



Legislation Text

File #: Res 31604, Version: 2

CITY OF SEATTLE
RESOLUTION _____

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

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

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

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

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

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

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

WHEREAS, the U.S. Department of Transportation estimates an average of 13 derailments in the US annually over the next 20 years, according to the 2015 Final Regulatory Impact Analysis prepared in advance of

proposed rulemaking on Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains; and

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

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

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

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

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

WHEREAS, the Seattle Fire Department has identified three distinct response zones in case of an oil train incident: 1) an Industrial and Stadiums zone, with access via surface streets and available firefighting water supply, but also potentially a high concentration of people during a sporting event; 2) a Great Northern Tunnel (or BNSF Tunnel) zone, where both passenger trains and hazardous materials on freight trains could be in the tunnel at the same time, and which currently lacks critical fire/life safety

systems; and 3) a High Bluff/Waterside zone (north of Myrtle Edwards Park), where high banks, a lack of land-side firefighting water supply, and limited access due to the proximity of Puget Sound complicate response; and

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

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

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

WHEREAS, the Bakken oil train that derailed and exploded in Lac-Mégantic, Quebec killed 47 people in 2013 and generated an estimated \$2 billion in liabilities, and yet, as the Wall Street Journal reports, the insurance industry does not consider it a truly catastrophic, worst-case accident, which would involve a more populated urban area; and

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

WHEREAS, the Washington Association of Fire Chiefs recently requested the following information from Burlington Northern Santa Fe Railway (BNSF) in order to update its regional hazmat response plan: 1) the railroad’s worst-case scenarios for a crude oil train derailment in urban and sensitive environmental

areas; 2) evidence of how much catastrophic insurance coverage the railroad has; 3) copies of the railroad's comprehensive emergency response plans; 4) analyses of how they determine the safest routes for carrying hazardous materials such as crude oil, ethanol, chlorine and ammonia; and

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

WHEREAS, pursuant to the Washington Oil Transportation Safety Act, the Washington State Utilities and Transportation Commission (UTC) is currently considering rules to update railroad reporting requirements on financial responsibility, safety standards for private crossings, opportunities for first-class cities to opt in to the commission crossing safety program; and

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

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

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

WHEREAS, The U.S. Conference of Mayors adopted a resolution co-sponsored by the Mayor entitled "Keeping Communities Safe Through Comprehensive Actions to Improve Rail Safety," which calls for

specific additional steps to be taken by the federal government to keep our communities safe including:

- Urging the U.S. Department of Energy to accelerate its timeline for completion of a study concerning how crude oil properties affect its combustibility in rail accidents and U.S. Department of Transportation to set appropriate federal crude oil volatility regulations based on the results of this study;
- Calling on the Department of Transportation and the Department of Homeland Security to work directly with Mayors, other local leaders and State officials to create clear, timely and thorough communication protocols between railroads and local responders;
- Urging Congress to expand investments in freight rail infrastructure for projects that build safer, more reliable tracks and routes, particularly investments in at-grade crossings and rail tunnels and provide adequate funding for first responder training and equipment to respond to and mitigate the unique hazards these shipments present;
- Urging railroads, crude oil shippers, and tank care lessors to accelerate both the introduction of rail cars that meet the strongest safety standards and phase outs for unsafe rail cars; and

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

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

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

within one mile the BNSF rail corridor; and

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

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

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

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

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

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

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE MAYOR

CONCURRING, THAT:

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

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

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

- a. Restricting transport of crude oil through the City during large sporting events at Safeco Field and Century Link Field;
- b. Installing a fire and vapor suppression system in the Great Northern Tunnel designed to release water and foam;

- c. Installing a permanent ventilation system in the Great Northern Tunnel for use in evacuation, rescue, and fire suppression;
- d. Providing continued financial support for specialized response, clean-up, and mitigation training for our hazardous materials and public works spill response teams; and

Section 3. The City Council and Mayor expect City representatives to continue to engage with the Washington State Utilities and Transportation Commission (UTC), as the UTC considers updating its rules regarding safety standards for private railroad crossings, railroad reporting requirements on financial responsibility, and opportunities for first-class cities, such as Seattle, to opt in to the UTC's crossing safety program. The City Council requests a report from the Seattle Department of Transportation, within 6 months of the adoption of this Resolution, on the progress and implementation of the UTC's rulemaking, and a recommendation regarding the City's participation in the UTC's crossing safety program.

Section 4. The City of Seattle endorses the federal "Crude-By-Rail Safety Act," introduced in the United States Senate in March of 2015, which:

- a. Addresses the troubling secrecy with which railroads operate by requiring railroads and shippers to disclose crude-by-rail movements to State Emergency Response Commissions and Local Planning Committees along hazmat rail routes, and requiring railroads to implement close-call reporting systems so that employees can anonymously report safety problems;
- b. Addresses the volatility and explosive nature of Bakken crude oil by requiring the Pipeline and Hazardous Materials Safety Administration (PHMSA) to issue a rule limiting volatile components of crude oil shipped by rail;
- c. Addresses tank car safety by immediately prohibiting all DOT-111 tank cars and requiring new tank cars to have thermal protection, full-height head shields, jackets, a 9/16th inch shell, pressure relief

valves, and electronically-controlled pneumatic (ECP) brakes; and

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

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

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

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

Section 8. The City strongly urges President Obama and the Bureau of Industry and Security to consistently uphold the ban on crude oil exports, and disallow any further exemptions. US crude exports could significantly increase the volume of crude oil by rail traveling through Seattle, and put residents at further risk

until the federal government enacts regulations that force oil and railroad companies to mitigate those risks, including oil volatility standards, information disclosure, worst-case response plans, liability coverage, tank car safety, and necessary rail line and crossing improvements.

Section 9. The City calls on Warren Buffett, Berkshire Hathaway, and BNSF to take full responsibility for the risks they impose on Seattle residents, and support the federal regulations necessary for the oil and rail industries to bear the full cost of safe oil production and transport, rather than relying on cities to subsidize their risks. The City further recognizes that Berkshire Hathaway, BNSF's parent company, also owns Union Tank Car Company, one of the largest manufacturers of oil tanker railcars, and requests that Warren Buffet and Berkshire Hathaway leverage their relationships to begin immediately decommissioning the outdated tank cars, and lease only new or retrofitted tank cars.

Adopted by the City Council the ____ day of _____, 2015, and signed by me in open session in authentication of its adoption this _____ day of _____, 2015.

President _____ of the City Council

The Mayor concurred the ____ day of _____, 2015.

Edward B. Murray, Mayor

Filed by me this ____ day of _____, 2015.

Monica Martinez Simmons, City Clerk

(Seal)