero's request to delay the  
11 decision whether -- while they get an opinion from the  
12 Safety Transportation Board. The City Council should  
13 not wait for an opinion from the Surface Transportation  
14 Board for the same reason.

15           The STB will most likely deny Valero's  
16 petition for a declaration about whether the City  
17 Council's power is pre-empted because Valero is not a  
18 rail carrier. Just last year the STB found it did not  
19 have the jurisdiction to make a declaratory order about  
20 a zoning dispute when the petitioner was not a rail  
21 carrier. For that reason, even if they did offer an  
22 opinion, they are not the appropriate authority on this  
23 issue.

24           Finally, I'd like to comment on the  
25 inadequacies of the current federal regulations for

1 crude by rail which sets the context for your decision.  
2 New rules, of course, were released in -- by the  
3 Department of Transportation last May 2015. However,  
4 they were wholly inadequate to protect public safety.  
5 So I'm just going to give one example of how that is the  
6 case.

7 Tank cars, of course, have been a huge issue.  
8 We've seen the DOT-111 cars and the CPC 1232s derail,  
9 puncture very easily, and cause massive accidents,  
10 catastrophic accidents.

11 So these regulations leave these unfit tank  
12 cars on the rails for ten years. But what many people  
13 do not know is even the newest cars, the newest of the  
14 new designs, the DOT-117s have a puncture resistance of  
15 12 miles per hour on the side and 18 miles per hour on  
16 the head of the car.

17 At the same time, the federal regulations set  
18 speed limits of 50 miles per hour and 40 miles per hour  
19 in very select high terrorist-threat zones. So that  
20 leaves an enormous gap in the regulations between, well,  
21 at the max, 18 miles per hour, which the tank cars  
22 prevent more dangerous accidents, and 50 miles per hour.

23 And it turns out that most of the accidents  
24 that we've seen across the country with fires,  
25 derailments, spills, explosions have been within that

1 zone, and the average is about 30 miles per hour. So,  
2 again, right in that middle zone, which is not protected  
3 by the new tank car rules, not protected by the new  
4 speed limit rules.

5 So in this context where federal regulations  
6 are not protecting the public safety, Benicia City  
7 Council should do everything in its authority to protect  
8 public health and safety, which, as I've said, is not  
9 pre-empted, and you should do everything that you can to  
10 deny this project. Thank you.

11 MAYOR PATTERSON: Okay. Thanks. Hold on. Let's  
12 see if there are any questions.

13 Do we have any questions from Council on  
14 this?

15 All right. Thank you very much.

16 The next person I have is Charles Davidson.  
17 Okay. Alan Miller.

18 MR. ALAN MILLER: Smile, everyone. You will be  
19 making the decisions that will affect our up-rail  
20 communities.

21 Okay. Oh, I look so good. I am Alan Miller.  
22 I am from Davis, California, an up-rail city. This is  
23 the sixth time that I have been here on this issue. At  
24 the last meeting, a Valero supporter said that in the  
25 Lac-Mégantic, whatever you pronounce it, explosion, no

1 one was even on the train. Like that's an excuse?

2           What he did not mention was in Lynchburg,  
3 Virginia, where, oh, that other guy happened to mention,  
4 you know, that they -- they put things into the right  
5 containers. Well, in Lynchburg, Virginia, they put it  
6 in the right container, and it exploded anyway.

7           In Aliceville, Alabama, in Galena,  
8 Illinois -- Illinois, isn't that a beautiful day in  
9 Galena? Then the -- those all had crews, which sort of  
10 disproves what he said.

11           Well, of course, nobody died in those other  
12 ones. Why did nobody die? Dumb luck. Didn't happen to  
13 explode near the middle of any towns. Well, rail  
14 accidents happen when there is a perfect storm. In  
15 Casselton, the one that derailed, because another train  
16 fouled the main line.

17           Now, I know of three times where a train has  
18 derailed in Davis and fouled the other main line. If an  
19 oil train was coming at that moment, boom.

20           I wrote an article -- it's right here.  
21 You'll all get a copy -- in the "Davis Enterprise" about  
22 a 10-mile-an-hour crossover right in the middle of  
23 downtown Davis. All the others are 45, but the  
24 engineers see the same thing. There is no automatic  
25 train stop. It is not due for years. And the engineer

1 forgets, runs into -- or runs through that at 45 miles  
2 an hour, boom.

3           This happened in 2006 and 2009. I witnessed  
4 Union Pacific trains going through that at three to four  
5 times the posted speed limit. I reported to the NTB --  
6 SB and the FRA, and they did nothing. But you can. To  
7 say you can't is denial. You -- you are in a unique  
8 situation where your decision will affect up-rail  
9 communities.

10           Reliable income for Benicia? Well, not when  
11 the first town burns because let's say it derailed in  
12 downtown Dixon. Okay? And it incinerates 70 people in  
13 the entirety of downtown Dixon, which is pretty much the  
14 footprint of the blast zone.

15           Well, you know, then hundreds, maybe  
16 thousands of people will flood onto the tracks in Davis,  
17 in Dixon, in Fairfield, Suisun, Benicia, Sacramento, and  
18 Roseville, and they will not get off of those tracks  
19 until the oil trains are stopped. No trains ran through  
20 Lac-Mégantic for years, and they're just one little town  
21 that doesn't have enough people to stand on the tracks.

22           Well, you know there are enough politicians  
23 who are against this, there's so much resistance to this  
24 that no politicians will allow thousands and thousands  
25 of people standing on the tracks to get -- to be

1 arrested and pushed off the tracks, and there's not  
2 enough jails anyway.

3 Not that I'm advocating that. Have you ever  
4 met a Union Pacific lawyer? Sadists. They are pretty  
5 mean. So that would be irresponsible of me. I do not  
6 advocate standing on the railroad tracks.

7 However, taking an oil pipeline and putting  
8 it on steel wheels and hurtling a piece of it across the  
9 country is also extremely irresponsible. In fact, it is  
10 insane.

11 So I know that I am not allowed -- ooh. Ooh.  
12 I dropped -- (sound effects). I know that I am not  
13 allowed to speak for others; however, I do have the  
14 unique ability to channel historical figures. I do not  
15 know who they are, but one of them would like to talk to  
16 you right now.

17 I am Satan. And if you approve this project,  
18 you will -- (indiscernible). Who was it? Was it  
19 Richard Nixon? Jesus? Elvis? Garry Shandling? Joan  
20 Rivers? Well, anybody -- everybody, that was another  
21 episode of "Oil Train Death Theater." (Sound effect.)  
22 Good night, everybody. (Singing.)

23 MAYOR PATTERSON: I just need to ask if there are  
24 any questions for Mr. Miller.

25 MR. ALAN MILLER: Are there any questions for

1 Satan?

2           MAYOR PATTERSON: Jack Fleck is the next name.  
3 Jack Fleck.

4           Okay. Roman Lobeanko? Nanci Finley?

5           MS. NANCI FINLEY: Hi. I'm Nanci Finley. Good  
6 evening, Mayor Patterson and Council Members.

7           I'm a proud Benicia resident, a homeowner,  
8 and I raised my family here in this town. I want to  
9 speak to you tonight -- oops. I stand in firm  
10 opposition to bringing crude by rail to our town. It's  
11 a dangerous project at every turn of each track that we  
12 cannot afford in our community.

13           I lived in Santa Barbara in the late '60s  
14 when there was an oil spill -- a disastrous oil spill  
15 there in Santa Barbara. I helped clean the birds up.  
16 Well, the Crude by Rail Project is a different -- would  
17 be a different sort of oil disaster.

18           I have a lot of memories of the Santa Barbara  
19 oil spill. I do not want to see a disaster of any kind  
20 involving oil in our community. So I continue to stand  
21 for the environment in my community.

22           I have voted for some of you all up there. I  
23 have voted for you -- some of you on the basis that you  
24 said that you wanted to support a safe, clean,  
25 environmentally sound community. I will be watching and

1 listening to each of you and seeing how you are voting  
2 on this issue.

3           And I assure you that I will organize myself  
4 and other people in the community to vote against and  
5 not support any of you who will not take a stand for  
6 safe, environmentally sound projects in our community.  
7 We do not deserve to have the Crude by Rail Project in  
8 Benicia.

9           Also, due to the huge community response of  
10 this issue, I might suggest that in the future with  
11 future meetings that we might move the meetings  
12 concerning this issue to perhaps a larger venue, like  
13 the high school, so all people can see and hear and  
14 participate.

15           Thank you very much.

16           MAYOR PATTERSON: Thank -- hold on, Nanci.

17           Are there any questions from Council?

18           Okay. Thanks.

19           I'm going to call out about five names and  
20 then -- so that -- that we can save a little bit of  
21 time. Monica Brown, Steve Young, Ron Wright, Doug  
22 Lamone. Steve Young is here.

23           MR. STEVE YOUNG: Good evening, Mayor Patterson,  
24 Members of the Council. Steve Young, West 11th Street.

25           At the last Council Meeting on March 15th,

1 there was surprise expressed by Vice Mayor Hughes and,  
2 perhaps, others that the request from Valero to delay  
3 action on this project was coming at this point and not  
4 much earlier in a two-and-a-half-year process.

5           And the answer to that question as to why now  
6 is that the idea of indirect pre-emption did not exist  
7 two and a half years ago. The draft EIR, which was  
8 released in 2014, included a statement from Union  
9 Pacific about how federal law pre-empted local  
10 regulation of railroad operations. But there was no  
11 discussion at all from Valero or from the city that that  
12 same law would in any way provide any kind of protection  
13 or shield for Valero itself.

14           It was not until the revised draft EIR was  
15 released last August that the idea came forward, and  
16 that came forward in Appendix H, which was the very last  
17 appendix that was available only on the CD that was in  
18 the back of the revised draft EIR. And that was the  
19 first time the public saw anything about this theory of  
20 indirect pre-emption.

21           Yet, when the final EIR was released in  
22 January of this year, indirect pre-emption had become  
23 the crux of the argument that Valero should be shielded  
24 from any responsibility for mitigating any of the  
25 impacts of their project up rail.

1           The request to delay the decision and ask the  
2 Surface Transportation Board for an opinion should not  
3 be approved. The Surface Transportation Board is a  
4 regulatory panel in Washington, D.C., that, according to  
5 their website, is, quote, an independent adjudicatory  
6 and economic regulatory agency charged by Congress with  
7 resolving railroad rate and service disputes and  
8 reviewing proposed railroad merger. The agency has  
9 jurisdiction over railroad rate and service issues and  
10 rail restructuring transactions. I don't see how giving  
11 an opinion on indirect pre-emption falls within any of  
12 those defined duties.

13           The purpose of the STB is to rule on disputes  
14 between shippers and railroads. In this case, Valero is  
15 a shipper, and Union Pacific is the railroad. But there  
16 is no dispute between the two of them. They're on the  
17 same side of this issue.

18           So to allow Valero's attorneys to  
19 characterize the issue would be unfair to opponents of  
20 the project, and it would lead to an inevitable but  
21 probably irrelevant opinion.

22           The issue of pre-emption by proxy is one that  
23 will likely end up in the courts, which is really where  
24 it belongs. Ample testimony was received by the  
25 Planning Commission and will be heard by you probably

1 from both governmental agencies and environmental groups  
2 that directly contradicted the opinions put forth by  
3 Valero and the city's contract attorney, Mr. Hogin. In  
4 summary, the issue of indirect pre-emption is a novel  
5 approach by Valero and their attorneys, but it can  
6 certainly not be characterized as settled law.

7           Now, I'm sure your staff and the attorneys  
8 have informed you that in order to approve a project  
9 under CEQA where there are significant and unavoidable  
10 impacts that will not be mitigated, it's necessary for  
11 you to make findings of overriding consideration, and  
12 those findings are proposed and included in your packet.

13           One of those findings has to do with the  
14 economic benefits. The first benefit listed involves  
15 extra tax revenue estimated by a report from the Andrew  
16 Chang company. That report referenced the \$55 million  
17 value of the project and said that there would be up to  
18 \$2 million in one-time sales tax received by the city.

19           The finance department in the city says that  
20 we get one percent of the sales tax that is collected.  
21 So in order to get \$2 million in sales tax, you'd have  
22 to have \$200 million in sales of construction materials  
23 from Benicia companies. But that's on a \$55 million  
24 project. So it's hard to see where that adds up.

25           The same report also said that any project

1 that Valero says will create 20 jobs, it will actually  
2 result in a thousand jobs generated from unknown  
3 sources. I don't think it's really possible to accept  
4 these facts or these -- this proposal as fact and make  
5 your findings.

6           It also says the city would receive \$175,000  
7 in property tax increase, but that number needs to be  
8 put into perspective. According to the Solano County  
9 Assessor, in 2004 Valero had their property tax  
10 assessment reduced on appeal from 864 million to  
11 674 million. That cost the city \$600,000 a year. A  
12 year later, they had another appeal reduced that cost  
13 the city \$300,000 a year.

14           Now they have a pending appeal of reducing  
15 their assessment from \$900 million to \$100 million. If  
16 that appeal is approved, the city would stand to lose  
17 \$3 million a year in general funds.

18           So if the -- if the Council is inclined to  
19 approve this project, I would hope that there would be  
20 some understanding that Valero would drop this appeal  
21 and pledge not to make further appeals in reducing their  
22 assessment and costing the city tax revenue.

23           I see my light is up. Thank you.

24           MAYOR PATTERSON: Thank you.

25           Are there any questions of Mr. Young?

1           Seeing none, thank you so very much.

2           Ron Wright, Doug Lamone, Constance Beutel.

3           Okay. I get lots of notes up here. While --  
4 Ron Wright, Doug Lamone, Constance Beutel.

5           So while you're coming up here, ordinarily I  
6 do need to have permission from a Council Member before  
7 I say why they're not here. I just consider that as a  
8 courtesy.

9           And so he wants you to know that his mother  
10 has taken a very serious turn in the hospital, and so  
11 he's actually with her but watching us, apparently. So  
12 he won't lose too much, I hope, and we, of course, all  
13 wish his mother a rapid recovery.

14           So Ms. Beutel.

15           MS. CONSTANCE BEUTEL: All right. You want to  
16 reset the clock here? There we go.

17           Good evening, Mayor Patterson, Council  
18 Members. I'm Constance Beutel at 1501 Shannon Court for  
19 the past 26 years.

20           I urge you, the Council, to deny Valero's  
21 request for the Surface Transportation Board extension  
22 and the project itself. Benicia is a leader in its  
23 commitment to sustainability based on the balance of the  
24 environment, the economy, and society.

25           The Valero proposal fails in all three

1 sustainability elements. Let me start with the economy.  
2 Lost opportunity costs to existing business due to train  
3 delays at Park Road Crossing. Further, no provisions  
4 have been made for business continuity and recovery in  
5 the event of a hazardous accident.

6           Additionally, no estimates have been made  
7 about the loss of business in the industrial park or in  
8 the city because of the presence of an oil refinery and  
9 its potential increased danger and loss of property  
10 value.

11           Environmental. Valero has used the city's  
12 Climate Action Plan to support its proposal because they  
13 say transporting Bakken crude oil by rail lessens  
14 greenhouse gas emissions as they indicate that train  
15 engines emit less greenhouse gas than do ships.

16           Nothing, however, is said about increased  
17 greenhouse gas produced by extracting, transporting, and  
18 refining heavy crude oil or possible tar sands. I  
19 recommend that you review the Oil-Climate Inventory done  
20 by the Carnegie Endowment to see the life cycle and --  
21 this is for our city attorney -- WTW. The acronym means  
22 Well-to-Wheel Greenhouse Gas Emissions.

23           Finally, society. I will only have you  
24 consider health aspects. After five years and the  
25 intercession of you, Mayor Patterson, as the former

1 chair of the Community Sustainability Commission, I  
2 learned that Benicia incidences of cancer is 165 new  
3 cases of cancer annually and at least 123 annual  
4 emergency room visits for respiratory ailments.  
5 Producing heavier crude will only increase that kind of  
6 incident. And those are only two of the chronic  
7 illnesses that we were able to get any data on, and you  
8 can't find it very easily.

9 So, therefore, I urge you -- urge a "no" vote  
10 on the extension and a "no" vote for the proposed  
11 project. Thank you.

12 MAYOR PATTERSON: Thank you.

13 Any questions?

14 Seeing none, the next names I have are  
15 Giovanna Sensi-Isolani, Donna Rose, Sheila Clyatt.

16 MS. GIOVANNA SENSI-ISOLANI: Good evening. I'm  
17 Giovanna Sensi-Isolani, and I'm a resident of Benicia,  
18 have been for over 20 years, and I have a business in  
19 downtown Benicia.

20 And I'm here to talk to you again, because I  
21 have been here several times talking in front of the  
22 Planning Commission, and I'm here to talk to you again  
23 about this terrible issue.

24 I had a list here of all the little things  
25 that I wanted to tell, but I'm going to talk to you from

1 my heart today. And I am going to tell you that  
2 contrary to the signs that Valero is passing around,  
3 this project is not good for Benicia. It isn't good for  
4 Benicia for several reasons, and you've heard a lot of  
5 them in terms of just the safety issue.

6 But one of the major issues is if you, as our  
7 representatives, are thinking of Benicia in 10, 20, 30  
8 years and even longer when most of us will not be here,  
9 Benicia will still be here. And we have to think about  
10 the future, the future of the Benicia community for our  
11 children and our grandchildren and yours. Because I  
12 know many of you have children and grandchildren who  
13 live in this community.

14 Oil is not in the future. I taught high  
15 school science for 21 -- well, 27 years, 21 of them here  
16 in Solano County, and I taught environmental science.  
17 And I taught my students about global warming. I  
18 taught -- I taught them about greenhouse gases.

19 And in the early '70s, as a matter of fact,  
20 in a forum with an oil company, I asked them what their  
21 plans were for the future because oil is something that  
22 is not sustainable. It's not only not sustainable.  
23 It -- it is dangerous. We have to dig it up from the  
24 past, the fossils that are underground. And when we  
25 burn it, it releases carbon dioxide, which causes this

1 greenhouse effect.

2           We know that it is not the future. And even  
3 Exxon, who was here before Valero, here in Benicia, we  
4 found out knew all along that Exxon and oil was causing  
5 this terrible greenhouse effect that is going to really  
6 change the future of our planet.

7           Some people have said they don't envy your  
8 position, but I do envy you because I wish I was there  
9 on your seat, able to make this decision to say no more  
10 of this. We need to make a turnaround. We need to have  
11 a future for this planet and for our children. And the  
12 oil industry is not part of that future.

13           Valero will leave Benicia because oil is not  
14 the future. Valero will leave Benicia, and our plant --  
15 our staff should be working on deciding what the future  
16 for Benicia is going to be. Where are we going to get  
17 all this added money? There is a lot of potential here.

18           Today I was walking up in the hills up above  
19 the area where there's the little lake, and there's a  
20 wonderful labyrinth up there, and I was walking there  
21 and I was looking at Benicia with the wind blowing in my  
22 face, the sun shining, and the water out there. All  
23 these three areas are potential areas for energy, much  
24 more healthy energy than the energy that comes from  
25 underground in the past, the oil of dead animals.

1           So we need to make a turnaround. We need to  
2 be the leaders. You need to be the leaders of the  
3 future. This is why we elected you. You need to  
4 represent us and say no more of this. We're going to  
5 move into a clean, healthy future for our city and for  
6 the children in our city because they are there  
7 depending on you.

8           Unfortunately, they're not here. But some of  
9 them would be here if they knew about what this big  
10 issue is. So, please, don't forget them. Don't forget  
11 us.

12           I'm an old lady, and I probably won't be here  
13 when the oil industry dies, but it will die. It will  
14 die soon. And we have to create this new future for our  
15 town. Thank you.

16           MAYOR PATTERSON: Thank you very much.

17           Donna Rose, Sheila Clyatt, Chris Howe, Larnie  
18 Fox.

19           MS. DONNA ROSE: Good evening, Madam Mayor and  
20 Council Members. My name is Donna Rose. I've lived  
21 here for 38 years. I love this town. I get kind of  
22 emotional about it sometimes.

23           Valero's appeal to bring crude by rail to  
24 Benicia should be denied. Do we want to put our town in  
25 jeopardy? The decision you make here has far-reaching

1 broad implications that affect many communities besides  
2 our own. Proponents say Valero is a good neighbor and  
3 that the project will create jobs and bring in taxes.  
4 They even say it's safe to transport crude by rail.

5           If it's so safe, how is it that the towns of  
6 Lac-Mégantic -- Mégantic, Aliceville, Alabama,  
7 Casselton, North Dakota, and Lynchburg, Virginia, to  
8 name a few, suffered such -- such heavy losses and are  
9 still suffering from the devastation resulting from  
10 derailments which caused blasts and wide-spread fires?

11           How do you think the residents and council  
12 members of those towns would have voted if in hindsight  
13 they were given the chance? Would they have been  
14 considered hysterical if they voted "no"? What if they  
15 had united and said "no" before the disasters that  
16 struck their cities dramatically changed their lives  
17 forever?

18           We can't afford to live in denial that Valero  
19 and proponents do. We can't afford to let these trains  
20 rumble by schools, houses, businesses, and our cities  
21 day after day after day.

22           Train cars were never meant to carry and  
23 transport volatile crude oil. We shouldn't have to live  
24 in fear. There's a better way, pipelines, ships. You  
25 know, people make mistakes. The fact that there was no

1 engineer on the Lac-Mégantic train, I have to say yikes.  
2 It does not instill any confidence in me whatsoever.

3           One other point to remember is that real  
4 estate transactions will have to disclose adverse  
5 conditions which could negatively impact prospective  
6 buyers. Would you knowingly buy a house in an area  
7 where crude trains arrive daily?

8           My last point is Lac-Mégantic looked a little  
9 bit like Benicia, beautiful downtown area and a lake.  
10 Look at the before and after pictures. Forty-seven  
11 people perished. It will never be the same. It will  
12 take years while placing a huge financial burden upon  
13 the future.

14           Let's not let big oil cram this project down  
15 our throats. It's, indeed, a bitter pill to swallow. I  
16 respectfully request that you deny Valero's appeal.  
17 That would be being a good neighbor.

