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PLANNING COMMISSION MEETING
FOR THE CITY OF BENICIA
HELD ON 7-10-14

AUDIO TRANSCRIPTION OF DVD

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1 Planning Commission Meeting for the City of Benicia

2 July 10, 2014

3 Beginning of DVD audio transcription at 18:49

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7 COMMISSIONER DEAN: Next item is an adoption of the
8 agenda, and there's been a slight change that's been
9 proposed.

10 Our two main items tonight are two items related
11 to the Valero project. The first was a possible extension
12 of the comment period; that was Item A. And Item B was
13 public comments on the Draft EIR.

14 It's been proposed that we combine those two
15 items and take public comment on both those issues at the
16 same time. So just in the interest of streamlining, we
17 imagine people would be -- a lot of the same people would
18 be coming up to comment on both items, so this way it
19 would be a little more efficient.

20 Comment? Commissioner Young?

21 COMMISSIONER YOUNG: It's possible we may be asked to
22 take a vote on the question of extending the comment
23 period.

24 COMMISSIONER DEAN: That's correct.

25 COMMISSIONER YOUNG: So that will happen at some point

1 in this --

2 COMMISSIONER DEAN: Well, the way I see this happening
3 is we would -- staff does its presentation and we then
4 take public comment from the public at large, and at that
5 point they'd comment on the Draft EIR, and on the
6 extension to the comment period that they'd like to see,
7 and then after that, we'd bring it back to the Commission,
8 we'd have a chance to comment on both those items, and
9 then if we take a vote, we take a vote at that point.

10 COMMISSIONER YOUNG: Which could be at the end of the
11 night?

12 COMMISSIONER DEAN: Could be.

13 COMMISSIONER YOUNG: My preference would be to take
14 the issue of the comments first, see if there's a
15 consensus to extend the comment period and then move on.
16 But that's just my opinion.

17 COMMISSIONER DEAN: Other Commissioners?

18 COMMISSIONER SMITH: Would we be extending the public
19 comment period after we decided to extend the comment
20 period?

21 COMMISSIONER DEAN: Yes. If we extend the comment
22 period, it would be with a new date, and people would make
23 comments up until that date; if we extended it 30 days, 60
24 days, or whatever that was.

25 MS. YOUNG: But I mean in a public hearing forum, not

1 written, but public hearing forum.

2 COMMISSIONER DEAN: No, I think the idea would be for
3 written comments, not for public hearing comments.

4 MS. SMITH: Okay. I just wanted to make sure, because
5 the question would be, if we extended the time where there
6 was a second public hearing, could people speak twice?

7 COMMISSIONER DEAN: No, I'm thinking we're trying to
8 get through the public comments -- at least we're going to
9 try to get through the comments tonight, the public
10 comments, because people made an effort to get here. And
11 then the comment period would be extended for all written
12 comments.

13 MS. SMITH: All written comments. Okay.

14 COMMISSIONER DEAN: Yes. Does that make sense?

15 Comments from other Commissioners?

16 COMMISSIONER YOUNG: In addition to public comments,
17 the Commission themselves will probably have questions and
18 comments of their own.

19 COMMISSIONER DEAN: That's right.

20 COMMISSIONER YOUNG: And that will happen after the
21 public comment period.

22 I think it's possible that those questions may
23 extend into later in the evening, and that the Commission
24 may be asked or might consider, depending upon the
25 circumstances, whether or not the hearing itself should be

1 continued to a later date.

2 COMMISSIONER DEAN: Well, I think when we get to that
3 point we'll -- we know there are a lot of people that want
4 to speak tonight, and probably the sooner we get to that
5 point to get them speaking, the better. When we get
6 there, we'll have a discussion about how late we want to
7 go tonight, maybe that's the time, if we want to set a
8 time limit on the evening, okay?

9 Commissioner Cohen-Grossman?

10 COMMISSIONER COHEN-GROSSMAN: Yeah, on the question of
11 combining the two agenda items, while I support it, I
12 really don't want to make any important decisions while
13 we're at the wee hours; and two important decisions today,
14 are frankly, the one that's obvious, that's on the agenda:
15 Consideration of extending the public comment period. And
16 the second one is, at some point the public hearing will
17 be closed, and whether that's tonight or not tonight is to
18 be determined. I agree with that.

19 COMMISSIONER DEAN: Okay.

20 COMMISSIONER COHEN-GROSSMAN: But I would like to have
21 maybe a time-certain for this Commission to consider
22 what's currently Item A, so that we're not at the --

23 COMMISSIONER: Wee hours?

24 COMMISSIONER COHEN-GROSSMAN: -- wee hours dealing
25 with the consideration of extending the public comment

1 period. I want to hear all the public comments, and I
2 think everyone does, but I also think it's important to
3 deal with the consideration of extension issue tonight,
4 regardless --

5 COMMISSIONER DEAN: Oh, regardless, yes.

6 COMMISSIONER COHEN-GROSSMAN: -- if the public hearing
7 is closed or not.

8 COMMISSIONER DEAN: People need to know --

9 COMMISSIONER COHEN-GROSSMAN: Yeah.

10 COMMISSIONER DEAN: -- before they leave.

11 COMMISSIONER COHEN-DEAN: Yeah. So I would say, even
12 if the public hearing is still going on, at some point
13 take a pause, come back to this, make a decision on it,
14 and then go back to the public hearing.

15 Just a suggestion.

16 COMMISSIONER DEAN: Maybe this is a question for the
17 City Attorney in terms of procedure.

18 MS. KAT WELLMAN: Yes. The problem is that you're
19 going to need to hear the comments, all the comments, that
20 the public wants to make on the extension, so that if you
21 stop at a certain period of time to make your decision,
22 there may be people who want to comment on it who have not
23 had an opportunity to do so.

24 It's very difficult to try to figure out the best
25 way of doing this. But my recommendation would be that

1 you set a time for which you want to stop the proceedings
2 and figure out how you're going to proceed from there.
3 Like, if you want things to -- you know, usually we have
4 our meetings end at about 11:00 o'clock. At that point
5 you see how many people are still interested in making
6 comments, and your decision can be that you need to
7 continue the hearing to a date-certain and hear the rest
8 of the public comments, after which time then you can make
9 your decision; or you can see if there's only a few more
10 public comments that need to be made, and then you can
11 make your decision at that point in time.

12 COMMISSIONER DEAN: Okay. So do we want to set that
13 time now? Say 11:00 o'clock? No?

14 COMMISSIONER YOUNG: I have another suggestion. Maybe
15 we could just sort of poll the audience, see how many
16 people are interested in making comments on the issue of
17 extending the public comment period, as opposed to the
18 larger question of commenting on the Draft EIR. That
19 might give us a sense of whether or not this will go
20 quickly on the comment question, and just deal with it,
21 and then open up the rest.

22 COMMISSIONER DEAN: Yes? You had a comment?

23 MS. MILLION: Chair, if I may. While I definitely
24 agree with the sentiment, I think that the issue that we
25 face here is that we have members of the public all

1 through City Hall, and so we wouldn't be able to do it by
2 a show of hands, because we have the overflow room and the
3 Commission room; we have people outside on the patio, and
4 we have overflow room in the conference room, and so I
5 don't think that would work for this evening.

6 COMMISSIONER DEAN: Understood. Thank you.

7 Commissioner Sprague?

8 COMMISSIONER SPRAGUE: You know, we have the public
9 here; I think we should try to accommodate everyone. Are
10 we going to have a time limit for each person speaking?

11 MS. MILLION: The standard time limit is five minutes.
12 However, typically under the open government rules, if
13 there are a large number of speakers, and it's the will of
14 the Commission to reduce that time to three minutes, that
15 is the purview of the Commission to do that.

16 COMMISSIONER SPRAGUE: I don't have any problem
17 staying here as long as necessary. Everybody's here. But
18 can we clarify that this is really our opportunity to hear
19 the public; the Commissioners, our questions, we will have
20 another opportunity to question regarding this issue?

21 MS. KAT WELLMAN: Yes, absolutely. The purpose -- and
22 this is one of the things that we were going to cover.
23 The CEQA guidelines do not require a public hearing in
24 order to hear public comments, but our Benicia guidelines
25 do, and that is the purpose of this hearing is to hear

1 public comment on the DEIR.

2 COMMISSIONER DEAN: So -- Commissioner Young?

3 MS. KAT WELLMAN: Hopefully I clarified that. Yes,
4 the Commission will have an opportunity.

5 COMMISSIONER YOUNG: And when would that be?

6 MS. KAT WELLMAN: Well, at any time, the Commission
7 can do what the public does, which is, put your questions
8 in writing, and they will be responded to just like every
9 other member of the public.

10 COMMISSIONER YOUNG: But if we want to make our
11 questions in an open meeting, what is our opportunity to
12 do that?

13 MS. KAT WELLMAN: During project approval. Or when
14 you're looking at the Final EIR. I'm not quite sure what
15 you're asking.

16 COMMISSIONER YOUNG: Well, there may be a lot of
17 questions that come out of the public comments or that the
18 Commissioners themselves independently have, and if we are
19 prescribed from asking those questions at this time, in a
20 public process, to wait for the Final EIR to make our
21 comments is a little late.

22 I want to be sure that the questions are on the
23 record and addressed as part of the Final EIR, not after
24 the Final EIR is returned to us.

25 MS. KAT WELLMAN: Okay. The way the process works,

1 and this works the same for the Commission as it does for
2 the members of the public, is that you review the DEIR and
3 any questions, concerns or comments you make, they're
4 either done publicly at this hearing, or they're done in
5 writing, and they have to be addressed and responded to in
6 the Final EIR.

7 So I'm not sure I'm answering your question, but
8 you wouldn't be making those questions during that time,
9 but they'll actually be laid out and responded to when you
10 get back the Final EIR.

11 COMMISSIONER YOUNG: But what you're saying is if we
12 don't have the opportunity to ask the questions in the
13 public hearing, we would have to write them out and submit
14 them by the deadline, and wait for the Final EIR to come
15 back; is that correct?

16 MS. KAT WELLMAN: Yes; as are members of the public
17 who are not here tonight.

18 COMMISSIONER COHEN-GROSSMAN: Back to the question of
19 combining the items or not.

20 COMMISSIONER DEAN: Yes?

21 COMMISSIONER COHEN-GROSSMAN: I would like to hear
22 staff's report on one aspect -- and Staff probably has a
23 whole presentation -- but the thing that I don't know is
24 what is an "articulated unusual circumstance"? And that's
25 the key to what's currently Item A.

1 COMMISSIONER DEAN: Okay. Well, we've already
2 launched into this discussion of whether or not we're
3 going to extend the comment period. So we have a couple
4 choices here. One, we can go forward with the agenda as
5 it's written and take all the public comment on the first
6 item and make our determination, and then go on to the
7 comment section of the DEIR. Or, we can merge -- we can
8 just merge the two items and say we're going to pause at a
9 certain point, and take up the question of the
10 continuation.

11 COMMISSIONER OAKES: Make a motion.

12 COMMISSIONER DEAN: Commissioner Oakes makes a motion.

13 COMMISSIONER OAKES: I motion that we approve the
14 agenda as written.

15 COMMISSIONER YOUNG: Second.

16 COMMISSIONER DEAN: Any discussion? Okay.

17 Call the roll.

18 MS. MILLION: Cohen-Grossman?

19 COMMISSIONER COHEN-GROSSMAN: Yes.

20 MS. MILLION: Oakes?

21 COMMISSIONER OAKES: Yes.

22 MS. MILLION: Smith.

23 COMMISSIONER SMITH: Yes.

24 MS. MILLION: Sprague?

25 COMMISSIONER SPRAGUE: Yes.

1 MS. MILLION: Young?

2 COMMISSIONER YOUNG: Yes.

3 MS. MILLION: Dean?

4 COMMISSIONER DEAN: Yes.

5 This is now the opportunity for public comment.
6 This is for the part of the meeting reserved for people
7 wishing to address the Commission on any matter not on the
8 agenda tonight. So anybody who would like to address the
9 Commission on a matter not on the agenda, is welcome to
10 come forward.

11 Do we have anybody who wants to speak to the
12 Commission? I'm seeing no one come forward.

13 Okay. I'm going to close the opportunity for
14 public comment. And just to note, we also have a number
15 of written comments that came in. Items relevant to
16 tonight's agenda, specifically the Valero issues, have
17 been copied and they're stacked on the table to my right
18 and on the side wall. If anybody's interested in what
19 those written communications were, you can get a copy over
20 there.

21 Consent Calendar. We have two items on the
22 Consent Calendar. Approval of the minutes from the June
23 meeting, and an adjustment to the Planning Commission
24 Meeting schedule for the August meeting.

25 So I'd like to pull the minutes. I have a

1 revision to the minutes, and that revision is on Page 5,
2 under C, Planning Commission Work Priorities. There's a
3 statement that says "No public comment." I'd just like to
4 change that, say, "Public comment was open, there were no
5 speakers"; otherwise, it sounds like we didn't take public
6 comment on that item.

7 I didn't have any other revisions.

8 Any other Commissioners have any other revisions?

9 No?

10 Do I hear a motion on the --

11 COMMISSIONER YOUNG: So move.

12 COMMISSIONER DEAN: Move to adopt?

13 COMMISSIONER YOUNG: Move to adopt the --

14 COMMISSIONER OAKES: Second.

15 COMMISSIONER DEAN: Seconded by Commissioner Oakes.

16 Roll call, please.

17 MS. MILLION: Cohen-Grossman?

18 COMMISSIONER COHEN-GROSSMAN: Yes.

19 MS. MILLION: Oakes?

20 COMMISSIONER OAKES: Yes.

21 MS. MILLION: Smith.

22 COMMISSIONER SMITH: Yes.

23 MS. MILLION: Sprague?

24 COMMISSIONER SPRAGUE: Yes.

25 MS. MILLION: Young?

1 COMMISSIONER YOUNG: Yes.

2 MS. MILLION: Chair Dean?

3 COMMISSIONER DEAN: Yes.

4 That leaves one item on the Consent Calendar,
5 which is the new date for the August meeting.

6 COMMISSIONER YOUNG: Move to approve.

7 UNIDENTIFIED SPEAKER: Second.

8 COMMISSIONER DEAN: Go ahead, vote, please.

9 MS. MILLION: Cohen-Grossman?

10 COMMISSIONER COHEN-GROSSMAN: Yes.

11 MS. MILLION: Oakes?

12 COMMISSIONER OAKES: Yes.

13 MS. MILLION: Smith.

14 COMMISSIONER SMITH: Yes.

15 MS. MILLION: Sprague?

16 COMMISSIONER SPRAGUE: Yes.

17 MS. MILLION: Young?

18 COMMISSIONER YOUNG: Yes.

19 MS. MILLION: Chair Dean?

20 COMMISSIONER DEAN: Yes.

21 Okay. Now to our main agenda items for the
22 evening. Item A, consideration of extending the public
23 comment period on the Draft Environmental Impact Report
24 for the Valero Crude-By-Rail Project.

25 MS. KAT WELLMAN: Chair, I'm just going to have a very

1 short presentation on this.

2 COMMISSIONER DEAN: Okay.

3 MS. KAT WELLMAN: Okay. Under the CEQA guidelines and
4 also under our own Benicia CEQA guidelines, the public
5 comment period is generally only 30 to 45 days. 45 days
6 is the minimum that -- the DEIR has also sent to the State
7 Clearinghouse, which in this particular case it was.

8 Staff felt that the 45 days was adequate. It's
9 my understanding that the Commission -- that the public
10 has sent in a number -- the public -- the Commission has
11 received a number of requests to extend the public comment
12 period.

13 The rule is that it should not be extended longer
14 than 60 days except in unusual circumstances, and that was
15 the question that we got from Commissioner Grossman: What
16 are unusual circumstances? Well, there is no real set
17 rule or case law on this. It is up to the discretion of
18 the agency. However, if you were to extend it beyond the
19 60 days, you would need to articulate good reasons to do
20 so. And the findings might be a little difficult to do so
21 in this case, for a couple of reasons that I want you to
22 consider.

23 One is that this project was first introduced a
24 year ago, in the form of a mitigated negative declaration,
25 and it dealt with some of the same or similar issues.

1 The second thing to take into consideration, is
2 that there was a Valero VIP EIR, that was way more complex
3 than the document that's before you tonight, that we're
4 hearing public comment on, and that was actually only a
5 45-day public review period.

6 I think that it's very possible to justify going
7 to the 60 days, based on the requests that you've
8 received, but I do think that you do need to make
9 findings, specific findings, if you want to go beyond that
10 period of time.

11 COMMISSIONER DEAN: Okay. Thank you.

12 So questions from the Commission to staff on this
13 item?

14 Okay. If there's no questions, we'll go directly
15 to the public portion of the meeting. Open the public
16 hearing on this item.

17 I have a number of cards of people who said they
18 specifically wanted to speak on this Item 5A. There's a
19 lot of cards that just say "Item 5," but they don't
20 actually have a number.

21 I have a number of cards with the "A" item on
22 them, I'm going to call those first. And then anybody who
23 wants to speak after that is welcome to come up.

24 And I understand we have some people in the side
25 room, so we'll give people plenty of time to come up.

1 The first speaker is Jeff Gerragos or Garrigues,
2 G-A-R-R-I-G-U-E-S.

3 And next speaker would be Sam Scrutchins,
4 S-C-R-U-T-C-H-I-O-N-S or Scrutchins.

5 I apologize for any names I'm butchering in the
6 process here.

7 Pat Toth-Smith.

8 Kathryn Black.

9 Jane Koski.

10 Hi. Step right up. Introduce yourself.

11 UNIDENTIFIED SPEAKER: Microphone, please.

12 UNIDENTIFIED SPEAKER: There I go. I didn't think I'd
13 be first. There I am.

14 Basically, I'm a Benicia resident and I'm very
15 concerned about safety issues with the crude-by-rail. I'm
16 concerned about air pollution and traffic issues. I have
17 gone through this and have just gone into one area, one
18 section, and it has taken me almost two weeks to do that.
19 So I really need more time to be able to go over each area
20 specifically. I'm not a lawyer. I'm just a nurse and
21 also a writer and photographer. So for me, it's very
22 complicated for me to go through your legal-speak, and for
23 me to understand each thing. So I do need more time, and
24 I'm asking you as a Benicia homeowner and resident for the
25 time I need.

1 COMMISSIONER DEAN: Okay.

2 UNIDENTIFIED SPEAKER: And I want 90 days. Thank you.

3 COMMISSIONER DEAN: 90 days. Okay.

4 Other speakers?

5 MS. MILLION: Excuse me, Chair? Chair Dean? I did
6 want to remind the Commission and members of the public
7 that we have set up sort of a staging area. If your name
8 is called and you're in the cue to speak, in the back,
9 there's a cone, and it kind of keeps people out of the
10 aisleway.

11 As the Chair did, he called about five, seven
12 names, so we want to give people the opportunity to come
13 from the other rooms and line up. And so if you are
14 coming from another room or if you're in this room, if you
15 could just please stand by the orange cone in the back and
16 then come up, we would really appreciate it. Thank you.

17 COMMISSIONER DEAN: Okay. Thanks for that reminder.

18 MS. BLACK: My name is Kathryn Black. I'm a Benicia
19 resident. I'm with Communities for a Better Environment,
20 The Sunflower Alliance, but today I'm here on behalf of
21 the Benicians for a Safe and Healthy Community.

22 I've done some calculations on CEQA. I've gone
23 through CEQA pretty heavily. And CEQA was written in the
24 1970s. In CEQA today, it says that DEIRs should be no
25 more than 300 pages. With that in mind, if you take the

1 amount of the minimum time period allowed for public
2 comment, that's 30 days. So if you extrapolate that out
3 and you have 30 days and you divide -- I'm sorry, if you
4 had 200 pages and divide that by 30 days, that gives you
5 6.6 pages per day, that is what CEQA was allowing us to do
6 then.

7 This DEIR is over 1450 pages. If you take those
8 same amount of pages, 6.6 per day, and you divide them
9 into over 1450 pages, that would allow for 219.7 days.

10 That is what the intent of the law was under
11 CEQA. Please allow 90 days.

12 COMMISSIONER DEAN: Could you state your name again,
13 please.

14 MS. BLACK: Kathryn Black.

15 COMMISSIONER DEAN: Thank you.

16 Next speaker, please.

17 MR. SCRUTCHINS: My name is Sam Scrutchins. I've been
18 a Benicia resident for practically four decades. In my
19 haste, when I got here and found this room full, I
20 misstated the issue that I wish to talk on; it's actually
21 Item B, not A. And I would appreciate it if I could get
22 re-called for that later in the day.

23 COMMISSIONER DEAN: Sure, I'll pull your card back
24 out.

25 Next speaker, please.

1 MR. GARRIGUES: Hello. My name is Jeff Garrigues,
2 resident of Benicia. And I would like to request an
3 extension of the EIR review period. I believe that the
4 issue for considering an extension is unusual
5 circumstances, so I'd like to submit the following: First
6 of all, the timing of the review period being during the
7 popular time for summer vacations, and the 4th of July
8 Holiday, and of course World Cup Soccer.

9 You know, there's a substantial amount of
10 information in the EIR that needs to be reviewed, both in
11 the settings and the analysis and the appendices. I'm
12 going to disagree with the comment made by the attorney
13 here, respectfully. EIRs are intended to provide
14 substantially more analysis than what you typically find
15 in the initial study. And I think that is important to
16 allow for more time.

17 Another unusual circumstance regarding the
18 project is the actual geographic scope, the extent. There
19 are issues. Indeed, I saw on the website attached to the
20 public hearing -- or to the memo for this meeting, this
21 item here, that the City of Davis, and I think the
22 Sacramento area, council of governments had requested a
23 time extension as well. I'm sure they have reason to do
24 so and responsibilities to serve their constituents as
25 well.

1 Please consider that request. I do think it's
2 warranted in this case. Thank you.

3 COMMISSIONER DEAN: Thank you.

4 Next speaker. I have Jane Koski. Jim Lambden.
5 Kathy Kerridge. Michelle Rowe-Shields. Constance
6 Beutel -- Beutel.

7 MS. KOSKI: Thank you for this opportunity to speak to
8 you all today.

9 I too have found it difficult to make my way
10 through this DEIR. However, on the first page, I find
11 that there's good reason to extend this to 90 days.

12 First, on the DEIR, first page, says there's not
13 any indication there would be -- I'm paraphrasing -- any
14 accident or derailment within 110 years, or something to
15 that effect. Personally, I know from searching on the web
16 and other newscasts, that there have been at least 12
17 major ones in the United States alone in the last year.

18 I am speaking on the issue of the environment,
19 the wildlife and the general health and safety of our
20 community.

21 In that first statement, I find that there could
22 be considerable problems if that is the case, that no
23 provisions are made for the extent of where there might be
24 a spill, in which I have seen the problems that have
25 happened with such spills and deaths of fish -- enormous

1 amount of death of fish out there on the Benicia
2 waterfront. And who knows where that came from. I never
3 found any other information than it was a release from a
4 fire and coker unit from Benicia's Valero.

5 So please allow the 60-day extension so people
6 like myself and others can be much more better informed,
7 and I hope you, too, can also be better informed on what
8 would be in this DEIR to be able to protect, not just our
9 streams and waters, our environment, but the people that
10 work there. I'm a union member. I want to make sure
11 everything is in place for their safety on that job.

12 I appreciate this time. Thank you very much.

13 COMMISSIONER DEAN: Okay. Thank you.

14 COMMISSIONER YOUNG: I've got a question.

15 COMMISSIONER DEAN: Yeah?

16 COMMISSIONER YOUNG: Ma'am? Ma'am?

17 COMMISSIONER DEAN: Commissioner has a question.

18 COMMISSIONER YOUNG: Did I hear you say you wanted a
19 60-day extension from the --

20 MS. KOSKI: Minimum. Minimum 60. I would prefer if
21 it was more like 120. But I understand that, you know,
22 you have a time frame you've got to work in. 90 days
23 would be a really, really great idea, really good idea to
24 extend it to, so that we can have an even better-informed
25 public.

