
Amy Million - RE: City of Benicia Valero Crude by Rail Update

From: <rogrmail@gmail.com>
To: "Amy Million" <AMillion@ci.benicia.ca.us>, "Brad Kilger" <BKilger@ci...>
Date: 5/1/2014 11:37 AM
Subject: RE: City of Benicia Valero Crude by Rail Update
CC: "Don Dean" <donaaldjdean@sbcglobal.net>

Brad and/or Amy – at a few public meetings and in several emails, members of the public have spoken or written to request that more than the minimum 45 days be scheduled for review and public comment on the Valero CBR DEIR. I would like to make a formal request that the comment period be set at 90 days. This huge document will surely need such a timeline for adequate review.

Please advise me as to any necessary and proper procedures to make such a formal request, and to whom such a request should be made in order to ensure action. I.e., is this in the purview of the Planning Commission? Should I ask a Commissioner to bring a resolution? Should I simply formulate a written request, directed to the Planning Commission? Is this email itself adequate to ensure a discussion and vote?

Roger Straw

766 West J Street, Benicia, CA 94510
707.373.6826

From: Amy Million [AMillion@ci.benicia.ca.us]
Sent: Thursday, May 01, 2014 10:45 AM
To: Brad Kilger; rogrmail@gmail.com
Cc: Don Dean
Subject: RE: City of Benicia Valero Crude by Rail Update

Roger,

The Planning Commission meeting for May 8 has been canceled. There will be no action on the DEIR for the Planning Commission during the June 10 meeting.

The City's CEQA guidelines require a public hearing before the Planning Commission to receive comment on the Draft EIR. This will be scheduled for July 10 to allow time for the public and the Commission to review the document before the meeting. There is no action for the Commission to take at that time, as it is simply to hear public comment.

Amy

Amy E. Million
 City of Benicia, Community Development Department
 250 East L Street
 Benicia, CA 94510
 phone 707.746.4372 | fax 707.747.1637 | email amillion@ci.benicia.ca.us
www.ci.benicia.ca.us

>>> <rogrmail@gmail.com> 5/1/2014 9:44 AM >>>

Brad and/or Amy – thanks for sending out the notice that the Valero CBR DEIR will be released on June 10. I note that the June 10 release date of the DEIR is just *two days* before the regularly scheduled meeting of the Benicia Planning Commission. I suppose the DEIR will be agendized as a

report on the 10th? What, if any, action would be requested of the Commissioners at that early date?

The Commission meets on 2nd Thursdays. The next regularly scheduled meeting will be next week, on May 8. Will the project be agendized for a report at this meeting?

Roger Straw

766 West J Street, Benicia, CA 94510
707.373.6826

From: City of Benicia - CA [<mailto:benicia@service.govdelivery.com>]

Sent: Thursday, May 01, 2014 8:53 AM

To: rogrmail@gmail.com

Subject: City of Benicia Valero Crude by Rail Update

You are subscribed to Valero Crude by Rail for the City of Benicia. This information has recently been updated, and is now available.

The Draft EIR is scheduled to be released on Tuesday June 10, 2014.

Update your subscriptions, modify your password or e-mail address, or stop subscriptions at any time on your [Subscriber Preferences Page](#). You will need to use your e-mail address to log in. If you have questions or problems with the subscription service, please contact subscriberhelp.govdelivery.com.

This service is provided to you at no charge by [The City of Benicia, CA](#).

This email was sent to rogrmail@gmail.com using GovDelivery, on behalf of: The City of Benicia, CA · 250 East L Street · Benicia, CA 94510



John Gioia (say "Joya")

Supervisor, District I
Contra Costa County
Board of Supervisors

**Contra
Costa
County**

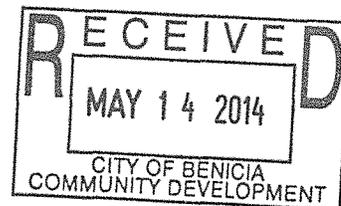
11780 San Pablo Avenue, Suite D
El Cerrito, California 94530

Phone: (510) 374-3231

Fax: (510) 374-3429

March 25, 2014

Richmond Mayor Gayle McLaughlin & City Council
450 Civic Center Plaza
Richmond, CA 94804



Dear Mayor and City Councilmembers:

The dramatic increase in the volume of Bakken Shale Crude Oil being transported by rail through Northern California should be of great concern to local government.

Bakken Crude is more volatile and flammable than other heavier types of crude oil and therefore presents a greater risk of explosion, such as occurred last year in rail cars in Quebec, Alabama and North Dakota.

The transport, handling and refining of Bakken Crude raises a number of safety issues that deserve to be addressed by various levels of government – federal, state, regional, and local.

I have asked Randy Sawyer, Director of Contra Costa's Hazardous Materials Program, to identify where the Richmond and Contra Costa Industrial Safety Ordinances (ISO) may have jurisdiction over the safety practices related to refining Bakken Crude at local refineries. Unfortunately, according to Mr. Sawyer, the ISO does not have authority over the off-loading of crude oil from railcars onto trucks if those operations occur in a railyard not located at a refinery.

As the Chair of the Stationary Source Committee of the Bay Area Air Quality Management District, I am having the issue of Crude-By-Rail placed on the agenda of our next meeting which is currently being scheduled for the month of April. At that meeting, the Stationary Source Committee will have a chance to hear from various agencies and the public about issues related to crude-by-rail and provide direction about what can be done to address the growing safety concerns.

I have also asked the Air District staff to discuss the authority under which they issued an emissions permit for the Kinder Morgan crude off-loading facility in Richmond. Like all of you, I am concerned that there was no clear communication to policymakers about the implications of issuing such a permit.

I look forward to working with the City of Richmond and others to address what is a growing safety issue for our communities here in the Bay Area.

Very Truly Yours,

A handwritten signature in cursive script that reads "John Gioia".

John Gioia
Supervisor, District One

Email: john_gioia@bos.cccounty.us • Website: www.cocobos.org/gioia

EAST RICHMOND HEIGHTS + EL CERRITO + EL SOBRANTE + KENSINGTON + MONTALVIN MANOR
NORTH RICHMOND + PINOLE + RICHMOND + ROLLINGWOOD + SAN PABLO + TARA HILLS

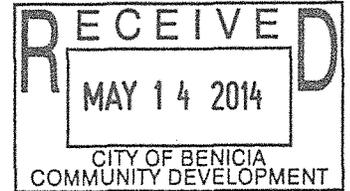


Benicians For A Safe and Healthy Community

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P.O. Box 253 Benicia, CA 94510
(707) 742-3597 info@safebenicia.org SafeBenicia.org

May 14, 2014

Brad Kilger, City Manager
Amy Million, Principal Planner, Community Development Dept.
City of Benicia, 250 East L Street, Benicia CA 94510



SUBJECT: BSHC Request for 90 Day Public Comment Period on Valero Project DEIR

Dear Brad and Amy,

As an independent, all-volunteer citizens group organized to officially represent the growing opposition to the Valero Crude By Rail Infrastructure Project, Benicians For A Safe and Healthy Community is formally requesting an extended 90-day public comment period to allow adequate time for the public and city decision-makers to review and study the Draft EIR, said to be 2,000 pages, to understand the full scope of the Project, its potentially significant direct, indirect and "considerably cumulative" impacts, and to write up our comments for submission. We also want to ensure adequate response time for primary regulatory agencies to deliberate and respond, given the highly unusual circumstance that at least five major oil and energy company projects are concurrently under review and must be weighed for permitting by the Bay Area Air Quality Management District. We have recently written to Jack Broadbent, director of the Air District, requesting that his staff comment directly during the public review period on the Valero Project DEIR to benefit public understanding of potential regional cumulative impacts.

With regard to the timing of the CEQA review: From October 2013, the burden of uncertainty has been born by the community, which has anticipated the release of the DEIR each subsequent month since that first suggested date, with the City each month pushing the release date further ahead. According to CEQA, the lead agent can use its discretion to allow for an extended comment period, within the CEQA "streamlining" time framework of one year for review of a land use permit application. We understand that the applicant can agree to extend the one-year time restriction, assuming that allotted year has passed.