18           MAYOR PATTERSON: Thank you.

19           Any questions?

20           Thank you.

21           Sheila Clyatt, Chris Howe, and Larnie Fox.

22           MS. SHEILA CLYATT: Good evening. My name is  
23 Sheila Clyatt, and I am a resident of Benicia. I ask  
24 you to deny this permit tonight because if you grant an  
25 extension, you could be compromising your jurisdiction

1 on the outcome. Valero could establish precedent in  
2 another location, thereby mandating an outcome here.  
3 Once this happens, the citizens of Benicia would lose  
4 all representation.

5           There are many reasons to deny land use  
6 permits. Some include the contamination to sulfur  
7 springs, building in a flood zone, earthquake  
8 possibility, groundwater contamination, increased water  
9 usage, and air quality.

10           Despite the claim that this plan would  
11 improve overall air quality, anyone listening to past  
12 hearings clearly understands that the calculations  
13 presented in the FEIR are comparing incompatible data.

14           But, more importantly, Valero is only running  
15 at 65 percent capacity, allowing for it not only to run  
16 more trains, but also to continue importing and  
17 exporting oil by ship. It makes financial sense that  
18 Valero would continue shipping by-products of crude,  
19 processed crude, or even crude itself to current markets  
20 in China, thereby making all projected air quality  
21 figures irrelevant.

22           China is aggressively seeking oil, and the  
23 oil companies are scrambling to be ready to take  
24 advantage of this fresh new market. The International  
25 Energy Agency expects China's oil imports to increase to

1 13 million barrels a day by 2030. They're currently at  
2 10 million gal- -- barrels a day.

3           According to the executive director of Oil  
4 Change International, Valero has contracted to, quote,  
5 take at least a hundred thousand barrels of tar sands  
6 crude a day from North America. Furthermore, in this  
7 response to this prime market, Valero has laid out  
8 aggressive export strategies to its investors and has  
9 beefed up Port Arthur Refinery to process for future  
10 demands.

11           Now it is trying to do the same here in  
12 Benicia. And who takes the risk for this profit? You  
13 and I. Americans could become little more than  
14 middlemen, taking the risk of spills and increased  
15 pollution while the oil goes abroad. And why do this?  
16 Where a refinery's located in tax-free foreign trade  
17 zones makes international sales lucrative. In the  
18 international market, this oil would be -- bring higher  
19 prices than the U.S. market currently.

20           To restate, the petro companies have one goal  
21 in mind: To sell as much oil as they can for the  
22 highest price. The decision of what are, quote,  
23 significant and unavoidable impacts becomes driven  
24 purely by financial concerns.

25           In fact, the only beneficiary in this project

1 is Valero's bottom line. Valero continues to guarantee  
2 safety is their priority, and I don't doubt that. But  
3 over and over again we see accidents happen.

4 Just over two months ago, three tank cars  
5 derailed under the Benicia Bridge, and all I could think  
6 of was thank God they weren't filled with crude.

7 According to the Federal Railroad  
8 Administration, over three trains derailed daily on  
9 average in the U.S. between 2012 and 2015. When there  
10 is an accident, who will burden this cost to the city?

11 MAYOR PATTERSON: You need to wrap up. Sorry.

12 MS. SHEILA CLYATT: Okay. If the City Council  
13 insists on granting this permit over the testimony to  
14 all of the contrary, they must mandate insurance for  
15 expenses of the city that will incur.

16 This was briefly discussed earlier at the  
17 hearing, but it was overridden due to Valero's shaky  
18 legal argument that they are unaccountable due to  
19 federal indirect pre-emption laws.

20 And I appeal to you tonight to support the  
21 determination made by the Planning Commission over a  
22 multiple-year process voiced by the citizens of Benicia  
23 to deny this permit. Thank you.

24 MAYOR PATTERSON: Thanks.

25 Okay. The next speaker we have is Chris

1 Howe.

2 MR. CHRIS HOWE: Good evening, Madam Mayor,  
3 Members of the Council. My name is Chris Howe. I'm  
4 with the Valero Benicia Refinery.

5 I want to begin by thanking our many  
6 supporters, including the Benicia Chamber of Commerce  
7 and the Benicia Industrial Park Association, as well as  
8 over a thousand residents here in town that have written  
9 and attended some of the late-night meetings here on  
10 this project over the last four years.

11 I know many of them are unable to attend  
12 again tonight. They are watching. But they have asked  
13 us to acknowledge their continued support for the  
14 project. So I'd like to do that now.

15 We believe our past testimony and the other  
16 information that's been submitted to the file provides a  
17 clear view of our position on this matter. As such,  
18 I've got nothing more to add tonight, and I urge the  
19 Council to move swiftly to a decision on our appeal.  
20 Thank you.

21 MAYOR PATTERSON: Okay. Are there any questions  
22 of Mr. Howe?

23 Seeing none, the next speaker is Larnie Fox,  
24 Craig Snider, Anina Hutchinson.

25 MR. LARNIE FOX: Mayor Patterson, City Council

1 Members, I'm Larnie Fox. I live on East I Street in  
2 Benicia.

3           Tonight you're considering what is probably  
4 the most important decision you will make as a public  
5 servant to Benicia, a decision that will affect the  
6 safety and economic well-being of Benicians for years to  
7 come, impact our precious environment and our neighbors  
8 in other parts of California. The nation is watching  
9 us. Consider carefully.

10           Some are telling you that this decision is  
11 not yours to make. They're wrong. But even if they  
12 were correct, you should still vote against this  
13 proposal to do everything in your power to protect the  
14 health, safety, and economic interests of those you  
15 represent. If you vote for it, you will be putting us  
16 on the wrong side of history.

17           When the military left Benicia, people  
18 forecast economic disaster for the town. It didn't  
19 happen. When the oil industry dwindles and leaves as it  
20 will, new frontiers will open up for us.

21           As businesses and people are being priced out  
22 of San Francisco and Oakland, they are looking towards  
23 our area. When they do, they see a charming,  
24 affordable, and safe community with good schools. They  
25 see an affordable industrial park where innovative new

1 businesses could flourish. They see a strong arts  
2 community that feeds creative thinkers and fuels  
3 economic growth. They also see a dangerous and dirty  
4 oil industry that threatens all of that and much more.

5 In our representative democracy, it is your  
6 job to represent us, the people. It is not your job to  
7 represent the interests of huge Texas-based corporations  
8 even though it may be convenient and lucrative to do so.

9 If you decide to go ahead with this  
10 short-sighted project, not only will you be putting the  
11 health and safety of your community at risk, you will  
12 also be making us Benicians culpable for the harm that  
13 will come to communities up rail from us. You will be  
14 making us culpable for environmental damage in some of  
15 the most beautiful and sensitive areas in the state.

16 We, as a community, must take a stand against  
17 the powerful forces that would profit from our  
18 sacrifices. We will find that we have friends in many  
19 places if we do. Yes, there will be a price to be paid.  
20 Yes, it will take courage to stand up to Valero.

21 The question is do you see our community as a  
22 company town, an oil town, a place where the dirty  
23 industries of the 20th Century will linger on for 20 or  
24 30 more years, or do you see our community as a place  
25 for innovation, growth, and opportunity, a safe place

1 with good air and clean water, a place where intelligent  
2 and creative people can thrive?

3 I know this will be difficult for you, Tom,  
4 Alan, Elizabeth, Christina, Mark on video. Please, do  
5 the right thing. I'm sure in your hearts you know what  
6 that is.

7 MAYOR PATTERSON: That's it? Thanks very much.

8 Any questions?

9 All right. Thanks, Larnie.

10 Craig Snider, Anina Hutchinson, Erik Ferry,  
11 and Charles Coleman. Okay. Steve McClure, Suzy Wong.

12 MR. ERIK FERRY: Erik Ferry is here.

13 MAYOR PATTERSON: Oh, there you are.

14 MR. ERIK FERRY: Hi. My name is Erik Ferry of  
15 El Sobrante, California, and thank you for the  
16 opportunity to present and your endurance.

17 I'd like to at the risk of, perhaps, sounding  
18 a little bit melodramatic try to place this decision for  
19 you in the broader context as others have done.

20 But with all of the petroleum infrastructure  
21 that we have here in the East Bay, as much as anywhere  
22 on the planet, we're really on the front lines of what's  
23 nothing less than a global struggle to either make a  
24 swift and equitable transition to renewable energy  
25 economies and societies or to pay increasingly dire

1 costs of not doing so sooner.

2           And I'm saying this to you at a time when the  
3 good science seems to be telling us that the cumulative  
4 impacts and momentum of global climate destabilization  
5 are occurring faster than anybody even thought just a  
6 couple of years ago.

7           And we only need look for a hint of what may  
8 be in store for us to the challenges being faced by  
9 Europe due to a couple of million refugees coming out of  
10 Syria. But if we do not act swiftly locally,  
11 nationally, internationally, climate change-induced  
12 inundation of coastal areas and coastal cities is going  
13 to make that look like a picnic.

14           So with that in mind, I think that myself and  
15 many of the other people here who have spoken out  
16 against Valero's appeal for permit approvals would favor  
17 any number of positive incentives to get Valero and the  
18 other petroleum interests locally and nationally to take  
19 leadership in transitioning us to renewable energy  
20 pathways.

21           And I have a family. I've been underemployed  
22 and unemployed, and I know that's not fun, and I  
23 wouldn't wish that on anyone, including the good people  
24 in Benicia and beyond whose livelihoods are depending on  
25 our current petroleum energy infrastructure, which is

1 why any transition plan should include transitional  
2 assistance, subsidized job training and retraining, and  
3 preferential job placement for people whose livelihoods  
4 are being dislocated by such a transition.

5           Suffice it to say, until such -- such a  
6 transition is agreed upon, and I -- I don't know if  
7 these discussions are taking place in Washington or  
8 Sacramento or Benicia, but I think we can be sure that  
9 neither Valero nor our other fossil fuel energy  
10 interests locally and beyond are going to make that  
11 transition unless we also, to be frank, obstruct any  
12 plans to build out new or expanded infrastructure to  
13 continue using fossil fuels and petroleum, in  
14 particular, here in our East Bay.

15           Now, with all that in mind, I think we can  
16 also be sure that the petroleum industry locally and  
17 beyond will say, in effect, "No, no, no. We cannot make  
18 such a transition that is swift and equitable now. It's  
19 too complicated. It's too expensive," et cetera.

20           To that I say, hogwash. Nonsense. This  
21 country transitioned from horse and buggy and kerosene  
22 lanterns to mechanized transportation infrastructure and  
23 electric power grids in just a couple of decades at the  
24 beginning of the last century.

25           Even more dramatically and saliently, this

1 nation went from being a semi-dysfunctional  
2 manufacturing and industrial backwater to the production  
3 powerhouse of the planet with unified economic and  
4 political will and a shared sense of purpose in just  
5 three years at the beginning of World War II, a complete  
6 transformation.

7 Don't let anyone tell you we can't do it. We  
8 must do it. And thank you for the opportunity to  
9 present and for your patience.

10 MAYOR PATTERSON: Thanks. I'm losing my voice.

11 Would you call -- you'll go, actually.  
12 Thanks.

13 COUNCIL MEMBER STRAWBRIDGE: Okay. The next one  
14 is Charles Coleman and then Steve McClure and then Suzy  
15 Wong.

16 MR. CHARLES COLEMAN: Good evening, Mayor and  
17 Council. Thank you for this opportunity. I am -- will  
18 be a new resident of Benicia by the end of the month as  
19 escrow closes. I've been a participant in the community  
20 with Benicia Outrigger Canoe Club for about five years.

21 I won't add anything new, but I will say that  
22 I have a high regard for Valero as a neighbor. I  
23 understand that -- while I -- I don't doubt any of the  
24 competence and integrity of our neighbors who work  
25 there, but I do believe the E -- EIR's flawed and that

1 the Council should stand by your -- stand by your  
2 Planning Commission and their opinions. Thank you.

3 MAYOR PATTERSON: Thank you very much.

4 Any questions of Charles?

5 Okay. Steve McClure, Suzy Wong, and Donna  
6 Rackner. Okay. Richard Gray, Elly Benson, Ethan  
7 Buckner, George Gwynn. George Gwynn.

8 MS. ELLY BENSON: I'm Elly Benson.

9 (Indiscernible.)

10 MAYOR PATTERSON: Okay. Elly, come forward.

11 It's allergies, you guys. That's all it was.  
12 A sudden attack.

13 Go ahead.

14 MS. ELLY BENSON: Hi. I'm Elly Benson. I'm an  
15 attorney at the Sierra Club. We have about 630,000  
16 members, including 145,000 in California, many of whom  
17 live in and around Benicia, as well as in communities  
18 along the rail lines.

19 I'm here to urge you to uphold the Planning  
20 Commission's unanimous decision to deny this project,  
21 and I'd like to focus on two issues. The first is  
22 pre-emption, and the second is on-site significant  
23 impacts that independently require denial of this  
24 project.

25 As for pre-emption, federal law does not

1 pre-empt the city from denying the permit for this  
2 project. The Surface Transportation Board or STB does  
3 not have jurisdiction over Valero's proposed project.

4           Nothing in the Interstate Commerce Commission  
5 Termination Act conflicts with the CEQA mandate to  
6 consider foreseeable impacts along the line, the rail  
7 line. CEQA's environmental reprocess does not regulate  
8 rail transportation, and federal law does not prevent  
9 the city from using its land use authority to deny this  
10 project based on rail impacts.

11           If you consider the goals of the ICC  
12 Termination Act, it is partly to prevent a patchwork of  
13 local regulation from unreasonably interfering with  
14 interstate commerce. Denial of Valero's permit for this  
15 project on Valero's property does not burden the rail  
16 industry in this way.

17           The Fourth Circuit wrote that Congress has  
18 narrowly -- narrowly tailored the Act pre-emption  
19 provision to displace only regulation, i.e., those state  
20 laws that may reasonably be said to have the effect of  
21 managing or governing rail transportation.

22           Using local land use authority to deny  
23 Valero's use permit for the project on Valero property  
24 does not constitute regulation of a rail carrier's  
25 operation. Valero's project is not integral to Union

1 Pacific's rail operations, and denial of the permit  
2 would not disrupt uniformity in rail operations.

3           As we pointed out in our comments, the Act  
4 applies only if the activity being considered is  
5 transportation by a rail carrier. As described by the  
6 STB in a 2003 decision, to come within the pre-emptive  
7 scope, activities must be both, one, transportation and,  
8 two, performed by or under the auspices of a rail  
9 carrier.

10           Valero is not a rail carrier, nor is it  
11 performing activities under the auspices of a rail  
12 carrier. Many of the cases that have been cited to  
13 support the argument that pre-emption limits Benicia's  
14 authority are inapplicable.

15           For example, the Alexandria case involved an  
16 ethanol transload facility. Critically, the facility  
17 was constructed and owned by a rail carrier and operated  
18 under its auspices. The facility was part of the  
19 railroad's operations.

20           As Commissioner Young alluded to, that -- the  
21 STB isn't the appropriate forum for this situation. A  
22 recent decision suggests that the STB agrees with that  
23 statement. The board recently denied a petition for  
24 declaratory order in a case involving a non-rail  
25 carrier's plan to construct additional railroads at a

1 liquefied petroleum gas transload facility.

2           The STB specifically noted that it was  
3 undisputed that the company was not a rail carrier, like  
4 Valero, and its transloading was not performed under the  
5 auspices of a rail carrier as was the case here.

6           I was hoping to talk more about the Attorney  
7 General's position. I know Ms. Love, the first speaker  
8 tonight, mentioned it. Basically, that 2014 letter that  
9 they wrote, the Attorney General laid out in great  
10 detail five deficiencies in the analysis regarding  
11 impacts on up-rail communities.

12           As Ms. Love noted, the A.G. wrote that  
13 factors relevant to the ability to exercise police  
14 powers of Benicia to lessen the impacts would hinge upon  
15 whether Valero is a rail carrier, which it is not.

16           So we see that the Attorney General  
17 statements in this letter, they disagree with both the  
18 claim that disclosure of impacts may be pre-empted and  
19 with the premise that any and all mitigation of rail  
20 impacts is unquestionably pre-empted.

21           As to the situation in San Luis Obispo, it  
22 illustrates the distinction between disclosure of rail  
23 impacts, mitigation of rail impacts, and denial based on  
24 rail impacts. While they -- the county staff there  
25 found that the county may be pre-empted from disclosing

1 certain mitigation measures, they also found that denial  
2 based on those rail impacts is permissible.

3           The staff report lists the facts -- the fact  
4 that the project would result in ten significant and  
5 unavoidable impacts with regards to main line operations  
6 outside of the refinery line, even outside the county  
7 line, as a reason for denial.

8           So I urge you to think critically about this  
9 pre-emption issue and whether it's as black as white --  
10 black and white as it has been presented to you by  
11 Valero's attorneys.

12           Lastly, beyond the rail impacts, there are  
13 many significant environmental impacts on site that  
14 require denial. Valero recently claimed that all the  
15 public discussion about the project has focused on the  
16 impacts of rail operations. This statement's perplexing  
17 since the Sierra Club and others have consistently  
18 pointed out in oral comments, comment letters, and  
19 expert reports that Valero's project would have  
20 unacceptable on-site impacts too, despite the EIR's  
21 improper failure to identify those impacts as  
22 significant.

23           Those include increased refinery emissions  
24 from the crude slate changes, environmental just  
25 impact -- impacts from the air pollution increases. And

1 my time is up, but you can read our letter for more.

2 MAYOR PATTERSON: Hang on there. I think we have  
3 a question from Council Member Campbell.

4 MS. ELLY BENSON: Uh-huh.

5 COUNCIL MEMBER CAMPBELL: Yeah. Going back to  
6 that liquid natural gas you -- case you quoted. Do you  
7 happen to have what that case was?

8 MS. ELLY BENSON: I think you're talking about  
9 the SEA-3 case, and it's actually attached to the  
10 comments that NRDC, Sierra Club, Stand, and others  
11 submitted.

12 COUNCIL MEMBER CAMPBELL: SEA -- SEA-3?

13 MS. ELLY BENSON: It's SEA-3.

14 COUNCIL MEMBER CAMPBELL: Pardon me. S- --

15 MS. ELLY BENSON: SEA, all caps, dash, 3. And  
16 it's a 2015 decision. And it's --

17 COUNCIL MEMBER CAMPBELL: Was that -- was that in  
18 the Ninth Circuit?

19 MS. ELLY BENSON: No. That was a -- an STB  
20 decision. So the company SDA-3, however you say it,  
21 submitted -- they --

22 COUNCIL MEMBER CAMPBELL: So it wasn't -- it  
23 wasn't a court case. It was an STB ruling on an issue  
24 of controversy, then?

25 MS. ELLY BENSON: Yeah. It was just like this

1 where the company who owned the facility submitted a  
2 petition for a declaratory order to the STB, and the STB  
3 denied that petition but provided guidance and kind of  
4 explained why they denied it.

5 COUNCIL MEMBER CAMPBELL: Okay. I -- I haven't  
6 read that one. Was that -- is it because it was on spur  
7 line? Can you give me like a one-minute, you know,  
8 quick synopsis, you know?

9 MS. ELLY BENSON: So the company wanted to expand  
10 their rail berths at their facility, their transloading  
11 facility, which already had, I think, a rail going to it  
12 and had other berths.

13 So a -- actually, in a town next -- so the --  
14 the Newington Town Board -- Zoning Board, I think,  
15 approved this expansion. And the next town over,  
16 Portsmouth, New Hampshire, actually sued -- I think they  
17 both appealed that decision and sued in state court.  
18 And the company asked STB for a declaration that those  
19 lawsuits were pre-empted because Portsmouth was  
20 concerned about increases in rail traffic.

21 MAYOR PATTERSON: Any follow-up?

22 Thank you, Elly.

23 MS. ELLY BENSON: Thank you.

24 MAYOR PATTERSON: Ethan Buckner, George Gwynn,  
25 and then Karen Jacks.

1 MR. ETHAN BUCKNER: Hello. My name is Ethan  
2 Buckner. I am a campaigner with Stand, formerly  
3 ForestEthics.

4 I've been working closely with members of  
5 this community and elected officials and residents in  
6 cities and towns up and down the rail routes for the  
7 past number of years on the crude by rail issue. I  
8 appreciate all of your patience throughout this whole  
9 process and thank you for the opportunity to speak  
10 before you this evening.

11 I'd like to clarify. And Ms. Love and --  
12 (indiscernible) -- Ms. Benson also just mentioned this  
13 previously, but I want to be real explicitly clear. I  
14 want to clarify for the public record the extent to  
15 which San Luis Obispo County's position on pre-emption  
16 differs from the view of the City of Benicia as -- as  
17 asserted by the contract attorney Bradley Hogin.

18 So a direct quote from Bradley Hogin on the  
19 March 15th City Council hearing -- this is, quote, to  
20 summarize what they did in San Luis Obispo County, like  
21 here, San Luis Obispo County decided to apply CEQA to  
22 on-site operations and that rail impacts are going to be  
23 disclosed, but that mitigation of rail impacts are  
24 pre-empted and that permit cannot be denied based on  
25 rail impacts.

1           There's a factual difference with San Luis  
2 Obispo, which is that, unlike here, in San Luis Obispo  
3 County, EIR for the Phillips 66 project found there were  
4 significant and avoidable impacts from on-site  
5 operations. So that project has not finally been  
6 decided, but they have the ability to avoid the  
7 pre-emption issue that is being presented to the City  
8 Council here. That's an -- unquote. That's a direct  
9 quote from the city's contract attorney.

10           That quote, what he presented to you all, is  
11 not only a mischaracterization of SLO County's position  
12 on pre-emption but is an actual falsification of their  
13 position.

14           This is so important because the contract  
15 attorney attempted to present a clear -- picture of  
16 legal clarity on this issue when, in fact, lawyers  
17 statewide have acknowledged the murkiness of this  
18 pre-emption.

