

## **Donna Hernandez**

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**From:** Ramona Hedges  
**Sent:** Tuesday, September 27, 2016 8:46 AM  
**To:** Donna Hernandez  
**Subject:** FW: Letter for Planning Commission Packet for October 5th

Another Phillips email. Thanks Donna

**From:** elquadrillo@charter.net [mailto:elquadrillo@charter.net]  
**Sent:** Monday, September 26, 2016 6:03 AM  
**To:** Ramona Hedges <rhedges@co.slo.ca.us>  
**Subject:** Letter for Planning Commission Packet for October 5th

Dear Commissioners,

On July 8th, 2016, Ryan Hostetter wrote to Phillips 66 a letter from which I quote: "This letter serves to inform you that without the necessary information and funding the county cannot complete processing of the application as directed by the Planning Commission. Therefore, pursuant to Title 23, Coastal Zone Land Use Ordinance, 23.02.056, if necessary information is not received within 90 days of the May 16th Planning Commission Hearing (August 15th, 2016), the project will be deemed withdrawn."

To quote from the staff report prepared for September 22nd: "...the additional fees have not been paid nor nor has the detailed information (requested by the Commission) regarding how the three train option would function been submitted.."

At the September 22nd hearing, Commissioner Mayer asked whether the Phillips 66 project would even be before your commission if it were something ordinary, such as a garage conversion. In other words, he was asking whether, if equal treatment were given to all applicants, the Phillips 66 project would be recognized as withdrawn.

Mr. Bergman did not answer with an unambiguous "no it would not be before you," but did seek to explain why an exception had been made in this case, with talk of the great public interest the project had received. Given that the majority of public comment has been moved by grave concern about the impacts and dangers of this project, and that equal treatment of this applicant would have removed this danger through the withdrawal of the project, this seems like a peculiar and unhelpful line of reasoning.

Fundamentally, before you grapple any further with project conditions, or a choice between approval and denial, you need to determine whether, in fact, this project SHOULD be recognized as withdrawn. Already, staff has worked assiduously, investing many hours, since August 15th, paid for not by the applicant in line with the County's cost recovery policy, but by the very public whose safety is threatened by this project. This sets a terrible precedent: why should ANY applicant pay their fees if the option has opened of demanding the same favored treatment being extended to Phillips 66? On what basis could any other freeloading applicant be discriminated against?

While there is no way to get back the hours county staff has already expended on the public's dime, the expenditure of further hours and resources can be prevented, and the principle of equality before our laws and policies can be reaffirmed, if your Commission will immediately turn to settling the question of whether in fact this project should be before you at all.

On October 5th, before, or rather than, continuing with your current examination of conditions of approval, your Commission should consult Counsel on your options for dealing with the question of withdrawal. If your Commission has the authority to declare the project withdrawn, I urge you to determine whether this applicant, by paying no fee and submitting only desultory efforts at information which failed to answer the Commission's request, had any justification for being treated as anything but withdrawn, using the criterion of whether an ordinary citizen seeking a garage conversion, and falling similarly short of the requirements, would be accommodated in any way other than in having his or her withdrawal recognized. Settle this matter first, rather than take a course of action (approval or denial) which would keep staff working on it through the rest of your deliberations and a likely appeal to the Supervisors.

If your Commission lacks the authority to make such a determination, I urge you to refer the matter to the Supervisors, the ultimate authority, and to suspend all work on the Phillips 66 project, using your meeting time on October 5th to craft a letter to the Supervisors asking them to make a determination on whether this project should be deemed withdrawn, and asking them, if they should determine that it is not withdrawn, to explain the consequences of any precedent being set by this special treatment of a favored applicant. No work should be done on this project until you hear back from the Supervisors, who would have to make this decision at an agenda meeting.

While I thank you for your careful work on this and many other projects, respect for laws and policies depends on equal treatment of all. I urge you to uphold this first and foremost.

Many thanks,

Eric Greening