



CITY COUNCIL
Linda Maio

ACTION CALENDAR
March 25, 2014

TO: Honorable Mayor and Members of the City Council
FROM: Vice Mayor Linda Maio and Councilmember Darryl Moore
SUBJECT: Opposition to Rail Transport of Hazardous Crude Oil through Berkeley and the East Bay

RECOMMENDATION:

Adopt a Resolution opposing the transport of hazardous crude by rail along the Union Pacific railway through California and the East Bay, and show a short video at the March 25 meeting on the topic.

BACKGROUND:

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. The map below indicates their intention to use existing Union Pacific tracks through California¹ and the East Bay. These crude-oil trains typically move 1 to 2 million gallons of crude oil in 80- to 100-tanker car trains. 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.

In July 2013, 72 tanker cars loaded with 2 million gallons of flammable crude oil derailed in Lac-Mégantic, a small Canadian town, dumping 1.5 million gallons of crude. The resulting fire and explosions burned down dozens of buildings, killed 47 people, and caused over \$1 billion in damages.² Similar accidents have occurred elsewhere, including in North Dakota and Alabama.

¹ Union Pacific route map in California:

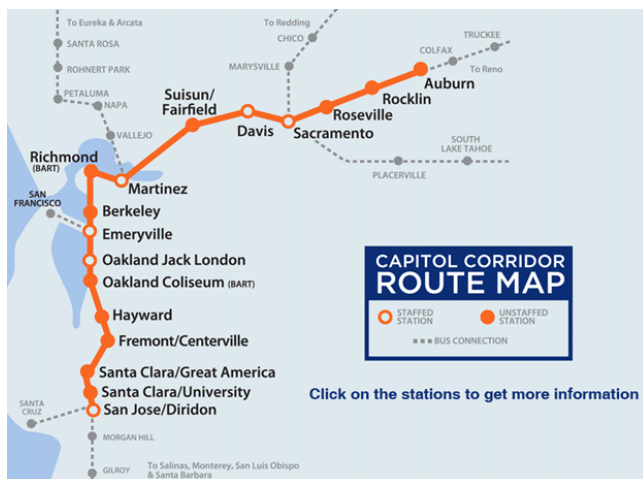
(http://www.up.com/cs/groups/public/documents/up_pdf_nativedocs/pdf_california__usguide.pdf)

² Video: Catastrophe Lac-Mégantic, (http://www.huffingtonpost.ca/2013/07/09/lac-megantic-explosion-video_n_3566026.html)



*Rail cars burning after crude oil train derailment in Lac-Mégantic
(Source: <http://crudeoilpeak.info/the-high-cost-of-railroading-unconventional-crude>)*

A crude-by-rail project, the Phillips 66 Santa Maria Refinery rail spur extension project in San Luis Obispo County,³ currently in the permitting stage, is planning rail transport of crude oil along water supply corridors for most of California and through densely populated urban and industrial areas, including through the East Bay. Trains delivering crude for this project would use Union Pacific rail tracks, which follow the Amtrak Capitol Corridor route through the Bay Area, shown below:



*Amtrak Capitol Corridor route map (on Union Pacific Overland Route tracks from Auburn to Oakland and Coast Line tracks from Oakland to San José)
(Source: http://www.capitolcorridor.org/route_and_schedules/)*

The crude oil trains would enter northern California via Donner Pass, through Auburn, Rocklin, and Roseville, proceed along the Sacramento River through Sacramento and Davis to Benicia and along the San Francisco Bay through Martinez, Richmond,

³ Marine Research Specialists (MRS), Phillips 66 Company Rail Spur Extension Project Public Draft Environmental Impact Report and Vertical Coastal Access Assessment, November 2013.
([http://www.slocounty.ca.gov/Assets/PL/Santa+Maria+Refinery+Rail+Project/Draft+EIR-Phillips+66+Rail+Spur+Extension+Project+\(November+2013\)/Full+EIR+-+Large+File/p66.pdf](http://www.slocounty.ca.gov/Assets/PL/Santa+Maria+Refinery+Rail+Project/Draft+EIR-Phillips+66+Rail+Spur+Extension+Project+(November+2013)/Full+EIR+-+Large+File/p66.pdf))

Berkeley, Emeryville, and Oakland. From Oakland the trains would use the Coast Line via Hayward, Santa Clara, San José, Salinas and continue along the Pacific Coast into San Luis Obispo County. The same tracks are used by Amtrak for passenger transport.



California Railway Map

(Source: <http://www.usamapxl.com/usa/states/california/california-rail.html>)

The Phillips 66 project would transport 2 million gallons per day of crude oil through the Bay Area: roughly 80 tanker cars per day of crude oil assembled in a single train would pass through our cities. A crude train accident could occur anywhere along the transportation corridor including in the densely populated Bay Area, in Richmond, El Cerrito, Albany, Berkeley, and Oakland. The photographs below illustrate the proximity of the Union Pacific rail tracks to residential and commercial communities in Emeryville and Oakland:



Union Pacific train approaching Emeryville Amtrak Station

(Source: <http://www.rpicturearchives.net/showPicture.aspx?id=3444088>)



Union Pacific Train passing through Jack London Square in Oakland

(Source: <http://www.railpictures.net/viewphoto.php?id=268570>)

Given the record of crude-oil rail accidents in recent years, an event such as Lac Mégantic could have catastrophic effects if it occurred amidst any populated area. Other refineries have similar projects on the drawing board. A DEIR for the Valero crude-by-rail project, in Benicia, is expected in March.

The U.S. Department of Transportation recently classified crude shipments by rail as an “imminent hazard.” It is taking steps to mitigate some of the risk, including testing of Bakken crude oil to ensure that proper safety measures are used during transport by the shipper, regulations to improve tank car safety, and a voluntary agreement to slow crude trains in urban areas and install safety equipment to respond to accidents.

Mitigating the impacts of transporting crude 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. However, this is not correct. Every permitting agency --

cities, counties, and air districts -- has the authority to deny land use and other permits if the applicant refuses to mitigate impacts. San Luis Obispo has authority over the land use permits to build the rail terminals that the Phillips 66 Santa Maria refinery is requesting.

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;

Filing 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 part of the record for a CEQA appeal. As no one knows when SLO will finalize the FEIR, time is of the essence, especially if we wish to influence their decision-making. It could be months to as long as a year;

File comments on the DEIR for the Valero crude-by-rail project within the formal comment period when it is released in March;

Commit to fighting crude oil transport through Berkeley with City's legal staff, and working with Berkeley 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 through the California League of Cities to build opposition;

Lobby our Senators and Representative 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-by-rail shipments.

FINANCIAL IMPLICATIONS:

Legal and clerk staff time.

CONTACT:

Linda Maio, District 1, 510-981-7110, Imaio@cityofberkeley.info

RESOLUTION NO. ##,###-N.S.

OPPOSING 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, 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 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, 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 Amtrak Capitol Corridor route through the East Bay and Berkeley; and

WHEREAS, given the record of crude-oil rail accidents in recent years, an event such as Lac Mégantic could have catastrophic 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 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. (The only current one is the San Luis Obispo Santa Maria project.);
- 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 March;
- 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;

- 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 Representative to enlist their help at the federal level.

