



# SEATTLE CITY COUNCIL

## Legislative Summary

Res 31604

Record No.: Res 31604

Type: Resolution (Res)

Status: Adopted

Version: 2

In Control: City Clerk

File Created: 07/14/2015

Final Action: 07/29/2015

**Title:** A RESOLUTION relating to the transport of crude oil by rail through the City of Seattle.

<b>Notes:</b>	<b>Filed with City Clerk:</b>	<u>Date</u> 7/29/2015
	<b>Mayor's Signature:</b>	7/29/2015
<b>Sponsors:</b> O'Brien	<b>Vetoed by Mayor:</b>	
	<b>Veto Overridden:</b>	
	<b>Veto Sustained:</b>	

**Attachments:**

**Drafter:** Emilia.Sanchez@seattle.gov

**Filing Requirements/Dept Action:**

**History of Legislative File**

**Legal Notice Published:**  Yes  No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Clerk	07/15/2015	sent for review	Council President's Office			
	<b>Action Text:</b> The Resolution (Res) was sent for review. to the Council President's Office						
	<b>Notes:</b>						
1	Council President's Office	07/15/2015	sent for review	Planning, Land Use, and Sustainability Committee			
	<b>Action Text:</b> The Resolution (Res) was sent for review. to the Planning, Land Use, and Sustainability Committee						
	<b>Notes:</b>						
1	Full Council	07/20/2015	referred	Planning, Land Use, and Sustainability Committee			
	<b>Action Text:</b> The Resolution (Res) was referred. to the Planning, Land Use, and Sustainability Committee						
	<b>Notes:</b>						
1	Planning, Land Use, and Sustainability Committee	07/21/2015	adopt as amended				Pass
	<b>Action Text:</b> The Committee recommends that Full Council adopt as amended the Resolution (Res).						

In Favor: 3 Chair O'Brien, Vice Chair Burgess, Member Licata

Opposed: 0

1 Full Council 07/27/2015 adopted as amended Pass

Action Text: The Motion carried, the Resolution (Res) was adopted as amended by the following vote, and the President signed the Resolution:

Notes: ACTION 1:

Motion was made by Councilmber Okamoto, duly seconded and carried, to amend Resolution No. 31604, section 2, by deleting one of the two commas after "Seattle Fire Department."

ACTION 2:

Motion was made and duly seconded to adopt Resolution No. 31604 as amended.

In Favor: 9 Councilmember Bagshaw, Council President Burgess, Councilmember Godden, Councilmember Harrell, Councilmember Licata, Councilmember O'Brien, Councilmember Okamoto, Councilmember Rasmussen, Councilmember Sawant

Opposed: 0

2 City Clerk 07/28/2015 submitted for Mayor

Mayor's signature

Action Text: The Resolution (Res) was submitted for Mayor's signature. to the Mayor

Notes:

2 Mayor 07/29/2015 Signed

Action Text: The Resolution (Res) was Signed.

Notes:

2 Mayor 07/29/2015 returned City Clerk

Action Text: The Resolution (Res) was returned. to the City Clerk

Notes:

2 City Clerk 07/29/2015 attested by City Clerk

Action Text: The Resolution (Res) was attested by City Clerk.

Notes:

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**CITY OF SEATTLE**  
**RESOLUTION 31604**

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5  
6 A RESOLUTION relating to the transport of crude oil by rail through the City of Seattle.

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8  
9 WHEREAS, new technologies have resulted in the development of unprecedented amounts of  
10 both domestic and foreign oil, natural gas, tar sands, bitumen, and other petroleum  
11 products and derivatives, which will significantly increase the volume of petroleum and  
12 petroleum products moving by rail (oil trains) through Oregon and Washington; and

13 WHEREAS, the City of Seattle is deeply concerned about the threat to life, safety and the  
14 environment of potential spills and fires from the transport of petroleum by rail;

15 WHEREAS, at least one million gallons of crude oil currently travel through Seattle every day;  
16 and

17 WHEREAS, if all proposed terminals and refinery projects in Washington State are built and  
18 operated at full capacity, the volume of petroleum-by-rail traveling through Seattle could  
19 triple in a few years; and

20 WHEREAS, the primary source of the petroleum transported by rail through Seattle is from the  
21 Bakken formation, which is highly flammable and easily ignited at normal temperatures  
22 by heat, static discharges, sparks, or flames; and

23 WHEREAS, as a result of a derailment and oil spill, Bakken crude oil vapors may form  
24 explosive mixtures with air and travel to sources of ignition and flash back, making areas  
25 up to one-half mile or more from an accident site vulnerable.