We are submitting our request in advance of the City's announced June 10th release date for the DEIR in order to expedite your consideration of our request. Knowing ahead of time whether our request would be honored would allow the public (families) to make plans for their summer accordingly.

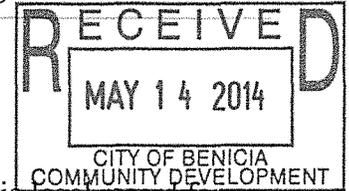
Thank you, in advance, for your time and consideration,
Respectfully,

Marilyn Bardet
Good Neighbor Steering Committee member
and member, Benicians for a Safe and Healthy Community

cc
Mayor Elizabeth Patterson
Don Dean, Chair, Planning Commission

Amy Million - DOT Emergency Order on rail transport of crude oil: For legal record on Valero Project

From: Marilyn Bardet <mjbardet@comcast.net>
To: Amy Million <amillion@ci.benicia.ca.us>, Brad Kilger <bkilger@ci.benicia...>
Date: 5/14/2014 1:13 PM
Subject: DOT Emergency Order on rail transport of crude oil: For legal record on Valero Project
CC: Don Dean <donalddjean@sbcglobal.net>, Rod Sherry <rsherry@csa-engineers...>



Hello Amy and Brad,

Please add this most important DOT Emergency Order, issued May 7th, to the public legal record for the review of the DEIR on the Valero Crude By Rail Infrastructure Project.

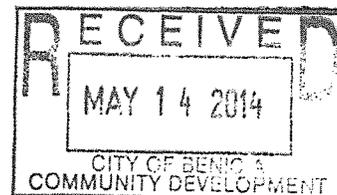
The Order contains significant information on what DOT considers the "imminent hazards" of transporting crude oil in increasing amounts by rail. This document is crucial to the review of the Valero CBR project.

Emergency Order | Department of Transportation

Thank you,
Marilyn
707-745-9094

Hi Amy – Marilyn provided the link, but I would like the Order itself to appear in the public record, as follows below. (This is taken directly from the DOT’s web page, <http://www.dot.gov/briefing-room/emergency-order>.)

Roger Straw
766 West J Street, Benicia, CA 94510
707.373.6826



Emergency Order

UNITED STATES DEPARTMENT OF TRANSPORTATION

)

Petroleum Crude Oil Railroad Carriers)

) Docket No. DOT-OST-2014-0067

EMERGENCY RESTRICTION/PROHIBITION ORDER

This notice constitutes an Emergency Restriction/Prohibition Order (Order) by the United States Department of Transportation (DOT; Department) pursuant to 49 U.S.C. 5121(d). This Order is issued to all railroad carriers that transport in a single train in commerce within the United States, 1,000,000 gallons or more of UN 1267, Petroleum crude oil, Class 3, [1] sourced from the Bakken shale formation in the Williston Basin (Bakken crude oil). By this Order, DOT is requiring that each railroad carrier provide the State Emergency Response Commission (SERC) for each state in which it operates trains transporting 1,000,000 gallons or more of Bakken crude oil, notification regarding the expected movement of such trains through the counties in the state. The notification shall identify each county, or a particular state or commonwealth’s equivalent jurisdiction (e.g., Louisiana parishes, Alaska boroughs, Virginia independent cities) (county), in the state through which the trains will operate.

Upon information derived from recent railroad accidents and subsequent DOT investigations, the Secretary of Transportation (Secretary) has found that an unsafe condition or an unsafe practice is causing or otherwise constitutes an imminent hazard to the safe transportation of hazardous materials. Specifically, a pattern of releases and fires involving petroleum crude oil shipments originating from the Bakken and being transported by rail constitute an imminent hazard under 49 U.S.C. 5121(d).

EFFECTIVE IMMEDIATELY ANY RAILROAD CARRIER IDENTIFIED BY THIS ORDER:

Shall, within 30 days of the date of this Order, provide certain information in writing to the SERC in each state in which the railroad carrier operates trains transporting 1,000,000 gallons or more of Bakken crude oil. The contact information for each SERC is located on the U.S. Environmental Protection Agency's (EPA) website related to the Emergency Planning and Community Right-to-Know Act of 1986 (ECPRA).^[2] If notification is not made to a SERC within 30 days of the date of this Order, a railroad is prohibited from operating any train transporting 1,000,000 gallons or more of Bakken crude oil in that state until such notification is provided. The notification must provide information regarding the estimated volumes and frequencies of train traffic implicated. Specifically, the notification must: (a) provide a reasonable estimate of the number of trains implicated by this Order that are expected to travel, per week, through each county within the state; (b) identify and describe the petroleum crude oil expected to be transported in accordance with 49 CFR part 172, subpart C; (c) provide all applicable emergency response information required by 49 CFR part 172, subpart G; and, (d) identify the routes over which the material will be transported. This notification also must identify at least one point of contact at the railroad (including name, title, phone number and address) responsible for serving as the point of contact for SERCs and relevant emergency responders related to the railroad's transportation of Bakken crude oil. To ensure that the information provided to a SERC remains reliable, railroad carriers shall update notifications prior to making any material changes in the estimated volumes or frequencies of trains traveling through a county. Railroad carriers must assist the SERCs as necessary to aid in the dissemination of the information to the appropriate emergency responders in affected counties. Copies of railroad notifications to SERCs must be made available to the DOT's Federal Railroad Administration (FRA) upon request. This Order does not preclude railroad carriers from taking any additional steps to communicate with state and local emergency responders regarding the transportation of hazardous materials or any other commodities within a state or local jurisdiction.

This Order applies to all railroad carriers who transport 1,000,000 gallons or more of Bakken crude oil in a single train in commerce within the United States, and its officers, directors, employees, subcontractors, and agents. This Order is effective immediately and remains in effect unless withdrawn in writing by the Secretary, or until it otherwise expires by operation of regulation and/or law.

I. Authority

The Secretary of Transportation has the authority to regulate the transportation of petroleum crude oil in commerce. 49 U.S.C. 5103(b). The Secretary of Transportation has designated petroleum crude oil, UN 1267, 3, Packing Group I, II, or III, as a hazardous material subject to the requirements of DOT's Hazardous Materials Regulation (HMR) (49 CFR parts 171 to 180). 49 U.S.C. 5121(d); 49 U.S.C. 5103(a). Commerce is as defined by 49 U.S.C. 5102(1) and 49 CFR 171.8, and "transportation" or "transport" are as defined by 49 U.S.C. 5102(13) and 49 CFR 171.8. A "railroad" is as defined by 49 CFR 171.8. Accordingly, railroads that transport petroleum crude oil in commerce by rail are subject to the authority and jurisdiction of the Secretary, including the authority to impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or an opportunity for hearing, to the extent necessary to abate the imminent hazard. 49 U.S.C. 5121(d).

II. Background/Basis for Order

An imminent hazard, as defined by 49 U.S.C. 5102(5), constitutes the existence of a condition relating to hazardous materials that presents a substantial likelihood that death, serious illness, severe personal

injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk that death, illness, injury or endangerment.

The number and type of petroleum crude oil railroad accidents described below that have occurred during the last year is startling, and the quantity of petroleum crude oil spilled as a result of those accidents is voluminous in comparison to past precedents. Due to the volume of crude oil currently being shipped by railroads, the demonstrated recent propensity for rail accidents involving trains transporting crude oil to occur, and the subsequent releases of large quantities of crude oil into the environment and the imminent hazard those releases present, this Order requires that railroads take the action described above to assist emergency responders in mitigating the effects of accidents involving petroleum crude oil trains. Releases of petroleum crude oil, subsequent fires, and environmental damage resulting from such releases represent an imminent hazard as defined by 49 U.S.C. 5102(5), presenting a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur.

<>A.^[3]

Shipping hazardous materials is inherently dangerous. Transporting petroleum crude oil can be problematic if the crude oil is released into the environment because of its flammability. This risk of ignition is compounded in the context of rail transportation because petroleum crude oil is commonly shipped in unit trains that may consist of over 100 loaded tank cars. With the rising demand for rail carriage of petroleum crude oil [4] throughout the United States, the risk of rail incidents increases along with the increase in the volume of crude oil shipped. There have been several significant derailments in the U.S. and Canada over the last ten months causing deaths and property and environmental damage that involved petroleum crude oil shipments. These accidents have demonstrated the need for emergency action to address unsafe conditions or practices in the shipment of petroleum crude oil by rail.

