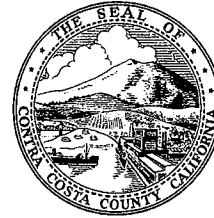


CONTRA COSTA COUNTY HAZARDOUS MATERIALS COMMISSION



January 15, 2018

Supervisor Karen Mitchoff, District 4
2151 Salvio St., Suite R
Concord, CA 94520

Re: School Siting Regulations Update

Dear Supervisor Mitchoff:

A unique opportunity to reduce the potential impacts of hazardous materials on the health and safety of Contra Costa County children has come to the attention of the Hazardous Materials Commission. The California Department of Education is currently reviewing the school siting and design standards contained in California Code of Regulations. Proposed changes to the regulations are scheduled to go to the State Board of Education for review and approval later this winter. The Hazardous Materials Commission has analyzed the current school siting regulations and associated guidelines, and voted unanimously to recommend that the Board of Supervisors advocate for the following changes to the California Code of Regulation (5 CCR § 14001) and guidelines pertaining to analyzing the risks from hazardous materials.

- 1) The California Department of Education should develop guidelines for assessing and mitigating the risks of siting new schools near industrial facilities and rail lines due to potential explosions and fires from the use, storage, manufacture and transportation of hazardous materials, similar to the guidelines they have established for assessing and mitigating the risks from the transportation of hazardous materials through pipelines.**

Accidental releases of hazardous materials from industrial facilities and rail lines can pose significant risks to schools. The April 17, 2013 explosion at the West Fertilizer Company (WFC) that resulted in 15 fatalities and more than 260 injuries damaged more than 150 buildings including four nearby school buildings housing children in grades kindergarten–12. Fortunately, the incident occurred during the evening when school was not in session, which reduced the number of injuries.

Due to the increased transportation of flammable crude oil by rail over the last 10 years, there has been an increase in the number of accidents resulting in large explosions and fires. The worst of these was the July, 2013 catastrophe at Lac-Megantic, Quebec, in which 47 people died when a runaway oil train crashed into the center of the city. While oil prices and new safety protocols have reduced the amount of this material being transported and the number of incidents in recent years, the risks from the transportation of this material and other toxic materials, such as chlorine gas, will remain. If oil prices change, California and Contra Costa County could see an increase

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in the amount of highly flammable crude oil being transported into and through the County by rail. This lingering concern was one of the reasons that in September, 2016, the Benicia City Council unanimously voted against a proposal that would have allowed Valero to deliver crude oil to its refinery via rail cars.

The California Department of Education first developed guidelines for assessing the risks from pipelines carrying hazardous materials in 2002 and updated them in 2007 after amendments to the regulations required risk assessments for school sites within 1500 feet of pipelines. These guidelines were created because school districts asked for a methodology to evaluate the risks from pipelines since the regulations didn't provide any.

These guidelines aren't perfect. The Commission reviewed a pipeline risk assessment prepared for a local school that was within 1500 hundred feet of a pipeline. The Commission found several places where assumptions in the methodology went unexplained, and proposed mitigations were unworkable. Also, adherence to these guidelines is voluntary, and the California Department of Education needs to hire outside consultants of their own if they want a technical review of the assessment. Even so, they at least provide a consistent methodology that school districts can require their consultants to follow while conducting a risk assessment, and that the public can measure the assessment against.

In contrast, the requirements in state law for assessing the risks from industrial facilities contain no specifics, only that the school districts planning to site schools near industrial facilities handling hazardous materials find that they do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. School districts do not have the expertise to conduct this analysis, and so the methodology used to determine these risks is left entirely up to the consultants they hire.

For school districts proposing to site a school within 1500 hundred feet of a railroad track easement a safety study is required by a competent professional trained in assessing cargo manifests, frequency, speed, and schedule of railroad traffic, grade, curves, type and condition of track need for sound or safety barriers, need for pedestrian and vehicle safeguards at railroad crossings, presence of high pressure gas lines near the tracks that could rupture in the event of a derailment, and preparation of an evacuation plan. In addition to the analysis, possible and reasonable mitigation measures must be identified. These requirements do not require specific knowledge of hazardous materials, or how to assess the risks from the release of these materials. Again, the methodology used to determine the potential risks from the release of hazardous materials is left entirely up to the consultants they hire.

- 2) **The California Department of Education should amend the regulations pertaining to the rebuilding of schools on the site of existing schools to require that the current risks from accidental explosions and fire of hazardous materials used, stored, manufactured or transported at industrial facilities, in pipelines and by rail are assessed and mitigated.**

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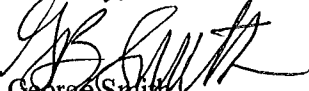
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Many schools that have been built in Contra Costa County in the last 50 years will eventually need to be replaced. The easiest solution as to where to rebuild these new schools, especially in the denser parts of the County where open space is at a premium, will be to rebuild them on the site of the old school, as has occurred at many West Contra Costa Unified School District sites over the last 10 years. The problem with this course of action, from the perspective of protecting students from the risk from hazardous materials, is that the school siting process that applies to new schools does not automatically apply to schools rebuilt on-site. In fact, all that is required is that the school district determines that the project will not create any *new significant* health and safety hazards *or exacerbate any existing* health and safety hazards to students (emphasis added).

This means that if significant risks from hazardous materials used at industrial facilities, or transported by rail lines and pipelines, already exist at these school sites, nothing has to be done to identify these risks, or more importantly, to mitigate these risks, when rebuilding a school on-site. Many schools were built before the current siting regulations required that the risks from hazardous materials be assessed and mitigated, and risks may have changed over the years at given school sites. But if a school district determines that a rebuilt school doesn't increase risks, *no matter how great the existing risk is*, there is no requirement to address the existing risk. The opportunity to mitigate the existing risks from hazardous materials is optimal during the construction phase, and this opportunity will be missed unless the regulations are amended to require this assessment be done for every school rebuilt on-site.

The Hazardous Materials Commission hopes the Board of Supervisors will recommend these two changes to the regulations and guidelines to the California Board of Education. The Commission considered other options to address these concerns, including the development of local ordinances or changes to the General Plan. But the Commission felt the most efficient way to address these was through changes to state law. However, if the Board of Education decides not to implement these changes, the Commission would recommend the Board of Supervisors consider addressing them through the development of local ordinances or changes to the General Plan. Since this is a timely matter, the Commission hopes this issue can be discussed at the February meeting of the Transportation, Water and Infrastructure meeting of the Board of Supervisors, and would ask that you refer the matter to this committee.

Sincerely,



George Smith

Chairperson, Hazardous Materials Commission

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