1 WHEREAS, the U.S. Department of Transportation estimates an average of 13 derailments in  
2 the US annually over the next 20 years, according to the 2015 Final Regulatory Impact  
3 Analysis prepared in advance of proposed rulemaking on Hazardous Materials: Enhanced  
4 Tank Car Standards and Operational Controls for High-Hazard Flammable Trains; and

5 WHEREAS, there have been five oil train derailments resulting in fires in North America since  
6 February 2015; and

7 WHEREAS, Resolution 31504, adopted by Council on March 10, 2014, called on state and  
8 federal agencies to: assess the impacts and risks associated with the transport of  
9 petroleum products by rail; adopt more stringent safety measures on railroads, such as  
10 mandatory information disclosure and tank car safety; and refrain from permitting  
11 projects that would increase the number of trains carrying petroleum through Seattle until  
12 the cumulative environmental and safety impacts of these projects are studied and  
13 addressed; and

14 WHEREAS, Resolution 31504 requested that the Seattle Fire Department (SFD) and Seattle  
15 Office of Emergency Management (OEM) review the City's incident response plans for  
16 the increasing risk imposed by the transport of petroleum by rail, and this review was  
17 reported back to Council in September 2014; and

18 WHEREAS, the SFD/OEM report responding to Resolution 31504, as well as recent  
19 developments since the adoption of the Resolution, have revealed new and more specific  
20 concerns related to the transport of crude oil by rail; and

21 WHEREAS, on July 24, 2014, several tank cars derailed in Seattle under the Magnolia Bridge  
22 and though no product was spilled, it highlighted the risk of catastrophe here in Seattle;  
23 and

1 WHEREAS, the Seattle Fire Department has identified three distinct response zones in case of  
2 an oil train incident: 1) an Industrial and Stadiums zone, with access via surface streets  
3 and available firefighting water supply, but also potentially a high concentration of  
4 people during a sporting event; 2) a Great Northern Tunnel (or BNSF Tunnel) zone,  
5 where both passenger trains and hazardous materials on freight trains could be in the  
6 tunnel at the same time, and which currently lacks critical fire/life safety systems; and 3)  
7 a High Bluff/Waterside zone (north of Myrtle Edwards Park), where high banks, a lack of  
8 land-side firefighting water supply, and limited access due to the proximity of Puget  
9 Sound complicate response; and

10 WHEREAS, model DOT-111 tank cars full of crude oil will still be allowed on rail lines passing  
11 through Seattle for at least two more years, despite the fact that they have a “high  
12 incidence of failure during accidents” and “can almost always be expected to breach in  
13 derailments that involved multiple car-to-car impacts,” according to a 2012 Railroad  
14 Accident Report from the National Transportation Safety Board; and

15 WHEREAS, Burlington Northern Santa Fe (BNSF) committed to the purchase 5,000 next  
16 generation rail tank cars, which can lessen impacts during a derailment, but has not yet  
17 reported on a plan to phase out legacy tank cars.

18 WHEREAS, even as the US Department of Transportation slowly transitions toward mandating  
19 the use of newer model tank cars, these “safer” tank cars have recently derailed and  
20 exploded, such as the incident in Lynchburg, Virginia, involving a breach of a model  
21 CPC-1232 tank car going 25 miles per hour; and

22 WHEREAS, the Bakken oil train that derailed and exploded in Lac-Mégantic, Quebec killed 47  
23 people in 2013 and generated an estimated \$2 billion in liabilities, and yet, as the Wall

1 Street Journal reports, the insurance industry does not consider it a truly catastrophic,  
2 worst-case accident, which would involve a more populated urban area; and

3 WHEREAS, railroads are critically under-insured against the risks of an oil train explosion in an  
4 urban area, as commercial insurance coverage for catastrophic accidents does not exist,  
5 according to industry experts quoted in publications such as the Wall Street Journal and  
6 Business Insurance Magazine; and

