

From: John Anderson <johnanderson33@hotmail.com>
To: SMR REIR Comments <p66-railspur-comments@co.slo.ca.us>
Date: 11/15/2014 02:12 PM
Subject: Phillips 66 Rail Spur

The California Environmental Quality Act (CEQA) requires that the EIR discuss any inconsistencies between the proposed project and applicable County land use policies. Inconsistency with public plans creates significant impacts under CEQA.

Appendix G of the Revised Environmental Impact Report reveals the many inconsistencies the Rail Spur Project has with San Luis Obispo's land use policies.

Among the inconsistencies detailed in the report are:

- Strategic Growth Goal 1: Preserve, protect, AND IMPROVE the air quality of the County: The analysis in the Draft Environmental Impact Report states that The toxic air emissions would exceed the acceptable levels determined by the San Luis Obispo County Air Pollution Control District and would be inconsistent with the land use policy.
- Land Use Goal 4: Provide areas where agricultural, residential, commercial and industrial uses may be developed in harmony. The analysis states The project would modify an existing industrial use that would result in significant health risk impacts to the closest residences and would be inconsistent with the land use policy.
- Policy E 7.1: Energy, fossil fuel, and related facilities will be sited and operated in a manner to protect the public from hazards and significant environmental impacts. The analysis states that The project would modify and expand industrial uses and activities that could increase potential hazards and would be inconsistent with the land use policy.
- Policy E 7.1.1: Major additions to energy and fossil fuel facilities will provide a sufficient buffer zone from existing or proposed human populations. The analysis states The proposed rail spur proposes alterations to the existing refinery and coke processing facilities that would encroach into the existing buffer zone from human populations and would be inconsistent with the land use policy.
- SL 3.1.5: Establish mitigation strategies for loss of agricultural soils: The analysis states The conversion of soils would cause loss of future agricultural use and no mitigation is proposed. Therefore it is inconsistent with the land use policy.
- Goal S-4: Reduce the threat to life, structures and the environment caused by fire: The analysis states that The potential threat to life, structures and the environment due to a derailment along the mainline tracks would allegedly be mitigated by plans that the County would be preempted by Federal law from implementing and therefore would be inconsistent with the land use policy.
- Policy S-14: Ensure that adequate facilities, equipment and personnel are available to meet the demands of fire fighting. The analysis states The County lacks Hazmat teams with adequate personnel and training for responding to fire and explosions along the mainline track and would be preempted from implementing the mitigation measures suggested. The lack of personnel and training would be inconsistent with the land use policy.
- Policy S-26: Reduce the potential for exposure to humans and the environment by hazardous substances. The analysis states that Delivery of crude oil by rail was found to be a significant risk and Federal Law will preempt the county from enforcing the proposed mitigations. Therefore the increased risk from hazardous substances is inconsistent with the land use policy.

ANR-01

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Date: 11/23/2014 04:10 PM
Subject: Rail Spur Pros and Cons

I believe that when comparing any alleged benefits (Pros) to San Luis Obispo County to be gained by the construction of a rail terminal to the adverse affects to the County, the Cons win out by a substantial margin.

Rail Spur Pros and Cons

Pros

- 1) Increased profits for Phillips 66. Phillips 2013 annual report speaks of increase profits by using "advantaged oil" which means cheaper tar sands crude oil from Canada.
- 2) Alleged job savings at the refinery.
 - a. But the REIR in section 5.0 states, The No Project Alternative would
 - b. meet most of the basic objectives of the Rail Spur Project. (Page
 - c. 5-49, paragraphs 3 and 6 of the REIR).

Cons per the REIR

Incompatible with SLO County Land Use policies.

Building a rail terminal and unloading facility, plus the arrival and departure of 520 trains per year, each a 1.5 miles long, will be a sea change in the amount of activity residents will be exposed to.

ANR-02

Specific Threats To Citizens' Health:

- Fugitive and locomotive ROG and NOx emissions.
- Increase in particulate emissions in an area already violating APCD standards.

