

**1a. Phillips 66's Statement Of Overriding Considerations
Improperly Ignores All Class I Impacts Along The Mainline (1:50):**

Speaker: _____

I'm Bob Howard and I live in Nipomo CA.

Phillips claims that due to federal preemption, they don't have to mitigate any of the Class I impacts identified for the mainline. So their overriding considerations simply ignore those impacts.

Here's the reality -- at a previous hearing, SLO County's Deputy Counsel was asked whether Commissioners could take into account the concerns of cities and counties along the mainline.

She responded that the County must abide by state and local laws and policies and it can evaluate the mainline impacts. Quote -- "We are required to look at the trickle environmental effects of a project we are evaluating and if we approve it, what may happen as a result." End quote.

She stated that what Phillips' attorney claimed about preemption, quote, "goes too far. We need to consider federal law, but also need to apply CEQA, the county's General Plan, etc. CEQA requires you to look at all significant impacts including the mainline." End quote.

She cited two California cases. Quote - "When regulation does have a substantial external impact, the welfare of the state's citizens beyond the borders of the particular municipality cannot be disregarded."

And, quote - "Not only does the County have the right to consider the effects of its land uses on citizens of other jurisdictions, it has a constitutional responsibility to do so."

Lastly she reported, quote - "Staff still believes a Class I diesel PM impact exists under the 3-train alternative. I recommend you take the position that some impacts are Class I. It's too risky to say preemption overcomes (them). We need to address this in overriding considerations." End quote.

Therefore, our Commissioners must disregard Phillips' claim of preemption. The mainline impacts must be addressed.

PLANNING COMMISSION

AGENDA ITEM: 3
DATE: 9/22/16

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PLANNING COMMISSION

The San Luis Obispo County Planning Commission Welcomes
Your Comments for the Phillips 66 Rail Spur Hearing
September 22, 2016

NO OIL TRAINS

1. SAFETY TO THE POPULATION & ENVIRONMENT

2. WHO IS GOING TO POLICE THESE TRAINS
WHO IS GOING TO PAY FOR THE POLICING
OF THIS PROJECT?

JOHN POKRAJAC
PASO ROBLES LA

239 2425

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FOR A SANE COMMUNITY, TO APPROVE
THE REGULAR PASSAGE OF OIL TRAINS
THROUGH THE MIDST OF A DENSELY
POPULATED AREA IS, ON ITS FACE,
UTTERLY PREPOSTEROUS. INSANE.
ENOUGH TRAINS-RELATED ACCIDENTS
HAVE OCCURRED EVERYWHERE FOR
A COMMUNITY TO REALIZE THAT,
HUMAN ERROR IS INEVITABLY A
DECISIVE FACTOR IN ALL HUMAN
ENDEAVOURS. CATASTROPHES DO
OCCUR. THE ONLY WAY TO AVOID
THEM IS TO PREVENT OIL-LOADED
TRAIN TO PASS THROUGH THE →

community.

IF WE DON'T LEARN FROM THE
LONG HISTORY OF CATASTROPHIC
TRAIN ACCIDENTS - WE WILL
REPEAT THAT HISTORY. ALL
THE TALK WILL BE JUST THAT -
EMPTY TALK. CATASTROPHES
CAN'T BE REVERSED - ONLY
PREVENTED IN THE FIRST PLACE.

Amir BURSTEIN

11295, 2ND FLOOR, APT #29, SLO, 93405
917-697-4559

Amir.BURSTEIN@GMAIL.COM

2b. Claimed Overriding Consideration: Economic Benefits To SLO County (1:40)

Speaker: _____

I'm Martin Ake and I live in Nipomo.

As an overriding consideration, Phillips claims SLO County would be hurt economically. And that's based entirely on the premise of insufficient California crude available via pipeline.

- But state oil production data from 2005 through 2014 shows that while there was a statewide decline of 10.5%, production in the Central Coast region increased by 98.9%.
- The only true claim of diminished sources is due to the Refugio oil spill and temporary shutdown of certain pipelines. Once they're restored, SMR's processing will be back to full capacity. And please note - Phillips' proposal was made years before the Refugio incident. So it has nothing to do with their project; it's only being used as another misleading excuse for crude-by-rail.
- Phillips has also stated they want rail for "optionality" ... to use rail whenever they can access cheaper crude to increase profits. Therefore, rail is a "want", not a "need" for the SMR.
- Phillips has specifically avoided saying they'd close the SMR or lay off workers if the rail terminal isn't built, because that isn't the case. They've said, quote -- "such discussions have never been held ¹" and, "No-one said we'd shut down. ²" End quote.
- On the other hand, rather than contributing to our economy, their import project will harm it. If they have their way, they'll fund Canada's economy and workforce ... resulting in loss of jobs and revenue in SLO and neighboring counties.

