

3.12 Contra Costa County Zoning Administrator Public Hearing (December 14, 2006)

Public Hearing Transcript

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CONTRA COSTA COUNTY
ZONING ADMINISTRATOR

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COPY

IN RE: CONOCOPHILLIPS COMPANY
File No. LP052048

REPORTER'S TRANSCRIPT OF AUDIOTAPED PROCEEDINGS
MEETING OF DECEMBER 14, 2006

PRESENT:

DENNIS BARRY, Zoning Administrator
CATHERINE KUTSURIS

Transcribed by: JOHN A. ZANDONELLA, CSR No. C-795



1 PROCEEDINGS

DECEMBER 14, 2006

2

3 MR. BARRY: Would the staff introduce Item Number
4 3, please.

5 MS. FOLEY: Yes. This is a draft environmental
6 impact report for ConocoPhillips Company, the applicant
7 and owner, County File LP05-2048.

8 This is a public hearing to accept comments on the
9 adequacy of the draft environmental impact report
10 prepared for the proposed clean fuels expansion project
11 at the ConocoPhillips San Francisco, Rodeo, refinery.

12 ConocoPhillips has requested approval of a land
13 use permit to allow construction of new equipment and
14 modifications to existing equipment that would enable
15 the refinery to process heavy gas oil which is
16 currently produced onsite and exported.

17 Implementation of the project would allow overall
18 refinery production to increase by up to 1 million
19 gallons per day, or 30 percent over current levels.

20 The proposed project includes the following:

21 One, construction of a new hydrogen plant with a
22 capacity of 120 million standard cubic feet per day.

23 Two, construction of a new HGO hydrocracker with a
24 capacity of 23,000 barrels per day.

25 Three, construction of a new sulfur recovery unit

1 with a capacity of 200 long tons per day.

2 Four, construction of a new butane rail loading
3 facility.

4 Five, reformer modifications resulting in a
5 capacity increase from 16,087 barrels per day to 18,500
6 barrels per day.

7 Six, UNISAR, Unit 248, resulting in a capacity --
8 oops, I'm sorry -- modifications resulting in a
9 capacity increase from 8,812 barrels per day to 16,740
10 barrels per day.

11 Number seven, product blending deisobutanizer
12 modifications resulting in a capacity increase from
13 7,600 barrels per day to 10,200 barrels per day.

14 Number nine, sulfur recovery plant modifications
15 that would include a new sulfur degassing system, a new
16 sulfur loading rack, a modified replaced amine
17 regenerator and an increase in sulfur storage capacity.

18 And 10, modifications to ancillary facilities such
19 as pumps, heat exchangers, instrumentation, utilities,
20 piping, et cetera.

21 Implementation of the proposed project would
22 cause:

23 One, refinery water usage to increase from 4.32
24 million gallons per day to 5.42 million gallons per
25 day.

1 Two, refinery energy usage to increase from 48
2 megawatts to 67.8 megawatts.

3 And three, flow to the refinery wastewater
4 treatment plant to increase from 3.3 million gallons
5 per day to 3.4 million gallons per day.

6 The refinery encompasses approximately 1,100 acres
7 in the community of Rodeo in unincorporated Contra
8 Costa County. San Pablo Avenue and Interstate 80 run
9 in a north-south direction through the refinery
10 property.

11 The proposed project would be constructed on
12 approximately nine acres west of Interstate 80 within
13 the refinery's 495-acre developed area. The refinery
14 is addressed 1380 San Pablo Avenue.

15 MR. BARRY: Thank you, Debbie. And don't worry, I
16 don't know of a planner who hasn't stumbled over a
17 deisobutanizer one time or another.

18 As I mentioned before, the purpose of this hearing
19 is to expand the requirements of State law, which
20 provides for a written comment period for anyone to
21 indicate what their concerns are about the adequacy of
22 a draft environmental report.

23 We go beyond that here in the County to allow
24 people to come before the Zoning Administrator or
25 another division of the Planning agency and make their

1 comments verbally.

2 And as long as you stay on track, I'm very eager
3 to hear any comments you might have about the adequacy
4 of the draft EIR today. If you start to go off into
5 whether or not the project should be approved, I will
6 exercise my discretion as the Zoning Administrator and
7 stop you.

8 So with that being said, we will move on to Ed
9 Tannenbaum as the first speaker. And if you would give
10 your name and address for the record, that would be
11 helpful.

12 MR. TANNENBAUM: My name is Ed Tannenbaum. I'm at
13 1535 Lillian Street in Crockett.

14 And I'd just like to comment on a couple of
15 things. I looked over the noise part of the EIR and
16 was a little bit concerned about how an EIR uses an
17 average sound level instead of peak sound levels for
18 what it considers noise.

19 And there is just a small thing. Section 411-5
20 says that construction activities are to be
21 concentrated during the hours of the day that are not
22 noise sensitive for adjacent land uses and condition to
23 occur during normal work hours of the day to provide
24 relative quiet during the more sensitive evening and
25 early morning periods, which is, you know, nice

1 sentiment.

2 But I'd like to see it a little bit clarified for
3 the contractors and what they can and cannot do at
4 night, because I know that a jackhammer going off in
5 the middle of the night is a very unpleasant thing. It
6 may not actually increase the average sound level, but
7 it's a, it's a, you know, nasty thing to wake up to.

8 So I think that that should be put actually in the
9 mitigation section of the noise section so that it I
10 guess is more carefully addressed.

11 Maybe the hours should be spelled out and what
12 type of work should or shouldn't be done during
13 sleeping time hours.

14 And the other -- there are a couple of other
15 issues. Right now we have a fenceline monitoring
16 system at the refinery, which is unprecedented in a
17 refinery in the world as far as I know, where we have
18 community access to real time data of what is -- well,
19 supposedly what chemicals are getting over the
20 fenceline and into the community.