1 COMMISSIONER YOUNG: Right now it's at 45 days. So
2 you're suggesting an additional 15 or 30 or 45?

3 MS. KOSKI: Yeah, so 45 I believe is going to be very
4 difficult for people to really get an informed decision on
5 this and public input. Thank you.

6 COMMISSIONER DEAN: Okay. Thank you.

7 Next speaker.

8 UNIDENTIFIED SPEAKER: I don't think the speaker gave
9 her name. Maybe I missed it.

10 COMMISSIONER DEAN: I'm sorry. Can we have the name
11 of that last speaker, please. Sorry to keep calling you
12 back.

13 MS. KOSKI: Jane Koski. I'm a Benician resident as
14 well.

15 COMMISSIONER DEAN: All right. Thank you.

16 MR. LAMBDEN: Good evening, members of the Commission.
17 I am James Lambden. I live at 350 St. Catherine Square.
18 I was at the last meeting where I requested an extension
19 of time. I'll confess that I'm a lawyer, and I will
20 confess that I have considerable CEQA experience, but I am
21 not here to speak as a lawyer or as anyone other than a
22 citizen of Benicia.

23 I have been asked by Benicians For a Safe and
24 Healthy Community to request the extension, and it's my
25 intention to give you the answer to your question of what

1 findings do you need to make in order to extend the time.

2 We are making a record tonight, as I told you
3 last time, and this is the record not only that will be
4 reviewed by the City Council, when it looks at your
5 work -- presumably it will -- but also by every
6 administrative body and court up the line that reviews
7 what we do here tonight. The first question they will
8 ask, when they make their review of your work, is whether
9 or not due process was observed, and whether or not there
10 was a full and fair period of comment.

11 Ms. Wellman is correct that there is no case law
12 that says exactly what that time period is. The answer to
13 the question of reasonableness and fairness, ultimately if
14 there is no answer in the cases or in the statutes, is
15 decided by a judge sometime, about what was fair, and it
16 will be done on the basis of this record.

17 I believe that you will not make any error by
18 extending the time. And I have reviewed the cases at
19 great length. The only error that you can make is by not
20 extending the time, or by not giving sufficient time. And
21 the reason that 45 days is not sufficient under the
22 present circumstances is very clear. This is not a usual
23 project. This is a very unusual project indeed.

24 I want to be clear that what we're asking for is
25 time for a sufficient review that will help you in doing

1 your work and will help the entire City in understanding
2 what's being proposed.

3 CEQA represents democracy at it's very best. And
4 I was tempted to start by asking for a round of applause
5 for the fact that we're here doing this. Around the
6 world, people dream of having this possibility. A law
7 that says you have to be listened to by the government
8 when you make your comments on something that's being done
9 in your community. It's a wonderful thing and I'm very
10 proud to be part of it tonight.

11 What we want to do is to make sure that when you
12 make your decision as part of the government, you're fully
13 informed and that you have a report that is factually
14 correct, substantively full -- full in its disclosure of
15 what's going on, appropriate in its scope in containing
16 all the information that's necessary to make a decision,
17 and that it meets the minimum standards that were
18 discussed by Ms. Wellman as to the time period.

19 Benicians For a Safe and Healthy Community
20 intends to produce the best and fullest written comment
21 that it can, and we have several people working on it with
22 us, but frankly we're outgunned by the idea that the
23 Applicant has had almost a year to prepare this report --
24 probably longer if you've consider how long it's been
25 under consideration -- and that what they have produced is

1 quite complex.

2 In my prior work, I examined a lot of EIRs, and
3 this one is unusual, and I'll give you these reasons which
4 you can make part of your findings. It's a very complex
5 document that was created over a long time period, that's
6 sort of pieced together. It's complicated in its content.
7 A formula was mentioned by an earlier commentator that is
8 rather mind-boggling in trying to figure out exactly how
9 long occurs between derailments. You can spend several
10 hours just staring at that formula to figure out why it's
11 111 years that we have to wait for a derailment.

12 This report encompasses multiple industries,
13 including petroleum, rail and maritime. We're at a
14 confluence of several different things going on here. All
15 heavy, heavy industries. It impacts residences and
16 businesses throughout the City. It has particular impact
17 on the industrial park, which is the engine that drives
18 the City. The Applicant is a very large business, but
19 it's only a fraction of the entire business park.

20 This project impacts multiple communities
21 throughout California, all the way up the rail line. Many
22 of them are here tonight, I believe, to comment.

23 It addresses multiple specialty areas: Wildlife,
24 water, hazardous waste, gas emissions. The list goes on.

25 It addresses complex cumulative information. It

1 analyzes projects in terms of what will happen in the
2 future, not fully I might point out. And it incorporates
3 multiple other related projects.

4 COMMISSIONER DEAN: Sir, I'm going to have to ask you
5 to wrap up, you're running out of time.

6 MR. LAMB DEN: The quality of the input to this draft
7 is crucial to the decision that the City will make. And
8 the information that we will be able to supply you with a
9 longer time period will be crucial to your decision that
10 may effect Benicia for -- will effect Benicia for decades
11 to come. And given the opportunity, we can supply you
12 with that information. We've already run a couple of
13 workshops, which we hoped were neutral.

14 COMMISSIONER DEAN: Sir, I'm going to have to ask you
15 to wrap up so we can go to the next speaker.

16 MR. LAMB DEN: I'll just finish up by saying, you're
17 not constrained to 45 days, 30 days, except for the
18 minimums. You're only constrained to what is fair and
19 what seems to be fair.

20 So if you take the time periods involved and
21 analogize it to dividing a cake, we're getting a very
22 small slice of the cake and that is just not fair, and
23 everybody can understand that.

24 Thank you for your time.

25 COMMISSIONER DEAN: Thank you.

1 MR. LAMBDEN: If you have any questions, I'll be happy
2 to answer them.

3 COMMISSIONER DEAN: I see none.

4 I'd like to remind the audience that we -- this
5 is a public meeting. If you could hold your applause. If
6 you agree with a speaker, you can raise your hand. People
7 on the Commission will take note of when you are in
8 agreement with a speaker, rather than applauding or
9 yelling or speaking out. We'd appreciate it if everybody
10 would get the chance to speak uninterrupted, and please
11 give some consideration to all of our speakers.

12 Did staff have a --

13 MS. MILLION: I did, and that was actually one of my
14 points. I wanted to thank everybody for being so
15 respectful this evening and competent will carry through.

16 And to the Chair's point, yes, we do want to
17 reduce any of the nonsilent participation. So if you
18 could show your support by raising your hand, that would
19 be really, really helpful.

20 For those who were present at the scoping meeting
21 for the Draft EIR, we had a great, successful,
22 professional meeting, and that was really because the
23 community was so proactive in the way that they showed
24 their support through the raise of hands. So, really
25 appreciate that.

1 One other note I wanted to make. Clearly, on
2 Item 5A, which we are, we are allowing the five minutes.
3 The Commission may want to consider, due to the number of
4 speakers, three minutes for the next item, but you'll have
5 to make that call at that time.

6 COMMISSIONER DEAN: Okay. Thank you.

7 And I'm a little remiss. We started the public
8 hearing. Typically we read some of the ground rules. I'm
9 going to quickly go through that before we go to the next
10 speaker, so if you'd just stand by for a second.

11 Rules of conduct here this evening. Each speaker
12 has a maximum of five minutes for public comment. If
13 others have already expressed your opinion, you may simply
14 indicate that you agree with the previous speaker. You
15 don't need necessarily to repeat the issue or the talk.

16 Speakers are requested not to make personal
17 attacks on Commission members, staff or members of the
18 public, or make comments which are slanderous or which may
19 invade an individual's personal privacy.

20 In order to facilitate the process and ensure
21 fairness, we request that there be no clapping, cheering
22 or booing. Instead, if you agree with a speaker, we would
23 ask you to raise your hand so the Commission knows you're
24 in agreement with the statements being made. That's what
25 our Ms. Million just referred to.

1 So with that, we'll continue.

2 MS. KERRIDGE: Kathy Kerridge, resident of Benicia for
3 28 years.

4 I would like to agree with what Mr. Lambden said.
5 We need more time. I would like to ask for at least 90
6 days. When I was here before asking for that, I had
7 figured out how many pages per day I was going to have to
8 read. I didn't bring that with me tonight. But you can
9 see, I've made a little headway. I haven't even attacked
10 the CV in the back, which I really need to look at.

11 I'm about to head off for two weeks where I'll be
12 spending time with my elderly parents helping them in
13 their home.

14 I don't know when I'm going to have time to do
15 this if you don't give an extension. This is the time for
16 the people in this community to be able to read and absorb
17 and digest this. It's not an easy document. It's not a
18 little light evening reading. In order for us to do this
19 in good conscience, in order for us to do it completely,
20 we need to have more time. The fact that it falls during
21 summer, during 4th of July weekend, at a time when people
22 are taking vacations, I think compounds the necessity for
23 additional time.

24 I'm also incredibly concerned. We do have
25 several people from uprail communities here tonight, but I

1 wonder, do the people in Truckee know that this is maybe
2 going through their community? Do all the other people in
3 all the towns and all the rail towns, all the rail
4 communities in California, do they realize the importance
5 of what is happening here in Benicia? Have they been
6 notified? Have they had time to look at this? I don't
7 know. Did the City notify every uprail community? I
8 don't think so.

9 So I think that also adds to the additional need
10 for there to be additional time to review the DEIR. And
11 again, I'd ask for 90 days. Thank you very much.

12 COMMISSIONER DEAN: Okay. Thank you.

13 Next speakers: Michelle Rowe-Shields. Constance
14 Buetel. Rick Stierwalt. Ethan Buckner. David Jenkins.

15 UNIDENTIFIED SPEAKER: Hi. I'm a Benicia resident and
16 I concur with all the arguments that have been put forward
17 and I do request a 90-day extension. Thank you.

18 COMMISSIONER DEAN: Thank you.

19 MS. BEUTEL: Good evening. Constance Buetel, 1501
20 Shannon Court, a Benicia resident for 25 years. I also
21 advocate for at least a 60-day extension. We stand at the
22 hinge of history. This may seem in some minds a very
23 small decision being made, but I would argue that it is a
24 very significant one being made by our community and
25 communities throughout California and across the nation.

1 Time given to its consideration is important. Thank you.

2 COMMISSIONER DEAN: Thank you.

3 UNIDENTIFIED SPEAKER: Can I ask the last speaker a
4 question.

5 COMMISSIONER DEAN: Oh, question for the last speaker,
6 please.

7 UNIDENTIFIED SPEAKER: I just wanted to clarify what
8 you're requesting. I think you said a 60-day --

9 MS. BEUTEL: 60 days.

10 UNIDENTIFIED SPEAKER: Extension? In addition to the
11 45?

12 MS. BEUTEL: No, no, 60 days.

13 UNIDENTIFIED SPEAKER: Okay. Thank you.

14 COMMISSIONER DEAN: Hi. Good evening.

15 MR. BUCKNER: Hi there. My name is Ethan Buckner.

16 There are about 47 sunflowers scattered throughout the
17 audience, each one representing one of the dead in
18 Lac-Megantic. Given the gravity of the potential risks
19 posed to communities by oil-by-rail, it is absolutely
20 critical that people in this community have the time that
21 they need to understand the EIR. It's a tremendously long
22 document.

23 In addition, we're also very concerned that
24 uprail communities have not been properly notified of the
25 risks and of this project and haven't had the time to

1 comment.

2 We did just some analysis based on the Department
3 of Transportation's buffer -- proposed buffer zones for
4 oil-by-rail accidents, both for spills and fires and have
5 found just in Sacramento alone 280,000 people live in a
6 directly impacted vicinity of the rail lines that would be
7 utilized to bring oil into Benicia through this proposal.

8 So what's at stake here is pretty tremendous, and
9 I hope you all understand that and echo the request made
10 earlier for a 90-day extension of the public comment
11 period. Thank you.

12 COMMISSIONER DEAN: Thank you.

13 Next speaker.

14 MR. STIERWALT: Hi. I'm Rick Stierwalt. I'm a member
15 here of Benicia. I've lived in town 28 years.

16 The number of spills of crude-by-rail across
17 America is frightening, and we just can't allow Benicia to
18 be the next victim. The number of accidents or spills,
19 according to Pipeline and Hazardous Material Safety
20 Administration is 158 in three years. That's between 2010
21 and 2013. That's over one a week. That's before
22 crude-by-rail will probably increase 15-fold within the
23 next 10 years. It's taking off across America. The
24 industry accepts this, but I don't.

25 The safety issue is not at issue against Valero

1 specifically, but against the industry in general. Too
2 many spills, too often. And we're not talking about
3 spilled milk. We're talking about a highly flammable
4 substance that is carried in over a million gallons at a
5 time, twice a day, over a long distance with a very high
6 rate of spills.

7 I have lived in Benicia for 28 years, and like
8 all of you, care deeply about the well-being of our
9 community. If a spill happens, fires rage, deaths occur,
10 haz-mat material is spread everywhere, home values plummet
11 and the town suffers at the expense of corporate profits.
12 Is the Valero Board willing to say that an accident will
13 never happen? No.

14 So, the citizens have no guarantee that a spill
15 won't happen. To me the question is not a matter of if,
16 but when a spill will happen, because we have -- there's 2
17 million gallons of train, time two trains a day, for what,
18 20 years.

19 The Bakken crude is very crude. It's dirty, it's
20 flammable, and the spill-rate is very high right now and
21 it continues.

22 What is an acceptable rate of risk? Risk happens
23 among all cultures and among all industries.

24 If there were a hundred cars a month, I would say
25 fine. If Valero was an industry which had a spill a

1 decade by rail, I would say fine. If the crude were
2 transported by pipe from Cordelia to Benicia, I would say
3 fine.

4 There is currently a trucking firm which takes
5 the crude from the rail cars around Sacramento and
6 transports them by truck. Yes, this is more expensive,
7 but a spill of 20,000 gallons is far less than a spill of
8 a million gallons. I would say fine.

9 Another option that I would encourage is to have
10 a pilot engine. You could have a pilot engine that's
11 about three or four miles ahead of the haz-mat crude oil
12 that comes in million gallons at a time. If something
13 like this were possible, I would say fine.

14 This is a great -- to me, would be a great way to
15 avert a giant misshapen.

16 The main question here, what is more important,
17 personal safety or corporate profit? And what is the cost
18 of that personal safety?

19 Then let's talk about the Sacramento Amtrak
20 station. Right now by 20th and I, Valero plans to run
21 right near it twice a day, every day, with a million
22 gallons of crude oil each time. This Amtrak station is
23 right now preparing for a new major transportation hub,
24 including the new high-speed rail running right next to
25 the station. It's actually underneath. It's over a

1 half-billion dollar project. This includes light rail and
2 buses at the transportation hub.

3 Now, let me get this straight. You want to
4 transport a million gallons of highly volatile oil twice
5 daily, moving through hundreds of moving people in our
6 state's capital's transportation hub, when the industry of
7 fire explosion can happen once a week? What's wrong with
8 this picture?

9 So Amy Million and the Planning Commission must
10 make their decisions bearing in mind the critically high
11 risk of an accident eventually happening, especially
12 considering the unacceptable high rate of spills --

13 COMMISSIONER DEAN: Sir, you've run your time.

14 MR. STIERWALT: Okay. Just one last sentence.

15 All I want to say, I would push for an extension
16 of time of 30 days. 2000 pages is far too many pages to
17 be read for such a high-risk problem that we have in this
18 town. Thanks a million.

19 COMMISSIONER DEAN: Thank you.

20 Next speakers: I have cards for David Jenkins.
21 Damien Luzzo. Dan Broadwater. And James McDonald. I
22 don't have any cards beyond that.

23 And we could probably go a little faster if I
24 could ask the speakers to focus their comments on
25 extension of the time period.

1 MR. JENKINS: Surely. My name is David Jenkins. I
2 have a business in the industrial park. I own property in
3 the industrial park, so via that, I'm a citizen of
4 Benicia. I'm here to speak on behalf of the citizens here
5 and myself as well.

6 I would like to ask that you do give us an
7 additional 60 days to review this EIR. It is quite
8 voluminous, and it is very difficult to understand. I'm
9 an engineer by profession, and I've spent a great deal of
10 time of listening and reading these types of things, and
11 this is a very difficult one to understand. There are
12 very many different opinions in it. I would in fact ask
13 you give us some additional time to review this, to
14 understand it, to digest it, so that we can be prepared
15 more effectively to either oppose or agree with this.

16 Personally, I would like to tell you that I
17 oppose the project for many different reasons, most of
18 those include the environmental hazards that exist around
19 this; fire potential. The backup of the freeway, which
20 will be absolutely horrendous at the Park Avenue area.

21 We've already saw a number of these type of
22 instances take place where the freeways backed up way
23 beyond the on-ramp position. I think it's quite
24 dangerous. I think we must give this some very careful
25 consideration.

1 I appeal to you as the Commission to consider
2 this carefully. You have a moral responsibility to this
3 community. You have the ability and you also have the
4 right to deny it, if it's so within the means of the
5 Commission.

6 I ask you to carefully consider your answer in
7 this position. Thank you for your time. Good evening.

8 COMMISSIONER DEAN: Thank you, sir.

9 Next speaker.

10 MR. MCDONALD: Hi. Good evening. My name is James
11 McDonald. I live at 274 Pebble Beach Loop. I got
12 involved in justice issues about 12 years ago, being a
13 school district trustee at the time. California Energy
14 Commission came to our city and just totally stomped over
15 civil rights of our children -- 10,000 children, 1,000
16 employees, 20,000 parents, and they said -- and plus we're
17 50 percent low income, and a minority, and said it's not
18 relevant to the question, and they built their power
19 plants.

20 I didn't come to know what I know simply by
21 sitting down and looking at this environmental report the
22 first time. I had a lot of help.

23 The issues I have today, I'm just going to go
24 over some of the issues, is about where it acknowledges
25 their intent to use discriminatory (sic) federal laws, and

1 Benicians of California say since (sic) their civil
2 rights.

3 There needs to be a change of agencies, since you
4 have no authority to act, according to Valero.

5 State Constitutional 10th Amendment Rights, I
6 discuss that.

7 There's a clear misrepresentation of CEQA, an
8 attempt to deny meaningful citizen involvement.

9 The Transportation Analysis infers that past
10 injustices justifies continued injustices. The sound
11 study again, infers past injustices justifies continued
12 injustices.

13 Applicant postulates air sampling in Vallejo is
14 the same as Benicia, is totally impossible based on the
15 own testimony of the Applicant.

16 Lead agency is required by CEQA to provide
17 alternatives for discussion. Okay. The alternatives that
18 were provided were automatically dismissed by the
19 Applicant saying that there's no way they are feasible.
20 You must have feasible alternatives. So the EIR must have
21 feasible alternatives and be recirculated completely.

22 Let's see, let's continue on. Cost is no object.

23 City of Benicia can adopt its own definitions of
24 "significant" under CEQA.

25 Insignificant findings. Environment may be

1 significant for economic or social effects.

2 Applicant acknowledges that this is a new
3 facility, so they can't grandfather-in anything. There is
4 no worse-case scenario.

5 Siting and construction concerns. Applicant says
6 there will be liquefaction during an earthquake, which you
7 could experience -- an 8.3 is the max that you can
8 experience.

9 Applicant acknowledges that you have an extremely
10 high-volatile hydrocarbon emissions currently from the
11 tanks already existing. In other words, lightening
12 strike, "pff," and there they go.

13 Hydrogen, tank fillers, carbon, rail-car
14 accidents are common, emission trains running through your
15 community. The (inaudible) industry has known about these
16 problems since 1947 or earlier.

17 Applicant acknowledges that security at the
18 refinery is routinely breached, so you need to do a
19 terrorist analysis, employee sabotage (inaudible), which
20 is required by state law. Okay? Need 24-hour protection
21 against terrorism. Gonna need air fuel detonation. The
22 response firefighters is going to be a little -- a
23 little ... this is from the -- I'm from Pittsburg --
24 Contra Costa Fire Department says, "All we're going to do
25 is a clean-up. Sorry, guys, there's nothing we can do

1 about it. Mutual aid? Forget it. It's all just going to
2 be clean-up." It's in writing, I'll get it. You'll
3 actually see their testimony.

4 Let's see what else we got. High-speed rail
5 needed.

6 Okay. Another page. One, two, three, four,
7 five, six, seven, eight, nine, ten, eleven, twelve,
8 thirteen, fourteen -- fifteen more problems that I have
9 with this. I tell you, the average individual here who is
10 just seeing this the first time is going to need more time
11 to evaluate this. Thank you.

12 COMMISSIONER DEAN: Sir, do you have a recommendation
13 on the amount of time?

14 MR. MCDONALD: Well, I personally, I think they're
15 going to have to recirculate the thing, because they're
16 required by CEQA to have reasonable alternatives, and they
17 flat out say, "You can't do these, because we're going to
18 throw the federal law at you." That's not a reason --

19 So I would say at least another 60 days, you
20 know. Get -- find out for yourselves, have the City look
21 at that: Do we actually have to recirculate this? I
22 think that's what the City needs to be doing in the
23 meantime. If you have to recirculate it, let's stop it.
24 Get the stuff going again.

25 COMMISSIONER DEAN: Okay. Thank you.

1 Next speaker.

2 Good evening.

3 MR. BROADWATER: Good evening. My name is Dan
4 Broadwater. I'm business manager of IBEW, Local 180. Our
5 office is based in Napa, but my jurisdiction is Napa and
6 Solano counties. I represent workers that are at the
7 Valero facility working there every day. I've heard
8 nothing but hysteria about this project, and how unsafe
9 that place is. I've been a minimum of 15 out there. I've
10 had 250 of my people out there. I'm responsible for them.
11 I'm responsible to their families to make sure that they
12 go to a safe work site.

13 It's a VPP Site. It's one of two refineries in
14 the state that are the safest places to work. Guarantee
15 Electric, one of my firms that employs my people, is a VPP
16 company. They go through an extensive amount of training
17 to get to that point, to recognize by OSHA. I know that
18 my people are going to come home at night to their
19 families by working in a safe environment like that.

20 When you look at that Environmental Impact
21 Report, it is extensive and it probably is confusing to a
22 lot. You guys see it. But we rely on experts to come up
23 with the ideas of how to mitigate these different issues.

24 You know, by allowing more time, is not going to
25 change the size of that document. It is what it is.

1 Don't fall for the hysteria, fall for the facts and the
2 truths that go along with it.

3 These different incidences and spills that you
4 hear about, yes, they're tragic, and they've happened.
5 But if you look at some of them that happened, train, a
6 lot of people get killed, there was nobody even in the
7 car. That is not going to happen here. It's in the
8 mitigation measures that's going to take care of that
9 stuff.

10 A lot of these things that are brought up
11 tonight, they're going to be addressed in that document.

12 So, please, I urge you guys to go with the
13 allotted amount of time. Go ahead and pass the EIR on
14 with your recommendation to the City Council so we can get
15 this project going, and keep Valero competitive, be safer
16 for the environment all the way around, put local people
17 back to work. Unemployment is still high in Solano
18 County. This project is huge for us. And I just urge you
19 guys to, please, certify that EIR and push it on to the
20 City Council for approval. Thank you.

21 COMMISSIONER DEAN: Okay. Thank you.

22 Next speaker. I have cards for Damien Luzzo.
23 Dirk Fulton. And Roberta Rubinstein.

24 MR. LUZZO: It's actually Damien Luzzo. But I
25 actually want to speak on item B, if that's not a problem.

1 COMMISSIONER DEAN: Do you want to come back?

2 MR. LUZZO: Can I speak on both?

3 COMMISSIONER DEAN: No.

4 MR. LUZZO: Okay, then I'll speak on B.

5 COMMISSIONER DEAN: Okay. Thanks. Oh, sorry, sorry,
6 sorry. Come on back.

7 MR. LUZZO: Okay. I'll speak on just the time. I
8 only need two minutes. But I do want to say that the
9 hysteria is not about the current Valero, the hysteria is
10 about the project proposal on what they're planning on
11 bringing in. But I'm an uprail community, I am from
12 Davis, California. And I did not have significant time.
13 I found out about this 15 days into the public
14 hearing -- public comments. So I would recommend what
15 everybody else has been saying, which is 90 days. I think
16 that's sufficient time. Everybody has a job in this room,
17 I assume. You know, whether it's at Valero or not Valero,
18 we all have jobs, and we all need time to actually go
19 through and adequately assess a 1500-page document.