19           So the SLO County staff report, to clarify  
20 this further, clearly delineates SLO's position on  
21 pre-emption from Benicia's. In SLO, the county council  
22 and county staff recommended denial due to the  
23 significant and unavoidable impacts that cannot be  
24 mitigated along rail routes.

25           And to quote from the SLO County staff

1 report, the planning and building department recommends  
2 denial of the project because the project would be  
3 inconsistent with goals and policies outlined in the  
4 county's coastal plan, coastal zone use -- land use  
5 ordinance, and coastal plan policies and other sections  
6 of the county's general plan.

7           In addition, the project would include 11  
8 class one environmental impacts, two of which are on the  
9 project site, nine of which off site. And there are  
10 insufficient economic, social, technological, or other  
11 benefits of the project to override its significant  
12 unavoidable environment impacts.

13           So just to make it abundantly clear, SLO  
14 County's position on pre-emption is not the same  
15 position as the City of Benicia. SLO County is  
16 recommending denial because this project -- that project  
17 would have potentially significant unavoidable and  
18 catastrophic impacts on communities up and down the rail  
19 routes.

20           And that is the position that we're urging  
21 you to take here and that there is a lot of -- I'm not a  
22 lawyer, but lots of lawyers have clarified the -- that  
23 you all have the right and the responsibility to protect  
24 this community and to protect other communities along  
25 the rail route. That is why you're hearing from elected

1 officials from Sacramento, from Davis, from Yolo County,  
2 Sacramento County, counsel of governments, from nine air  
3 quality management districts and air pollution control  
4 districts. They are calling upon your leadership.  
5 They're asking you to -- to make the right decision  
6 here. So I thank you for your time.

7           MAYOR PATTERSON: Thank you very much.

8                     Are there any questions?

9                     I have one. I know that air quality is a  
10 specialty, so I don't want to put you on the spot if  
11 that's not an area of expertise for you.

12                    But on the San Luis opinion, one of the  
13 things they talked about was dealing with their  
14 strategic growth goal objective to air quality. And the  
15 air quality issue -- they actually went beyond what  
16 we've heard here about the oxides, some nitrogen, and  
17 some of the other contaminants that cause the smog. And  
18 they talked about toxic air contaminants.

19                    Did you -- is there more information on that  
20 that can help make the distinction why there's a  
21 difference between San Luis Obispo and -- and the  
22 Benicia proposal?

23                    MR. ETHAN BUCKNER: As far as the air quality  
24 goes, I can -- I can get back to you on that.

25                    MAYOR PATTERSON: Okay. Thanks.

1           See, I think George Gwynn, Karen Jacks,  
2 Richard Lintz.

3           MR. RICH GWYNN: Good evening. My name is Rich  
4 Gwynn. I live in Suisun City, and I'd like to speak in  
5 favor of the Valero Crude by Rail Program.

6           It's not perfect, but I think that it's a lot  
7 better than the alternative. I like living in modern  
8 society, and I don't want to go back to the Stone Age.  
9 And if you don't have petroleum, I think we'd be in the  
10 Stone Age. This building wouldn't be here. You had to  
11 have transportation to get it here. I don't think it  
12 was horse and buggy.

13           People wouldn't have food because of the  
14 trucks and trains, other vehicles that provide  
15 transportation just aren't here yet to have absolutely  
16 no detrimental effects. When you get a better mouse  
17 trap, then I think somebody will be making money off of  
18 it, and that will happen. But it's not here at this  
19 point.

20           You guys have listened to tons of people talk  
21 about how bad Valero is. If it wasn't for companies  
22 like Valero, people would be living in the Stone Age.  
23 And I'm -- I'm surprised that you guys would take their  
24 money. It's -- if they're so bad, then you should be  
25 able to get by without their money.

1 I think it's one hand helping the other, and  
2 you should be thankful that they're here because  
3 otherwise your economic situation would be a lot more  
4 dire.

5 Most politicians in this area will brag about  
6 how they're happy Travis is here. If it wasn't for  
7 petroleum, you'd think the planes would be flying? I  
8 don't think that bicycle power is going to fly a C5.

9 I think that it's certainly good to be  
10 careful as far as safety's concerned. I think there's a  
11 better chance of Valero doing that than there is  
12 government. Government does all kinds of things that  
13 put the public in danger that private companies don't.

14 If I don't like Valero, I don't have to buy  
15 their gas. I can't say that about government.  
16 Government will tax you regardless. I have a house free  
17 and clear, but it's not because of property tax. The  
18 government always comes up with even more taxes.

19 Even worse, Mayor Patterson, you're a member  
20 of the STA. The STA's got a 111,000 budget to push for  
21 road tax. The thing of it is is that sounds like it's  
22 pretty close to pay for play, if it's not. And Valero's  
23 not doing that to me. They're not saying I have to do  
24 anything. If I don't like their services, I don't have  
25 to use them.

1           So it seems to me that, again, Valero's got a  
2 much better situation as far as how the public is  
3 treated. I really think that when you have a company  
4 that's provided as much as Valero has provided, that you  
5 should be really thankful that they're here because  
6 they're providing a lot of economic benefits for people.

7           Think about this. Most people don't even  
8 know how to light their own pilot light for their  
9 heating or their water heater. Imagine what it would be  
10 like if they went back to the Stone Age when they didn't  
11 have modern conveniences, and they had to get by.

12           It's kind of like what happened in China  
13 during the Cultural Revolution when the city people went  
14 out into the country. Most of them didn't do too well.  
15 And the same thing's going to happen here if people all  
16 of a sudden go back to the Stone Age.

17           So there's another thing. If you have less  
18 supply of oil, the price of gasoline and other products  
19 that use petroleum is going to go way up. So that makes  
20 it a lot -- a little harder for people on a fixed income  
21 or that are not making much money to get by. And it's,  
22 again, another benefit that comes from having a supplier  
23 of energy.

24           Sure, in the future there's going to be more  
25 efficient things with the fuel cell, fission, those kind

1 of things, but they're not here now. Until they're  
2 here, then the public needs to make the most of what we  
3 have.

4           The other thing too is that other countries  
5 in the world, they're a lot more into pollution than  
6 this country is. It doesn't matter what we do. If the  
7 other countries are going to continue to pollute, then  
8 that's what's going to happen to most of the rest of the  
9 world. So it's not going to be a win-win for this  
10 country to totally give up modern conveniences while the  
11 rest of the world continues to march forward.

12           And I see my time's about up, so I guess  
13 that's all for now. But you need to think about the  
14 other side instead of just what seems politically  
15 expedient. Thank you very much.

16           MAYOR PATTERSON: Thank you.

17           Any questions of Mr. Gwynn?

18           Okay. The next is Karen Jacks, Richard  
19 Lintz, Joanne Fuller, Judy Sullivan, and Jack Ruszel.  
20 Karen Jacks, Richard Lintz, Joanne Fuller, Judy  
21 Sullivan.

22           MS. JUDY SULLIVAN: Good evening, Mayor Patterson  
23 and City Council Members. I'm back -- back again.

24           I'm asking you to deny the STB proposal for  
25 the same reasons that have already been offered. I also

1 looked it up on -- online and could not see how it would  
2 fit the parameters of -- of what the need is of the land  
3 use issue.

4           And, also, I would like to congratulate the  
5 Planning Commission for their courageous stand and  
6 denying crude by rail. And I was looking at their  
7 propo- -- their reasons why, and I agree with their  
8 reasons and I'd like to add just one more.

9           The offloading ramp is too close to the  
10 storage tanks. It's only 45 feet from the closest tank,  
11 and that's a very dangerous position to be.

12           I refer you to Phyllis Fox's report that she  
13 just sent in that I just read last night, and she can  
14 explain it a lot better than I can. But she was saying  
15 how it's important to have the process of refining  
16 separate from the storage of what you're refining. It's  
17 a very dangerous situation. And we've heard this from  
18 other people as well.

19           Another concern I had about the EIR was that  
20 they had an improper use of their health assessment.  
21 They used an assessment from 2002, which helped clarify  
22 for me why I was getting different statistics than what  
23 they were offering because I was getting statistics  
24 about the asthma rate being very high, and that wasn't  
25 showing up in their report.

1           And also, there are serious lung problems in  
2 this area, cancer, respiratory issues. And one of the  
3 culprits to that is the petcoke situation that we have  
4 in the Bay Area refineries. And here in Valero, they  
5 just -- the BAQMD finally listened to us, and they said  
6 that they were going to require covers on their coke  
7 mounds.

8           And these are these big mounds that are --  
9 it's a by-product of the refining process that they  
10 sell, very low-grade by-product, and it contains PM 2.5,  
11 which is a very fine particulate that gets into the  
12 lungs. We can't keep it from getting into our bodies.  
13 It's just our bodies absorb it. And this is left laying  
14 out on their property, in the air. It just flies around  
15 in the air until it's transported to -- to their next  
16 location to where they're selling it.

17           And I found this very offensive, and I --  
18 it's been proven that their statistics on this -- on  
19 this quality is -- is inaccurate in the report, in the  
20 EIR, and I feel like that needs to be recalculated.

21           And it upsets me that Valero and Tesoro and  
22 Phillips 66 are doing a joint appeal -- here's another  
23 appeal -- to our Bay Area Air Quality District because  
24 they don't want to cover their mounds. And this is  
25 something that I've been fighting for for probably three

1 or four years at the state level, at the supervisory  
2 level, at the planning commission level, and here I am  
3 saying it again.

4 I wrote about it in several letters, which  
5 you will probably see in the FEIR if you're reading  
6 them, talking about this, and I don't get responses.  
7 I'm asking questions, and I don't get responses.

8 And this was offensive to me as a -- just a  
9 regular citizen who took time to read all of these  
10 documents and to respond. And to be -- to get  
11 dismissive responses or no responses at all or ask a  
12 question that they would answer, but it didn't answer  
13 the question.

14 And one thing I would ask of you to do while  
15 you're reading through these documents is just put a  
16 little check by when somebody has commented on something  
17 and the comment that they receive is irrelevant or does  
18 not meet the question.

19 It's very different when you're asking a  
20 question that doesn't relate and I understand that and I  
21 didn't happen to ask those. They did respond to my  
22 questions, but they didn't respond to my questions. And  
23 you will see that if you read this.

24 I also found it quite offensive to have these  
25 people who are experts in the field of refinery or

1 environmental biology, all these things, and they just  
2 fluffed them off, their comments. And that was  
3 disturbing to me.

4           So I think that the EIR definitely needs to  
5 be recirculated. If you decide to accept this project,  
6 it certainly -- I can't imagine you passing on how it  
7 was. It was pretty inadequate. And, also, I just hope  
8 that you deny the project altogether. I don't think  
9 it's good for Benicia.

10           Recently, I just was looking online how many  
11 accidents have happened since 2013, the crude by rail,  
12 and it's gone up 31 percent. And -- and we gave you the  
13 list. We gave you the accidents earlier on that maybe I  
14 put it in my report. Maybe some other people did. And  
15 there were, like, I think maybe 15 or something like  
16 that. Now there are 31 -- there are 31 accidents that  
17 have happened from 2013 to right now, 2016. These are  
18 figures to remember. Thank you.

19           MAYOR PATTERSON: Thanks, Judy.

20           Are there any questions?

21           All right. Thanks.

22           Jack Ruszel, Daniel Adel, Simone Cardona, and  
23 Dan Smith.

24           MR. DAN SMITH: Sorry. I have to leave.

25 (Indiscernible.)

1 MR. JACK RUSZEL: Do you want to speak right now?

2 MR. DAN SMITH: (Indiscernible.)

3 MR. JACK RUSZEL: Is that okay?

4 MR. DAN SMITH: (Indiscernible) -- softball game.

5 I have a softball game in about five minutes.

6 MR. JACK RUSZEL: Is that okay? Is that okay?

7 MAYOR PATTERSON: Unless there's an objection,

8 it's fine with me.

9 MR. DAN SMITH: Thank you very much.

10 MR. JACK RUSZEL: Okay.

11 MAYOR PATTERSON: Okay. Can you hold on?

12 Thanks, Amy.

13 MR. DAN SMITH: I'll be really quick. Okay.

14 Thank you, and I apologize for my appearance.

15 Dan Smith. Resident of the town for 30 years.

16 Any research into this issue shows that the

17 technology of the railroad industry is not ready for

18 this responsibility if, indeed, it ever will be.

19 Derailments and spills have increased exponentially as

20 the fossil fuel companies lean harder and harder on rail

21 for transportation of crude. Please don't make Benicia

22 the next victim of this inadequate technology.

23 A speaker yesterday, Bart Sullivan, mentioned

24 the risk of terrorism on this project. And if that

25 seems farfetched, let's take a little short trip up the

1 rail line to Suisun Marsh about four or five miles north  
2 of Benicia.

3           Out there, a few miles away, railroad track  
4 sabotage caused a derailment in 1979 that ignited --  
5 ignited highly flammable white phosphorus. The  
6 resultant fire was so intense that three railcars were  
7 encased in cement to contain it. That chemical still  
8 sits out there alongside the marsh, impossible to clean  
9 up. I've been out there and seen it, and it is a  
10 sobering site.

11           Members of the Council, as a colleague and  
12 neighbor, I ask you please, please don't open us up to  
13 an even worse disaster because a corporation and its  
14 economic dependents, eager for short-sighted profits,  
15 want to ramp up our reliance on rail so drastically.  
16 Thank you.

17           MAYOR PATTERSON: Thank you.

18           Any questions of Mr. Smith?

19           All right. Thanks.

20           So now Jack. And you're all ready?

21           MR. JACK RUSZEL: Thank you.

22           MAYOR PATTERSON: You're welcome.

23           MR. JACK RUSZEL: Mayor, City Council, thank you  
24 for allowing me to speak. I'm Jack Ruszel. I'm the  
25 owner of Ruszel Woodworks. We are members of the

1 Chamber of Commerce and members of the Benicia  
2 Industrial Park Association. And I need to start by  
3 clearing the record.

4           Neither the Industrial Park Association nor  
5 the Chamber polled its members. Most of the people that  
6 I know in the industrial park do not support this  
7 problem -- or this project.

8           As an owner of a neighboring business that  
9 will be heavily impacted by this project, I've spent a  
10 vast amount of time trying to make sense of the CIR, and  
11 I find -- I focused mainly on the Traffic Impact Report.

12           The report is fatally flawed in that the area  
13 of study that was -- that was done was much too narrowly  
14 focused, allowing the EIR to claim that no significant  
15 impacts, requiring minimal or no mitigation.

16           This is a picture of Bayshore Road. The  
17 train is crossing Park Road. Note the tractor-trailer  
18 exiting 680 Bayshore exit, fully blocking Bayshore Road  
19 in both directions. Let's see. That's in the next  
20 picture. Let's see if I can make this work now. I'm  
21 not sure if I can -- oh, which one do I -- oh, there we  
22 go. I think I got it. I think I got it now.

23           Okay. Okay. So this is difficult to see,  
24 but I can tell you right there there is a  
25 tractor-trailer that's crossing Bayshore Road diagonally

1 at the bottom of the exit, and it's locked up there.  
2 That's gridlock. There is no place for anybody to move  
3 until after that train has gone.

4 This is a picture from the opposite side of  
5 the street, a couple -- a minute later or so, and you  
6 can see the -- the Ironworkers Union right there fully  
7 blocked. And, incidentally, the Ironworkers have  
8 rescinded their support.

9 In this view, you can see the Park Road  
10 Crossing. It's the red circle right there. The picture  
11 was taken from -- the last picture was taken from that  
12 spot right there, the green arrow.

13 When a rail -- when a train the size that  
14 they would like to bring here is brought off the main  
15 line, which is right along here, it has to come down on  
16 the switch, and the -- and come way down here off the  
17 page. And then the train will cross in front of all  
18 these businesses and across Park Road, and the train  
19 will fully cover from the top of the picture to the  
20 bottom of the picture every time it crosses, every time  
21 they bring a train in. We do not see that kind of train  
22 activity in the Benicia Industrial Park.

23 So the point is that we already have  
24 significant issues with the railroad traffic. The  
25 problem comes from this traffic analysis, which comes --

1 which claims that there will be no significant impacts.  
2 They also claim that this -- this is already a bad  
3 intersection. It gets an F. Therefore, it can't get  
4 any worse. I don't see it that way. I think it can get  
5 much worse.

6           So the problem that arises with these  
7 businesses, and there's quite a few right here -- I  
8 believe there's eight -- is that at any time during the  
9 day, there could be upwards of 300-plus people working  
10 on that side of Bayshore Road.

11           Behind the businesses is a creek, Sulphur  
12 Springs Creek, and on the other side down here is the  
13 main line. There is no other way to exit. There's no  
14 other egress. This traffic report needs to address  
15 that. It does not. It is fatally flawed.

16           Valero's request for a land use permit was  
17 correctly rejected by our Planning Commission. This  
18 project does not fit in Benicia General Plan. Let me  
19 see if I can fit one more in there.

20           On page 33 of the traffic report, they have  
21 this illustration. The purple -- this shows the -- the  
22 project -- the issue right now without the project,  
23 which is the back --

24           MAYOR PATTERSON: So, Jack, you've run out of  
25 time. How many more slides do you have?

1 MR. JACK RUSZEL: This is it.

2 MAYOR PATTERSON: This is it?

3 MR. JACK RUSZEL: I can -- I can wrap this up  
4 quickly.

5 MAYOR PATTERSON: If there's no objection, can  
6 you wrap up in a minute?

7 MR. JACK RUSZEL: I can do that.

8 MAYOR PATTERSON: Okay.

9 MR. JACK RUSZEL: So what -- the conclusion that  
10 they came up with in this traffic report is that the  
11 purple line shows the existing condition. They suggest  
12 that by adding their project, the yellow line, which is  
13 about half the size in all cases, is the -- what would  
14 happen, that the queues would be shorter.

15 So it's -- it's a ludicrous assumption to  
16 come to, but math allows this. If you play the math  
17 right, you can get that kind of result, and that's what  
18 you're dealing with here.

19 So -- so the -- the other issue is that  
20 pre-emption is being thrown out as the reason that we  
21 must accept this project, but it's precisely the reason  
22 that the land use permit must be rejected.

23 MAYOR PATTERSON: So you're wrapping up.

24 MR. JACK RUSZEL: Thank you very much.

25 MAYOR PATTERSON: Thanks very much.

1                   Wait a minute. We have a question from  
2 Council Member Campbell, Jack.

3                   MR. JACK RUSZEL: Yes, sir.

4                   COUNCIL MEMBER CAMPBELL: Could you put that  
5 slide back up for just a split second there, that one.  
6 The math they use says it will work. Is that the math  
7 they were talking about which was the traffic, you know,  
8 consultant said -- basically, just did, okay,  
9 something's moving 5 miles an hour. It goes so many  
10 feet in a minute. The length of the train is so many  
11 feet. Divide the length that something moves in one  
12 minute at 5 miles an hour by the length of the train,  
13 and that's how they come up with that eight-point  
14 opinion?

15                  MR. JACK RUSZEL: Right. And they're saying that  
16 the eight minutes is shorter than some of the other  
17 crossings that they've seen, although almost all  
18 crossings are under five minutes. I think 98 percent.  
19 And in their report also, it says, I believe, are much  
20 shorter.

21                  COUNCIL MEMBER CAMPBELL: Okay. So the second  
22 question I have for you is that's based on a theoretical  
23 flat straight line; right?

24                  MR. JACK RUSZEL: That's right.

25                  COUNCIL MEMBER CAMPBELL: And that's not a

1 straight line?

2 MR. JACK RUSZEL: What I -- what I've seen with  
3 the rail movement in the industrial park is that it's  
4 not a flat straight line. A very simple problem can  
5 stop a train for long periods of time. We've seen  
6 derailments that will keep -- a minor derailment, just  
7 one wheel coming off the track, will -- will stop a  
8 train for hours. And it's -- that's the existing  
9 situation.

10 MAYOR PATTERSON: In addition to the math of what  
11 was just discussed, it's the averaging of the traffic.  
12 So the reason it never rises to a level of impact is  
13 because of that averaging.

14 MR. JACK RUSZEL: Because of that averaging,  
15 which is not what real life is doing. Real life does  
16 not give us those trains in the average. They give us  
17 those trains at whatever time that the railroad brings  
18 them in.

19 MAYOR PATTERSON: So we did ask for a depiction  
20 of the variables that drive the level of service and  
21 the -- the actual numbers that are within each of those  
22 levels of services and --

23 MR. JACK RUSZEL: That was regarding the -- the  
24 street.

25 MAYOR PATTERSON: Right.

1 MR. JACK RUSZEL: Right.

2 MAYOR PATTERSON: So we haven't gotten that back,  
3 but that -- we did ask for that.

4 MR. JACK RUSZEL: That will be interesting to see  
5 what they come up with.

6 MAYOR PATTERSON: Okay. Thanks.

7 MR. JACK RUSZEL: Thank you.

8 MAYOR PATTERSON: Daniel Adel or -- yeah. I  
9 guess -- I'm sort of out of order because of Dan Smith.

10 Daniel Adel, Simone Cardona, Michelle  
11 Rowe-Shields, Elizabeth Crawley, Larry Fullington,  
12 Phyllis --

13 COUNCIL MEMBER SCHWARTZMAN: Hang on a second.  
14 Somebody's coming up. (Indiscernible.)

15 MAYOR PATTERSON: So was your name called?

16 MS. MICHELLE ROWE-SHIELDS: (Indiscernible.)

17 MAYOR PATTERSON: Okay. Okay. Great.

18 MS. MICHELLE ROWE-SHIELDS: (Indiscernible.)

19 MAYOR PATTERSON: Mrs. Michelle --

20 MS. MICHELLE ROWE-SHIELDS: Yes. My name is  
21 Michelle Rowe-Shields, and I am a Benicia resident.

22 I urge the Benicia City Council to uphold the  
23 Planning Commission's unanimous decision and to deny the  
24 use permit -- (indiscernible) -- that was proposed,  
25 massive offloading crude oil train terminal in Benicia.

1           Transporting crude by rail is not safe. As  
2 we've seen all too many times over the last few years,  
3 in a blink of an eye, one of these massive oil trains  
4 can derail, crash, and explode.

