

To: Mayor Schroder and Members of the Martinez City Council
From: Martinez Environmental Group
Subject: Opposition To Rail Transport Of Hazardous Crude Oil Through Martinez And The East Bay

Recommendation:

Adopt a Resolution opposing the transport of hazardous crude by rail along the Union Pacific and Santa Fe railway through California and the East Bay and Martinez.

Petition Governor Brown to issue an executive order to;

- institute new State of California tank car regulations to remove the inadequate DOT 111 tank car from the crude by rail service,
- strengthen and codify California State regulation with voluntary safety measures adopted by railroad companies governing the shipment of crude oil,
- update critical environmental and contingency response plans and partner with the State of California to develop area specific geographic response plans to protect California and its environment,
- increase rail car inspections, prepositioning spill and fire response equipment
- increase training and readiness drills for state and local first responders
- enact legislation to ensure timely rail incident reporting
- develop appropriate classification and testing of Bakken and similar crude oil in order to provide critical information to state and local emergency responders who would be on the front lines of any incident.

Background:

With the recent increase of domestic petroleum production, the United States and Canada are experiencing a surge in the number of crude oil trains passing through the state and specifically Martinez from production areas in the Upper Midwest to refineries along the Carquinez Straits. This type of crude oil known as Bakken crude, is highly volatile and is being transported in significant volume across the United States and Canada by structurally deficient rail cars. California and all states and provinces subject to this crude oil boom are extremely vulnerable to the impacts of a derailment, spill, fire or explosion,

as demonstrated by seven catastrophic incidents in 2013 involving these trains. Most recently, Canada has ordered a phase out of over 5,000 older rail tank cars by the end of May, 2014. Because the U.S. has not decided on tanker rail car regulation, this new regulation in Canada will force these older cars to be used exclusively in the U.S. We urge your immediate attention to this issue.

In the last several months, the City of Berkeley, the City of Richmond, and the City of Davis have passed resolutions opposing rail transport of hazardous crude by rail along the Union Pacific and Santa Fe railways through California and the East Bay. Mayor of Benicia, Elizabeth Patterson, has sent a letter to Governor Brown urging him to issue an executive order to ensure the state is prepared to deal with highly flammable and explosive Bakken crude oil from North Dakota coming by rail and water to California and the East Bay.

California refineries in the Bay Area and Wes Pac LLC in Pittsburg are in the process of securing permits to build rail and shipping terminals to import Canadian tar sands and Bakken crude oils from the Dakotas and Canada. Their intention is to use existing Union Pacific and Santa Fe railway tracks through California and the East Bay to reach Bay Area and central California refineries. Tesero and Shell in Martinez and Valero in Benicia already receive Bakken crude oil either by rail or ship.

These crude oil trains typically move 1-2 million gallons of crude oil in tanker car unit trains; 80-100 cars. This last year there was an increase of 60% of tanker car train movement since railways started transporting freight. In 2005, roughly 6000 carloads of crude oil shipments originated in the U.S. and in 2013 there were more than 400,000 carloads. More crude oil was spilled in U.S. rail accidents in 2013 than in the preceding four decades, more than 1.15 million gallons. Industry data shows that 46,000 rail cars have been damaged in 29,000 accidents since 1970.

The crude by rail spur extension project at the Santa Maria Phillips 66 Refinery in San Luis Obispo County (SLOC) is currently in the permitting stage. This project would require transport of crude oil along water supply corridors through densely populated urban and industrial areas of the Carquinez Strait and the East Bay. Trains would use

Union Pacific track used by Amtrack's Capitol Corridor route through the Bay Area and Martinez. These trains would enter northern California via Donner Pass through Auburn, Roseville, Sacramento, Davis, Benicia, Martinez, Crockett, Richmond, Berkeley, Oakland, south through Hayward, San Jose, Salinas and into SLOC. The Phillips 66 Project would transport 2 million gallons per day of crude oil through the Bay Area.