So Phillips' threat of economic loss to SLO County is false. Even if the project is rejected, the SMR will continue operating, be back to full capacity, retain its employees, and the County will continue receiving the same economic benefits.

(Provide the clerk with your statement as well as the next page.)

¹ Phillips 66 corporate spokesman Dennis Nuss.

² Phillips' Western Regional Manager for Government Affairs, Stephanie Williams.

PLANNING COMMISSION

AGENDA ITEM: _____

DATE: _____

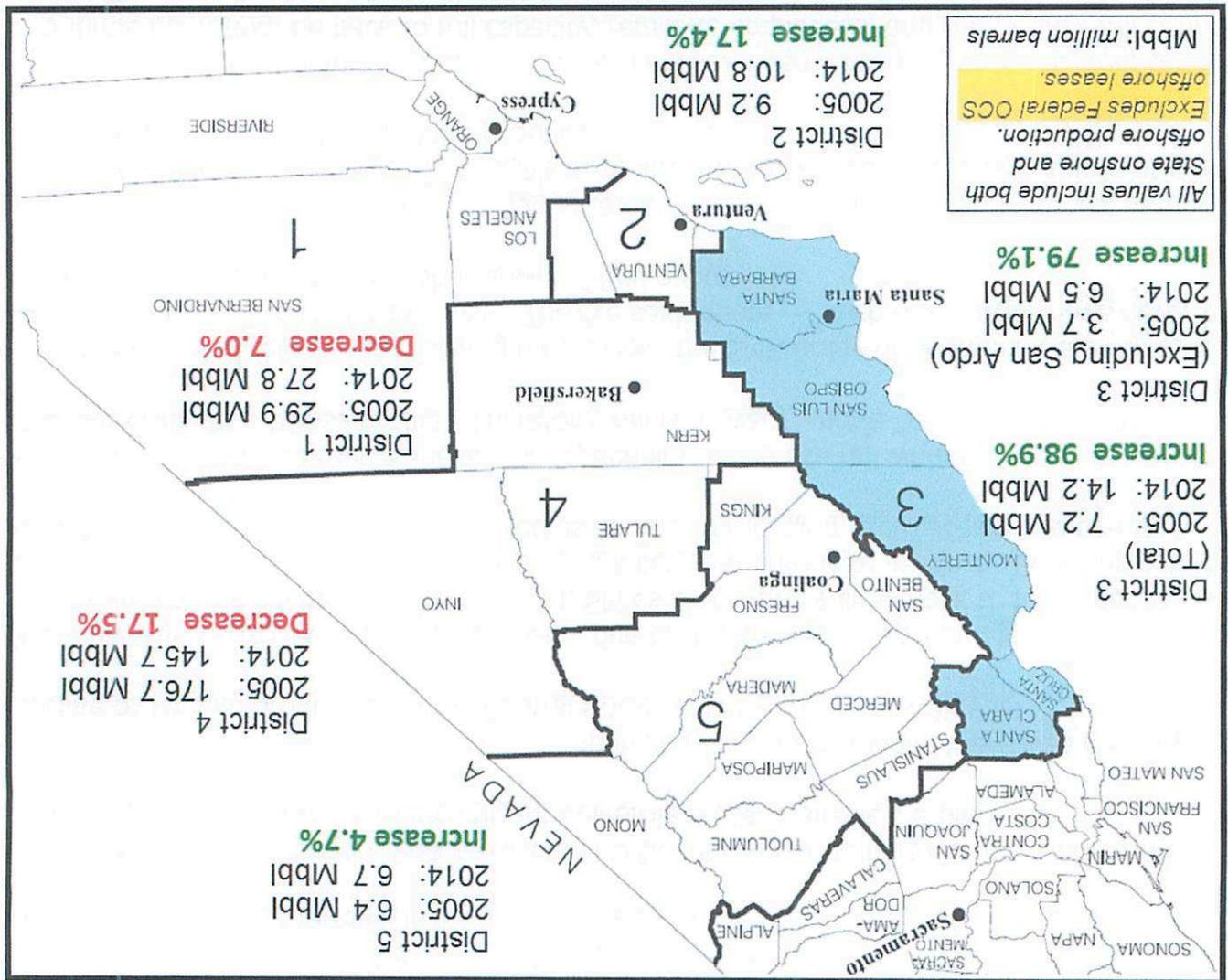
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9/22/16

CALIFORNIA STATE OIL PRODUCTION 10-YEAR HISTORY 2005 - 2014

OVERALL STATE PRODUCTION **DECLINED 10.5%**

HOWEVER, CENTRAL COAST REGION PRODUCTION **INCREASED 98.9%**



From: Annual and Preliminary Annual Reports 2005 through 2014 California Oil and Gas Production Statistics, Published by California Department of Conservation, Division of Oil, Gas, and Geothermal Resources

Statement to the SLO Planning Commission, Sept. 22, 2016

PLANNING COMMISSION

By

Mary Jane Adams and Klaus Schumann

26 Hillcrest Drive, Paso Robles. (805) 238-4454

AGENDA ITEM: _____

DATE: _____

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We have lived in Paso Robles for more than 25 years and believe that an approval of Philipps 66's application would be a giant step backwards.