5           Just two months ago, as others have  
6 mentioned, three tank cars carrying hazardous sulfuric  
7 acid derailed on train tracks under the Benicia Bridge  
8 in Martinez. The "Contra Costa Times" reported that the  
9 Martinez derailment occurred at 8:00 a.m. An hour and a  
10 half later, the Contra Costa hazardous materials crews  
11 were on the scene with scores of Union Pacific  
12 employees. But the cars remained derailed, including  
13 one that was tilted on its side.

14           Why the delay? Officials were waiting for a  
15 crane to arrive to move the tank cars back on the  
16 tracks. The cause of this derailment, workers had  
17 accidentally not set the brakes on the last three cars.  
18 Martinez Mayor Rob Schroeder, as quoted in the "Contra  
19 Costa Times," said, "Thank God there were no leaks. We  
20 may have dodged a bullet here." No doubt he was  
21 mentally comparing this accidental brake release to the  
22 one that tragically killed 47 people and incinerated the  
23 entire downtown of Lac-Mégantic in 2014.

24           Mayor Schroeder added, "It does bring up that  
25 discussion again about transporting hazardous

1 materials." Cities such as Beni- -- Martinez have  
2 absolutely no control over the rail lines and what is  
3 shipped through our communities. This is why voting to  
4 deny Valero's use permit for a massive crude by rail  
5 terminal is so critical. The City Council has the power  
6 and the authority now to say "no."

7           According to the Federal Railroad  
8 Administration, between January 2012 and October 15,  
9 nearly four -- a four-year period, 4,321 train  
10 derailments, more than three per day on average, were  
11 reported in the U.S.

12           Currently, the tank cars used to transport  
13 volatile crude oil can puncture from impacts of less  
14 than 10 miles per hour. They're just not strong enough  
15 and lack effective braking systems to carry these  
16 enormous volumes of volatile fuel safely.

17           Ten of 13 tank cars that leaked and exploded  
18 into the James River in Lynchburg, Virginia, in April of  
19 2014 were the upgraded CPC 1232 tank cars that Valero  
20 proposes to use.

21           According to the "Wall Street Journal," each  
22 tank car holds 30,000 gallons of fuel or the equivalent  
23 of 2 million sticks of dynamite. So two mile-long  
24 trains of 50 cars each entering Benicia daily, 365 days  
25 a year, hold the equivalent of 10 million sticks of

1 dynamite each.

2           These trains will also emit every day toxic  
3 pollutants of benzene, nitric oxide, nitrogen dioxide,  
4 sulfur dioxide, and fine particulate matter in Benicia  
5 and up rail.

6           The Department of Transportation analysis  
7 predicts that trains hauling crude oil would derail an  
8 average of 10 miles a year over the next two decades.  
9 If just one of these more severe accidents occurs in a  
10 high-population area like Sacramento, Davis, or Benicia,  
11 the DOT report predicts it could kill more than 200  
12 people and cause roughly \$6 billion in damage.

13           It's no wonder that state and local  
14 officials, cities and counties, have come out against  
15 this dangerous proposal. Transport of crude by rail is  
16 not safe. It is dangerous and places our lives, our  
17 communities, our wildlife, and our environment in daily  
18 peril.

19           I urge you to uphold the Planning  
20 Commission's unanimous decision to reject Valero's  
21 proposed oil train terminal in Benicia. Thank you.

22           MAYOR PATTERSON: Thank you very much.

23           Any questions?

24           All right. Elizabeth Crawley, Larry  
25 Fullington, Phyllis -- it's I think it's Laggerson, Nick

1 Disbota.

2 MS. PHYLLIS INGERSON: Mayor and Council Members,  
3 I'm sorry. I've got laryngitis, so I'm going to sound  
4 kind of scratchy tonight. But my last name is Ingerson.

5 MAYOR PATTERSON: Ingerson.

6 MS. PHYLLIS INGERSON: Yes. Phyllis Ingerson.

7 MAYOR PATTERSON: Thank you very much.

8 MS. PHYLLIS INGERSON: Was born and raised in  
9 Benicia, so I have been here for 65 years. I was here  
10 before Exxon was here and Valero.

11 My great-grandmother was in -- lived in  
12 Benicia, my -- both sets of my grandparents, my mom and  
13 dad, my brother and sister. I raised two children in  
14 Benicia: Steven Ingerson, who is a critical care nurse  
15 specialist, who has two children, two boys, six and  
16 five; my daughter, who is a juvenile probation officer.  
17 So both of my children are giving back to the community.

18 What I'd like you to know about my son is he  
19 was the first person on an airplane out of California to  
20 go back to Louisiana to help when Katrina struck. He  
21 took his two weeks' vacation. He worked in a hospital  
22 in the emergency room for two weeks, alongside his  
23 fiancée at the time, and helped. Yet, we're asked not  
24 to care about our neighbors.

25 I -- my son had to move out of Benicia

1 because of the air quality. His oldest son has asthma.  
2 He's six years old. He was on nebulizer treatments. He  
3 was on inhalers. His doctor, Dr. Briseno, told my son  
4 "You guys need to move, or Eli will be on oxygen when  
5 he's older. It's going to destroy his lungs."

6 I was the person that walked in here on  
7 oxygen to address the Planning Commission, and I had a  
8 little 5-pound tank that I couldn't quite connect, and I  
9 scared the dickens out of everybody. And thanks to Jim  
10 Lynden, I believe, Lydon, he helped me reconnect it.  
11 Because I bought a piece of exercise equipment and I've  
12 been exercising in my house, not out walking in the  
13 neighborhood, I don't have to wear oxygen to walk.

14 I'm concerned deeply by the fact that Valero  
15 thinks that the air quality is going to be better by  
16 bringing in 100 railcars a day and opening 100  
17 containers to attach them to something else to drain  
18 that crude oil out of it, and there will not be more  
19 emissions in the air. That doesn't make sense to me.  
20 I'm not a scientist. I'm not an engineer. I can only  
21 tell you about my life and what I've done.

22 My husband coached Little League, Babe Ruth,  
23 Senior Babe Ruth, girls traveling softball. He coached  
24 ten years at the high school with Rick Olsen. We took  
25 two basketball teams to Hawaii to play in a tournament.

1 And Valero for Exxon did not donate one dime to that.  
2 We did fundraisers. We raised the money. It can be  
3 done without jeopardizing people's health.

4 My doctor that I'm seeing for my lung  
5 condition says that Solano County has terrible air  
6 quality and that we get a lot of smog from China.

7 Now, I just heard tonight where we're going  
8 to be shipping this -- this refined oil to China. So  
9 it's going to come right back around. It's not only  
10 going to be -- start here. It's going to end here too,  
11 really. It doesn't take a scientist to figure out that  
12 this is bad for Benicia.

13 I am really upset that my son had to leave  
14 this town. And, Mr. Campbell, you put braces on my  
15 daughter, so she has beautiful teeth. She's thinking  
16 about taking -- taking a job in Contra Costa County, and  
17 I'm thinking, really, do I want her to move back into  
18 this area? Maybe not.

19 So I'd like you to please listen to what the  
20 Planning Commission did, look at it, and that I pray and  
21 I hope that you come to the same conclusion as they did.  
22 They worked on this project for three years. I didn't  
23 find out about it until just a few months ago.

24 I have never, ever spoke before a Council,  
25 had a yard in my sign -- or in my yard or have become --

1 been involved in politics whatsoever. But I will be now  
2 on this crude by rail because it's dangerous. It's  
3 going to kill people. It's only a matter of when.

4           MAYOR PATTERSON: Thank you, Mrs. --  
5 Mrs. Ingerson. By the way, I have the same allergist,  
6 apparently, as your son. Dr. Briseno.

7           MS. PHYLLIS INGERSON: Yeah. Not a good place to  
8 live.

9           MAYOR PATTERSON: No, it's not.

10          MS. PHYLLIS INGERSON: Thank you.

11          MAYOR PATTERSON: Seems like it.

12                    Any questions?

13                    Okay. Thanks.

14                    Nick Disbota, Richard Crawford, Walt Quelan.  
15 I think I pronounced that correctly. Dean Lloyd,  
16 Patrick Costello, Heather McCloud, Mike Regan.

17                    Okay. Now I'm going to the cards. And then  
18 after I finish the cards, I'm going to go back through  
19 that list again. I actually know some of these people  
20 aren't here because I know who they are.

21                    So the first card I have is Roger Straw.

22           MR. ROGER STRAW: Thank you, Mayor Patterson,  
23 Council. I want to just say a friendly hello. We all  
24 know each other. And, yet, for those gathered here and  
25 on TV and for the record, I'm Roger Straw, 20-year

1 resident of Benicia this year, editor and publisher of  
2 the "Benicia Independent."

3           Okay. So here we are. After more than three  
4 years, what on earth can be said that's new? Everyone  
5 has known for a long time that whichever way the  
6 Planning Commission went, the other side would probably  
7 appeal to you. You must have heard that and known that  
8 this day would come.

9           And no one among you could fail to have been  
10 aware, then, over these last three years of the basic  
11 issues and arguments on both sides. So you know a lot  
12 of what's coming in, or at least you've heard and read  
13 most of the information you need for a good decision.

14           But I have seen some new information, and I  
15 want to highlight a few of those things for you here  
16 tonight. Please be aware and study carefully regarding  
17 local impacts unrelated to rail here in Benicia.

18           City staff, paid consultants, the city's  
19 attorneys, and Valero have all cited federal law that  
20 protects railroads from local or state regulation.  
21 Together they claim that you may not deny or mitigate  
22 Valero's plan based on anything beyond Valero's small  
23 boundary. You already know this. You've heard it.

24           Nearly a dozen opposing attorneys have  
25 testified to the contrary, some here tonight, asserting

1 that you have every right and responsibility to deny a  
2 permit to a company like Valero that is not a railroad  
3 and to condition any approval based on our local  
4 government and police powers to protect the health and  
5 safety of the community and those affected by impacts of  
6 the project. You've already heard that before. You  
7 know that.

8           But I want you to know that even if you  
9 choose to ignore all the up-rail impacts, Dr. Phyllis  
10 Fox's lengthy April 4 report, came in just two days ago,  
11 presents an extensive listing of local health and safety  
12 impacts that offer a clear path for a decisive vote to  
13 reject Valero's proposal. Please read carefully  
14 Dr. Phyllis Fox' most recent submission.

15           Much -- much of it is new information and  
16 applies to environmental and safety hazards on Valero's  
17 property and here in Benicia. That's new.

18           Note too that -- that short of denial of the  
19 land use permit for the project, Dr. Fox has shown the  
20 many fatal flaws and inadequacies of the EIR. She shows  
21 how it must be revised and recirculated yet again should  
22 you want to approve the project, God forbid. We're all  
23 tired of it.

24           Similarly, attorneys and others representing  
25 the Natural Resources Defense Council, Sierra Club,

1 et cetera, submitted a letter on March 31st outlining  
2 several convincing arguments for not certifying the EIR  
3 and denying the permit, again, including local  
4 environmental impacts. Be sure to read it.

5           And, likewise, new technical and scientific  
6 information on health and safety impacts has been  
7 submitted by Adams Broadwell attorney Rachael Koss  
8 representing Safe Fuel and Energy Resources California,  
9 SFER California.

10           Actually, there were three letters, one of  
11 March 30th and two on April 4th. One of those was a  
12 brief summary with bullets, and it's powerful. A  
13 lengthier -- lengthier analysis with attachments follows

14           I want to publicly thank God and the  
15 communities involved for the interest and expertise of  
16 outside experts like these that I've recommended to you  
17 tonight. Back in 2013 and 2014 when local opposition  
18 was in its infancy, we discovered genuine interest and  
19 concern on the part of Diane Bailey, then a senior  
20 scientist with Natural Resources Defense Council.

21           Her interest and ours was primarily at that  
22 time over the severe environmental consequences of  
23 production transportation and refining of extreme  
24 North American crudes. The succession of explosive  
25 train wrecks added another layer of public concern and

1 made a national issue out of it. Note that it's not a  
2 scare tactic to warn the public and decision makers  
3 about legitimately frightening proven outcomes of a  
4 proposal like this.

5 I'm so proud to work with Benicians for a  
6 Safe and Healthy Community. Taken together the up-rail  
7 impacts and the local impacts give you every reason to  
8 deny this proposal.

9 MAYOR PATTERSON: You need to wrap up.

10 MR. ROGER STRAW: Thank you.

11 MAYOR PATTERSON: Thank you so much.

12 Are there any questions?

13 I have a question of the attorney, city  
14 attorney, and something that Mr. Straw just said.

15 So I did read the material, not necessarily  
16 every word because some of it's pretty technical. But  
17 he said new impacts. And so my question is at this  
18 stage of the hearing, do -- how do you incorporate new  
19 impacts?

20 MS. HEATHER MCLAUGHLIN: We have -- we have not  
21 finished analyzing that inches thick stack of  
22 information, so we'll have that for you as part of our  
23 answers.

24 MAYOR PATTERSON: But that's one of the aspects  
25 of the de novo hearing, then, is that you -- okay.

1 MS. HEATHER MCLAUGHLIN: Uh-huh. Yeah. You can  
2 totally analyze it.

3 MAYOR PATTERSON: So it -- so it has status.

4 MS. HEATHER MCLAUGHLIN: It has status. The  
5 question is whether we need to address it in the EIR or  
6 not.

7 MAYOR PATTERSON: Okay. Thanks.

8 Any other questions? Okay.

9 Next card I have is Greg Karras. Every time  
10 I see your name, I can never pronounce it correctly.  
11 I've only known you for 30 years. Actually, make that  
12 40 because I think I was in Contra Costa. Anyway, thank  
13 you so very much.

14 MR. GREG KARRAS: I am Greg Karras. I'm a senior  
15 scientist with Communities for a Better Environment, our  
16 Just Transition Program. I'm also an expert with more  
17 than 30 years' experience on refinery pollution  
18 prevention engineering.

19 I have presented my qualifications and  
20 credentials with my expert reports, including the  
21 March 30 expert declaration that we've just submitted  
22 the signed copy of, including all of its attachments,  
23 along with a Chemical Safety Board report on another  
24 Valero incident.

25 I'm going to talk about the -- the local

1 refining impacts. First, it's important to realize that  
2 this project is essentially about changing the  
3 refinery's basic feedstock. It cannot come into  
4 existence. The project could not come into existence as  
5 proposed unless and until the refinery shifts from  
6 getting oil that it can only get from sources delivered  
7 by pipeline and ship to oil that it can only get from  
8 in -- in project volume from sources in the Bakken, in  
9 the tar sands in Alberta delivered by rail. The project  
10 would enable that, yes. It also could not exist without  
11 doing so.

12           The essential element of this project is  
13 changing the basic feedstock of the refinery. And that,  
14 as all of the experts that Mr. Straw just mentioned and  
15 myself have put in the record over and over again over  
16 the years on this project review, would have a host of  
17 impacts. I'm going to give you one example.

18           The data in this chart show that -- this is  
19 peer-reviewed data published in the public record  
20 that's -- that I submitted into the record years ago.  
21 The data show the quality of oils that are in the  
22 current crude slate, oils that would be blends within  
23 the -- the tar sands rail import under the project, and  
24 a comparison.

25           Looking at density and sulfur, those data

1 prove that even if you believe Valero's claim would have  
2 a narrow envelope of -- of available crude slates, all  
3 of these oils, including the new ones, would fit into  
4 that envelope. The project would enable and require  
5 this kind of crude switch.

6 Now, look at the bottom there, the negative  
7 numbers. Those are the hydrogen deficiencies of the new  
8 crude slate, per barrel one pound of hydrogen or twice  
9 as much. That's the range.

10 Now, you know hydrogen is -- is the lightest  
11 of elements. A pound of hydrogen per barrel, that's a  
12 lot of hydrogen. It's incredibly difficult to separate  
13 out and make and produce that hydrogen. But they would  
14 have to do that unless they stopped selling gasoline,  
15 diesel, and jet fuel in that quantity, which, of course,  
16 they wouldn't do. Even if Valero admits this project,  
17 they're not going to do that.

18 So they would have to make that hydrogen on  
19 site. They make it in an intensive 13- to 1400-degree F  
20 process called steam reforming where they literally  
21 strip the hydrogen off the fossil fuel feed.

22 So the coproduct, in fact, by mass, the much  
23 bigger product of this is CO<sub>2</sub>. And my peer-reviewed  
24 work shows a conservative estimate, it's about 10 pounds  
25 of CO<sub>2</sub> per pound of hydrogen. That's conservative.

1 There's lots of other estimates. Whichever one you  
2 prove -- you pick, at 70,000 barrels per day, one to two  
3 pounds of hydrogen to make up, that's in the range of  
4 120 to way over 200,000 metric tons per year, and that  
5 alone, that part of the impact of the crude switch alone  
6 in refinery emissions, more than 10 times the  
7 significance threshold in the EIR. That's one example  
8 of the significant emission impacts that Valero's  
9 covering up that the EIR fails to disclose.

10 Now, this has been mentioned before. It's  
11 been mentioned by some of the speakers behind me who  
12 also have expertise who have worked for the oil  
13 industry.

14 The -- squeezing in this unloading rack --  
15 that's the green and black lines there -- too close to  
16 existing equipment, that's dangerously close. And  
17 Valero should know this because, as the quote from the  
18 chemical -- U.S. Chemical Safety Board after -- about  
19 nine years ago, their refinery in -- in Texas blew up,  
20 in part, because they failed to consider the hazards of  
21 putting equipment too close to other equipment that  
22 could catch fire. This is called knock-on effects.  
23 That's the jargon. It's been called chain reactions.

24 They should know this, but apparently they're  
25 proposing it again in the EIR.

1           MAYOR PATTERSON: (Indiscernible) -- wrap up,  
2 Greg.

3           MR. GREG KARRAS: Yeah. So that's -- that's  
4 another example from the Caribbean.

5                   This one from Venezuela where 47 people died  
6 in 2012.

7           MAYOR PATTERSON: Greg --

8           MR. GREG KARRAS: And there's the EIR, definitely  
9 in the ignition zone. Also, this impact not in the EIR.  
10 The local impacts of this are significant, potentially  
11 catastrophic. Undisclosed, unmitigated in the EIR,  
12 covered up by Valero, and you have every need as well as  
13 every right to uphold --

14           MAYOR PATTERSON: Okay. Thank you.

15           MR. GREG KARRAS: -- your Planning Commission.  
16 Thank you.

17           MAYOR PATTERSON: Thanks.

18                   Okay. We're going to take -- wait. Wait.  
19 Wait. Have a question. Hold on.

20           COUNCIL MEMBER CAMPBELL: Yeah. Could you go  
21 back -- maybe it was two slides back when things weren't  
22 burning up, you know, the slide before that. Okay. Go  
23 back one more. There we go.

24                   Okay. The question I have on that, you know,  
25 I've heard that, read that -- you know, I read the stuff

1 on that, as a matter of fact, but I don't understand,  
2 you know, is the best way I can describe it.

3           You know, if you put this loading and  
4 unloading project too close to the tanks, why is it  
5 going to blow up? You know, I mean that -- you know,  
6 that's the best way I can describe the question I have.  
7 What makes it a higher risk?

8           MR. GREG KARRAS: The -- it's -- it's the  
9 juxtaposition. The -- the EIR does talk about in the  
10 slide a few down. The EIR does talk about if oil spills  
11 from the pipeline connection or the tank cars and  
12 catches fire -- it's low probability event, but the EIR  
13 correctly says it could happen. It needs to be  
14 analyzed -- they only analyzed it for the impact on  
15 people off site. And since most of that circle is on  
16 site, they said, "Oh, that's not much of an impact."

17           Also, I agree with Phyllis Fox. Dr. Fox says  
18 that that's an underestimate. But even the EIR is  
19 showing that those thermal radiation circles, that's the  
20 ignition zone.

21           So going back to your slide, what that tells  
22 me, as an expert, is that if and, really, more  
23 realistically when there's a spill that lights at the  
24 unloading zone, that hazard gets bigger because one  
25 thing can light the -- the thing close to it on fire and

1 that -- the other slides that I showed, including the  
2 one for Valero, are actually examples of where that  
3 actually happened when equipment was placed by design  
4 too close to other flammable equipment, what is -- you  
5 know, people say accidents do happen, but this is by  
6 design. You're actually stacking your dynamite right  
7 next to your matchbox where the kids play.

8 COUNCIL MEMBER CAMPBELL: And could we go back to  
9 that slide for just one other last question? I think it  
10 was you, but, actually, I've forgotten which one it was.  
11 You know, the -- that width right there, there's a  
12 safety -- getting safety equipment there in an  
13 emergency. Was that you that was commenting on that?

14 MR. GREG KARRAS: I don't believe it was. If  
15 you -- I could try to answer the question, but I'm not  
16 actually sure what it is.

17 COUNCIL MEMBER CAMPBELL: Well, the question is,  
18 you know, okay, something goes wrong. You got to hustle  
19 and get a bunch of, you know, fire trucks there. And  
20 the distance right there is somewhere around 25 feet,  
21 30 feet, somewhere in that neighborhood.

22 MR. GREG KARRAS: Yeah.

23 COUNCIL MEMBER CAMPBELL: So it wasn't you  
24 that -- that --

25 MR. GREG KARRAS: Well, yeah, I could say that --

1 COUNCIL MEMBER CAMPBELL: -- was talking about  
2 maneuvering, actually, a piece of safety equipment.

3 MR. GREG KARRAS: Yeah. That -- that, of course,  
4 becomes a life-and-death concern. I have been a first  
5 responder in a previous career, and -- and one of the  
6 things that -- one of the hardest decisions is do I go  
7 in as am I going to be safe, am I going to put myself in  
8 danger.

9 And this, actually, was a big part of the  
10 investigation with the Chevron fire in 2012 where 20  
11 workers almost lost their lives because the company  
12 incorrectly decided to send them into a hazardous  
13 situation.

14 The kind of incident that I'm talking about  
15 in this -- in this presentation is the kind of incident  
16 where almost certainly once it's started, safety  
17 personnel would not be wise to and would not be able to  
18 address it. You -- you could have, like, fireballs and  
19 blasts that look something like that from a distance,  
20 but you can't get close enough to them to actually try  
21 to prevent the fire from catching on the next piece of  
22 equipment and all the oil or gasoline inside of it.

