

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS OPPOSING THE TRANSPORTATION OF CRUDE OIL BY RAIL, SPECIFICALLY THE PHILLIPS 66 RAIL SPUR EXTENSION PROJECT AND CRUDE OIL UNLOADING FACILITY IN SAN LUIS OBISPO COUNTY, AND AUTHORIZING CITY MANAGER TO SEND LETTERS OF OPPOSITION

WHEREAS, California refineries are in the process of securing permits to build rail terminals to import Canadian tar sands and Bakken crude oils from the Dakotas; and

WHEREAS, existing rail terminals are securing permits to import Canadian tar sands and Bakken crude oils to Central Coastal California; and

WHEREAS, for the first time, United States Energy Information Administration is providing monthly data on rail movements of crude oil, which have significantly increased over the past five years. The new data on crude-by-rail (CBR) movements are integrated with EIA's existing monthly petroleum supply statistics, which already include movements by pipeline, tanker, and barge; and

WHEREAS, the new monthly time series of crude oil rail movements includes shipments to and from Canada and dramatically reduces the absolute level of unaccounted for volumes in EIA's monthly balances for each region; and

WHEREAS, crude oil, like that coming from the Bakken shale reservoir, is known to be volatile, highly flammable, and contain elevated concentrations of benzene, a potent carcinogen; and

WHEREAS, tar sands crude or bitumen is known to be an extremely viscous form of petroleum that will not flow unless heated or diluted with other lighter hydrocarbons that include toxic substances, and is known to be extremely difficult to clean up when spills occur, especially in aquatic ecosystems; and

WHEREAS, almost 500,000 carloads of crude oil were transported by rail in 2014, up from 9,500 in 2008. It now accounts for "1.6% of total carloads for U.S. railroads," according to the Association of American Railroads. This statistic is accompanied by a similar rise in spectacular accidents, 143 incidents in 2014 alone affecting 21 states and 57,600 gallons of oil spilled; more crude oil was spilled in U.S. rail accidents in 2014 than in the preceding four decades; and

WHEREAS, rail incidents involving crude oil jumped nearly sixteen fold between 2010 and 2014, and the rise in crashes accompanies the burgeoning rail traffic from North Dakota's Bakken shale to points all over North America. Oil train accidents spread from 8 states in 2010 to 21 states in 2014, according to the consulting firm ClearView Energy Partners' analysis of data from the U.S. Pipeline and Hazardous Materials Safety Administration; and

WHEREAS, rail incidents are still happening in 2015, including the fiery derailments recently in Mount Carbon, West Virginia, and Galena, Illinois. Both of these incidents involved the newer CPC 1232 cars initially proposed as a safer alternative to the DOT-111 cars involved in other accidents, such as the deadly derailment and crash in Lac-Mégantic, Quebec in July 2013, that killed 47 people, and caused over \$1 billion in damages; and

WHEREAS, in July 2010, Enbridge Energy Partners LL, reported a 30-inch tar sands oil pipeline burst that caused more than 1 million gallons of tar sands to flow into Michigan's Kalamazoo River and, in June 2015, the U.S. Department of Justice has lodged a proposed Consent Decree on behalf of federal, state, and tribal natural resource trustees to resolve natural resource damage claims arising from this incident; and

WHEREAS, to date in 2015 there has been a 20-car oil train derailment in rural eastern Montana spilling 35,000 gallons of crude oil; a 109-car crude train derailment in North Dakota causing six cars to catch fire and an estimated 60,000 gallons of oil to spill; a 21-car train derailment (of a 103 tank car) resulting in at least 5 cars rupturing and causing fires and wreckage to burn for several days and threatening a tributary to the Mississippi River and the Upper Mississippi

National Wildlife and Fish Refuge, which is one of the most complex ecosystems in North America; and a 27-car crude oil train car derailment in West Virginia with 19 train cars catching fire and spilling oil into the Kanawha River; and