Most recently, on April 30, 2014, an eastbound CSX Transportation, Inc. (CSX) unit train consisting of 105 tank cars loaded with petroleum crude oil derailed in Lynchburg, Virginia. Seventeen of the train's cars derailed, and one of the tank cars was breached. A petroleum crude oil fire ensued, and emergency responders evacuated approximately 350 individuals from the immediate area. Three of the derailed tank cars containing petroleum crude oil came to rest in the adjacent James River, spilling up to 30,000 gallons of petroleum crude oil into the river. The National Transportation Safety Board (NTSB) and DOT are both investigating this accident.

On December 30, 2013, 13 cars in a westbound BNSF Railway (BNSF) grain train derailed near Casselton, North Dakota,^[5] fouling an adjacent main track. At the same time, an eastbound BNSF petroleum crude oil unit train with 106 cars was operating on that adjacent main track. The petroleum crude oil unit train reduced its speed but collided with the derailed car that was fouling the main track, resulting in the derailment of the lead locomotives and the first 21 cars of the petroleum crude oil unit train. Eighteen of the 21 derailed tank cars ruptured, and an estimated 400,000 gallons of petroleum crude oil was released. The ruptured tank cars ignited, causing a significant fire. Approximately 1,400 people were evacuated. Damages from the derailment have been estimated at \$8 million.

On November 8, 2013, a 90-car petroleum crude oil train operated by Alabama & Gulf Coast Railway derailed in a rural area near Aliceville, Alabama. The petroleum crude oil shipment originated in North Dakota, and was bound for Walnut Hill, Florida, to be transported by a regional pipeline to a refinery in Saraland, Alabama. Twenty-six cars derailed, resulting in eleven cars impinged by a crude oil pool fire. An undetermined amount of petroleum crude oil escaped from derailed cars and found its way into wetlands area nearby the derailment site. Clean up costs are estimated at \$3.9 million.

On July 6, 2013, a catastrophic railroad accident involving a U.S. railroad company occurred in Lac-Mégantic, Quebec, Canada, when an unattended freight train transporting petroleum crude oil rolled down a descending grade and subsequently derailed.^[6] The subsequent fires, along with other effects of the accident, resulted in the confirmed deaths of 47 individuals. In addition, the derailment caused extensive damage to the town center, a release of hazardous materials that will require substantial clean-up costs, and the evacuation of approximately 2,000 people from the surrounding area.

B. DOT Actions and Investigations

In the wake of these and other events, PHMSA and FRA have taken a number of steps to increase the safety of petroleum crude oil shipments by rail. Following the Lac-Mégantic derailment, FRA issued Emergency Order No. 28 (EO 28), which established certain securement requirements for unattended trains and rail equipment, including petroleum crude oil unit trains. EO 28 remains in effect until further notice by FRA. In addition, on August 7, 2013, PHMSA and FRA issued Safety Advisory 2013-06, which made a number of safety-related recommendations to railroads and hazardous materials offerors operating in the United States, including the recommendation that offerors evaluate their processes to ensure that hazardous materials are properly classed and described in accordance with the HMR, and the recommendation that offerors and carriers conduct reviews of their safety and security plans. On August 27-28, 2013, FRA and PHMSA held a public meeting with industry stakeholders to solicit input on a comprehensive review of safety regulations

contained in 49 CFR part 174 applicable to the safe transportation of hazardous materials by rail. PHMSA and FRA have initiated a rulemaking (RIN 2137-AF07) to address comments received as a result of the public meeting.

On August 29, 2013, FRA convened an emergency session of the Railroad Safety Advisory Committee (RSAC). RSAC is a group composed of railroad industry, labor, and governmental representatives who develop recommendations on new regulatory standards and other rail safety programs. During the emergency meeting, RSAC established three collaborative working groups to formulate new rulemaking recommendations regarding hazardous materials transportation by rail, appropriate train crew sizes, and train securement procedures. Each of these working groups has met on a regular basis and has now finished with its work. DOT has initiated rulemaking proceedings as appropriate to codify in Federal regulation certain of the items discussed by the working groups.

On September 6, 2013, PHMSA issued an Advanced Notice of Proposed Rulemaking (ANPRM (HM-251); 78 FR 54849) to solicit comments on petitions for rulemaking and NTSB recommendations related to rail hazmat safety, including regulations for DOT specification tank cars most commonly used to move crude oil by rail. The comment period closed on December 5, 2013, and PHMSA received nearly 150 substantive comments representing over 150,000 stakeholders. PHMSA, in cooperation with FRA, has developed a comprehensive Notice of Proposed Rulemaking (NPRM). The NPRM is titled: PHMSA-2012-0082 (HM-251; RIN 2137-AE91): Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains. The NPRM is under review by the Office of Management and Budget pursuant to Executive Order 12866. (See <http://www.reginfo.gov/public>).

PHMSA and FRA issued a supplementary safety advisory, Safety Advisory 2013-07, on November 20, 2013, to emphasize the importance of proper characterization, classification, and selection of a packing group for Class 3 materials (flammable liquids, including petroleum crude oil), and to reinforce the need to follow the Federal hazardous materials regulations for safety and security planning. On January 2, 2014, PHMSA issued a Safety Alert, which warned of crude oil variability and emphasized that unprocessed crude oil may affect the integrity of packaging or present additional hazards related to corrosivity, sulfur content, and dissolved gas content. Further, noting that mined natural resources, such as crude oil, may have widely variable chemical compositions and properties, the Safety Alert noted that crude oil being transported from the Bakken region of North Dakota may be more flammable than traditional heavy crude oil.

On January 16, 2014, the Secretary met with members of the rail and the petroleum industries in a Call to Action to address the risks associated with the transportation of crude oil by rail. As a result, on February 21, 2014, the Secretary of Transportation sent a letter to the President and Chief Executive Officer at the AAR requesting that he and his members subscribe to voluntary actions to improve the safe transportation of crude oil by rail. These include: speed restrictions,

braking signal propagation systems, routing analyses, additional track and rail integrity inspections, more frequent mechanical inspections, development of an emergency response inventory, funding for emergency responder training, and continued communication with communities about the hazards of crude oil being transported by rail. To date, all Class I railroads have subscribed to the voluntary actions and several more have expressed their intent to sign.

On February 25, 2014, DOT issued an Emergency Order requiring all shippers to test product from the Bakken to ensure the proper classification of crude oil in accordance with the HMR before it is transported by rail, while also prohibiting the transportation of crude oil in the lowest-strength packing group. That Emergency Order was issued, in part, out of concerns over proper classification and packaging of petroleum crude oil that are under investigation as part of DOT's Operation Classification, also known as the "Bakken Blitz." On March 6, 2014, DOT issued an amended emergency order replacing the February 25 Emergency Order. [7] The Amended Emergency Order is still in effect.

Notwithstanding the above DOT actions, in light of continued risks associated with petroleum crude oil shipments by rail, the further actions described in this Order are necessary to eliminate unsafe conditions and practices that create an imminent hazard to public health and safety and the environment.

<>C.[8] This is a reasonable threshold when considering that the aforementioned incidents all involved trains consisting of more than 70 railroad tank cars carrying petroleum crude oil, or well above the Order's threshold of 1,000,000 gallons or more of petroleum crude oil being transported in a single train. In setting this threshold quantity of 1,000,000 gallons, DOT has also relied on a Federal Water Pollution Control Act mandate for regulations requiring a comprehensive spill response plan to be prepared by an owner or operator of an onshore facility. [9] For purposes of addressing an imminent hazard, that threshold amount of petroleum crude oil also ensures DOT is assisting local emergency responders to be prepared for the type of accidents that have been occurring regularly, and represent the greatest risks to public safety and the environment with regard to the transportation of Bakken crude oil. Further, this threshold amount of Bakken crude oil ensures that DOT is not unnecessarily imposing safety-related burdens on lesser risks that have not, to date, proven to represent the same safety and environmental concerns.

