

Cory Barringhaus

From: Tim Morgan
Sent: Thursday, November 06, 2014 8:18 AM
To: Chuck Bennett; Cory Barringhaus
Subject: FW: Valero Benicia Project: Common Interest Doctrine Privileged Communication/Confidential Business Information (CBI)
Attachments: Martinez SGO.pdf; martinez.pdf; roseville06.pdf

FYI

Tim Morgan | Project Manager

ESA | Energy

1425 N. McDowell Boulevard, Suite 200

Petaluma, CA 94954

707.795-0900 | 415.896.0332 fax

707.795-0903 direct

tmorgan@esassoc.com | www.esassoc.com

Follow us on [Facebook](#) | [Twitter](#) | [LinkedIn](#)

From: Bradley R. Hogin [<mailto:BHogin@wss-law.com>]
Sent: Wednesday, November 05, 2014 6:30 PM
To: Tim Morgan
Subject: Fwd: Valero Benicia Project: Common Interest Doctrine Privileged Communication/Confidential Business Information (CBI)

Bradley R. Hogin, Esq.
Woodruff, Spradlin & Smart
[555 Anton Boulevard](#)
[Suite 1200](#)
[Costa Mesa, CA 92626](#)
[\(714\) 415-1006](#)
cell: [\(949\) 500-7983](#)
fax: [\(714\) 415-1106](#)
email: bhogin@wss-law.com

PRIVILEGED AND CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION

CONFIDENTIALITY NOTICE - This e-mail transmission, and any documents, files or previous e-mail messages attached to it, contains information that is confidential and legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that you must not read this transmission and that any disclosure, copying, printing, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify the sender by telephone or return e-mail and delete the original transmission and its attachments without reading or saving in any manner. Thank you.

Begin forwarded message:

From: "Flynn, John J." <jflynn@nossaman.com>
Date: November 5, 2014 at 5:42:12 PM PST
To: "Bradley R. Hogin" <BHogin@wss-law.com>
Cc: "Diane Sinclair Esq. (diane.sinclair@valero.com)" <diane.sinclair@valero.com>
Subject: Valero Benicia Project: Common Interest Doctrine Privileged Communication/Confidential Business Information (CBI)

Brad: Please see the answers to questions below.

Note that the attachments hereto, which we are merely forwarding as transmitted by UP, contain UP CBI (see no. 3, below), as we have been advised by UP, and should be treated accordingly.

Question 4 includes comments/questions posed and phrased by the Water Board, using the Board's language, though we have not shown quotation marks.

Questions 5 thru 8 are questions you had posed.

Please let us know if you have any further questions.

John

From: Melissa B. Hagan [<mailto:MBHAGAN@UP.COM>]
Sent: Wednesday, November 05, 2014 3:50 PM
To: Sinclair, Diane
Cc: msteel@mofo.com; "Flynn, John J. (jflynn@nossaman.com)"@UP.COM
Subject: Valero Benicia Project_Common Interest Doctrine

1. FRA inspections of track and cars -- include places like Roseville yard? **Yes, FRA inspects both tracks and cars, including major classification yards such as Roseville**
- 2.
2. Inspection of train prior to departure from Valero's facility in Benicia -- is it done, and to what level? **If the train made up at Valero and it is going to operate for a distance great than 20 miles it will need a departure air test (class 1) and inspection of the cars and locomotives to insure everything is compliant.**
- 3.
3. You may recall that Chris Barkan from the U of I is retained by the City as a "rail" expert. Chris is requesting permission to gain access to and use certain UPRR data. That data is identified below. Can you let us know soon what it would take to allow Mr. Barkan access to this information? We need to use certain information that is available in the UP's Operating Timetable between Roseville and Benicia (ROSEVILLE AREA Timetable I believe). Specifically, we need by milepost: Maximum Speed (and any speed restrictions) Method of Operation (what I think they refer to as Rule 6.3) It would be helpful to know the Effective Date of the current timetable. **Attached below.**
- 4.
4. From Suisun City to the Refinery, the UPRR tracks run through a marsh area. Therefore, strict speed limits should be imposed to help reduce the possibility of a spill to this sensitive habitat. To prevent potential railcar overturns, or spills into the Sulphur Springs riparian corridor, will there be slower speed limits set in this area? It is not clear whether the Department of Transportation (DOT) and Association of American Railroads (AAR) programs setting maximum speed limits applies to the UPRR tracks only outside the

Refinery, or on Refinery property as well. What will be the maximum speed limit once the railcars reach the refinery property? The refinery has selected a 5 m.p.h speed limit. Outside the refinery the DOT Emergency Order and AAR agreement will apply.

