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**The Mesa Refinery Watch Group**

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**DERAIL THE SPUR**

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**MESA REFINERY WATCH GROUP**

**Rebuttal To Phillips 66's Claims  
During The Public Hearings  
On The Company's Rail Terminal Project**

**Submitted To SLO County Planning Commissioners**

**April 25, 2016**



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## 1. PHILLIPS 66'S TRUE MOTIVATION ISN'T "LOCAL" - IT'S A CORPORATE, NATIONAL DESIRE FOR CRUDE-BY-RAIL

- a. **Phillips 66 Claims:** Local conditions at the Nipomo refinery require the plant to now access crude via delivery by rail.
- b. **The Reality:** For 60 years Phillips' local refinery received crude via a benign pipeline - not one drop by rail. Now they claim their sources for crude-by-pipeline are diminishing, and jobs are at stake. So in the fall of 2013 they filed to start receiving crude by rail.

But their reason for "rail" is a deceptive "red herring." In 2012 Phillips was spun off from ConocoPhillips as new company. In their first annual report (see following pages) they stated their new corporate, national strategy. It was to access lower-cost crude, and to deliver it by rail.

***Their report stated - "We're Taking A Classic Company In A New Direction."  
They said lower-cost crude can "give Phillips a competitive advantage in the global marketplace.  
However, limited domestic pipeline creates a challenge to transporting lower-cost crudes.  
In 2012, we reached an agreement to manufacture 2,000 railcars  
for the transport of crude to refineries."  
They called it their "crude-by-rail strategy."***

Phillips' CEO said: "Our opportunity is to get advantaged crudes to the West Coast ... moving Canadian crudes into California (by) building rail facilities. A savings of \$1 per barrel is worth about \$450 million of net income to us."

So their true motivation is clear -- to gain a competitive advantage and far higher profits. And their local refinery must now fall in line with this new corporate dictate. It's a new business model to generate higher profits, nationally. It's not about the local refinery going out of business and jobs being lost.

In fact, Phillips' spokesman, Dennis Nuss, was interviewed by the New Times. The report said - "When asked if Phillips had considered shutting the refinery if the rail spur wasn't approved, Nuss said such discussions hadn't occurred."

<http://www.phillips66.com/EN/newsroom/feature-stories/Pages/AdvantagedCrude.aspx>

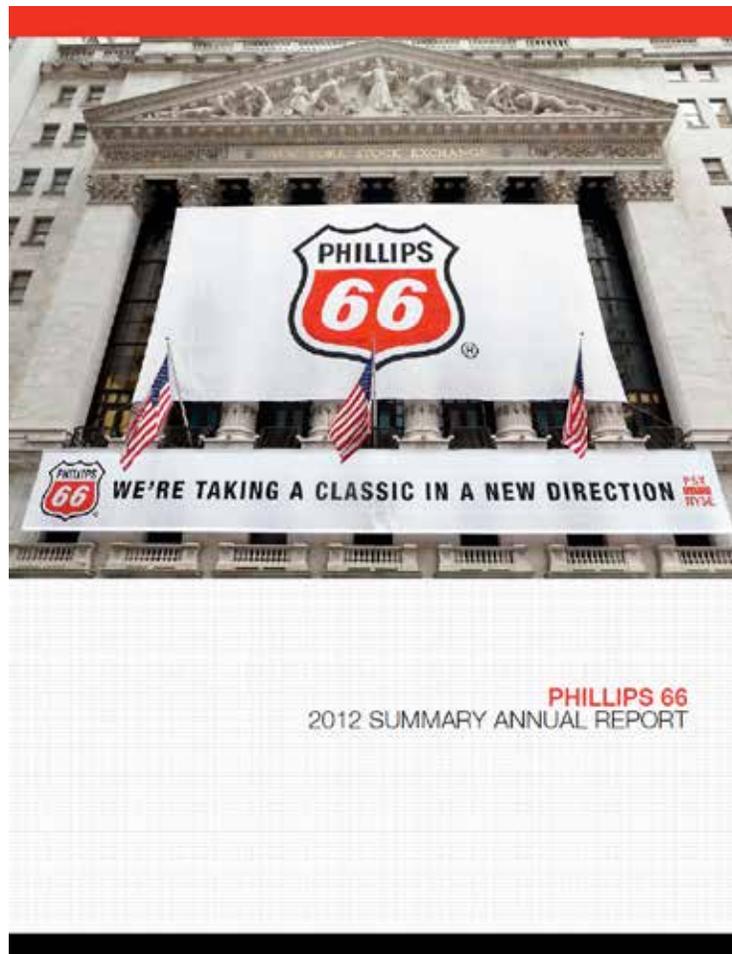
<http://www.phillips66.com/EN/about/reports/Documents/Phillips-66-Summary-Annual-Report.pdf> (2012 report)

<http://www.newtimeslo.com/cover/11850/a-crude-proposal-the-pros-and-cons-of-a-controversial-phillips-66-oilbyrail-project/>  
September 12, 2013 Transcript, pdf 7: Available at: [http://www.phillips66.com/EN/investor/presentations\\_ccalls/Documents/Barclays\\_091213\\_Final.pdf](http://www.phillips66.com/EN/investor/presentations_ccalls/Documents/Barclays_091213_Final.pdf)

*"We're Taking A Classic Company  
In A New Direction"*

**(Lower Cost Crude Shipped By Rail)**

**- Phillips 66 (2012 Annual Report Issued 2013)**



***“(In 2012) Representatives from key areas of our business had been working on our crude-by-rail strategy. We’ve invested a great deal in developing relationships with the railroads and railcar suppliers (to give us) a pipeline on wheels.”***

The American shale revolution has the potential to give Phillips 66 and other domestic manufacturers a sustainable competitive advantage in the global marketplace. Indeed, companies that manufacture energy-intensive products are likely to become more competitive as a result of growth in low-cost energy supplies in the U.S., and many are returning to the U.S. after a 30-year phase of offshoring.

### Insights Lead to Major **Railcar** Order

The recent development of shale plays in the United States has created numerous opportunities for energy companies. However, limited domestic pipeline infrastructure creates a challenge to accessing and transporting these lower-cost crudes. With insight into the market and the position to move quickly, Phillips 66 found a solution. In 2012, we reached an agreement with a railcar supplier to manufacture 2,000 crude oil railcars for the transport of shale crude to our East and West Coast refineries.

“Representatives from key areas of our business had been working on our crude-by-rail strategy,” said Joe Gallagher, director, Commercial Truck and Rail. “We wanted to get a railcar order in quickly so we could get the cars in service and deliver cost-advantaged crude to our refineries as soon as possible.”

However, we weren’t the only company looking for railcars, making the market extremely competitive. Production backlogs across the industry presented numerous challenges to the team, but the magnitude of our order, coupled with our speed to the market, provided us with significant attention and momentum from railcar supply companies.

“We’ve invested a great deal of effort into developing relationships with the railroads and railcar suppliers, which helped us in the bidding and negotiating process,” said Gallagher. “It was also important for us to work with a company that would manufacture the cars in the United States. Our existing relationship with the eventual supplier and the size of our order helped us secure favorable terms and an earlier delivery window compared to other proposals.”

More than 100 of the new railcars were in service by the end of February 2013, and the remaining cars will be delivered throughout 2013 and early 2014. These railcars provide a “pipeline on wheels” for us to deliver crude to a number of our refineries.