20 I'm a very slow reader, so at least for my sake,
21 I've actually only gone through nine of the sections. I
22 need a lot more time to actually go through it, and I have
23 a lot of responses in Part B on what I think about the
24 sections. Thank you.

25 COMMISSIONER DEAN: Thank you.

1 Next speaker.

2 MS. RUBINSTEIN: Roberta -- excuse me. Roberta
3 Rubinstein. And I'm relatively new to Benicia. My
4 husband and I moved here just about seven years ago, and
5 we moved here because this is an incredibly special
6 community. It's very personal. It's very
7 family-friendly. It feels safe. It feels clean. It's a
8 tree community. We have a First Street, Main Street. We
9 have an Arts Benicia. There's so many things that make
10 this city rich, including a rich history. And I love
11 sitting in my garden. And I'm sure a lot of you enjoy the
12 breeze instead of the heat. And the reason I'm up here,
13 is I am not an attorney, and I'm not a person that is used
14 to reading an Environmental Impact Report. Although I'm
15 educated, it's slogging through mud to get through all of
16 the information.

17 So I really want to urge you to extend the period
18 for as long as you possibly can to give those of us who,
19 as the other gentleman said, we have other jobs. We're
20 not experts in this. We're just trying to figure things
21 out because we love our city and we love our community.
22 And I just urge you to extend the comment -- the initial
23 comment period as long as you possibly can legally. Thank
24 you.

25 COMMISSIONER DEAN: Thank you.

1 Just before you start, are you -- I have one card
2 for Dirk Fulton, and I have no other cards. So if we have
3 any other speakers on this item, you can line up in the
4 back.

5 Hi. Go ahead.

6 MS. BAILEY: Hi. My name is Diane Bailey. I'm a
7 senior scientist with Natural Resources Defense Council.
8 I just want to note: I did submit a card, and apparently
9 it was lost.

10 Almost exactly a year ago today, I stood before
11 you to talk about the proposed Valero Crude-By-Rail
12 Project, the mitigated neg. dec. and to talk about how it
13 presented really an intolerable risk to this community and
14 to communities beyond: Uprail communities. And the same
15 holds true today, a year later, with the Draft EIR out
16 now. We still have not had many of our questions answered
17 and we still have nearly the same concerns -- and even
18 more -- as we learn more about this project.

19 We strongly urge the City of Benicia to allow
20 extra time for everyone to review the very complex and
21 lengthy documentation around this project.

22 Notably, because this project has such serious
23 impacts to uprail communities, and they have just now
24 learned about it, it's really important to respect the
25 request that those communities have put in to Benicia to

1 please grant them more time.

2 So we respectfully urge you to grant that, to
3 grant an additional 45 days. This is an unusual project
4 with unusual circumstances as has already been said.
5 Really, the prospect of exploding trains in people's
6 communities bears a lot of consideration, and the prospect
7 of the import of extreme crude oil, incredibly dirty, some
8 of the world's dirtiest crude oil into this community,
9 bears a lot of thoughtful consideration.

10 And I hope you'll allow that extra time to this
11 community to really think about what the impacts are of
12 this project and thoroughly absorb the project and
13 comment. Thank you so much.

14 COMMISSIONER DEAN: Thank you.

15 Next speaker.

16 Hi. Good evening.

17 MR. FULTON: Good evening, Mr. Chairman, members of
18 the Commission, staff. I'm Dirk Fulton, 60-year resident
19 of Benicia, and former Solano County Planning Commissioner
20 and City Council member here in Benicia.

21 I would argue for a long extension of time. This
22 project is very complex and complicated. The Draft
23 Environmental Impact Report is lengthy and it's a lot of
24 scientific basis, and it's very complicated.

25 People are on vacation; they're out of town.

1 They need to get -- I think, in fairness, they need to be
2 able to get back in town, dig into the document, have
3 conversations and submit their comments. I would suggest
4 that that would take 90 days from today's date.

5 Your ultimate decision and the City Council's
6 ultimate decision will have historic impacts on this city
7 for many, many years to come. So I would urge us to go
8 about this in a very deliberate and transparent fashion
9 where all facts are reviewed and there's not undue time
10 pressure that would prejudice the public.

11 The proposition of transporting this Bakken-type
12 crude by rail is just an inherently, extremely dangerous
13 proposition. We all have read about and seen the enormous
14 tragedies that occurred on the East Coast, and I was
15 struck to read an article by the chairman of the
16 California Energy Commission about two weeks ago in the
17 national media, where he opined that you just can't make
18 this process safe. This highly flammable gases substance
19 just isn't amenable to transportation by rail car.

20 If it can be proven that it is and that his
21 thesis can be defeated, I'm all ears, but I think it's
22 going to take time for members of this community and the
23 decision-making bodies in this community to determine
24 that.

25 I had the ability or the privilege to serve on

1 the Solano County Planning Commission in the 1980s, and
2 part of that service involved reviewing the Use Permit
3 that was granted to the IT toxic waste dump that was sited
4 near Benicia's northern border.

5 And the citizens were concerned. There were
6 compliance public hearings on that Use Permit that were
7 held in this room for months and months, to address some
8 of the public safety concerns that really arose out of
9 transportation of some of the chemicals that were
10 delivered to that property. But it really only involved a
11 very limited number of tanker trucks that would visit that
12 facility a day. Nothing -- you know, a handful of trucks.
13 Nothing close to the hundred rail cars that are proposed
14 to deliver this flammable crude to the Benicia refinery
15 every day. A handful versus a hundred. A handful not
16 every day. A hundred almost every day. So we need time
17 to address those striking issues.

18 The community was able to get that waste dump
19 closed and to make our street safe through the course of
20 public hearings, but that required time.

21 The proposal also -- I'm a landowner in the
22 industrial park. The proposal also presents big land-use
23 issues, circulation issues, public safety issues,
24 large-scale impact, both on the residential elements of
25 our community and on the business element of our

1 community.

2 I don't know if you can block access across Park
3 Road for up to half hours at a time, flood cars back onto
4 the freeway, if that can ever seriously be mitigated.

5 Looks like I'm running out of time, so I'll just
6 wrap up my comments and thank you for your consideration.

7 COMMISSIONER DEAN: Okay. Thank you.

8 That's all the cards I have. So the next
9 speakers can just come forward and introduce yourself.

10 Hi. Come on up.

11 MS. REISER: I'll try to be brief. My name is Nancy
12 Reiser. I live in Crockett in Contra Costa County. Many
13 of the previous speakers addressed the need for uptrack
14 communities to be kept in the EIR loop, and be given
15 enough time to read and adjust the EIR.

16 I would also like to remind the Commissioners
17 that these rolling bomb trains follow rivers up in the
18 foothills. And when they leave the Valero yard and exit
19 Solano County towards Contra Costa County, they cross over
20 an old train bridge built in the 1930s. If any of those
21 cars derail, either along the riverways or over the
22 Carquinez Strait, it's going to affect the water supply of
23 California.

24 To that end, I would like to remind the
25 Commissioners that the distribution list is very limited,

1 and, yes, this EIR needs a longer review period. I would
2 suggest 90 days. And it also should be distributed to all
3 California municipalities whose water supply would be
4 affected should one of your oil unit trains leaving your
5 refinery derail while crossing the Strait.

6 Thank you very much.

7 COMMISSIONER DEAN: Thank you.

8 MR. VAN LANDSCHOOT: Hi. I'm John Van Landschoot. I
9 live here in town. I'm for 90 days for two reasons. One
10 of them is Valero's long time getting it together. And
11 second reason has to do with this calculator. Remind
12 yourself when you were in college or in grad school,
13 professors gave you a whole bunch of pages to read, and
14 you wanted to go to a party.

15 First out, I remember sitting right over here a
16 year ago and Valero said, "Oh, okay, the neg. dec., God
17 why would you even think a neg. dec. on something like
18 this? My God." And they said, "Okay, okay, okay." And
19 you guys said, "Come back with a real one."

20 They said 1st of November. Remember that?
21 "Sometime around November, we'll have it." So we're
22 sitting on pins and needles. "Oh, no, no, no, not
23 November. January, January." And then I remember even
24 talking with Amy one time, she said, "Oh, sometime in
25 April." So we're waiting around, waiting around, waiting

1 around, not knowing what's going to be in the DEIR. Then
2 it was going to be made in June, and then you guys were
3 going to have this meeting, remember, back in June? And
4 now it's July. So it's been a year that you've given
5 Valero. I think we need 90 days.

6 Secondly is about my little handy calculator.
7 I'm going to bring you back to college. Okay? I'm going
8 to type in 1,450 pages. Okay? 45 days. Oops, here, hold
9 on. 1,050 -- okay. Divided by 45 days. That equals 32
10 days -- 32 pages a day. You've got dinner to make.
11 You've got lawns to cut. You've got to go to work. Your
12 kid is sick. Your wife is telling you you've got to go on
13 vacation. Are you going to be able to do that 32 pages a
14 day? And we're not talking Studs Terkel. We're talking
15 James Joyce reading. Okay? We're not talking Samuel
16 Clemens, Mark Twain's funny little stories. We're talking
17 a tome.

18 So let's see if we do 1,450 divided by 90. 16
19 pages a day. Some people could do that. I don't know if
20 I could. Personally, I think we ought to get as much time
21 to review it, as they did to make it. But I'll settle for
22 90. Thank you.

23 COMMISSIONER DEAN: Thank you.

24 Next speaker.

25 MR. RUSZEL: Good evening. My name is Jack Ruszel. I

1 own Ruszel Woodworks at 2980 Bay Shore Road in Benicia. I
2 have the -- I don't know what we would call it -- I'm at
3 the point, I own a property that lines up against the main
4 line with the switch on the side of our property and the
5 rail that goes directly into Valero in front of our
6 property, crossing our driveway. The railroad actually
7 has an easement over our property.

8 I employ 25 people at this location, and we've
9 been there for 35 years. This project will have a hugely
10 significant impact to our business. However, in spending
11 a huge amount of time -- this is the only part that I
12 could get to. This is the -- what are they calling
13 this -- the Traffic Impact Report. So I'm going through
14 this thing and, honestly, the study makes very little
15 sense if you really start to try to analyze it.

16 I've gone through and actually looked at their
17 data, and calculated the times that they figured on
18 crossing times and such. You know, I went through the
19 data, and crossing times looked like they will keep my
20 driveway closed about 750 percent more than it currently
21 is, and it already is problematic. The train traffic is
22 sketchy, at best. You know, they move a lot of freight in
23 and out of there, and it affects our business.

24 Now, their logic says it already affects our
25 business; therefore, it's not significant. You know, it's

1 significant to me. And it's significant to whether or not
2 I can keep 25 people employed. This is a huge, huge
3 problem for me and, quite honestly, you know, I really am
4 beside myself about what we're going to do about this,
5 because this project could actually make it impossible for
6 me to stay in this town and keep my business here.

7 So -- so what am I asking of you? Well, I'm
8 asking you to look very carefully at what they're giving
9 you, because what I've seen looking at this, this study is
10 deliberately crafted to underestimate the actual impact of
11 this project. They've used worst-case scenarios on what's
12 going on in the industrial park currently, and compared
13 them to absolutely perfect scenarios for their time
14 studies of how long these trains will block. And then
15 after they block my driveway, they'll continue on and
16 block Park Road. Again, the same issue happens there.
17 We've seen traffic back up in ways that you just really
18 don't even want to know about. And that's the part I'm
19 really worried about. Do you even really want to know
20 about this? It's a problem.

21 So, yeah, I need a lot more time to work on this.
22 I've called Caltrans. As of last week, they've only just
23 distributed the -- this document around to their
24 departments. So they were just starting to look at it
25 last week. But everyone was on vacation, so no one's

1 going to look at it yet until maybe Tuesday or Wednesday
2 of this week.

3 Yeah, this is a really serious problem. We need
4 a lot more time to look at this. I agree, I think we need
5 a year and a half, maybe. It might take longer than that.

6 So, please, look at this very carefully and
7 thoroughly. And realize that, you know, Valero may bring
8 in 20 percent of the City's budget here, but there's 80
9 percent of the budget that is coming from businesses like
10 mine. We are going to be severely impacted by this
11 project. This project actually cannot happen, but we have
12 to go through this process, and this process is what we
13 need to do to make sure that you see what this is about,
14 and you see that this is a very, very bad idea for
15 Benicia. There's nothing in it for Benicia; there's a lot
16 in it for Valero and UP. This is a hell of lot of freight
17 to move. Thank you.

18 COMMISSIONER DEAN: Thank you.

19 Next speaker, please.

20 MS. MCCARTHY: Good evening. I'm Tracy McCarthy, and
21 I live on Hillcrest Avenue, which is part of the area
22 which is designated as the evacuation zone, should there
23 be any problems with these shipments.

24 As it stands right now, when Valero has their,
25 what I call burnoffs -- I'm not sure what the official

1 name is -- the windows in my house rattle so loudly that
2 we can't sleep with the windows shut, so we have to open
3 the windows in order to be able to sleep with the noise.
4 So I'm exceedingly curious what that's going to mean if
5 there's a combination of burnoffs during deliveries or how
6 that's going to work.

7 So I have a question about the noise and the
8 vibration specifically in the area that is very close to
9 Valero, such as my own.

10 Another -- I did want to say a couple positive
11 things about Valero. I very much appreciate that we have
12 some benefits here. I mean, I believe we have some
13 benefits here by having Valero, and that my family has
14 been very positively impacted by them in terms of their
15 direct tax support for the school district, but also
16 indirect stuff that they've done, in terms of donations to
17 programs like Benicia's High School Grad Night. And they
18 have personnel that volunteer on a regular basis in our
19 schools acting as tutors. I'm a teacher myself, so I
20 value that very much.

21 I also have sort of a special awareness of the
22 degree to which they worked on the emergency safety
23 procedures in our neighborhood, that they've helped to
24 train first responders in the neighborhood, and kind of
25 increase our awareness of how to respond to emergencies.

1 So there are some positive things.

2 And I don't think these are mean-spirited people;
3 although, sometimes profits can blind you to other issues.
4 But I do have serious concerns, not only about the noise
5 and the vibration, but also just in terms of the fact that
6 we will have to list this.

7 I mean, it's going to be on the records where we
8 live. So that when it comes time to sell our
9 properties -- not that I ever want to leave Benicia. I've
10 been here 35 years or more -- but at that time, then our
11 properties are listed in a hazardous zone. I mean, I'm
12 officially in the evacuation zone. So what's that going
13 to do to my property taxes? Not to property taxes, but to
14 property values, to the desirability of the property at
15 the time should I choose to sell it.

16 And also in terms of insurance, because my
17 insurance company is always checking into every possible
18 way to get a little more.

19 So, you know, I worry about those things, as
20 well. So again, the insurance issues, our property value
21 issues, desirability at time of sale, in addition to
22 vibration and noise, and just overall safety.

23 I did go to the Ironworkers to hear Valero's
24 point of view. I was impressed when they talked about
25 keeping the train cars -- doing special things to get them

1 beyond the standard in the field; but again, I have a
2 concern that it sounds like there is no standard set by
3 the Department of Transportation. So, again, one benefit
4 of giving us a longer time to review this, is to find out
5 more about what does the Department of Transportation have
6 to say about the level of safety from various features
7 about the train cars themselves. So that was another
8 issue that came up from that meeting.

9 So, you know, again, I appreciate what they're
10 doing but, you know, it sounded like Valero's selling
11 point was: Instead of a ship going 7300 miles, that these
12 trains are only going to be going about 1500 miles;
13 therefore, there's less overall pollution. But I have a
14 concern that this 1500 miles happens to be over land,
15 where there's a lot of people living instead of over the
16 ocean. Not that I'm in favor of polluting the ocean air
17 either, but it just has a lot more opportunity to
18 dissipate and do less damage directly to the humans and to
19 the environment overall, compared to highly populated
20 areas.

21 So those were, I think, my major concerns. I do
22 very strongly feel that 90 days is the very minimum that
23 should be granted for further examination.

24 And I guess that's it. Thank you.

25 COMMISSIONER DEAN: Okay. Thank you.

1 Next speaker.

2 And can we -- we're getting a lot of comments
3 about the issues about the project itself. If we can
4 focus on the extension of the time period. I see that we
5 still have a number of speakers back there, and we'd like
6 to move through this as soon as we can, so we can bring it
7 back to the Commission for discussion here, and make --
8 come to a conclusion.

9 Thank you.

10 MS. FOX: Hi, I'm Norma Fox. I'm a 20-year resident
11 of Benicia. And as has been mentioned by many people, how
12 unusually complex and how unusually long this document is.
13 And I ran around yesterday handing out a few door-hangers
14 to let people know about this project, and a few people I
15 was able to talk to, basically didn't know about it or
16 were vaguely aware that, well, Valero was proposing some
17 kind of project, and they didn't know why they should be
18 concerned about it.

19 And then, you know, they're busy people to expect
20 those people: Well, go inform yourself. Go read that
21 document. You know, it's so long, so complex. That's
22 really unfair to our residents. Some people like us will
23 do that, but not everybody will or even can.

24 So I would like to request -- let's see if I
25 forgot anything.

1 Let's summarize it. I would like to request an
2 additional -- I'm confused. Some people said 45 days
3 extension. Others say 90. Is that this first 45, plus
4 the 45? Anyway, whatever, I want the full, maximum
5 extension as possible.

6 And I'm particularly -- because people will not
7 or cannot read through that document, regardless of how
8 much extension you give them, I'm requesting that the City
9 post two -- at least two, but two, minimum -- public
10 workshops that are highly publicized, not just in our
11 local newspaper, so that they can come to these workshops,
12 one or the other, and hear someone explain to them what
13 the risks are and what it's going to do in terms of air
14 pollution and all the rest; rather than expecting them to
15 do something that they can't do, which is read through
16 that document and understand it.

17 And I feel that this request for two workshops is
18 really the only fair thing to do for the residents of this
19 community, to say that we fairly provided every way we
20 could for every citizen to know about it, and to write
21 comments. Okay? At the public workshops, when they
22 finally learn about it, then you'll get some written
23 comments.

24 So, please, be fair to those people. And two
25 workshops.

1 Thank you.

2 COMMISSIONER DEAN: All right. Thank you.

3 Next speaker, please.

4 MS. DEMPSEY: Hello. My name is Isis Dempsey, and I'm
5 a long-term resident of the Glencove and Benicia
6 community, and I want to say that I am concerned about
7 everybody here, including Valero's employees who are on
8 the front lines. I have a number of comments to make.

9 The National Transportation Safety Board has
10 determined that the rail transportation of volatile crude
11 materials is unsafe and poses a serious risk to public
12 health and safety, largely because the rail cars used in
13 transport are not designed to handle with such highly
14 volatile crude oil products.

15 Knowing this, there are a number of questions
16 that have arisen. Given the unsafe state of the current
17 rail cars for the proposed purpose, what steps is Valero
18 taking to invest in research and development of new
19 technologically suitable rail cars for the use of their
20 proposed venture, which could help ensure the public's
21 safety?

22 Has the City had a risk-analysis report done,
23 which outlines the total combined values of all property,
24 both City and privately owned, which lies within the
25 designated evacuation area related to Valero's proposed

1 project?

2 The reason I bring this up is when we had the
3 1999 Oakland Hills fire, a lot of people found themselves
4 either underinsured or uninsured, and we would not want to
5 find ourselves in that situation. We need to know what
6 the value of Benicia is today, and today's money, in case
7 we have to reproduce it.

8 Has the City determined that both Valero and
9 their vendors have adequate liability and other insurance
10 coverages -- or cash and assets, if they're
11 self-insured -- to cover potential accident costs such as
12 for emergency responses, City and private property owners,
13 environmental damage, et cetera, and any other costs to
14 compensate our community for any health-related issues?

15 If an accident does not occur on Vallejo's (sic)
16 property, will Valero indemnify or cover and pay for any
17 accident-related costs outside of the property lines,
18 since they own the oil that's being transported here?

19 Will Valero's trade secrets and business
20 communication policies prevent the public from getting
21 information on the various chemical exposures to our area
22 should adverse health issues arise?

23 Will the public be able to provide their medical
24 providers with the pertinent documentation on exposures to
25 chemicals used in crude oil products? And the reason why

1 I bring that up, I'm sure your knowledge about tar sands
2 and fracking oil is that there's a whole cocktail of
3 serious chemicals, a lot of them which are carcinogenic,
4 and which have been known to have some serious health
5 risks. And this is important, not only for the public,
6 but also Valero employees. We talk about jobs, bringing
7 jobs here, but if you're sick, you can't work. So we've
8 got to think about the bigger picture.

9 Can the City ask Valero to set up a Super Fund?
10 For example, a billion dollars, which would be good-faith
11 money, to cover any potential accident damages? And the
12 reason I bring that up as a ballpark figure, is you take
13 into account what happened in the Deepwater Horizon
14 accident, in the Gulf of Mexico, and how many businesses
15 and private parties and individuals were either injured or
16 killed, as well as the entire eco-system being wiped out,
17 and that could easily happen to us.

18 Does the City know whether or not there are any
19 legal limits for maximum civil lawsuit recovery in
20 California, or in the federal court systems associated
21 with the railway accidents, so that we know whether or
22 not, if something occurs, what people's recourses are?

23 And since I'm running out of time, there are
24 endangered species in the Suisun Marsh. I hope that --
25 that needs to be looked into. The train trestle is old.

1 The Suisun Marsh is subject to liquefaction.

2 And, in closing, I just want to say that both
3 Benicia, Valero, and all of us as individuals have a great
4 responsibility to be good stewards for the land that we
5 occupy and that we use, and that we need to be good
6 stewards for the health and safety for our family and
7 community and for generations to come. Thank you.

8 COMMISSIONER DEAN: Thank you.

9 Next speaker, please. Comments on extending the
10 comment period.

11 MS. FERNANDEZ: My name is Helena Fernandez. And I'm
12 a resident of Benicia of 12 years. I also -- we own a
13 house on Linda Street and we are part of the equation. So
14 we'd like to know if you can consider it at least 90 days
15 of extension so we can read more about it. It's a very
16 complicated -- you know, pages like everybody else had to
17 say before. And this is my daughter Rochelle (phon.).
18 She'd also like to make a statement.

19 MS. R. FERNANDEZ: Hi. My name is Rochelle and I live
20 in Benicia. I believe that crude-by-rail is dangerous,
21 very dangerous, for us and the environment. If this
22 derails, this train derails, many people will die. 47
23 people were killed in the last accident, and that was only
24 a few carts (sic). Now they want to do a hundred carts a
25 day, which will impact air quality, safety and daily --

1 and daily --

2 What does it say right here?

3 MS. FERNANDEZ: "Explosions, fires."

4 MS. R. FERNANDEZ: -- explosions and fires and spills.

5 Please be reminded that your vote will affect my future
6 and the Benicia community.

7 MS. FERNANDEZ: Thanks.

8 COMMISSIONER DEAN: Thank you.

9 Hi. Good evening.

10 MS. GUSTOFSON: Hi. My name is Susan Gustofson. I
11 just wanted to remind that the City was the agency that
12 prepared the DEIR, and yes, the City took a lot of time to
13 do it with their own experts, to make sure that the DEIR
14 was as complete as possible.

15 Hearing the discussions of the analysis by the
16 City's own experts, I think will help explain the review
17 process and hopefully will minimize the review time that's
18 required by all of us. Making the decision whether to
19 extend the DEIR review time at this time, prior to hearing
20 the project presentation, I think is a little bit
21 premature.

22 In addition to the reasons presented by the City
23 Attorney, I wanted to offer that Valero's VIP, EIR, was
24 approximately the same number of pages, and as the City
25 Attorney said earlier, that that review was done in 45

1 days, and that project was a lot more complex than this
2 project is.

3 I'm recommending that the Planning Commission
4 hear the project discussion prior to making the decision
5 to extend the DEIR review time. Thank you.

6 COMMISSIONER DEAN: Thank you.

7 Question for the --

8 COMMISSIONER COHEN-GROSSMAN: I have a question for
9 the -- Ms. Gustofson.

10 The VIP project involved some -- a DEIR, but also
11 some meetings and hearings or discussions. What was the
12 nature of the workup, in terms of the community or the
13 working group before the DEIR?