23 And so you end up with a situation where  
24 the -- the only really effective safety measure is to  
25 make sure it's designed so that hazardous stuff,

1 those -- those facilities are not too close to each  
2 other.

3 MALE SPEAKER: (Indiscernible.)

4 MR. GREG KARRAS: No. This is not a Valero  
5 facility. It's actually called Caribbean Petroleum  
6 Company, or it was at the time. It's a -- it was a  
7 refinery that had been turned into a bulk storage  
8 terminal just before this happened.

9 And it -- it was -- so it wasn't a rail  
10 ignition source that started it. It was actually a tank  
11 overfill. But once that fire started at one tank --  
12 you're actually in the wastewater treatment system --  
13 it -- the -- the exploding or flammable vapor cloud  
14 caught the other tanks nearby on fire, and there were --  
15 I think 12 tanks caught on fire there. That's a  
16 catastrophic event. And -- and in this case, no one was  
17 immediately killed. A lot of buildings were leveled and  
18 destroyed. People were injured.

19 In this case in Venezuela, this happened the  
20 same month that Chevron blew here in 2012. Forty-seven  
21 people died on site and off site from that knock-on  
22 hazard impact.

23 MAYOR PATTERSON: Okay. Thanks. Great  
24 questions. What I'd like to do is, however, consider  
25 those questions as questions to staff, and we'll be able

1 to -- I appreciate what you were saying, and there was  
2 quite an extensive discussion at the Planning Commission  
3 on the ability to respond and the distance, and you're  
4 reiterating some of the concerns that were expressed.

5 So --

6 MR. GREG KARRAS: Yes. I -- I -- I do want to  
7 make clear that I'm -- I'm supporting, not criticizing,  
8 the Planning Commission. I'm criticizing the EIR and  
9 Valero's position.

10 MAYOR PATTERSON: Right. Exactly. So --

11 MR. GREG KARRAS: And I'd like to formally ask  
12 that you accept the expert report into the record --  
13 (indiscernible).

14 MAYOR PATTERSON: Okay. So -- so done. And  
15 then -- and just to be clear, so Chief Lydon, that  
16 was -- one of the questions that we're asking the  
17 Council to prepare and some that are not necessarily  
18 going to be written questions, and so just consider that  
19 a comprehensive question.

20 We're going to take a break, and I --

21 (Break in video recording.)

22 (Bell ringing.)

23 MAYOR PATTERSON: Okay. The next card I have is  
24 January Cox-Golovich, Diane Bailey, Laurie Matthews, and  
25 then Joseph Meisch. Meisch. So thank you for your

1 courtesy.

2 Ms. Cox-Golovich.

3 MS. JAN COX-GOLOVICH: Good evening, Council.

4 The short evolution of this sad saga is three years ago  
5 we were told that this project was just very simple,  
6 nice, easy, no environmental impacts, very safe, and it  
7 was going to really financially benefit our city.

8 Well, the first myth was debunked. You have  
9 more than enough evidence. You can see that this is not  
10 a safe -- a safe project at all. And I don't have to  
11 reiterate anything that the testimony hasn't already  
12 said.

13 The second myth has been debunked also that  
14 this is financially beneficial to the city, especially  
15 in light of the revelation that sitting on the County  
16 Assessor's desk is a request by Valero to try to take  
17 their property taxes down from 900,000 assessment down  
18 to a hundred thousand. So that wipes out any financial  
19 benefit for the city.

20 So having their two basic arguments wiped  
21 out, and they know it, they pull a rabbit out of their  
22 hat at the last meeting and say, "Well, yeah, but that  
23 doesn't matter because you don't have the right to deny  
24 our permit. You just don't have the right. And we're  
25 going to go off to the Feds, and we're going to show you

1 that. So we're asking for this extension."

2           But I would hope that on behalf of this  
3 community, all of you would fight your one sacred right,  
4 that right to permit. I would hope that you would fight  
5 like tigers to keep that. That's sacred to -- to local  
6 governments. It's really your only power that you have.  
7 Without it you're pretty impotent. And I don't mean  
8 that as -- as a joke. I'm saying that seriously. And I  
9 would hope that you would do everything in your power to  
10 protect that right like -- like they were your little  
11 cubs running around, and they were in danger.

12           You do have a tool, a very important tool  
13 that you can use. It's not foolproof, but it would be  
14 very powerful. And that is if you would direct your  
15 staff to go to the Attorney General and lay out this  
16 argument whether or not you have permitting power.

17           And she -- her opinions hold very high value  
18 in a court of law, and this is where this is all  
19 heading. And to protect your city, to protect the --  
20 the welfare of your community, to protect all  
21 communities around us because, frankly, we've been  
22 turned into a pariah amongst our cities. They're just  
23 not very happy with us. You would be doing us all a  
24 great favor.

25           And I'm hoping that you will take this

1 suggestion that I'm making tonight very seriously, and  
2 you would act upon it. When this does get to court,  
3 because I -- I believe that the EIR is just indefensible  
4 in its present form, and it won't hold up at all. But  
5 you can use your power of permit and defend that and  
6 save our city a lot of time, a lot of trouble, and --  
7 and you would be heros in my eyes if you did just that  
8 one thing. Thank you.

9 MAYOR PATTERSON: Thanks.

10 Are there any questions of Ms. Golovich?

11 Okay. We have Diane Bailey, Laurie Matthews.

12 MALE SPEAKER: Diane's on her way from --  
13 (indiscernible).

14 MAYOR PATTERSON: Okay. So without objection, I  
15 will put her in the back of the pile here.

16 Laurie Matthews. There you are.

17 MS. LAURIE MATTHEWS: Hi, there.

18 MAYOR PATTERSON: Joseph Meisch; is that correct?  
19 Wow. Thanks.

20 Barbara Pillsbury, just be ready to come up.

21 All right. Laurie?

22 MS. LAURIE MATTHEWS: Hi. I hope my voice works  
23 because I'm having the same issues with so many --  
24 (indiscernible).

25 MAYOR PATTERSON: I have cough drops up here.

1 Would you like a cough drop?

2 MS. LAURIE MATTHEWS: Thank you.

3 But good evening, Members of City Council.  
4 And Vice Mayor Hughes, I wish your mother a quick  
5 recovery.

6 Hi. My name is Laurie Matthews, and I  
7 support Valero's Crude by Rail Project. I took the time  
8 to write this speech and come by tonight knowing that I  
9 would have to sit through hours of scathing comments  
10 regarding Valero and big oil as I have many times in the  
11 last three years, but I came anyway.

12 I came to tell the Council that as an  
13 employee of Valero, a company that I have the highest  
14 respect for in their professionalism, transparencies,  
15 and all areas philanthropic, I'm deeply offended by most  
16 of the rhetoric and false claims being used at this  
17 forum. I am deeply offended by the under- --  
18 unfavorable regard that some of the city government  
19 officials also has with -- of Valero -- for Valero as a  
20 result.

21 Valero is a good neighbor who cares for its  
22 community. Valero and its employees give over a million  
23 dollars in charitable donations annually locally. We,  
24 the people of Valero, spend tens of thousands of hours  
25 in our -- in our own time volunteering in this

1 community, and we spend our free time and money in  
2 Benicia supporting the local economy because we love it  
3 here.

4           And I'm being very conservative throwing out  
5 these numbers. Because as employees of the company with  
6 such benevolence towards mankind, we're also prone to  
7 modesty. And I'm very uncomfortable standing up here to  
8 brag about something we expect nothing for in return.  
9 And it hurts my soul to stand here and have to make  
10 these points to a group with so much contempt for us.

11           We are hard-working Americans who want off  
12 our dependence for foreign -- foreign oil, and we also  
13 want our refinery to do well enough for Valero to stay  
14 in California. Compared to Apple, Amazon, Google, and  
15 even Wal-Mart, we make just a fraction per dollar of  
16 what they make.

17           My lips are sticking to my teeth.

18           Note I said "per dollar" because we know  
19 those companies make exponentially more money in total  
20 revenue than Valero. But in terms of earnings per  
21 dollar, it's not the refining industry that's doing the  
22 gouging. The ability for refineries to make money and  
23 earn the moniker of "big oil" went away decades ago,  
24 especially in California.

25           Beside the orders of magnitude earnings that

1 companies like Apple make over big oil, they also have  
2 the advantage of running their productions overseas. We  
3 have to make it where we use it to be cost-effective,  
4 and that includes getting crude domestically where it  
5 not only gets us off our dependence of foreign crude, it  
6 also employs a lot of North Americans in the process.

7 I have to admit, though, I'm impressed by  
8 some of the opposition who clearly did their homework,  
9 and they are here to advocate for positive change  
10 without vilifying Valero.

11 That's not the real reason to be here, to  
12 vilify Valero is my point. I've watched the process go  
13 from local environmental concerns where the project was  
14 going to be built, to upstream concerns where the rail  
15 project was going to travel, to rail and railcar safety  
16 at the state and federal level.

17 I have been very impressed with that process  
18 and thought to myself that's what's supposed to happen  
19 here in this forum. Bravo to the people who are coming  
20 in here and using their voice to make positive changes.  
21 I know applause is frowned upon in here, but that is  
22 applauseworthy.

23 The people in this room who have waited for  
24 their moment to say we want better than that should be  
25 proud of themselves. But change doesn't have to mean

1 cutting off domestic oil supply in California  
2 altogether. Making things safer so we can all feel like  
3 we've done our part for humanity should be the answer.

4           The response to our concerns have been heard  
5 and dealt with at all levels of the rail industry and  
6 Federal government swiftly and without argument. And  
7 mitigations have already been put in place to address  
8 those very valid concerns, and they continue to be  
9 developed.

10           I am Valero's process safety manager, which  
11 means it's my job to assess the risk of running a  
12 refinery in our community. My mantra throughout my  
13 27-year career at the refinery has always been  
14 continuous improvement.

15           So when I see it happening here in this forum  
16 at such a swift -- with such a swift effect on policies,  
17 procedures, inspections, and engineering criteria, I  
18 cannot help but feel a great deal of respect for the  
19 opposition.

20           What I can't respect is tarnishing of  
21 Valero's reputation as a company and as a good neighbor  
22 by some of the members of the opposition because we  
23 don't deserve it. It's painful as an expert to hear  
24 some of the claims being made.

25           MAYOR PATTERSON: I need to have you wrap up,

1 Ms. Matthews.

2 MS. LAURIE MATTHEWS: Don't be misled.

3 I'm done. Thank you.

4 MAYOR PATTERSON: Okay.

5 MS. LAURIE MATTHEWS: I will happily stand here  
6 and answer any questions that you might have if you want  
7 an expert.

8 MAYOR PATTERSON: So I do have one question. I  
9 hope I'm not putting you on the spot. When I was  
10 watching the Planning Commission, there was a question  
11 by a Planning Commissioner, and I don't remember which  
12 one.

13 And they asked directly, and I believe  
14 Mr. Wilson stood up and answered the question about is  
15 Valero going away if they don't get the project.  
16 Because the -- the Commissioner said that they had heard  
17 a lot of rumors that -- that the employees were being  
18 told that if you don't get this project, then Valero  
19 goes away.

20 The answer by Mr. Wilson was "No way," that  
21 "We're here. We're in business. We do a good job."

22 MS. LAURIE MATTHEWS: That's true. We're trying  
23 to stay in business. I -- I can't -- I don't have --  
24 I'm not an expert in the future, but I know that it  
25 is -- we're doing everything we can to try to stay in

1 business, certainly.

2 MAYOR PATTERSON: Okay.

3 MS. LAURIE MATTHEWS: It's a -- I mean it's a  
4 real concern that we have, yes.

5 MAYOR PATTERSON: Thank you very much.

6 Any other questions? Okay.

7 MS. LAURIE MATTHEWS: I can talk about hydrogen  
8 consumption.

9 MAYOR PATTERSON: Thanks.

10 MS. LAURIE MATTHEWS: Okay.

11 MAYOR PATTERSON: Joseph Meisch and Barbara  
12 Pillsbury, Hadieh Elias.

13 MR. JOE MEISCH: Good evening, Mayor Patterson,  
14 City Council Members, department heads, and staff.  
15 Thanks for allowing me to speech -- to speak.

16 My name is Joe Meisch. I'm a local  
17 businessman and resident of Benicia for the past 35  
18 years. I love our city and would never support any  
19 policy that could degrade our quality of life or  
20 negatively impact our business community.

21 Before I get on to my comments, I want to  
22 make some special thanks, one to Mayor Patterson for  
23 maintaining order and preventing interruptions of  
24 speakers on Monday night.

25 Next, to Chief Upton and to the officers of

1 his police force who did such a great job in managing  
2 the crowd. And certainly to Brad Kilger and his staff  
3 of knowledgeable and dedicated professionals for all of  
4 the work they've done on Crude by Rail. You know,  
5 they've been working on this since December of 2012.

6 I, for my part, have tried to become  
7 knowledgeable on the CBR issue. I viewed information,  
8 watched YouTube videos on Safebenicia.org, the website  
9 for Benicians for a Safe and Healthy Community. I've  
10 also toured the Valero refinery and attended the  
11 presentation on Crude by Rail.

12 I'm here tonight to respectfully request the  
13 City Council override the Planning Commission's recent  
14 decision to reject Valero's Crude by Rail application  
15 and, in fact, approve that application.

16 In my mind, our city government's primary  
17 responsibility is to the residents and business owners  
18 of Benicia. It's not to place the interests of  
19 residents of other communities above those of Benicia  
20 residents, and it's certainly not to serve as a  
21 facilitator for outside activist groups and their goals.

22 I disagree with the Planning Commission's  
23 decision to reject Valero's Crude by Rail application  
24 and believe that it was fundamentally flawed and  
25 substantially biased. Why else would the Planning

1 Commission members reject the recommendations of staff,  
2 the experts responsible for providing assistance and  
3 guidance to city officials in arriving at sound  
4 decisions and to do so by a unanimous decision after  
5 years of working together on that matter.

6           Staff and the Planning Commission members are  
7 supposed to be on the same team. Staff provides support  
8 to the Planning Commission in evaluating issues and  
9 making recommendations, and the Planning Commission  
10 decides.

11           I've been to enough city council meetings to  
12 realize that the normal course of events is for staff to  
13 make recommendations and for the relevant commission or  
14 city council to follow staff's recommendation. I've  
15 rarely seen it done otherwise. But this case was  
16 different.

17           I question the objectivity of some Planning  
18 Commission members given that I was told that a number  
19 of them placed anti-Crude by Rail signs on their front  
20 lawns. You were told the same thing.

21           A public official who places a sign on his or  
22 her front lawn is a strong advocate and demonstrably  
23 biased. Those advocates should not be making major  
24 policy decisions on behalf of the residents of Benicia.  
25 Those Commission members who placed signs on their lawns

1 should have recused themselves from voting on the  
2 measure.

3 I take strong issue especially with one of  
4 the conclusions in the resolution that rejected the  
5 Crude by Rail application, and I quote from that.

6 The potential for negative environmental  
7 impacts would dissuade businesses from staying in the  
8 Benicia Industrial Park and dissuade new businesses from  
9 locating in the Benicia Industrial Park.

10 You know, that -- I'm a businessman. I  
11 don't -- I've never seen anything like that. I'd love  
12 to see the support for that statement because it runs  
13 counter to everything that I've heard from Benicia  
14 owners in the Benicia Industrial Park.

15 I'm a business intermediary. As such, I  
16 assist owners of small closely held companies to sell  
17 their companies. In discussions I've had with business  
18 owners, the complaints they have are about trying to do  
19 business in California and how they are overregulated,  
20 overtaxed, and that California is generally not a  
21 business-friendly state.

22 Why do you think so many businesses are  
23 leaving California? Why do you think Tesla is in Reno?  
24 In direct contradiction to the Planning Commission  
25 conclusions, the head of Benicia Industrial Park

1 Association voiced support for the approval of the  
2 application, and the Benicia Chairman of Commerce is  
3 also in support of that.

4           MAYOR PATTERSON: I need to have you wrap up,  
5 please.

6           MR. JOSEPH MEISCH: Okay. You members of the  
7 Commission will soon make a decision on the Crude by  
8 Rail measure, and that decision will be heard loud and  
9 clear within the business community, especially within  
10 the Benicia Industrial Park.

11           MAYOR PATTERSON: Thank you. You've gone over.

12           MR. JOSEPH MEISCH: I don't get any -- I've got  
13 about two more sentences.

14           MAYOR PATTERSON: Okay.

15           MR. JOSEPH MEISCH: Can I do it?

16           MAYOR PATTERSON: Yeah. Yeah. Without  
17 objection.

18           MR. JOSEPH MEISCH: Okay. If you want to  
19 maintain current tenants and attract new ones, you need  
20 to make policies that are attractive and important to  
21 business owners. Please approve the Valero application,  
22 and thank you for letting me talk.

23           MAYOR PATTERSON: Okay. Are there any questions?

24                   Thank you very much.

25                   Barbara Pillsbury and then Hadieh Elias, Amir

1 Firouz -- Firouz, and Rob Yarbrough.

2 MS. BARBARA PILLSBURY: Good evening. Well, if I  
3 can get this open. Okay.

4 Good evening, Mayor Patterson and City  
5 Council Members. Thank you for allowing me to speak  
6 this evening. My name is Barbara Pillsbury. I am a  
7 concerned citizen and have lived in Benicia for 37  
8 years.

9 I will start by stating my sons attended  
10 Robert Semple School, and as a family we have always  
11 felt safe and secure. My granddaughter now attends  
12 Robert Semple Grammar School, as will her younger twin  
13 brother and sister in a few short years. The school is  
14 well within the blast zone from Valero as well as our  
15 home off Seaview Drive.

16 How does one deal with the very real thought  
17 of a blast occurring at any given time and the loss of  
18 lives that would occur? I would never have thought that  
19 I would even think of something like this. There will  
20 be no peace of mind. This is not what I would choose  
21 for our city.

22 Benicia has always been a family-oriented  
23 community. Putting the community in this type of danger  
24 will not only change the local perspective but also the  
25 perspective of families and businesses looking to

1 relocate in this area.

2           How does one live in Benicia where the  
3 possibility of catastrophe is very real, where big oil  
4 profits outweigh the safety concerns of the local  
5 citizens? I'm also -- I worked for an oil company for  
6 24 years. I just wanted to put that out.

7           I am asking the City Council Members to  
8 uphold the Planning Commission's unanimous decision to  
9 deny Valero's project, this project, the EIR, and the  
10 STB. Thank you.

11           MAYOR PATTERSON: All right. Thank you.

12           Any questions? Thanks.

13           Amir Firouz. I'm -- I'm probably not  
14 pronouncing it correctly. F-i-r-o-u-z.

15           FEMALE SPEAKER: (Indiscernible.)

16           MAYOR PATTERSON: Say -- say that again.

17           FEMALE SPEAKER: (Indiscernible.)

18           MAYOR PATTERSON: I -- I cannot hear you back  
19 there.

20           FEMALE SPEAKER: (Indiscernible.)

21           MAYOR PATTERSON: Okay. So I thought that you  
22 were -- I just --

23           FEMALE SPEAKER: I'm Hadieh Elias.

24           MAYOR PATTERSON: Oh, Hadieh. I'm sorry. I get  
25 in the habit sometimes of putting the cards down too

1 quickly.

2 MS. HADIEH ELIAS: That's okay.

3 MAYOR PATTERSON: Thank you. Thank you for  
4 speaking up. Sorry about that.

5 MS. HADIEH ELIAS: That's okay.

6 MAYOR PATTERSON: And it's Hadieh --

7 MS. HADIEH ELIAS: Hadieh Elias.

8 MAYOR PATTERSON: Elias. Great. Okay. You're  
9 on.

10 MS. HADIEH ELIAS: Mayor, Members of the City  
11 Council, my name is Hadieh Elias. I am more than  
12 35-year resident of Benicia. I also own a structural  
13 engineering company located in the industrial park.

14 Before I get into my comments, I just want to  
15 say the important stuff, which first, in case I run out  
16 of time, which is I -- I feel this project is very bad  
17 for Benicia, and I strongly recommend that you uphold  
18 the Planning Commission unanimous decision that you do  
19 not grant the continuation on this and that you deny the  
20 project.

21 The City Council and the city staff, the  
22 responsibility is to safeguard the interests of the  
23 citizens and the community as a whole fairly without  
24 favoring one individual business over the others.

25 The history of this project and the EIR shows

1 that the staff has been accommodating towards Valero on  
2 this project from the beginning, starting with a draft  
3 mitigated negative declaration that the city staff  
4 brought to the Planning Commission on June 2013.

5 The Planning Commission disagreed, and the  
6 Commission asked for a draft EIR. The staff did not  
7 issue a request for proposal for a consultant to prepare  
8 the draft EIR, which is customary. Instead, they  
9 independently, without consulting the Planning  
10 Commission or the public, retained ESA.

11 ESA is the same consultant that prepared the  
12 EIR for the rail improvement project, which allowed  
13 Valero to process more dirty crude than was permitted  
14 previously. Valero is now wanting to process even more  
15 dirty crude than that with the Crude by Rail Project.

16 When the draft EIR hearings revealed many  
17 deficiencies in the draft EIR, the city staff again  
18 retained the same consultant, ESA, to revise the EIR  
19 instead of a new consultant.

20 The draft -- the revised EIR unsurprisingly  
21 was unresponsive and dismissive to the comments that  
22 were made in the hearings. The final EIR was issued.  
23 Again, it did not respond adequately to the citizens and  
24 agency comments.

25 The final EIR had many deficiencies that the

1 staff missed. The EIR does not meet the 25-foot setback  
2 from the project to top of the bank at Sulphur Springs  
3 Creek that is required by the city code. We pointed  
4 this out to the staff, and the next meeting they  
5 responded that the drawings in the final EIR are  
6 schematic only and that they would require project to  
7 meet the 25 setback later on in the construction  
8 documents.