Over the last two decades, Paso has become a tourist end destination, surrounded by many wineries in a beautiful environment. SLO County is now among the Country's leaders for renewable energy. The solar plants on the Chorizo plain are among the largest on Earth. Much of our economic future lies in tourism and renewable energy, not in the expansion of the fossil fuel economy of the last century. Therefore, we strongly urge you to vote against this proposal.

Moreover, the proposed trains would not only endanger the health and safety of nearly half of the residents, but would also significantly contribute to air pollution and global climate change.

In addition, Paso, San Miguel, Sta. Margarita, San Luis Obispo and several South County Communities are particularly vulnerable to RR accidents given the respective location of the tracks through those cities. In Paso, just about every structure of importance is located near the tracks!

P 66's proposal is part of its overall "oil-by-rail" strategy and has little to do with local jobs. Why should our County accept the risks of tar sands oil from Canada to be refined for the Asian Market? Altogether, we'd have much too much to lose and very little to gain.

A rejection is clearly in the best interest of our beautiful County. I urge you to adopt your staff's recommendations. Thank you for your attention in this crucial matter,

September 22, 2016

PLANNING COMMISSION

AGENDA ITEM: 3
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TO: The San Luis Obispo County Planning Commission

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FROM: Elie Axelroth

RE: Phillips 6 Rail Spur

I have been a resident of San Luis Obispo for over 30 years and a homeowner for most of that time, so yes, I'm highly invested in the decision the Commission will make regarding the Phillips 66 rail spur.

Whether Phillips 66 requests five oil trains per week or three or one, the ten Class I impacts cannot be mitigated.

I am comforted by the fact that the Commission has considered the Union Pacific oil spill in Mosier, Oregon this past June 2016. This spill was due to faulty bolts. Something so simple as a faulty bolt can cause an accident. I have to assume that your consideration of this spill in Oregon will lead this Commission to vote no on the proposed project.

And yet, the word "accident" is a misnomer because in this case, a disaster is predictable. Perhaps not where or when, but with certainty, derailments will continue.

We know that the rail infrastructure is old. You heard testimony as recent as this morning that the trestle, for example at Stenner Creek, may not withstand even current usage.

Our rail line infrastructure, just like most of us in this auditorium are not getting any younger. This means that the risks will only grow.

We have witnessed this summer a fire season of previously unheard of proportions. The Chimney Fire and now the fire on Vandenberg AFB have been especially challenging to fight. The California fire season previously ran from mid-May to mid-October. Cal Fire is now planning for an essentially year-long season. In the case of a derailment and ensuing fire, to call the potential disaster "apocalyptic" is not an exaggeration.

I urge this Commission to deny Phillips 66 request.

Sincerely,



Elie Axelroth

**32. If Phillips Rejects Or Defeats Any Conditions Of Approval,
The County Must Adopt A "Poison Pill" (1:30):**

PLANNING COMMISSION

Speaker: Kathleen Sorensen #36 green

AGENDA ITEM: 3

DATE: 9/22/16

I'm Kathleen and I live in Nipomo.

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TEN Class One impacts that cannot be mitigated remain under the three-train alternative. Therefore, there are no acceptable conditions of approval and you must reject the project. Even the condition I'm going to describe does not mitigate the impacts. But I'm stating it for the record.

Together, this commission and our County's citizens are developing a list of stipulations which Phillips must adhere to regarding their rail terminal. However, for one reason or another, after this Commission finalizes them, Phillips or other entities may cause those conditions to be abandoned.

Therefore, as a condition of approval -- SLO County's Deputy Counsel recommended that the conditions include a "poison pill" ... that if any of the conditions are found not to be valid or enforceable, approval of the entire project, prior to construction of the terminal, will be withdrawn by the County.

SLO County Citizens in opposition to the project overwhelmingly agree with this poison pill stipulation. As the representatives of citizens, our Planning Commissioners must include this condition.

(Add if you have time ...)

But I must again state that no set of conditions can mitigate the Class One impacts. The project in its entirety is unacceptable to our citizens and voters.