“Delivery of these railcars will further enable us to capture significant value by transporting advantaged crude across the United States.”

- Debbie Adams, president, Transportation

With a diverse portfolio of energy manufacturing facilities and logistics infrastructure situated primarily in the United States, Phillips 66 is in a unique position to capture these opportunities across the downstream value chain. Building on our competitive strengths, our strategy consists of six key elements to capture these market opportunities.

#5

***“The single biggest lever we have to improve value in our refining business is to lower our feedstock (crude oil) costs. A savings of \$1 per barrel across our refining system is worth about \$450 MILLION of net income to us.”***



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### Phillips 66 Delivers on Advantaged Crude Strategy

Phillips 66 is steadily making a number of commitments to transportation infrastructure to deliver advantaged, or lower cost, crude oil to its U.S. refineries, resulting in significant cost savings and increased profitability for the company.

The company's biggest operating cost by far is the purchase of approximately 2 million barrels of crude oil per day (BPD), or 730 million barrels per year – enough oil to fill Reliant Stadium in Houston 29 times. With crude oil prices fluctuating between \$90 and \$120 per barrel, that equates to more than \$80 billion a year for crude oil purchases.

“Crude oil and energy consumption account for approximately 70 percent of our refining business’ cost structure,” said Chairman and Chief Executive Officer Greg Garland. “The single biggest lever we have to improve value in our refining business is through lowering our feedstock costs. A savings of \$1 per barrel across our refining system is worth about \$450 million of net income to us.”

*“The single biggest lever we have to improve value in our refining business is through lowering our feedstock costs. A savings of \$1 per barrel across our refining system is worth about \$450 million of net income to us.”*



- [Recent Advantaged Crude Activities](#)
- [Advantaged Crude by the Numbers](#)
- [Delivery Taken on First Railcars](#)

## 2. PHILLIPS' EXECUTIVES SAY THE PLANT ISN'T IN DANGER OF CLOSING - JOBS ARE NOT AT RISK

a. **Phillips 66 Claims:** Jobs are at risk if the rail terminal is not built.

b. **The Reality:** During the February 25th Public Hearing, two Phillips' managers gave their rationale for crude by rail. One said - "We need it for operational flexibility for changing conditions." The other said "We need it for flexibility of delivery of oil." And at a different meeting, Phillips' CFO said they need it for "optionality" ... that is, to employ whenever it helps maximize profits.

Never once has anyone in authority said they need rail because the Nipomo plant is in danger of shutting down. In fact, here's what those in authority at Phillips have said:

- At a public meeting in SLO, Phillips' Regional Manager for Government Affairs, Stephanie Williams, was asked to answer "Yes" or "No" regarding whether the plant would be closed if the rail terminal was denied. Her response - "**No ... no-one said we'd shut down.**"
- On the Dave Congalton radio show, Maintenance Superintendent Jim Anderson was repeatedly pressed about whether they would reduce production or close the plant if the rail terminal was denied. All he would say -- "We just need to be sure we can maintain the supply of crude." He wouldn't say there would be significant layoffs, because **it's simply not true.**
- Their corporate spokesman, Dennis Nuss, granted an interview to New Times magazine. The publication reported -- "When asked if Phillips has ever considered shutting the refinery if the rail spur wasn't approved, Nuss said such discussions **hadn't occurred.**"

**That's three executives who've said the same thing.** Or more accurately, they've stayed away from mentioning plant closure or firings. Nevertheless, they let their workers plead for their jobs.

- Another reason the plant won't close -- it's half of a larger refinery. The crude refined here is piped to Phillips' Rodeo plant. Therefore - closing the Nipomo plant would cut off Rodeo's supply of crude, and Phillips would never do that.
- Plus -- Phillips' refining business generates enormous profits. During one 90-day period last year in 2015, their national refining operations earned \$604 million. So it makes no sense to close a facility, even if a pipeline is temporarily shut down. Phillips plays the long, not the short game.

Therefore - the threat of plant closure is bogus. It's meant to deceive everyone. It's the standard ploy of a profits-at-any-cost corporation, pulling strings 1,700 miles away. All Phillips truly wants is the "flexibility" and "optionality" to make even more money, any way possible, at any time. Jobs at the refinery are not at stake.

<http://www.newtimeslo.com/cover/11850/a-crude-proposal-the-pros-and-cons-of-a-controversial-phillips-66-oilbyrail-project/>  
<http://www.phillips66.com/EN/about/our-businesses/refining/Pages/western-pacific.aspx>  
<http://m.examiner-enterprise.com/business/p66-reports-earnings-1b>  
 Dave Congalton Show, 5/6/15 - <http://920kvec.com/dave-congalton-podcasts/>  
 \*SLO Democratic Club, October 13, 2015  
<http://kcbx.org/post/passions-running-high-over-phillips-66-rail-spur-plan>

### 3. REGARDLESS OF FEDERAL PREEMPTION - OFFICIALS MUST RESPOND TO BOTH ON-SITE AND MAINLINE IMPACTS OF THE RAIL PROJECT

**a. Phillips 66 Claims:** Due to federal preemption, the SLO County Planning Commission can do nothing to protect citizens from the impacts of Phillips 66's project that occur along the mainline in SLO and other California counties.

#### **b. The Reality:**

**1) Statement By The CA Attorney General's Office:** California Attorney General, Kamala Harris, in no uncertain terms (see letter at <http://www.mesarefinerywatch.com/letters.html>), stated that local officials have the right and the obligation to protect their citizens from the health and safety hazards of crude oil trains, regardless of whether the dangers are on the *mainline* or on *oil company property*. In the Valero/Benicia case she recently specified ...

- "Valero asserted that the Interstate Commerce Commission Termination Act prohibits the City from taking rail-related impacts and public-safety risks into account in determining whether to approve or deny the Project. **We disagree. ICCTA does not preempt or constrain the City's decision-making authority with respect to a project undertaken by an oil company.**
- "These rail shipments will have adverse impacts on air quality and the potential for an accident causing death or severe personal injury. California law requires (a local) agency to analyze and disclose the full scope of the project's impacts. This legal duty is not circumscribed by ICCTA. For Benicia 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 (Benicia) Planning Commission's action is illegal, **is without merit.**"

The Attorney General's stance has a direct correlation with the Phillips 66 issue. It validates the FEIR's full scope of 10, Class I significant and unavoidable impacts Phillips would bring to California and SLO County -- including those on the mainline and at the Nipomo refinery.

SLO County officials can and have the legal obligation to take all of these hazards into account as they make their decisions.

**2) Case Law #1 As Cited By SLO County's Deputy Counsel, Whitney McDonald:** "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 must be recognized and served."

**3) Case Law #2 As Cited By SLO County's Deputy Counsel, Whitney McDonald:** "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."

**4) Opposition From Other Jurisdictions:** Please see the next page for the list of municipalities and organizations that have formally objected to the Phillips 66 project by sending letters of opposition to the SLO County Planning Commission. As per the above statement from the Attorney General and the case law cited, all of their issues due to the Phillips 66 project must be taken into account.