7 WHEREAS, the Washington Association of Fire Chiefs recently requested the following  
8 information from Burlington Northern Santa Fe Railway (BNSF) in order to update its  
9 regional hazmat response plan: 1) the railroad's worst-case scenarios for a crude oil train  
10 derailment in urban and sensitive environmental areas; 2) evidence of how much  
11 catastrophic insurance coverage the railroad has; 3) copies of the railroad's  
12 comprehensive emergency response plans; 4) analyses of how they determine the safest  
13 routes for carrying hazardous materials such as crude oil, ethanol, chlorine and ammonia;  
14 and

15 WHEREAS, the Washington State Oil Transportation Safety Act, Chapter 274, Laws of 2015,  
16 passed during the 2015 Washington State Legislative Session, provides for disclosure of  
17 information related to a railroad company's ability to pay damages in the event of an oil  
18 spill, increased authority for state inspectors to inspect rail tracks across the state,  
19 increased authority for state agencies to enhance the safety of rail crossings over  
20 roadways, as well as a barrel tax on crude oil and petroleum shipments received by  
21 refineries from rail cars that will fund oil spill prevention, planning, and response; and

22 WHEREAS, pursuant to the Washington Oil Transportation Safety Act, the Washington State  
23 Utilities and Transportation Commission (UTC) is currently considering rules to update

1 railroad reporting requirements on financial responsibility, safety standards for private  
2 crossings, opportunities for first-class cities to opt in to the commission crossing safety  
3 program; and

4 WHEREAS, the federal government has primary jurisdiction to regulate railroad use and  
5 therefore has the most influence and authority to mitigate the potential for tragic  
6 consequences associated with oil train accidents; and

7 WHEREAS, the City is clearly preempted by federal law from directly prohibiting or limiting  
8 the transport of oil by train; and

9 WHEREAS, federal law severely limits the ability of the City to impose regulatory measures on  
10 interstate railroad companies that carry oil through the City, such as cost coverage for rail  
11 line safety improvements, higher tank car safety standards, comprehensive response plans  
12 for large accidents or spills, and greater mandated insurance coverage; and

13 WHEREAS, The U.S. Conference of Mayors adopted a resolution co-sponsored by the Mayor  
14 entitled "Keeping Communities Safe Through Comprehensive Actions to Improve Rail  
15 Safety," which calls for specific additional steps to be taken by the federal government to  
16 keep our communities safe including:

- 17 • Urging the U.S. Department of Energy to accelerate its timeline for completion of  
18 a study concerning how crude oil properties affect its combustibility in rail  
19 accidents and U.S. Department of Transportation to set appropriate federal crude  
20 oil volatility regulations based on the results of this study;
- 21 • Calling on the Department of Transportation and the Department of Homeland  
22 Security to work directly with Mayors, other local leaders and State officials to

1 create clear, timely and thorough communication protocols between railroads and  
2 local responders;

- 3 • Urging Congress to expand investments in freight rail infrastructure for projects  
4 that build safer, more reliable tracks and routes, particularly investments in at-  
5 grade crossings and rail tunnels and provide adequate funding for first responder  
6 training and equipment to respond to and mitigate the unique hazards these  
7 shipments present;
- 8 • Urging railroads, crude oil shippers, and tank care lessors to accelerate both the  
9 introduction of rail cars that meet the strongest safety standards and phase outs for  
10 unsafe rail cars; and

11 WHEREAS, oil trains travel through communities where there are high numbers of vulnerable  
12 populations including people of color, low-income populations, immigrants, refugees,  
13 children, limited-English speakers who already bear a disproportionate burden of  
14 environmental injustices with little benefit; and

15 WHEREAS, the Mayor has launched the Equity and Environment Initiative which seeks to  
16 address the challenge that people of color, low income communities, children,  
17 immigrants, refugees, and limited English speakers living in Seattle are already  
18 overburdened with health, social, economic, and environmental impacts; and

19 WHEREAS, Federal guidelines recommend initial evacuation within one-half mile of an oil train  
20 spill or fire and within one mile when certain gases are released, 5,700 students attend 12  
21 public schools located within one mile the BNSF rail corridor; and

22



1 WHEREAS, approximately 55 % of all SPS students are persons of color. The proportion exceed  
2 90% at Maple and Van Asselt Elementary Schools and Cleveland High School, which are  
3 located within one-half mile of the rail line; and