6. No Diesel Locomotives Operated During Days Of Air Pollution Health Risk (1:30):

Speaker: _____

I'm _____ and I live in _____.

TEN Class One impacts that cannot be mitigated remain under the three-train alternative. Therefore, there are no acceptable conditions of approval and you must reject the project. Even the condition I'm going to describe does not mitigate the impacts. But I'm stating it for the record.

Repeatedly during these hearings it's been established that there are already many violations of the PM10 and PM 2.5 health standards on the Mesa, and that exhaust from diesel locomotives will only add to the already dirty air and make the health threat to the citizens even higher. No one has disputed that.

Therefore, as a condition of approval -- no diesel locomotive will be operated on Phillips' property between 9 AM and 6 PM on days where there is an increased health risk. Those are the hours of peak concentrations of fine particulate matter on the Mesa. This condition will apply on any day projected by the APCD to exceed the state air quality health standard for PM10 or PM 2.5 on the Nipomo Mesa.

Each day, Phillips must check with APCD to learn their projection of an air quality state health violation for the next day. If there is a violation expected, then diesel locomotives should not operate the next day, as indicated above.

(Add if you have time ...)

But I must again state that no set of conditions can mitigate the Class One impacts. The project in its entirety is unacceptable to our citizens and voters.

PLANNING COMMISSION
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17. Reduced Lighting At Night (1:45):

I'm STAN WYNE and I live in NIPOMO. #40 green

TEN Class One impacts that cannot be mitigated remain under the three-train alternative. Therefore, there are no acceptable conditions of approval and you must reject the project. Even the condition I'm going to describe does not mitigate the impacts. But I'm stating it for the record.

After dark, due to operational and security issues, the rail terminal will be lit up like a baseball stadium ... both within its perimeter and along its fence lines. This will be a source of incredible light pollution to residents who look down upon the refinery.

Therefore, as conditions of approval --

1. Before any lighting plans are approved, sample light towers or fixtures must be erected at the actual proposed locations of the terminal and perimeter. They must be tested to see their actual impact on residents ... and tested in all atmospheric conditions including fog. Adjustments to the plan must be made as required.
2. The height of the light towers must also be tested. The height of those towers must be as low as possible to minimize their effect on neighboring residences.
3. All lights related to the rail terminal must be "down-shaded" ... that is, pointed down.
4. Lastly, when operations are not going on, lights in appropriate areas must be shut off, especially at night. Where perimeter lights are used for security, they should be used in conjunction with a motion detection system ... that is, illuminated at night only when close-by motion is detected.

(Add if you have time ...)

But I must again state that no set of conditions can mitigate the Class One impacts. The project in its entirety is unacceptable to our citizens and voters.

PLANNING COMMISSION

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3. Phillips Must Provide A Plan For Track Construction (1:35):

Speaker: Joe Codelge #41

I'm Joe Codelge and I live in Nipomo.

TEN Class One impacts that cannot be mitigated remain under the three-train alternative. Therefore, there are no acceptable conditions of approval and you must reject the project. Even the condition I'm going to describe does not mitigate the impacts. But I'm stating it for the record.

A major cause of derailments is track failure ... including tracks failing due to the weight of crude oil trains, sheared lag bolts, etc.

Therefore as a condition of approval -- Phillips must provide the County with track construction specifications for their new rail terminal.

The specifications must conform with requirements of the Code of Federal Regulations Part 213 for Class 5 track, consistent with the mainline design standard. And they must conform to the Federal Railroad Administration's "Track and Rail Infrastructure Integrity Compliance Manual." This includes, but is not limited to roadbed construction, track geometry, and track structure; and, construction materials, testing, methods, and technologies.

Inspection during initial track construction, and for all subsequent maintenance and track rehabilitation, must be performed by inspectors qualified in accordance with 49 CFR 219.7, and shall also be guided by the FRA's "Track and Rail Infrastructure Integrity Compliance Manual".

(Add if you have time ...)

But I must again state that no set of conditions can mitigate the Class One impacts. The project in its entirety is unacceptable to our citizens and voters.

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5b. Claimed Overriding Consideration: The Project Provides Air Quality Benefits (1:50)

Speaker: ROSEMARY NELSON #42 green

I'm _____ and I live in Nipomo.

In its overriding considerations, Phillips would have us believe that bringing in mile-long crude oil trains, each with three locomotives, with locomotives shuffling around the refinery, with additional trucks and other vehicles spewing exhaust at the terminal, and with the refining of tar sands ... that local residents should thank the company for supposedly improving their air quality.

And all of that thankfulness would be based on Phillips' magical timing of the intense winds that blow off the Pacific ocean, working around the heavy gusts.