**COUNTIES, CITIES AND GOVERNMENTAL ORGANIZATIONS OFFICIALLY OPPOSING  
PHILLIPS 66'S "CRUDE-BY-RAIL STRATEGY" FOR CALIFORNIA  
(Letters Sent To The SLO County Planning Commission)**

**As Of March 15, 2016 - 42 Governmental Groups Requesting The Project Be Denied**

**A. California Counties (6)**

Alameda County  
Monterey County  
Santa Barbara County  
Santa Clara County  
Santa Cruz County  
Ventura County

**B. California Cities (27)**

Berkeley	Oakland
Camarillo	Oxnard
Carpinteria	Pismo Beach
Davis	Richmond
Emeryville	Sacramento Area Council of Governments
Fremont	San Jose
Gilroy	San Leandro
Goleta	San Luis Obispo
Grover Beach	Santa Barbara
Los Angeles	Santa Cruz
Mar Vista	Santa Margarita
Milpitas	Simi Valley
Morgan Hill	Ventura
Moorpark	

**C. Federal Government**

The U.S. Department of Commerce

**D. Additional Governmental Organizations (9)**

Alameda County Public Health Department  
Association of Monterey Bay Governments  
California Coastal Commission Staff  
Goleta Water District  
League of California Cities  
Montecito Association  
Monterey County Resource Management Agency  
Santa Clara Fire Chiefs Association  
South (SLO) County Advisory Council (SCAC)

#### 4. "THE THREE TRAIN ALTERNATIVE" - TEN CLASS I IMPACTS REMAIN UNAVOIDABLE

**a. Phillips 66 Claims:** With the "three train alternative", there would be no Class I impacts on the Phillips 66 property, and the County can do nothing about the Class I impacts on the mainline throughout SLO or other counties.

**b. The Reality:** Please see the above discussion on "Preemption", which describes how the Planning Commission has the legal right and obligation to take into account the impacts of the Phillips 66 plan anywhere along the mainline. Therefore, as per the Final EIR, **all 10 Class I impacts remain, even under the three train alternative ...**

**#1. Operational Emissions In SLO County, Which Includes The Santa Maria Refinery Site:**

"Operational activities associated with the Rail Spur Project within SLO County -- i.e., on the project site Santa Maria Refinery -- and on the mainline within SLO County, would generate criteria pollutant emissions that exceed SLO County Air Pollution Control District thresholds. Would remain a Class I impact."

**#2. GHG Greenhouse Gas Emissions:** "Operational activities associated with the Rail Spur Project would generate GHG emissions that exceed SLO County Air Pollution Control District thresholds. Would remain a significant Class I impact." The GHG emissions include those at both the refinery and along the mainline.

**#3. UPRR Mainline Emissions:** "Would remain a Class I impact."

**#4. Mainline Rail Toxic Emissions:** "Would remain the same as the Rail Spur Project, Class I."

**#5. Hazards And Hazardous Materials:** "Risk of spill/fire on the UPRR Mainline would remain Class I."

**#6. Increased Demand For Fire Protection And Emergency Response Along The Mainline:** "Would remain significant, Class I."

**#7. UPRR Mainline Spills:** "Would remain Class I."

**#8. Water Resources:** "UPRR Mainline Spills Would Remain Class I."

**#9. Biological Resources:** "UPRR Mainline Spills would remain Class I."

**#10. Cultural Resources:** UPRR Mainline Spills would remain Class I."

**Therefore, 91%, or 10 of the 11 Class I impacts under their original "five train" plan, remain with the reduced rail alternative ... including most of those at the refinery.**

And as the commission's staff concluded -- "there are insufficient benefits of the Project to override its significant unavoidable environmental impacts."

Source: Pages 5-51 through 5-63; Final EIR, 12/15

Page 5-71, Final EIR, 12/15

## 5. CALIFORNIA CRUDE FOR PHILLIPS' NIPOMO REFINERY - SUBSTANTIAL AMOUNTS REMAIN AVAILABLE IN THE GROUND

- a. Phillips 66 Claims:** As of 2013, when their application was first filed -- Phillips claims there is insufficient California crude oil available for their Nipomo plant to access. (Note -- this was Phillips' claim well prior to the 2015 shutdown of individual pipelines due to the Refugio oil spill.)
- b. The Reality:** A closer examination of facts demonstrates there is sufficient CA crude oil. For example ...
- 1) **More Pipeline Capacity Was Granted:** Just prior to 2013, Phillips was granted a 10% increase in pipeline delivery of crude. This of course meant there was sufficient additional crude available.
  - 2) **Available Crude In District #3:** In the last decade, California's overall crude oil production declined by 10%. However, that's not the case here in Central Coast Oil and Gas District #3. **Here, crude oil production has nearly doubled over the same period (+99%). The increase (+79%) is huge even after excluding production from the San Ardo oil field, which is not refined in Nipomo (see chart next page).**
  - 3) **The Final EIR:** The Final EIR agrees that there is sufficient oil for the refinery to remain viable -- "There is adequate crude supply for the Santa Maria Refinery even without the Rail Spur Project." And the FEIR states - "If (new) projects are approved (see below), about 23,000 barrels per day of new crude oil could be available for the refinery."
  - 4) **Additional New Sources Of California Crude That Are Available Via Pipeline:**
    - **Pacific Coast Energy:** Pacific Coast Energy proposes to expand its operations in the Orcutt Hill area by 96 wells. Both their existing and proposed pipelines would funnel oil from Orcutt to Phillip 66's pipeline, and from there into the Nipomo refinery. The oil would travel about 9 miles via pipeline, instead of 1,700 miles by rail from Alberta.
    - **Freeport-McMoRan:** Freeport-McMoRan (which already operates 165 oil wells in Price Canyon) "has plans to enter into a new era of oil production - one that could triple the number of active wells. The oil is (currently) trucked to a Phillips 66 pump station in Santa Maria. However, the need to truck the oil will end very soon. Phillips 66 is finishing construction of a pipeline that will transport the oil." Now, Freeport-McMoRan is awaiting approval to drill **381 new wells** in Price Canyon ... an increase of 231% in the sites extracting crude oil.
  - 5) **Jim Anderson Of Phillips 66:** On March 11, 2016 at the Public Hearings, Phillip's Maintenance Superintendent Jim Anderson spoke to Commissioners about the plant's need for crude oil. He stated - "***The supply is in the ground, but we don't have transportation for it now***" ... meaning pipeline transport is temporarily halted due to the Refugio oil spill. Therefore, Phillips knows "*the supply is in the ground*" here on the Central Coast, and will be available again after the pipelines are repaired.
  - 6) **Nipomo Refinery Output:** And output from the Nipomo refinery has grown steadily via traditional pipeline delivery over the five-year period up through early 2015. There was no sign of decline until the Refugio oil spill.<sup>2</sup> And once the industry fixes its pipelines, the refinery will be back to capacity.

