

STAFF REPORT

DATE: April 22, 2014
TO: City Council
FROM: Mike Webb, Director of Community Development & Sustainability
Harriet Steiner, City Attorney
SUBJECT: Resolution Regarding Transportation of Oil-by-Rail through Davis

Recommendation

1. Adopt the attached Resolution opposing the transport of hazardous crude oil by rail along the Union Pacific railway through Davis for the purposes of ensuring community safety, and;
2. Authorize the City Attorney and staff to undertake the action items set forth in the attached Resolution.

Council Goals

- Actively participate in regional planning activities in the areas of transit, air quality, water and wastewater resources, land use and agricultural and open space conservation.
- Assure top quality fire, police, emergency and other services to promote the health, safety and well-being of all residents and neighborhoods.
- Maintain efficient and highly trained public safety staff.
- Create and maintain an environment that promotes safety and well-being.

Fiscal Impact

Monitoring and engagement in this effort is being absorbed within existing budgeted staff time.

Background and Analysis

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. Several pending projects, including the Benicia Valero project proposal, intend to use existing Union Pacific tracks through California. This route passes from the Roseville area through Davis along the Capitol Corridor route.



The Valero project proposes to introduce 100 rail cars of Bakken Crude per day traveling through Davis. Other projects, including the Phillips 66 Santa Maria refinery project, may also utilize the same rail corridor. The Santa Maria project could add an additional 80 rail cars per day.

The last few years have seen a dramatic rise in transport of crude by rail, accompanied by a similar rise in rail accidents, with 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, spilling 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. Similar accidents have occurred elsewhere, including in North Dakota and Alabama.

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. The UP rail line is situated in the midst of Downtown Davis and the Olive Drive neighborhood. The line through Davis includes one of relatively few curves and includes a low speed cross-over. These physical factors combine to create potentially hazardous conditions for any train, but are exasperated with such large increases in crude oil shipments proposed.

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. How timely, or effective, these requirements will in improving safety is not yet known.

Mitigating the impacts of transporting crude and other commodities by rail has been a challenge, as the railroads and other entities involved in the transport of crude 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 their impacts. However, this is not the complete story. 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 City of Benicia has the land use authority over the Valero project.

At the regular meeting of March 11, 2014 the City Council unanimously provided the following direction to staff on this topic:

1. Direct staff to continue to gather data, monitor the Benicia Valero project, and actively partner with other agencies, and State and Federal Representatives, on coordination of review and comments.
2. Direct staff to continue to engage with appropriate regulatory authorities regarding the safety of the existing railroad operations/speeds/curve in Davis.
3. Direct staff to prepare resolution whereby the City of Davis would oppose crude by rail transport through our community for the purpose of ensuring community safety until further consideration, including and understanding of risks and needed mitigation measures.
4. To the greatest extent feasible, synchronize efforts with other jurisdictions in the region.

Staff continues to monitor the project proposals. The Benicia Valero project Draft EIR has still not been released for review. While the Phillips 66 project EIR was completed in January of this year, staff has confirmed that the EIR will be re-circulated for additional public review. Staff is verifying with San Luis Obispo the anticipated dates for release.

Staff and the City attorney participated in a regional meeting of local jurisdictions on the subject of oil-by-rail on April 17th. The meeting was organized and hosted in cooperation with SACOG. The meeting was well-attended and provided very good insights into the range of topics and issues of concern to the various jurisdictions in the region. Jurisdictions represented at the meeting included Yolo County, City of Sacramento, Sacramento County, West Sacramento, Loomis, Roseville, Rocklin, Placer County, Davis, and SACOG. Public safety was the prevalent topic of concern to the jurisdictions, particularly with regard to the safety of the transportation of crude oil through populated areas, and the level of information and resources available to first responders for rail transport. The meeting was very instrumental in identifying the range of information needs, how the group can best organize efforts, and potential next steps. A key outcome of the meeting was to form a smaller working group, which will include Davis and

SACOG staff, to generate a framework for actions. Additionally, SACOG staff will be adding the topic to the agenda for the upcoming Cap-to-Cap.

Per City Council direction, staff has prepared the attached Resolution, which will set forth the general framework and City position on the topic of oil-by-rail. The Resolution will form the basis for direction on follow-up actions to be undertaken by the City Attorney and staff on individual projects, such as Phillips 66 and Valero, and to engage in regional action.