14 MS. GUSTOFSON: I wasn't involved in -- I don't know.
15 I wasn't involved in that process at all.

16 COMMISSIONER DEAN: Thank you.

17 Next speaker.

18 MR. ROBINSON: Good evening. My name is Rodney
19 Robinson. I'm a 26-year resident of Davis, California.

20 My community is affected by this proposal, and I
21 would request additional time allocation to prepare
22 remarks. 90 days from tonight would be very appropriate,
23 I think.

24 We all remember BP and the Gulf of Mexico
25 incident a few years ago. That oil company's document

1 presented a rescue plan for the walruses in the Gulf. You
2 know, I think, unfortunately, the federal government did
3 not take the time to read the documents before the permits
4 were issued. And I think that that -- those documents
5 were a case of junk science.

6 And in my preliminary reading of this DEIR, I
7 detect junk science as well. This is junk science with a
8 little lipstick on it. And I think that, you know, we
9 need additional time to really go through this thing with
10 a fine-tooth comb, and I would request an additional 90
11 days from tonight be provided. Thank you very much.

12 COMMISSIONER DEAN: Thank you.

13 Next speaker. Hi.

14 DR. STEVENSON: Good evening, Commissioners. I'm
15 Dr. Jim Stevenson, a Benicia resident, two times now,
16 actually, in the '80s, and again since 2008, and I have
17 been following the development of the Draft Environmental
18 Impact Report, and have looked through it. I can't say
19 that I've digested it.

20 As we have had with some of the other speakers,
21 we see that some of them have certain standing to comment
22 on portions of what they're looking at. We've had an
23 attorney, and past council person, et cetera. And so I
24 think that does bear on the issues that you're looking at.

25 What we've had is counsel here for the City

1 suggest that, in fairness, it's been a whole year since
2 these issues were first addressed, and I think to bring up
3 fairness toward the Applicant, is perhaps missing the
4 point, when the whole CEQA process and Environmental
5 Impact Report is intended to be fair to the community.
6 It's, as someone said, an important part of our democracy,
7 and that's where the fairness should lie. I think we do
8 want fairness for Valero, but that is perhaps secondary to
9 fairness to the larger society.

10 As for my standing, I have worked in safety for
11 10 years in the state of California, and so I think I have
12 some standing to speak on that. I went back to school and
13 I worked for 24 years as a psychologist for the State of
14 California. And so I can speak to some of the issues that
15 have been mentioned such as hysteria in the community,
16 which I consider a volatile statement about the concerns
17 the people here in our community have.

18 It seems to me that when you're talking about
19 catastrophes of the kind we've seen in Casselton, North
20 Dakota, Lac-Megantic, in Lynchburg, Virginia, and in other
21 places, that this will draw a crowd to try to determine
22 what your decision is going to be on such things as a
23 thorough review of this report. 90 days is absolutely
24 essential. If there were a longer period to allow for
25 people from other communities to come, I think that would

1 be ideal.

2 So, as I look through this -- actually, I was
3 away on vacation for a week, and as I was reading the Wall
4 Street Journal here on June 18, I was quite surprised to
5 see in the Life and Leisure section -- no, no, Leisure and
6 Culture, they call it in Wall Street Journal -- a
7 statement about Amtrak, and it drew my attention because
8 it's railroads.

9 What they were talking about in that article was
10 Amtrak's complaint about the number of freight trains that
11 are now running on the railroads causing them to go from
12 20 minutes, half-hour late, rather frequently, to hours
13 now, and sometimes having to leave the train and get a new
14 crew on board to move the trains because of aging
15 infrastructure, because of bridges and such, that need
16 repair. And this is available for anyone to check on the
17 Internet, of course. If you have access to that
18 particular article, it was June 18th. I read that.

19 During my period with safety, what I saw, as I
20 would train people -- I worked with the City of Pasadena
21 and trained supervisors there during that period of my
22 career -- and what I saw frequently was inspections -- and
23 we talked about it in those meetings -- was human error.
24 That's one of the things you can plan for all you want and
25 have whatever culture of safety that some people allege

1 that exists -- and I'm sure that's true -- but human error
2 is why they have a count for how many days since their
3 last industrial accident.

4 We know that human error with the Deepwater
5 Horizon British Petroleum event was a problem where they
6 actually did not use the safety things that the company
7 said should be there. The company violated, with some
8 instructions, apparently, their very own culture of
9 safety.

10 So I would say that the meetings with citizens to
11 discuss this issue is really essential, and I've attempted
12 to do some of that myself by going into the Hillcrest area
13 and talking to people, and was very pleased to see the
14 response that they had with wanting to know more. And I
15 would suggest that the 90 days is going to be very
16 essential for that purpose.

17 I thank you for the opportunity to address you,
18 and hope that you will give this serious consideration for
19 the people of Benicia by extending to 90 days, the review.

20 COMMISSIONER DEAN: Okay. Thank you.

21 Next speaker.

22 MS. SULLIVAN: I'm Judith Sullivan. I'm a 35-year
23 resident of Benicia, and I've been very concerned about
24 this project from the very beginning, when it was a neg.
25 dec. And it shocked me that it was a neg. dec., but it

1 almost got through on that.

2 I went to the Valero's recent orientation on the
3 EIR, and they suggested all you really need to read is the
4 Executive Summary. And I encourage all of you not to just
5 read the Executive Summary, when you read the body of
6 it -- and I'm still reading it -- I found several
7 disclaimers. The Executive Summary is more like their
8 dream sheet, and the reality is more in the pages. And I
9 looked beyond that for truth, researching on my own. And
10 some of the facts I'm getting are not even close to what
11 they have in here.

12 And so I'm very concerned about that.

13 And I implore you to really do due diligence on
14 this. I'm very concerned about, from the origin of where
15 this crude comes from, to the destination, that's where
16 the accidents are happening, in between. Whatever vote
17 that we make here as a City, we're culpable for what
18 happens in between.

19 And there have been 13 accidents so far. Not 12.
20 13. And 5 of them have been fireballs, and the rest of
21 them oil spills. Once that oil gets into the waterways,
22 like in Virginia, it doesn't go away, and we are
23 contaminating our water, which contaminates everything
24 that lives in that water, and all water is connected on
25 the earth, underground, above ground.

1 When these fireballs happened, I asked our Fire
2 Chief how he would put out the fire. I asked if he had
3 connected with any of the other cities where these fires
4 have happened. He hadn't. I happened to have looked into
5 it, and they say the only way is to let these fires just
6 burn out. Notice the windy days we've been having lately
7 and how that fire can spread. The foam that they would
8 normally use for flammable, combustible fire, they cannot
9 use on these fire clouds. What the Fire Chief told me is
10 they can't spray these clouds, because that dissipates the
11 clouds to reignite somewhere else. So wherever these
12 fires happen, those areas are going to be seriously
13 affected, and we just have to wait the 24 to 48 hours for
14 that fire to burn out, depending on how many tank cars are
15 involved.

16 I think to have a 90-day period to review this --
17 and I will write a lengthy report to this Planning
18 Commission. I made many notes. I found many
19 contradictions already in this; and when you read it,
20 they're very easy to find -- it's not tricky -- the
21 disclaimers, easy to find. They have the disclaimers
22 written on the bottom of the page. Just like they say
23 they're not going to have -- for commute time, they say
24 that they will not interfere with commute time in Benicia;
25 yet, they have no control over that. The Union Pacific

1 Railroad decides that, not Valero. And somewhere down the
2 line it's going to be hit with commute time.

3 I happened to have my car repaired at C&C Auto in
4 Benicia, in the industrial park. You can wait 30 minutes
5 to get there now, before these trains come through.
6 Hundred-car trains, which will come through four times a
7 day: Two times to deliver the oil, two times to leave to
8 get more oil. And there are other cities involved that
9 are doing this, so that really increases the train
10 traffic.

11 There are some refineries -- Shell Refinery is
12 choosing not to do crude oil. They're still in business.
13 There is an option in here to just keep things the way
14 they are.

15 I also question the emissions control. They're
16 saying that they look at -- on CEQA, they check the
17 emission control from Concord and Valero -- I mean,
18 Vallejo -- I mean, Concord and Vallejo. Well, that
19 doesn't show us what the emission control happening in
20 Benicia. That doesn't really cover the refinery. I think
21 that's a false reading.

22 And so I really ask you to look at this very
23 seriously. I certainly am. I'm going to be doing a lot
24 of writing on this. I found so much in this document
25 already; I'm not even halfway through. I need much more

1 to go through it. I'm actually enjoying reading it. Some
2 of it is really quite amusing.

3 So I hope that you -- I don't think you're going
4 to be -- I think will be easy -- and if it's easy for me
5 as a layperson to read it, then you who are engineers, or
6 lawyers, won't have any problems with it. I'm not finding
7 it all that complicated.

8 So thank you. I appreciate being able to say
9 something.

10 I'd also like to say -- I can't say who they
11 are -- but some people who work for Valero, told me that
12 they're not allowed to stand and sign a petition; yet,
13 they're not happy about it either, and I think that's a
14 sad state of affairs, for someone who works at a company
15 on its front lines and can't even say anything against it,
16 and they're the ones that are going to be right there if
17 something happens. I'm not so concerned about something
18 happening at Valero. I'm concerned about something
19 happening somewhere in the country.

20 And the other thing is that the fire
21 departments --

22 COMMISSIONER DEAN: I'm sorry. You'll have to wrap
23 up. Your time is up.

24 MS. SULLIVAN: I'd like to say one more thing. There
25 are only -- 40 percent of our fire departments in our

1 country are volunteer fire departments. They have no
2 haz-mat training. So anywhere along that line where it
3 happens, we can't assume that those fire departments are
4 going to be prepared to handle it. Thank you.

5 COMMISSIONER DEAN: Thank you.

6 Next speaker, please.

7 MS. NUNES: Hi.

8 COMMISSIONER DEAN: Hi.

9 MS. NUNES: My name is Aline, and I live on La Cruz,
10 so my backyard is the Valero refinery.

11 And I was really shocked to find out that the tar
12 sands crude oil in the North Dakota, all these horrible
13 accidents and catastrophes that have been happening in the
14 country, is coming right into literally my backyard. I
15 was shocked. I just found this out literally weeks ago.
16 And this has been going on for a long time.

17 So, please, more time, more time, more time.

18 Honestly, there's already a problem with what's
19 already happening. I can name five people just on the top
20 of my hill that have got bone cancer. Everybody talks
21 about asthma. I mean, it's known that this is like cancer
22 alley right here. There's already a problem.

23 We talked about the windows rattling.

24 And, yeah, I mean, how many times has Valero been
25 fined? You can look at the grilles, the things, the air

1 vents in my house, and see the black that comes through.

2 My son works at Coca-Cola, on the other side of
3 the refinery, and he is just -- the smell that this
4 20-year-old -- and he's complaining about it. The black
5 that's on his shirt from being outside working in the
6 elements. So it's already bad. And now we're talking
7 about this horrible stuff coming in. It's just going to
8 be even worse.

9 So, please, more time, more time, so that, like
10 the woman before me, reading it and all the information.

11 And like someone else has already said, how many
12 people up the rail, how many other little, tiny towns even
13 know about this, when someone who lives on top of it, just
14 found out a little while ago? And I've been here 13
15 years, so I'm not a newbie. Anyway, thank you.

16 COMMISSIONER DEAN: Thank you.

17 Next speaker, please.

18 Good evening.

19 UNIDENTIFIED SPEAKER: Good evening. I'm your
20 neighbor. I'm from Davis. And we believe this is
21 actually a regional issue, that your decision here has
22 profound impact on those of us who live uprail, and you
23 might want to think that extends maybe only to
24 Roseville -- the EIR seems to think it extends that far --
25 but probably all the way to the point of origin for

1 wherever the crude is extracted.

2 Our city has taken the issue very seriously, and
3 in fact, as you would know, has passed an ordinance,
4 opposed to the passage of crude through our town, until we
5 get some of these safety issues resolved and health
6 issues. And I wanted you to know that they have requested
7 an extension of time, because it takes a lot of effort for
8 a City staff to go through a document of this length and
9 give useful feedback.

10 In addition, SACOG -- which is the Sacramento
11 Area Council of Governments. So that's the entire region.
12 All the jurisdictions, counties, and towns and cities,
13 from Auburn, all the way down through West Sacramento and
14 Davis and Dixon -- all of them are also meeting. I think
15 yesterday was their third meeting on this issue. And all
16 of them are becoming very concerned about it. And I
17 believe SACOG, as its own entity, sent you a letter
18 requesting an extension of time, as well, for the same
19 reason.

20 So it's -- you need to look at it probably both
21 ways, that individual citizens are saying to you: We want
22 time to read and understand this document, to provide you
23 with thoughtful comments back, of reasons why we are
24 concerned; and then, government entities themselves are
25 saying we also are requesting that additional time for an

1 item that is of considerable concern to all of us for our
2 entire region and our state and beyond.

3 Thank you.

4 COMMISSIONER DEAN: Thank you.

5 Next speaker, please.

6 MS. ZOOK: Hello. My name is Cheryl Zook, and I'm a
7 resident here in Benicia. Thank you so much for having
8 this public hearing.

9 I'd like to make another request. I would like
10 to request not only a 90-day extension, but an additional
11 public hearing.

12 I live very, very close to Valero. I live off of
13 McAllister and McCall, and I just heard about this. I
14 came here tonight to try to find out more information.
15 Before I came, I thought, as a citizen, I need to make
16 sure that my neighbors know about this also, so I simply
17 walked around the neighborhood and knocked on doors.

18 Now, we are right by Valero. I knocked on about
19 20 doors and talked to about 20 neighbors, not a single
20 one knew about this. Most of them were outraged.

21 I thought if I'm outraged and if my neighbors
22 don't know about this, and right in the backyard, what
23 about the people upline? What about the people in Suisun?
24 And all the people that the other people here have talked
25 about? I cannot see any benefit to Benicia; the only

1 benefit is to Valero.

2 And I really, really, ask for your guidance in
3 looking at this for the City, for the citizens of Benicia,
4 and for the health of our children.

5 COMMISSIONER DEAN: Thank you.

6 Next speaker.

7 MR. YUHAS: Good evening. My name is Greg Yuhas. I
8 lived here in Benicia for a very long time. I'm a retired
9 federal inspector, retired University of Southern
10 California as a region safety officer, Environmental
11 Health & Safety Department.

12 I've read the EIR. I've read CEQA. I've read
13 the backup documentations and looked at the congressional
14 research report on Bakken crude.

15 I think that the format was followed. I believe
16 that the EIR is complete and clear and consistent with the
17 existing administrative requirements to create the
18 document.

19 It is difficult in a participatory democracy to
20 deal with public perception of risk in the decision-making
21 process; however, you are charged with doing that. You
22 have a responsibility to be fair to the number of people
23 who are asking more time, but you have a responsibility to
24 be fair for those who are not here tonight, and who are
25 perhaps in favor of the project, support Valero, own stock

1 in Valero, or are interested in assuring the security of
2 the country through good regulation and through the
3 democratic process.

4 Therefore, I think it has been reasonable for the
5 public who have had opportunities to participate at
6 hearings in the past related to this, to go to Valero's
7 presentation, to access the documents, which are available
8 on the Web, through the Public Library, and the reference
9 documents, which are also available electronically.

10 My opinion: There's been more than enough time,
11 both for the laymen and for the professionals to review
12 the document and prepare to make comments on it.

13 Now, I realize the majority of people tonight are
14 speaking in the opposite direction and in favor of
15 delaying the process, but delaying the process is the same
16 thing that's happening in other cities that are trying to
17 get access to this source of petroleum to meet our
18 insatiable needs for a petroleum-based economy.

19 So I am in favor of moving on. The review period
20 has been adequate. Thank you very much.

21 COMMISSIONER DEAN: Thank you.

22 Are there any other speakers on this item? I
23 don't see anybody lined up back there. Any other
24 speakers? I'll give you a minute to come forward. I'm
25 going to wait an additional minute just in case we have

1 somebody coming from one of the side rooms.

2 I see nobody coming forward, so I'm going to
3 close the public hearing and bring it back to the
4 Commission.

5 So the issue is extension on the comment period
6 from the standard 45 days. We've heard a variety of
7 suggestions for time periods. What's the pleasure of the
8 Commission on this? Commissioner Young?

9 COMMISSIONER YOUNG: I'll start. In my previous life,
10 I worked in local government, and I had opportunities to
11 read EIRs, I won't say regularly, but when I had to. And
12 now that I am retired, and have all the time in the world,
13 I have attempted to get into this document, and I've made
14 progress. I've made notes. I've got questions I want to
15 ask. But I have not been able to finish it. And it is
16 extremely complex and technical.

17 And I heard the people -- heard Kat say that this
18 was -- the VIP Project was more complex than this, and it
19 was handled in a 45-day comment period. I wasn't here
20 then, I don't know about that. But I will say that when
21 other government agencies who are affected, or appear to
22 be affected by this project, request additional time, it's
23 simply a courtesy to give them that time. This thing was
24 released in the middle -- or the early part of the summer.

25 We just heard tonight that Caltrans is just now

1 releasing the document. If we were not to provide
2 additional time, we would not be giving those governmental
3 agencies the ability to make a reasoned and thorough
4 review of the project as it would affect them.

5 So I think it's only reasonable to extend the
6 comment period.

7 And the government agencies have asked for an
8 additional 30 days, which would make it 75. They have
9 paid staff that they are going to use that 30 days to get
10 to. A lot of the people in the community are not
11 necessarily technically versed in all of the things that
12 are talked about in here, and they're gonna need more
13 time -- and we've heard testimony tonight that they'd like
14 more time -- to get into the details of this document.
15 It's 1469 pages; it's not easy reading, and I think it's
16 only reasonable that we provide that extra time.

17 I would be in favor of extending it to a 90-day
18 period.

19 COMMISSIONER DEAN: Okay. Other comments from
20 Commissioners? So you're suggesting a total of 90 days?

21 COMMISSIONER YOUNG: Correct.

22 COMMISSIONER DEAN: Who else would also like to weigh
23 in on this? Commissioner Sprague?

24 COMMISSIONER SPRAGUE: Well, I would agree this is a
25 project involving serious and complex issues. I don't

1 think we can ignore the public's request for additional
2 time. And I honestly haven't heard anything from people
3 that are not in favor of that, any reasonable reason why
4 we shouldn't extend the time period.

5 So I'd be in favor of extending it. It's really
6 a question of how much time, and I'm not sure about that.

7 COMMISSIONER DEAN: Okay. Well, let me follow that.

8 I've read a lot of EIRs and commented on EIRs,
9 and the time period -- everybody always asks for
10 additional time to comment; that's one standard thing you
11 always hear at any DEIR hearing.

12 I'm not sure that additional time always
13 contributes to the quality of the comments. I think it
14 probably contributes to the quantity; I'm not sure that
15 the quality necessarily goes up with additional time, but
16 I think there's some extenuating circumstances here. I
17 agree with some of the speakers, and in my own case, I was
18 on vacation for 10 days during the circulation period, so
19 I'm just getting into the meat of the document now. So
20 I'm sympathetic to everybody who's asked for an extension
21 considering it's summertime, people on vacations,
22 including agency people, and also Commissioner Young
23 mentioned that we have other agencies, other cities,
24 requested that we extend the time period.

25 So I would be in favor of extending at least to

1 60 days, I think maybe 75, total 75. And just looking at
2 the calendar, if we go to a 75-day review period, that
3 would end on September 2nd, so that's right around the
4 Labor Day Holiday. So basically we'd be giving everybody
5 until the end of the summer to finish their comments.
6 Now, that seems to me more than sufficient.

7 I understand that this is a very complex and
8 technical project, but we do need to move it along. We
9 can't just sit on this forever and accept comments for an
10 indeterminate period of time.

11 So I'm going to start there.

12 Any comments from the Commissioners on that?
13 Commissioner Smith?

14 COMMISSIONER SMITH: I would agree that we need some
15 more time, but I think, in all fairness, I'd like to hear
16 from the Applicant in some way about this.

17 COMMISSIONER DEAN: Before we ask the Applicant to
18 come up, any other comments from Commissioners?
19 Commissioner Cohen-Grossman? Commissioner Oakes?

20 Could we have the Applicant step forward, please.

21 Hi, good evening.

22 MR. HILL: Hi. John Hill, I'm the refinery manager,
23 vice president, general manager.

24 We believe that this has been a topic of
25 discussion for over a year. I agree it's a long and

1 complicated document. And we are ready to move forward
2 with the process. We believe that 45 days is equitable,
3 and we're asking for the 45-day period to be the comment
4 period for the project.

5 COMMISSIONER DEAN: Okay. So you'd like us to stick
6 with the 45 days?

7 MR. HILL: That's correct.

8 COMMISSIONER DEAN: Okay. Any questions for the
9 Applicant while he is there? Commissioner Smith?

10 COMMISSIONER SMITH: No.

11 COMMISSIONER DEAN: No?

12 Thank you very much.

13 MR. HILL: Thank you.

14 COMMISSIONER DEAN: Okay. So where do we go from
15 here?

16 Commissioner Oakes? Are you in favor of an
17 extension?

18 COMMISSIONER OAKES: I think we need a motion to
19 extend the comment period for a total of 90 days. I'll
20 make that motion, for the comment period to be extended
21 for a total of 90 days.

22 COMMISSIONER YOUNG: Second.

23 COMMISSIONER DEAN: Any discussion on that?

24 COMMISSIONER OAKES: Can't discuss it, till you second
25 it.

1 COMMISSIONER DEAN: Okay. So now we're talking about
2 the comment period would end approximately September 15th.

3 Any discussion on that? Commissioner Smith?

4 COMMISSIONER SMITH: I was willing to split the
5 difference and do just the 75 days. I think that's
6 reasonable. I really don't -- and I'm supposed to leave
7 on vacation in just a few hours, and I think I can have
8 this done by that date. But I think 90 days is probably
9 excessive, and I don't believe that would give us the
10 same -- I agree with -- I've worked with EIRs, as well,
11 and I think we're just going to get quantity and not
12 quality, and so I would agree to the 75 days, to the end
13 of summer, and go from there.

14 COMMISSIONER DEAN: Okay. Well, we have a motion. We
15 have a second. Any other discussion before we vote?

16 Commissioner Cohen-Grossman?

17 COMMISSIONER COHEN-GROSSMAN: Yeah, we heard from
18 about 30 people -- I wasn't keeping an accurate count --
19 and except for two, everyone said "please extend," and
20 what they said was, many things, but what it seemed to sum
21 up as: It's a very complicated report. And I'm in the
22 same boat as Commissioner Young, I'm reading every single
23 word, and it's not the easiest read for me, and I thought
24 I was pretty literate.

25 So the question is, will the quality of my

1 understanding increase with more time? No. And that's
2 the issue. So I believe we should extend it. I'm not
3 sure by how much, to make for the quality that everybody
4 deserves, and understanding, which is pretty hard. It's
5 not that it's not a well-written report, it's just
6 complicated stuff.

7 COMMISSIONER DEAN: Okay. Unless there's somebody
8 else wants to say something, we've had a motion and a
9 second.

10 Why don't we call the roll.

11 MS. MILLION: So on a motion to extend 90 days?

12 COMMISSIONER DEAN: Total of 90 days.

13 MS. MILLION: For a total of 90 days.

14 Cohen-Grossman?

15 COMMISSIONER COHEN-GROSSMAN: Yes.

16 MS. MILLION: Oakes?

17 COMMISSIONER OAKES: Yes.

18 MS. MILLION: Smith?

19 COMMISSIONER SMITH: No.

20 MS. MILLION: Sprague?

21 COMMISSIONER SPRAGUE: Yes.

22 MS. MILLION: Young?

23 COMMISSIONER YOUNG: Yes.

24 MS. MILLION: Chair Dean?

25 COMMISSIONER DEAN: No.

1 Motion carries. The City turned one up.

2 MS. KAT WELLMAN: I'm assuming that for findings you
3 want me to list what you've already discussed on the dais?

4 COMMISSIONER DEAN: Yes. In fact, I was thinking
5 about that.

6 I would mention: The complexity of the issues;
7 the technical nature of the document; the length of the
8 document; and also the regional nature. It's not just a
9 Benicia issue, we've had speakers from outside of the
10 City. So it's --

11 MS. KAT WELLMAN: And the request from other
12 governmental agencies?

13 COMMISSIONER DEAN: And from other governmental
14 agencies.

15 MS. KAT WELLMAN: Okay.

16 COMMISSIONER DEAN: Yes, thank you.

17 MS. KAT WELLMAN: All right. Thank you.

18 COMMISSIONER DEAN: Okay. I think the Commission
19 needs a break. So it's about 10 after 9:00. Take a break
20 for 10 minutes. Be back here about 9:20.