WHEREAS, the operation unit and manifest trains to and from the refinery would be performed by Union Pacific Railroad (UPRR), on UPRR property, with trains entering California at five different locations (one at the north end of the state from Oregon, two at the northeast from Nevada, one at the southeast from Nevada, and one from the south from Arizona.) Depending upon the route take by the train, they would arrive at the refinery from the north or south. According to the Revised EIR, it is unknown what route UPRR would use to deliver the trains to the refinery; however if the northern route is used to deliver the crude oil to the refinery then the trains would travel through portions of unincorporated County areas and cities of Santa Clara County, including Milpitas, San Jose, Morgan Hill, and Gilroy, as shown on Exhibit A, attached hereto and incorporated herein, which are maps of the major UPRR routes and property in Santa Clara County; and

WHEREAS, if the northern route is used to deliver the crude oil to the Project, the oil trains would travel adjacent to areas of Santa Clara County that are densely populated, as shown on Exhibit B, attached hereto and incorporated herein; and

WHEREAS, if the northern route is used, the trains carrying crude oil would use portions of the same UPRR track in south Santa Clara County that is also used by Caltrains on a daily basis to transport visitors and residents to points in Santa Clara County and points north in San Mateo and San Francisco Counties; and

WHEREAS, trains delivering crude traveling through the Bay Area will follow routes adjacent to densely populated areas and the San Francisco Bay Estuary and its tributaries, posing a serious threat to this ecosystem which is considered a biodiversity hotspot, sustaining significant aquatic and estuarine species and habitat, and is a treasured icon for millions of Bay Area residents; and

WHEREAS, trains delivering crude traveling through the Bay Area will follow routes adjacent to the Sacramento River and the Sacramento-San Joaquin Delta, posing a serious threat to the water supply for most of California; and

WHEREAS, hauling crude oil into California involves traversing some of the most challenging mountain passes in the nation, areas laced with earthquake faults and numerous unsafe old steel and timber bridges over major waterways, greatly increasing the probability of serious accidents; and

WHEREAS, the Revised DEIR from San Luis Obispo County concludes that the potential for a crude oil unit train to derail would increase the risk to the public in the vicinity of the UPRR right of way and the operation of crude oil trains on the UPRR tracks would increase the demand for fire protection and emergency response services along the rail routes, and that the increased risk of accident and the increased demand on fire protection and emergency response services is a significant and unavoidable impact of the Project; and

WHEREAS, the Revised DEIR also concludes that operational activities of trains along the UPRR mainline route outside of San Luis Obispo County would generate criteria pollution emissions that exceed thresholds, and that these impacts are significant and unavoidable; and

WHEREAS, the National Transportation Safety Board, as a result of recent catastrophic crude oil accidents, made recommendations to federal agencies to improve rail safety regulations for the transport of crude oil, including requirements for comprehensive worst-case scenario emergency response plans and requirements for testing and documenting the physical and chemical characteristics of hazardous materials being offered for shipment by rail; and

WHEREAS, analysis from the United States Department of Transportation of the risks associated with crude oil shipments in the United States projected that trains carrying oil would derail an average of 10 times a year over the next 2 decades, causing more than \$4 billion in damages, and also projects that if just one of these projected derailments occurred in a high-population area in the United States, it could kill more than 200 people and cause approximately \$6 billion in damages; and

WHEREAS, Santa Clara County’s population of nearly 1.8 million is one of the largest in the State, following Los Angeles, San Diego, and Orange Counties and the largest of the nine Bay Area counties, constituting about one fourth of the Bay Area’s total population and a train derailment within the County would cause great harm to the County’s residents, environment, and economy.

WHEREAS, a crude-by-rail Project, the Phillips 66 Santa Maria Refinery Rail Spur Extension, is currently before San Luis Obispo County for approval, and trains delivering crude oil for this Project would use Union Pacific rail tracks through City of Milpitas and Santa Clara County.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Milpitas that:

1. The City Council opposes the Phillips 66 Rail Extension and Crude Oil Unloading Facility in San Luis Obispo and opposes using existing Union Pacific Rail Road lines to transport crude oil for the Project through the City of Milpitas and other densely populated cities in San Clara County and adjacent habitat and agricultural areas.
2. The City Council authorizes the City Manager to send a letter to the County Board of Supervisors of San Luis Obispo expressing opposition of the Project by joining other agencies.

PASSED AND ADOPTED this ___ day of _____, 2015, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Gary M. Baum, Interim City Attorney