RESOLUTION NO.

A RESOLUTION OPPOSING TRANSPORTATION OF OIL- BY-RAIL THROUGH THE CITY OF BEND DUE TO SAFETY AND ENVIRONMETAL CONCERNS

Findings

A. Up to a decade ago, U.S. crude oil was not transported by rail in the United States. After unprecedented expansion of the domestic energy production, the use of trains became more common. When hazardous petrochemical materials pass through more urban areas, including more densely populated areas, the public has become increasingly concerned with impacts on public safety and property values.[1]

B. There has been a significant increase in the transportation of crude oil by rail through the Pacific Northwest to existing terminals and refineries on the west coast. Oil is transported by rail through Portland to an existing terminal in Columbia County and to refineries in California. According to the U.S. Department of Transportation (DOT), oil transportation by rail has increased 50 to 60 times above the levels that existed prior to 2010. At least fifteen oil-by-rail terminals are proposed, under construction, or currently operating in Oregon and Washington.[2]

C. The transport of oil by rail has climate impacts that are contrary to the City's goal to reduce carbon emissions.

D. Much of the oil being transported by rail is highly volatile oil from the Bakken oil fields in North Dakota. The oil is often being transported in tank cars, called DOT 111s, which were never intended to transport volatile crude oil. The DOT identifies the blast zone resulting from an oil train accident, fire and explosion involving Bakken oil as being 0.5 to 1 mile in all directions. Serious risks are caused by oil-by-rail projects including but not limited to delayed emergency vehicles, oil fires, oil spills, oil explosions resulting from train derailments, increased air pollution, increased water pollution, and contributions to climate disruption-induced injury and disease.

E. Over the last decade, oil train accidents have caused the evacuation of residents, property damage and environmental destruction. For example, in November of 2013, an oil train from North Dakota derailed and exploded near Aliceville, Alabama. There were no deaths, but an estimated 749,000 gallons of oil spilled from 26 tanker cars. In December of 2013, a fire engulfed tans cars loaded with oil on a Burlington Northern Santa Fe (BNSF) train after a collision about a mile from Casselton, North Dakota. Although no one was injured, more than 2,000 residents were evacuated as emergency responders struggled with intense fire. In April of 2014, fifteen cars of crude oil derailed in Lynchburg, Virginia, near a pedestrian waterfront, spilling nearly 30,000 gallons of oil into the James River and flames and black smoke into the air. In May of

[1] https://www.udel.edu/udaily/2020/december/rail-train-accidents-oil-hazardous-materials-property-values/
[2] https://www.sightline.org/research_item/the-northwests-pipeline-on-rails/

2015, a BNSF crude oil train derailed in North Dakota; six cars exploded into flames and an estimated 60,000 gallons of oil spilled. In July of 2015, more than 20 cars from a BNSF oil trail derailed east of Culbertson, Montana spilling an estimated 35,000 gallons of oil. In November of 2015, more than a dozen cars loaded with crude oil derailed from a Canadian Pacific Railway train prompting the evacuation of dozens of homes near Watertown, Wisconsin.[3] In June 2016, four train cars carrying crude oil derailed going through the Columbia River Gorge in the town of Mosier, Oregon. The train cars caught fire, prompting evacuation of residents, schools and businesses, and damage to the local water supply, sewer system and soil.[4] In December 2020, seven train cars carrying crude (Bakken) oil derailed and caught on fire north of Seattle and spurred evacuation orders during a large fire response, near the downtown Custer area.[5]

F. The United States is not alone in the increasing concern. As an example, in February 6, 2020, an oil train carrying crude oil derailed and caught fire near Guernsey, Saskatchewan, resulting in the Canadian village's evacuation. This is the second oil train to derail and burn near Guernsey, following one in December of 2019 that resulted in a fire and oil spill of 400,000 gallons.[6]

G. Recognizing the substantial increase in crude oil transported by rail in Oregon, and the millions of gallons now transported through the state on a regular basis, the Oregon legislature passed HB 2209 during the 2019 legislative session to specifically address contingency planning for high hazard train routes (High Hazard Rail). [7]The law is intended to go a long way to help ensure the safe passport of oil through Oregon and the environmental protection of our natural resources.[8] For the purposes of this Resolution, oil- by-rail is defined the same as it is defined in HB 2209, to generally cover a wide range of petroleum products in the context of rail car transport, as follows:

(18)] (19) "Oils" or "oil" means: (a) Oil, including gasoline, crude oil, bitumen, synthetic crude oil, natural gas well condensate, fuel oil, diesel oil, lubricating oil, sludge, oil refuse and any other petroleum related product; and (b) Liquefied natural gas.