<http://www.pacbiztimes.com/2015/09/04/oil-company-wants-to-expand-orcutt-drilling-despite-pipe-closures/>

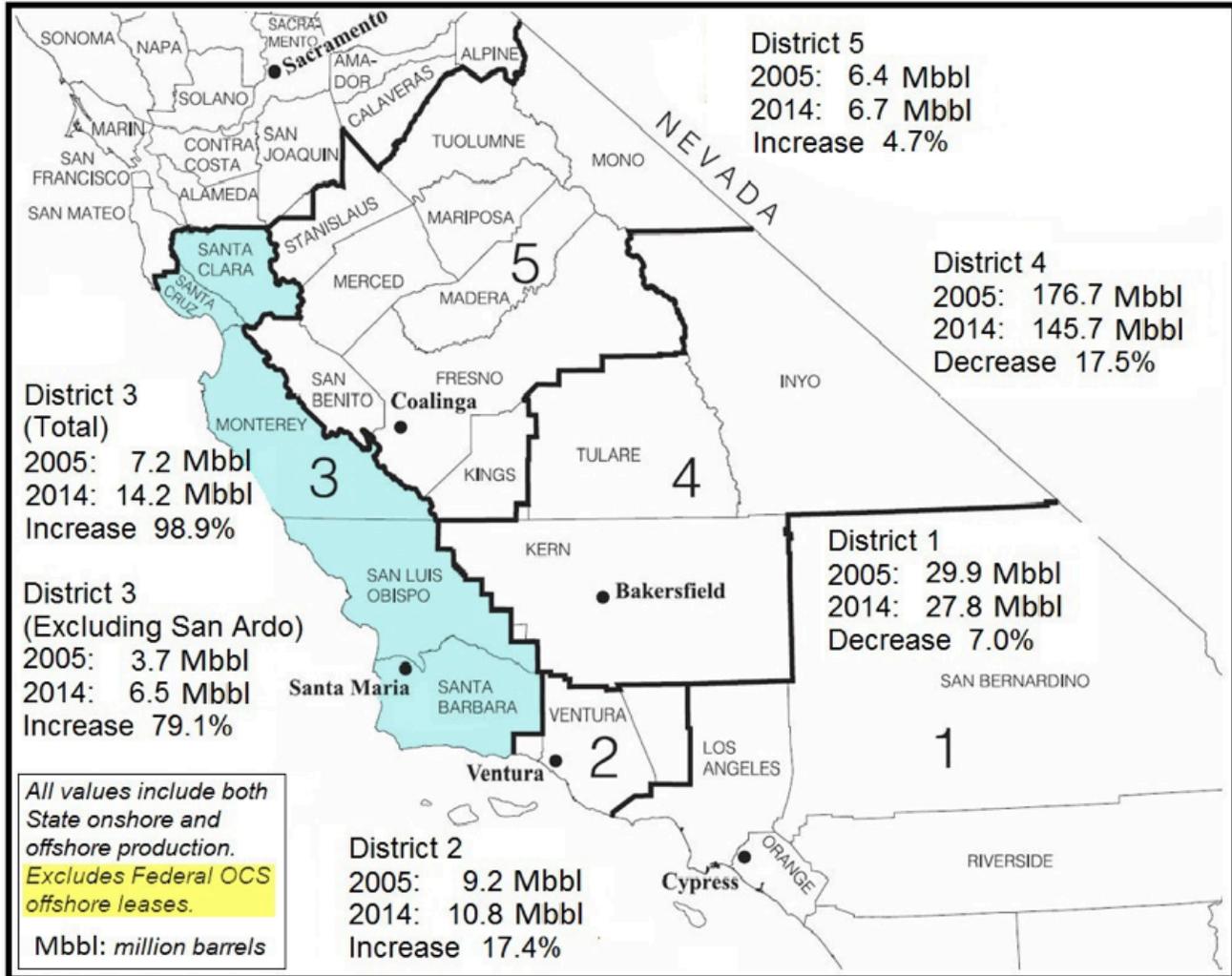
<http://www.orcutthill.com/proposed-project>

[http://santamariatimes.com/news/local/orcutt-hills-plan-praised/article\\_9c2cebf2-a690-11e3-91fd-001a4bcf887a.html](http://santamariatimes.com/news/local/orcutt-hills-plan-praised/article_9c2cebf2-a690-11e3-91fd-001a4bcf887a.html)

<http://www.sanluisobispo.com/news/local/article68494287.html>

SMR Output over 5 year: October 2014 Recirculated DEIR Section 2.7 pg. 2-35

**CALIFORNIA STATE OIL PRODUCTION 10-YEAR HISTORY 2005 - 2014**  
**OVERALL STATE PRODUCTION DECLINED ABOUT 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

## 6. THERE IS NO BASIS FOR A STATEMENT OF OVERRIDING CONSIDERATIONS

a. **Phillips 66 Claims:** There are no substantial reasons to deny the rail terminal project.

b. **The Reality:** Under CEQA, SLO's Planning Commission must provide a Statement of Overriding Considerations should it decide to approve this project. Such a statement would have to be based on the Final EIR or other "substantial evidence in the record", that would balance the merits of approving this project even despite its environmental damage. "Substantial evidence" is fact-based and non-argumentative. It is not speculative nor based upon unsupportable opinion. Nor is it based simply on the Applicant's desire for the project.

- **The Final EIR states that "... adequate crude currently exists for the SMR". It further states that "...it would be speculative at best to estimate when the local crude supply would not be sufficient to support further operation of the SMR without the proposed Rail Spur Project."**

The claim that Phillips has been making from day one is that it needs this project to remain "viable." All of Phillips' publicly stated reasons for this project are related, directly or indirectly, to this singular proposition. Specifically, the claims that jobs would be at risk and the refinery would be forced to close all relate back to the issue of the availability of local crude feedstock.

But since that claim is a non-starter to begin with, as clearly stated above in the FEIR, this Commission would have no basis whatsoever, even if it were so inclined, for a Statement of Overriding Considerations. **That's because Phillips has presented no proof whatsoever that they need this project to remain "viable".**

The uncontroverted fact is that, regardless of whether analyzed under the 5-train or 3-train per week scenario, there are and will continue to be Class I impacts resulting from this project. Even after all mitigation measures have been employed, impacts will remain which are "significant" and "unavoidable."

In essence, this Commission is charged with doing a balancing act. On one hand it must weigh the Class I impacts. On the other hand it must weigh, what??? There's nothing to weigh.

Since Phillips has provided no facts relating to environmental, legal, technical, social, and/or economic factors that could be placed on the other side of the scale, what does that leave this Commission with? The answer is nothing. There is nothing at all on the other side of the scale, save for the very real fact that Phillips wants this project to go forward.

Merely wanting a project to go forward does not meet the burden of "substantial evidence" required by CEQA. Therefore, even if this Commission decided to approve this project, it would have no basis to provide a Statement of Overriding Considerations.

Source: [http://resources.ca.gov/ceqa/flowchart/ra\\_soc.html](http://resources.ca.gov/ceqa/flowchart/ra_soc.html)

## 7. THE RAIL PROJECT DESTROYS THE LAND BUFFER THAT PROTECTS THE LOCAL COMMUNITY FROM AIR, VISUAL, LIGHT & NOISE POLLUTION, AND THE DANGER OF RAIL TANKER SPILLS, FIRES & EXPLOSIONS

- a. **Phillips 66 Claims:** Reducing the buffer on Phillips 66's property and building a rail terminal will not be invasive to local residents.
- b. **The Reality:** Currently, the refinery is a passive industrial activity that has very limited effect on the surrounding residential communities. The peaceful nature of the surrounding open area is rarely impacted by refinery operations.

This project would introduce a fully operating rail terminal and crude oil unloading facility into what is now a 1.4 mile buffer zone between industrial and residential land uses (**please see photos, next page**).

This not only turns a passive industrial land use into a highly active and invasive industrial use, but it reduces the buffer zone by 60%. Changing passive use to active use should logically require a larger buffer zone – not a smaller one.