DOT has determined that SERCs are the most appropriate point of contact to convey written notifications regarding the transportation of trains transporting large quantities of Bakken crude oil. Each state has a designated SERC in accordance with the requirements of the ECPRA, which was

created to help local entities plan for emergencies involving hazardous substances. [10] Generally, SERCs are responsible for supervising and coordinating with the local emergency planning committees (LEPC) in states, and are best situated to convey information regarding hazardous materials shipments to LEPC's and state and local emergency response agencies. This Order requires that railroad carriers, to the extent reasonably practicable, assist SERCs as necessary in responding to any requests for information from local emergency response agencies regarding the volume and frequency of train traffic implicated by this Order within that agency's jurisdiction.

Written notification containing the required information to states in which trains affected by this Order operate must be made within 30 days of the effective date of this Order. If initial notification is not made to a SERC within 30 days of the date of this Order, a railroad is prohibited from operating any train transporting 1,000,000 gallons or more of Bakken crude oil through that state until such notification is provided. This notification must reflect the expected volume and frequency of train traffic implicated in each county in a particular state, with updated notifications required to be made when there is a material change in the volume of those trains. DOT is aware that the nature of freight railroad operations does not make it possible in many instances to estimate the exact number of trains implicated by this Order that will travel over a particular route in a specified time period. Thus, this Order requires that railroads make a reasonable estimate as to the number of implicated trains expected to travel through a county per week, and to update the notification whenever a significant increase or decrease in that estimated number occurs. For purposes of complying with the requirements of this Order, DOT considers any increase or decrease of twenty-five percent or more in the number of implicated trains per week to be a material change. In making these notifications to SERCs, railroads must identify that Bakken crude oil is the commodity involved, and convey the applicable petroleum crude oil emergency response information that is required by 49 CFR part 172, subpart G in the notice. The railroad's notice to the SERCs must identify the routes over which the material will be transported through each affected county in a state. The above requirements will enable SERCs, and accordingly, state and local emergency responders, to have a reasonable expectation of the petroleum crude oil train traffic, and prepare accordingly for the possibility of an accident involving a train transporting a large quantity of Bakken crude oil.

In addition, railroads must also identify at least one point of contact (including name, title, phone number and address) at the railroad responsible for serving as the railroad's point of contact for state and local emergency response agencies on issues related to the transportation of Bakken crude oil through their jurisdictions. This point of contact must be communicated in the notice to the SERCs so that a jurisdiction may contact the railroad to obtain information regarding the transportation of large quantities of Bakken crude oil via rail. Copies of the written notification to SERCs must be made available upon request to FRA. FRA will audit railroad compliance with this Order by reviewing the notices that railroads provide to SERCs to ensure the accuracy of those notices, and also to ensure that state and local emergency responders are able to communicate with the railroad contact identified in the written notification when necessary.

Nothing in this Order precludes railroad carriers from taking any additional steps to communicate with state and local emergency responders regarding the transportation of hazardous commodities within a state or local jurisdiction. If a railroad carrier has existing methods of communications with

first responders along affected routes, DOT encourages railroad carrier to also continue to utilize those existing methods of communication.

To further enhance emergency response efforts, DOT is also recommending that railroads continue to commit resources to develop specialized crude oil by rail training and tuition assistance program for local first responders. Through the Transportation Community Awareness and Emergency Response (TRANSCAER®) program^[11] and other initiatives, the railroad and hazardous materials shipping industries collaborate and cooperate with communities through which hazardous materials are transported. For example, in accordance with Association of American Railroads (AAR) Circular OT-55-N, railroads are to assist in implementing TRANSCAER's outreach program to improve community awareness, emergency planning and incident response for the transportation of hazardous materials. The same industry standard provides for the disclosure of certain commodity flow data upon request to local emergency response agencies and planning groups.

In response to the Secretary's recent "Call to Action," the rail and shipping industries have renewed their commitment to the TRANSCAER® program and have agreed to conduct additional outreach and training to local emergency responders in jurisdictions through which crude oil is transported in large quantities.^[12] At the same time, industry has committed to providing additional funding for emergency response resources for local emergency responders, and to continued communication with communities about the hazards of crude oil being transported by rail. DOT views these efforts as supporting the emergency response capability planning requirement.

D. Remedial Action

Within 30 days of this Order, to abate this imminent hazard, each affected railroad carrier shall, within 30 days of the date of this Order, notify the SERC in each state in which the railroad carrier operates trains transporting 1,000,000 gallons or more of Bakken crude oil. The contact information for each SERC is on the U.S. EPA's website related to the ECPRA as discussed above. If notification is not made to a SERC within 30 days of the date of this Order, a railroad is prohibited from operating any train transporting 1,000,000 gallons or more of Bakken crude oil in that State until such notification is provided. This notification must provide information regarding the estimated volumes and frequencies of train traffic implicated. Specifically, this notification must: (a) provide a reasonable estimate of the number of trains implicated by this Order that are expected to travel, per week, through each county within the state; (b) identify and describe the petroleum crude oil being transported in accordance with 49 CFR part 172, subpart C; (c) provide all applicable emergency response information required by 49 CFR part 172, subpart G; and, (d) identify the route over which the material will be transported. This notification also must identify at least one point of contact at the railroad (including name, title, phone number and address) responsible for serving as the point of contact for SERCs and local emergency responders related to the railroad's transportation of Bakken crude oil. To ensure that the information provided to a SERC remains reliable, railroad carriers shall update notifications prior to making any material changes – defined as any increase or decrease of twenty-five percent or more – in the estimated number of trains per week transporting 1,000,000 gallons or more of Bakken crude oil through local communities. Railroad carriers must assist the SERCs as necessary in disseminating the information to local emergency responders in affected counties. Copies of railroad notifications to SERCs must be made available to the FRA upon request.

E. Rescission of Order

This Order remains in effect until the Secretary determines that an imminent hazard no longer exists or a change in applicable statute or Federal regulation occurs that supersedes the requirements of the Order, in which case the Secretary will issue a Rescission Order.

F. Failure to Comply

Any railroad carrier or person failing to comply with this Emergency Order is subject to civil penalties of up to \$175,000 for each violation or for each day it is found to be in violation (49 U.S.C. 5123). A person willfully or recklessly violating this Emergency Order is also subject to criminal prosecution, which may result in fines under title 18, imprisonment of up to ten years, or both (49 U.S.C. 5124).

G. Right to Review

Pursuant to 49 U.S.C. 5121(d)(3) and in accordance with section 554 of the Administrative Procedure Act (APA), 5 U.S.C. 500 *et seq*, a review of this action may be filed. Any petition seeking relief must be filed within 20 calendar days of the date of this order (49 U.S.C. § 5121 (d)(3)), and addressed to: Office of the General Counsel, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., Washington, DC 20590. Please include the docket number of this Emergency Order in your petition, and state the material facts at issue which you believe disputes the existence of an imminent hazard and must include all evidence and exhibits to be considered. The petition must also state the relief sought. Within 30 days from the date the petition for review is filed, the Secretary must approve or deny the relief in writing; or find that the imminent hazard continues to exist, and extend the original Emergency Order. In response to a petition for review, the Secretary may grant the requested relief in whole or in part; or may order other relief as justice may require (including the immediate assignment of the case to the Office of Hearings for a formal hearing on the record.

III. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that DOT consider the impact of paperwork and other information collection burdens imposed on the public. DOT has determined that this Emergency Order imposes new information collection requirements. FRA will be publishing a Paperwork Reduction Act notice for comment, following publication of this order.

IV. Emergency Contact Officials

If you have any questions concerning this Emergency Order, you should contact the U.S. Department of Transportation at (202) 493-6245.

Dated: May 7, 2014

Anthony R. Foxx

Secretary of Transportation

[1] As described by 49 CFR 172.101.

[2] <http://www2.epa.gov/epcra/state-emergency-response-commissions-contacts>.

[3] See Association of American Railroads' (AAR) December 2013 paper "Moving Crude Oil by Rail", available online at: <https://www.aar.org/keyissues/Documents/Background-Papers/Crude-oil-by-rail.pdf>.

