



RESOLUTION NO. 66,516-N.S.

**RESOLUTION TO OPPOSE TRANSPORTATION OF HAZARDOUS MATERIALS ALONG CALIFORNIA WATERWAYS, THROUGH DENSELY POPULATED AREAS, THROUGH THE EAST BAY, AND BERKELEY**

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 without any public notice or CEQA review; and

WHEREAS the volume of crude by rail shipments in Northern California increased by 57 percent during 2013 and this growth will continue to skyrocket if the proposed rail terminals are permitted and constructed: 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 the last few years have seen a dramatic rise in transport of crude by rail, accompanied by a similar rise in spectacular accidents, nearly 100 in 2013; more crude oil was spilled in U.S. rail accidents in 2013 than in the preceding four decades, more than 1.15 million gallons in 2013; and

WHEREAS in July 2013, 72 tanker cars loaded with 2 million gallons of flammable Bakken crude oil derailed in Lac-Mégantic, Canada, causing explosions that destroyed dozens of buildings, killed 47 people, and caused over \$1 billion in damages; and

WHEREAS in July 2010, a tar sands oil pipeline burst and caused more than 1 million gallons of tar sands crude to flow into Michigan's Kalamazoo River, much of which sank to the river bottom and still remains today after \$1 billion in clean-up efforts; and

WHEREAS the National Transportation Safety Board and the Pipeline and Hazardous Materials Safety Administration recently acknowledged the failure of shippers to appropriately classify the contents of crude oil to reflect the hazardous and highly flammable nature of the substances being transported by rail, in particular Bakken crude, and the devastating consequences of a crude oil rail accident including loss of life, property and environmental damage; and

WHEREAS the National Transportation Safety Board, as a result of recent catastrophic crude oil rail 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 New York Governor Andrew Cuomo also recognized the risk of transporting volatile crude by rail to the State of New York and its citizens by passing Executive Order #125 directing New York state agencies to conduct a comprehensive review of crude rail transport safety procedures and emergency response preparedness; and

WHEREAS Albany County, New York, recognizing the hazards associated with the rapid increase in crude by rail shipments, issued a moratorium on increases at the Port of Albany, pending a public health investigation; and

WHEREAS increased rail traffic in California from crude oil as well as other fossil fuels such as coal and petcoke will lead to an increase in diesel emissions in communities along rail lines, and exposure to particulate matter from diesel engines has been linked to impaired pulmonary development in adolescents; increased cardiopulmonary mortality; measurable pulmonary inflammation; increased severity and frequency of asthma attacks, emergency room visits, and hospital admissions in children; increased rates of myocardial infarction (heart attack) in adults; increased risk of cancer; and increased asthma and lung disease in children; 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 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 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 for this project would use Union Pacific rail tracks, which follow the Amtrak Capitol Corridor route through the East Bay and Berkeley; and

WHEREAS other refineries and existing rail terminals have similar projects planned to transport hazardous crude oil, coal, and petcoke by rail through our cities; and

WHEREAS given the record of crude-oil rail accidents in recent years, an event such as Lac Mégantic or a derailment and spill could have catastrophic effects to any populated area.

THEREFORE BE IT RESOLVED that the Berkeley City Council opposes using existing Union Pacific rail lines to transport hazardous crude along California waterways, through densely populated areas, through the East Bay and Berkeley, and resolves to:

- File comments in opposition on CEQA documents and any draft permit approvals, such as air permits or zoning changes for transport of crude as they occur;
- File comments as quickly as possible on the Santa Maria project, which is the first that proposes to bring crude through the Bay Area;
- File comments on the DEIR for the Valero crude-by-rail project (Benecia) within the formal comment period when it is released in March;

- Send a letter to the Contra Costa Board of Supervisors expressing opposition to the proposed Phillips 66 Rodeo facility expansion, which is directly linked to the Santa Maria rail terminal by pipeline and all crude rail terminal expansions proposed at the County's other refineries, and send letters to other city and county boards expressing opposition to other proposed crude by rail terminal facilities;
- Write and submit comments to the U.S. Department of Transportation's anticipated federal rail safety rulemaking regulating the shipment of crude by rail in DOT-111 cars;
- Submit a letter to the Bay Area Air Quality Management District requesting public notice and CEQA review for all air permitting decisions made in connection with fossil fuel rail terminals, including change of use decisions, such as the recent substitution of Bakken crude for ethanol at the Richmond Kinder Morgan Terminal without any public notification or CEQA review;
- Submit a letter to Governor Jerry Brown requesting executive action similar to New York Governor Andrew Cuomo's executive order directing state agencies to conduct a comprehensive review of safety procedures and emergency response preparedness related to shipments of volatile crude oil;
- Commit to fighting crude oil transport through Berkeley and the East Bay utilizing Berkeley's legal staff, working with Berkeley stakeholders and other groups, including filing amicus briefs in support of neighbors and environmental organizations that file lawsuits;
- Address impacts to public health, safety, property, air quality and surface and groundwater caused by the transport of crude oil through Berkeley by actively enforcing applicable local public health, safety, building, electrical, nuisance, and fire codes; engaging in state and federal regulatory processes; and by actively enforcing applicable federal environmental statutes delegated to Berkeley;
- Request that railroads involved in crude oil and other fossil fuel transport proposals make public any plans for new or expanded rail facilities or significant rail traffic volume increases and that the railroad provide representatives to meet periodically with local citizen groups and local government officials from Berkeley to seek mutually acceptable ways to address local concerns;
- Require the railroad to update their emergency response plans with Berkeley to account for the transport of crude oil and other fossil fuels ;
- Through the California Public Utility Commission, assure the CPUC railroad safety program is adequately implemented in Berkeley and other areas that may receive crude by rail shipments, including detection and mitigation of risks;
- Require the railroad to draft road improvement plans for grading, widening, or otherwise providing crossings at intersections that would be impacted by rail traffic increases and require the railroad to pay in full for these upgrades;
- Alert and communicate our opposition to other cities along the transportation route, support their efforts, and build a coalition;
- Work through the California League of Cities and California League of Counties to articulate opposition;
- Alert Alameda County and our State legislative representatives and lobbyists in Sacramento, and enlist their help;
- Lobby our U. S. Senators and Representative to enlist their help at the federal level.