As per the SLO County Planning Staff:

**“This important buffer is what allows these incompatible land uses (refinery and residential) to coexist as neighbors. However this project will greatly reduce this buffer. The rail spur will be incompatible with the residential and agricultural resources that surround the spur, and will bring additional toxic air contaminants and PM10 closer to the residential and agricultural land uses.**

**“Therefore, the proposed extension of the industrial activities ... would be incompatible with surrounding uses and would therefore not comply with the character of the immediate neighborhood, and will be contrary to its orderly development.”**

The County's Land Use Ordinance calls for decisions to “regulate land use in a manner that will encourage and support the orderly development and beneficial use of lands... [and] minimize adverse effects on the public resulting from the inappropriate creation, location, use or design.”

In addition -- the SLO General Plan clearly states that the buffer is necessary to collect pollutants from refinery activities (coke dust, etc.). The General Plan was used as a basis for approving/encouraging residential development just east of Highway 1. Previous SLO county planners relied on that General Plan and its buffer, in approving homes just East and downwind from the refinery.

Current commissioners must not ignore previous SLO County Planning decisions. The decisions of the past have a great bearing on what is approved now and in the future.

Therefore, this project should be denied on the basis of inappropriate land use.

Sources: Planning Commission Staff Report / Development Plan/Coastal Development Permit #DRC2012-00095 / Phillips 66 Company / Exhibit C Findings for Denial / February 4, 2016

San Luis Obispo County Land Use Ordinance/Title 22/Section 22.01.010 Purpose and Effect

**EXISTING:  
Panoramic & Extremely  
Passive Use of Land**

Versus

**THE P66 PLAN:  
Extremely Active &  
Invasive Use of Land**



## 8. AIR QUALITY ON THE NIPOMO MESA WOULD BE DEGRADED EVEN FURTHER

- a. Phillips 66 Claims:** The crude-by-rail project will not cause air quality on the Nipomo Mesa to decline. It can all be mitigated with no impact to the air we breath.
- b. The Reality:** One of the Class I air quality impacts of the project is the increase in toxic diesel particulate matter from the diesel locomotives and trucks at the site.

According to the NIH - the "effects of diesel exhaust include lung function, respiratory and inflammatory changes." The EPA adds "exposure is likely to pose a lung cancer hazard."

The area in and around the proposed rail spur already violates the state standard for particulate matter 70 times a year and violated the federal standard three years in a row. The *SLO County APCD Annual Air Quality Report* (see following pages) states ...

- **South County has the "most exceedence of state PM 10 standard ever. It continues to routinely exceed state and federal particulate matter standards." There is "no sign of improvement." They "expect non-attainment designation for state standard PM 2.5."**

On a regular basis, the APCD and Public Health Department advise Nipomo Mesa citizens who live downwind of the proposed Rail Spur project, that due to the level of fine particulate matter on the Nipomo Mesa, infants, children and adults with respiratory or heart conditions should avoid strenuous outdoor activity. They advise remaining indoors or leaving the area entirely.

And at the April 15th Public Hearing, APCD members described how residents near the Nipomo refinery, already suffer from the poorest air quality in the County and often in all of California.

They reported that both the "Health Risk Assessment" and "Diesel Particulate Matter" thresholds would both be further exceeded given the rail terminal project. **And even with Phillips' "3 trains per week" alternative, the DPM threshold would be further exceeded. They stated -- "We don't want the new project to add on to the existing problem."**

Phillips' attorney said the County ought to allow the rail terminal to be built and have "confidence" in the oil company's ability to eliminate any air quality issues down the road. But the air quality issue is far too critical to base our future on "confidence" in Phillips 66. The company has proven to present harmful proposals, only to change them when forced by the facts (e.g., Bakken crude, the number of trains per week, the types of tank cars, etc.). In addition, Phillips even refuses to consider purchasing their own "clean idle" locomotives to reduce the pollution -- simply because it's too costly for them.

Their attorney also indicated that the new rail terminal would have sufficient room to have two full oil trains on site at the same time, and that multiple trains might indeed be at the terminal. However, County Staff replied that the EIR **never took multiple trains** into account regarding any of its air quality assessments.

FEIR, 12/15

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## BIG PICTURE

(Presented by the APCD in Sept., 2014)

### Gases

- ▶ **Ozone**
  - ▶ Fewest number of exceedences ever
  - ▶ Clear downward trend
- ▶ **Nitrogen Dioxide**
  - ▶ As usual, no exceedences
- ▶ **Sulfur Dioxide**
  - ▶ First federal exceedence ever
  - ▶ Occurred during refinery maintenance
    - ▶ Unlikely to reoccur

### Particulate Matter

- ▶ Higher average levels countywide vs 2012
- ▶ **South County**
  - ▶ Most exceedence of state  $PM_{10}$  standard ever
  - ▶ No improvement
  - ▶ Pending non-attainment designation for state  $PM_{2.5}$  standard

## SUMMARY

(Presented by the APCD in Sept., 2014)

- ▶ **East County continues to exceed state & federal ozone standards but shows improvement**
  - ▶ Due to transport
  - ▶ No exceedences elsewhere
  - ▶ Fewest exceedences since monitoring began
- ▶ **One exceedence of Federal SO<sub>2</sub> standard**
  - ▶ Circumstances associated with exceedence are unlikely to reoccur
- ▶ **South County (Mesa2 & CDF) continues to routinely exceed state & federal PM standards**
  - ▶ No sign of improvement
  - ▶ Few exceedences elsewhere
  - ▶ Expect non-attainment designation for state standard for PM<sub>2.5</sub> annual average

## 9. THE RAIL TERMINAL WOULD RESULT IN OFFENSIVE VISUAL IMPACTS

a. **Phillips 66 Claims:** The rail terminal and trains would not be seen by local residents.

b. **The Reality:** A “visual impact” is when something that doesn’t now exist suddenly materializes ... destroying what previously existed and replacing it with something highly offensive.

Local residents on the Nipomo Mesa now see green fields, sand dunes and the Pacific. It’s the peaceful scenic vista and land buffer County Planners specifically approved years ago.

But Phillips would now have residents and motorists see something vastly different. The terminal would be seen from public roads, paths, recreation areas and homes within Trilogy. They’d begin viewing the following ...

- Miles of train tracks.
- Hundreds of mile-long trains arriving and departing.
- Multiple trains onsite at the same time.
- An oil unloading facility ... a roof, pumps, HVAC equipment, and more.
- New, above-ground oil pipelines.
- Diesel tanker trucks to refuel locomotives.
- Additional support trucks and other industrial vehicles.
- 15-foot high light towers ... illuminating the site like a football stadium at night.

We’re told the new lights would be pointed downward. But they’d obviously light up the rail terminal beneath them. Those surfaces will be lit up to help employees go about their work. The result - residents would see the bright reflected light on the surface of everything that’s lit up ... including the tracks, locomotives, tank cars, unloading station, trucks and new pipelines.

The impact would be extremely obvious and “in-your-face.” The FEIR states - “The view looking west and southwest from State Route 1 is considered a scenic vista because of the panoramic composition of natural and agricultural land use patterns, sweeping views of the dunes and the coastline, and the Pacific Ocean beyond. The eastern extension of the rail spur and its associated trains would reduce views of the open space, an important visual contributor to the overall scenic vista, which has the potential to be a significant impact.”