In the new REIR, the following project impacts were classified as Class I:

- 1) (AQ.2): Operational activities associated with the Rail Spur Project at the Refinery would generate criteria pollutant emissions that exceed SLOCAPD thresholds.
- 2) (AQ.3): Operational activities of trains along the mainline rail route outside of SLO County associated with the Rail Spur Project would generate criteria pollutant emissions that exceed thresholds.
- 3) (AQ.4): Operational activities at the Refinery associated with the Rail Spur Project would generate toxic emissions that exceed SLOCAPCD thresholds.
- 4) (AQ.5): Operational activities of trains along the mainline rail route associated with the Rail Spur Project would generate toxic emissions that exceed thresholds.
- 5) (AQ.6): Operational activities associated with the Rail Spur Project would generate GHG (greenhouse gas) emissions that exceed SLOCAPCD thresholds.

Refining "tar sands" crude oil from Alberta, Canada. Tar sands (a "heavy" crude) has substantially higher concentrations of sulfur, copper, nickel, nitrogen, lead and benzene than are found in conventional crude.

Health Issues associated with higher levels of sulfur dioxide and increased quantities of petroleum coke.

Asbestos and hydrocarbon contamination

The Danger Of Transporting Crude Oil Down The Cuesta Grade

The Widespread Evacuation Required By A Major Rail Accident

Potential oil spills along the mainline track.

Potential oil spills at the refinery.

Potential fires and explosions along the mainline track.

Potential fires and explosions at the refinery.

Expense of increase in the number of hazmat and fire crew personnel.

Expense of training hazmat and fire crew personnel.

Expense to SLO County to enforce mitigations.

Storm Water Pollution.

Odor Pollution

Visual blight of 80 car unit trains passing through the county.

Visual blight of rail operations at the refinery occurring during the day and night.

Year-Long Pollution & Congestion Accompanying Construction.

Increased light pollution at the refinery. New lighting introduced For 50
- 60 hours per week.

Noise pollution along the mainline track.

Noise pollution at the refinery.

Destruction of 53 acres of dune habitat.

Loss of buffer zone between refinery operations and residential communities.

Nipomo Mesa Lupine habitat destruction

Destruction of habitat of Coast horned lizard, silvery legless lizard, badgers, and other sensitive wildlife species and plants.

Destruction of Archaeological and Paleontological artifacts.

Increased pressure on solid waste disposal sites.

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ANR-02
cont

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Date: 11/23/2014 04:46 PM
Subject: SMR Rail Spur_Hazardous Materials

Mr. Wilson,

Hazards and Hazardous Materials

Recent events in the U.S. and Canada vividly evoke images of the dangers of transporting crude oil by rail. Fires, explosions, destroyed watersheds, agricultural land, and hydrocarbon contamination.

The Revised Environmental Impact Report, the railroads and the oil companies are attempting to calm citizens' fears about rail accidents by citing outdated, historical statistics.

Unfortunately, current data is far more sobering. Looking strictly at oil shipments, spills are spiking. According to the Associated Press -- in 2009, before the oil-drilling boom, just one rail oil spill was reported.

But now, with the flood of new oil, the landscape is far scarier. In 2013, crude oil releases were reported from 137 rail spills.

Therefore, you can toss the REIR's outdated "odds" out the window.

In the last five years, the number of crude oil tankers in the U.S. has grown from under 10,000 to about 400,000 -- that's a 40-fold increase. And a lot more are on the way. More trains = more risk!

Indeed, the Revised Environmental Impact Report states (4.11-25), "In San Luis Obispo County, the Cuesta Grade represents an area where a runaway train could occur. A runaway train coming down the Cuesta Grade could result in spills of crude oil and associated fires." The Union Pacific Rail Road lists the Cuesta Grade as one of the highest hazard rail passes in California.

Therefore, when an almost twelve thousand ton object carrying crude oil attempts to come down the Cuesta Grade, sometime in our future is a disaster.

The oil trains, if they safely navigate through Northern California, down the Cuesta Grade, would then cross the Stenner Creek Bridge, built in 1894, below which the water treatment site is located. The crude oil trains would then snake through the Cal Poly campus, continue through the city, past French Hospital, through Pismo Beach, Grover Beach, Oceano, Arroyo Grande and on to the refinery bring with them the hazards, pollution, noise and the other impacts defined in the REIR.