9 But it is obvious that there is no room for  
10 the project to satisfy that. Space is tight. The oil  
11 tanks are too close, and part of the service road was  
12 eliminated to accommodate the project.

13 This is a very important project with big  
14 ramifications to the safety of the citizens in Benicia,  
15 et cetera. My experience with the planning staff even  
16 on a small renovation project is the first thing they do  
17 is check for the setback required. How come they did  
18 not do this here?

19 Moreover, if the staff failed to include the  
20 required setback now with all this public scrutiny at  
21 this stage, we are not sure that they will be able to  
22 obtain that later on after the permit is granted in the  
23 construction documents phase when the public is not  
24 watching. Most probably they will grant Valero a  
25 variance, which puts us all at risk.

1           Other problems in the -- in the final EIR,  
2 for example, is when the projected taxes that was listed  
3 when the consultant's expert, when he was questioned by  
4 the Planning Commissioner Steve Young about the numbers  
5 he quoted, he admitted that they had an extra zero in  
6 there. Again, the -- the traffic consultants could --  
7 when questions could not substantiate his conclusions.

8           Also, we -- in the code, we pointed out that  
9 there was -- that the final EIR had an error in the --  
10 in the code that they listed and the -- they referred  
11 to. The staff -- the consultant came back to us the  
12 next meeting and said, "We were -- our engineering  
13 consultant told us to list that."

14           MAYOR PATTERSON: Hadieh, I need to have you wrap  
15 up. So --

16           MS. HADIEH ELIAS: Okay.

17           MAYOR PATTERSON: So we -- we heard your  
18 conclusion.

19           MS. HADIEH ELIAS: So I -- I want to just say  
20 that when -- when the Planning Commission also was  
21 thrown this pre-emptive issue so that -- and was  
22 recommended was -- by the staff to --

23           MAYOR PATTERSON: Your time -- I'm sorry. Your  
24 time is up.

25           MS. HADIEH ELIAS: Okay. Okay.

1           MAYOR PATTERSON: Thank you. You can submit what  
2 you have in writing, and we will read it.

3           MS. HADIEH ELIAS: Okay.

4           MAYOR PATTERSON: Question.

5                     However, don't go away. We have a question  
6 from Counsel Member Campbell.

7           COUNCIL MEMBER CAMPBELL: Okay. It's not exactly  
8 a question to you. It's -- it just brought up something  
9 that I completely forgot about that maybe staff is --  
10 this is a question, really, for staff. And maybe when  
11 this is all, you know, coming to the end, you know, you  
12 can get back to me on those setbacks.

13                     And you -- all the things involved in the  
14 building codes, you know, that -- that was brought up to  
15 the Planning Commission. Could you go over that again  
16 when we get around to doing the actual decision we make  
17 here on why setbacks and things like that weren't  
18 actually included in the -- anywhere as -- as far as it  
19 goes there. Just sort of store that for now. Thanks.

20           MAYOR PATTERSON: Okay. Thanks.

21                     Thank you, Hadieh.

22                     Amir Firouz. I -- will you correct my  
23 pronunciation?

24           MR. AMIR FIROUZ: Sure. My name is Amir Firouz.  
25 Thank you, Mayor Patterson and City Council Members. I

1 am a structural engineer and civil engineer in  
2 California, practicing for more than 37 years and a  
3 Benicia resident for more than 35 years.

4 I talked and commented on March 10 for the  
5 Planning Commission and my -- the items I mentioned  
6 were -- some of them discussed the following night,  
7 March 11. And I have submitted written reports, and I  
8 give six copies just about half an hour ago to Amy to  
9 distribute to you. I hope you have them.

10 Anyhow, from the beginning, I am opposed to  
11 delay, and I'm opposed to the project. My comments are  
12 mainly restricted to Valero site, not that other up rail  
13 is not important, but I just decided to concentrate on  
14 Valero site.

15 First, it's a bad city planning and bad land  
16 use. Everybody knows that. It's in a flood zone.  
17 You're bringing dangerous cars, hazardous material,  
18 packing them like sardine next to other tanks, and it's  
19 sitting on the soil which is supposed to move 39 inches  
20 in an earthquake, have fissures of 6-inch wide in it,  
21 and it's going to settle several inches. I don't know  
22 why you want to do that, why -- why anybody would plan  
23 zone area like that. It's a bad city planning.

24 In the process, you're diminishing access for  
25 accidents, fire, safety, security. I under- -- and

1 then -- so that's -- that's the first problem.

2           The second one is that it's caused diminished  
3 access. Avenue A is basically going to be lost as a  
4 secure and permanent access road. Perhaps there is no  
5 train there as fire chief responded to my comments, and  
6 March 11 they can access it through that and, if not,  
7 there is partially -- they're reconstructing it further  
8 away. They use that or use other roads. And -- but,  
9 again, the point is that you're los- -- losing options,  
10 and you're losing -- (indiscernible).

11           The reason Valero wants this job is not  
12 that -- because they are desperate. It's because they  
13 want more choice. They want more options. So I don't  
14 know why City of Benicia should have less value for  
15 citizens of Benicia and want less option and diminish  
16 their choices. This doesn't make sense.

17           Then there was discussion about spilling on  
18 the creek that might happen if one of the trains  
19 adjacent to the creek -- to the creek tips over. And we  
20 are told by Valero representative, they're going to have  
21 a 3-foot-high retaining walls there to stop that to  
22 happen.

23           I have shown in my sketches that you have a  
24 copy of a 3-foot-high retaining wall cannot stop a  
25 train -- tanker train from tipping over. And, moreover,

1 it is not allowed by the setback requirement, the city  
2 ordinances, to build a retaining wall there at the top  
3 of the bank. It is not even allowed to build a whole  
4 tracks there.

5 I have a such -- again, a drawing at the end  
6 of my submittal to you, the last page. It shows you  
7 what setback is. Setback might be a little bit  
8 difficult or ambiguous, but the City of Santa Rosa has  
9 the sketches, the geometry, and defined setbacks and  
10 defined improvements.

11 A retaining wall as an improvement is not  
12 allowed. Building a road as an improvement is not  
13 allowed. And, yet, Valero wants now to put a railroad  
14 track there and heavy trains, which are much heavier  
15 than regular traffic, on the highway. So, obviously,  
16 that's not a good decision.

17 Then we hear that if the avenue is taken,  
18 fire -- Benicia Fire Department will use other access  
19 road. They said Second Street or other side streets,  
20 Ninth Street or Sixth Streets, or they don't have to  
21 travel there or move their equipments by car or their  
22 fire engines. They can walk on foot. That was one of  
23 the response given on the -- March 10th -- March 11.

24 Perhaps they can do that. But, again, why do  
25 you want to lose the options? This -- I understood the

1 reason for this project was because we want more option.  
2 Valero wants more option. So it just makes sense City  
3 of Benicia should want more options, not reduced and  
4 diminished options.

5 Then they are talking about the next item was  
6 none of the Valero's drawing has shown the Sulphur  
7 Springs sectional view so that the section -- so that a  
8 "top of the creek" definition can be established, and a  
9 setback can be established.

10 MAYOR PATTERSON: Sir, I need you to wrap up, but  
11 somebody may ask you a question.

12 MR. AMIR FIROUZ: Okay. Any of the -- the rest  
13 of my comments are all in the written submittal to you,  
14 and you can go over it. And if you have any questions,  
15 I can answer it.

16 MAYOR PATTERSON: Thanks.

17 Any questions?

18 Okay. Seeing none, thank you for your  
19 submittal.

20 Okay. The next one is Rob Yarbrough and then  
21 Janette Wolf, Tom Ruszel, Ed Ruszel.

22 MR. ROBERT YARBROUGH: Good evening, Mayor and  
23 Council. I'm Robert Yarbrough, 745 Jasmine Court,  
24 Benicia. I'm a lifelong resident. Robert Semple,  
25 Benicia Middle, Benicia High. Down here -- I wanted to

1 come down -- I spoke years ago, I guess it's been now.  
2 I came down at the negative -- proposal for negative  
3 declaration. I spoke at that time. My comments -- I  
4 reviewed what I said today before I came back down here,  
5 and my comments stand. I support the project.

6 I would like to -- through this whole  
7 process, it has been very enlightening. Mr. Maharry,  
8 the late Bob Maharry of Benicia High School was my  
9 government teacher here in Benicia, and he'd be very  
10 proud of the process that these -- this has gone  
11 through.

12 The American political process is  
13 outstanding. Everybody gets to say their -- their  
14 piece. And it all gets documented, and it's great.

15 Another good thing about America is we are a  
16 land of laws, and we have to run the country by the  
17 laws; right? So I want to thank the city staff for  
18 their excellent job through all this, their choose --  
19 their choices of the experts for the multiple efforts at  
20 the EIR was outstanding.

21 All the effort and the outcome of that I  
22 support. I support the city staff's recommendation to  
23 the Planning Commission to approve the project. I  
24 appreciate the Planning Commission's extensive gathering  
25 of information both from the city staff and the experts

1 within the city staff's efforts and, of course,  
2 respectfully listening to all the experts and scientists  
3 that come with the public comment.

4 I didn't come down here as a claimed expert  
5 or scientist. But after sitting here for a while, I  
6 think I may be. So I want to put that out.

7 I do have expectations. As I stated back at  
8 the time of the negative declaration comments I made, I  
9 have expectations that the process will be followed, the  
10 laws will be followed. I have expectations that  
11 decisions will be based here in this room on the laws.

12 I have expectations of Valero, that once they  
13 get the project permit, that they're going to build the  
14 facilities within the environmental standards and safety  
15 standards of our great nation and run a wonderful  
16 project. I have the utmost confidence in everybody's  
17 ability to do their job, and I hope the process goes as  
18 that.

19 The sad facts of the matter here with this is  
20 there's a whole lot of things to be worried about. But  
21 in our beautiful city of Benicia, our quaint artistic  
22 city of Benicia, you are in far more danger riding your  
23 bicycle in this town or even being a pedestrian in this  
24 town than you are being anywhere near that refinery.  
25 Statistics will show that clear as day.

1           As a matter of fact, you are in more danger  
2 of being a pedestrian in this town or being a bicyclist  
3 in this town than you are -- than we have any crude  
4 railcar explosion in the United States of America.  
5 There has been nobody killed by explosions of railcars  
6 in the United States of America.

7           There is lots of big pictures. There's been  
8 people killed in other countries. But in America,  
9 there's not been anybody in the history of the rail  
10 killed by a catastrophic crude railcar explosion. It  
11 just hasn't happened. But, you know, bicycles and  
12 pedestrians in Benicia, you're in far more danger.

13           So I'm trying to keep it real. I want to get  
14 my comments out too. And I support everybody's efforts  
15 and, really, the city staff and the whole process. It's  
16 been -- been enlightening, like I said. My government  
17 teacher, Bob Maharry, would be proud of everybody's  
18 efforts in this, and I thank you for your time.

19           MAYOR PATTERSON: Thank you.

20           And seeing no questions, Janette Wolf, is it  
21 Tom Ruszel? And then Ed Ruszel.

22           MS. JANETTE WOLF: I'm Janette Wolf, and I'm a  
23 Benicia resident. I don't normally get involved in  
24 political causes, but I'm here because I feel  
25 passionately about this issue.

1           As you know, the people of Benicia are paying  
2 very close attention to you around this issue,  
3 especially right now. Based on the sheer number of  
4 public comments, a clear majority of Benicians are  
5 opposed to this project, as are individuals and groups  
6 outside Benicia, some of whom will be impacted if this  
7 project moves forward.

8           If you choose to go against the clear will of  
9 a majority of Benicians, it will be very clear to me who  
10 owns this town, not we the people, but big oil.

11           The Planning Commission heard several days of  
12 comments from Benicia citizens and others, including  
13 scientists and environmental experts, and we've heard  
14 some scientists tonight as well. These speakers were  
15 united in saying that this project is an environmental  
16 catastrophe waiting to happen.

17           I'm not an expert myself. I'm a writer and a  
18 teacher. But I want our waterways and our earth to be  
19 cleaner for future generations, not even dirtier than  
20 we've already made them.

21           Valero and other oil companies should be  
22 investing resources into alternative sources of energy.  
23 Based on its impacts on our planet, it's clear that oil  
24 should stay in the earth.

25           How do you want history to remember you as a

1 governing body? Do you want to be the Benicia  
2 government who had an opportunity to make a significant  
3 positive change for our community and our environment  
4 and for our world and failed to do so?

5 Please honor the Planning Commission's  
6 decision. Crude by rail has no place in Benicia or  
7 anywhere else. Thank you.

8 MAYOR PATTERSON: Okay. Thank you very much.

9 So is it Tom Ruszel or Tour Russell? I can't  
10 read your writing.

11 MR. TOM RUSZEL: Excuse my terrible handwriting.  
12 It is Tom Ruszel.

13 MAYOR PATTERSON: Okay.

14 MR. TOM RUSZEL: Good evening, Council Members.  
15 When I twice had the opportunity to speak to the  
16 Planning Commission previously, I expressed my concerns  
17 that the Crude by Rail Project could very likely result  
18 in turning Benicia into a crude and/or crude products  
19 export hub, and I argued that all the needed elements  
20 were falling into place for Valero to have this  
21 opportunity to use Benicia in that way.

22 And while this is a very real possibility,  
23 Valero and the authors of the extremely flawed EIR  
24 refuse to acknowledge it. And they told me that their  
25 project did not include construction of an offloading

1 rack, so my concern was not valid.

2           So while making Benicia a crude hub would  
3 result in a boon for Valero, it does precious little to  
4 benefit the city, the residents, my children, and it  
5 does put -- and it does a lot to put us all in danger.

6           Furthermore, once all those crude products  
7 are headed out on the Carquinez Strait daily, all the  
8 environmental benefits they predict by reducing ship  
9 traffic will be nullified.

10           There's been a lot of reasons presented on  
11 why to disallow this project, and to me it comes down to  
12 this. We're in a time when many governments are trying  
13 desperately to appeal to clean business and young  
14 families like mine who are looking for a great clean,  
15 safe, forward-thinking place to live, businesses and  
16 individuals are searching for better ways -- better,  
17 cleaner ways to power their cars and their homes, and  
18 we're sitting here in a meeting discussing whether or  
19 not to allow a corporation to more swiftly pull more  
20 crude out of the ground and ship, store, refine, and  
21 export it in our backyard.

22           I remind the Council that it is 2016. And  
23 every summer we're watching it become the hottest summer  
24 on record, and each winter we're watching it become the  
25 driest winter on record. We're in a meeting to decide

1 whether we support pushing chemicals into the earth in  
2 order to pull out and burn crude.

3 I know that many of you have kids and  
4 grandkids. Don't make them be the ones to start making  
5 healthy and progressive decisions for this community.  
6 If you kick the can down the road, that's exactly what  
7 they'll need to be doing once their generation is  
8 occupying those seats.

9 The guy who lives next door to me is a good  
10 neighbor, and he never moves millions of gallons of  
11 volatile chemicals down our street. Reducing dependence  
12 on all oil will reduce our dependence on foreign oil.  
13 Charitable donations to Little League will not reverse  
14 climate change. Do not uphold this appeal. Thank you.

15 MAYOR PATTERSON: Thank you very much.

16 Seeing no questions, Ed Ruszel. Let me say  
17 the next one is Kali Stanger and Roger Lin.

18 MR. ED RUSZEL: Good evening, Council, Mayor.  
19 They're setting up my PowerPoint. Are you ready, Tom?

20 Okay. I believe the city staff will make  
21 this available to you. There are some images with  
22 embedded video in them that you'll have to play.  
23 There's descriptions if you look at the thumbnails. So  
24 I'm going to talk just a little bit, and then I'm going  
25 to try to show you a lot in a quick time.

1 I'm Ed Ruszel. My family and I own property  
2 on Bayshore Road. We give an easement to Union Pacific  
3 to cross our property, just as the city, I believe,  
4 gives an easement to Union Pacific to cross Park Road.  
5 They own the trackage. We give them an easement. They  
6 can carry any commodity they can legally carry anywhere  
7 they -- they have access.

8 I first heard of this project in January of  
9 2013 when a train derailed coming out of the Valero  
10 facility with petroleum coke, and it blocked our  
11 driveway for several hours.

12 I was told at that time by Valero staff "Get  
13 used to it. We're going to be bringing in a lot of our  
14 oil by rail." And at that time I started sending  
15 e-mails and talking to city staff to find out what was  
16 going on.

17 Okay. I would like to start my PowerPoint  
18 now. This is an overview of the railroad tracks that --  
19 the blues are the main line. The two red dots are the  
20 two ways that -- switches that trains come in and out of  
21 the industrial park. And the green and yellow lines are  
22 the other infrastructure in the industrial park.

23 This is a simplified drawing of what Valero's  
24 been telling us what the project is. It's just a  
25 logistic project. Well, I can see that it's a

1 logistical nightmare.

2           Here's what the Army left us. The blue  
3 lines, again, are main line railroad tracks. This is an  
4 Army inventory map from 1960 or thereabouts. You notice  
5 the yellow railroad tracks, those were all owned by the  
6 Army for the exclusive use of the Army only with no  
7 other public access, no other business around during  
8 times of war.

9           You notice there's some big looping  
10 configurations in there, and there's also -- down at the  
11 bottom there's some Y loops that are now in the Valero  
12 property. Those have been eliminated, and those loops  
13 gave that very good circulation.

14           What we're not going to see -- or what we see  
15 is now we have dead-end cul-de-sacs. We have two spurs  
16 that go into the Valero site where they load out  
17 propane, and the one spur going up to the top of the  
18 page goes to their coke silos.

19           Since the derailment in January 2013, there's  
20 also been derailments on November 4th, 2013, May 19th,  
21 2014 -- I'm sorry. The first one was 11/13. And then  
22 also last year in July 02 of '15 where on the Valero  
23 site a railroad car -- carrier cars derailed, and it  
24 caused significant damage inside. And I will be able to  
25 show you in a moment where that location is.

1           This is an animation that you need to start.  
2 So you need to put your mouse on the screen and start  
3 it. This is showing approximately a 3,000-long train  
4 progressing past the businesses across Park Road and  
5 into the Park Road siding area. They call that Park  
6 Road siding along Industrial.

7           In these areas, that's new tracks that were  
8 just approved. They can park maybe 20,000 feet, miles  
9 and miles of cars. This has been extensively upgraded  
10 for this project. We just saw the blue line, and that  
11 was into the Valero -- the new proposed Valero terminal.

12           Again, just a quick overview. Let's keep on  
13 blasting along. We've all heard about pre-emption, and  
14 now we're going to talk about traffic. Again, embedded  
15 video here. This was a March day. This is a normal  
16 manifest train. It's moving through. It happens at  
17 lunch time. It's a Friday afternoon. It caused  
18 extensive delays on the industrial Bayshore Road. The  
19 680 offramp, you can see cars all lined up onto that  
20 offramp there.

21           And this is what it looks like on the freeway  
22 just moments later when I was able to sneak through that  
23 traffic jam and jump on there.

24           So we've all seen that study. That study was  
25 done for, I believe, the negative dec. It was -- it was

1 done in -- before we even knew what presumption -- or  
2 pre-emption was. The traffic studies have never been  
3 updated to deal with what we're now being told  
4 pre-emption concerns are and what the -- what the  
5 possibilities could be.

6 And so, therefore, I urge you to not allow  
7 the continuance and to deny Valero's appeal. Thank you  
8 very much.

9 MAYOR PATTERSON: Thank you. Good -- good job  
10 ending on time. We have a question for you, Mr. Ruszel.

11 COUNCIL MEMBER CAMPBELL: Yeah. Could you go  
12 back maybe five slides? It was the one that -- keep  
13 going. Go a little further. One more. Go back one  
14 more. That one.

15 Okay. Now, this is, again, a question for  
16 staff, but this is a nice slide to give me the question  
17 I want to ask here.

18 All right. You know, on those railroad spurs  
19 there, some of that's on private property. One of the  
20 issues that's been raised on pre-emption is what happens  
21 on private property spurs.

22 So where on that picture is Valero's property  
23 line, and how much of that green railroad is on Valero's  
24 private property?

25 MR. ED RUSZEL: If I could?

1           MAYOR PATTERSON:  Sure.

2           MR. ED RUSZEL:  Our very last slide that I didn't  
3 get to, I believe there's a description there.  I added  
4 this.  The staff has not seen this one before, nor have  
5 the Planning Commissioners.

6                    But to answer your questions that you had in  
7 the last meeting and hearing, the red line is the Union  
8 Pacific tracks.  The overlaid color there, the purple  
9 overlay, is the Valero property line in those areas.

10                   The green arrows are where the switch is --  
11 or where the signals that operate the crossing, the  
12 approximate locations.

13                   So, Tom, if you could show, like, how trains  
14 are shunting in and out of the -- no, no.  Just stay on  
15 that slide, please.

16           COUNCIL MEMBER CAMPBELL:  Yeah.  Stay on that  
17 slide also for just a second.

18           MR. ED RUSZEL:  Stay on that one.  And if you  
19 could, like, indicate how trains shunt in and out of  
20 those cross -- those -- those sidings there.  Go in the  
21 major sidings, Tom, the five of them in the road.

22                   Right in that area is where the -- the auto  
23 rack cars derailed and caused several days' worth of  
24 disruption in the local traffic.  Never makes the news.  
25 You have to know where to look to see it and what kind

1 of activity's going on. Those are on Valero property.  
2 UP has trackage rights.

3 Also, the tracks continue through UP property  
4 and exit on the end of Bayshore Road and feed the rest  
5 of the industrial park and go into those large siding  
6 areas that Union Pacific extensively upgraded and  
7 bragged about how they're increasing the capacity of  
8 this old infrastructure.

9 They didn't put in more length of rails.  
10 They just beefed up the ones that were there to carry  
11 new heavier loads, and that was in the summer of 2013.

12 COUNCIL MEMBER CAMPBELL: Okay. This is -- this  
13 is a question for staff, but that's a good slide there.  
14 Because the question I have is, okay, I buy into this  
15 pre-emption argument a lot. But, you know, that's  
16 talking about the railroad. That's not talking about a  
17 private spur. And, you know, I want to know where the  
18 private spurs are.