**But the Final EIR does not classify this issue as a Class I impact. That’s because the Final EIR failed to measure the impact from the actual Trilogy community. They measured it from a far lower site on Highway 1. The homes are 100 feet higher than what was measured -- 50% higher. The view from that higher elevation would be in direct sightline of the entire rail terminal.**

In response, Phillips suggests constructing a berm 10 - 20 feet tall to block the terminal and trains. But that will not work, given that homes are located far higher than the proposed berm. Without doubt, there will be visual destruction.

## 10. THE EXTREME NUMBER OF CRUDE OIL & HAZMAT TRAIN DERAILMENTS CANNOT BE DENIED

a. **Phillips 66 Claims:** Shipments of crude oil and other hazmat materials are safe. Derailments are extremely rare.

b. **The Reality:** An actual accounting of such derailments shows that since March 2013 alone, there have been 57 such accidents in the U.S. and Canada ... **more than one accident each month**, many with devastating effects (including two carrying diluted tar sands). They are (see sources on next page) ...

### In 2013 ...

- Parkers Prairie, Minnesota: Crude oil.
- Lac-Megantic, Canada: Crude oil.
- Alberta, Canada: Crude oil and liquified gas.
- Aliceville, Alabama: Crude oil.
- Casselton, North Dakota: Crude oil.

### In 2014 ...

- New Brunswick, Canada: Crude oil & liquified gas.
- Plaster Rock, Canada: Propane gas and crude oil.
- Santa Rosa County, Florida: Phosphoric acid.
- Philadelphia, Pennsylvania: Crude oil.
- New Augusta, Mississippi: Flammable ethanol.
- Vandergrift, Pennsylvania: Crude oil.
- Albany, New York: Crude oil.
- Western Minnesota: Crude oil.
- Lynchburg, Virginia: Crude oil.
- LaSalle, Colorado: Crude oil.
- Denver, Colorado: Benzene.
- McKeesport, Pennsylvania: Crude oil.
- Seattle, Washington: Crude oil.
- Slinger, Wisconsin: Diesel fuel.
- Alberta, Canada: Crude oil and methanol.
- Brockville, Canada: Fuel residue.
- Hoxie, Arkansas: Toxic chemicals.
- Mer Rouge, Louisiana: Argon gas.
- Saskatchewan, Canada: Petroleum distillates.
- Moncton, New Brunswick: Crude oil.
- Casselton, ND: 12 empty crude oil tankers.
- Pensacola, Florida: Phosphoric acid.

### In 2015 ...

- Antelope, California: Crude oil chemical Toluene.
- Allendale, South Carolina: Hydrochloride.
- Nipigon, Ontario: Propane.
- Richmond Hill, Toronto: Sulfuric acid.
- Philadelphia, PA: Crude oil.
- Dubuque, Iowa: Ethanol.
- Galena, IL: Crude oil.
- Gogama, Canada: **Diluted tar sands.**
- Timmins, Ontario: **Diluted tar sands.**
- Mount Carbon, W. VA: Crude oil
- Valley Mills, Texas: Methanol.
- Trenton, South Carolina: Anhydrous ammonia.
- Colorado Springs, Colorado: Dry ammonia.
- Calgary, Canada: Ammonium nitrate.
- Heimdal, North Dakota: Crude oil
- Addis, Louisiana: Chemicals including lye.
- Maryville, Tenn.: Chemical containing cyanide.
- Culbertson, Montana: Crude oil.
- Barwick, Canada: Petroleum distillates.
- Scotland, South Dakota: Ethanol.
- Alma, Wisconsin: Ethanol.
- Watertown, Wisconsin: Crude oil.
- Upper Merion, Pennsylvania: Crude oil.

### And so far in 2016 ...

- Martinez, California: Sulfuric acid.
- Brewster, Ohio: Butane.
- Ripley, NY: Ethanol.
- Edmonton, Canada: Propane.
- Eagle Grove, Iowa: Empty crude oil tankers.
- North Bay, Ontario: Sulfuric acid.
- Scott, Louisiana: Phosphoric acid.

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## 11. THE AGING BRIDGES OF SLO COUNTY - ARE THEY CAPABLE OF SUPPORTING 11,000-TON CRUDE OIL TRAINS?

- a. Phillips 66 Claims:** The condition of the bridges on which their rail tankers will cross are not their responsibility ... it's UPRR's responsibility, and UPRR has a good safety record.
- b. The Reality:** California's infrastructure isn't built to handle Phillips' 80-car trains, each of which would weigh about **11,600 tons**. One example ...

Late in 2014, the Coastal San Luis Conservation District wrote to the California Public Utility Commission (CPUC), which was beginning inspections of our state's bridges.

It was pointed out that the Union Pacific bridge spanning the Arroyo Grande Creek near Oceano "has condition issues" and that they were concerned for it's "performance during the passage of a crude oil train." The group's District Manager supported her statements with photos (**see next page**), detailing severe (not cosmetic) cracks in the concrete foundation upon which steel girders rest.

The letter referenced a Sacramento Bee news story, reporting that with only two CPUC bridge inspectors, **"it would take 50 years to check all 5,000 rail bridges" in California.**

In the face of crumbling railroad bridges, and little hope of inspections being made, let alone repairs, Phillips wants to add hundreds of 11,600-ton crude oil trains to the bridges' load.

At the April 15th Hearings, SLO County Staff reported that they had attempted to obtain in-depth information from Union Pacific on the state of bridges in the County, but were rebuffed. The reaction from Planning Commissioners ...

- **Commissioner Jim Harrison:** "There have been bridge failures along this line."
- **Commissioner Ken Topping:** "The bridges - what were they originally designed for and for what types of loads?"
- **Commissioner Don Campbell:** "Us old-timers like to have the information we need. How the heck could the 125-year old Stenner Creek trestle still be sustainable?"

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## 12. RAIL SHIPMENTS OF DILUTED TAR SANDS - THEY'VE ALREADY EXPLODED TWICE

- a. Phillips 66 Claims:** There's no danger when shipping tar sands by rail (i.e., diluted bitumen - "dilbit") ... it's not in the same class as flammable Bakken crude.
- b. The Reality:** Rail tankers carrying diluted tar sands have blown up and it's only a matter of time until more explode. Videos that show trains exploding in West Virginia and elsewhere, are perfectly representative of what's happening with shipments of tar sands.

There have been two recent disasters involving diluted tar sands from the same Northern Alberta source Phillips would access for the Nipomo refinery.

**1) Timmins Ontario - February 14, 2015:** A train carrying diluted tar sands derailed. The tankers were the newer CPC-1232s, and were traveling slower than the speed limit. Twenty-nine derailed. After the initial explosion, the fire cooked off other tankers. Over the 4-day fire, 19 tankers breached, and spilled 264,000 gallons of tar sands. The train had been inspected for problems just 20 miles before the derailment, and the tracks had been inspected the same day.

**2) Gogama, Ontario - March 7, 2015:** A tar sands train blew up near a major area for outdoor tourism. Thirty-nine newer tankers went off the rails. Initially, seven caught fire, but it then spread to others, with far more explosions. It all burned for three days. Three tankers landed in a river. Residents were warned to stay inside, avoid the smoke's toxins, and not drink the water.