21 This was part of the good neighbor agreement that
22 was settled back in I think '95. And the refinery has
23 been very good about upgrading it and actually getting
24 it online so we can actually see this data in real time
25 online.



1 Unfortunately we've had many terrible odor issues
2 over the summer that did not show up at all on the
3 fenceline monitoring. So I'd like to see maybe
4 detectors actually within the community so that we can,
5 number one, now what actually got missed by the
6 fenceline and, number two, register things that we do
7 smell.

3

8 Because right now, not one odor complaint has
9 shown up on the fenceline at all, and there have been
10 many odor complaints. Howard will be addressing this
11 issue more.

12 I know that we do have ground level monitors in
13 Crockett up on Cummins Skyway, in the refinery and in
14 other places in Rodeo. Right now we don't have access
15 to the data that's coming from these ground level
16 monitors that I'm told are sensitive enough to pick up
17 these odor issues, these odor -- you know, the nose is
18 a lot more sensitive than a lot of equipment, but there
19 is some equipment that is good enough to pick up these
20 chemicals.

4

21 So I propose that we actually get ground level
22 monitors and localized monitoring equipment on the
23 fenceline so that we can actually document these
24 problems and help the refinery to pin down where
25 they're coming from so that we can minimize them.

1 Thank you.

2 MR. BARRY: Thank you very much.

3 Our next speaker will be Mr. Howard Adams.

4 MR. ADAMS: Howard Adams, 720 Kendall Avenue,
5 Crockett.

6 Ed and I really represent a group of about a dozen
7 people that have gotten together once we had heard
8 there was this new project coming. And the dozen of us
9 or so, most of us had had the previous experience on
10 the negotiating committee of the original good neighbor
11 agreement after the catacarb release in 1994 when
12 Unocal was the owner.

13 So we thought the good neighbor agreement is about
14 to expire in a couple years. Maybe this is a good
15 point to renegotiate that agreement for additional
16 things that we see that the community needs that would
17 be beneficial to both the refinery and the community
18 and just seemed to be timely.

19 The other people of course are all working today,
20 but Ed and I are gonna try to represent the views.

21 When we got together to determine what new things
22 or what things we'd like extended in the original
23 agreement it turned out to be a consensus that we've
24 got to fix the odor problems that have suddenly
25 reoccurred this summer and through the fall.

1 The previous two years were a really good record.
 2 We hardly had any complaints at all. But something
 3 happened in this meantime for this year where we did
 4 get considerable releases. It was almost an everyday
 5 occurrence and some of them were severe enough that
 6 people did get sick and we had the shelter in place.

7 And working with the refinery, the communication
 8 is pretty good right now because the fenceline
 9 committee that Ed is on, we have been in touch with the
 10 refinery through the years.

11 But their attempts to find the sources have been
 12 unsuccessful, and so we wonder was it because of the
 13 new ultra low sulfur diesel project that went through
 14 that suddenly caused this renewal of odors that had not
 15 been there before. And so we're weary of yet another
 16 big expansion that could be another source of problems.

17 And as we read through the EIR, we haven't had
 18 time to study it thoroughly because we just got the
 19 copies last week. But at a first, fresh glance there
 20 look like there's some significant new sources of odors
 21 potentially there. And we want to make sure that we
 22 are properly protected from those.

23 And as part of the mitigation reports and
 24 information I think that's incorrect in here, we would
 25 like to have the refinery further emphasize their odor



1 pursuit or odor abatement pursuits.

2 Maybe just a little more history too, because I
3 want to say the good neighbor agreement has been a
4 success. There was an elimination of chlorine and
5 anhydrous ammonia as a result of that agreement, and
6 that's further reducing the risks.

7 What we still have though is a danger of hydrogen
8 sulfide, and we can smell little pieces of evidence of
9 that all the time. But there is the risk of that being
10 released so we want to make sure that every precaution
11 is made to protect us from that.

12 Other things that have occurred in this 12-year
13 period, the Hillcrest School has moved, which was on
14 the fenceline, reducing the risk to children there.
15 And occasionally they would be subjected to sickness
16 from releases. That's been taken care of.

17 You're familiar with the old Wickland housing
18 development which was gonna be on the east side of the
19 refinery. That was, after it was approved by the
20 County, the refinery then bought it out because they
21 needed that protection for the buffer zone there.

22 And so this was all an offshoot of all that kind
23 of communication that was going back and forth. And
24 those are the good things that have happened.

25 Anyway, what we have done at a first glance is



9



10



1 looked at the emissions that are going to be coming
2 from this new project. And by and large, most of the
3 emissions like carbon monoxide, hydrocarbons and nox,
4 nitrogenoxides, will probably not be too significant.
5 We won't be able to tell much of a difference there.
6 They're in the range of around five percent increase
7 overall from what's already there in the refinery.

8 We are concerned about particulate in particular.
9 That's gonna go up by 19 percent in terms of impact on
10 the community. And they've mitigated it to a lower
11 level than that, but I want to approach, I want to
12 discuss that in just a second. And sulfur dioxide is
13 gonna go up by 11 percent.

14 This is a community, both Crockett on one side and
15 Rodeo on the other, that has a lot of respiratory
16 illnesses. And there's no hard data on that. It's
17 just all anecdotal unfortunately.

18 But I do remember one occasion when I was at a
19 County training session for a release that was being
20 held in Rodeo. And I happened to sit next to a new
21 director of Head Start in Bayo Vista and Rodeo. And
22 she was appalled at the level of asthma in her children
23 that she was seeing, that was in the order of about
24 half of them.

25 And she had just come from running Richmond, maybe

1 not too far from the Chevron refinery, I don't know.

2 But she thought it was maybe 10 percent. So there's a
3 lot of local impact that we're really concerned about
4 in terms of exposures that we're subjected to.