5.

5. Given that the Valero project is based on 50 car trains running to and from Roseville, what are the routes crude oil tank cars would come to the Roseville yards? Our information suggests three possible routes (north to the Oregon board along I-5, northeast to Nevada via I-70 and the Feather river canyon, and east to Nevada along the I-80 corridor). We need to know if any of those would be used, if any would not be used, and in the case of the Feather River route, what is the exact route? The Interstate Commerce Act restricts disclosure of information “about the nature, kind, quantity, destination, consignee, or routing” of individual shipments of any commodity. See 49 U.S.C. § 11904. UP can provide this information to an officer, employee, or agent of a state; however, it is unlawful for any such person to then knowingly disclose this confidential information to another person, except the shipper or its consignee. *Id.* This provision prevents the disclosure of disaggregated traffic information of crude oil.

6.

6. If it's likely that other crude oil train routing would occur within California, for example from the southwest, what are those routes? Would Roseville still be used in those cases? The Interstate Commerce Act restricts disclosure of information “about the nature, kind, quantity, destination, consignee, or routing” of individual shipments of any commodity. See 49 U.S.C. § 11904. UP can provide this information to an officer, employee, or agent of a state; however, it is unlawful for any such person to then knowingly disclose this confidential information to another person, except the shipper or its consignee. *Id.* This provision prevents the disclosure of disaggregated traffic information of crude oil.

7.

7. Whichever routes would be used in California, we need sufficient information from Union Pacific to describe emergency planning along those lines. Such information was made available for the Roseville to Benicia corridor. We need to know where the command centers would be, locations of first responder assets, and emergency plans for spills or accidents involving the flammable / hazardous materials like crude oil. Incident command centers are located near the incident and determined in coordination with local first responders and guidance provided by the National Incident Management System. The Hazardous Material Emergency Response Plan provides the plan for responding to incidents involving hazardous materials, including crude oil. Union Pacific has the following assets to assist with a response to an incident at the refinery or in route to Benicia: 1) two environmental contractors--CH2MHill, Arcadis; 2) Fire Response Assets--Firefighting Trailer and Foam Cache; 3) Transfer equipment (liquid only); 4) Hazardous Materials Manager in Roseville; 5) Air Monitoring equipment in Roseville; 6) OSRO qualified contractors with offices in area--NRC Environmental and Clean Harbors (located at refinery).

8.

8. Again given that the Valero project assumes Roseville as the hub, how will the trains bringing crude to Roseville be configured? We understand they will now all be unit trains. Is there a typical number of cars for this. What would the typical schedule be per day to Roseville? If Roseville would not be the only California hub, what would the others be? **Union Pacific does not have hubs. Roseville is a service unit. Unit trains will be configured at a railyard outside of California that then come to Roseville and are assembled into 46 to 50 tank cars with a six axle locomotive on the front and back of the consist. The typical schedule will be one train to Roseville per day. There are currently no plans for any other service unit to provide crude trains to the Valero Benicia refinery.**

=====
Melissa B. Hagan
Sr, Reg. Environmental Counsel
Union Pacific Railroad Company
801 Louisiana, Ste. 300
Houston, TX 77002
Direct: (713) 220-3207
Fax: (713) 220-3215
Cell: (713) 907-6810
mbhagan@up.com

**

This email and any attachments may contain information that is confidential and/or privileged for the sole use of the intended recipient. Any use, review, disclosure, copying, distribution or reliance by others, and any forwarding of this email or its contents, without the express permission of the sender is strictly prohibited by law. If you are not the intended recipient, please contact the sender immediately, delete the e-mail and destroy all copies.

**