4 WHEREAS, these communities would be at significant risk in the event of an oil train accident,  
5 derailment, or spill creating even more challenges for Seattle to ensure that all people are  
6 benefiting from our environmental progress and further increasing the burden and  
7 environmental risk to already vulnerable communities; and

8 WHEREAS, the vast majority of the accident response costs and deadly risk associated with the  
9 boom in transport of petroleum by rail through Seattle is being borne by those who live  
10 and work in Seattle, as opposed to the railroad and oil companies who profit the most  
11 from this increased risk; and

12 WHEREAS, there are no federal or state minimum insurance requirements for railroads carrying  
13 crude oil or any other kind of hazardous cargo, or taxes on crude oil that could help cover  
14 cleanup costs after oil train accidents; and

15 WHEREAS, the Mayor and City Departments have met with representatives from Burlington  
16 Northern Santa Fe (BNSF) to discuss rail safety provisions in 2014 and several actions  
17 have been implemented to make the transport of highly-flammable crude oil through  
18 Seattle safer; and

19 WHEREAS, while BNSF, a subsidiary of Berkshire Hathaway, has taken some voluntary  
20 actions, the company as well as industry groups representing their interests continue to  
21 oppose federal and state safety regulations such as speed limits, public information  
22 disclosure, liability coverage for catastrophic incidents, minimum staffing requirements  
23 on trains, and electronically controlled pneumatic braking systems; NOW THEREFORE,

1  
2 **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE**  
3 **MAYOR CONCURRING, THAT:**

4 Section 1. The City of Seattle (City) requests transparency from railroads transporting  
5 crude oil through Seattle, so that first responders and policy makers can have the information  
6 they need to best prevent and respond to an accident and spill. This information includes, but is  
7 not limited to:

- 8 a. The railroad's worst-case scenarios for a crude oil train derailment in urban and sensitive  
9 environmental areas;
- 10 b. Evidence of how much catastrophic insurance coverage the railroad has;
- 11 c. Copies of the railroad's comprehensive emergency response plans; and
- 12 d. Analyses of how they determine the safest routes for carrying hazardous materials such  
13 as crude oil, ethanol, chlorine and ammonia.
- 14

15 Section 2. The City recognizes the voluntary commitments Burlington Northern Santa  
16 Fe (BNSF) has made to address safety concerns of crude-by-rail transport in Seattle, by  
17 providing access to a foam response vehicle and ventilation trailer when requested by the Seattle  
18 Fire Department, sponsoring technical level training opportunities for first responders, initiating  
19 discussion with city departments on preparedness, response, and recovery planning, as well as  
20 working with the City to provide a communications system in the BNSF tunnel, capable of  
21 supporting our 800Mhz radio system used for emergency response. The City Council further  
22 requests that BNSF enact all measures that would minimize the risks to life and property damage  
23 they pose to City residents and workers, including:

- 1 a. Restricting transport of crude oil through the City during large sporting events at
- 2 Safeco Field and Century Link Field;
- 3 b. Installing a fire and vapor suppression system in the Great Northern Tunnel designed
- 4 to release water and foam;
- 5 c. Installing a permanent ventilation system in the Great Northern Tunnel for use in
- 6 evacuation, rescue, and fire suppression;
- 7 d. Providing continued financial support for specialized response, clean-up, and
- 8 mitigation training for our hazardous materials and public works spill response teams;
- 9 and

10

11 Section 3. The City Council and Mayor expect City representatives to continue to engage

12 with the Washington State Utilities and Transportation Commission (UTC), as the UTC

13 considers updating its rules regarding safety standards for private railroad crossings, railroad

14 reporting requirements on financial responsibility, and opportunities for first-class cities, such as

15 Seattle, to opt in to the UTC's crossing safety program. The City Council requests a report from

16 the Seattle Department of Transportation, within 6 months of the adoption of this Resolution, on

17 the progress and implementation of the UTC's rulemaking, and a recommendation regarding the

18 City's participation in the UTC's crossing safety program.

19

20 Section 4. The City of Seattle endorses the federal "Crude-By-Rail Safety Act,"

21 introduced in the United States Senate in March of 2015, which:

- 22 a. Addresses the troubling secrecy with which railroads operate by requiring railroads
- 23 and shippers to disclose crude-by-rail movements to State Emergency Response