[4] In 2011 there were 65,751 originations of tank car loads of crude oil. In 2012, there were 233,811 originations. *Id.*

[5] This derailment currently is being investigated by the National Transportation Safety Board (NTSB), and information regarding this incident can be found at the NTSB website. See http://www.nts.gov/doclib/reports/2014/Casselton_ND_Preliminary.pdf.

[6] This derailment currently is being investigated by the Transportation Safety Board of Canada and information regarding this incident can be found at the TSB website. See

<http://www.bst-tsb.gc.ca/eng/enquetes-investigations/rail/2013/R13D0054/R13D0054.asp>.

[7] The Amended Emergency Order addressed shipments already in transportation at the time of the emergency order's issuance. <http://www.dot.gov/sites/dot.gov/files/docs/Amended%20Emergency%20Order%20030614.pdf>.

[8] This approximation assumes that the tank cars would not be entirely filled to capacity.

[9] See 40 CFR 112.20. The Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990, directs the President, at section 311(j)(1)(C) (33 U.S.C. 1321(j)(1)(C)) and section 311(j)(5) (33 U.S.C. 1321(j)(5)), respectively, to issue regulations "establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous

substances from vessels and from onshore facilities and offshore facilities, and to contain such discharges.”

[10] <http://www2.epa.gov/epcra>.

[11] www.transcaer.com

[12] See February 21, 2014 letter from Secretary Anthony Foxx to President and Chief Executive Officer of the Association of American Railroads Ed Hamberger. <http://www.dot.gov/briefing-room/letter-association-american-railroads>

Updated: Wednesday, May 7, 2014

From: Marilyn Bardet [mjbardet@comcast.net]

Sent: Wednesday, May 14, 2014 1:17 PM

To: Amy Million; Brad Kilger

Cc: Don Dean; Rod Sherry; Belinda Smith; George Oakes; Suzanne Sprague; Stephen Young; Susan Cohen Grossman

Subject: DOT Emergency Order on rail transport of crude oil: For legal record on Valero Project

Hello Amy and Brad,

Please add this most important DOT Emergency Order, issued May 7th, to the public legal record for the review of the DEIR on the Valero Crude By Rail Infrastructure Project.

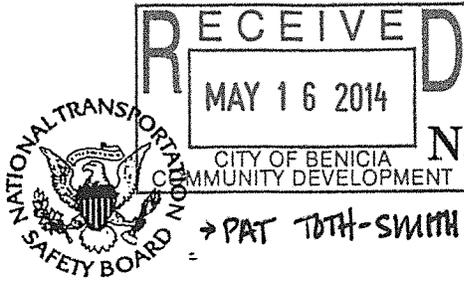
The Order contains significant information on what DOT considers the "imminent hazards" of transporting crude oil in increasing amounts by rail. This document is crucial to the review of the Valero CBR project.

[Emergency Order | Department of Transportation](#)

Thank you,

Marilyn

[707-745-9094](tel:707-745-9094)



Log R-627A

National Transportation Safety Board

Washington, D.C. 20594
Safety Recommendation

Date: JUL 1 1991

In reply refer to: R-91-12 and -13

Honorable Gilbert E. Carmichael
Administrator
Federal Railroad Administration
U.S. Department of Transportation
400 7th Street, S.W.
Washington, D.C. 20590

The Safety Board's past investigations of railroad accidents revealed several safety issues concerning the transport of hazardous materials. As a result of those investigations and the Board's subsequent safety recommendations, Federal and State agencies and some railroads took various actions to bring about improvements in the safe transport of hazardous materials by rail. Results of the Board's recent safety study indicate, however, that improvements are still needed in the protection provided by some tank cars for certain products transported in them and in the hazardous materials training of railroad personnel.¹

Transport of Hazardous Materials in DOT-111A Tank Cars

Although DOT² specification 111A tank cars generally do not contain protection similar to that of the DOT-105, -112, and -114 tank cars, they are, nevertheless, used to carry hazardous materials that can pose a substantial danger to life, property, and the environment.³ Further, because the shells of DOT-111A tank cars are thinner than the shells of DOT-105, -112, and -114 tank cars, the DOT-111A tank cars are more susceptible to

¹ National Transportation Safety Board. 1991. Transport of hazardous materials by rail. Safety Study NTSB/SS-91/01. Washington, DC. 187 p.

² U.S. Department of Transportation.

³ The DOT-111A tank cars, which are still being manufactured, are general service, non-pressure tank cars made of steel, nickel, or aluminum. Generally, DOT-111A tank cars are non-insulated, have bottom outlets and multiple fittings, and do not have jacketed thermal protection or head shields. Thermal protection and head shields are required on most DOT-105 tank cars, as well as on DOT-112 and -114 tank cars.

damage than are DOT-105, -112, and -114 tank cars, even when those tank cars are not protected by head shields and thermal protection.⁴

The inadequacy of the protection provided by DOT-111A tank cars for certain dangerous products has been evident for many years in accidents investigated by the Safety Board. The release of products from the DOT-111A tank cars observed in those investigations were also observed in the 45 rail accidents (hereinafter called cases) investigated by the Safety Board from March 1988 through February 1989 as part of its recent safety study.⁵ These 45 cases involved 149 tank cars: 84 cars (57 percent) were DOT-111A tank cars, 32 cars (21 percent) were DOT-105 tank cars, 29 cars (19 percent) were DOT-112/114 tank cars, and 4 cars (3 percent) were other specifications.

Of the 61 DOT-105, -112, and -114 tank cars involved, 14 tank cars (23 percent) released products: 11 leaked (18 percent), and 3 ignited or exploded (5 percent). The products were released as a result of head punctures or failures in two of the tank cars and shell punctures or failures in five (a total of 11 percent).

Of the 84 DOT-111A tank cars involved, 46 tank cars (54 percent) released product: 31 leaked (37 percent), and 15 ignited or exploded (18 percent). The products were released as a result of head punctures or failures in 5 of these tank cars, and shell punctures or failures in 13 (a total of 22 percent).

These data indicate that 23 percent of the DOT-105, -112 and -114 tank cars involved in the 45 cases released product whereas 54 percent of the DOT-111A tank cars released product. Further, the rate at which the DOT-111A tank cars experienced head or shell puncture or failure was also double that of the DOT-105, -112 and -114 tank cars. Although the cases were not selected on a basis such that they are statistically representative of hazardous materials accidents, the rate of failure of the DOT-111A tank cars (double that of the non-DOT-111A cars) strongly suggests that DOT-111A tank cars do not provide as much protection for their products in accidents as do the DOT-105, -112, and -114 tank cars.

The 46 DOT-111A tank cars that released hazardous materials were transporting 24 different products, 12 of which (a) could cause serious injury, temporary or long-term, from brief exposure even when medical attention is promptly given; and/or (b) are highly flammable at ambient temperature conditions.

Safety risks posed by the release of hazardous materials from DOT-111A tank cars are illustrated by the accident in Helena, Montana, on February 2,

⁴ DOT-111A tank cars have a minimum shell and head thickness of 7/16 inch; DOT-105, -112, and -114 tank cars have shells and heads with a minimum thickness of 9/16 inch.

⁵ The locations of the accidents comprising the 45 cases are identified in the safety study report (NTSB/SS-91/01).

1989. Two aluminum DOT-111A tank cars containing hydrogen peroxide (a strong oxidizer) and one steel DOT-111A tank car containing acetone and isopropyl alcohol (in dual compartments) were severely damaged and released their products. Fire and explosions resulted, dispersing fragments of one of the aluminum tank cars as far away as 1/2 mile. About 3,500 persons were evacuated, 2 persons were injured, and damage and cost of cleanup exceeded \$6 million.⁶

The Safety Board's investigation determined that the steel DOT-111A tank car sustained a head puncture; the investigation also concluded that one of the aluminum DOT-111A tank cars probably was punctured during the collision and derailment, but the disintegration of the tank car from the explosion precluded an exact determination of the number and locations of the punctures.

As a result of the Helena accident, the Safety Board issued the following safety recommendation to the Research and Special Programs Administration (RSPA):

R-89-80

Evaluate present safety standards for tank cars transporting hazardous materials by using safety analysis methods to identify the unacceptable levels of risk and the degree of risk from the release of a hazardous material, then modify existing regulations to achieve an acceptable level of safety for each product/tank car combination.

