



**Comments of Riverkeeper, Inc.
on
The Proposed Expansion of Capabilities at
Global Companies LLC's Albany Rail Terminal
to Allow Heating of Heavy Crude Oils**

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Thank you for the opportunity to comment on Global Companies LLC's ("Global Partners") proposed expansion of its Albany Rail Terminal to allow heating of heavy crude oils.

Riverkeeper is a member-supported watchdog organization dedicated to defending the Hudson River and its tributaries and protecting the drinking water supply of nine million New York City and Hudson Valley residents. Riverkeeper and many other organizations, government agencies and individuals like Pete Seeger have spent the past 45 years and countless millions of dollars to restore the Hudson River to vitality, and to rid it of PCBs (Polychlorinated Biphenyls) and other industrial contaminants and sewage. This proposal puts the Hudson at risk again.

I. Governor Cuomo's Executive Order No. 125 clearly identifies the risks to human health and the environment from heavy crude oil transport.

On January 28, 2014, just two weeks ago, Governor Cuomo issued Executive Order No. 125 highlighting the unacceptable risks to New Yorkers presented by the expanding transport of crude oil by rail and vessel. In his order, he asserted that:

the increase in frequency and numbers of rail cars, ships and barges carrying crude oil and other petroleum products through hundreds of New York communities increases the public's vulnerability to a serious accident; and

New York's waterways, including the Hudson River, Mohawk River and Lake Champlain, on or along which rail cars, ships and barges travel, are unique ecological, cultural, economic, natural and recreational resources upon which millions of New Yorkers rely, which makes these waterways especially vulnerable to spills of crude oil and other petroleum products.¹

It is because of the very risks and potential impacts that the Governor has identified that we call on DEC to re-visit its November 2013 decision not to require Global Partners to fully

¹ New York State, Executive Order No. 125 (2014), available at <http://www.governor.ny.gov/executiveorder/125>.

evaluate the potential environmental impacts of its application to add boilers to its Albany Terminal operations to allow the handling of heavy, tar sands-like crude oil.

II. The potentially catastrophic impacts of granting Global Partners the permit it has requested, permitting a new and hazardous form of crude to move through New York communities and down the Hudson Valley by rail, barge and ship, must be the subject to a full environmental review.

As Global Partners acknowledges in its application, the need for installation of new heating processes at the Albany Terminal is the result of the viscosity of the new product that will be coming into the Terminal. Global has been unwilling to disclose what this product is, however it is likely that it will include crude oil extracted from tar sands in western Canada.

The risks posed by Global Companies' transport of crude oil have been strikingly clear since the *Stena Primorsk*, the first tanker to attempt to ship crude oil on the Hudson, ran aground in December 2012 shortly after departing the Port of Albany on its first voyage.² Fortunately, the ship's double hull prevented oil from spilling—but double hulls do not necessarily protect the integrity of a ship's cargo in the event of collisions between vessels or vessels and structures like bridge abutments. Just last year, on January 27, 2013, a barge carrying 668,000 gallons of light crude oil on the Mississippi River crashed into a railroad bridge, spilling roughly 80,000 gallons of oil into the waterway.³

Likewise, train accidents result in crude oil spills. More oil was spilled from rail in 2013—over 1.15 million gallons—than in the prior 40 years combined.⁴ Some recent accidents have had devastating consequences:

- Lac-Mégantic, Quebec, July 2013: 47 people killed and many downtown buildings utterly destroyed by fire;⁵
- Aliceville, Ala., November 2013: More than 750,000 gallons of Bakken crude spilled into fragile wetlands;⁶

² Paul Grondahl, Rick Karlin, and Jordan Carleo-Evangelist, *Tanker's Outer Hull Pierced; Ship Carrying 12 Million Gallons of Crude Damaged, but No Spill*, TIMES UNION Dec. 21, 2012, <http://www.bmsp.se/baltic-maritime-science-park/thematic-focus-areas/oil-spill-forum/latest-news/swedish-oil-tanker-carrying-12-million-gallos-of-crude-damaged,-but-no-spill.aspx>.

³ Janet McConnaughey, *Mississippi River Barge Crash: Barge Carrying 80,000 Gallons Of Oil Hits Railroad Bridge, Leaks* HUFFINGTON POST, Jan. 27, 2013, http://www.huffingtonpost.com/2013/01/27/mississippi-river-barge-crash_n_2564418.html.

⁴ *More Oil Spilled from Trains in 2013 Than Previous Four Decades*, WICHITA BUSINESS JOURNAL, Jan. 21, 2014 http://www.bizjournals.com/wichita/morning_call/2014/01/more-oil-spilled-from-trains-in-2013.html

⁵ TRANSPORTATION SAFETY BOARD OF CANADA, RAILWAY INVESTIGATION R13D0054 (2013), *available at* <http://www.bsttsb.gc.ca/eng/enquetes-investigations/rail/2013/R13D0054/R13D0054.asp#sal>.