5 So there will be particulate and sulfur dioxide in
6 particular that will be coming into the community. And
7 the mitigation for them to get them into the CEQA
8 regulations, as I'm interpreting this on a first
9 glance, is that they can offset it by reducing the
10 particulate and sulfur dioxide in the carbon plant over
11 in Franklin Canyon.

12 However, that's in a different valley and will not
13 benefit -- reduction there will not benefit the
14 communities of Crockett and Rodeo because we are going
15 to get full impact of these increased amounts.

16 The Franklin Canyon reductions, it will benefit a
17 few cows, a herd of llamas and a bunch of golfers, and
18 that's it. The communities will still be having this
19 higher level of emissions that we have to deal with.

20 In any event, I don't know realistically -- and
21 legally, maybe this is all correct and maybe there's
22 nothing we can do about that. But what I want to do is
23 pose that so that there can be additional mitigations
24 on the odor reductions that are now coming into town
25 that were not so prevalent before. Thanks.

1 MR. BARRY: Thank you very much.

2 Our next speaker is Mr. Mark Hughes.

3 MR. HUGHES: Thank you. I will be very brief.

4 I just want to bring to the attention of the
5 Zoning Administrator that the applicant is here and
6 willing to play any role that you deem appropriate this
7 afternoon.

8 Our business partners Air-LaQuita (phonetic) on
9 this project are also represented here. So if there's
10 a role for us to play where we can be a resource,
11 please let us know.

12 We think it's been a comprehensive process that
13 begins way back in May of not '06 but of '05. 20
14 months later, we are here before you. We think it's
15 been a comprehensive, thorough draft EIR that's been
16 developed. And I'm happy to participate as you deem
17 appropriate.

18 We appreciate the outreach efforts of the County.
19 We like to think that we're complementing those efforts
20 since we've had a series of community meetings,
21 including one that we'll be participating in this
22 evening with our fence line neighbors in Bayo Vista.
23 So, thank you.

24 MR. BARRY: Thank you. Our staff and our
25 consultants may be requesting additional information

13

14



1 from you in order to prepare the responses to comments
2 document.

3 With respect to outside of the CEQA process, with
4 respect to the hearing evaluations that will occur with
5 respect to the land use permit, because a decision
6 making body such as the Zoning Administrator or
7 Planning Commission or ultimately the Board of
8 Supervisors will have findings as to whether there's
9 any conflict with the General Plan or whether there
10 needs to be -- whether there's marginal development in
11 terms of the balance of issues, it would behoove the
12 applicant I believe to engage the community in
13 discussion of those ground monitoring issues that were
14 brought to our attention today during the hearing,
15 offline so to speak, separate from the hearing process
16 from the EIR, to at least engage in a discussion and
17 see if you can come to an amicable agreement with the
18 community.

19 That would be very helpful to the decision making
20 body in judging whether those findings can be made.

21 This is a substantial increase in throughput,
22 about 30 percent as I recall from reading the draft.
23 And it would be a presumably very profitable venture if
24 it's ultimately approved and constructed. And there
25 should be some consideration for the community.

1 I just want to point out on page 4.2-25 under
2 mitigation measures in the air quality section, the
3 seventh bullet reads: "Encourage construction worker
4 commuters to carpool or employ other means to reduce
5 trip generation."

6 To my way of thinking, this is far too vague to be
7 a monitorable mitigation measure. What form would that
8 encouragement take, will these workers get paid more in 15
9 order to carpool. What are we talking about, how will
10 we monitor whether they're being encouraged? Is it
11 only by looking at whether they do carpool?

12 It just doesn't, it doesn't reach my soul in terms
13 of whether this is monitorable. So I'd like to see
14 that taken care of.

15 Okay. We had a request from Communities for a
16 Better Environment, the staff had a request from
17 Communities for a Better Environment in a letter dated
18 November 30th, 2006 for an extension of the, both this
19 hearing and the time period to submit commits on the
20 draft EIR. They asked for a 45 to 60-day extension. 16

21 The staff by a letter which was dated December 11,
22 2006 responded to Adrienne Bloch, the senior staff
23 attorney for Communities for a Better Environment,
24 essentially granting an extension of the review period
25 for written comments to be submitted to the County

1 through 5:00 PM on Monday, January 22nd.

2 So that there will be notification sent out, but I
3 wanted people who are here today, who have taken the
4 trouble of looking the draft and are anticipating
5 writing additional comments to the County, that they
6 will have until Monday, January 22nd, 2007 at 5:00 PM
7 in order to submit those comments.

8 And the comments that are made today will be
9 transcribed and the comments that are submitted in
10 writing together with those transcribed comments will
11 be responded to in a response to comments document.

12 That document together with the draft EIR will
13 constitute the final environmental impact report for
14 this project.

15 I will then come back before the public in a
16 hearing that will not be a noticed hearing but will be
17 agendized on the Zoning Administrator's agenda and
18 formally make a recommendation to the Board of
19 Supervisors as to whether I believe that the draft is
20 adequate for decision making purposes, whether it
21 complies with the requirements of the California
22 Environmental Quality Act and the State and the local
23 guidelines. So that will be forthcoming once the final
24 environmental impact report has prepared.

25 That concludes Item Number 3. I will now turn

1 over the gavel to Catherine Kutsuris.

2 MS. KUTSURIS: May I suggest that because some
3 people just entered the room late, after your, after
4 the speaking has started, that you add one more call to
5 make sure there's no one else in the room that wishes
6 to speak.

7 MR. BARRY: Is there anyone else who would like to
8 speak on this matter? Okay. Would you please come up,
9 fill out a green slip after you speak. You can go
10 ahead and speak but fill out the green slip and put it
11 in the box before you go, so that we'll have your name
12 and address for the record.