Well, the credible conclusions should come not from Phillips, but from your own staff members who have conducted many man-years worth of investigation into the issue. And their work resulted in a Final EIR which stated that the project, even with the three-train alternative, would have Class I, significant and unavoidable impacts at the refinery. They are ...

#1: Operational Criteria Pollutant Emissions: Quote -- "Operational activities associated with the Rail Spur Project within SLO County -- that is, on the project site and on the mainline within SLO County, would generate criteria pollutant emissions that exceed SLO County Air Pollution Control District thresholds. (The impact) would remain a Class I impact."

#2: Greenhouse Gas Emissions: Quote -- "Operational activities associated with the Rail Spur Project would generate GHG emissions that exceed SLO County Air Pollution Control District thresholds. (The impact) would remain a Class I impact." End quote. Please note - the GHG emissions include those both at the refinery and along the mainline.

Therefore - if you believe your primary job is to protect our citizens, you know which way the wind is blowing. It would blow cancer-causing pollutants into the lungs of homeowners. You must not accept the overriding conditions written by Phillips themselves.

Source: Page 5-71, Final EIR, 12/15

PLANNING COMMISSION

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5a. Claimed Overriding Consideration: The Project Provides Air Quality Benefits (1:55)

Speaker: Bill Kennedy #45 green

I'm Bill K. and I live in Nipomo.

In its overriding considerations, Phillips states "the Project will provide marked air quality benefits ... (it) will result in reduced risks within the community."

This is in direct conflict with research by this commission's staff and consultants. After exhaustive analysis they concluded, and I quote:

"Policy states the County will, 'Ensure land use decisions protect residents from adverse effects of air pollution.' (But) the Project would bring locomotives to the site for unloading heavy crude. The diesel exhaust, upwind of many residences, would cause a significant impact to the air quality for these residences.

"The Mesa is (already) in a level of severity for ozone, PM 2.5, and PM 10 ... including hazardous materials that get into lungs. The PM2.5 particles can travel deeper. The project would result in additional negative health impacts.

"The South County Area Plan requires that 'any expansion of existing petroleum processing facilities shall meet SLO Air Pollution District standards.' The Project does not comply with this requirement as it exceeds the minimum threshold for cancer risk. This includes emission sources at the project site as well as the mainline near the SMR. These would directly impact neighboring residences (and) employees in the vicinity of the Refinery.

"Even with mitigation measures the Project would exceed the threshold of cancer-causing diesel particulate. This project would not ensure that all residents are protected from the adverse health effects of air pollution (and is) inconsistent with requirements of the General Plan with regard to air quality.

"Therefore, the project is not compatible with neighboring residential or agricultural uses." End quote.

So, even with Phillips' attempts to move their trains and trucks while the wind isn't blowing on the Mesa, thousands of local residents will have their health risks increased, not decreased. Who do you believe ... Phillips or your own team of experts?

PLANNING COMMISSION

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3b. Claimed Overriding Consideration: Additional Benefits To SLO County Based On Construction (1:55)

Speaker: Laurance Shinderman #47 green

I'm _____ and I live in Nipomo.

Phillips would have you believe that construction activity associated with the rail terminal will add lots of dollars to SLO County's economy, making that an overriding consideration.

But here's the reality -- the rail terminal will cost SLO County an enormous amount of money. Our County will have to account for expenses and losses like these ...

- Salaries for additional emergency services personnel who will likely have to be hired.
- Training for personnel to handle hazmat spills, fires and explosions, beyond what Phillips might contribute.
- New equipment to handle hazmat emergencies ... fire apparatus, oil spill containment materials, etc.
- Long-term cleanups & monitoring required when tar sands spills into our fields and streams and takes years to remove, beyond what Union Pacific might pay.
- An emergency notification system for South County, in anticipation of a major accident from flammable crude oil trains and unloading facilities.
- Additional County staff to monitor the new rail operations and assure compliance with the project's many conditions of approval.
- The loss of sales and tax revenues when businesses have to close due to oil spills and disasters.
- The loss of sales and hotel tax revenues when fewer tourists visit and stay in SLO County.
- The loss of jobs and tax revenues when there are fewer business start-ups.
- And the funding of long-term lawsuits against Phillips, Union Pacific and others when accidents occur.

Therefore -- any temporary economic benefits from rail terminal construction, or the 12 permanent jobs it may generate, or the small increase in taxes Phillips might pay, will be vastly overshadowed by the permanent damage the project will have on the County's economy.

PLANNING COMMISSION

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**1a. Phillips 66's Statement Of Overriding Considerations
Improperly Ignores All Class I Impacts Along The Mainline (1:50):**

Speaker: Bob Howard #46 green

I'm Bob Howard and I live in Nipomo CA.