- Residents said: "People were feeling the affects of the toxins in the air - they could feel it in their chests and their breathing." "It's frightening and nerve-wracking."
- A local official reported --"The cars involved in this incident are new models, compliant with the latest federal regulations, yet they still failed."
- The director of the *Crude Oil Quality Association* commented on shipping diluted tar sands - "**I think there are people in the industry who believed (the problem) was unique to Bakken crude. (But) I don't believe that.**"

The very same thing was pointed out in the journal, *Railway Age*. They stated that the diluent added to tar sands prior to shipping, makes trains highly flammable. Their conclusion ...

**"The widespread belief that (tar sands) is far safer to transport by rail than Bakken, is for all intents and purposes dead wrong."**

And, at the SLO County Public Hearings on April 15th, an independent expert stated that the diluted tar sands Phillips wishes to ship to Nipomo would be in the *most dangerous* "Packing Group I" ... the group with the highest risk of fire and explosion during a derailment. County Staff commented on trains carrying diluted tar sands - "If they released the crude, it could spill, catch fire, and explode."

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### 13. THE NEW DOT-117 CRUDE OIL TANKERS - THEY'LL FAIL "AT SPEED" AND IN MOST FIRES

- a. Phillips 66 Claims:** They will use only newer, DOT-117 tankers (but not electronic brakes) to bring in crude by rail to the Nipomo refinery. Therefore, in the event of a derailment, SLO County should not worry about spills, fire, toxic smoke, explosions, injuries, deaths, property damage, etc.
- b. The Reality:** The DOT-117 cars are only yet another generation of tankers. By a wide margin, they are not an effective solution. As per publications such as *Railway Age* ...

- "(Tank) carbuilders themselves warned that no amount of extra metal or engineering will protect against breaches and fires in **HIGH-ENERGY** (i.e., high speed) derailments. The DOT-117 is designed to contain its lading in **SLOW-SPEED** derailments and rollovers."

"The DOT-117 offers minimal advantage over the old DOT-111 cars in high-speed, multi-car pileups like those in West Virginia."

- "The DOT-117 car is a **compromise**: (The) American Fuel and Petrochemical Manufacturers believe the car's safety benefits do not justify its cost, while the National Transportation Safety Board (NTSB) believes the car's safety standards did not go far enough."
- "The new rules **don't provide adequate protection against fire and heat**, factors that cause cars to explode. The DOT allowed to stand a rule that tank cars be able to survive being engulfed in a fire (for only) 100 minutes. That regulation wasn't written with crude oil in mind, experts and industry officials say."

The president of the Illinois Fire Chiefs Association said - "We've never seen (just) a 100-minute fire in a tank car failure. We've seen 24-hour fires."

Even industry groups urged the DOT to order tank cars to survive up to 800 minutes. And the president of the Association of American Railroads said "If you're going to build a new tank car, having more thermal protection and giving responders more time would be a big safety benefit."

So, regardless of Phillip 66's assurance that all will be well with DOT-117 tankers, those will prove to be just as fragile at higher speeds, when multiple tankers crash, and when they're engulfed in fires for two hours or more, as they most often are.

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#### 14. "EMPTY" CRUDE OIL TANK CARS - EXPERTS SAY THEY'RE JUST AS FLAMMABLE AS FULL CARS

- a. Phillips 66 Claims:** The approximately 12,000 "empty" tank cars that would leave the Nipomo refinery each year pose no real danger.
- b. The Reality:** Industry experts say that even supposedly empty oil tankers pose significant dangers after they unload at refineries.
- 1) In December 2015, **SLO County CalFire Chief Robert Lewin and Deputy Chief Steve Reeder** remarked on "empty" tankers. Chief Lewin - *"With empty tank cars it's like a gun and we treat it respectfully. It's still a gun and potentially loaded."*  
Chief Reeder - *"There's no fuel to burn, but fumes are there (and then) there's an issue."*
  - 2) Washington state's transportation director -- *"An amount of oil (will be) left in the car. Not all will drain out. If there was a derailment, we would still be looking at potential combustion or fire."*
  - 3) Forbes Magazine -- *"Returning empty trains are not empty. They have enough oil remaining to produce highly volatile vapors that make them even more prone to explosions than full cars."*
  - 4) St. Louis, Missouri's fire chief -- *"The returning (tankers) are 'residual' cars, which means they can have 10% of product in that car. So a 30,000 gallon tanker has 3,000 gallons left. Problem - you've got vapors. And with vapors there's a big issue. (The cars are) all flammable."*
  - 5) Quincy, WA's fire chief - *"I'm worried about vapors. They are probably more explosive being partially empty."*
  - 6) Ephrata, WA's fire chief - *"There may not be a large spill, but there could still be a large fire."*

So coming and going ... Phillips' plan will bring thousands of unstable "empty" tankers into our midst each year.

<http://fox2now.com/2015/08/23/first-responders-concerned-about-possible-oil-train-derailment-in-st-louis/>  
<http://eaglefordtexas.com/news/id/150833/oil-trains-put-local-emergency-officials-on-alert/>  
<http://www.forbes.com/sites/jamesconca/2015/04/06/senators-try-to-stop-the-coming-oil-train-wreck/>

## 15. PHILLIPS' SAFETY RECORD DOESN'T COUNT - IT'S BASED ON PIPELINE DELIVERY OF CRUDE OIL, NOT CRUDE-BY-RAIL

- a. Phillips 66 Claims:** The Nipomo refinery has been operated safely via crude-by-pipeline. This should be taken as assurance that it will be operated just as safely when its business model switches to crude-by-rail.
- b. The Reality:** Phillips has said nothing about their track record for operating a crude-by-rail facility at the Nipomo plant. That's because they don't have a track record.

For the first time ever - they wish to bring in and ship out 300 - 500, mile-long crude oil trains per year. Those arriving will be filled with flammable, diluted tars sands. Empties leave with "vapors."

And, for the first time, they'd begin operating an elaborate set of tracks onsite for trains of enormous size and length, plus a complex, highly dangerous crude oil, rail offloading facility.

**But - is there any difference between operating a pipeline-based refinery that handles relatively benign crude, versus a rail-based facility handling flammable, diluted tar sands?**

**The difference in pipeline versus rail delivery is the same as piloting a Piper Cub versus a fighter jet. These are not the same things. Piloting a fighter requires a far higher level of training and experience. And when things go wrong, the consequences are far more disastrous.**

So what rail experience does this plant's staff have? Do current employees have special rail training? Or, does Phillips intend to replace them with those having far more skill in handling flammable crude oil tankers? Phillips is silent on this topic.

That's because shipping oil by pipeline is the minor leagues compared to shipments by rail. There have been dozens of rail accidents in recent years, spilling millions of gallons of crude with devastating results. Yes, pipelines have issues, but those accidents happen far less frequently and the impacts are far less disastrous.

Therefore, regardless of how safe the Nipomo plant has been ... it has **zero experience** operating a rail facility and unloading more flammable crude. Its past safety record doesn't count. Past pipeline safety records do not predict future performance that involves rail.