21 (Recess taken.)

22 COMMISSIONER DEAN: Okay. Staff are we ready to ...
23 are we ready to go? Okay. So welcome back. We're now on
24 to Item 5B, which is the public hearing receive comment on
25 the Draft Environmental Impact Report for the Valero

1 Crude-By-Rail Project.

2 Do we have a staff report on this?

3 MS. MILLION: We do.

4 Good evening. I want to thank you, everyone, for
5 coming and for participating in tonight's event.

6 My name is Amy Million. I'm the Principal
7 Planner for the City of Benicia. I'm going to start by
8 going around and letting you know who is here, because
9 there are several people up here who are going to speak
10 this evening.

11 We have two representatives from ESA. ESA is the
12 firm hired by the City to draft the Environmental
13 documents that you've been reviewing over the past year
14 and a half. We have Cory Barringhaus and Tim Morgan.

15 Across is Kat Wellman. Kat is the City's
16 contract attorney.

17 We also have Brad Hogin. Brad Hogin is special
18 CEQA counsel for the City. He was retained for this
19 project to provide legal advice on the EIR and to show
20 compliance with CEQA.

21 Jim Lydon. Jim is the Benicia Fire Chief.

22 And we have Lieutenant Frank Hartig, with Benicia
23 Fire Department.

24 Wanted to let you know that we made copies of the
25 PowerPoint presentation. They were on the side table. If

1 for some reason, we ran out, I apologize. We will post
2 this to the City's website, the Crude-By-Rail Web page, so
3 anyone can download that.

4 We also had public comments that were submitted
5 during the Draft EIR review period, but after the Planning
6 Commission packet went out on July 2nd. So those comments
7 were from July 3rd to today. At about 4:00 p.m., I had to
8 stop printing, and then we had to start making copies.

9 So all of the comments submitted from July 3rd to
10 July 10th were also printed and made copies.

11 And, again, if those are not available any
12 longer, they will be posted to the City's website to
13 review.

14 So the focus of tonight is to receive comment on
15 the Draft EIR. No action on the project, in terms of
16 project approval or denial will happen this evening. Your
17 position on the project itself, meaning whether you
18 support or you're in opposition of the project, is not the
19 intent of the meaning. The time for that will be when the
20 Planning Commission holds hearings to take action on the
21 Use Permit and certification of the EIR.

22 Tonight staff will be taking in comments and
23 questions. The process for answering questions will be
24 done in the response to comments, which is part of the
25 document of the Final EIR.

1 Feel free, also, to submit any of the comments
2 that you provide tonight in writing. Written comments
3 carry the same weight as the oral comments provided this
4 evening.

5 Staff and ESA are here to take down your
6 comments. There's no need to repeat your comments. If
7 you agree with what already has been said, simply indicate
8 that you agree.

9 The presentation tonight will have three
10 highlighted areas, for lack of a better word. First, will
11 be an overview of the proposed project. We'll also do a
12 quick overview of the environmental review process. ESA
13 will provide a summary of the impacts. And Benicia Fire
14 Chief will provide an overview of Benicia's emergency
15 response plan.

16 So I'll quickly go through the major project
17 components.

18 ESA will probably provide a brief project
19 description as part of their presentation and how that
20 relates to the environmental review, so I won't dwell on
21 it too long.

22 First is the installation of a single, tank car,
23 unloading rack, capable of offloading two parallel rows of
24 25 crude oil tank cars. Includes construction of two
25 parallel offloading rail spurs to access the tank car

1 unloading rack. A total of 8,880 track, feet of track,
2 will be installed on the refinery property. Installation
3 of approximately 4,000 feet of crude oil pipeline, and
4 associated pump infrastructure between the offloading rack
5 and the existing crude supply piping. Replacement and
6 relocation of approximately 1800 feet of an existing tank
7 farm dike, and relocation of existing fire-water pipeline,
8 compressor station, and underground infrastructure. It
9 includes the location of ground water wells, which are
10 located in the project area. And the construction of a
11 new service road adjacent to the proposed unloading rack.

12 For the overview of the CEQA process, I'm going
13 to turn it over to Kat Wellman. Ms. Wellman provided a
14 more detailed training to the Planning Commission on June
15 30th. Some of you may have seen it. It can be found on
16 the City's website. We uploaded the PowerPoint
17 presentation from that evening. We attached it to the
18 June 30th Planning Commission Agenda. Feel free to
19 download it there.

20 So she's only going to do a brief recap, hit only
21 the major highlights from that presentation, just so we
22 can all be up-to-speed on CEQA.

23 MS. KAT WELLMAN: Thank you so much.

24 This really will be brief highlights on the ones
25 that I think are probably most important. But I'd like to

1 start out with: What is CEQA?

2 And the bottom line of CEQA: It's a very complex
3 law, as you can tell just from the DEIR, but it has a very
4 simple goal, which is to try to protect the environment.
5 And it does that by ensuring decision-makers understand
6 and account for the environmental consequences of a
7 project.

8 Well, how does it do this? It does it by
9 requiring the environmental review process. And that's
10 what it is: It's a process. And what I need to tell you
11 is that it's separate from the actual decision of the
12 project. No decision on the project can be made until the
13 environmental review process is complete. So you need to
14 keep that in mind.

15 The impacts on the project decision? It does
16 not. CEQA does not approve or deny a project. And let me
17 explain to you what I mean by that. The Planning
18 Commission can be looking at a project that has absolutely
19 no environmental impacts at all and can choose to deny it,
20 because they don't think it's beneficial to the community.

21 The Planning Commission can also approve a
22 project, even if there are significant environmental
23 impacts that cannot be mitigated, because they think it's
24 beneficial to the community and that the benefits outweigh
25 the impacts.

1 The main requirements of CEQA is that there's a
2 good-faith effort for disclosure. A good-faith effort to
3 disclose the project, the environment, the impacts and the
4 mitigation. And all significant mitigations must be
5 addressed. So let's talk about what a mitigation is.

6 Mitigation is a measure that has to be feasible
7 and it also has to be enforceable. In other words, the
8 City cannot put down mitigation measures if it can't
9 control or monitor them. But they're designed to avoid
10 prospective impacts, minimize the impacts, reduce or
11 eliminate the impact over time, or compensate for the
12 impact. And the goal is to try to eliminate or reduce to
13 less than significant.

14 So then the next question is: Well, what is
15 "significant"? And that's the difficult question. It's
16 not always clear. CEQA has a definition that goes as
17 follows, and I'll read it to you:

18 A substantial or potentially substantial adverse
19 change in any of the physical conditions within the area
20 affected by the project, including land, air, water,
21 minerals, flora, fauna, ambient noise and objects of
22 historic or aesthetic significance.

23 And what this DEIR is, it identifies all the
24 different aspects that have to be looked at in the
25 environment, determines if there's any potential impacts,

1 and whether or not they're significant. And you can
2 review this document and you can see how they come up with
3 it.

4 There's three different types of impacts.
5 There's direct effects, which are effects that are caused
6 directly by the project and occur at the same time and
7 place.

8 There's indirect effects that are reasonably
9 foreseeable, that are caused by the project, but occur at
10 a different time and place.

11 And there's cumulative effects, which are the
12 combined impact of the proposed project, in combination
13 with other projects, that will produce similar impacts.

14 And I think that's all you need to know.

15 The main thing, though, that I want to stress is
16 that tonight's hearing is not to hear whether or not you
17 approve or -- approve of the project or don't approve of
18 the project. It's really to look at the environmental
19 review that has already taken place; the DEIR that's
20 before you. Because we don't even get to a project
21 decision until we complete the review.

22 And we're very lucky in Benicia that our CEQA
23 guidelines allow for this public hearing, so that in
24 addition to being able to write your comments, you can get
25 up and you can verbally address them in public.

1 Thank you very much.

2 MS. MILLION: Thank you.

3 A quick background on the project. So, Valero
4 Submitted for a Use Permit on December 21, 2012.

5 City retained ESA to prepare the initial study.

6 A mitigated negative declaration was circulated
7 between May 31 and July 1st, 2013.

8 When review of all the comments that were
9 submitted as part of the initial study, mitigated negative
10 declaration, the City determined that a fair argument
11 under CEQA can potentially be made, and so the City
12 decided to prepare an EIR.

13 Following that was a scoping meeting for the EIR.
14 The scoping was from August 8th through September 13,
15 2013, and we had a Planning Commission Meeting to accept
16 oral comments on the scoping for the Draft EIR on
17 September 12, 2013.

18 The notice of preparation of the Draft EIR was
19 sent to the State Clearinghouse, which is a division of
20 Governor's Office of Planning and Research, and 18 state
21 and regional agencies.

22 The Draft EIR was prepared and released on June
23 17, 2014 and as of this evening, the comment period is set
24 to end on Monday, September 15.

25 At the end of the comment period, the Draft Final

1 EIR will be prepared. This will include all of the
2 comments provided during the comment period, both written
3 and verbal comments provided at the Planning Commission
4 meeting tonight.

5 CEQA provides for a minimum of 10 days for
6 publication of the response to comments and Final EIR,
7 before you can schedule a public hearing to consider
8 certifying the EIR.

9 The Planning Commission will hold a public
10 hearing to consider whether the EIR adequately describes
11 all significant potential environmental impacts and
12 identifies potential mitigations for such impacts.

13 So upon conclusion of the environmental process,
14 the Planning Commission will then make a decision on the
15 Use Permit for the Crude-By-Rail Project.

16 So as a reminder, all of the documents associated
17 with this project, including the project plans,
18 application, environmental documents such as the initial
19 study mitigated negative declaration, the Draft of
20 Environmental Impact Report, are all available at these
21 three locations:

22 The first is the Community Development
23 Department, City Hall. For those of you not familiar,
24 it's actually downstairs. You access it most directly off
25 of the parking lot, off of K Street.

1 The Library.

2 And as well, all of these are on the City's
3 website.

4 So now I'm going to turn it over to Cory, with
5 ESA, to give a summary of the environmental document
6 itself.

7 MR. BARRINGHAUS: Thank you.

8 Okay. My name is Cory Barringhaus. I'm Managing
9 Associate at ESA, and served as the deputy project manager
10 for this project.

11 Tonight I'll be presenting a brief overview of
12 the project description and a summary of some of the
13 findings we made in our environmental analysis.

14 Right here, this figure is also in the EIR. It's
15 Figure 3-2, just showing the boundaries of the Valero
16 property in yellow, and the long white is the general area
17 of the unloading rack and the rail improvements.

18 The project, as you know, is essentially about
19 providing an alternate means of delivering crude oil
20 feedstock to the refinery. The project would allow the
21 refinery to receive up to 70,000 barrels per day of crude
22 oil to be delivered by train. The refinery currently
23 receives crude oil by marine vessel, and the project would
24 displace an equal amount of the oil delivered by the
25 marine vessel.

1 The project would not involve any changes to the
2 existing refinery operations or process equipment, other
3 than the construction operation of the project components.
4 It would not increase the amount of crude oil that can be
5 processed by the refinery.

6 It would allow Valero to receive up to 100 tank
7 cars of crude oil per day, and two 50-car trains. The
8 tank cars would be transported by Union Pacific Railroad
9 from sources in North America to Roseville, California.

10 Union Pacific would then assemble the tank cars
11 into unit trains for shipment to the refinery.

12 Unit trains carry a single commodity, so no other
13 products, besides crude oil, would be transported in these
14 shipments to the refinery.

15 This is a figure also from the EIR. It's figure
16 3-3. This is the site plan. It's probably a little hard
17 to see, I'll just give you some description of what you're
18 looking at.

19 Trains would enter and exit the refinery on an
20 existing rail spur that crosses Park Road, which is at the
21 upper left of this figure. The colored lines are the rail
22 track. Existing track is shown in red. New track,
23 proposed track, is green. And the orange is track that
24 will be realigned.

25 And the tank car unloading track is located

1 between the new track shown on the middle portion of the
2 figure. Again, it would be capable of offloading two
3 parallel rows of 25 tank cars.

4 The crude oil would be pumped from the unloading
5 rack to existing storage tanks via new offloading pipe.

6 One change from the initial City project
7 description, that included the repurposing of an existing
8 storage tank to allow for crude oil service. Since that
9 time, Valero has indicated this is no longer needed as
10 part of the project; so therefore, it was not analyzed as
11 part of the Draft EIR.

12 So reiterate some of the conclusions. We did
13 prepare an initial study last year. It did analyze all 18
14 topics in the CEQA environmental checklist, which are
15 listed in Appendix G of the CEQA guidelines.

16 The analysis in the initial study concluded that
17 either no impact or less-than-significant impacts would
18 result from the topics you see listed here. Therefore, no
19 further analysis of these topics was necessary in the EIR.

20 The Draft EIR similarly concluded that no impact
21 or less-than-significant impacts would result for these
22 four resources: Cultural resources, greenhouse gas
23 emissions, land use and planning or noise. Therefore, no
24 mitigation would be required for these topics.

25 The Draft EIR concluded that potentially

1 significant impacts could result in the four areas listed
2 here, but mitigation measures would reduce effects to
3 less-than-significant levels. These are: Biological
4 resources; energy conservation; geology and soils;
5 hydrology and water quality.

6 At this point, I'd like to go into some greater
7 detail on potential project effects for three topics --
8 air quality; hazard and hazardous materials; and
9 transportation/traffic -- that we feel are the greatest
10 interest to the community.

11 Beginning with air quality:

12 Air quality effects are discussed in the EIR as
13 occurring during project construction or during actual
14 operation of the project. Effects during construction
15 would be reduced to less-than-significant levels by
16 implementation of basic Bay Area Air Quality Management
17 District mitigation measures. These measures are
18 typically measured by the Air District for every
19 construction project.

20 Operation air emissions can be categorized as
21 direct and indirect effects. Direct air emissions of the
22 project would be limited to fugitive emissions from the
23 components constructed for the project, such as the crude
24 oil unloading rack and associated piping.

25 Emissions from these components would be offset

1 by reductions in marine vessel emissions, and impact was
2 determined to be less than significant.

3 Indirect air emissions would result from the
4 locomotives that are transporting the tank cars between
5 Roseville and Benicia. Within the boundary of the Bay
6 Area Air Quality Management District, indirect locomotive
7 emissions would displace most maritime emissions,
8 resulting in an overall net decrease in the operation of
9 all emissions.

10 Emissions from locomotives could also occur in
11 the Sacramento Valley Air Basin within the boundaries of
12 three air districts: The Yolo-Solano, Sacramento
13 Metropolitan, and Placer County Air Districts.

14 The City has conservatively elected to use the
15 thresholds of these three air districts to determine the
16 effects of indirect project emissions, even though the
17 physical development associated with the project would
18 occur entirely within the Bay Area Air Basin.

19 Unlike emissions within the Bay Area, no maritime
20 emissions would be displaced by locomotive emissions in
21 these air districts.

22 The analysis concluded that the project would
23 exceed thresholds established by the Yolo-Solano and the
24 Sacramento Air districts for nitrogen oxides.

25 Locomotive emissions that result in exceedences

1 of the thresholds are under the control of Union Pacific
2 and are regulated by the federal government. The City has
3 no jurisdiction to impose emission controls on the
4 locomotives; therefore, no feasible mitigation is
5 available and the indirect air emissions impacts within
6 these two air districts was determined to be significant
7 and unavoidable.

8 Moving on, I'm sure you're aware that the
9 transport of crude by rail could result into the release
10 of oil into the environment during a derailment or other
11 accident. The consequences of such release depend a great
12 deal on the amount and location of such a release. A
13 release of crude oil during an accident could harm the
14 environment and property. An accident could also result
15 in injuries and possibly loss of life.

16 In order to evaluate the likelihood of an
17 accidental release occurring with the proposed project, a
18 quantitative assessment was conducted to identify the
19 probability of such a release. This analysis concluded
20 that the estimated occurrence of an accident releasing
21 more than 100 gallons of crude oil as approximately .009
22 per year, which corresponds to an estimated frequency of
23 once per 111 years. Therefore, although the consequences
24 of such a release are potentially severe, the likelihood
25 of such a release resulting from the project is low.

1 In addition, as noted in detail in section 4.7 of
2 the EIR, there's an extensive body of rules and
3 regulations adopted by the U.S. Department of
4 Transportation, including many adopted within the past
5 year, to minimize the risk of accidental release of crude
6 oil from tank cars. The Association of American Railroads
7 has also voluntarily adopted measures to reduce the risk
8 of an accidental release.

9 The EIR concluded that the low risk of an
10 accidental release of crude oil on a train traveling from
11 Roseville to Benicia, in conjunction with regulations
12 designed to minimize such release, would not result in a
13 significant impact.

14 Further, the City is preempted by federal law
15 from regulating rail activity and/or imposing any
16 requirements that burden the unrestricted movement of
17 trains in interstate commerce.

18 The last topic I would like to highlight are the
19 effects of the project on local traffic here in Benicia.
20 Listed here are just some of the basic features of the
21 project train movements within the City. The project
22 would add four train crossings at Park Road per day,
23 consisting of two loaded trains entering the refinery, and
24 then two crossings as the empty cars are transported back
25 to Roseville. There would be a minimum 12-hour interval

1 between the deliveries of loaded trains, as that is the
2 duration needed to unload a train and prepare the empty
3 cars for shipment back to Roseville. Each crossing at
4 Park Road is estimated to last approximately 8 minutes.

5 If the project is approved, Valero will also ask
6 Union Pacific to schedule tank car deliveries to avoid the
7 weekday commute hours of 6:00 to 9:00 a.m. and 4:00 to
8 6:00 p.m.; therefore, the analysis in the EIR focused on
9 the base-line conditions and the base-line plus project
10 conditions outside of those time periods.

11 The analysis concluded that the project-related
12 trains would generate vehicle cues on Park Road to
13 Industrial Way, and on Park Road/Bay Shore Road onto the
14 I-680 northbound off-ramp. Project-related vehicle cues
15 would be similar to those generated currently by existing
16 rail operations. The longest existing daily train,
17 degrades the level of service at each study intersection
18 from an excellent LOS A, to a poor LOS F. The delay
19 caused by project-related trains would be less than the
20 delay caused by the longest train under current
21 conditions.

22 In addition, the project-related train crossing
23 at Park Road would increase the average vehicle delay by
24 less than the one-second threshold of significance for
25 train crossings that currently operate at LOS F.

1 In terms of emergency access, emergency access to
2 the area in the vicinity of the refinery, there's a low
3 probability that an emergency incident would occur in the
4 areas northeast of the Park Road intersection during a
5 project train crossing. However, mitigation measures have
6 been provided in the EIR to minimize impacts to emergency
7 vehicle access. These are brief summaries of the actual
8 mitigation.

9 Valero will provide, install and maintain cameras
10 connected to Benicia dispatch to notify emergency
11 responders when a train is crossing Park Road, and thus
12 alternative routes should be utilized.

13 Finally, Valero's existing emergency response
14 team will assist Benicia Fire Department in responding to
15 all site emergencies within the Park Road and Bay Shore
16 Road areas, as requested under the existing mutual
17 agreement.

18 MS. MILLION: Thank you, Cory. I know that we're all
19 anxious to start the public comment on the document.
20 However, though, there were a few issues that were raised
21 through this project that staff thought would be really
22 helpful to speak on this evening as part of tonight's
23 presentation.

24 The first is the legal issues within the Draft
25 EIR, such as preemption, and confidential business

1 information. And the second being Benicia's emergency
2 response plan.

3 So, first I'm going to turn it over to Brad
4 Hogin, who is going to provide a brief overview of some of
5 the legal aspects; followed by Benicia's Fire Chief, Jim
6 Lydon, to provide information on the City's emergency
7 response plan.

8 MR. HOGIN: Good evening, Mr. Chair, members of the
9 Commission. As Amy said, I'm going to talk about two
10 things, preemption and confidential business information.

11 The preemption is this: There's certain aspects
12 of this project that have impacts that arise from the
13 operation of railroads. Those impacts are potential risk
14 of a release of crude oil, environmental damage, possible
15 fire explosion that could damage property and injure
16 people. And the second risk -- the second impact, rather,
17 is the impact on air quality from locomotive emissions.

18 So the question is, simple question is what, if
19 anything, can the City do to mitigate those impacts under
20 CEQA, or otherwise reduce those impacts under its police
21 powers or some other law? And the answer is there's
22 nothing that the City can do. And that's because of the
23 Interstate Commerce Commission Termination Act, which is a
24 federal law, and under that law the Surface Transportation
25 Board has exclusive jurisdiction to regulate the

1 transportation of crude oil and anything else by rail.

2 And among the other things that are preempted are
3 local laws that impose permitting requirements, some refer
4 to as preclearance requirements, and CEQA is one of those.
5 That's basically any time a local agency or State agency
6 would want to say to a railroad: "If you want to do that,
7 you have to get a permit from us, and we're going to
8 regulate that." Okay? And under the ICCTA, the railroads
9 do not need to get permission to do anything from cities.
10 Okay? It's that simple.

11 This is very well-established in court decisions,
12 in the Ninth Circuit Court of Appeals, which is the
13 Circuit Court that applies in California. Other Circuit
14 Court of Appeal decisions, decisions by the Surface
15 Transportation Board as a part of its administrative
16 rule-making and administrative determination process. And
17 last year, even from the California Attorney General,
18 Kamal Harris, she filed a brief with an Appellate Court,
19 that argued very strenuously that CEQA is preempted by the
20 ICCTA. And Attorney General Harris, I'm sure everyone
21 knows, is a very strong proponent of a vigorous
22 enforcement and implementation of CEQA. So if she says
23 it's preempted, you can bet it's preempted.

24 So what does this mean? Again, just to
25 reiterate. Let's say the City wanted to say: "We're

1 concerned about the risks of the spill, and we want to
2 reduce air pollution, so Valero, we're going to approve
3 your project, but only with the condition that you only
4 run one train in and out a day instead of two trains in
5 and out a day." You'd be preempted from doing that. The
6 City does not have the authority to do that. The City
7 does not have the authority to adopt regulation that
8 limits the emissions from locomotives. That's completely
9 preempted. The City can't say: "Well, you have to use
10 these tank car standards instead of these other tank car
11 standards." Okay?

12 So if there's any questions on that ..., the
13 answer is pretty simple. The analysis is somewhat
14 complicated, perhaps, but the answer is pretty simple.

15 The second issue is confidential business
16 information. Under CEQA, there's a specific provision
17 under CEQA that says that an Applicant for a permit -- you
18 can actually look at the environmental review -- can
19 submit information that is confidential business
20 information that has some kind of competitive value, and
21 designate that as such, and the City is prohibited under
22 CEQA from disclosing that information.

23 And the definition of "confidential business
24 information" is very broad. Basically, it's any
25 information that has competitive value. So it could be a

1 process that isn't patented, a particular formula,
2 customer lists, supplier lists, and so on. I couldn't
3 possibly sit here and recite all the different types of
4 information that could properly be considered confidential
5 business information.

6 But for our purposes here, the City has requested
7 from Valero a great deal of information in connection with
8 this environmental process, and they have been very
9 forthcoming. There has been a very small percentage of
10 the information that they've submitted that they have
11 designated as "confidential business information."

12 The City said, you know, we need to give certain
13 information to our experts to be absolutely certain about
14 our conclusions, so we understand that this type of
15 information is business confidential, or it could be
16 business confidential, and they designated a very small
17 portion of it and gave it to us; we gave it to our
18 experts. The experts looked at that and made sure they
19 had all the information they needed.