13 MS. TOVAR: Okay.

14 MR. BARRY: And if you could say your name and
15 address for the record --

16 MS. TOVAR: I appreciate that.

17 MR. BARRY: -- and please keep your comments to
18 the adequacy of the draft EIR.

19 MS. TOVAR: My name is Jessica Tovar. I work for
20 Communities for a Better Environment.

21 And there's a lot of issues with this whole
22 process. First of all, I wanted to let you guys know
23 that the announcement of this meeting was not even on
24 the website. And, you know, a special, a special
25 hearing on such a huge issue, it should have been on

17



1 the website. That's number one.

2 The fact that notices were mailed out two days
3 before Thanksgiving during a major holiday, in between
4 two major holidays is a problem for a community to
5 actually, you know, meaningfully participate in this
6 process.

7 Again, the draft EIR is 400 to 600 pages. You've
8 given us about two weeks to go over such a large
9 document, that's a huge issue as well, which is why we
10 also ask for an extension on comments, written
11 comments.

12 But we were also asking for this hearing process
13 to be extended as well because many people who live by
14 the refinery, they're most likely gonna want to tell
15 you how they feel about this. The likelihood that
16 they're gonna submit written comments is not likely,
17 and you should take that into consideration.

18 Another thing, too, I wanted to let you guys know
19 is that we at CBE have been working to reducing flaring
20 and get all these refineries to reduce their flaring.
21 This project would only increase flaring. This is a 30
22 percent increase.

23 So I just wanted to go over some other comments
24 that we've been talking about in our organization. So
25 we're concerned about the initial review of the draft

1 EIR, that the document underplays many serious issues
2 and finds many of them to be of no significant impact.
3 We believe many of these impacts are significant but
4 will address them in written comments later on.

5 This is a huge new project. This project
6 represents a huge 30 percent increase in production of
7 the plant. But the draft EIR finds most impacts to be
8 insignificant.

9 Projects include intensive processing of more
10 contaminated bottom of the barrel product. This new
11 project will process a heavy oil product. Heavier
12 products require more intensive processing and are
13 generally dirtier, with more sulfur contamination, more
14 carbon content which can lead to higher particulate
15 matter and trace metal emission.

16 More acutely hazardous material processing, this
17 project includes the building of an entirely new sulfur
18 recovery plant, which means that more acutely hazardous
19 materials including hydrogen sulfide and sulfide
20 oxides.

21 Upset conditions or accidental potential and
22 maintenance emissions are not adequately evaluated.
23 With this huge increase in production, additional
24 hydroprocessing to remove sulfur contamination, a new
25 sulfur recovery plant and other new equipment comes

1 with the necessity of maintenance and comes the
 2 potential for upset, accidents with associated startup
 3 and shutdown that can cause again flaring, leaks,
 4 fires, smoke and other air emissions.

5 The draft EIR does not cover these incidences sure
 6 to occur at some point, given past history of the
 7 refinery's activities.

8 Neighbors have complained about odors from the
 9 plant in the last few months. The existing conditions
 10 include repeated odor problems. The new operations can
 11 only add to these odors, especially given the huge
 12 increase in processing of smelly, irritating and
 13 dangerous sulfur compounds.

14 The draft EIR does not adequately evaluate this
 15 issue which is very likely to result in a significant
 16 odor impact.

17 Neighbors have complained about traffic problems
 18 already caused by the plant. These issues need to be
 19 addressed in consultation with the neighbors to ensure
 20 that adequate alternative routes are put into place.

21 And there are many other issues like I said that
 22 will be submitted in writing.

23 Lastly, I just wanted, just want to recommend that
 24 this draft be rejected as it is incomplete, and the
 25 process has been designed to evade proper notification

1 of community members, and for them to participate and
2 make decisions that will impact their housing and their
3 community.

4 And that's about it, and we do have a community
5 member that would like to speak as well. So I'd like
6 to ask if there is anybody who can translate for a
7 Spanish speaking community member.

8 MR. BARRY: No, we do not have a Spanish
9 translator at the moment. However, we can take a five-
10 minute break and get someone down here who can
11 translate for us.

12 MS. TOVAR: Okay.

13 MR. BARRY: We will then adjourn until 10 minutes
14 after 2:00 to provide for a Spanish translator.

15 MS. TOVAR: I appreciate that.

16 (Off the record.)

17 MR. HERNANDEZ: Ruben Hernandez with the Community
18 Development Department.

19 MR. BARRY: And Mr. Hernandez, we have asked you
20 to come to this hearing in order to translate testimony
21 from Spanish, from Spanish speaking members of the
22 public who wish to speak.

23 Are you currently paid a differential by the
24 County of Contra Costa in order to be a bilingual
25 employee?

1 MR. HERNANDEZ: Yes, I am.

2 MR. BARRY: And is Spanish a native language for
3 you?

4 MR. HERNANDEZ: English is my first language, but
5 I do speak Spanish fluently.

6 MR. BARRY: Did you grow up speaking Spanish --

7 MR. HERNANDEZ: For the most part, yes.

8 MR. BARRY: -- with your family?

9 MR. HERNANDEZ: Yes.

10 MR. BARRY: Thank you.

11 I'd like you to translate both for me so that they
12 can understand and for them so that I can understand.
13 Okay?

14 MR. HERNANDEZ: Yes.

15 MR. BARRY: We are asking that you keep your
16 comments to the adequacy of the draft environmental
17 report.

18 MR. HERNANDEZ: Do you want to stay to three
19 minutes?

20 MR. BARRY: No. No, they can use as much time as
21 they need.

22 MR. HERNANDEZ: Okay. (Translation into Spanish.

23 MR. BARRY: There will be another opportunity to
24 discuss whether you're in favor of the project or not.
25 There will be another opportunity to discuss whether

1 you are in favor of the project or not.

2 (Translation into Spanish.)

3 MR. BARRY: So please keep your comments on the
4 adequacy of the EIR.

5 (Translation into Spanish.)