With the record of crude oil rail accidents recently, an event such as the Lac- Megantic, Canada disaster where 47 people lost their lives and most of the downtown was incinerated by the derailment and explosion of Bakken crude filled rail cars, could have a disastrous effect on any of the aforementioned communities. The rail company responsible for this event has gone out of business and the town of Lac- Megantic has had to pay for all costs associated with this catastrophe. Other refineries in the Bay Area have similar projects planned to process heavier, dirtier and explosive crude oil. The DEIR for the Valero Refinery in Benicia is expected in June.

The U.S. Department of Transportation recently classified crude shipments by rail as an "imminent hazard" and is taking steps to mitigate some of the risk, including testing of Bakken crude oil to ensure proper safety and labeling measures are used during transport. Canada has given notice to shippers and the oil industry that own the cars that they have to improve tank car safety but the U.S. has not made that stipulation even though the same cars pass through both continents.

Mitigating the impacts of transporting crude oil and other commodities by rail has been a challenge, as the railroads claim they are subject to federal law but not to California law. They are asserting federal pre-emption and arguing that other agencies have no authority to mitigate the impacts. This is not true, however, as every permitting agency, city, county, and air district, have the authority to deny land use and other permits if the applicant refuses to mitigate impacts.

The following actions are recommended:

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. The only current one is the Santa Maria Project.

File comments on the Santa Maria Project which is the first to bring crude through the Bay Area is urgent. The 90 day CEQA comment deadline was January 27, 2014, for submitting comments that require a formal response. Comments filed until San Luis Obispo County publishes the FEIR will be a part of a CEQA appeal. As this finalization has not been completed, time is of the essence, as it could be up to a year for this to be done.

File comments on the DEIR for the Valero crude by rail project within the formal comment period in June.

Commit to fighting crude oil transport through Martinez with the city's legal staff, and work with Martinez stakeholders, including filing amicus briefs in support of neighbors and environmental organizations that file lawsuits.

Alert and communicate our opposition to other cities along the transportation route; work with the California League of Cities to build opposition.

Lobby our Senators and Representatives at the federal level, including setting up meetings to educate them on the issues.

Support the U.S. Department of Transportation's efforts to improve the safety of crude oil by rail shipments.

Resolution No.:

Opposing Transportation of Hazardous Materials Along California Waterways, Through Densely Populated Areas, Through the East Bay, and Martinez

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

Whereas, the last few years have seen a dramatic rise in transport of crude by rail, accompanied by a similar rise in explosive accidents, nearly 100 in 2013; more crude oil was spilled in U.S. rail car accidents in 2013 than in 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 crude oil derailed in Lac- Megantic, Canada, causing explosions that destroyed dozens of buildings, killed 47 people, and caused over \$1 billion in damages; 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

Whereas, trains delivering crude for this project would use Union Pacific rail tracks, which follow the Amtrack Capitol Corridor route, and other refinery projects would use Santa Fe rail tracks through the East Bay and Martinez; and

Whereas, given the record of crude oil by rail accidents in recent years, an event such as Lac- Megantic could have catastrophic and financial effects if it occurred in any populated area; and

Whereas, other refineries have similar projects planned to transport hazardous crude by rail through our cities.

Now Therefore, Be It Resolved that the Martinez City Council opposes using existing Union Pacific and Santa Fe rail lines to transport hazardous crude along California waterways, through densely populated areas, through the East Bay and Martinez, 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 within the formal comment period when it is released in July;
- Commit to fighting crude oil transport through Martinez and the East Bay utilizing Martinez legal staff, working with Martinez stakeholders and other groups, including filing amicus briefs in support of neighbors and environmental organizations that file lawsuits;
- Alert and communicate our opposition to other cities along the transportation route, and support their efforts;
- Work through the California League of Cities to articulate opposition;
- Alert our State legislative representatives and lobbyists in Sacramento and enlist their help;
- Lobby our federal Senators and Representatives to enlist their help at the federal level.