20 There's basically two types of information.
21 Excuse me. The first type of information is basically
22 what particular crude oils does Valero intend to purchase
23 once the project is up and running, assuming the project
24 is approved? Valero has publicly said only that it
25 intends to purchase light sweet crudes. There's a table

1 in the EIR that lists about 40 North American crude oils
2 that potentially Valero could buy, and there's no
3 condition or requirement that they buy any particular one.
4 And whatever crudes they start to buy, that could change
5 over time.

6 So for purposes of the environmental analysis,
7 we've assumed that they could buy any number of those, any
8 one particular one, or any combination, or whatever.

9 But in their public version of their application
10 to the Bay Area Air Quality Management District, they
11 stated that they intended to buy light sweet crudes,
12 similar to ANS, Alaskan North Slope look-a-likes. Well,
13 if you look at that list, there's a bunch of them that
14 fall within the category of "light sweet crudes."

15 There's a confidential version of that letter to
16 the Bay Area AQMD, that identifies one or more specific
17 crudes that Valero intends to purchase, and they have
18 designated that information to be confidential. The Bay
19 Area AQMD has protected that information. The City has
20 protected that information. The City would violate CEQA
21 if it doesn't protect that information because it has
22 competitive value. If competitors knew where they were
23 intended to get their crude oil from, they could kind of
24 outfox Valero by locking down contracts from that
25 supplier, or bidding up the price of that particular

1 crude, and so on.

2 So they could wreak havoc with Valero's business
3 strategy, or they could simply steal the idea, "Oh, that's
4 why Valero is making a lot of money because they use that
5 combination. So I'm gonna try that combination too."

6 So that's quite clear. And again, the Bay Area
7 AQMD recognizes the confidential nature of that
8 information, as does the U.S. Environmental Protection
9 Agency.

10 In the EIR there's a discussion of the EPA's rule
11 on confidential information, and they talk specifically
12 about crude oil feedstocks and how crude oil feedstocks
13 must be considered confidential information.

14 The other general category of confidential
15 information that Valero has designated is the detail
16 properties of crude oil that it either blends and
17 processes or that it has delivered to the refinery. These
18 are commonly known as "assays." You might think of them
19 as fingerprints of a particular crude. So it would list
20 not only the weight of the crude and the sulfur, but the
21 acidity, the Reid vapor pressure, and so on, and it would
22 be associated with a particular crude, like Cold Lake,
23 let's say.

24 So Valero has some information that might, for
25 example, say, "Cold Lake, that we had that we processed on

1 this particular day, had these particular properties."

2 And the reason that's confidential business
3 information is because other refineries and engineers at
4 other refineries can use that information to figure out
5 how Valero was making its crude oil. Making crude oil is
6 a very complicated process. You might think of it as an
7 analogy. It would be like a cook, Gary Danko, or whoever,
8 some famous chef in San Francisco has a very complex
9 process for how he puts something together. You order
10 salmon with mushroom and cream sauce. It comes to you.
11 You know it has mushrooms, and cream and salmon. But you
12 don't know how he marinated it, what spices he put in, how
13 long he cooked it, and so on. I'm just trying to give a
14 simple kind of analogy for something that's very complex.

15 But, basically, if all of these detailed
16 fingerprints of the crude were disclosed to its
17 competitors, that would put Valero at a disadvantage.

18 And, finally, and could be the most important
19 point, that the federal regulators and the courts have
20 determined that oil companies can violate the antitrust
21 laws by sharing confidential information about their
22 operations, because that is a way to help them ultimately
23 fix prices. And there have even been some enforcement
24 cases where there was no meeting of the oil companies, and
25 simply one oil company publicly disclosed the information,

1 the other companies looked at it and sort of a conspiracy
2 was formed -- or at least that was the allegation --
3 simply by the disclosure of the information into the
4 public domain.

5 So that's a final reason why it's important for
6 the City to keep this information confidential. Not just
7 to protect Valero, but really to protect the public at the
8 end of the day, to the extent that disclosing this
9 information could facilitate an antitrust violation, which
10 would result in increased oil prices.

11 So, Mr. Chairman, Commission, that is all I have
12 to say on that. I'm happy to answer any questions.

13 COMMISSIONER DEAN: Any questions for counsel?

14 COMMISSIONER YOUNG: I do have questions on this
15 topic, but I said that I would defer all my questions
16 until the public comment. Is this the right time? I'm
17 willing to wait.

18 MR. HOGIN: I'll still be here, but I'd be happy to
19 answer any questions while it's fresh. Either way, I'm
20 not going anywhere, unfortunately.

21 COMMISSIONER YOUNG: Okay. The whole question of the
22 actual source of the crude oil that's being purchased, is
23 there any other natural resource that you can think of
24 where the type -- not the type -- the actual location of
25 something being purchased is considered confidential?

1 Coal? Lumber? Anything else like that?

2 MR. HOGIN: I don't know. Not that I know of,
3 offhand. I haven't studied any of those. I can tell you
4 I have studied crude oil. Crude oil is very different
5 from lumber. I mean, lumber you just cut down the tree,
6 and chop it up and sell it.

7 Crude oil is -- refining crude oil into
8 marketable petroleum products is extremely complex.

9 COMMISSIONER YOUNG: And I understand that. I'm just
10 talking about the source, of where it's coming from. The
11 State Energy Commission says that 85 percent of all the
12 crude oil coming into California is Bakken shale. There
13 is numerous references to Bakken shale in the document.

14 MR. HOGIN: That couldn't be the case right now.

15 COMMISSIONER YOUNG: That's according to the
16 California Energy Commission right now, 85 percent.

17 MR. HOGIN: I don't know how it would get here,
18 because it's not shipped by rail to California. But
19 that's okay.

20 COMMISSIONER YOUNG: Well, let me go further, then.
21 In March a spokeswoman for Tesoro in Martinez, confirmed
22 that Tesoro is receiving 5 to 10,000 barrels a day of
23 Bakken shale. That was in the Contra Costa Times.

24 Phillips Refinery in Rodeo is bringing in tar
25 sands, according to the Contra Costa Times.

1 But most interestingly, not in California, but in
2 Memphis, Tennessee, at the Valero refinery itself, it is
3 widely known and publicized that Valero is using Bakken
4 shale, and they talk about it openly. Bill Day, who is a
5 spokesman for Valero, described in a Memphis Commercial
6 Appeal Report, that Valero was using Bakken shale because
7 of the cost savings and that Bakken represents 75 percent
8 of the oil used at the Memphis refinery.

9 COMMISSIONER DEAN: Hang on, one second, Commissioner.
10 I'm going to interject here, because we're getting into
11 some real detailed information and it deserves a detailed
12 response.

13 COMMISSIONER YOUNG: It is, yes.

14 COMMISSIONER DEAN: But I would like for the staff to
15 complete their presentation, and we still need to get to
16 the public tonight. So we could talk about this for a
17 long time.

18 So are you willing to defer your questions?

19 COMMISSIONER YOUNG: (Inaudible).

20 COMMISSIONER DEAN: Okay. Thank you.

21 So other questions for staff regarding the
22 process tonight? I understand there are people in the
23 audience who would really like an answer to that question,
24 and we'll get there, but there's plenty of people who came
25 here specifically tonight to speak, and we want to make

1 sure we get started on that process.

2 So any other questions on process from counsel?

3 Okay. Commissioner Smith?

4 COMMISSIONER SMITH: So you stated that CEQA is
5 preempted, and so as a mitigation measure, we couldn't
6 make any requirements that are under the jurisdiction of
7 the federal government or anything else.

8 When you get to a Use Permit and conditions of
9 approval, could say, for instance, the use of the tank
10 cars -- and the Applicant has already stated they've been
11 using the 1232 tank cars -- could that not be listed as a
12 condition of approval?

13 MR. HOGIN: It could not.

14 COMMISSIONER SMITH: It could not?

15 MR. HOGIN: It is simply an indirect way of regulating
16 the railroads, and railroads don't need our permission;
17 they don't need our approval. But such a condition would
18 not be necessary, in this case, because Valero has
19 committed that it will use the 1232 cars. That's part of
20 the project description.

21 COMMISSIONER SMITH: So because it's stated that
22 that's what they will use, then somehow they have to use
23 those?

24 MR. HOGIN: Yeah -- well, we can look into
25 enforcement. I don't know if we could get an agreement

1 between Valero and the Railroad, for example, that would
2 make them contractually committed to use the 1232 cars.
3 We can do that, for example. But there's no way that the
4 City can require Valero to use a particular rail car.

5 COMMISSIONER SMITH: Thank you.

6 COMMISSIONER YOUNG: Can I follow up on that question?

7 COMMISSIONER DEAN: Sure.

8 COMMISSIONER YOUNG: What if Valero themselves owned
9 the cars and not UP?

10 MR. HOGIN: Well, actually Valero does own or lease
11 the cars. UP does not own any of them.

12 COMMISSIONER YOUNG: Okay. But the federal preemption
13 of regulation applies to the privately owned rail cars, as
14 well?

15 MR. HOGIN: Yes, because it's all part of the rail
16 operations: Tank car standards. Any aspect of the rail
17 operations, they don't need our permission. So it applies
18 to their own locomotives, it applies to the cars that they
19 carry. They don't need our permission to carry, you know,
20 any particular car. The only permission they need is the
21 Surface Transportation Board and also complying with the
22 regulations of the Pipeline Hazardous Material Agency
23 Administration and the Federal Railroad Administration.

24 COMMISSIONER YOUNG: One more question and then I'll
25 shut up. I think you said earlier that the City could not

1 ask or require the Railroad to use only one delivery a
2 day. That was one of the proposed mitigation measures.

3 MR. HOGIN: Right.

4 COMMISSIONER YOUNG: But that means that they could
5 theoretically bring three or four cars a day -- three or
6 four car trainloads a day; is that true?

7 MR. HOGIN: As far as imposing conditions on Valero, I
8 suppose we have -- well, yes. We cannot impose any direct
9 limit on the amount of -- on the transportation approved,
10 that's right. But as far as Valero's Use Permit, their
11 project has stipulated that it's only going to be, you
12 know, so many trains a day; it's only going to be the two
13 trains a day.

14 COMMISSIONER YOUNG: But there would be no way to
15 enforce that?

16 MR. HOGIN: I'm sorry?

17 COMMISSIONER YOUNG: There would be no way to enforce
18 that?

19 MR. HOGIN: Enforce that limit? I'd have to think
20 about that, actually. I have to think about that. It's a
21 good question.

22 COMMISSIONER DEAN: Okay. And we still have a
23 presentation from the Chief; is that right?

24 MS. MILLION: Yes.

25 COMMISSIONER DEAN: Yeah, proceed.

1 MR. LYDON: Good evening. I wanted to try to take the
2 opportunity tonight to give a little information about the
3 Benicia Fire Department and our emergency response plans.

4 The Benicia Fire Department is what is commonly
5 known as an all-risk agency, which means that we respond
6 to a variety of emergencies and requests for assistance.

7 Our personnel regularly train in order to perform
8 for firefighting, emergency medical care, technical
9 rescue, and hazardous materials incidence response.

10 Our training is based on standards established at
11 the local, State and national level in these various
12 areas.

13 We regularly provide training to our personnel
14 locally for the maintenance of skills. We also send them
15 outside to specialized training in order to enhance their
16 knowledge, skills and abilities.

17 The training is afforded to all levels of the
18 organization so that we are prepared for the physical task
19 of incident mitigation, as well as the management aspect
20 of incident command.

21 We have the opportunity to participate in
22 specialized training with the Valero Benicia Fire
23 Department, using the resources they have within the
24 facility to prepare our staff to assist them in the
25 mitigation of incidents that might occur within the plant.

1 Each day our department is staffed with eight
2 firefighting personnel, and the Chief Officer for overall
3 incident command.

4 Just as with other departments, small and larger,
5 there are incidents that occur that are beyond the scope
6 of the initial response. In these cases, additional
7 resources come to the incident through our mutual aid
8 system, at the local, regional and State levels.

9 Here in Solano -- excuse me. The support can
10 range from firefighters and equipment to specialized
11 response teams. Here in Solano County, we have two
12 specialized response groups. These groups are the Solano
13 County Hazards and Materials Response Team, which is a
14 Level-2, State-Certified team, and also a Use ARC team.
15 The Benicia Fire Department has members on both of these
16 groups.

17 There are additional hazardous materials response
18 resources available in Solano County through Travis Air
19 Force Base and the Valero Refinery. Valero Refinery also
20 has a technical rescue team that's available to assist us
21 as well.

22 We spend a great deal of our time identifying the
23 potential risks and hazards that we may face, for which we
24 then develop strategies in order to be prepared to address
25 incidents, should they occur.

1 These assessments include consideration of such
2 things as a significant wildfire burning through a
3 residential neighborhood, a multi-victim incident
4 involving an active shooter, or a hazardous materials
5 incident.

6 The transportation of hazardous materials occurs
7 on our city streets, highways, the waterway, and the rail
8 lines. Today we respond to reports of incidents involving
9 any one of these modes of transportation. Depending on
10 the scale of the emergency, it may be handled locally or
11 it will require the response of additional resources to
12 assist us with mitigation.

13 The Valero Benicia Refinery Fire Department has
14 significant assets that are available to assist us, and
15 they have provided these locally and regionally in the
16 past. These include large-capacity pumps, large volumes
17 of firefighting foam, which can be used to control a fire
18 involving flammable and combustible liquids, such as crude
19 oil. They also come with a technical expertise.

20 I consider the presence of the Valero Benicia
21 Refinery Fire Department as a local asset which we can
22 rely on for assistance in a variety of circumstances.

23 In June of this year, the Solano County Fire
24 Chief revised our local mutually response plans. For the
25 Benicia area, the plan is structured to ensure that we

1 receive assistance from the closest available appropriate
2 resources. The mutual aid plan also provides for
3 backfilling of stations in Benicia and Vallejo to address
4 other incidents or to provide further resources for an
5 escalating incident.

6 We also have the ability to request assistance
7 from a variety of State and federal resources through the
8 California Office of Emergency Services.

9 All of our incidents are managed using the
10 Incident Command System. For large-scale incidents, we
11 would operate under a unified command structure that
12 incorporates the input and expertise of various
13 stakeholders that may be involved in the incident. As an
14 example, in a rail incident, Union Pacific Railroad would
15 be involved in a unified command so that elements of the
16 Hazardous Materials Emergency Response Plan would be
17 incorporated in the incident mitigation.

18 The final phase of our emergency response plan is
19 the conducting of an after-action review. This is done to
20 identify lessons learned and areas of improvement. This
21 is a significant part of our preparation to respond to the
22 variety of emergencies that we may face in the future.

23 That concludes my presentation. I can answer
24 questions.

25 COMMISSIONER DEAN: Commission? Commissioner

1 Cohen-Grossman?

2 COMMISSIONER COHEN-GROSSMAN: Hello. I have a
3 question over here. Hi. With respect to practicing mock,
4 you know, incidents, have there been mock drills of
5 derailments and hazardous materials incidents with trains?

6 MR. LYDON: There have been in the past. We have also
7 had training specifically from -- some classroom training
8 from Union Pacific Railroad. And there is a set of field
9 exercises scheduled for later this year that will involve
10 Union Pacific Railroad, providing training on the use of
11 rail cars. And we also have sent people to specialized
12 schools in Pueblo, Colorado, to address that issue as
13 well.

14 COMMISSIONER DEAN: Other questions from the
15 Commission? Commissioner Young?

16 COMMISSIONER YOUNG: I do have questions, but in the
17 interest of trying to get to the public comment, I'm
18 willing to defer them and ask the Chief the questions
19 later in the evening.

20 COMMISSIONER DEAN: Okay. Very good.

21 Amy, does that conclude the staff presentation?

22 MS. MILLION: It does.

23 My final assignment was just going to show the
24 ways that people can provide their written public
25 comments, either by mail, fax or e-mail. I'm assuming

1 that everybody in this room has my e-mail, considering how
2 many e-mails I get daily on this project. But, anyway,
3 those are the ways you can provide comments. Thank you.

4 COMMISSIONER DEAN: Okay. So -- so typically we give
5 our Applicant a chance to speak prior to the opening
6 public comment. Do we have a speaker?

7 Just in terms of timing, we typically allow,
8 what, 15 minutes for the Applicant?

9 MR. CUFFEL: Good evening. Excuse me.

10 My name is Don Cuffel. I'm the environmental
11 engineering manager at the Valero Benicia Refinery. And
12 as our -- show me which way -- okay. Thank you.

13 At the risk of being redundant, I do want to
14 cover what the project is and is not. We're going to go
15 over some key points and hopefully undo some
16 misconceptions that have been expressed this evening.

17 COMMISSIONER DEAN: Mr. Cuffel, could you just pull
18 the microphone a little closer to you.

19 MR. CUFFEL: Okay. Sorry.

20 We'll also talk about the benefits of the
21 proposed Crude-By-Rail Project, because it's important to
22 talk about, not just the environmental benefits, but also
23 the economic benefits, and focus on the benefit for the
24 community.

25 We will take a moment to review our environmental

1 performance and our emissions reductions, because we want
2 to sustain that. That's a significant role as a corporate
3 citizen here in the Solano County, and we do take that
4 role seriously, as a member of this community, member of
5 Solano County, and of course State of California, and the
6 US.

7 Now, we will also review the emergency
8 preparedness and refinery safety -- sorry. And then I'll
9 take questions from the Commission, if that's appropriate.
10 I'm not sure about the sequence of things this evening,
11 but if that's appropriate, that would be fine.

12 COMMISSIONER DEAN: Yeah, questions at the end.

13 MR. CUFFEL: Okay.

14 So at the risk of being redundant, you've all
15 heard what the project is, that it is a logistics project,
16 that will provide us a third means of receiving crude oil.
17 So in addition to receiving crude oil by ship, by
18 pipeline, we can also receive it by rail, once this
19 project is implemented.

20 To respond to Commissioner Young's question about
21 the enforceability of the limit, bear in mind that this
22 project also requires a permit from the Air District, and
23 the limit of the 70,000 barrels of the crude will be an
24 enforceable limit in the Air Permit. I hope that helps
25 explain that.

1 So the City is not obligated to have redundant,
2 enforceable limits. The Air District takes care of that
3 part of the business.

4 There are absolutely no changes to the refinery
5 processing. None whatsoever. We will continue to comply
6 with all of the limits in our existing Title Five Permits.
7 That includes the three-put limits, the emissions limits,
8 the monitoring and source testing; everything that we are
9 doing today, we will continue to do once the project is
10 approved and constructed.

11 We can't overstate enough the benefit of
12 reduction of greenhouse gases. And I'll talk about more
13 details when we get to that slide, but I do want to start
14 to lay out the content.

15 How much is 225,000 tons? Does anybody really
16 know? Do you know how to envision that? It's 10 percent
17 of our annual greenhouse gas emissions. That's a huge win
18 for the environment, for the one atmosphere that we all
19 share. And rarely do you have an opportunity to have a
20 project with that kind of significant greenhouse gas
21 reduction.

22 Finally, reducing our reliance on foreign oil is
23 a benefit for the country, and it's strategic for our
24 future. The benefits of crude-by-rail -- I mentioned the
25 emissions reduction -- in the local Air Basin, the

1 analysis is very thorough. It compares the emissions from
2 marine delivery to the emissions by train. Excuse me.

3 Much has been made of the uprail significant and
4 unavoidable impact. Let's talk about what that really
5 means. The knocks threshold in Solano and Yolo County is
6 10 tons. How much is that? Again, let's have a realistic
7 view of what does that mean? That's equivalent to 10
8 diesel RVs driving round trip from Benicia to Tahoe every
9 day.

10 So the incremental emissions we're talking about
11 for the uprail communities is the equivalent of 10 RV
12 round trips, diesel-driven RVs, from Benicia to Tahoe per
13 day. That's the significance threshold from which you
14 determine if you exceed that, then you have a significant
15 impact.

16 You'll notice from the local Air Basin numbers up
17 there -- I imagine they're hard to see for folks in this
18 room -- but every single criteria pollutant, reactive
19 organic compounds, knocks, CO socks, and particulate
20 matter, all of them are reduced.

21 Again, it's rare that a project can be brought
22 forward that reduces all the criteria pollutants, and it
23 reduces greenhouse gas emissions. Who wouldn't be for
24 that? Another way of looking at the annual greenhouse gas
25 emissions reductions is to put it in the context of

1 projects the City has already done.

2 So up on East 2nd Street and Rose Drive, there's
3 a solar panel system that provides electrical power for
4 City's water pump and selected street lights.

5 I'm not really out of time, am I?

6 COMMISSIONER DEAN: No.

7 MR. CUFFEL: The reduction in greenhouse gases that
8 that solar system provides annually is equal to one day's
9 worth of greenhouse gas reductions from this project. Let
10 me say that again. The solar system on Rose Drive and
11 East 2nd, reduces greenhouse gases, and that's a good
12 thing, but it's annual reduction is equivalent to one
13 day's operation of this project. So I hope that helps put
14 this number in context.

15 We talked about jobs creation at Benicia. The 20
16 full-time jobs is net. Earlier there was some question
17 about whether that would affect the folks who have less
18 shipping because fewer marine vessels will be arriving, so
19 there's a reduction in work force there. The 20 full-time
20 jobs is net, when you take into account the additional
21 jobs and the reduction of the dock.

22 And, finally, we want to remain competitive.
23 It's in everyone's interest. I think it's been said
24 recently, that if there's a refinery in your backyard, you
25 want Valero to operate it. And so it's in everyone's

1 interest for us to survive and to be competitive.

2 Again, this might be tricky to see, but I hope
3 the colors will work to our advantage. If you look at the
4 blue bar --

5 Is there a laser on this thing? So shall I point
6 that way? This way? Okay. Thank you. And I will speak
7 into the microphone.

8 If you look at the blue bar, this is ammonia.
9 And this -- you can see each year how it's dramatically
10 reduced. Suddenly in 2011 -- I'll talk about why that
11 happened. Look at the red bar, the sulfuric acid mist
12 and, again, it got much, much smaller in 2011 and it
13 sustained.

14 The TRI is the toxic release inventory that the
15 EPA requires many industries to file every year. And in
16 addition to air emissions, it looks at water and off-site
17 transfers of waste. But for this project, the relevant
18 portion is air.

19 So when Valero funded and built the VIP Project,
20 it was a refinery expansion. It was a refinery expansion
21 from 135,000 barrels a day to 165,000 barrels a day; but
22 at the same time, it reduced emissions dramatically
23 because in 2011, we started up our Flue Gas Scrubber. In
24 addition to the reductions you see here, there are
25 chemicals that are not part of the toxic release

1 inventory. It's those criteria pollutants again, socks
2 and knocks. Well, that's the scrubber's job. It takes
3 out over 12 million pounds a year of socks. I normally
4 quote that in tons; I say 6,000 tons. But again, let's be
5 consistent here: 12 million pounds a year of socks.
6 One-and-a-half-million pounds of knocks. 140,000 pounds
7 of carbon monoxide. And 120,000 pounds of PM. This is a
8 phenomenal success, and this is what we're about, trying
9 to be environmentally responsible and remain competitive
10 in this industry.

11 I believe Valero is a valued member of the
12 community. I've worked here for 33 years. In fact,
13 today's my service anniversary. It's 36 total, but 33 in
14 Benicia.

15 As folks know, I believe, our annual taxes and
16 fees make up 25 percent of the operating budget. That's
17 not anything but good news.

18 We employ over 450 employees and we have a steady
19 workforce of about 250 contractors. And that goes up
20 dramatically during turnarounds, when we shut the entire
21 refinery down for maintenance.

22 We've contributed over 3 billion in economic
23 activity since 2006. And of that, Benicia businesses have
24 received about \$400 million in purchases from Valero.

25 So the associated jobs, the support industries,

1 the people who help maintain our facility, the people who
2 provide the equipment, pumps, piping, flanges, gaskets,
3 catalysts, that's an additional 3900 Bay Area jobs. It's
4 not just about Valero. It's about the whole community.
5 Think more broadly.

6 And, finally, what do we do? I mean, why do we
7 exist? We produce 10 percent of California's
8 clean-burning gasoline. Locally in the Bay Area, it's 25
9 percent.

