

# ALSTON & BIRD<sub>LLP</sub>

333 South Hope Street, 16th Floor  
Los Angeles, CA 90071-1410

213-576-1000  
Fax: 213-576-1100  
www.alston.com

Jocelyn Thompson

Direct Dial: 213-576-1104

Email: [jocelyn.thompson@alston.com](mailto:jocelyn.thompson@alston.com)

March 10, 2016

VIA ELECTRONIC & FIRST CLASS MAIL

Members of the Planning Commission  
San Luis Obispo County Planning Commission  
976 Osos Street, Room 300  
San Luis Obispo, CA 93408

Attention: Ramona Hedges, Planning Commission Secretary

Re: Phillips 66 Rail Spur Extension Project

Dear Commissioners:

The Planning Commission has now heard from hundreds of members of the public regarding the proposed Phillips 66 Rail Spur Extension Project. The public comment phase of the hearing does not allow for speakers to be questioned in order to ensure that comments are relevant, timely and accurate. This letter will respond to comments related to the potential noise from the proposed Project's operations. In addition, I and others on the Phillips 66 team will be happy to answer questions from the Planning Commission as the hearings resume.

## Noise from the Rail Spur Operations

Two speakers on February 25, 2016 played recordings (one audio only, and one video with audio) that they represented as noise from rail operations.

No information was provided by the speaker who played the audio recording to conclude that it is at all similar to – let alone representative of – noise from the Phillips 66 Rail Spur Extension Project. It is unknown where or when it was recorded, what equipment and activities generated the noise, and whether those equipment and activities are the same as those that will be used in the Phillips 66 project. Noise transmission is greatly affected by distance, intervening topography, atmospheric conditions, and other, existing noise sources in the vicinity. It is unknown whether the recording was made in a setting similar to that of the Phillips 66 site. Even if everything about the recording duplicated the circumstances of the Phillips 66 project, it is unknown whether the playback at the public hearing accurately represents the noise impacts from the project. The simple act of turning up the

volume so that the recording can be heard by everyone in the hearing room may result in noise that is not representative of the impacts in the community.

As for the second recording, the speaker identified it as a video of rail operations at a Sandusky, Ohio rail yard. A variation of this video can be found on the web site of the Sandusky Register at <http://www.sanduskyregister.com/Local/2015/10/20/Train-noise-driving-residents-loco-motivated-to-enact-law?ci=mostcommented&lp=4>. According to the news article that accompanies the video, the noise is caused by rail cars passing through a retarder. (See Attachment 1.) A retarder is a device that slows down rail cars by squeezing the wheels of the car between rails on either side. There is no retarder included in the design at the Santa Maria Refinery, and so this video is of unrelated, irrelevant equipment. The Santa Maria Refinery will not have a noise source the same or similar to that in the video.

Section 4.9 of the Final EIR includes a detailed analysis of the potential noise impacts from the Rail Spur Extension Project. The EIR's analysis is based on the actual details of the project, including the specific equipment that will be used and the specific activities that will be conducted. The section presents information on the existing noise sources as well as data from noise measurements taken in the vicinity of the project site. Using the noise measurements data as well as data relating to the proposed new equipment and activities allowed the Final EIR to estimate noise impacts that "are considered to be conservative and provide a good estimate of the peak hour noise levels associated with the Rail Spur Project." (Final EIR p. 4.9-24.) The Final EIR provides the Planning Commission relevant information regarding the potential impacts of the project. The audio and video recordings presented at the public hearing do not.

We look forward to your questions as the hearings re-convene on March 11, 2016.