On June 13, 1990, the DOT replied that a working group, comprising representatives of the RSPA and the Federal Railroad Administration (FRA), has developed a course of action to address the Safety Board's concerns: a safety analysis will be initiated using "deterministic risk analysis methods" to classify high-risk materials and to analyze postaccident histories. Upon completion of the effort, the RSPA and the FRA will review the results of the analysis to determine if rulemaking action is necessary to shift the transport of hazardous materials to improved tank cars. Based on the response from the DOT, the Safety Board classified Safety Recommendation R-89-80 as "Open--Acceptable Response." The need for evaluating present safety standards for tank cars that transport hazardous materials is so important that the Safety Board has placed Safety Recommendation R-89-80 to the DOT on its "Most Wanted" list of safety improvements.⁷

⁶ National Transportation Safety Board. 1989. Collision and derailment of Montana Rail Link freight train with locomotive units and hazardous materials release, Helena, Montana, February 2, 1989. Railroad Accident Report NTSB/RAR-89/05. Washington, DC. 112 p.

⁷ In October 1990, the Safety Board adopted a program to identify the "Most Wanted" safety improvements. The purpose of the Board's "Most Wanted" list, which is drawn up from recommendations previously issued, is to bring special emphasis to the safety issues the Board deems most critical.

While the Safety Board is extremely concerned about the level of protection provided by tank cars which transport materials that are potentially hazardous to human life and property, the Board is also concerned about the level of protection provided to the hazardous materials that can harm humans through deleterious effects on the environment. According to the Association of American Railroads (AAR), the railroad industry has recognized this issue and, in conjunction with the chemical and tank car industries, is developing a "quantitative risk assessment methodology" that incorporates chemical risks to the environment as well as other risks. The industries have also developed a list of hazardous materials that, because of their potential to contaminate soil and ground water, would be candidates for early action for improved packaging. The list includes many products released in accidents investigated by the Safety Board, such as perchloroethylene, cyclohexane, and xylene; however, action for improved packaging has not been initiated. Further, the U.S. Environmental Protection Agency has identified perchloroethylene and xylene as being among the hazardous materials most likely to cause a serious threat to human health and has banned land disposal of materials contaminated with perchloroethylene, xylene, and cyclohexane.⁸ Because the release of hazardous materials can also threaten health through contamination of the environment, the Safety Board urges the DOT to consider environmental hazards when conducting its deterministic risk analysis.

Rulemaking activity for tank cars is currently underway by the RSPA: Performance-Oriented Packaging Standards (Docket HM-181) and Specifications for Tank Car Tanks (Docket HM-175A). Both rulemaking actions address the protection needed for some hazardous materials now being transported in DOT-111A tank cars. Additional rulemaking will probably be needed after the DOT completes its deterministic risk analysis (in response to Safety Recommendation R-89-80). However, the Safety Board is concerned that it may take several years until final rules are issued as a result of Docket HM-175A and even longer until final rules are issued in response to Safety Recommendation R-89-80. Thus, the Board is concerned that, in the interim, many hazardous materials that pose severe threats to public safety will continue to be transported in tank cars with inadequate protection.

Following its investigation of the 1985 derailment at Jackson, South Carolina, the Safety Board issued Safety Recommendation R-85-105 to the RSPA to require that all tank car shipments of hazardous materials with an isolation radius of 1/2 mile or more, as recommended by the U.S. Department of Transportation Emergency Response Guidebook, be transported in tank cars equipped with head shield or full tank head protection.⁹ However, in replies to the safety recommendation, the RSPA pointed out that head protection might

⁸ 52 FR 12866-12874 (1987), 53 FR 41280-41285 (1988), and 40 CFR 268.35(a).

⁹ National Transportation Safety Board. 1985. Derailment of Seaboard System Railroad train No. F-690 with hazardous material release, Jackson, South Carolina, February 23, 1985, and collision of Seaboard System Railroad train No. F-481 with standing cars, Robbins, South Carolina, February 25, 1985. Railroad Accident Report NTSB/RAR-85/12. Washington, DC. 42 p.

be beneficial for tank cars carrying a broader class of hazardous materials and that many products do not really require greater protection than that provided by DOT-111A tank cars. In its latest reply, dated April 1990, the RSPA indicated that an Advanced Notice of Proposed Rulemaking (Docket HM-175A) addresses head shield protection for new and existing tank cars that are used to transport critical hazardous materials such as flammable gases, certain non-flammable gases, reactive materials, and materials that are poisonous by inhalation. (These products currently may be transported in DOT-111A tank cars.) The RSPA also indicates that it expects to issue a Notice of Proposed Rulemaking for Docket HM-175A in the summer 1991. Safety Recommendation R-85-105 is currently classified as "Open--Acceptable Response."

The Safety Board recognizes there is some merit in RSPA's position that use of the 1/2-mile-radius criteria (per the DOT Emergency Response Guidebook) may not be the most appropriate means to determine which hazardous materials need to be provided full head shield and thermal protection. The Safety Board believes that fulfilling the intent of Safety Recommendation R-89-80, which asks that the RSPA conduct a safety analysis, is the most appropriate way to determine how to properly protect hazardous materials for shipment by rail tank cars.

However, because of the substantial amount of time that will be required to fulfill the intent of Safety Recommendation R-89-80, the Safety Board believes that immediate action is needed to identify the most harmful materials (those that pose the greatest consequences) and to have these materials transported in stronger tank cars that are protected by head shields and thermal jackets. Consequently, the Safety Board classifies R-85-105 as "Closed--Acceptable Action/Superseded" by Safety Recommendation R-91-11 to the RSPA, calling for its leadership in establishing a working group, comprising appropriate agencies and industry organizations, to expeditiously improve the packaging of the more dangerous products (such as those that are highly flammable or toxic, or pose a health hazard through contamination of the environment) by (a) developing a list of hazardous materials that should be transported only in pressure tank cars with head shield protection and thermal protection (if needed); and (b) establishing a working agreement to ship the listed hazardous materials in tank cars that provide adequate protection. The Safety Board urges the FRA to assist the RSPA in the establishment of the working group and to participate in its actions to improve the packaging of the more dangerous products.

Railroad Employee Training for Hazardous Materials Emergencies

In 1980, as a result of its special study on railroad emergency procedures, the Safety Board issued recommendations urging the FRA to develop and establish guidelines for procedures to be used by railroad personnel in the event of an emergency, and to require that railroad carriers test their emergency response procedures using simulated emergencies (Safety

Recommendations R-80-6 and -7).¹⁰ At the time, the Safety Board also reiterated a similar recommendation (R-76-29, issued to the FRA in 1976 as a result of the passenger train collision in Wilmington, Delaware) to address railroad employee training for emergencies. Because the FRA did not take action, in June 1986, the Board classified Safety Recommendations R-76-29, R-80-6, and R-80-7 as "Closed--Unacceptable Action."

The Safety Board has also issued recommendations about railroad employee training to various rail carriers whose personnel were involved in hazardous materials accidents. However, the Board remains concerned about the adequacy of hazardous materials training, especially because interviews with crewmembers involved in 31 of the 45 cases investigated between March 1988 and February 1989 as part of the recent safety study indicate that 16 of 31 conductors and 15 of 31 engineers had not received any hazardous materials training apart from rules examinations.

Discussions between Safety Board staff and personnel of several rail carriers, and evidence from the Safety Board's accident investigations, indicate that the type of training currently provided to employees varies substantially among rail carriers and sometimes varies within the same company. Generally, much of the information provided to railroad employees is through the company's operating rules and timetables.¹¹ Although the FRA requires that railroads file their operating rules with the agency (49 CFR Part 217), the Federal rule does not identify any specific requirements regarding instruction in hazardous materials safety or procedures.¹² Each rail carrier, therefore, determines the types of information its employees are to be provided in the rulebook. Training provided by the carrier may include any or all of these elements as a part of the information provided to employees: classroom instruction on operating rules, procedures, and Federal regulations; efficiency checks, tests, and examinations; videotapes; and simulations and drills. Railroads require that employees be given a test on the information, termed a "rules examination." Most railroads offer a review class to help employees prepare for a rules examination; the class is often held the same day as the test to minimize time away from work. The railroad determines the frequency of the rules examination; generally the examination is given annually.