6 MR. BARRY: Thank you. The speaker will be Rene
7 Leon.

8 MR. LEON: (In Spanish.)

9 MR. BARRY: He's gonna need to, please ask him to
10 allow you time to translate his sentences.

11 MR. LEON: (Through the translator.) Okay. His
12 name is Rene. He's a neighbor of ConocoPhillips.

13 MR. BARRY: Could you ask his address for the
14 record, please.

15 MR. LEON: (Through the translator) 777 Dency
16 (phonetic) Way. He's been living there for five years.

17 When he leaves the house, there's contaminated air
18 that has -- and one time he collapsed and hit his head
19 and had problems with his vision.

20 Okay. And because of his inability to speak
21 English, he wasn't able to communicate with the medics
22 that came to see him. He wasn't able to drive --
23 because of his inability to drive, he wasn't able to
24 drive himself to seek help.

25 He says because of the contaminated air, he hasn't

23
↓

1 been able to do anything because the refinery has --
2 and I guess the refinery activities include burning, or
3 there's gases that are around their home.

4 And he can't, he doesn't tell lies because he's a,
5 he's a man of his word or of 70 years.

6 MR. BARRY: I thank him for his honesty.

7 (Translation into Spanish.)

8 MR. BARRY: Can he tell me whether he has read the
9 draft EIR or had it translated for him.

10 MR. LEON: (Through the translator) He says that
11 he doesn't believe a lot of things that were in the
12 report. He received a lot of correspondences. He
13 believes that this is happening because it is a
14 community of minorities and that everybody from his
15 dogs to the neighborhood has been unhealthy, that if
16 they did a report on the health of the community, that
17 it would show that there is an impact.

18 He can't go outside. He can't breathe fresh air.

19 He says that he's gone 35 years without smoking a
20 cigarette or drinking alcohol, and he still has health
21 problems.

22 He says he does understand how this can happen,
23 again the air is not clean. Again, he doesn't drink,
24 he doesn't smoke, but he feels contaminated. He can't
25 go outside because of the pollution.

1 MR. BARRY: Please thank him for his testimony and
2 encourage him or ask him to speak to those issues when
3 the matter is before the decision making body on the
4 land use permit.

5 (Translation into Spanish.)

6 MR. LEON: (Through the translator) He says you
7 guys are the point people so he wanted to come in.

8 MR. BARRY: I'm sorry.

9 MR. HERNANDEZ: (Through the translator) He said
10 that you are one of the point persons, so he wanted to
11 make sure that he came in, that he came in and told
12 you.

13 MR. BARRY: And thank him very much for that.

14 (Translation into Spanish.)

15 MS. TOVAR: I just wanted to make a comment to
16 that too, is that our organization exists because
17 there's a marginalization between community and the
18 government.

19 We don't have time to translate a 600, 400-page
20 document, first of all. We're still working on reading
21 it ourselves. And I think that's really what the issue
22 is here.

23 And we've communicated a very bare minimum of what
24 is in that EIR to him. And I think it's important that
25 he be heard. He came all this way, you know.

1 MR. BARRY: I'm completely happy to hear his
2 testimony and I appreciate your comments.

3 MS. TOVAR: I just wanted to clarify that. And I
4 think in the future there really should be -- and I
5 apologize to you, but there should be someone who's a
6 paid translator who --

7 MR. BARRY: You have to understand that there's a
8 difference --

9 MS. TOVAR: -- who's a professional translator
10 to --

11 MR. BARRY: There is a difference between the
12 hearing on the draft --

13 MS. TOVAR: I understand.

14 MR. BARRY: -- and the hearing on the project.
15 And I have to keep the testimony separate because
16 that's the law.

17 MS. TOVAR: Okay. Like I said, it would be
18 helpful to me too if this was well advertised on your
19 website. I would know exactly what's going on. There
20 was nothing posted.

21 MR. BARRY: You said that before.

22 MS. TOVAR: Thank you.

23 MR. BARRY: Thank you.

24 Okay. Next speaker will be Jessica Tovar.

25 MS. TOVAR: I already spoke.

1 MR. BARRY: Our next speaker will be Danielle
2 Fujere.

3 MS. FUJERE: Hi, my name is Danielle Fujere. And
4 I'm a Crockett community member. I live at 1535
5 Francis Street in Crockett.

6 I'd like to echo much of what the last speaker
7 talked about. I do oppose this project strongly as a
8 community member who's already significantly impacted
9 by the refinery odors. And I can't imagine allowing 27
10 them to increase the amount of pollution that's put
11 into the air because we're already negatively impacted.
12 And I'll save the bulk of my comments on that issue for
13 the next hearing.

14 I think the EIR in the Crockett community has not
15 been made available sufficiently to the community
16 residents. There's one copy at the library that can't
17 be checked out and so it's been difficult to get ahold
18 of the EIR to read it completely. 28

19 As far as I know, I didn't receive a notice of
20 this hearing. So I wanted to -- it's only through
21 community members that I was made aware of this.

22 With regard specifically to the draft EIR, we
23 would like to see more information on PM 2.5 which 29
24 isn't addressed in the document.

25 The odor complaints for the years 2005 and 2006 30

1 are not provided. And in fact, last year was a
 2 terrible year for odors. And we've had good years.
 3 And the refinery is not able to control. It's really
 4 impacting us, especially during the heat wave this
 5 year, we couldn't even open our windows in hundred
 6 degree temperatures.

7 And I think that the odor complaints should be
 8 part of the record for this year so that I imagine that
 9 there were additional community complaints about that.
 10 But I think that the refinery should have to do more
 11 community polling because it's really difficult to call
 12 the Air Board every single time you are impacted by
 13 smells.

14 One, you feel like you're crazy. And two, it's
 15 just so constant that you don't pick up the phone every
 16 time. And so I don't think there's an adequate
 17 discussion about community impacts of the pollution and
 18 what we're having to live with. So I think that they
 19 should have to do, provide more information on that
 20 subject.