Communities in Canada, New York, Minnesota, Florida, Pennsylvania, and North Dakota have recently experienced the devastating consequences of crude oil explosions, fires and spills. Evacuation zones up to 5 miles from ground zero have been enforced.

If downtown SLO were ground zero, and we drew a 5-mile evacuation circle around downtown, how many men, women, children and students would be encircled?

So to calm our fears, early this year, in a flyer to residents, Phillips stated it is "committed to the safety of everyone in the communities where we operate. (Our) crude railcar fleet is one of the newest and are all DOT-111 cars". Phillips recently purchased thousands of the DOT 111 rail cars.

The Revised Environmental Impact Report fails to mention that it's the DOT-111 tank cars that have been involved in most of the previous derailments, explosions, fires and oil spills.

ANR-03

ANR-04

ANR-05

ANR-06

ANR-07

U.S. Senator Charles Schumer warned - "DOT-111 tank cars are tragically flawed, causing potential damage & catastrophic loss of hazardous materials during derailments."

The serious deficiencies of the DOT-111 rail cars are well known and are therefore taken into account in the REIR. It proposes a mitigation to the transportation of hazardous crude by rail. The REIR states that (4.7-69; page 489) --

HM – 2: Only Rail Cars designed to FRA, July 23, 2014 Proposed Rulemaking Option 1: PHMSA and FRA Designed Tank Car described in Table 4.7.6 shall be allowed to unload crude oil.

This mitigation refers to the proposed DOT 117 tank car that does not yet exist. So, according to the REIR, Phillips won't use any of its thousands of just purchased DOT 111 rail cars at the proposed rail terminal. Really?

But who is tasked with enforcing this mitigation? The County of San Luis Obispo. And, as the Environmental Impact Report admits, the County is preempted by Federal Law from enforcing this mitigation. So, the entity tasked with enforcing the type of rail car used has no authority to enforce the mitigation.

Brilliant!

The risks of this proposed rail spur project overwhelm any potential benefits Phillips claims will accrue.

John Anderson
Nipomo

ANR-07
cont

ANR-08

Responses to John Anderson Comments

ANR-01	<p>A preliminary consistency analysis between the proposed project and applicable plans and policies is provided as Appendix G of the RDEIR. All identified potential inconsistencies are further discussed in Section 4.8, Land Use and Recreation. Per CEQA Guidelines Section 15064, in evaluating the significance of the environmental effects of a project, the Lead Agency shall consider direct physical changes in the environment and reasonably foreseeable indirect physical changes in the environment. Therefore, as discussed in Appendix G of the RDEIR (Preliminary Consistency Analysis), inconsistency does not necessarily lead to a significant impact. Inconsistency with public plans creates significant impacts under CEQA only when an adverse physical effect would result from the inconsistency. (see the introduction in Appendix G).</p> <p>While the RDEIR discusses potential inconsistencies with applicable planning documents, the decision of whether a proposed project is consistent with a particular plan or policy must ultimately be made by the local decision-making body.</p>
ANR-02	<p>This comment is not related to the adequacy of the EIR, but rather just lists the pros and cons of the project. The commenter's list of pros and cons associated with the project is included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project.</p>
ANR-03	<p>The historical accidental data used in the RDEIR is not limited to trains shipping crude oil in recent years, but the long term historical train accident data for all freight. The use of data from all freight train movements nationwide provides a very robust database for estimating rail accidents and derailments.</p> <p>Average U.S. train derailment rates over the 5-year period 2005 – 2009 have previously been estimated using data from the U.S. Department of Transportation, Federal Railroad Administration (FRA) Rail Equipment Accident (REA) database combined with traffic data from the rail industry (Liu et al, 2014). This dataset was used to develop detailed derailment rates as a function of three factors: FRA Track Class, traffic volume (which appears to be correlated with additional maintenance above basic federal requirements) and Method of Operation (i.e., signaled or non-signaled trackage). All three of these factors have a significant effect on freight train derailment rate. These factors were used to calculate segment-specific derailment rates thereby enabling a fine grained calculation of derailment probability for any particular route. As discussed below, the overall accident rate has declined since this data was recorded and analyzed, thereby resulting in an overestimate of the present-day risk, and future risk. For example the average accident rate for the five-year period 2010-2014 was 27% lower than the average for the five-year period from 2005-2009, and the preliminary estimate of the accident rate for 2014 was 35% lower than the five-year period from 2010-2014.</p> <p>The reason data from 2005-2009 was used is because that dataset contained additional information that allowed for the estimated effect of FRA Track</p>