Phillips claims that due to federal preemption, they don't have to mitigate any of the Class I impacts identified for the mainline. So their overriding considerations simply ignore those impacts.

Here's the reality -- at a previous hearing, SLO County's Deputy Counsel was asked whether Commissioners could take into account the concerns of cities and counties along the mainline.

She responded that the County must abide by state and local laws and policies and it can evaluate the mainline impacts. Quote -- "We are required to look at the trickle environmental effects of a project we are evaluating and if we approve it, what may happen as a result." End quote.

She stated that what Phillips' attorney claimed about preemption, quote, "goes too far. We need to consider federal law, but also need to apply CEQA, the county's General Plan, etc. CEQA requires you to look at all significant impacts including the mainline." End quote.

She cited two California cases. Quote - "When regulation does have a substantial external impact, the welfare of the state's citizens beyond the borders of the particular municipality cannot be disregarded."

And, quote - "Not only does the County have the right to consider the effects of its land uses on citizens of other jurisdictions, it has a constitutional responsibility to do so."

Lastly she reported, quote - "Staff still believes a Class I diesel PM impact exists under the 3-train alternative. I recommend you take the position that some impacts are Class I. It's too risky to say preemption overcomes (them). We need to address this in overriding considerations." End quote.

Therefore, our Commissioners must disregard Phillips' claim of preemption. The mainline impacts must be addressed.

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2c. Claimed Overriding Consideration: Part 1 Faulty Regional Economic Effects (257 words) (1:55)

Speaker: I'm Mike Young, a Nipomo resident

The proposed "Statement of Overriding Considerations" ('Statement') rests on two faulty assumptions - one is that the project's regional economic impact is wholly attributed to refinery viability; and the other is that federal preemption prohibits you from considering of mainline impacts.

I'll discuss economic and job impacts. Preemption will be addressed later.

We analyzed the three-county Central Coast Region oil industry as a whole - including extraction, pipeline transportation and refining - by using current U.S. Bureau of Economic Analysis modeling tools. BEA is the gold standard for economic prediction models.

The entire analysis has been posted on the project webpage, but I'll summarize it.

The BEA model predicts how changes affect three measures of financial wellbeing: Gross Domestic Product or GDP; regional jobs; and, household earnings and spending.

The oil industry's annual contribution to regional GDP is about \$1.5 billion dollars. Under the three-train alternative the model shows a 4% loss in value. That equates to a \$60 million dollar loss in GDP.

Oil industry data shows over 2,500 people employed in the oil industry. If local oil production is displaced, 10% of those jobs could be lost, and another 200 jobs lost indirectly in other industries. Over 450 total jobs gone.

The oil industry's annual payroll is about \$380 million. 13% of those earnings will be lost - or an annual total of \$49 million dollars.

The results of the BEA analysis tell a very different story than the one-sided portrayal in the 'Statement'. As written, the 'Statement' is clearly vulnerable in an appeal or legal challenge.

PLANNING COMMISSION

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PLANNING COMMISSION

The San Luis Obispo County Planning Commission Welcomes
Your Comments for the Phillips 66 Rail Spur Hearing
September 22, 2016

From: N.G. Taylor
To: Planning Commission
Date: Sept 22, 2016

A have not viewed all public hearings on the expansion of the Phillips 66 facility and request to use a spur track to transport industry materials and products.

My question is whether the Planning Dept, BOS and Commission can limit by contract or agreement the use and function of the spur track and what materials and products can be transported.

For example does the County, state, federal oversight entity have the power to state that the spur track can be built for ingress and egress of equipment used in an emergency in the public interest of health, safety and welfare?

Can the building of the spur track be separated from the issue of Phillips 66 expansion and industry

PLANNING COMMISSION

AGENDA ITEM: _____

DATE: _____

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2e. Claimed Overriding Consideration: Part 3 Options For Approval or Disapproval (248 words) (1:55)

Speaker: I'm Leah Hencier. I'm an attorney and a resident of Nipomo

As you well know, CEQA law requires a lead agency to prepare a "Statement of Overriding Considerations" whenever an approved project creates significant environmental impacts that cannot be mitigated to insignificance.

The 'Statement' must be ratified by your Planning Commission, and it follows the project through any future administrative or legal appeal proceedings intact. It's the most important tool in the County Counsel's tool pouch.

Although courts generally give considerable deference to a lead agency, weaknesses in the proposed 'Statement' are very significant.

Not only are the assumptions about economic factors and the action of federal preemption questionable - as you've already heard - much of the narrative is, word-for-word, as written by the applicant. That must lead a reasonable person to question the Commission's required declaration that the "findings and determinations represent [the Commission's] own, independent conclusions..."