1 Commissions and Local Planning Committees along hazmat rail routes, and requiring  
2 railroads to implement close-call reporting systems so that employees can  
3 anonymously report safety problems;

4 b. Addresses the volatility and explosive nature of Bakken crude oil by requiring the  
5 Pipeline and Hazardous Materials Safety Administration (PHMSA) to issue a rule  
6 limiting volatile components of crude oil shipped by rail;

7 c. Addresses tank car safety by immediately prohibiting all DOT-111 tank cars and  
8 requiring new tank cars to have thermal protection, full-height head shields, jackets, a  
9 9/16<sup>th</sup> inch shell, pressure relief valves, and electronically-controlled pneumatic  
10 (ECP) brakes; and

11 d. Addresses the need to prepare comprehensive response plans by requiring railroads to  
12 establish such plans in case of large accident and spills.

13  
14 Section 5. The City also supports the Hazardous Materials Rail Transportation Safety  
15 Improvement Act of 2015, which was introduced in the United States Senate in April of 2015.  
16 The legislation aims to reduce risks posed by trains carrying large quantities of crude oil, ethanol  
17 and other flammable liquids. It gets the most dangerous cars off the tracks, gets safer cars on the  
18 tracks, and provides funding to communities at risk for these disasters. The bill establishes a fee  
19 on DOT-111 tank cars used to transport crude oil, ethanol or other flammable liquids. The per-  
20 car fee starts at \$175 per shipment and increases annually. Funds from the fee are used to reduce  
21 risks to communities by training first responders, hiring state railroad inspectors, and relocating  
22 tracks that carry large volumes of flammable liquids or gases.

1           Section 6. The City urges Washington State and Skagit County to carefully consider the  
2 potential impacts of a proposed Shell rail terminal near Anacortes on the volume of crude oil  
3 entering the state by rail, during the upcoming environmental review process.

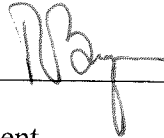
4  
5           Section 7. The City strongly urges the federal government to mandate catastrophic  
6 insurance coverage for crude-by-rail carriers, based on worst-case scenarios for a crude oil train  
7 derailment in urban and sensitive environmental areas.

8  
9           Section 8. The City strongly urges President Obama and the Bureau of Industry and  
10 Security to consistently uphold the ban on crude oil exports, and disallow any further  
11 exemptions. US crude exports could significantly increase the volume of crude oil by rail  
12 traveling through Seattle, and put residents at further risk until the federal government enacts  
13 regulations that force oil and railroad companies to mitigate those risks, including oil volatility  
14 standards, information disclosure, worst-case response plans, liability coverage, tank car safety,  
15 and necessary rail line and crossing improvements.

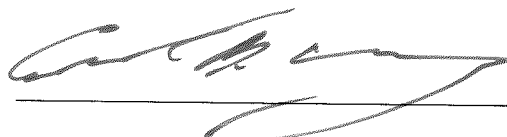
16  
17           Section 9. The City calls on Warren Buffett, Berkshire Hathaway, and BNSF to take  
18 full responsibility for the risks they impose on Seattle residents, and support the federal  
19 regulations necessary for the oil and rail industries to bear the full cost of safe oil production  
20 and transport, rather than relying on cities to subsidize their risks. The City further recognizes  
21 that Berkshire Hathaway, BNSF's parent company, also owns Union Tank Car Company, one  
22 of the largest manufacturers of oil tanker railcars, and requests that Warren Buffet and

1 Berkshire Hathaway leverage their relationships to begin immediately decommissioning the  
2 outdated tank cars, and lease only new or retrofitted tank cars.


3  
4 Adopted by the City Council the 27<sup>th</sup> day of July, 2015, and signed by  
5 me in open session in authentication of its adoption this 27<sup>th</sup> day  
6 of July, 2015.

7   
8 President \_\_\_\_\_ of the City Council

9  
10 The Mayor concurred the 28<sup>th</sup> day of July, 2015.

11   
12 \_\_\_\_\_  
13 Edward B. Murray, Mayor

14  
15 Filed by me this 29<sup>th</sup> day of July, 2015.

16   
17 \_\_\_\_\_  
18 Monica Martinez Simmons, City Clerk

19  
20 (Seal)