19 And the second -- right where those little  
20 arrows are is the other question I have. Is Valero's  
21 property butt up against Park Road at the -- the  
22 crossing signal, in which case, you know, the question  
23 I'm asking is if it does, then the west side gates that  
24 go down are going to be triggered by a train or a car or  
25 any sort of railcar going up against it and goes down.

1           Now, if that's on private property, at least  
2 from my understanding, then pre-emption doesn't kick in,  
3 so then you can start talking about, you know, that  
4 railroad crossing as opposed to if you're talking about  
5 on the east side of that, which ought to be railroad  
6 property, in which case if that's the case you can't  
7 talk about, you know, the -- the railroad crossing. I  
8 mean that's -- that's just the way it looks like to me.

9           So, you know, that being the case, what, I  
10 think, you know, we're going to eventually need to know  
11 is on the west side, is that triggered by a private  
12 property spur, and also, you know, is all that private  
13 property spur, or is that an easement that the UP has to  
14 go across it? And again, that's -- that's going to --

15           MR. ED RUSZEL: (Indiscernible.)

16           COUNCIL MEMBER CAMPBELL: -- you know, play into  
17 that pre-emption thing in a fair bit.

18           MR. ED RUSZEL: You're talking this area in here.

19           COUNCIL MEMBER CAMPBELL: And, you know, well,  
20 there's -- on the other slide, there were several tracks  
21 that are on Valero's property.

22           Okay. Now, the issue that's been raised by  
23 another set of legal opinions is that when you're  
24 talking about railroads, you know -- when you're talking  
25 about the railroad, it's pre-empted. You know, I buy

1 into the argument.

2           When you're talking about on a private spur  
3 off of the railroad that does not -- you know, that does  
4 connect to the railroad, then that's a different  
5 ballgame you're talking about. That was --  
6 Stanford-Mills had a couple of things about that where  
7 they said, you know, that some of the stuff was -- it  
8 was the jurisdiction of STB, and some of it, it wasn't.

9           So that -- I just want that slide and that  
10 other slide to stick in staff's mind there because that  
11 is the -- you know, kind, I think, a fairly important  
12 question, and I -- (indiscernible).

13           MR. ED RUSZEL: I -- I think this is extremely  
14 important, and that's why I think and I went through the  
15 time to show this again, prepare it. Tom and I spent a  
16 tremendous amount of time putting this together with the  
17 resources we had because all the -- the iterations of  
18 the EIR never gave us this kind of overview, what's  
19 going on adjacent to their rail spurs, what's going on  
20 in the rest of the industrial park, where do all those  
21 boxcars go when they park, and what's the daily traffic  
22 flow.

23           The -- the rail traffic study and the -- the  
24 auto traffic study were not done at the same time or  
25 even overlapping in any kind of coordinated manner. So

1 that's why I think that the -- the EIR was very flawed,  
2 and it continued on and on especially as we look at the  
3 impacts of the pre-emption.

4           MAYOR PATTERSON: I found that in reading the  
5 San Luis Obispo, it was much more clear because the way  
6 they're laid out. So the -- the -- part of the rails  
7 that go through the Santa Maria facility, it's really  
8 clear that that's on private property.

9           And so the discussion by staff and by the EIR  
10 was talking about that particular piece of property and  
11 then the main line, which is the -- off the private  
12 property. And this is very complicated. So it has not  
13 been crystal-clear, and I think that this is  
14 particularly helpful in understanding.

15           So that's one question. But the other  
16 question is -- is just the historic aspect about the  
17 tracks. So they will have to be addressed for our --  
18 our understanding, I believe.

19           MR. ED RUSZEL: I do believe so, and I have some  
20 other information that I could also show, which were  
21 Benicia industries' survey of the trackage so that they  
22 could sell the trackage rights to Southern Pacific in  
23 1974.

24           So during that time -- and I still believe  
25 that -- it's very complicated ownership here. But I

1 believe in a lot of cases, the city owns the land or --  
2 and parts in some places or me, for that matter, and the  
3 railroads were able to adopt a right of trackage across  
4 there.

5           So in the maps that I have in this upper  
6 industrial park, it's very, very clear. So they can go  
7 between buildings where they have no business being, and  
8 they have trackage rights and they can park whatever  
9 they want in there.

10           MAYOR PATTERSON: So is the right of trackage --  
11 whether it's on private land or easement, is the right  
12 of trackage part of the transportation, or is that  
13 simply serving a particular business?

14           MR. ED RUSZEL: No. That's -- that's the  
15 railroad, the carrier's right to move on those tracks.  
16 And they could move at will anything they want. So I  
17 can't in any way restrict them, nor could the city, from  
18 crossing any traffic that they want across Park Road at  
19 any time.

20           MAYOR PATTERSON: Okay. Any other questions?

21                   Thank you very much.

22                   Kali Stanger, Roger Lin, Rebekah Ramos, and  
23 Diane Bailey.

24           MS. KALI STANGER: Hello. Am I allowed to donate  
25 my five minutes to the people before me? My name's Kali

1 Stanger, and I am a lifetime Benicia resident. My  
2 parents moved here in 1982, and I went to Benicia High  
3 School and have had soccer coaches amongst you.

4 I -- as opposed to the gentleman preceding,  
5 me I have absolutely nothing prepared. I didn't intend  
6 to come speak tonight. My friend was speaking. I said  
7 I'd put my name in. But we were sitting eating dinner  
8 and watching on TV, and I said, "Okay. That's it." Put  
9 the baby in the car, the Fairchild, Aiden. I can't live  
10 with myself and not go and just add my voice to the  
11 chorus here.

12 In addition to being a Benicia resident, I  
13 also am a physician. I work in Vallejo where I serve  
14 many community members from Benicia, and it is my great  
15 privilege and pleasure to do that.

16 Other things are -- we moved here. We bought  
17 a house in Willow Court, which we love. That's my  
18 husband Matthew and our 2-month-old Aiden. He was here  
19 at the Planning Commission when he was two weeks old,  
20 but we certainly did not speak at that time.

21 My parents live here and have lived here  
22 since 1982. My sister Abby lives in Sacramento on the  
23 rail line, and we own as a family a home in Graeagle,  
24 California, which is in the Feather River Canyon, which  
25 is absolutely beautiful. And the bridges they use the

1 pictures of are absolutely beautiful and very  
2 old-looking.

3           And so I'm worried about my family. And I  
4 know that -- I -- I respect businesses and their roles  
5 in the community, and they're very important. As I get  
6 older, I understand that more and more. And -- and so I  
7 know this is a difficult decision, and it seems like a  
8 very small risk of anything happening to any of us.

9           But if there's one thing I've -- I've learned  
10 in my work as a physician is I have the honor of being  
11 with people at the end of their lives as they're looking  
12 back on decisions they've made. And one thing, one  
13 theme I see over and over again is people who say they  
14 regret the decisions that they made for money, that they  
15 made for work, and wish they had made more that  
16 supported their families and their communities and the  
17 time that we spend together.

18           And I love Benicia deeply. That's why we  
19 moved back here. And I actually -- every day we spend  
20 here I -- I find that is even more true. We are good  
21 people. I was just saying with my friend that we  
22 aren't -- nobody's staring in their iPhones all the time  
23 here. You actually go out and I talk to people all the  
24 time and strangers, but, you know, they're never really  
25 that strangerish.

1           And the -- you always know that -- we're good  
2 neighbors, and I want everyone here to be safe. And I  
3 see presentations like this, and I get worried about  
4 Benicians. And I know the pre-emption thing is -- is  
5 challenging and how to make decisions around that. But  
6 I'm worried about my sister in Sacramento, and I want us  
7 to be good neighbors too because we're already good at  
8 that, I think.

9           And so thank you to all of you. I am so  
10 impressed with the -- how much -- what it means to  
11 really serve the community. And I know this is a  
12 difficult decision, and thank you for the time you're  
13 taking in reviewing all of it.

14           And -- and, yes, I think that is it. So you  
15 probably don't have any questions for me. Thank you  
16 very much.

17           MAYOR PATTERSON: Thank you.

18           All right. Roger Lin and then Rebekah Ramos  
19 and Diane Bailey and Rachael Koss.

20           MR. ROGER LIN: Thank you, Madam Mayor, Members  
21 of the Council. My name is Roger Lin. I'm an attorney  
22 with Communities for a Better Environment.

23           I'll start with a quote. Implementation of  
24 the project would result in the refinery's ability to  
25 process lower quality crude oil feedstocks. Those

1 crudes, however, will remain within the range of quality  
2 for crudes historically flowing into the refinery.

3           This argument is supported by a virtually  
4 unreadable chart representing anticipated crude quality  
5 at the refinery with no narrative explaining the data or  
6 providing any reference to source documents supporting  
7 those graphic conclusions.

8           Does that sound familiar? It's actually not  
9 about this project. Yes, that's how the deficient EIR  
10 treats the question of crude quality, but that quote was  
11 from the California Court of Appeal describing the  
12 Chevron Hydrogen Renewal Project, another expansion  
13 project to bring in lower quality oil, and hid the true  
14 extent of the local impacts.

15           Chevron proposed that project to the City of  
16 Richmond in 2005. It was challenged by our  
17 organization, Communities for a Better Environment, and  
18 others. Eventually, the Court of Appeal concluded that  
19 the graphic representations and any conclusions drawn  
20 from it would call for nothing more than blind faith in  
21 subjective characterizations.

22           That was in 2010. That took five years. The  
23 court invalidated the wholly deficient analysis of crude  
24 quality, the same that is in front of you tonight with  
25 this EIR.

1 Oh, and the Chevron case was dealing with the  
2 failure to disclose a 1 to 1.5 percent increase in  
3 sulfur content of the crude. That's a 50 percent  
4 increase, 1 to 1.5.

5 The EIR that you're considering states the  
6 range is from .4 to 1.9. That's a 300 percent. The  
7 Court of Appeal already said failure to disclose impacts  
8 of point- -- of a 50 percent increase was insufficient  
9 under CEQA. You're dealing with 300 here.

10 The Court of Appeal made that decision for a  
11 reason. An adequate analysis would reveal real-world  
12 impacts on public and worker health and safety,  
13 including increased toxic emissions and hazards such as  
14 the August 2012 fire at the Chevron Richmond refinery.

15 The Court of Appeal also agreed with the  
16 analysis, very much the same analysis that you heard  
17 tonight from a refinery expert, one of the two refinery  
18 experts in the record that agree with each other, Greg  
19 Karras.

20 You must consider what is being brought in on  
21 these railcars. It is new and different what -- than  
22 what has been traditionally refined here in Benicia.  
23 It's likely heavier with more sulfur content. You need  
24 more energy to refine heavier oils. The more energy you  
25 use, the more combustion you have to do. The more

1 combustion you do, the more local pollution there is.  
2 That is documented peer-reviewed evidence in the record,  
3 and it is not in the EIR.

4           Those are undisclosed local impacts. These  
5 are not affected by the question of pre-emption. CEQA  
6 gives the Council ample authority to uphold the Planning  
7 Commission decision based on local significant impacts  
8 or, in the alternative, recirculate the EIR for an  
9 adequate analysis.

10           You have ample reason to deny this project.  
11 There are -- it fails to disclose and mitigate a whole  
12 host of significant local impacts. And let me be clear.

13           You have no reason to -- you absolutely have  
14 no reason to reverse your Planning Commission's  
15 decision. You can either recirculate the EIR for an  
16 adequate consideration of local impacts or conserve  
17 resources, acknowledge the substantial evidence that's  
18 already in the record, which includes two refinery  
19 experts that agree with each other and submitted two  
20 additional comments on local impacts, which they already  
21 mentioned before, but they submitted two again to  
22 emphasize the local impacts of this project.

23           We urge you to agree with your -- with your  
24 Planning Commission, fellow elected officials, other  
25 government agencies, and the several, several speakers

1 and commenters on this project from communities  
2 throughout the Bay Area and California and deny this bad  
3 project.

4 Thank you for your time, and I'd be happy to  
5 answer any questions.

6 MAYOR PATTERSON: Thanks.

7 Any questions of Mr. Lin?

8 Seeing none, thank you so much.

9 The next card I have is Rebekah Ramos and  
10 then Diane Bailey and Rachael Koss and Lisa Reinertson.

11 MS. REBEKAH RAMOS: Good evening, Madam Mayor and  
12 City Council Members. Thank you.

13 I'm going to start off with a silly little  
14 story from today. I take BART home every day, and I  
15 drive back from Pleasant Hill. But today when I got out  
16 of the Pleasant Hill BART station, I actually walked up  
17 eight flights of stairs to the top of the garage where  
18 my car was, and it was because I was so excited and I  
19 felt really empowered because the entire BART ride I was  
20 thinking about what I wanted to say tonight.

21 And what I realized was there are very few  
22 times in your life when you get an opportunity to really  
23 make a difference and make a change on this scale. I  
24 know we all try to do our bit, but really, truly the  
25 decision that is before you and which I'm hoping to

1 influence I really believe is going to have watershed  
2 implications across the state and across the nation with  
3 regards to climate change.

4 I know climate change can -- it's easy to  
5 think of it as something way out there far away, but I  
6 really do believe that it has come to our doorstep, it  
7 has come knocking here, and it is asking for to us make  
8 a decision to make that change. And so I'm very excited  
9 to be here, and thank you for making this really  
10 important decision.

11 There isn't a whole lot that I can add to the  
12 technical discussion. You have heard from many  
13 incredibly intelligent, articulate individuals who have  
14 given you terrific advice.

15 I have read a number of the letters and  
16 reports that have been submitted as well as the EIR  
17 itself to some degree. It's an enormous document for an  
18 individual who works, raises her grandchild, and  
19 commutes three hours a day to do, but I've been doing my  
20 best.

21 There were a couple of things that I found  
22 pretty provocative and -- and quite compelling. One --  
23 in all of the Planning Commission meetings, one of the  
24 things that was said in the concluding arguments was,  
25 you know, the acknowledgment that if this land use

1 permit were to be agreed upon and provided, that land  
2 use permit is tied to the land, not the user. And so  
3 that means whoever has ownership of that land also gets  
4 the rights within that land use permit.

5           So you can only imagine, you know, if  
6 someone, some other entity were to come in and to own  
7 that piece of land, what kind of implications would that  
8 have. So there are doors that are -- that this project  
9 are opening that I think could have significant impacts  
10 later on.

11           The other thing that I found pretty  
12 provocative was in Greg Karras's report from Communities  
13 for a Better Environment, and it was this idea that,  
14 yes, Valero was saying that they're going to replace  
15 some of the oil that's coming on the ships, hence,  
16 reducing the emissions I believe is one of the arguments  
17 for reducing emissions was because of the less ship  
18 travel by crude by rail, but that opens up the  
19 opportunity for them to export a finished product using  
20 their wharf privileges.

21           So that's a whole other part of their  
22 business that they would be able to grow and would have  
23 significant impacts with regards to air emissions here.

24           And so I want to talk a little bit about the  
25 opportunity costs of having a Val- -- a neighbor like

1 Valero, and then I want to talk a little bit about this  
2 perception of good neighbor because I know perception is  
3 almost everything and -- sometimes in these decisions.

4           The opportunity costs. So with a growing  
5 awareness around climate change and being a refinery in  
6 a company town, a project like this, I think, will have  
7 significant impact in people's perception and  
8 willingness and wanting to come here.

9           I came here in 2009 because the schools, and  
10 it was where I could afford. And I have real concern  
11 that my property values will go down if there were any  
12 accidents. We know this happened in Richmond, and it  
13 took them years to recover from that. So it's a huge  
14 property, and that's a huge opportunity cost for us.  
15 These are hidden costs that we need to think about.

16           And what happens to our schools when those  
17 property taxes are no longer being collected? We  
18 already know what happened to the city coffers. I'll  
19 reiterate Steve Young's point about them getting a  
20 couple million dollars back because they were able to  
21 successfully argue that their property values went down  
22 by such a degree, which was -- by the way, those  
23 property values, they were to successfully argue those  
24 property values to go down in a time since 2010, if you  
25 look at their annual reports, since 2010 they had

1 increasing profits.

2           So it seems like a disconnect that they can  
3 argue that their property values went down, but yet  
4 they're having increasing profits several years prior to  
5 and after the year that they were able to negotiate a  
6 devaluation in their property value.

7           So while they're saying that they're  
8 contributing so much money to our coffers, 20 percent,  
9 they're actually taking stuff out on the back end that  
10 is not getting acknowledged.

11           And so there's this perception that Valero's  
12 a good neighbor, but there are some things that are not  
13 stated. And I want to state a couple of those things  
14 that I have discovered.

15           One of the things about emissions. And  
16 Valero is arguing that this project will actually reduce  
17 emissions, but that actually is -- shoot. I only have  
18 two seconds. Can I say one thing?

19           In the last two years, I went and looked  
20 through BAAQMD's board of directors minutes. In the  
21 last two years, almost every single month, with the  
22 exception of a few months, they violated air emission  
23 standards, including one for benzene.

24           And what I want to say is when I looked  
25 through those reports, most of the people that got

1 violate -- notices of violations were people who had  
2 fireplaces going, were burning wood.

3           And quite often what happens, and the point  
4 that I want to make, is that when it comes to enforcing  
5 these laws, it's the individual that tends to take the  
6 hit, that we are the burden, and the risk is on the  
7 individual and rarely gets put into the --  
8 (indiscernible) --

9           MAYOR PATTERSON: So what I would suggest that  
10 you do is submit the rest of your comments in writing,  
11 and we'll take a chance to read them. And thank you so  
12 much.

13           MS. REBEKAH RAMOS: Thank you.

14           MAYOR PATTERSON: All right. Diane Bailey,  
15 Rachael Koss, Lisa Reinertson, and Steve Jones.

16           MS. DIANE BAILEY: Good evening, Mayor Patterson  
17 and Council Members. My name's Diane Bailey. I'm here  
18 as a Bay Area resident to urge you to deny this request  
19 for delay and reject the Valero Crude by Rail Project.

20           This is such a terrible project that is  
21 profoundly dangerous for thousands of Benicia residents  
22 and puts millions of people in up-rail communities in  
23 harm's way as you've heard by so many other folks. And  
24 I won't repeat all those comments.

25           I share the many concerns that have been

1 raised by our state's Attorney General, the many, many  
2 attorneys who have weighed in on this project, public  
3 health and petroleum and refinery experts, by city  
4 leaders, by dozens of agencies, and the very wonderful  
5 advocates right here in Benicia, who -- led by Marilyn  
6 Bardet and so many others, too many to list.

7           But I just want to note that the city is so  
8 very lucky to have a really fine group of thoughtful and  
9 engaged residents to -- to call out all the flaws on  
10 this project and help city leaders really see how  
11 dangerous this project is.

12           One question that I have, something I'd like  
13 to know, is do any of Valero's executives and management  
14 staff live close to the tracks? How many do? How many  
15 of their families are within harm's way of a derailed  
16 tanker if such an accident should occur? And do any of  
17 their children go to school within these danger zones  
18 next to the Crude by Rail routes? I doubt it, but I  
19 think it's worth asking.

20           And, in the meantime, they're really cramming  
21 this project down our throats so cavalierly with no  
22 regard for taking away the peace and well-being of this  
23 community.

24           So I want you to consider this soda can as an  
25 example for a crude by rail tanker car and think about

1 what happens as this railcar, this little soda can,  
2 travels hundreds of miles from where the oil is  
3 extracted to Benicia.

4           It's bouncing along the tracks, and it's  
5 shaking a lot and it's exposed to really extreme  
6 temperatures and all the pressure is building up inside  
7 because the entrained gases in the crude oil are coming  
8 out. And what happens if this tanker car derails and  
9 explodes? And I won't do that here and mess up your  
10 nice carpets.

11           But, you know, this can doesn't have  
12 explosive material inside. Bakken crude is about as  
13 explosive as gasoline or maybe worse. And we've seen  
14 the frightening aftermath in so many crude-by-rail  
15 accidents over the past few years.

16           And so I come here to urge you not to turn  
17 Benicia and up-rail communities into sacrifice zones.  
18 We don't want a Lac-Mégantic here.

19           You have a weighty decision in front of you,  
20 and I see that you're all taking it very seriously. So  
21 thank you. I ask that you please consider the lives of  
22 future generations here in Benicia, not only the  
23 intermediate health and safety dangers that this project  
24 poses, but the long-term damage.

25           What does it mean to invest in new fossil

1 fuel infrastructure when the world all around us is  
2 dealing with the climate crisis? This is a really  
3 important question to consider because if this project  
4 is approved, we'll be dealing with the aftermath for  
5 many decades to come.

6           We're dealing with a climate crisis that was  
7 created by and worsened by the fossil fuel industry.  
8 And meanwhile our state is leading the way to a clean  
9 energy future, and how can it make sense then to expand  
10 the infrastructure for fossil fuels that have been  
11 proven to be so very destructive?

12           The impacts of climate change are escalating,  
13 and we can feel those impacts. Today it's hot, and, no,  
14 we can't blame the heat of today on climate change. But  
15 we do know that last year, 2015, was the hottest year on  
16 record ever.

17           We know that in February of this year, we had  
18 one of the biggest temperature spikes in modern history.  
19 We know that sea levels are rising faster than they have  
20 in almost 3,000 years. And here in California, we're  
21 experiencing very extreme weather, wildfires, droughts,  
22 and flooding, and these disrupt our local economies and  
23 harm the environment. And the economic toll of these  
24 extreme events related to climate change costs billions  
25 of dollars. So Valero's Crude by Rail Project is really

1 a step in the wrong direction, a big step, that I hope  
2 that you will think carefully about.

3 My final question is if this project was  
4 built and there was an accident, does Benicia want to be  
5 known as the town that acquiesced to big oil's bullying  
6 demands and put everyone at risk?

7 Please support your Planning Commission. I  
8 urge you to support their decision to deny the project  
9 and deny Valero's request to delay. Thank you.

10 MAYOR PATTERSON: Thanks.

11 Are there any questions of Ms. Bailey?

12 Thank you very much.

13 Okay. Rachael Koss, Lisa, and Steve Jones.

14 MS. RACHAEL KOSS: Good evening, Mayor Patterson  
15 and Council Members. My name is Rachael Koss. I'm here  
16 on behalf of Safe Fuel and Energy Resources California.