Going through an appeal process armed with the 'Statement' you have in hand is ill advised. The County needs to compare the considerable costs of litigation with the chances of a favorable outcome.

If the Commission wants to approve the project, and improve the chances of beating likely appeals, either the 'Statement' needs to be strengthened, the project revised - or both.

If that isn't possible or practical, then the best course of action may be to not provide a "Statement of Overriding Considerations" at all. Rather, deny the project, and allow the applicant to reevaluate and resubmit a more defensible alternative; or use the appeal process to secure project approval.

PLANNING COMMISSION

AGENDA ITEM: 3

DATE: 9/22/16

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#59

**1b. Phillips 66's Statement Of Overriding Considerations
Improperly Ignores All Class I Impacts Along The Mainline (2:00):**

Speaker: Patricia Hunt

I'm Patricia Hunt and I live in Nipomo.

Phillips claims that due to federal preemption, they don't have to mitigate any of the Class I impacts identified for the mainline. So their overriding considerations simply ignore those impacts.

Yet, this concept was rejected by California Attorney General Harris in the Benicia situation ... where Valero Oil claims the city is preempted from stopping its crude oil trains.

She wrote that local officials have the right and obligation to protect citizens from the health and safety hazards of crude oil trains, regardless of whether the dangers are on the mainline or oil company property.

Quote: "Valero asserted that the ICC Termination Act prohibits the City from taking rail-related impacts and public-safety risks into account. We disagree. ICCTA does not preempt or constrain the City's decision-making authority with respect to a project undertaken by an oil company.

She continued -- "California law requires (a local) agency to disclose the full scope of the project's impacts. To turn a blind eye to the most serious of the impacts, merely because they flow from federally-regulated rail operations, would be contrary to both state and federal law.

"Valero's assertion that the Planning Commission's action is illegal, is without merit." End quote.

This conclusion is supported by the STB declaratory Order just issued on the Valero Refinery in Benicia. The STB decision states: "Valero has not demonstrated that the [Benicia] Planning Commission's decisions... unreasonably interfere with UP's common carrier operations..."

Therefore, our Commissioners must disregard Phillips' claim of preemption. The mainline impacts must be addressed. Like Benicia, the permitting decision here doesn't interfere with UP's ongoing operations.

<http://www.mesarefinerywatch.com/letters.html>

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DATE: 9/27/16

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PLANNING COMMISSION
The San Luis Obispo County Planning Commission Welcomes
Your Comments for the Phillips 66 Rail Spur Hearing
September 22, 2016

County Planning Commission:
I want to add my voice
in opposition to the proposed
Rail Spur.
the environment and
safety take primacy.

→ Jacob Feldman *Jake Feldman*

[Signature]
9.22.2016

→ Marilyn Farmer *Marilyn Farmer*
[Signature]
9.22.16

→ Katherine Tift, *9/22/2016*
Kathleen TIFT

→ Phyllis Davies *Phyllis Davies*

PLANNING COMMISSION

AGENDA ITEM: *3*
DATE: *9/22/16*
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Handwritten text, possibly a date or reference number, appearing upside down. The text is difficult to decipher but appears to include the characters "11. 22. 10".



PLANNING COMMISSION

The San Luis Obispo County Planning Commission Welcomes
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September 22, 2016

THE CDLAB REPRESENTATIVE STATED
THAT TRANSPORTING OIL OVER RR
COULDN'T BE 100% PERFECT.
BUT WE AREN'T TALKING ABOUT BAKING
MUFFINS. ISN'T THIS LIKE SMARTPHONE
MANUFACTURERS STATING THEIR LITHIUM
BATTERIES DON'T EXPLODE AND CATCH FIRE
99% OF THE TIME? THAT IS COLD COMFORT
TO THE MAN WHOSE CAR EXPLODED & BURST
UP AND WHO NEARLY LOST HIS LIFE. THERE
IS NO JUSTIFICATION FOR EXPECTING RESIDENTS
TO RUN THE RISK OF EVEN 1% OF A
DERAILMENT AND FIRE OCCURRING. SMARTPHONE
USERS EXPECT 100% SAFETY IN THEIR PHONES.
WE RESIDENTS OF SLO SHOULD EXPECT 100% SAFETY
FROM CORPORATIONS WHO WANT TO PROFIT AT OUR
EXPENSE.

PATSY STEPHAN
ARROYO GRANDE

2d. Claimed Overriding Consideration: Part 2 Faulty Preemption Assumptions (340 words) (2:45)

Speaker: I'm Sam Saltoun, a resident of Nipomo

The "Statement of Overriding Considerations" hangs on two faulty assumptions - a one-sided economic analysis; and a one-dimensional view of federal preemption, which prohibits any assessment of rail-related impacts.

