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September 19, 2015

**RE: 9/22/15 Council meeting, Item 11.b. - Consideration of Comment Letters Regarding the Phillips 66 Rail Spur Extension Project and Rail Safety**

Dear Mayor Hill and Councilmembers,

Thank you for taking up this issue. The Santa Lucia Chapter represents the Sierra Club's 2,000 members in San Luis Obispo County. We are pleased to convey their concerns regarding the Phillips 66 oil by rail project.

We must point out that the drafts of both recommended letters, as written, are out of date.

The policy recommendations on rail safety recommended by the California League of Cities were developed in February 2015, during the drafting process for the new federal rule. The Department of Transportation released its final rule on tank car safety on May 1. Hence, staff's "draft comment letter as suggested by the League of California Cities" is four months too late.

We also point out that the League's recommendations to the Dept. of Transportation that the new 40mph speed limit for high-hazard trains be mandated in all areas and that the new federal rule "mandate electronically controlled braking systems," "quickly phase out unsafe tank cars" and "provide more information to first responders" were ignored or rejected when the rule was finalized. Railroads will be allowed to take up to ten years for the phase out and retrofit or replacement of unsafe tank cars, and can take up until 2021 to install electronically controlled braking systems. A new 40 mph speed limit has been set only for "high threat urban areas." Forty miles per hour is more than twice the rated "puncture velocity" of even the new tank cars that the DOT will (in some cases) eventually require. Oil trains carrying millions of gallons of explosive crude will continue to travel at 50 mph across North America except in a small number of those "high threat urban areas," none of which are in San Luis Obispo County. The new safety rule gutted public notification requirements, removing an existing requirement that citizens and emergency responders be informed about where these trains are running and when.

We suggest that it would be futile to send the proposed letter to the Secretary of Transportation, as it constitutes recommendations for inclusion in a federal rule that has already been adopted and which largely rejected those recommendations. As the new federal rule does not alleviate the concerns that have arisen around the proposed Phillips 66 project, it would be best for the City to

focus instead on local action it can take on behalf of your citizens regarding the potential impacts of the project.

In this regard, the draft letter to the County Planning Commission needs to be updated. The dated references to support for the League of California Cities' rejected recommendations and urging their inclusion in the final rule should be removed. Also, the draft letter from the City of Pismo Beach attached to your staff report and referred to in staff's own draft letter ("The City joins with the community of Pismo Beach regarding heightened concerns about rail safety and potential environmental threats...") is not, in fact, the letter that Pismo Beach is sending to the County. At its September 15 meeting, the Pismo Beach City Council agreed that Mayor Higginbotham should send a revised draft of the letter to the County, stating her opposition to the project unless all of the eleven Class 1 "significant and unavoidable" environmental impacts identified in the Revised Draft EIR can be mitigated.

We suggest the City follow this common sense conditional approach to this issue. This would entail revising the draft letter to the County Planning Commission, striking the last paragraph ("We appreciate the magnitude of the task the Planning Commission has in reviewing the Project and we trust that rail safety aspects will be weighed appropriately during your consideration") and replacing it with a specific request. Urge the Planning Commission to deny the project unless it can assure that full and enforceable mitigation of the project's safety issues will be implemented and that all Class 1 environmental impacts will be mitigated.

Thank you for your attention to this issue.

A handwritten signature in black ink, appearing to read "Andrew Christie". The signature is fluid and cursive, with a prominent "A" and "C".

Andrew Christie, Director  
Santa Lucia Chapter of the Sierra Club