## 16. CRUDE-BY-RAIL WILL HAVE A “SIGNIFICANT & UNAVOIDABLE”, CLASS I IMPACT ON SLO COUNTY’S AGRICULTURAL RESOURCES

- a. Phillips 66 Claims:** The Class I impact on SLO County’s agricultural resources should not be taken into account, because federal regulations preempt County officials from including impacts along the mainline.
- b. The Reality:** Please see the above discussion on “Preemption”, which describes how the Planning Commission has the legal right and obligation to take into account the impacts of the Phillips 66 plan anywhere along the mainline.

As we know, agriculture is a primary driver of SLO County’s economy. It provides over 20,000 jobs. And during 2013, the value of our agricultural products was a record high \$960 million. But the Phillips project contains impacts that can devastate our agricultural business and the esteem it’s created for itself.

**The Final EIR warns of a Class I, unavoidable impact on agriculture caused by crude oil trains derailing along the mainline.** It says ...

- “The addition of up to five round-trips per week on the mainline would increase the potential for spills or fire-related impacts on adjacent agricultural soils.”
- “(It) could result in effects that impair adjacent agricultural uses, including the generation of contaminated air emissions, soil and water contamination, and increased risk of fire, which have the potential to adversely affect agricultural areas.”
- “A fire could spread substantially beyond the areas directly adjacent to tracks. The mainline passes through numerous prime, statewide or local important farm lands. All of these could be impacted. In the event of an oil spill, there could be a complete loss of the agricultural resources.”
- And the County Staff’s report added remarks about reduction of the buffer at the rail terminal site -- “This important buffer is what allows incompatible land uses to coexist. However this project will greatly reduce this buffer. The rail spur will be incompatible with the agricultural resources that surround the spur, and will bring additional toxic air contaminants and PM10 closer to the agricultural land uses.”

Such spoilage to agricultural resources would also result in destruction of our County’s reputation for growing wine, strawberries, and other crops vital to tourism and our economy.

If there is no rail terminal, there will be no impact on SLO County’s billion-dollar agricultural enterprises.

Source: FEIR, 12/15, Section 4.2  
2013 Annual Report; SLO Dept. of Agricultural Weights & Measures  
Economic Contributions of SLO County Agriculture; Crop Report Plus

## 17. WHO WILL PAY WHEN CRUDE OIL TRAIN DERAILMENTS CAUSE MASSIVE DAMAGE?

- a. Phillips 66 Claims:** They have never discussed the issue. All they've said is that anything that happens on the mainline is the responsibility of UPRR, even though Phillips would own or lease all the tank cars.
- b. The Reality:** When oil trains derail, there is the distinct possibility for **extreme costs** due to oil spills, fire, toxic smoke, explosions, injuries, deaths, property damage, business losses, and more. For example ...
- 1) Lac-Megantic:** The 2013 Lac-Megantic oil train accident involved 25 different companies accused of wrongdoing. Three years later, they are now paying into a **\$460-million** settlement fund for victims and creditors ...
- \$50 million for “moral” damages, including claims related to post-traumatic stress disorder, bodily injury and issues such as being evacuated from the explosion site.
  - \$113 million for wrongful death claims (47 people died).
  - And almost \$300 million for economic and insurance claims from people who lost businesses and jobs, and claims from the federal, provincial and municipal governments.
- 2) Kalamazoo River:** In 2010, 843,000 gallons of tar sands from Canada spilled into Michigan's Kalamazoo River. The oil spread for 40 miles and then sank into the river's wetlands. It took four years and **\$1.2 billion** to clean up. This disaster was the largest and most costly on-land oil spill in American history.

If Phillips 66's plan is approved for SLO County, **who will we sue and who will pay for ...**

- Training for personnel to handle hazmat spills, fires and explosions?
- New equipment to handle hazmat emergencies ... fire apparatus, oil spill containment materials, etc.?
- Long-term cleanups & monitoring required when oil is spilled into our fields and streams?
- Additional County staff to make sure Phillips 66 complies with new, complex mitigation measures?
- Evacuations of places like hospitals, schools and hotels?
- The loss of revenue to construction workers, tradesmen, retailers and others when fewer homes are built because people don't want to live next to tracks or a rail terminal.
- The loss of property taxes when fewer homes are built and home values decline.
- The revenues lost when businesses shut down due to evacuations after accidents.
- The taxes paid to SLO County by those businesses when they shut down?
- The loss of revenues and sales taxes from tourists, when far fewer travel to SLO County?

<http://www.thesudburystar.com/2016/04/11/about-400-people-contesting-payment-received-from-lac-megantic-settlement-fund>

<http://thinkprogress.org/climate/2014/04/11/3426044/enbridge-oil-pipeline-reopening/>

<http://tarsandsolutions.org/in-the-media/nas-to-study-spill-cleanup-for-oil-sands-crude>

[http://www.washingtonpost.com/business/economy/ntsb-blames-enbridge-weak-regulations-in-kalamazoo-oil-spill/2012/07/10/gJQAWzqgbW\\_story.html](http://www.washingtonpost.com/business/economy/ntsb-blames-enbridge-weak-regulations-in-kalamazoo-oil-spill/2012/07/10/gJQAWzqgbW_story.html)

[http://en.wikipedia.org/wiki/Kalamazoo\\_River\\_oil\\_spill](http://en.wikipedia.org/wiki/Kalamazoo_River_oil_spill)

<http://www.freep.com/article/20120621/NEWS06/120621067/Kalamazoo-River-Enbridge-oil-spill>

<http://www.sacbee.com/news/local/transportation/article4331978.html>

<http://www.theglobeandmail.com/report-on-business/industry-news/energy-and-resources/buoyancy-of-oil-sands-bitumen-raises-spill-concerns/article10033867/>

<http://michiganradio.org/post/3-years-and-nearly-1-billion-later-cleanup-kalamazoo-river-oil-spill-continues>

## 18. AN ALTERNATIVE THAT NEEDS FAR GREATER DISCUSSION - A KERN-SISQUOC PIPELINE TO FEED THE NIPOMO PLANT

- a. Phillips 66 Claims:** The only alternatives to supply the Nipomo refinery with crude oil are either crude-by-rail or crude-by-truck.
- b. The Reality:** The alternatives analysis contained in the Final EIR is **incomplete**. It fails to properly expand upon and analyze a viable option to Phillips 66's desire for crude-by-rail.

Section 5 first addresses then summarily dismisses construction of a **connector pipeline from the refinery's Sisquoc Pipeline to Kern County railheads**. Such a pipeline could supply the feedstock Phillips requires for its Nipomo refinery.

The EIR's reasons for rejecting this pipeline connector, without any further study, were concerns over right-of-way, required permits, and necessary inter-county coordination.

However ...

- Chevron had a similar project to construct a pipeline from the San Ardo oilfield to Coalinga. Chevron worked with both Monterey and Fresno Counties and had its project approved.
- The Chevron pipeline alignment crosses roads, streams, wetlands, agricultural areas, the coastal mountains, and the San Andreas Fault zone.
- What Chevron is accomplishing, shouldn't be dismissed as too speculative and too difficult for Phillips 66 to also accomplish.
- A pipeline right-of-way with functional alignment over virtually the same route is proven, and already exists with Line 903.

Given the extensive public outcry against the Phillips crude-by-rail plan, how can Planning Commissioners rule on the rail project when **all viable alternatives have not been THOROUGHLY investigated?**

SLO County's Planning Commissioners shouldn't put themselves in the position of acting on an incomplete EIR, simply because an alternative requires right-of-way agreements, permitting, and inter-county coordination.