10 I think our role in the economy extends to the
11 products we make that are the cleanest burning fuels in
12 the country.

13 My colleague, Joe Bateman, is the emergency
14 services superintendent. You can call him "Fire Chief."
15 He's going to join me now and discuss refinery safety, and
16 then I'll come return to complete Valero's comments.

17 MR. BATEMAN: Thanks, Don.

18 My name is Joe Bateman. I'm the Fire Chief for
19 the Valero Benicia Refinery. I've been employed at the
20 Benicia Refinery now for over 20 years, and have been a
21 Benicia resident for 18. I have an extensive background
22 in flammable liquid firefighting, and had served as an
23 adjunct professor at Texas A&M University, specializing in
24 large incident flammable liquid firefighting and foam
25 application techniques.

1 Petroleum refinery can be an inherently dangerous
2 business, which is why we focus on accident prevention as
3 a top priority. Maintaining a safe operation requires
4 constant vigilance by everyone on site, to ensure
5 procedures are followed and our equipment is maintained in
6 a good state.

7 Our refinery safety programs and practices are
8 recognized by the State of California, as Occupational
9 Safety and Health Administration -- or "Cal/OSHA" -- as
10 exemplary.

11 The Valero Benicia Refinery is the only refinery
12 in Northern California to be designated by the Cal/OSHA as
13 a Voluntary Protection Program Star Site. There are only
14 two refineries in the State that have achieved this
15 distinction, and the other one is Wilmington Valero
16 Refinery in L.A.

17 As the Chief of the refinery's fire department, I
18 can confidently say that we are prepared today to respond
19 to any emergency that might arise in our plant, whether
20 it's a medical emergency, a fire, or a hazardous material
21 release.

22 Our fire department members are well-trained, and
23 we have the resources and equipment to respond immediately
24 to any emergency. We are a State-certified response
25 agency, and train regularly with the City of Benicia.

1 We share our skills and knowledge on both -- and
2 both agencies operate under the Incident Command System,
3 or ICS, during an emergency. This allows us to provide
4 mutual aid to each other, as Chief Lydon had stated
5 earlier.

6 It's probably not well-known, but we have
7 responded to several incidents inside Benicia, outside of
8 our fence line. Many people may remember the Amports
9 Stock Fire of 2000. Our Department spent 36 hours on that
10 fire alone.

11 Many also might remember the Big O Tire fire of
12 2007. We responded to that fire.

13 And we currently have three type -- three
14 engines, grass brush rigs that respond and have done so
15 just recently in last summer's fire season.

16 As a Bay Area refinery, we also participate in
17 the Petrochemical Mutual Aid Organization, otherwise known
18 as PMAO. Under PMAO, Valero Fire has access to additional
19 assets from other companies in the PMAO group, such as
20 foam or pumping capabilities.

21 In the unlikely event of an accident involving a
22 rail car, we are prepared to respond with other agencies
23 in Solano County, in the Sacramento County, or anywhere
24 inbetween Benicia and Roseville. We have also met with
25 Cal OES to discuss preparedness with State agencies.

1 Rail car safety is not new to our refinery. We
2 load and unload rail cars today, not of crude oil, but of
3 other products and supplies, just like we have been doing
4 since the refinery opened up in 1969.

5 I have met with my counterparts in Benicia,
6 Suisun City, Fairfield, Vacaville, Dixon and the Travis
7 Air Force Base. The Roseville Fire Department's Chief,
8 and four of its deputies, had a tour of our facility just
9 recently, and was there to discuss capabilities and
10 assets.

11 We will continue to meet with Union Pacific
12 Railroad and groups like the Solano County Fire Chief's
13 Association, Solano County Resource Management's Agency,
14 and others to ensure the preparedness of crude by rail.

15 In closing, I just want to say, with my expertise
16 in flammable liquid firefighting, along with the extensive
17 training that Benicia Fire has completed in this same
18 area, we are prepared today. And we stand committed to
19 maintain that preparedness to protect our employees, our
20 refinery and our community. Thank you.

21 COMMISSIONER DEAN: Thank you.

22 MR. CUFFEL: Thank you, Joe.

23 COMMISSIONER DEAN: Mr. Cuffel, this is not meant to
24 be totally open-ended. Can you sum up? Typically we give
25 you about 15 minutes.

1 MR. CUFFEL: Last page.

2 We have received over 700 cards in support of our
3 project as a result of having public meetings and public
4 outreach. Of the 700, over 480 are from Benicia residents
5 and businesses. And I have the list I'll give Amy right
6 here.

7 It's unfortunate we didn't get to have that
8 conversation before the extension discussion was
9 concluded, but there are many people who are not here that
10 are in favor of the project.

11 I would like to thank, certainly, the hard work
12 that City staff has done on this project, on developing
13 the Draft EIR with ESA, and many other expert witnesses,
14 expert consultants.

15 I'd like to thank the ERM, and my colleagues at
16 Valero, too numerous to name, but it's a tremendous amount
17 of work for a very valuable and important project.

18 Thank you.

19 COMMISSIONER DEAN: Okay. Stay right there for a
20 second.

21 Do we have any questions from the Commission?

22 Okay. I see none.

23 Thank you for your time.

24 Okay. Staff. What's next here? Are we ready to
25 go to public comment?

1 MS. MILLION: We are.

2 COMMISSIONER DEAN: Okay.

3 So this is probably a good time, that as members
4 of the Commission, if we share substantive information
5 that's relevant to the matter being considered by the
6 Commission, if that information is received outside of
7 public decision-making process, we should probably mention
8 that ex parte communication.

9 And I'll start, since I'm -- I've got the mic.

10 I had a long conversation with Marilyn Bardet,
11 before the EIR came out, a number of weeks ago. And I
12 think what we talked about in that conversation, she has
13 written in several letters to the City, and has expressed
14 at meetings before this Commission. So nothing new or out
15 of the ordinary.

16 In that sense, anybody else like to contribute?

17 COMMISSIONER YOUNG: I have also met with Marilyn, as
18 well as gone to Valero and had a presentation by Don and
19 Ms. Gustofson.

20 Went to the EIR workshop that the Community group
21 put on.

22 And I've talked to many people in the community
23 about the project.

24 COMMISSIONER DEAN: Okay. Anybody else? Commissioner
25 Cohen-Grossman?

1 COMMISSIONER COHEN-GROSSMAN: I haven't had any
2 one-on-one conversations, but I did attend the Valero
3 meeting that the Community was invited to.

4 I did have a tour at Valero.

5 And I did attend the Crude-By-Rail Workshop on a
6 Saturday about two weeks ago.

7 COMMISSIONER DEAN: Okay. Commissioner Sprague?

8 COMMISSIONER SPRAGUE: I also attended the Valero
9 presentation, similar to the one that was given here this
10 evening, and had a tour.

11 And I met with two members of the Benicians For a
12 Safe and Healthy Community, and listened to what they had
13 to say.

14 COMMISSIONER DEAN: Commissioner Oakes?

15 COMMISSIONER OAKES: I attended one public meeting
16 hosted by Valero.

17 COMMISSIONER SMITH: Okay. I attended the first
18 meeting that was held at the Library, which was several,
19 several months ago.

20 I met, as part of my job, with Supervisor
21 Seifert, with members of the Benicians for a Safe and
22 Healthy Community.

23 I attended the Valero -- both Valero
24 presentations, and most recently went on a tour and did a
25 site visit of Valero.

1 I think that's it.

2 COMMISSIONER YOUNG: I forgot to mention, I went to
3 both Valero workshops out at the Ironworkers Union, as
4 well.

5 COMMISSIONER DEAN: Okay. I attended one of those
6 workshops, too, at the Ironworkers Union.

7 Any others? Okay. All right.

8 So public comment: We have a lot of cards. In
9 fact, Commissioner Oakes tallied them up, and we've got in
10 the neighborhood of 77 cards. So we have a lot of people
11 who are interested in speaking. Now, some of those people
12 might choose not to speak now that we've extended the
13 comment period. If you were thinking that you had to
14 speak tonight or not be heard, you still have -- you still
15 have plenty of time to get written comments in. We
16 extended the comment period to include a total of 90 days.

17 So -- and I'm also looking at the time. It's
18 about 10:35.

19 How late does the Commission want to go? I
20 definitely -- we want to get started on the public process
21 tonight, hear as many people as we can.

22 In terms of setting a potential cutoff time, do
23 we want to do that? What's the pleasure of the
24 Commission?

25 COMMISSIONER YOUNG: Up to 77.

1 COMMISSIONER DEAN: I know that there are people
2 probably who are still in the -- our axillary rooms, but
3 maybe just a show of hands of people sitting in our main
4 room tonight who are interested in speaking.

5 Keep -- okay.

6 Well, that's a substantial number; and we do want
7 to hear you speak.

8 So our options are --

9 MS. WELLMAN: Do you want us to --

10 COMMISSIONER DEAN: Staff, do you have a suggestion?

11 MS. WELLMAN: Yes. You can start the public comment
12 period. One of things you might want to do is decide if
13 you want to leave it at five minutes or reduce it to three
14 minutes.

15 If you want to set a set time in which you're
16 going to stop hearing public comments, you can actually
17 make a determination that you'd like to continue the
18 public hearing to a date-certain. You would do that at
19 that point in time, and that would set it up so that you
20 could continue the public comment at that -- at that next
21 meeting.

22 The one thing that I do need to say, though, is
23 that those who make the public comment tonight, would not
24 be able to again make the same public comments the next
25 time this -- you know, you take your turn.

1 So that's the way -- that's the way you might
2 want to do it, since there's a lot of people that want to
3 talk, and if you don't want to go until about 1:00 o'clock
4 in the morning, that might be the advice.

5 COMMISSIONER DEAN: Well, I'm certainly willing to
6 stay for at least another hour and get this process
7 rolling. I know there are people who have come a long
8 way, and probably deserve to be heard.

9 So what's the rest of the Commission -- what's
10 your sense on this?

11 COMMISSIONER YOUNG: I think, given the fact we've got
12 people who spent three hours here already, with the hope
13 and anticipation of saying -- and saying their piece and
14 speaking their mind, we ought to give them that
15 opportunity.

16 We also have people from Davis and Sacramento who
17 came a long way to do this; and to ask them to come back
18 at a future date is difficult. So I would be willing to
19 stay into the evening, as long as we can.

20 COMMISSIONER DEAN: Commissioner Smith?

21 COMMISSIONER SMITH: Well, I mentioned earlier, I was
22 planning on leaving on vacation tomorrow, and I have a
23 plane to catch in just a few hours. I would not like to
24 stay past 45 minutes, at this point, just because I would
25 like to hear everybody. I would like to be able to be

1 awake enough to do so, and take good notes. And I'd like
2 to be able to give everybody five minutes. If we reduce
3 it to three, I would not like to hear that.

4 But if we could end no later than, I'll say,
5 11:30, I would be very appreciative.

6 COMMISSIONER DEAN: Okay. And I also, in terms of the
7 three to five minutes, I think some people have done a lot
8 of research, and they deserve five minutes before the
9 Commission, even if it extends the entire process a little
10 bit longer.

11 Thoughts on that from the other Commissioners?

12 COMMISSIONER COHEN-GROSSMAN: I agree with that.

13 And I'd like to make another comment about the
14 continuation date. I think we should establish how much
15 notice is needed, so it couldn't be any sooner than ...
16 what?

17 MS. KAT WELLMAN: You, actually, technically, if you
18 were going to continue it to a date-certain, do not need
19 to give notice.

20 COMMISSIONER DEAN: But we would certainly want to
21 know when that is.

22 MS. KAT WELLMAN: But you would have to do it at this
23 meeting, and you would have to determine the date at this
24 meeting.

25 COMMISSIONER DEAN: And we -- yeah, right. So

1 everybody leaving the meeting would know exactly when that
2 was.

3 MS. KAT WELLMAN: Exactly.

4 COMMISSIONER DEAN: Yeah. So do we want to -- sounds
5 like we're trending in that direction? Five minutes per
6 speaker, and then continuation to a date-certain. Say we
7 go with Commissioner Smith's suggestion, and go until
8 11:30? I'm seeing some nodding heads. Yes? Okay.

9 So why don't we start the public -- oh.

10 UNIDENTIFIED SPEAKER FROM AUDIENCE: Point of order --

11 COMMISSIONER DEAN: Point of order, yes.

12 UNIDENTIFIED SPEAKER FROM AUDIENCE: -- or just a
13 request.

14 I would like to suggest that we let our guests
15 from Davis and Roseville go first.

16 COMMISSIONER DEAN: I think that's appropriate.

17 Okay. So while we get the public meeting
18 rolling, the Public Hearing rolling, maybe we could look
19 for a date-certain to continue this. And it should be --
20 now that we've extended the comment period, it should be
21 sufficiently in the future, so that people have a chance
22 to go through the document and then come informed to the
23 next meeting. Okay? All right.

24 Do you have a question, Staff?

25 MS. MILLION: No, I was just going to say, I mean, we

1 could quickly -- we could do it now, or we could poll the
2 Commissioners until 11:30, but it would just be a matter
3 of determining of when the Commissioners were available.
4 If you wanted to say, you know, a week, for example: Is
5 the Commission available next week, on Thursday? I mean,
6 the only way to pick a date-certain is to poll the
7 Commission and find out if they're available.

8 So it's really a matter of when the Commission is
9 available, is when the --

10 COMMISSIONER DEAN: So should we do that now?

11 MS. MILLION: It's up to you. You can do that now or
12 you can do that at 11:30.

13 COMMISSIONER DEAN: Let's do that right now.

14 Stand by.

15 Our new end-of-comment period is --

16 MS. MILLION: 15th, that's a Monday.

17 COMMISSIONER DEAN: Okay. Well, let's have this
18 toward the end of the comment period.

19 UNIDENTIFIED SPEAKER: Well, we have another Planning
20 Commission meeting in August, which is the 15th? August
21 14th.

22 MS. MILLION: I think I can move some things around.
23 If you want to pick the 14th, that's fine.

24 COMMISSIONER DEAN: You know, also, in September we
25 have a meeting on the 11th. So it would be right at the

1 end of the comment period.

2 (Inaudible discussion.)

3 COMMISSIONER DEAN: So you're thinking August?

4 MS. MILLION: August 14th.

5 COMMISSIONER DEAN: Okay. So, our date-certain will
6 be August 14th, which is a regularly scheduled commission
7 meeting night. Okay?

8 Everybody's available for the 14th? I want to just --
9 "Yes?"

10 Yes, I'm hearing "Yeses" from all the
11 Commissioners.

12 MS. MILLION: Chairman, can I make a suggestion?

13 COMMISSIONER DEAN: Yes.

14 MS. MILLION: Going off of what Ms. Wellman said, as
15 far as those who speak tonight, would not be speaking
16 again on August 14th.

17 COMMISSIONER DEAN: That's correct.

18 MS. MILLION: If people wanted to suspend their
19 comments this evening, as they take this extra month to
20 prepare more valuable comments on the Draft EIR, please
21 feel free to do that.

22 So, as your name is called, if you wish to
23 postpone your comment until the next meeting, please just
24 indicate so, and we'll move on. We'll hold your speaker
25 card until then.

1 Does that work?

2 COMMISSIONER DEAN: That works fine.

3 Okay. Now, before we call the public up in
4 general, we've had a request for a group for the
5 opposition to speak.

6 Ms. Bardet?

7 MS. BARDET: Yes, Marilyn Bardet. I was going to
8 represent BSHC tonight. I have been very confused whether
9 I would have five minutes, three minutes or 15. I was
10 prepared for 15, but I think tonight I'd rather hear from
11 Sacramento and Davis, and hold my comments until the next
12 time. Thank you.

13 COMMISSIONER DEAN: Okay. So we have our -- I'm just
14 wondering -- we have a lot of cards up here and there's
15 been a suggestion that our out-of-towners get to speak
16 tonight, but I have no idea on how to separate these folks
17 out unless just to ask them to come up first, and the
18 local Benicia crowd is willing to let that happen.

19 So unless there's an objection, we'll do that.

20 Okay. So I'm seeing a sense, and nods from the
21 audience.

22 So I'd like to start the public hearing.

23 And for people who are not local and from Benicia
24 and who have come from out of town to speak, we'd like you
25 to go first.

1 If you would just come forward and state your
2 name, that would be fine.

3 Hi. Good evening.

4 MS. BURN: My name is Barbara Burn. And I'm here from
5 Davis. And the reason I'm here is because we think many
6 things about the EIR, do not address the issues that are
7 uprail issues, and that's the reason I'm here.

8 One of the things I want to say is that it's been
9 made clear that, you know, there are federal issues and
10 state issues and local issues that are out of the hands of
11 anyone else to do anything about. But one of the things
12 that I would suggest is that the California PUC does have
13 the authority to control speeds of trains in places that
14 are identified as local safety hazards, and we have
15 probably one in just -- in Davis that may qualify for
16 that. And certainly when you think in terms of some of
17 the areas that it will come -- that comes through some
18 canyons to get to that area, one of the alternative
19 routes, definitely qualifies.

20 I think because there is nothing that addresses
21 the cumulative issues concerning climate and health risks,
22 that it would make sense to have a moratorium on a new
23 terminal and infrastructure development until the risk of
24 crude-by-rail are better understood and addressed. And
25 we've had a number of people who have brought up about the

1 tanker cars, and it has been said that the federal
2 regulations would increase those, but a promise is not
3 like waiting until we actually have those cars to deliver
4 the more volatile fuels.

5 And I think that not shipping tar sands and
6 Bakken fuel until those cars are available, or until the
7 oil is reconfigured, which would also make it less
8 flammable.

9 Thank you.

10 COMMISSIONER DEAN: Thank you.

11 Good evening.

12 MS. LASENSKY: Good evening. Elisabeth Lasensky, also
13 from Davis. I live in a senior mobile home park within a
14 mile of the train tracks. Across the street from me is a
15 nursing home. On the other side of the street, but closer
16 to the tracks, are two other senior housing complexes, as
17 well as the Davis Police Department.

18 Within maybe 50 yards of the tracks is Interstate
19 80.

20 As the trains come in to Davis, they first pass
21 Yellow Basin. The Yellow Basin is the beginning of the
22 delta. I needn't tell you how important that is to the
23 eco-system and the water supply of the State of
24 California.

25 The trains come in and share the tracks with

1 Amtrak. It's not an if or -- "if" question about train
2 derailments. In 2003 there was a train derailment in
3 Davis along that side of tracks, when one train was going
4 too fast and collided with another train. Fortunately,
5 for all involved, the cars were empty. The main problem
6 was that it disrupted Amtrak's travel for quite some time.

7 In 2009 another train derailed in Davis behind
8 the food co-op, when two cars of a 12-car train collapsed
9 because -- the train bed collapsed from the weight of the
10 train. Two cars flipped over and spilled lime, each car
11 having 90 tons of lime in the cars, that spilled into
12 residential neighborhoods.

13 Well, we were lucky. In neither of these cases
14 were the trains carrying crude oil. If they had been,
15 we'd be talking a different story. So, the story -- the
16 moral of the story is we like Davis; we'd like it to stay
17 the way it is. And bringing crude by rail through Davis
18 is a risk that we don't want to take. We get none of the
19 benefits that Benicia will get, but we will take a lot of
20 risks. Rather than taking the risks, why don't we just
21 leave the oil in the ground and invest in renewable
22 energy?

23 Thank you.

24 COMMISSIONER DEAN: Thank you.

25 MS. BURKE: My name is Frances Burke. I live in Davis

1 and I thank you for allowing us all to speak first. We do
2 have a long way to go home.

3 I live within 200 yards of the tracks and I have
4 concerns which I'd like to address regarding liability. I
5 feel that this is something that is really unanswered in
6 the whole transporting of crude. Last year trains hauled
7 400,000 car loads of oil, up from 9,500 in 2008.

8 Rail car accidents spilled 1.15 million gallons
9 of crude oil in 2013. Pipelines and Hazardous Materials
10 Safety Administration issued a rare safety alert saying,
11 "Recent derailments and fires indicate the type of oil
12 transported from the Bakken fields may be more flammable
13 than traditional heavy crude oil."

14 National Transportation Safety Board and the
15 Canadian equivalent, the Transportation Safety Board of
16 Canada, warned that an oil train accident could result in
17 major loss of life. Insurers are taking steps to insulate
18 themselves against liability. Railroads self-insure
19 against accidents over a certain threshold. Presently
20 trains are using unsafe Legacy DOT 111 tank cars.

21 Industry experts went on record with Wall Street
22 Journal and detailed the inadequacy of insurance railroads
23 carry for catastrophic events.

24 BNSF went on record as saying insurance is not
25 commercially available to insure us against catastrophic

1 loss -- enough insurance is not commercially available to
2 insure us against catastrophic loss.

3 Presently, the accident in Lac-Megantic, a small
4 town in Quebec, clean-up costs alone were over 180 million
5 and it may take a decade to accomplish the task.

6 Benicia can and must ask some hard questions:
7 Who is responsible and who pays in the event of an
8 accident en route to and at the refinery? My community,
9 and all communities along the rail lines are at an
10 increased risk.

11 The Final EIR needs to adequately address this
12 question for all of our sakes. The question is: Are
13 costs worth taking, especially when renewable resources
14 grow more viable every day?

15 Thank you very much for your time.

16 COMMISSIONER DEAN: Thank you.

17 Next speaker.

18 MS. NITLER: Hello again. I think this time I'll
19 state my name. I forgot last time. I'm Lynn Nitler from
20 Davis.

21 COMMISSIONER DEAN: I'm sorry, could you state that
22 again.

23 MS. NITLER: Lynn Nitler.

24 COMMISSIONER DEAN: Thank you.

25 MS. NITLER: No corporation really operates in a

1 vacuum, and Valero's decision to import North American
2 crude has profound effects beyond its own improvement that
3 cannot be ignored. We don't know exactly what they're
4 going to import, and that's one of the big problems.

5 My understanding of CEQA is they do need to
6 present to us an accurate description of the project as
7 part of the process, and we can't get an accurate
8 description from a list of products that they may import,
9 because it runs from the light crude of Bakken oil all the
10 way down to the heavy, sour crude from tar sands. And the
11 terminology of North American crude is very broad; it
12 includes that whole spectrum. And what that means is it
13 cuts us off from analyzing, then, data in the EIR, the
14 impact of what they would be bringing in. Are we looking
15 at the highly volatile explosive Bakken crude? And we
16 need to be understanding what would happen to our
17 communities, our Sierra Nevada, our Feather Canyon --
18 Feather River Canyon, and then all our communities in
19 sensitive areas as that explosive crude comes through, or
20 are we looking at tar sands? And then we have a different
21 set of problems when it spills. I read a recent report
22 that if you don't get to it immediately, the diluant
23 evaporates very quickly and causes air pollution problems,
24 but the bitumen, the heavy stuff, sinks immediately and
25 you have to get it out of water very fast or it clings to

1 the bottom, and then you're stuck with (inaudible) in the
2 Kalamazoo four years later. It's still clinging to the
3 bottom.

4 But, either way, because we do not have a
5 description of what they're bringing in, we are bringing
6 in probably some of each of those (inaudible) crudes to
7 open the door for those to come in to California.

8 So it seems like a moment when that discussion
9 should be happening, we should have our eyes wide open to
10 what we're allowing to come in. There are other trains
11 coming behind it, Santa Maria, and we're told Sacramento
12 region will have four or five more trains behind that.
13 What are they all bringing and why can we not have the
14 real discussion of what that means for us? And here's the
15 first place where that honest conversation could happen
16 where we can have an EIR that actually examines what we're
17 looking at, both on the trains and at the refining end,
18 because if there's tar sands involved, we're looking at
19 byproduct, such as petcoke, and more of that being
20 created, and what do you do with that petcoke product?
21 And if it's sold to the Asian market, because it's not
22 allowed to be burned in our country, and then when it's
23 burned in China, then the aircrafts bring it back as air
24 pollution and smog to the Bay area -- to the L.A. Basin.

25 I mean, not having that information, because it's

1 trade secrets, means we aren't having a true EIR available
2 to us.