Mike Young showed how the rail project's economic effects aren't gains, but can actually pull \$60 million dollars a year and 450 jobs out of the economy.

The faulty preemption assumption forces other local, state and federal agencies to absorb unevaluated impacts from a SLO County decision.

How can a private rail terminal that doesn't exist be preempted for interfering with UP's common carrier operations...

And how can a land use decision on whether to build it be preempted from considering any and all impacts - including those on the mainline

The Valero STB decision is clear: A private rail terminal can't be regulated under the Termination Act before it's even built.

Let's consider just federal agencies. The rail project impacts two National Marine Sanctuaries, a National Forest, and a joint services military complex.

County Planning staff has done an outstanding job in managing this controversial project, but one aspect of it is lacking. There's been no proactive consultation with Federal agencies. Simple notification isn't enough under CEQA law.

Federal resources aren't subject to CEQA. Federal agencies have to comply with the National Environmental Policy Act - NEPA - and CEQA law requires proactive consultation.

Whenever significant changes occur, as they have when this project was recirculated - California Code states: "the public agency shall give notice again and consult again"; and that the "local agency should persist in efforts to cooperate..."

The White House Counsel on Environmental Quality, and Governor's Office of Planning and Research jointly published a handbook: "NEPA and CEQA: Integrating Federal and State Environmental Reviews" ... Fifty-six pages of guidance itemizing many "opportunities for coordination" - none of which has been done for this project.

Let's take one example involving National Defense - which is my calling

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The U.S. Strategic Command, and Joint Missile Defense Agency - have interceptor missile launch sites within the standard evacuation distance for High Hazard Flammable Train accidents.

These are not U.S. Air Force commands, and one broadcast letter to Vandenberg doesn't necessarily alert them. Does the rail project have National security implications? The agency that can answer that question doesn't even know about the rail project.

The Statement of Overriding Considerations is ripe for legal challenge because it relies on an overreaching assumption that federal preemption prohibits SLO County from even considering mainline impacts.

Phillips 66 Rail Spur Project: Selected regulatory references and guidelines on coordination of federal, state, local, multi-agency and extra-jurisdictional projects involving both National Environmental Policy Act of 1969 (NEPA) and California Environmental Quality Act (CEQA).

1. Joint Publication: Whitehouse Council on Environmental Quality (CEQ) and California Governor's Office of Planning and Research (OPR) Handbook: "*NEPA and CEQA: Integrating Federal and State Environmental Reviews (February 2014)*" [Attached]: [NEPA and CEQA: Integrating Federal and State Environmental Reviews \(February 2014\)](#)

2. Excerpt from Code of Federal Regulations (CFR):

[40 CFR § 1506.2](#): "[Federal] agencies authorized by law to cooperate with State agencies of statewide jurisdiction... may do so... [Federal] agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements..."

3. Excerpts from California Code of Regulations (CCR):

[14 CCR § 15206\(b\)\(2\)](#) (CEQA Guidelines): The lead agency shall determine that a proposed project is of statewide, regional, or areawide significance if the project... has the potential for causing significant effects on the environment extending beyond the city or county in which the project would be located.

[14 CCR § 15228](#) (CEQA Guidelines): "Where a federal agency will not cooperate... [the] local agency should persist in efforts to cooperate with the federal agency. Because NEPA expressly allows federal agencies to use environmental documents prepared by an agency of statewide jurisdiction, a local agency should try to involve a state agency in helping prepare an EIR..."

4. Excerpts from California Public Resources Code (CPRC):

[CPRC § 21083.7](#): "In the event that a project requires both an environmental impact report prepared pursuant to the requirements of this division and an environmental impact statement prepared pursuant to the requirements of the National Environmental Policy Act of 1969, the lead agency shall... do both of the following, as soon as possible: (1) Consult with the federal agency required to prepare such environmental impact statement. (2) Notify the federal agency required to prepare the environmental impact statement regarding any scoping meeting for the proposed project."

[CPRC § 21083.9](#): "... a lead agency shall call at least one scoping meeting for... a project of statewide, regional, or areawide significance."

[CPRC § 21092.1](#): "When significant new information is added to an environmental impact report after notice has been given...and consultation has occurred...but prior to certification...the public agency shall give notice again... and consult again... before certifying the environmental impact report."

3. Presidential Executive Order: EO 12372 gives the states a mechanism to ensure federal agency responsiveness to state and local concerns. (See: https://www.opr.ca.gov/m_stateclearinghouse.php)

4. Example of a NEPA/CEQA coordinated project involving SLO County: Final Program EIS/EIR Coast Corridor Improvement Project: <https://www.fra.dot.gov/Page/P0727> .