H. High hazard train routes include inland rail lines that are within one quarter miles from the waters of the state, including the BNSF Railway line running through Central Oregon.[9]

I. New Department of Environmental Quality (DEQ) administrative rules currently being considered by the Environmental Quality Commission for adoption implement the requirements of HB 2209 as they pertain to High Hazard Rail. In order to ensure additional preparedness and consistent contingency planning, this rulemaking establishes a loaded tank car fee to fund a position with Oregon State Fire Marshal that

[3] https://apnews.com/article/oil-spills-fires-north-dakota-accidents-canada-84b1e8273d854697b34af57bc60badc2
[4] https://www.hcn.org/articles/oregon-oil-train-explosion-fuels-growing-opposition-movement
[5] https://www.cnbc.com/2020/12/23/train-cars-carrying-crude-oil-derail-and-burn-north-of-seattle.html
[6] https://www.desmogblog.com/2020/02/06/guernsey-canada-evacuated-second-cp-oil-train-derail-fire
[7] https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2209
[8] https://www.oregon.gov/deq/Regulations/rulemaking/RuleDocuments/hhrc2021pnp.pdf
[9] https://www.oregon.gov/deq/Regulations/rulemaking/RuleDocuments/hhrACm1materials.pdf (See map)

will be in charge of drill and exercise requirements for High Hazard Rail. It further establishes new contingency planning requirements for High Hazard Rail as well as provides updates to existing rules throughout Oregon Administrative Rules as they pertain to Oil Spill Contingency Planning and Fees. To further clarify the requirements specific to High Hazard Rail transport, the rulemaking establishes a new dedicated section for contingency planning for rail and clarifies language already in statute to ensure consistency in contingency planning requirements, and ensures that adequate planning and response capabilities are met by companies transporting oil in bulk through the state via rail car. It establishes a requirement for oil spill response drills and exercises, and ensures that rail companies incorporate Geographic Response Plans as they are developed.[10]

J. HB 2209 and the proposed implementing regulations are a positive and much needed step related to funding, planning and clean-up after an oil spill. However, they do not address the planning/assessment of new planned oil routes or terminals, and so do not provide mechanisms for greater environmental review of new proposed routes, updated and safer technology, or other types of federal regulations needed to make trains transporting crude oil safer.

K. The City Council does recognize that there have been improvements in recent years and especially after the Mosier incident, such as upgrading tankers, and the phasing out of older and more vulnerable rail cars. Still, more needs to be done to increase safety related to the transport of hazardous materials, as well as to upgrade and make rail crossings safer for people and trains, with funding and support for improvements like overcrossings.

L. In the event of an accident, the City is better equipped to respond than in past years, due to access to trucks that deploy foam to put out oil fires that are staged in strategic locations along the Highway 97 corridor in the event of a derailment. The Bend Fire Department has indicated that the most helpful information to improve a response to an oil explosion or derailment would be knowing when hazardous materials are being transported through Bend. However, although the Fire Department has made the request, due to the train companies concerns over terrorism, the information has not been provided and the City does not know when hazardous materials are scheduled to come through Bend, which complicates any response.

M. The City Council seeks to address the immediate issue of new oil-by-rail proposals in a timely manner, as well as those oil trains already moving through Bend. Since local regulation is largely preempted, the City specifically looks to the state and federal governments to ensure increased safety, transparency and accountability.

N. Following requests by community members for the City to consider this topic, City staff presented a Resolution to the City's Environmental and Climate Committee, where it was researched, reviewed, and edited, and then unanimously recommended

[10] https://www.oregon.gov/deq/Regulations/rulemaking/RuleDocuments/hhrc2021pnp.pdf

for adoption by the City Council.

Based on these findings, the Bend City Council resolves as follows:

Section 1. The City Council opposes oil-by-rail transportation through and within the City of Bend and on the east side of the Cascades in the State of Oregon due to safety and environmental concerns.

Section 2. The City Council supports the preparation of a programmatic, comprehensive, and area-wide Environmental Impact Statement (EIS) to identify the cumulative effects that would result from existing and proposed oil-by-rail terminals, mitigation of safety and environmental risks, and the development and review of a comprehensive Health Impact Assessment prior to approval of any new oil transfer and storage permits by any state, regional or federal agency. If any action items come out of the federal programmatic EIS process, the City will review and work to implement relevant local actions.

Section 3. The City Council directs the City Manager to send a letter to Senators Wyden and Merkley and Congressman Bentz, supporting preparation of a programmatic EIS as described in Section 2, and requesting they develop legislation and implementing regulations that:

- Require railroad companies and/or oil companies to make public aggregate information about both current oil transport by rail and any development plans for increased rail traffic that accommodates oil transport and storage;

- Provide adequate notice to local communities of any plans for new or expanded rail facilities or any anticipated increases in rail traffic volume; and;

- Require compliance with state law related to emergency environmental clean-up plans and an effective community notification system in the event of an emergency.

Section 4. The City Manager is also directed to send the letter and this Resolution to Governor Kate Brown and the local state legislative delegation.

Section 5. The City Council supports economic growth that contributes to community members' health, safety, and well-being, and that on balance, adheres to principles of sustainable development and overall reduction of carbon emissions.

Section 6. This Resolution takes effect immediately upon adoption.

Adopted by motion of the Bend City Council on June 2, 2021.

YES: NO:

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Sally Russell, Mayor

Attest:

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Robyn Christie, City Recorder

Approved as to form:

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Mary Alice Winters, City Attorney