21 And I also would appreciate it if we could have an
 22 evening hearing on the substance because it's really
 23 hard to make it during the day. And I think more
 24 community members would be able to show up and provide
 25 their testimony and their thoughts about this proposed



1 project.

2 And I'm also concerned about the fact that the
3 document is suggesting that a 17 percent increase in
4 pollution is not a significant increase or a
5 significant impact to the community. Both legally and
6 in terms of living our lives, it's very, very
7 significant.

8 So those are my brief comments, and I will submit
9 comments and have additional comments later. Thank
10 you.

11 MR. BARRY: Thank you very much.

12 Is there anyone else that wants to speak on the
13 adequacy of the draft environmental impact report for
14 the ConocoPhillips clean fuels expansion project?

15 MR. ADAMS: I just had a one question.

16 MR. BARRY: I'll take a point of order.

17 MR. ADAMS: Okay. On the draft, there is no
18 author. I'm just wondering who did the draft.

19 MR. BARRY: The Contra Costa Community Development
20 Department is the lead agency that prepared the draft
21 EIR. We had the assistance of, I believe it was ESA --

22 MS. KUTSURIS: That's correct.

23 MR. BARRY: -- consulting firm.

24 MR. ADAMS: Okay. Thank you.

25 MR. BARRY: There's a section in there that has

1 the authors.

2 MR. ADAMS: Oh, there is?

3 MR. BARRY: Yeah.

4 MR. ADAMS: I missed it. Sorry.

5 MS. FOLEY: If I just may make a few
6 clarifications with respect to the availability of the
7 document, it is available on our website. And the
8 notice for this hearing, the Zoning Administrator
9 agenda is on the County's website as well.

10 We make in our offices available copies of the
11 draft EIR for loan if someone wishes. In addition,
12 CD-ROM's are available at a very small price of two
13 dollars for purchase. And the document itself can be
14 purchased for a fairly nominal fee.

15 MR. BARRY: Thank you. And in the future, when we
16 have an agenda that has an item related to this
17 refinery project, Don, perhaps we can put a banner or
18 something on there that highlights for people who are
19 looking for it, so it makes it easier for the
20 uninitiated who don't necessarily know to go look for
21 the agenda of the ZA, at least some way to bring one's
22 attention to it, that would be useful for the public.

23 And so with that, I am not going to continue the
24 hearing on the draft EIR, but we have continued the
25 comment period, as I mentioned earlier, to 5:00 PM on

1 Monday, January 22nd, 2007 for comments to be submitted
2 in writing to the Community Development Department.

3 And with that, I'm going to turn over the balance
4 of the meeting to Catherine Kutsuris who will hear
5 those items.

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1 STATE OF CALIFORNIA)
) ss.
2 COUNTY OF CONTRA COSTA)
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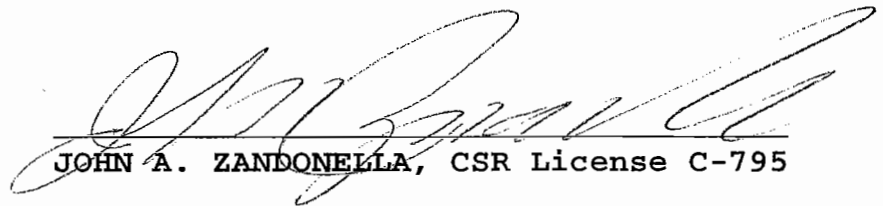
4 I, JOHN A. ZANDONELLA, do hereby certify:

5 That I am a Certified Shorthand Reporter of the
6 State of California, License No. C-795;

7 That the foregoing pages are a true and correct
8 transcript of the proceedings before the Contra Costa
9 County Zoning Administrator, County Building, Martinez,
10 California, except as noted "unintelligible" or
11 "inaudible."

12 I further certify that I am not interested in the
13 outcome of said matter nor connected with or related to
14 any of the parties of said matter or to their
15 respective counsel.

16 Dated this 22nd day of January, 2007, at Concord,
17 California.

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20 JOHN A. ZANDONELLA, CSR License C-795
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WORKSHEET

JAZ COMP #01-57262 INV #
Orig & 1 copies: Contra Costa County Community
Development Department, Current Planning Division, 651
Pine Street, North Wing, 2nd Floor, Martinez, CA 94553,
335-1210 ATN: HILIANA LI

CONTRA COSTA COUNTY
ZONING ADMINISTRATOR

--o0o--

IN RE: CONOCOPHILLIPS COMPANY

REPORTER'S TRANSCRIPT OF AUDIOTAPED PROCEEDINGS
MEETING OF DECEMBER 14, 2006

PRESENT:

DENNIS BARRY, Zoning Administrator
CATHERINE KUTSURIS

Transcribed by: JOHN A. ZANDONELLA, CSR No. C-795



3.12 Contra Costa County Zoning Administrator Public Hearing (December 14, 2006)

Responses to Public Hearing Transcript Comments

CCC-1 *Mr. Tannenbaum voices his concern about the use of average sound levels instead of peak sound levels to determine noise in the EIR. Mr. Tannenbaum also states that a mitigation measure restricting the hours of construction to the daytime is desired.*

Average noise levels are used in the noise analysis to document existing noise levels near the project site. However, for the purposes of impact analysis, equipment noise levels and construction noise levels presented in Tables 4.11-4 and 4.11-6 are steady-state (peak) noise levels generated by the respective pieces of equipment while in loaded operation and no significant variation of noise propagation would be expected. These equipment noise levels were then compared to the average noise levels monitored in the area to assess impact significance.

Regarding nighttime construction noise, as stated in Section 4.13, *Transportation and Traffic* of the DEIR, construction activities are proposed to occur weekdays during an 8- to 10-hour shift (starting at 7:00 a.m., and ending as early as 3:30 p.m. and as late as 5:30 p.m.). Nighttime construction activities are not proposed as part of the Proposed Project and, therefore, no mitigation measure would be necessary to avoid potential nighttime construction noise impacts.