Attachment(s)

1. Resolution

RESOLUTION NO. 14-___, SERIES 2014

**OPPOSING TRANSPORTATION OF CRUDE OIL THROUGH THE
CITY OF DAVIS AND ADJACENT HABITAT AREAS**

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 oil by rail, accompanied by a similar rise in RAIL 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, several crude-by-rail projects, including, but not limited to the Phillips 66 Santa Maria Refinery rail spur extension, and the Benicia Valero expansion, are currently before San Luis Obispo County and the City of Benicia for approval; and

WHEREAS, trains delivering crude for these project would use Union Pacific rail tracks, which follow the Amtrak Capitol Corridor route through the Sacramento region and Davis; 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 or habitat area; and

WHEREAS, the primary source of the petroleum anticipated to be transported by rail through Seattle is from the Bakken formation, which the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration has determined may be more flammable than traditional heavy crude oil; and

WHEREAS, Davis is situated in a particularly vulnerable area due the curvature of the rail line and rail cross-over as it passes through the densely populated area of Downtown Davis, the Olive Drive residential neighborhood, multiple at-grade crossings, storage sidings along Second Street, and thousands of acres of sensitive wildlife habitat in and around the City of Davis; and

WHEREAS, other refineries have similar projects planned to transport hazardous crude by rail through Davis and the region; and

WHEREAS, until such time that adequate and appropriate safety measures, mitigations, and protocols are in place to ensure the safe transport of petroleum by rail, the City must take all reasonable steps necessary to ensure the safety and security of the residents and visitors of the City of Davis, property, and our wildlife habitat areas; and

WHEREAS, other jurisdictions in the region are expressing similar concerns for their own communities along the rail corridor; and

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

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Davis hereby opposes using existing Union Pacific rail lines to transport hazardous crude oil through the City of Davis and adjacent habitat areas, and resolves to:

- a. 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, for projects including, but not limited to the following: Santa Maria Refinery, Benicia Valero Refinery, with the objective of ensuring that adequate and appropriate safety measures, mitigations, and protocols are in place to ensure the safety and security of the residents and visitors of the City of Davis and our adjacent habitat areas;
- b. Work with SACOG, local jurisdictions and local and regional partners to coordinate sharing of information, resources, solutions, and project comments along the rail transportation route;
- c. Lobby our Senators and Representatives at the state and federal level in support of our concerns, including seeking greater notification of “up-rail” communities and disclosure of rail routes during the CEQA review process of projects;
- d. Work with the Railroad, oil transporters and refineries, regional partners, and elected representatives to disclose the volumes, types of hazardous materials, including but not limited to petroleum, petroleum products, and petroleum derivatives; transportation routes; and the frequency and duration of transfers of petroleum, so that the state and local communities can be fully informed of and plan for the risks posed by the transport of petroleum by rail in timely and meaningful ways;
- e. Urge the U.S. Department of Transportation (DOT) to increase federal tank car design and operation regulations for petroleum product shipments and aggressively phase out older-model tank cars used to move flammable liquids that are not retrofitted to meet new federal requirements;
- f. Urge the DOT to actively support and to adopt regulations that increase safety measures on trains, such as systems to warn train operators of upcoming speed limit decreases, such as decreased speed due to curvature of the rail line, and other hazards, to assist in avoiding accidents and derailments.
- g. Urge the Department of Homeland Security, in collaboration with state and local government emergency response entities and the California Department of Fish and Wildlife, to assess the impact to public safety, the environment, the economy, and traffic of petroleum transport by rail through Davis and the State of California;
- h. Lobby the Governor and the State Public Utilities Commission, and any other relevant state agencies, to refrain from permitting projects that would increase the number of trains carrying petroleum through Davis and other California communities until the cumulative environmental and safety impacts of these projects are studied and mitigated;

- i. Demand that any railroad company that operates rail lines within the City of Davis implement restrictions on the shipment of petroleum products along those routes until adequate study by relevant state, local, and federal government agencies have determined that the transport of petroleum by rail meets established public safety and environmental protection standards and that all mitigation measures are incorporated to ensure the maximum safety possible to the community, including incorporation of safety redundancy systems into trains;
- j. Seek appropriate levels of funding from rail operators and related refinery projects to provide Davis and regional partners with appropriate emergency response planning, training, and equipment;
- k. Lobby the CPUC, railroad, and related refinery projects to seek substantive funding for implementation of greater grade separated crossings of railroads and conversion, where appropriate, of at-grade railroad crossings to grade separated crossings;
- l. In cooperation with regional entities seek greater controls of the storage of rail cars on sidings located in our community; and
- m. Request that the Yolo County Office of Emergency Services, in conjunction with local response agencies review and, if needed, update the City's incident response plans for the increasing risk imposed by the transport of petroleum by rail with a report back to the City Council.

PASSED AND ADOPTED by the City Council of the City of Davis on this 22nd day of April, 2014 by the following vote:

AYES:

NOES

Joseph F. Krovoza
Mayor

ATTEST:

Zoe S. Mirabile, CMC
City Clerk