3 So I -- I think that an EIR should allow us to
4 have that conversation. Thank you.

5 COMMISSIONER DEAN: Thank you.

6 Next speaker, please.

7 MS. OHARA: Good evening. I'm Betty O'Hara, and I'm a
8 30-year resident of Roseville, California, and I did not
9 know about this meeting until noon yesterday. So I've
10 obviously not read the EIR, but I am familiar with
11 shipping oil by rail, and I just want to reiterate
12 concerns those that have come before me, particularly the
13 water issues.

14 Derailments, particularly -- we talked about
15 derailments, but what about explosions? They come right
16 through Roseville. They go through downtown Sacramento.

17 I'm also here to speak for my Sacramento friends
18 as well.

19 We've spoken about liability. Who is gonna pay
20 for it if a company goes bankrupt? I mean, we did bail
21 out AIG, which is the largest insurance company in the
22 world. I mean, it's a legitimate concern.

23 Because I did have an opportunity to briefly
24 review a document from the National Resources Defense
25 Counsel to the California Energy Commission, and also from

1 four California state Senators to the US Department of
2 Transportation, who brought up the same concerns you have
3 heard earlier, and I just want to express those, too.

4 And it really surprised me that what happens
5 uprail is determined by you folks here. Wow. Please
6 consider us. Make a wise decision. Keep it in the
7 ground.

8 COMMISSIONER DEAN: We have a question for you.

9 COMMISSIONER SMITH: I know that these trains are
10 coming into Roseville. Do they need a Use Permit or
11 anything from City of Roseville to do any of this?

12 MS. O'HARA: I really don't know. As I said, I didn't
13 find out about this until yesterday. But you bring up
14 something interesting, because one of the firemen here
15 from Valero said that Roseville Fire Department had been
16 to speak with him. You know, the foam is not going to put
17 it out. This oil is going through our community and our
18 fire department is just now asking for input.

19 COMMISSIONER SMITH: Is your community active in
20 looking at this issue?

21 MS. O'HARA: I can't answer that right now.

22 COMMISSIONER SMITH: Okay. Thank you.

23 MS. O'HARA: Thank you.

24 COMMISSIONER DEAN: Thank you.

25 MS. O'HARA: It will be.

1 COMMISSIONER DEAN: All right.

2 Next speaker.

3 MR. REILLY: Jim Reilly from Vacaville. I represent
4 the operating engineers, and I'm an environmentalist. I
5 love our planet, and -- but I am a realist. We're not
6 ready to completely unplug from internal combustion
7 engines yet. It's a great plan, but it's way down the
8 future.

9 I've looked at Valero's plan, and it's valid.
10 It's been thought out. It makes sense from the standpoint
11 of where we are right now as a country and as a world. I
12 have a hundred signatures here that support it.

13 Your concerns are valid and I think the future
14 that we're looking towards, you know, they're all valid
15 concerns, but we're not ready for it yet. And I think
16 that's reality. We need to work on population before we
17 work on other things. But I'd like to give these hundred
18 signatures to you all there.

19 And thank you for letting me speak.

20 COMMISSIONER DEAN: Thank you.

21 Other speakers? Next speaker, please.

22 COMMISSIONER DEAN: Good evening.

23 MR. McDONALD: My name is James McDonald. I live at
24 274 Pebble Beach Loop, Pittsburg, California.

25 "But when a long train of abuse and usurpations,

1 pursuing invariably the same Object in being a design to
2 reduce them under absolute despotism, it is the right, it
3 is the duty to throw off such Government, and to provide
4 new Guards for their future security - Such has been the
5 patient suffering of these Colonies. And such is now, the
6 necessity for constrains them to alter their form of
7 government."

8 The opportunity a decision-maker gets to change
9 the destiny of humanity are rare. To have the insight to
10 grasp it when presented to you is even rarer, and the
11 rarest opportunity of them all, to do this simply with the
12 word "Yes" or "No."

13 The state, California state legislator, finds and
14 declares, quote, Every citizen has responsibility to
15 contribute to the preservation and enhancement of the
16 environment, unquote.

17 To this end and in this spirit I offer the
18 following comments: Rebuild this factory to the
19 state-of-the-art, closed-loop facility of which have never
20 been dreamed or seen.

21 Build one-mile green zone around refinery and
22 rail right-of-ways.

23 Build a modern railroad with a capacity to safely
24 deliver high-speed, heavy freight nationwide.

25 Fill green zones with solar technology.

1 Support displaced residents by building new,
2 clean, beautiful communities, and giving them the
3 education to build this for themselves.

4 You can start to put America back to work,
5 starting here, now, with this project, and not stopping
6 until it goes nationwide, or create a few jobs which will
7 not be remembered forward, and will make no difference.

8 The concept of using innovation to solve today's
9 problems is referred to as progress, moving forward, not
10 living in the past, or just common good sense.

11 It used to be called "The American Way." And it
12 can be called "The American Way" once again. Let's put
13 America back to work doing what the United States of
14 America was set to meant doing, and made me proud to be an
15 American. Build it right.

16 Thank you for your time. I yield the floor.

17 COMMISSIONER DEAN: Thank you, sir. Any other
18 speakers from outside the Benicia area?

19 Okay. Then we'll go back to our stack of cards
20 and start working through those.

21 So I have Rick Slizeski. And Stan Lawson. And
22 Aline Nunes. Maria Matthews -- Maria Teresa Matthews.
23 Sue Kibbe. Rich McChesney. Hadieh Elias.

24 Why don't you just come forward.

25 MS. ELIAS: I would like to speak on the next

1 occasion.

2 COMMISSIONER DEAN: Oh, at the next --

3 What is your name?

4 MS. ELIAS: Hadieh Elias, you mentioned at the end.

5 Sorry. Sorry.

6 (Inaudible comment from the audience.)

7 COMMISSIONER DEAN: Yes. So if I have a card and the
8 speaker doesn't come forward, we'll assume that you're
9 deferring to the next meeting.

10 I'm sorry.

11 Name, please. And please start.

12 MS. MATTHEWS: Thank you. Maria Teresa Matthews. I
13 have been a resident of Benicia for 35 years and today has
14 been a great experience to see how many residents and how
15 many other neighbors are coming to talk about a very
16 important topic.

17 I am in favor of this project because I
18 understand the Valero company has not lied on its
19 application, has submitted information on time, has
20 answered the questions and have been provided information
21 to -- in the workshops.

22 Yes, every industry might have accidents and
23 problems, that we know about that. But if we have thought
24 about that in 1969, the refinery never had been built.

25 So I recommend that you think about the facts of

1 the reports. The City contracted the company that
2 prepared the environmental report. It was not Valero's.
3 So it was an independent expert. We should rely on those
4 individuals to know the facts and not try to have a litany
5 of idea that maybe what happened, that we alienate people,
6 we make people scared of things.

7 Valero is a responsible company, has a great
8 record of safety. So I ask you to consider the validity
9 of this project, only on the facts of the reports. They
10 are the only thing that you should be guided for.

11 Thank you.

12 COMMISSIONER DEAN: Thank you.

13 Next speaker, please.

14 MR. McCHESNEY: Good evening. Rich McChesney. I work
15 for Performance Mechanical, Incorporated out of Pittsburg.
16 Thanks for not butchering my name, usually people have a
17 tough time on that. So I appreciate that.

18 Really, I'm speaking in favor of the
19 Crude-By-Rail Project, but I know this is -- this is
20 related to the Environmental Impact Report, so really
21 take -- my comments are really related to safety, quality
22 and really to the integrity of Valero, so take that in
23 mind when I'm reading what I have here.

24 PMI's been involved in many projects at the
25 Valero refinery since they purchased it in 2000. PMI has

1 performed over 1.6 million man-hours on various projects
2 and turn-arounds, with the latest and largest project is
3 the Blue Grass Project; we're very proud to be a part of
4 those.

5 I can tell you firsthand, I was on most of all
6 these projects, that Valero's highest concerns are the
7 safety of its employees, the construction workers and the
8 community, and in the quality and reliability of the
9 refinery.

10 The VPP accreditation that they received is a
11 byproduct in the seriousness that Valero takes in its
12 safety program.

13 PMI knows this very well. It's no easy feat to
14 achieve this and maintain it, after we received a VPP
15 rating at our shop in Gardena, California.

16 When it comes to quality, Valero is second to
17 none. Each time we are fortunate enough to enter the
18 refinery to do work, we are utilizing the most skilled
19 union craftsman to install the best technology and
20 materials available to ensure safe and reliable
21 improvements to the refinery. When we go in, it's -- at
22 any time we get a chance to do it, we're bringing new
23 technology in. A lot of these problems I think you see
24 around the Bay Area are old, antiquated systems that are
25 not maintained. So we like it when we go in there and the

1 public should like it, too.

2 The refinery manager -- and I heard it again
3 tonight, the General Manager, John Hill, said it best at
4 the last public meeting, "You want Valero running this
5 refinery." Based on the comments I made before, they're
6 the right people to take care of it. We at PMI are in
7 agreement with that.

8 Keeping the refinery -- and this is important.
9 It's kind of been mentioned before -- keeping the refinery
10 viable with projects like crude-by-rail enables them to do
11 the maintenance and improvements that they want to do, to
12 keep the thing safe and to keep it environmentally
13 friendly to the community.

14 We're excited about working with Valero and the
15 Crude-By-Rail Project, and look forward to its start and
16 successful completion.

17 Please move this along and approve this project.
18 Thank you.

19 COMMISSIONER DEAN: Thank you.

20 Kevin Coleman. Jack Ruszel. Pierre Bidou.
21 James McDonald. Ron Dial.

22 He spoke, okay.

23 Then Ed Ruszel.

24 COMMISSIONER DEAN: Hi.

25 MS. KIBBE: Hi.

1 COMMISSIONER DEAN: Go head.

2 MS. KIBBE: I'm Sue Kibbe. I live in the Highlands
3 region of Benicia. I have a question for the Benicia City
4 Planning Commission. This relates to Impact 4.1-2. An
5 unmitigated significant and unavoidable air quality
6 violation, with a net increase in nitrogen oxides and
7 ozone precursor emissions would result from transporting
8 crude-by-rail through the communities uprail within the
9 Sacramento Basin, in the Yolo-Solano, Sacramento
10 Metropolitan and Placer County Air Quality Management
11 Districts. This has been already described.

12 I ask you: How can we, in good conscience, or
13 even legally, violate the air quality of our neighbors to
14 the north by authorizing these shipments? And not only
15 would we affect their air quality, but we would authorize
16 the transport of a highly toxic, corrosive, flammable
17 material in 36,500 tank cars, each weighing 143 tons when
18 loaded with crude oil, an annual total of 730 locomotives
19 weighing over 7,150 tons each, through these communities,
20 over rails that were never built for and have never
21 carried such traffic, all for the sole purpose of
22 satisfying human greed.

23 Valero's net income rose 28 percent in the first
24 quarter of 2014. Net income to shareholders jumped to 828
25 million. Revenues rose to 33.6 billion in the first three

1 months of this year. If you are telling me that Valero
2 needs this project in order to stay competitive, you
3 haven't looked at the facts.

4 Second point. I'd like to address one of the
5 benefits, much proclaimed by Valero from this project.
6 Valero states that crude-by-rail would improve air quality
7 in the Bay Area. They're not blind. This is a carefully
8 worded deception.

9 First, Exhibit A, take a look at the Bay Area.
10 We're talking about Bay Area Air Quality Management
11 District, which is a huge area encompassing every county
12 that touches the Bay. And this is the area in which they
13 can legally claim to improve air quality. This is section
14 4.6.5, Impacts and Mitigation Measures, Greenhouse Gas
15 Emissions.

16 The mitigating factor here is to reduce the
17 number of oil tankers traversing the Bay. What they
18 calculated were the emissions from 72 ships that will no
19 longer be sailing across 49.5 miles from the sea buoy,
20 Exhibit B, the sea buoy is way out here, and here is
21 Golden Gate. And so the calculated emissions from ships
22 going from the sea buoy into the Bay, to Benicia Harbor
23 and back out again, and they were allowed to subtract
24 those Bay Area emissions from the direct emissions that
25 will be generated right here from construction of the rail

1 terminal, unloading crude oil, and 730 locomotives.

2 So this gives Valero a less-than-significant
3 increase in emissions, Table 4.6-5, but in reality they
4 will be increasing emissions right here where we live and
5 breathe by 18,433 metric tons per year, while reducing
6 them out in the Bay. This may be legal in terms of the
7 permitting process, it may be good news for sailboats on
8 the Bay, but for people up in Benicia, and especially for
9 any Benician located in the industrial park, it is a
10 terrible deal.

11 What people need to understand is that this
12 mitigation has been used to offset the very real pollution
13 that will happen right here. That pollution has not been
14 reduced by one particle except on paper.

15 To tell us that this is a benefit to Benicia is
16 hugely hypocritical, and a manipulation of the facts. Do
17 not be deceived. The pollution in this city will increase
18 as a result of crude-by-rail, and the mitigation out there
19 in the Bay actually works against us. If you have a
20 business in the industrial park, you will be in the thick
21 of it.

22 Thank you.

23 COMMISSIONER DEAN: Thank you. Next speaker, please.

24 Hi. Good evening.

25 MR. COLEMAN: Good evening, Commissioners. My name's

1 Kevin Coleman. I'm a business agent for the International
2 Brotherhood of Electrical Workers, Local 180, in Napa.

3 Obviously, this is a multifaceted issue with
4 genuine concerns from many interested citizens and
5 constituencies on balance. However, I think that the
6 benefits to the community on this project, outweigh the
7 negative impacts.

8 Taking into consideration the lengths to which
9 Valero has gone to ensure the safety of the activities
10 associated with the Crude-By-Rail infrastructure Project,
11 as well as the accompanying decrease in greenhouse gas
12 emissions, the reduced risk of oil released when compared
13 with the marine-delivery methods, the safety protocols
14 already in place with local and regional response
15 agencies, the decreased reliance on crude from foreign
16 sources, the numerous permanent and skilled construction
17 jobs, and the corresponding increase in economic activity
18 and additional tax revenue for Benicia, the sooner this
19 can be processed, the better for the community.

20 I support the project wholeheartedly. And thank
21 you for your time.

22 COMMISSIONER DEAN: Thank you.

23 COMMISSIONER YOUNG: I have a question.

24 COMMISSIONER DEAN: Oh. Question, sir. Question from
25 the Commission.

1 COMMISSIONER YOUNG: Yeah, can you talk about the
2 additional tax revenue? I'm interested in that.

3 MR. COLEMAN: The tax revenue I can't specify in
4 precise terms, but it was conveyed to me at the outreach
5 meeting that Valero had at the Ironworkers.

6 COMMISSIONER DEAN: Okay.

7 MR. COLEMAN: Anything further?

8 COMMISSIONER DEAN: No, that's it.

9 MR. COLEMAN: Thank you.

10 COMMISSIONER DEAN: Thank you for your time.

11 Good evening.

12 MR. BIDOU: Good evening, Mr. Chairman, members of the
13 Commission. My name is Pierre Bidou. I've been a
14 resident of the city of Benicia for 52 years. I can see
15 this from both sides or have seen it from both sides.

16 I've served the public and worked for the City
17 for 31 years, and in addition to that, was on the City
18 Council and the School Board. I was very fortunate to go
19 to work for Exxon and then for Valero.

20 I need to tell you that Valero is a true friend
21 of this community. The major portion of our budget or at
22 least 22 to 25 percent of the City budget comes from
23 Valero. You lose that tomorrow and see what's gonna
24 happen.

25 I can remember when Humble Oil came here. This

1 city was starving. We did not have the services that you
2 all enjoy today. They are a very, very moral company and
3 very humane, and you really need to think deep and hard
4 and need to support this.

5 I have a hundred signatures here from citizens
6 throughout this community and other communities in support
7 of Valero. Thank you.

8 COMMISSIONER DEAN: Thank you. Next speaker, please.

9 Good evening.

10 MR. RUSZEL: Good evening. My name's Jack Ruszel.

11 I want to thank you for the additional time that
12 you gave us to digest this, and I want to let you know
13 that giving us that extra time, you will indeed get a both
14 more complete and higher quality comments from me. So
15 thank you again for that time.

16 And I would also like all of the Commissioners to
17 come out to Ruszel Woodworks at 2980 Bay Shore Road, and I
18 would be very happy to walk you through the area that
19 we're talking about and get a firsthand look at really
20 what kind of impacts this might take, but I prepared a
21 speech so let me say it.

22 I've been at this location for 34 years. Ruszel
23 Woodworks employs 25 people. In the last 12 months we've
24 hired three new, full-time people. Valero may bring 20
25 percent of the City's general fund, but it's companies

1 like ours that make up the other 80 percent. If this
2 project is allowed to go through, the impact to my
3 business and all the businesses in the area, in terms of
4 health and safety, indeed our very ability to conduct
5 business, would be so vastly impacted, it's hard to
6 describe. But, oh, don't worry, this document, summarily
7 dismisses the impacts that will affect us as "less than
8 significant."

9 It's really not fair when you think about it.
10 One giant corporation spends a year hiring experts to very
11 carefully twist and manipulate weak study results into
12 this document, deliberately crafted to understate the
13 actual impact of their project, and as one of the many
14 businesses that will be heavily impacted, I get three
15 weeks to read it and to try to untangle it and five
16 minutes to state my concerns. I'll assure you that you
17 will get many, many specific readings on this piece.
18 There's a lot of questions to be looked at.

19 But what we have here are two mega corporations
20 baiting, threatening, and pushing weak local government
21 and to bow to their wishes. This is not a project that
22 Benicia wants or needs. We've been diligently working for
23 years to improve the City's image and bring in more
24 tourist dollars. The infamy of being a crude-by-rail town
25 is in direct opposition to that.

1 Consider this transportation analysis. I've
2 tried to spend some time on it. In it they come to the
3 conclusion that the only way to make this project workable
4 is to bring in 50-car trains, only at offcommute times;
5 however, after specifically discussing the timing and how
6 the crude trains should be moved, Valero clearly states,
7 and I quote, "These operations would be dynamic and
8 subject to change based on changing business conditions."

9 Union Pacific states at least three times that
10 I've found so far, that they are untouchable. They state
11 that by federal law, neither the City, the State, nor
12 their customer Valero, can require them to do anything.
13 The railroad can do what they want.

14 Yet the Transportation Impact Analysis does not
15 bother to address the chaos that will ensue when Union
16 Pacific brings in trains of whatever length they see fit,
17 at whatever time works for them, and parks them where they
18 find most convenient, for as long as they want.

19 This is kind of a farce. This (indicating) is
20 kind of a farce. You know it, and I know it. If a person
21 really wanted to carefully analyze the likely outcomes of
22 this project, this is not the document that you would have
23 commissioned. You would commission this document if you
24 wished to push this project through as soon as possible,
25 with little or no concern for the community or the

1 environment. This document was commissioned by an entity
2 concerned only about how much potential profit they're
3 missing out on each day. Look at this. A finally crafted
4 piece of distorted reports and intentionally misleading
5 conclusions. It's a travesty and an insult.

6 Valero and Union Pacific are chomping at the bit
7 to get this thing started as soon as possible. They want
8 you to be their stooges. They want you to be a good
9 Commissioner and rubber-stamp this thing and give them
10 their permit. There are profits to be had, and you are in
11 their way. Just to clarify, these profits do not trickle
12 down to the City. There's nothing in it for the City.

13 This is really a David and Goliath story. You
14 Commissioners, and I, and most of the people in this room,
15 whether we like it or not, we are David. This is time to
16 speak truth to power. Valero will continue to do well
17 without this project. Benicia will do well not to be
18 bullied by the demands of an industry that cannot see
19 beyond their greed.

20 COMMISSIONER DEAN: Sir, I'm going to ask you to wrap
21 up.

22 MR. RUSZEL: I will wrap up. I have about one more
23 page. I timed this and it takes about five minutes, and
24 this is my only chance to speak, so please allow me to
25 finish. I'm sorry, I'm emotional about this, but this is

1 important.

2 Opening the door to crude-by-rail will guarantee
3 that Benicia will be bound to a polluting, dirty,
4 fossil-fuel industry for decades to come.

5 We have other options. New technologies are
6 available. For example, my wife and I had solar electric
7 panels installed on our home last year. We leased an
8 electrical vehicle. Yes, we still have one of our
9 gas-burning cars, but with these two simple steps, we've
10 reduced our gasoline consumption by over 65 percent. Most
11 of our miles are now fueled by clean, locally produced,
12 solar electricity. I'm not tooting my own horn, showing
13 off that I'm more greener-than-thou. But moving forward,
14 we can make a difference, and we have to make a
15 difference.

16 Allowing this Crude-By-Rail Project to happen in
17 any way is backward. I think that a lot of my neighbors
18 here in Benicia and beyond feel that it's our duty to be
19 stewards of this small, beautiful planet.

20 My hope is that you as Planning Commissioners
21 have similar ideals. It's extremely rare that we have an
22 opportunity like this, where an issue has such global,
23 national and regional importance, that it lands on your
24 shoulders, on the shoulders of a few public servants, but
25 here we are.

1 I implore you to examine -- I'm almost done,
2 really.

3 I implore you to examine this morally and see
4 this as a global issue that it is. I beg of you to
5 address this issue in a way that you can be proud of years
6 from now, when your grandchildren ask you: What did you
7 do when you had the chance? You now have the chance to
8 limit the powers that be and make a significant difference
9 to what our future may be.

10 We have all kinds of excuses why we can't do
11 anything --

12 COMMISSIONER DEAN: That's going to have to be it.

13 MR. RUSZEL: -- well, right now, at this point in
14 history, we can make a difference. I'm talking to you,
15 Commissioners. I'm talking to the City leaders. I'm
16 talking to the people in this room. All the citizens of
17 the City, I'm talking to all of you.

18 COMMISSIONER YOUNG: Sir, you're going to have to end
19 your comment now.

20 MR. RUSZEL: Wake up to what is going on. See the big
21 picture. Make decisions --

22 COMMISSIONER DEAN: Sir, I'm going to ask you -- I'm
23 going to ask you to stop it right there.

24 MR. RUSZEL: Make decisions that you can be proud of.

25 COMMISSIONER DEAN: Thank you very much.

1 MR. RUSZEL: And you can shake your head and listen to
2 some crazy hippy, but please, by God, don't damn us with
3 this for years to come.

4 COMMISSIONER DEAN: Okay. Well, he was the last
5 speaker. We said we were going to end at 11:30, and it's
6 11:29, so it seemed to be a natural stopping point.

7 So we are going to continue the public hearing
8 until our date-certain of August 14th.

9 MS. MILLION: Correct.

10 COMMISSIONER DEAN: And for those speakers who didn't
11 get a chance tonight, we'll keep your cards on file and
12 we'll expect to see you on the 14th of August and when
13 we'll continue the meeting.

14 Thank you for your time and for your comments.

15 Commissioners, stay with us right for a minute,
16 we just have a couple more things. Housekeeping.

17 (Inaudible discussion off the record.)

18 COMMISSIONER DEAN: Hang on. Okay. We -- can I ask
19 people leaving to keep it down, the Commission still has a
20 couple of housekeeping items.

21 Okay. Any communications from staff?

22 MS. MILLION: No communications this evening.

23 COMMISSIONER DEAN: Okay.

24 Any communications from Commissioners for staff?

25 I see none. Okay. Then we are adjourned.

1 (End of DVD audio transcription of the Planning
2 Commission Meeting for the City of Benicia, on July 10,
3 2014.)

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1 STATE OF CALIFORNIA)
 2) ss.
 3 COUNTY OF ORANGE)
 4

5 REPORTER'S CERTIFICATE

6
7 I, Valerie E. Rasmussen, CSR No. 8900, do hereby
8 certify:

9 That the foregoing transcript was reported
10 stenographically and transcribed by listening to the audio
11 of a DVD of the Planning Commission Meeting for the City
12 of Benicia on July 10, 2014, through instruction by John
13 J. Flynn of Nossaman, LLP.

14 That to the best of my ability, the transcript is
15 a true and correct transcription of the DVD.

16 I further certify that I am neither counsel for
17 nor related to any party to said action nor in anywise
18 interested in the outcome thereof.

19 IN WITNESS WHEREOF, I have subscribed my name
20 this 22nd day of September 2014.

21 

22 _____
23 VALERIE E. RASMUSSEN
24 CSR 8900
25

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