To clarify this point, the following text is hereby added as the second un-bolded sentence to the discussion under impact 4.11-3, DEIR page 4.11-13:

Consistent with Policy 11-8 of the County General Plan, construction activities are proposed to occur weekdays during an 8- to 10-hour shift (starting at 7:00 a.m., and ending as early as 3:30 p.m. and as late as 5:30 p.m.).

Further, the County's standard practice is to include a condition of approval on major construction projects that restricts the hours of construction activity.

CCC-2 *Mr. Tannenbaum comments on the fenceline monitoring system at the Refinery that was put into place in accordance with the good neighbor agreement.*

RESPONSE: Comment noted.

CCC-3 *Mr. Tannenbaum states that there have been odor issues that did not show up on the fenceline monitoring data. Because of this, Mr. Tannenbaum would like detectors to be located within the community as well.*

RESPONSE: The odor issues identified by the commenter are not associated with the Proposed Project. Therefore, the County is not allowed under CEQA to require monitoring within the community. See response GNAC-9.

CCC-4 *Mr. Tannenbaum notes the existence of various ground level odor monitors in the area. Mr. Tannenbaum proposes that ground level monitors and localized monitoring equipment be installed on the fenceline, in order to make data publicly accessible.*

RESPONSE: See responses CCC-3. With respect to ground level monitors, see also response CBE-27.

CCC-5 *Mr. Adams comments on renegotiating the Good Neighbor Agreement and complaints in the recent year about odor emitting from the Refinery.*

RESPONSE: The commenter describes the history of the Good Neighbor Agreement. The comment does not question the DEIR's analysis of possible impacts on the environment and ways in which those impacts might be avoided or mitigated. Therefore, County response to this comment is not required.

CCC-6 *Mr. Adams questions whether the new low sulfur diesel project was the cause of the odor emitting from the refinery. He also stated that the community group fears the expansion will be another source of problems.*

RESPONSE: Comment noted.

CCC-7 *Mr. Adams states that upon first glance at the DEIR, there are potentially significant, new sources of odors, which the community group wants to be protected from.*

RESPONSE: The elements of the Proposed Project are discussed in Chapter 3, *Project Description*, while the odor effects are discussed in several parts of DEIR Section 4.2, *Air Quality*. For further information, see response CBE-28 and CBE-59 and Section 2.3, Master Response – Odors.

CCC-8 *Mr. Adams requests that the Refinery further emphasize its odor abatement pursuits.*

RESPONSE: The design of the Proposed Project is intended to reduce potential odor problems. See response CCC-7.

CCC-9 *Mr. Adams comments about the positive history of the Good Neighbor Agreement and other improvements. He notes concern about H₂S.*

RESPONSE: The County notes the positive changes that have occurred and also notes the concern about H₂S.

CCC-10 *Mr. Adams states that the community group believes that carbon monoxide, hydrocarbon, or nitrogen oxide emissions will not likely produce a significant increase to current ranges in the Refinery; however, there is concern about particulate matter and sulfur dioxide being significantly increased by the Proposed Project.*

RESPONSE: While it is true that the Proposed Project would increase emissions of particulate matter and sulfur dioxide, mitigation measures are proposed that would reduce emissions to less-than-significant levels. These emissions and their mitigations are discussed in numerous responses to BAAQMD, ABJC, CBE, and GNAC.

CCC-11 *Mr. Adams comments on anecdotal evidence of respiratory illnesses in the community.*

RESPONSE: Comment noted. The County shares the commenter's concern about public health.

CCC-12 *Mr. Adams asserts that the reductions of particulate and sulfur dioxide in the Franklin Canyon carbon plant will not benefit the Crockett and Rodeo communities.*

RESPONSE: See responses CBE-56, GNAC-3 and GNAC-6 regarding effects of Carbon Plant emission reductions on the surrounding communities.

CCC-13 *Mr. Hughes notes that the applicant and their business partner Air Liquide are present at the meeting, and that they are willing to serve as a resource for the meeting.*

RESPONSE: Comment noted.

CCC-14 *Mr. Barry (Zoning Administrator) comments that County Staff may request additional information from ConocoPhillips in order to prepare the responses to comments on the DEIR, and he suggests that ConocoPhillips work with the community separate from the hearing process.*

CCC-15 *Mr. Barry comments that the mitigation measure encouraging construction workers to carpool or employ other means to reduce trip generation is vague and questions how this measure could be monitored.*

RESPONSE: The California Health & Safety Code (Sec. 14.21A) prohibits agencies from imposing employee trip reduction programs, so the best that can be done is to encourage construction workers to carpool or employ other means to reduce trip generation.

CCC-16 *Mr. Barry (Zoning Administrator) announces the extension of the comment period and describes the EIR process.*

CCC-17 *Ms. Tovar voices concerns about the EIR process, including inadequate notice for the hearing, length of the comment period, and length of the hearing process. Ms. Tovar states that these issues prevented meaningful public participation in the CEQA process. Ms. Tovar states also that the County should consider that people living in the Refinery area would want to comment on the project and it is unlikely that they would submit written comments.*

RESPONSE: The commenter is addressing the public review process, not the DEIR's analysis of possible impacts on the environment and ways in which those impacts might be avoided or mitigated. County response to this comment is not required. However, the County is responding in order to provide clarification.

The County is not required to post public hearing agendas online.

The commenter provides no evidence to support the assertion that people living in the Refinery area would be unlikely to submit written comments. It would be subjective for the County to assume that residents in the vicinity of the Refinery would be unlikely to do so.

See response CBE-7 for a detailed discussion of the requirements for the public review period for DEIRs.

CCC-18 *Ms. Tovar states that CBE has been working to reduce flaring at refineries and asserts that this project would result in a 30 percent increase to flaring at the Refinery.*

RESPONSE: This assertion is not correct. See Section 2.4, Master Response – Flaring.