¹⁰ National Transportation Safety Board. 1980. Railroad emergency procedures. Special Study NTSB/RSS-80-1. Washington, DC. 16 p.

¹¹ Timetables often include safety information about hazardous materials including, but not limited to, placarding, emergency procedures, switching procedures, and other company rules.

¹² The FRA rule requires railroads to have a general program of periodic instruction, operational tests, and inspections. The railroads with more than 40,000 total employee hours are required to report annually a summary of the number, type, and result of each operational test and inspection by operating division and per 10,000 train miles. The rule does not specify any specific hazardous materials program of instruction, operational tests, or inspections.

As a result of its accident investigations and its interviews with personnel of several railroads, the Safety Board believes that current employee training, when limited primarily to rules examinations based on classroom instruction, has not adequately prepared railroad employees to handle an accident involving hazardous materials. Railroad employees involved in or responsible for the safe transport of hazardous materials, such as traincrews and first-line supervisors, must not only know the rules, but the employees should also be able to apply the rules in simulated and in actual emergencies. The Safety Board believes that in addition to classroom instruction, railroads that transport hazardous materials should also evaluate the employee's knowledge of emergency procedures and the employee's ability to apply such knowledge in an emergency. Evaluations of employees could be performed during efficiency checks, disaster drills, or simulated emergencies.

Currently, there are no Federal regulations that require specific hazardous materials training for employees in the railroad industry who are involved in the transportation of hazardous materials. However, on July 26, 1989, the RSPA issued HM-126F, Training for Hazardous Materials, as a notice of proposed rulemaking (NPRM) (54 FR 31144-31155). The purpose of the proposed requirements is to reduce the incidence of hazardous materials accidents caused by human error by increasing the awareness of safety considerations through a uniform level of training for persons involved in the transportation of hazardous materials. According to the RSPA staff, a final rule is expected by the end of 1991.

The RSPA defines training as a systematic program that ensures that a person has knowledge of hazardous materials and hazardous materials regulations. The training requirements outlined in the NPRM include three categories of training: general awareness/familiarization, function-specific, and safety training. General awareness/familiarization training has been described in the NPRM to include an understanding of the Federal rules applicable to hazardous materials (such as the hazard communication requirements and the various classes of hazardous materials). Function-specific training has been described to include detailed training on the Federal rules specifically applicable to the functions the person performs. Safety training has been described to include several topics: (1) emergency response information; (2) general dangers presented by the various classes of hazardous materials and how persons can protect themselves from exposure to those hazards; (3) methods and procedures to avoid accidents; and (4) procedures to be followed immediately after an unintentional release of a hazardous material, including any emergency response procedures for which the person is responsible. The NPRM states that, generally, retraining is needed every 2 years, and the employer must keep records on the training received by the employee.

The Safety Board supports the NPRM issued by the RSPA. When the proposed rule becomes final, the Board urges the FRA to require rail carriers to incorporate into their railroad operating practices aspects of the final rule that relate to hazardous materials training.

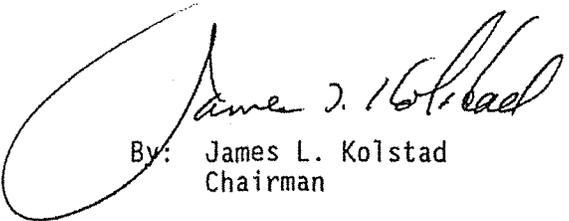
Therefore, as a result of the safety study, the National Transportation Safety Board recommends that the Federal Railroad Administration:

Assist the Research and Special Programs Administration (RSPA) in the establishment of a working group--comprising the RSPA, the Association of American Railroads, the Chemical Manufacturers Association, the American Petroleum Institute, the National Fire Protection Association, and your agency--to expeditiously improve the packaging of the more dangerous products (such as those that are highly flammable or toxic, or pose a threat to health through contamination of the environment) by (a) developing a list of hazardous materials that should be transported only in pressure tank cars with head shield protection and thermal protection (if needed); and (b) establishing a working agreement to ship the listed hazardous materials in such tank cars. (Class II, Priority Action) (R-91-12)

Require, when the Research and Special Programs Administration issues the final rule on HM-126F (Training for Hazardous Materials), that rail carriers incorporate into their railroad operating practices aspects of the final rule that relate to hazardous materials training. (Class II, Priority Action) (R-91-13)

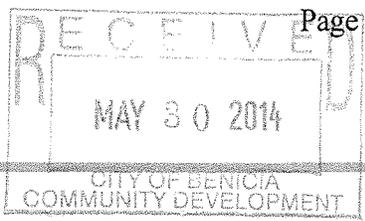
Also as a result of the safety study, the Safety Board issued recommendations to the Research and Special Programs; the Association of American Railroads; Class I railroads and railroad systems; Guilford Transportation, Inc.; MidSouth Rail Corporation; the American Short Line Railroad Association; the Chemical Manufacturers Association; the American Petroleum Institute; the National Fire Protection Association; the National League of Cities; the National Association of Counties; the International Association of Fire Chiefs; the International Association of Chiefs of Police; and the National Sheriffs' Association.

KOLSTAD, Chairman, COUGHLIN, Vice Chairman, and LAUBER, BURNETT, and HART, Members, concurred in this recommendation.



By: James L. Kolstad
Chairman

Member Burnett would classify Safety Recommendation R-85-105 as "Open--Unacceptable Response" because the RSPA has taken no positive action in response to the recommendation; Member Burnett believes the Safety Board should provide an alternative criteria to the isolation radius of 1/2 mile as stated in the recommendation.



Amy Million - Valero Crude By Rail Project

From: <donna_fernandez@comcast.net>
To: Amy Million <Amy.Million@ci.benicia.ca.us>
Date: 5/30/2014 3:32 PM
Subject: Valero Crude By Rail Project

Amy Million,

I am writing to you and everyone in your office about the concerns I have on the possibility of you allowing Valero's proposal on oil to be brought in and out of Benicia by rail.

This is nothing but pure insanity!

I moved here 30 years ago from the Lamorinda area where I grew up. I wanted to raise my three girls here in a quiet, safe and friendly community. My girls are grown now and two of them are married with two children each and are home owners here in Benicia. My youngest still lives with us.

My girls went to Mills, Mary Farmer, Benicia Middle and High School.

Three of my grandchildren are attending Matthew Turner. One of my girls home is right up the street from Valero Refinery off Rose Drive. My other daughter lives behind Matthew Turner.

With every hazard and pollution going on in America including now....GMO food poisoning and insane amounts of Vaccines which have horrible side affects.... you now want to expose us to more, very dangerous, cancerous health risks all for MONEY?!

What horrifies me is.....Bakken crude and Canadian tar sands crude is the worlds dirtiest crude oil! You must know this?

What about Rail Safety? When was the last time Benicia Rail bridge was re-enforced or re-built? Can you guarantee it's 100% safe for such extreme volatile cargo to be carried all around Benicia and neighboring cities under our noses day in and day out forever?

I doubt it. I am sure Valero has not divulged everything concerning our safety and health.

On behalf of my family, friends and my community and those close by.....we urge you....plead with you....

DO NOT allow this proposal to go through.

We do not want to live in fear every single day.

We do not want to get sick.

We need to save our community for all of our kids and grandchildren. This is their future. They have no idea what is going on and have no voice.

The value of our homes has finally started to rise and this could send us backwards and destroy people's lives.

I personally do not want to die at the the hands of greedy corporate so called " Big Wigs" who want to come in and destroy our towns we have worked so hard in building for our children and future.

Tell Valero to go somewhere else.....build their own refinery and do what they need to do with this dangerous oil out in the middle of NOWHERE.....away from human lives. They have no right to infringe on my home town.

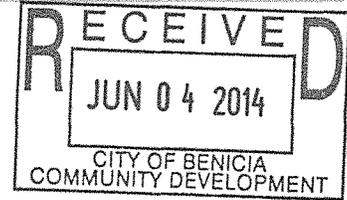
This is a RECKLESS PROJECT.....again.....please do not this!

Thank you for taking the time to read this.