⁶ Soumya Karlamangla, *Train in Alabama oil spill was carrying 2.7 million gallons of crude*,

- Casselton, N.D., December 2013: People within 5 miles evacuated due to caustic smoke from Bakken trail crash;⁷ and
- Plaster Rock, New Brunswick, January 2014: Explosive fire resulting from a Bakken oil train derailment.⁸

The impacts of a spill of tar sands oil could be disastrous. Unlike oil from other sources, tar sands oil often arrives into the United States from Canada as diluted bitumen, “a highly corrosive, acidic, and potentially unstable blend of thick raw bitumen and volatile natural gas liquid condensate.”⁹ A leak or spill of diluted bitumen presents an elevated risk to the environment and public safety. The chemicals used to dilute the bitumen are hazardous and more likely to ignite or explode than conventional crude. An explosion of diluted bitumen may produce hydrogen sulfide, a highly toxic gas which can cause suffocation. Diluted bitumen also contains benzene, polycyclic aromatic hydrocarbons, and other toxins that can affect the human central nervous system.¹⁰

Tar sands and other heavy crude oils are also nearly impossible to clean up when spilled because the heavy weight of the compounds may sink and form tar balls or suspend in the water column, making spill tracking and removal extremely difficult. Methods to recover sunken oil are imperfect, at best, and medium and heavy weight crude oil compounds can persist in the environment for years. More than three years after the spill of tar sands oil into Talmadge Creek and the Kalamazoo River in Michigan, the river’s bottom sediment remains contaminated and the U.S. Environmental Protection Agency estimates that 180,000 gallons of oil have yet to be recovered.¹¹ Health impacts ranging from headaches to chronic coughing have been reported by individuals living close to the Kalamazoo.¹²

Neither Global nor DEC has evaluated the potential adverse human health and environmental impacts that may result from an accident or spill involving tar sands oil.

LOS ANGELES TIMES, Nov. 9, 2013. <http://www.latimes.com/nation/nationnow/la-na-nn-train-crash-alabama-oil-20131109,0,780637.story>.

⁷ Daniella Silva, *Mile-long train carrying crude oil derails, explodes in North Dakota*, NBC NEWS, Dec. 30, 2013, http://usnews.nbcnews.com/_news/2013/12/30/22113442-mile-long-train-carrying-crude-oil-derails-explodes-in-north-dakota?lite.

⁸ *Train Derails in Canada near Maine; Fire at Scene*, CBS NEWS, Jan. 8, 2014, <http://www.cbsnews.com/news/freight-train-derails-in-canada-near-maine-fire-at-scene/>.

⁹ RESOURCES DEFENSE COUNCIL, *TAR SANDS PIPELINES SAFETY RISKS 5* (2011).

¹⁰ *Id.*

¹¹ U.S. ENVT’L PROT. AGENCY, *DREDGING BEGINS ON KALAMAZOO RIVER* (2013), *available at* http://www.epa.gov/region05/enbridgespill/pdfs/enbridge_fs_201308.pdf.

¹² Max Paris, “Enbridge’s Kalamazoo cleanup dredges up 3-year-old oil spill,” CBC News, Sept. 6, 2013, <http://www.cbc.ca/news/politics/enbridge-s-kalamazoo-cleanup-dredges-up-3-year-old-oil-spill-1.1327268>.

III. All New Yorkers and their natural resources are at risk.

Not only are residential communities in close proximity to Global Partners' Albany Terminal, commuters on heavily traveled Route 787, and anyone who works in Albany in proximity to the rail lines on which this crude will travel at grave risk, but also communities throughout Hudson Valley, as well as the Hudson and Mohawk Rivers themselves. The Hudson River faces the triple threat of accidents and spills from rail, barge and ship transport of this toxic and virtually impossible to clean up crude, threatening, in the words of our governor: "the unique ecological, cultural, economic, natural and recreational resources upon which millions of New Yorkers rely." These resources include New York's many DEC designated critical habitat areas and the drinking water for many communities in Ulster, Dutchess, and Rockland counties and northern New Jersey who draw their drinking water from the Hudson.

IV. The corporations profiting from crude oil transport in New York will take no financial responsibility for a catastrophic spill that destroys New York's unique and irreplaceable resources.

Let's consider what has happened in the aftermath of the crude oil disaster Lac-Mégantic, Quebec. All of the companies identified as having responsibility for the deaths of 47 people and millions of dollars worth of property damage have filed for bankruptcy.¹³ The companies making the profits are nowhere to be found, and the public has been left to pay the bill. We have no assurance that this would not also happen here. What guarantees do we have that New Yorkers won't be stuck with the bill in the same way, that these industries are being allowed to operate within our borders, through our communities and on our waterways, putting them all at serious risk, without adequate insurance, proof of the financial ability to meet the costs of cleanup efforts and costs resulting from a spill?