Very truly yours,

ALSTON & BIRD LLP



Jocelyn Thompson

JNT

cc: Ryan Hostetter (via Email)  
Whitney McDonald (via Email)

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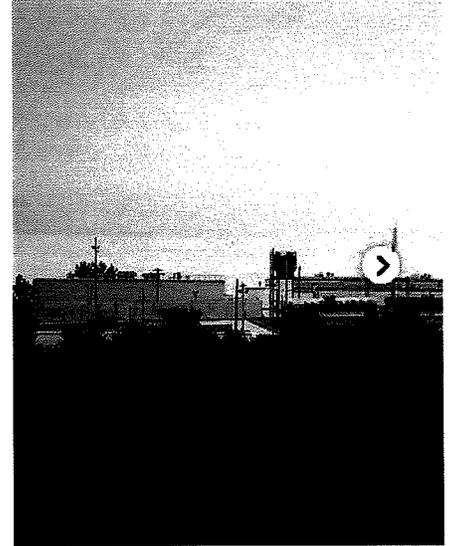
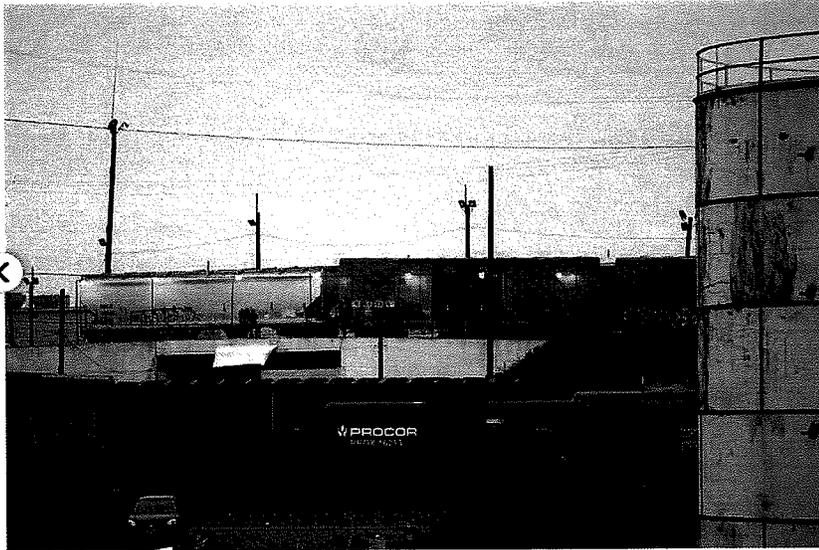
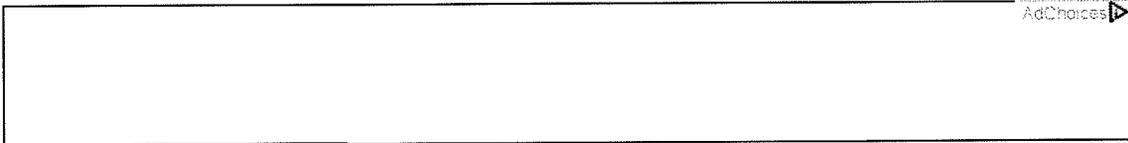
**ATTACHMENT 1**



  LOCAL

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Register photo/ANGELA WILHELM

1 / 4 A recent expansion at the Bellevue-area Norfolk Southern rail yard has nearby residents on track to purchase hearing aids. Shrieks, screeches and squeals loudly echo all day, all night, everyday for about eight months from the facility, just off Ohio 4 at the border of Erie and Huron counties.



### Local residents sound off on loud train noises

ANDY OURIEL (/AUTHORS?USER=ANDY%20OURIEL) · OCT 20, 2015 AT 3:56 PM

[/authors? user=andy%20ouriel](/authors?user=andy%20ouriel) [andyouriel@sanduskyregister.com](mailto:andyouriel@sanduskyregister.com) (mailto:andyouriel@sanduskyregister.com) 419-609-5827

# Local residents sound off on loud train noises



ouriel@sanduskyregister.com

[\(Local/2015/10/20/Train-noise-driving-residents-loco-motivated-to-enact-law.html#comments\)](#)

A recent expansion at the Bellevue-area Norfolk Southern rail yard has nearby residents on track to purchase ear plugs.

**f** Shrieks, screeches and squeals loudly echo – all day, all night, every day for about eight months – from the facility, just off Ohio 4 at the border of Erie and Huron counties.

**t** Ear-puncturing noises stem from a device called a retarder, which slows down freight cars just before they're sorted into trains.