17 We're here to urge the City Council to deny  
18 Valero's appeal. The Planning Commission's unanimous  
19 decision to deny certification of the final EIR and the  
20 use permit overwhelming -- is overwhelmingly supported  
21 by both the law and the facts.

22 A lot of time has been spent here on up-rail  
23 impacts. And while they are undoubt- -- undoubtedly  
24 significant, such emphasis has led Valero and all of us  
25 down the pre-emption rabbit hole. But the project would

1 result in numerous significant unmitigated impacts from  
2 construction operation within the refinery boundary that  
3 are clearly outside the reach of federal pre-emption.

4           The Planning Commission's resolution  
5 identifies some of these impacts, and I'm going to just  
6 provide you with a sample as well.

7           Air quality and public health impacts from  
8 on-site construction nitrous oxide emissions; air  
9 quality impacts from on-site reactive organic gas  
10 emissions from crude storage tanks and railcar unloading  
11 emissions; cancerous from on-site toxic air contaminant  
12 emissions from crude storage tanks, railcar  
13 fusion emiss- -- fugitive emissions, and locomotive  
14 idling; air quality impacts from on-site fugitive  
15 railcar reactive organic gas emissions;

16           Public health and safety impacts from  
17 accidents, including injury and death from on-site  
18 hazards; flooding impacts; impacts to wildlife in  
19 Sulphur Springs -- Sulphur Springs Creek from the  
20 unloading rack lighting that is proposed; impacts to  
21 wildlife in the creek from on-site increased human  
22 activity;

23           Impacts to wildlife in the creek from  
24 increased on-site noise; impacts to wildlife from  
25 chronic exposure to contaminants; and, finally, impacts

1 to wildlife from an on-site crude spill or accident.

2           Substantial evidence shows that there are at  
3 least 11 significant unmitigated impacts from the  
4 project's on-site construction and operation that are  
5 clearly outside the reach of federal pre-emption. That  
6 is 11 reasons to uphold the Planning Commission's  
7 unanimous decision. That is 11 reasons to deny Valero's  
8 appeal that have nothing to do with pre-emption.

9           In addition, substantial evidence shows that  
10 project operation within the refinery boundary is  
11 inconsistent with the following goals and policies of  
12 the city's general plan:

13           Goal 2.5, to ensure health, safety, and  
14 quality of life; goal 4.1 and policy 4.1.1, to  
15 prioritize health and safety; goals 4.7, 4.8, 4.15,  
16 4.20, and policy 4.8.1, to protect public health and  
17 safety from hazards, such as hazardous materials and  
18 toxic air contaminants; and, finally, goals 4.9 and  
19 4.10, to protect air quality.

20           Ten inconsistencies with the general plan.  
21 That's ten more reasons to uphold the Planning  
22 Commission's decision, ten more reasons to deny Valero's  
23 appeal that, once again, have nothing to do with federal  
24 pre-emption.

25           Finally, the city's own code requires the

1 City Council to deny Valero's use permit. Section  
2 17.104.060 prohibits the city from issuing a use permit  
3 if a project would be detrimental to public health,  
4 safety, or welfare, to properties, or to the general --  
5 general welfare of the city.

6 Substantial evidence in the record shows that  
7 project operation within the refinery boundary alone  
8 would be extremely detrimental to the health, safety,  
9 and welfare of the public, to properties, and to the  
10 city's general welfare. The city cannot issue the use  
11 permit.

12 Although the city is not pre-empted from  
13 denying the project based on significant up-rail  
14 impacts, and we have submitted legal analysis, as well  
15 as many other attorneys, the question of federal  
16 pre-emption is irrelevant here.

17 Substantial evidence shows that project  
18 operation within the refinery boundary would result in  
19 significant unmitigated impacts and inconsistencies with  
20 the general plan. The city need not go any further to  
21 deny Valero's appeal. Thank you.

22 MAYOR PATTERSON: Thanks.

23 Are there any questions?

24 Seeing none, thank you very much for your  
25 time.

1                   So Lisa and -- Reinertson and Steve Jones.

2                   MS. LISA REINERTSON: Hi. I'm Lisa Reinertson,  
3 and I'm a Benicia resident. I've lived here over eight  
4 years. And I would like to mention that tonight in  
5 coming home I drove my electric car that was charged by  
6 the solar panels on my house back from my teaching job  
7 in San Francisco. So there are other alternatives  
8 besides the Stone Age.

9                   Also, I would like to say I'm actually kind  
10 of thrilled to come up here after listening to what  
11 Rachael had to say because I will get to that -- the  
12 issue of the need for a good lawyer, but I'm not at that  
13 point yet.

14                   I also -- besides caring about Benicia, I  
15 care about my citizens up-rail. I was born and raised  
16 in Sacramento. I went to college at UC Davis, and I  
17 raised both of my daughters in Davis during their  
18 elementary school years. So I know the town very well,  
19 and I know about the trains that go through the town,  
20 the trains that go right behind the student family  
21 housing where I lived for five years as an undergrad and  
22 graduate student.

23                   They are right next to hundreds of families.  
24 I mean the entire town. We do not have the awareness of  
25 how they are being subjected to the results of a bad

1 decision here.

2           Locally, I'm also concerned. My family --  
3 you can see I'm sitting with the Russell Liberks family.  
4 Their business is within feet of -- of those tracks,  
5 and, you know, there's a true concern about what they're  
6 going to endure, not just if there's an accident, safety  
7 concerns, but the -- with their egress being trapped, if  
8 there -- if someone had a heart attack inside, not being  
9 able to get in if those mile-long trains block their  
10 doorway or the one access they have. Anyway, I will go  
11 on.

12           I love the natural beauty of Northern  
13 California. I love drinking safe water here. Valero's  
14 threatening to put my family, my town, my region, the  
15 natural environment at risk in order to increase their  
16 profits. The -- you have to remember the EIR concluded  
17 that the benefits do not outweigh the negative  
18 environmental impacts and risks.

19           I'm going to stop a minute and just want to  
20 express my deep gratitude and thanks to our city  
21 Planning Commissioners, who spent nearly three years  
22 working on this, doing their homework, listening to all  
23 of the complex issues despite an EIR which has continued  
24 to be seriously flawed because it was crafted not for  
25 the protection of our community, natural and cultural

1 environment, but carefully manipulated to support the  
2 desired outcome of the applicant, which is Valero,  
3 despite the fact that both of the consultant lawyers  
4 hired by our city at every turn have been the spokesmen  
5 and defenders only of the applicant.

6 Our city Planning Commissioners made a  
7 unanimous decision to deny this project. I am so  
8 grateful we are represented by intelligent and  
9 compassionate human beings, who understood that the  
10 health and safety of the community was their sworn duty  
11 to protect.

12 So, City Council Members, we citizens are all  
13 showing up again weary in our arguments, and praying you  
14 are studying the written comments as thoroughly and  
15 thoughtfully as our Planning Commissioners did. For at  
16 the end of all of the public commentaries, what will  
17 happen to you will be that the advice from the  
18 city-hired lawyer and consultants that -- the advice  
19 will be that none of these testimonies matter. None of  
20 these things matter. Pre-emption rules.

21 The result of this is to remove your  
22 conscience from any burden you might have about the  
23 human beings that are pleading with you not to allow  
24 this dangerous project to move forward.

25 Make no mistake there our derailments on a

1 frequent basis with trains -- two this week, I think --  
2 and it will be just a matter of time for a disastrous  
3 derailment of crude oil, which could explode, killing  
4 families in Davis or dumping oil in the Feather River,  
5 for example.

6 But the consultants will tell you "Don't  
7 worry. It's not really your decision. It's all  
8 pre-empted. You can go home with a clean conscience."

9 There are many lawyers who disagree with this  
10 concept of absolute pre-emption, including our state  
11 Attorney General. And, clearly, if pre-emption was  
12 absolutely given, we would not have gone through this  
13 three-year process, and Valero would not be asking to  
14 buy time to convince the federal inspection folks to  
15 make a ruling on pre-emption.

16 I'm running out of time, but I would just  
17 like to say our city citizens and Planning Commissioners  
18 deserve to be represented by lawyers that are not only  
19 speaking for Valero. They have their own lawyers.  
20 Thank you very much.

21 MAYOR PATTERSON: Thank you, Lisa.

22 Any questions?

23 Okay. Steve Jones.

24 MR. STEVE JONES: Hi, there. I've been a Benicia  
25 resident for 19 years. Many years ago I worked in

1 politics. I -- I watch all the time. I've never come  
2 down. I always have an opinion.

3           There's clearly plenty of reasons to deny the  
4 delay and to deny the permit and to agree with the  
5 Planning Commission. There's probably some reasons to  
6 approve it. There -- there's always two different  
7 truths, your truth and my truth, and neither one makes  
8 the other one wrong. But at the end of the day, you  
9 will have to explain to your friends and family and our  
10 friends and family if something were to happen why it  
11 was important for the oil company to make more money.

12           We all use oil in our lives in different  
13 ways, but we can use less of it if we increased CAFE  
14 standards. There's lots of ways to use less oil. We  
15 don't need to expand the industry. And I just hope you  
16 can look yourself in the mirror after you decide --

17           MAYOR PATTERSON: Steve --

18           MR. STEVE JONES: -- and feel comfortable and  
19 also feel good about your legacy 20 years from now or  
20 two weeks from now if something were to happen. Thank  
21 you.

22           MAYOR PATTERSON: Any questions of Mr. Jones?

23           Thank you very much.

24           So now, as I said, I'm going to call the  
25 names that I called earlier from the list and they

1 didn't respond, and so this is their last chance in case  
2 you came in later.

3 Charles Davidson, Jack Fleck, Roman Lobeanko,  
4 Ron Wright, Doug Lamone, Craig Snider, Anina Hutchinson.

5 COUNCIL MEMBER SCHWARTZMAN: (Indiscernible.)

6 MAYOR PATTERSON: Sir? How did you do that?

7 MR. CRAIG SNIDER: (Indiscernible.)

8 MAYOR PATTERSON: I know, sir. I just called  
9 your name. So step forward. What?

10 MR. CRAIG SNIDER: (Indiscernible.)

11 MAYOR PATTERSON: The -- so you just finished  
12 rehearsal.

13 MR. CRAIG SNIDER: Yes. Shameless plug for the  
14 Benicia Old Town Theater Group production that's coming  
15 up called "Keeping Down with the Joneses." Don't miss  
16 it. It's going to be a really fun comedy.

17 MAYOR PATTERSON: Is that your public service  
18 announcement?

19 MR. CRAIG SNIDER: Yes.

20 MAYOR PATTERSON: Okay. Are you ready?

21 MR. CRAIG SNIDER: I -- for the most part, yes.

22 Well, I've been following this project for  
23 many -- the last few years like everyone else has,  
24 and -- and I don't think there's a whole lot at this  
25 point that I can really add to the record that's going

1 to -- that you haven't already heard. But I just had a  
2 few thoughts that I'd like to -- to part with on this  
3 occasion.

4           The first one is that this Crude by Rail  
5 Project, the whole idea of it kind of left the station  
6 decades ago when the industrial park was developed  
7 around the refinery. There was never any envision when  
8 the -- when the industrial park went in to turn the --  
9 the industrial park into a railroad depot for these oil  
10 trains.

11           So it just doesn't fit, and we've heard all  
12 the reasons why it doesn't. It creates and blocks --  
13 blocks traffic, adds noise, pollution, and creates an  
14 unacceptable risk for the various businesses and -- and  
15 residents that live in the vicinity.

16           There's a good question here also as to  
17 what -- what is the real upside of the proposal?  
18 What -- what -- what's the benefit to Benicia if it does  
19 go in?

20           Well, we heard from -- at the Planning  
21 Commission that Valero's not going anywhere. So even  
22 though we've heard a little -- you know, that there's  
23 been indications that maybe Valero's going to -- going  
24 to leave if they don't get this, well, that's -- that's  
25 just not going to happen. They don't plan on going

1 anywhere.

2           They even -- we even heard that they get the  
3 Bakken crude and the tar sand oil already. They just  
4 bring it in by marine vessel or pipeline. So this rail  
5 proposal just adds a third way to get it. How nice.  
6 You know, that's great.

7           Taxes. You know, supposedly we're going to  
8 get some more taxes out of this. But we understand now  
9 that Valero's been gaming the property tax system for,  
10 you know, many years now and has managed to slash the  
11 value of their property and are continuing to do so, and  
12 we really have no idea where that's going. So taxes  
13 aren't going to help.

14           Construction jobs. Well, I think most of the  
15 work that gets done in a lot of these refineries is done  
16 by outside contractors, anyway. They bring in crews  
17 from Texas or other places to come and do the work, and  
18 I don't suspect that that's going to be any different  
19 here.

20           I don't imagine we have a lot of people in  
21 the vicinity that are used to constructing racking  
22 facilities of this sort for this highly volatile stuff.  
23 So we can't really count on getting a whole lot of  
24 construction jobs out of it.

25           And then finally we've got the -- the price

1 of the -- of the oil, which I think today was about  
2 \$37 a barrel. We know that that's not sustainable to  
3 keep drilling for shale oil or the tar sand oil at that  
4 rate. It's still flowing because there's been a lot of  
5 wells that are already drilled that are trying to stay  
6 afloat, and so they're pumping the oil even though it's  
7 probably at a loss.

8           And I heard on the news today, actually, that  
9 the whole shale oil business is making -- is starting to  
10 shift to Texas where they're developing a lot of shale  
11 oil, and I don't imagine that Valero's going to want to  
12 ship their oil here from there if they can get it closer  
13 to their Texas refineries.

14           So there -- so there's really a question here  
15 of what -- what's the upside here. Is there really any  
16 value in doing this? It doesn't really seem to harm  
17 Valero very much. I guess it might, you know, hurt the  
18 stock dividends by a couple cents or something on that  
19 order. But, obviously, it really doesn't make a whole  
20 lot of difference. It's just sort of a nice-to-do  
21 project for these guys. It's not that important.

22           And then, finally, I'll just close. You  
23 know, I'm just a bit flummoxed by this whole pre-emption  
24 business. Because based on that argument, then this  
25 whole EIR process that we've been through is just a

1 sham. We all wasted a whole lot of time here in this  
2 meeting and in the previous meetings, sharing our  
3 concerns about this project, when, you know, supposedly  
4 there was a man behind the curtain somewhere that  
5 actually, you know, had determined that, you know,  
6 "Well, we'll just go through this big charade." And  
7 then at the end, you know, "Ah-hah," you know,  
8 "Surprise. You really don't have a decision to make  
9 here. You -- you've got to go ahead and approve this  
10 thing," you know, "Only kidding," you know. I don't  
11 think that's really funny.

12           There's a lot of people that take this thing  
13 really seriously. And, you know, trying to pull a  
14 rabbit out of the hat at the 11th hour like that is  
15 just -- just ridiculous. And the whole idea of  
16 postponing this is similarly -- well, enough said.

17 Thanks.

18           MAYOR PATTERSON: Thank you very much.

19           Are there any questions of Mr. Snider?

20           Seeing none, okay. I'm going to continue  
21 going down the list.

22           Anina Hutchinson, Steve McClure, Suzy -- Suzy  
23 Wong, Donna Rackner, Richard Gray, Karen Jacks -- Jacks,  
24 Richard Lintz, Joanne Fuller, Daniel Adel, Simone  
25 Cardona, Elizabeth Crawley, Larry Fullington. I know

1 he's not here.

2 Nick Disbota, Richard Crawford, Walt Quelan,  
3 Dean Lloyd, Patrick Costello, and Heather McCloud.

4 Okay. That is the end of cards and list.  
5 And the last thing is that we always allow people to  
6 stand up even if they hadn't submitted a card.

7 So it's getting close to the time where we're  
8 going to end the meeting. But this is your opportunity  
9 if you didn't submit a card and you have some new  
10 information that's informative about the EIR or the use  
11 permit or have a comment or a concern that you would  
12 like to express about the continuation request, please  
13 come forward.

14 MS. RUBY: Hello. I'm going to try to wake  
15 everybody up.

16 MAYOR PATTERSON: You're the pipe lady.

17 MS. RUBY: I am a pipe welder. I've been in --  
18 I've been in the Pipefitters Union for 41 years. I  
19 probably have over a hundred pipe welding  
20 certifications. I'm a member of 343, the pipefitters  
21 here -- (indiscernible) --

22 MAYOR PATTERSON: So I -- I don't want to say  
23 "Hey you," but --

24 MS. RUBY: Ruby. I'm sorry. Ruby. I live on --

25 MAYOR PATTERSON: Yeah. And I can't hear you

1 because --

2 MS. RUBY: My name's Ruby, and I live on the  
3 lower east side for 20 years.

4 MAYOR PATTERSON: Okay. Good.

5 MS. RUBY: Safe refinery, that's an oxymoron. I  
6 know a guy from the '60s that worked at Valero, and he  
7 says he can't believe it hasn't blown up -- blown up yet  
8 because there's no strict welding regulations in the  
9 '60s.

10 Actually, Valero's an accident waiting to  
11 happen. I worked there so many times. I say what about  
12 the 120 jobs -- short-term jobs? Does that include the  
13 pizza delivery guys or the office people? Where is --  
14 where are the pipefitters? Where are the business --  
15 (indiscernible)?

16 Where -- where -- where's the ironworkers?  
17 Where are the operators? Where are the boilermakers?  
18 Where are these people that are supposed to work on  
19 these jobs? You know where? They don't approve this.  
20 The "UA Journal" -- the "UA Journal" says no oil trains.  
21 That's why my union's backed off.

22 Oh, God. Most -- okay. Where are these  
23 people? Okay. They -- PMI is a company I worked for  
24 several times. So they're -- they're going to get the  
25 jobs right. So I looked on PMI's website today, and

1 they are now a subsidiary of the giant corporation  
2 MCORE, who has \$6.6 billion in revenues. They are  
3 the -- they preach safety, preach safety.

4 They are the first contractor certified under  
5 voluntary production, brag about being leaders in safety  
6 and health. For this they get -- drum roll, please --  
7 they're exempt from all Cal/OSHA inspections. That is  
8 so important. Cal/OSHA inspections.

9 In other words, when I speak here, I call all  
10 my colleagues on the phone, and I get their opinions,  
11 other welders and pipefitters, and they just say -- you  
12 know, they just sweep stuff under -- the fact is that  
13 they do the minimum in safety. They get away with as  
14 much as they can.

15 In fact, PMI says they have had zero  
16 lost-time injuries since 2012. Of course, the Internet  
17 doesn't lie; right?

18 I was hurt really, really bad, which ended my  
19 career at Valero in 2011. I reported my injury. I was  
20 taken to the clinic by Valero and PMI safety man. The  
21 doctor in the little clinic in Concord put some salve on  
22 my arm. I knew I was hurt bad.

23 I went back to work to weld two sections  
24 welds. I was told to -- some kid comes down. He's  
25 about 20 years old. He goes, "Get off the scaffolding."

1 I said, "Why?"

2 He said, "You have to sign this letter."

3 I said, "What letter?"

4 So I tried to read the letter, and he tried  
5 to stop me from reading it. So what it said was Valero  
6 or PMI are not responsible for my injuries and it did  
7 not happen at work, blah, blah, blah. So I crossed it  
8 out and signed my name. So --

9 MAYOR PATTERSON: So, Ruby, what we're kind of  
10 looking for are some comments that are specific to the  
11 request for continuation --

12 MS. RUBY: Okay.

13 MAYOR PATTERSON: -- or on the EIR --

14 MS. RUBY: Okay.

15 MAYOR PATTERSON: -- or on the land use permit.

16 MS. RUBY: Okay. So --

17 MAYOR PATTERSON: And -- and we did hear your  
18 testimony at the Planning Commission, which was very  
19 lively.

20 MS. RUBY: Oh, okay.

21 MAYOR PATTERSON: So if you could wrap up.

22 MS. RUBY: Okay. But, anyway, they got rid of  
23 me. Okay. So can I talk about earthquakes?

24 MAYOR PATTERSON: Can you do what?

25 MS. RUBY: Talk about earthquakes?

1 MAYOR PATTERSON: Yeah. You have --

2 MS. RUBY: Oh, I'm done? Okay.

3 MAYOR PATTERSON: If you can just stay on topic,  
4 Ruby.

5 MS. RUBY: Okay. I was just talking about  
6 safety, and is it really safe. Okay. Okay. I'm done.

7 MAYOR PATTERSON: Thank you so much.

8 Anybody else who didn't submit a card, name  
9 wasn't on the list, would like to come to the podium?  
10 We're just about ready to close the meeting.

11 You guys have been great. Thank you very,  
12 very much. I'm going to turn to the Council and say  
13 that it appears that we have no more public testimony.  
14 We can close the meeting tonight. We will be having a  
15 meeting on the 18th. Or we could leave the public  
16 comment period open to the 18th. What is the will of  
17 the Council?

18 Yes, ma'am.

19 FEMALE SPEAKER: (Indiscernible.)

20 MAYOR PATTERSON: Close -- close the public  
21 hearing or leave the public hearing open to the meeting  
22 for the 18th. That's -- that's the one decision that we  
23 should make tonight.

24 Council Member Campbell?

25 COUNCIL MEMBER CAMPBELL: How about one

1 possibility: The 18th we have one more shot at public  
2 testimony and then the 19th we vote.

3           MAYOR PATTERSON: Okay. I think, actually, what  
4 might happen is that we have short public testimony.  
5 And so why don't we keep it open till the 18th. Public  
6 comment will remain open till the 18th. But I do  
7 encourage the Council Members to be sure to have your  
8 list of questions and concerns you want to address.

9           One final thing is that we also will get --  
10 don't we have the traditional five-minute response from  
11 the applicant? And so in this case, it's the appellant.

12           So, Chris, you'll be ready on the 18th. I  
13 would imagine that that will work out.

14           Any questions of clarification on what we're  
15 doing? Okay. Without objection, we are adjourned.

16                           \*       \*       \*

17                           (End of video recording.)

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