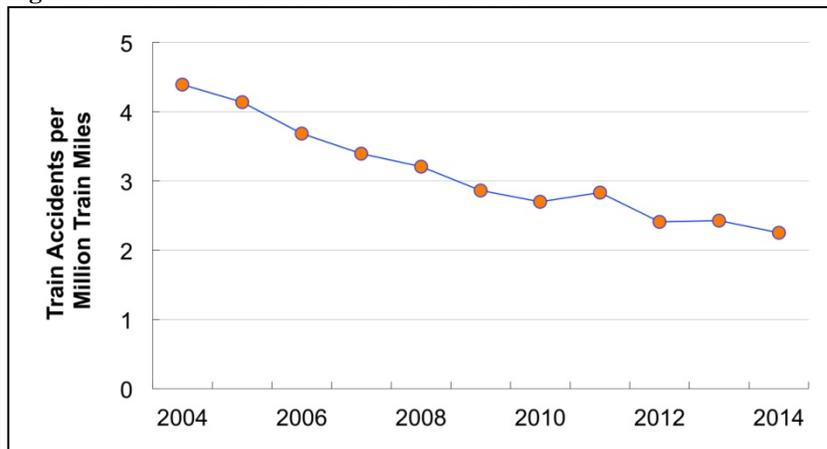
Responses to John Anderson Comments

Class, Traffic Density and Method of Operation (Signaled or Unsignaled) on derailment rate. This additional granularity is needed for more precise segment-specific accident rate used in the analysis.

The derailment rates calculated were based on 1,420 Class 1 railroad mainline derailments. Inclusion of a few more crude oil train derailments in recent years would have virtually no effect on the estimated rates. The suggestion that because these recent accidents were not included in our dataset somehow invalidates the results reflects a lack of understanding of the analytical technique and how it was used. The data needed for this analysis are less complete than for overall accident rate but all other things being equal, there is no reason to believe that crude oil trains derail at a rate different than other freight trains. Using what data are available and making certain assumptions, the EIR consultant conducted an analysis in 2014 and observed no significant difference in the derailment rate for crude oil trains then for other freight trains.

The railroad accident rate has been steadily trending downward for over a decade. The accident rates in the past few years were the lowest since the FRA started recording the data in the mid-1970s. In the period from 2004 to 2014 the rate declined by 49% (almost half) (see Figure 1 below). Most derailments receive little or no attention from the public or media. Railroads are required by regulation to report all accidents that exceed a certain monetary threshold in damage to track, signals and rolling stock (currently \$9,600). Proper estimation of train accident rates involves analysis of all accidents, divided by the total amount of traffic. The reason that some perceive an increase in the railroad petroleum crude oil accident rate is because of the more than 50-fold increase in this traffic since 2009. Estimates are that 233,698 tank cars of crude oil were moved by rail in 2012. This increased to over 435,000 tank cars moved by rail in 2013 (the full year of data is not yet available for 2014). With this increase in crude by rail traffic, the derailment and spill probability data would suggest that multiple crude by rail accidents would happen each year.