The retarder, debuting earlier this year, represents one new feature in a \$160 million investment made by Norfolk Southern. The company's executives effectively doubled the yard's capacity to meet a rising demand for freight and rail transportation.

**e** [\(mailto:ouriel@sanduskyregister.com\)](#) But executives failed to invest and install any device to deafen boisterous noises produced by the retarder.

During the last few weeks, and to prove a point, one resident recorded and wrote down sound readings at various times throughout the day.

The result?

Levels averaged about 90 decibels, equivalent to a motorcycle's engine revving from 25 feet away or a Boeing 737 airplane engine operating from 6,000 feet away. At times the retarder's noise topped out at 100 decibels, similar to sounds made by a helicopter from 100 feet away.

In an attempt to muffle the sound, about 100 residents living near the yard signed a petition and submitted the document to Erie County commissioners.

The Register, in hopes of better understanding the situation, sent several questions to a company spokesman, who opted against answering any of them.

Among the inquiries: Why didn't Norfolk Southern consult with residents or local governments about potential noise levels before installing the retarder, and what will the company do to address this issue?

Instead, spokesman Dave Pidgeon provided a one-paragraph response.

"This is at the very beginning stages, and part of being a good corporate citizen is to be thorough," he said. "We're thankful for the patience of the residents and their representatives as we diligently look into this. As far as a timeline (for possible improvements) there's none to offer today. It's nothing personal toward you or the Sandusky Register."

Local residents, however, didn't shy away from sounding off.

In fact, many candidly spoke to the Register about their situations and the difficulties and frustrations it has caused:

"The rail yard has become an intolerable nuisance for our family. The retarders make extremely high-pitched, piercing, loud noises taking place all throughout the day and night. These noises have negatively impacted the quality of our lives. We cannot have the windows or doors open in our home. If we try to open the doors and windows, the squealing noises keep us from hearing our TV, being able to have a conversation on the phone or even concentrate on our work and school assignments. We support the railroad and the service they provide, however, they are not being good neighbors in our community."

— Ohio 113 residents Steve and Nicole Gravenhorst

"The noise level, in decibels, averages out in the high 80s and low 90s, sometimes even peaking over 100 at times, and it goes on for hours. If my backyard were a workplace, I would be legally forced to wear ear plugs. There are times when it's so loud inside, it's unbearable, and our doors and windows are closed. The noise will wake you up and keep you up at night."

— Billings Road resident Norm Jacobs

"We appreciate the railroad and the opportunities it gives for people and employment in Bellevue. But it's so loud, and we can't even enjoy being outside. It's noise pollution. They should be able to do something about it."

— Ohio 113 resident Amy Rhoades

"It's extremely difficult to sleep at night. It's difficult to have a conversation. It's a nuisance, but when you are outside, it's really a nuisance. I don't have intentions of leaving this area, but if something happened, where me and my family would have to leave, it would certainly (decrease) our chances of selling the house and hurt the value of it."

— Edmonds Road resident Rodney Cook

"The high pitch of the sound is what's aggravating. It just pierces your ears. You can't carry on a conversation."

— Edmonds Road resident Bob Sutherland

"It's happening all the time, 24 hours a day, seven days a week. That's about 3,000 cars a day. They need to do something. Put up sound-acoustical walls, like what's on the highways. Or they should install noise-reducing

retarders. That will cut the noise.”

– Ohio 113 resident Richard Leonard

“My daughter had some friends over for a birthday party (a few weeks ago) to watch a movie outside. Then, when the trains took off, you couldn’t hear the movie because the noise was so loud. We moved out to the country for some peace and quiet, and you get noise. It’s annoying.”

– Ohio 113 resident Blake Rhoades

“My grandson, who is 7, was swimming out in our pool, and he actually cried and wanted to come out of the pool because it hurt his ears so bad. The shrill noise of it. We’ve had friends over that wear ear plugs when they visit. I would think there would be some way they could lessen the noise, put up noise barriers or use some sort of available technology that could make the shrill of the noise less deafening.”

– Billings Road resident Luann Jacobs



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