Donna Fernandez

Amy Million - letter for the crude by rail project

From: Andy Smith & Pat Toth-Smith <pattothsmith@aol.com>
To: <amillion@ci.benicia.ca.us>, <bkilger@ci.benicia.ca.us>
Date: 6/3/2014 10:31 PM
Subject: letter for the crude by rail project



Hi Amy, Can you please put this letter into the comments for the Valero Crude by Rail Project:

Dear City Council Members,

I am a Benicia resident who sent in a National Transportation Safety Board study that was done in July 1991 and put into the public comments for the Crude by Rail project on May 16th 2014. This report about the dangerous use of the archaic DOT-111A aka (DOT-111) train cars for transporting hazardous materials (including crude) were known for a long time. As stated on the first page of the study;

Although DOT specification 111-A tank cars generally do not contain protection similar to that of the DOT-105, -112, and the -114 tank cars, they are, nevertheless, used to carry hazardous materials that can pose a substantial danger to life, property and the environment. Further, because the shells of the DOT-111A tank cars are thinner than the shells of the DOT-105 and -114 tank cars, the DOT-111A tank cars are more susceptible to damage than are DOT-105, -113 and -114 tank cars, even when those tank cars are not protected by head shields and thermal protection.

The inadequacy of the protection provided by DOT-111A tank cars for certain dangerous products has been evident for many years in accidents investigated by the Safety Board. The release of products from the DOT-111A tank cars observed in those investigations were also observed in the 45 rail accidents (hereinafter called cases) investigated by the Safety Board from March 1988 through February 1989 as part of its recent safety study. These 45 cases involved 149 tank cars: 84 cars (57 percent) were DOT-111A tank cars, 32 cars (21 percent) were DOT-105 tank cars, 29 cars (19 percent) were DOT-112/114 tank cars, and 4 cars (3 percent) were other specifications.

Of the 61 DOT-105, -112, and -114 tank cars involved, 14 tank cars (23 percent) released products: 11 leaked (18 percent), and 3 ignited or exploded (5 percent). The products were released as a result of head punctures or failures in two of the tank cars and shell punctures or failures in five (a total of 11 percent).

Of the 84 DOT-111A tank cars involved, 46 tank cars (54 percent) released product: 31 leaked (37 percent), and 15 ignited or exploded (18 percent). The products were released as a result of head punctures or failures in 5 of these tank cars, and shell punctures or failures in 13 (a total of 22 percent).

These data indicate that 23 percent of the DOT-105, -112 and -114 tank cars involved in the 45 cases released product whereas 54 percent of the DOT-111A tank cars released product. Further, the rate at which the DOT-111A tank cars experienced head or shell puncture or failure was also double that of the DOT-105, -112 and -114 tank cars. Although the cases were not selected on a basis such that

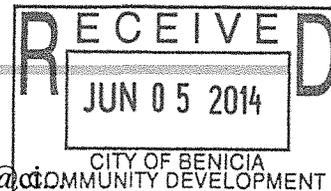
they are statistically representative of hazardous materials accidents, the rate of failure of the DOT-111A tank cars (double that of the non-DOT-111A cars) strongly suggest that DOT-111A tank cars do not provide as much protection for their products in accidents as do the DOT-105, -112, and -114 tank cars.

The 46 DOT-111A tank cars that released hazardous materials were transporting 24 different products, 12 of which (a) could cause serious injury, temporary or long-term, from brief exposure even when medical attention is promptly given; and/or (b) are highly flammable at ambient temperature conditions. (the rest of the study can be read in the comments for May 16th)

The last part of this section is what I found so alarming because Bakkan crude from North Dakota has been known to have a low flash point, and this is one of the crudes that Valero has stated would probably be coming to the refinery by rail. (The small town of Lac Megantic, Quebec had the unfortunate experience of finding out firsthand the danger of this volatile combination, because 72 of the 73 rail cars that derailed and exploded which caused 47 deaths were DOT-111A tank cars carrying Bakkan crude.)

When I shared this report with my family my 12 year old daughter added "If these cars were thought to be bad in the early 90's they must be really bad now." These cars should be taken out of circulation for transporting crude and the city of Benicia could demand that non of these older cars be used to bring in any crude. So please consider this information when making this important decision about the well-being of us Benician families.

Thank You, Pat Toth-Smith, Andy Smith and Alia Toth-Smith

Amy Million - Local jurisdictions can - and must - oppose Crude By Rail

From: <rogmail@gmail.com>
To: "Brad Kilger" <bkilger@ci.benicia.ca.us>, "Amy Million" <amillion@ci.benicia.ca.us>
Date: 6/4/2014 7:37 PM
Subject: Local jurisdictions can - and must - oppose Crude By Rail
CC: <ams@advancedmtg.com>, "Anne Cardwell" <acardwell@ci.benicia.ca.us>, <as...>

City staff, Council members and Planning Commissioners –

The following article shows that a local jurisdiction like the City of Benicia has the power to stop an oil industry proposal for crude by rail. Please note that the city of Vancouver, Washington voted yesterday to oppose a crude oil train terminal being proposed there by Tesoro. Take heart as we move forward through the CEQA process on Valero Crude By Rail, and prepare to do the right thing. All of us together have a moral imperative to look to the future, to make hard decisions on behalf of our children and grandchildren in favor of cleaner air and a safer North America – and a cleaner, safer Benicia. *Please add these comments and the following news article to the public legal record on Valero's Crude By Rail Project and incorporate them as part of the review of its DEIR.*

<http://beniciaindependent.com/wp/breaking-vancouver-city-council-votes-to-oppose-crude-oil-train-terminal-unacceptable-risks/>

BREAKING: VANCOUVER CITY COUNCIL VOTES TO OPPOSE CRUDE OIL TRAIN TERMINAL – “UNACCEPTABLE RISKS”

JUNE 4, 2014

Repost from [ThinkProgress](#)

Washington City Rejects Massive Oil Train Project, Citing ‘Unacceptable Risks’

By Emily Atkin June 4, 2014

Flanked by hundreds of concerned residents, the City Council of Vancouver in southwestern Washington State voted early Tuesday morning to formally oppose what would be the Pacific Northwest’s largest crude oil train terminal, saying the project poses “unacceptable risks” to the city’s population of 160,000.

The [council’s decision](#) came after six hours of testimony from more than 100 residents, most of them opposed to Tesoro Corp.’s plan to develop a large train terminal at the Port of Vancouver, which would receive up to 380,000 barrels of North Dakotan crude oil per day and transfer it to ships bound for West Coast refineries. That amount of oil, which would come through the city on four separate unit

trains per day, is just less than half the daily amount that would be transported by the controversial Keystone XL pipeline.

“The Council’s opposition ... [is] due to the unacceptable risks posed to the citizens of Vancouver by the terminal and the related transportation of Bakken crude oil through the city,” the [resolution](#), passed 5-2, reads.

The broad, non-binding resolution opposing Tesoro’s proposal also included language that formally opposes any proposal that would result in an increase of crude oil from North Dakota’s Bakken shale being hauled through Clark County. Last July, 47 people were killed in Lac-Megantic, Quebec, when a train carrying Bakken crude derailed. The U.S. Pipeline and Hazardous Materials Safety Administration has warned Bakken crude could be more flammable than regular oil, due to either its unique properties or because of added chemicals from the hydraulic fracturing process used to extract it.

The National Transportation Safety Board (NTSB) also recently made recommendations that crude oil trains stay far away from urban population centers, citing the increasing rate of fiery accidents involving crude oil trains.

Vancouver Mayor Tim Leavitt and Councilor Bill Turlay were the two that voted no against the proposal, with Leavitt saying he didn’t want to make a “political statement” against a single project without having all the facts.

“It’s kind of like back in the Old West, [when] Judge Roy Bean said, ‘We’re going to have a fair trial and hang the guilty bastard’,” Turlay said, according to a report in the [Columbian](#). “Now, that’s not exactly how I want to present this.”

Turlay and Leavitt did join the other councilors in voting for a resolution that would allow the city to actually have a say in the decision-making process over Tesoro’s proposed project. [That resolution](#) allowing intervention in the decision-making process gives Vancouver officials the right to present evidence against the project and appeal any decision, which will ultimately be made by the state’s sitting governor, currently Gov. Jay Inslee.