IV. Given what DEC now knows, it has the authority and the obligation to rescind its negative declaration of Global Partner's application and to require the preparation of full environmental impact statement.

1. DEC now knows that there is an environmental justice community that has been put in the crosshairs of potential disaster by Global's application and which until tonight has been given no information and has had no opportunity to express their concerns and demand answers.
2. DEC now knows (which Global has known since last year but apparently never bothered to mention to DEC) that the City of Albany has approval authority over this permit as well and therefore DEC must coordinate its review of this application with the City's review.

¹³ *Lac-Mégantic disaster railway gets bankruptcy protection*, CBS NEWS, Aug. 8, 2013, <http://www.cbc.ca/news/canada/montreal/lac-m%C3%A9gantic-disaster-railway-gets-bankruptcy-protection-1.1341715>.

3. DEC now knows the risks of crude oil accidents and spills have expanded exponentially with the 400% expansion of crude oil transport by rail since 2005. More oil was spilled from US rail in 2013 over—1.15 million gallons of oil—than in the prior 40 years combined. Three major accidents have happened since DEC issued its negative declaration in November alone--in Alabama, North Dakota and New Brunswick, Canada.
4. DEC now knows that most of the trains cars that carry this crude through NY and into the Port of Albany are fundamentally unsafe, particularly vulnerable to puncture and leaks, because the U.S. National Transportation Board, the U.S. Pipeline and Hazardous Materials Administration, the Canadian Transportation Safety Board and the Association of American Railroads have all said so in the last two months.¹⁴
5. DEC now knows, or if it does not it should insist that Global supplement its application to clearly and specifically identify, what oil Global is proposing to heat and where it comes from.

This new information and changes in circumstances that DEC did not previously consider before issuing its November 2013 negative declaration fully justifies—and in fact requires—DEC to rescind that negative declaration pursuant to its own environmental review regulations.¹⁵

V. It is absolutely clear that under environmental law and regulations, DEC must require a full environmental review before any action can be taken on Global Partner's application to heat heavy crude oil.

To legally conclude that an EIS is not required for an action, DEC must determine, after taking a hard look at all relevant impacts of the whole action, not just those within its immediate jurisdiction, that there is no potential for significant environmental impacts.¹⁶

In light of what we and DEC now knows about the risks of crude oil transport and the devastating impacts of crude oil spills, especially those involving heavy crude, there is no basis upon which it could support such a determination with respect to Global's current, or past, applications.

¹⁴ Nick Snow, *US, Canadian Transportation Boards Want Tougher Oil-By-Rail Rules*, OIL & GAS JOURNAL, Feb. 3, 2014, available at <http://www.ogj.com/articles/print/volume-112/issue-2/general-interest/us-canadian-transportation-boards-want-tougher-oil-by-rail-rules.html>; Patrick Rucker, *U.S. Rules for Oil on Railcars Not Likely Before 2015: Agency*, REUTERS, Jan. 15, 2014, available at <http://www.reuters.com/article/2014/01/15/us-usa-oil-regulator-idUSBREA0E1K820140115>; Richard Wronski, *As More Oil Flows By Rail, Concerns Grow About Safety of Tank Cars*, Chicago Tribune, Nov. 29, 2013, available at http://articles.chicagotribune.com/2013-11-29/news/ct-dangerous-tank-cars-met-1129-20131129_1_tank-cars-oil-production-more-oil-flows.

¹⁵ See 6 NYCRR § 617.7(f).

¹⁶ See 6 NYCRR § 617.7(c); DEC, *The SEQR Handbook*, 89 (3d Ed. 2010), available at http://www.dec.ny.gov/docs/permits_ej_operations_pdf/seqrhandbook.pdf.

VI. Conclusion

Consequently, Riverkeeper calls on DEC to do the right thing, to do what is required by New York state environmental law and regulations, and to take the action that will be most protective of New Yorkers' communities and irreplaceable "ecological, cultural, economic, and recreational resources upon which millions of NYers rely" throughout the Hudson Valley: immediately act to rescind its November 21, 2013 Negative Declaration for Global Partners' tank conversion application and issue a positive determination of significance and require Global Partners to prepare a full environmental impact statement that evaluates the potential impacts connected with all of its current and proposed operations in the Port of Albany and in New Windsor, New York and to provide all potentially impacted communities with the opportunity to fully participate in that environmental review.

We also join our partners the Natural Resources Defense Council and Scenic Hudson in urging Governor Cuomo to expand on his call to take action to address the risks of crude oil transport in New York to urge a moratorium on all transport of that crude in faulty rail cars through New York communities and along and on New York's waterways until essential safety improvements are made, spill response and fire fighting capabilities are demonstrated to be adequate, and proof of financial ability to fund cleanup efforts and claims has been provided by all companies operating in New York.

We will be submitting more detailed written comments by the close of the comment period. Thank you again for the opportunity to address these important issues.

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