Figure 1. Railroad Accident Rate 2004 – 2014



Data Source: US DOT Federal Railroad Administration

<http://safetydata.fra.dot.gov/officeofsafety/publicsite/summary.aspx>

Responses to John Anderson Comments

	<p>(Data for 2014 include January through November)</p> <p>Using the accident and spill probability data from the RDEIR the DEIR would have estimated that between 2012 and 2013 there would have been two to five derailments that had spills of 100 gallons or more in the U.S. Based upon the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) incident data base, there were three crude oil train derailments with spills of 100 gallons or more.</p> <p>This does not contain the accident and spills that have occurred in Canada over this period since the accident and spill probability data is for mainline rails within the United States only.</p> <p>The methodology for estimating crude oil unit train accidents and spill probabilities is also consistent with the methodology outlined by the American Institute of Chemical Engineers, Center for Chemical Process Safety (AIChE CCPS) document <i>Guidelines for Chemical Transportation Risk Analysis</i> (CCPS, 1995), which is the definitive reference on the methodology for estimating hazardous materials transportation risk.</p>
ANR-04	<p>The comment is correct in that the more trains equates to more risk. The RDEIR evaluated the potential societal risk associated with increased rail traffic that would result from implementation of the proposed project and found the potential risk to be Significant and Unavoidable. Please see EIR Section 4.7 for more information.</p>
ANR-05	<p>In San Luis Obispo County, the Cuesta Grade represents an area where a runaway train could occur. A runaway train coming down the Cuesta Grade could result in spills of crude oil and associated fires. The Rail Spur Project would use two additional locomotives (for a total of five locomotives) on the crude oil unit train for crossing the Cuesta Grade. These two additional locomotives would be added to the train at Santa Margarita and removed from the train in the City of San Luis Obispo once the train had crossed the Cuesta Grade. These additional locomotives would help to assure that the train can safely traverse the Cuesta Grade. Use of these additional trains is part of the Project Description (see Chapter 2.0).</p> <p>The probability of a crude oil train release incident is discussed in the Section 4.7, Hazardous and Hazardous Materials, the impacts of a potential crude oil accident as found to be significant and unavoidable (Class I).</p>
ANR-06	<p>A 5-mile evacuation zone would be excessive for a crude oil train carrying heavy tar sands crude oil. However, the potential impacts of a train derailment, oil spill and potential fires and explosions would be substantial. Therefore, RDEIR found that the risk of a crude oil train accident and spill was considered a Significant and Unavoidable (Class I) impact.</p>

Responses to John Anderson Comments

ANR-07	<p>Phillips 66 is proposing to use CPC-1232 tank cars, which are not the legacy DOT-111 cars cited in the comment. The RDEIR (see Section 4.7, Hazards and Hazardous Materials) found that with CPC-1232 tank cars the potential hazard impact along the mainline rail would be significant and unavoidable (Class I). The RDEIR recommends the use of Department of Transportation (DOT) Option 1 tank car design, which is substantially more robust than the CPC-1232. Even with the Option 1 tank car design, the potential hazard impact along the mainline rail would be significant and unavoidable (Class I). As discussed in Table 4.7.6 of the RDEIR, the CPC-1232 tank car design was not one that was being considered as part of the DOT rulemaking for new tank car designs. In May 2015 the DOT issued their final rules for high hazard flammable trains. The final rule is discussed in Section 4.7.5, Hazards and Hazardous Materials. The Final rule does not require the use of Option 1 tank cars, but the FEIR is still recommending as a mitigation measure the use of the Option 1 design. While there may not be any Option 1 cars currently built, existing rail cars can be retrofitted to meet these specifications. The DOT has determined that this rail car design is feasible, but has not decided yet as part of the rule making process what the Federal requirements will be for rail cars used to carry crude oil.</p> <p>It is unclear whether the County is preempted from imposing mitigation measures to reduce the potential for significant impacts along UPRR's mainline. The RDEIR takes a conservative approach to the evaluation of impacts by recognizing that Federal law may preempt the County from imposing conditions of approval that would mitigate these impacts, potentially resulting in unmitigated significant impacts. This satisfies the information disclosure requirements of CEQA and will allow the County decision makers to evaluate the full spectrum of potential environmental impacts as well as potential mitigation measures.</p> <p>If the County requires the use of Option 1 cars then County Planning would be responsible for assuring compliance with this mitigation measure.</p>
ANR-08	<p>This comment does not identify a specific environmental analysis or CEQA issue relative to the EIR and compliance with CEQA. The commenter's concerns about risk and lack of benefits for the project are included in the FEIR for the decision-makers' consideration as part of the County's deliberations on the proposed project.</p>