CCC-19 *Ms. Tovar states that CBE believes many of the project's impacts are significant and such impacts were downplayed in the DEIR. CBE is concerned with acute hazardous material processing, upset conditions or accident potential, maintenance emissions, and accidents with associated startups and shutdowns and does not feel that the DEIR takes these potential issues into account.*

RESPONSE: The commenter submitted written comments addressing these issues. See Section 3.8, responses to Citizens for a Better Environment (CBE).

CCC-20 *Ms. Tovar states that the DEIR did not adequately address the odor issues which have been the cause of recent neighbor complaints.*

RESPONSE: The commenter submitted written comments addressing these issues. See Section 3.8, responses to Citizens for a Better Environment (CBE),

such as responses CBE-15, CBE-28 and CBE-59, and Section 2.3 Master Response – Odors.

CCC-21 *Ms. Tovar states that traffic issues have caused neighbor complaints and consultation needs to occur in order to ensure adequate alternative routes are put into place.*

RESPONSE: The commenter submitted written comments addressing these issues. See Section 3.8, responses to Citizens for a Better Environment (CBE), especially responses such as CBE-29 and CBE-46.

CCC-22 *Ms. Tovar recommends that the DEIR should be rejected as incomplete. Ms. Tovar also states that the process resulted in inadequate notice to community members, thus, denying them adequate participation or decision making.*

RESPONSE: The commenter is expressing her opinion that the DEIR should be rejected. See responses CCC-17 and CBE-7 regarding public participation.

CCC-23 *Mr. Leon asserts that the contaminated air from the Refinery has prevented him from doing anything.*

RESPONSE: Comment noted. The commenter does not question the DEIR's analysis of possible impacts on the environment and ways in which those impacts might be avoided or mitigated. Under the CEQA Guidelines, County response to this comment is not required.

CCC-24 *Mr. Leon states that he doesn't believe much of the information in the DEIR and that the unhealthy state of the community demonstrates an impact. He stated that the air is contaminated and he is unable to go outside because of the pollution.*

RESPONSE: This assertion is too general for a response.

CCC-25 *Mr. Leon states that he wanted to attend the hearing to speak.*

RESPONSE: Comment noted.

CCC-26 *Ms. Tovar and Mr. Barry discussed the need of a translator and the difference between a hearing on the DEIR and a hearing on the Proposed Project. Ms. Tovar states that there should be a paid professional translator.*

RESPONSE: The commenter is addressing the public review process, not the DEIR's analysis of possible impacts on the environment and ways in which those impacts might be avoided or mitigated. County response to this comment is not required. However, the County is responding in order to provide clarification.

With respect to the matter of translation of documents and oral testimony, there is no statutory requirement for the County to translate public documents or to provide translation at public hearings. It is not the County's practice to provide translation.

CCC-27 *Ms. Fugere voices her position, opposing the project, as a community member who is already significantly impacted by the Refinery odor. Ms. Fugere also asserts that air pollution has a negative impact on the community. Ms. Fugere states that she will provide further comment at a later hearing.*

RESPONSE: Comment noted.

CCC-28 *Ms. Fugere states that the DEIR was not made sufficiently available to Crockett residents, as there was only one copy at the library and that copy could not be checked out. Ms. Fugere also states that she did not receive notice of the hearing and was informed by other community members.*

RESPONSE: The commenter is addressing the public review process, not the DEIR's analysis of possible impacts on the environment and ways in which those impacts might be avoided or mitigated. County response to this comment is not required. However, the County is responding in order to provide clarification.

It is the County's practice to provide one copy of the DEIR to libraries located in the vicinity of the proposed project and one copy to the main library in Pleasant Hill. The branch libraries in Rodeo, Crockett and Pinole were provided with copies. The Crockett library eventually requested a second copy of the DEIR so that one could be checked out and the County provided the second copy immediately after the request was made.

The County mailed notices of the hearing to property owners and occupants located adjacent to the Refinery property and to property owners located within 300 feet of the property. The commenter's property is located approximately one mile away, and therefore she did not receive a notice. It should be recognized that under CEQA, the County is required to mail notices to owners and occupants of property contiguous to the parcel or parcels on which the project is located. Therefore, by mailing notices to owners up to 300 feet away, the County significantly exceeded the CEQA noticing requirement.

CCC-29 *Ms. Fugere states that PM_{2.5} should be addressed in the DEIR.*

RESPONSE: As noted in response GNAC-4, data are not available to quantify PM_{2.5} emissions from Refinery operations or the Proposed Project operations – methodologies for such estimates are still under development. With respect to PM_{2.5} emissions from construction activities, see ABJC-44. Secondary formation of PM_{2.5} emissions is discussed in response ABJC-32.

CCC-30 *Ms. Fugere states that odor complaints from 2005 and 2006 were not provided in the DEIR, and should be provided as part of the record. The commenter suggests that the Refinery should do more community polling about odor complaints.*

RESPONSE: See Section 2.3 Master Response – Odors, and response CBE-28.

CCC-31 *Ms. Fugere states that daytime meetings are difficult to attend. Commenter indicates her belief that more community members would attend and provide testimony at an evening meeting.*

RESPONSE: The commenter is addressing the public review process, not the DEIR's analysis of possible impacts on the environment and ways in which those impacts might be avoided or mitigated. County response to this comment is not required. However, the County is responding in order to provide clarification.

It has long been the County's practice to hold Zoning Administrator hearings, including those to accept comments on DEIRs, during the day. However, the hearing before the County Planning Commission, which is the body that will decide whether to accept the Final EIR and approve or deny the Proposed Project, will be held in the evening.

CCC-32 *Ms. Fugere states that a 17 percent increase in pollution is significant.*

RESPONSE: Comment noted. It is unclear how the commenter concluded that pollution would increase by 17 percent.