

RESOLUTION NO.: 230 - 2014

OF

SEPTEMBER 8, 2014

A RESOLUTION TO EXPRESS CONCERNS ABOUT TRANSPORTING CRUDE OIL BY RAIL, BARGE AND SHIP AND CALLING UPON FEDERAL AND NEW YORK STATE AGENCIES TO PROTECT THE PUBLIC BY ENACTING STRINGENT RULES AND REGULATIONS FOR SUCH TRANSPORT AND TO URGE AND ENCOURAGE THE EXPLORATION OF ALTERNATIVE MEANS FOR THE TRANSPORTATION AND DISTRIBUTION OF CRUDE OIL

WHEREAS, crude oil is increasingly being transported by railroads from production fields in the west (particularly from the Bakken shale oil formation of North Dakota and heavy tar sands oil fields of Alberta, Canada) to ports including Albany, New York for transfer to barges and ships to be transported on the Hudson River to East Coast refineries; and

WHEREAS, crude oil from the Bakken shale deposits has proven to be more explosive and more corrosive than typical crude oils, and heavy, sinking oils from tar sands formations to be much more viscous than typical crude oils, making the protection of public safety and environmental health from these particular types of oils, as well as spill response and remediation, extremely difficult and dangerous; and

WHEREAS, the nationwide volume of crude oil transported by rail has increased to more than 400,000 carloads in 2013 compared to 9,500 carloads in 2008, a more than 40-fold increase; as much as 20% of the highly volatile crude oil extracted from the Bakken formation is transported through New York State communities and ecosystems; and

WHEREAS, roughly two to three crude oil unit trains, each carrying approximately 3 million gallons of crude oil, travel everyday through Orange County, including the City of Newburgh, and the Towns of Newburgh, New Windsor and Cornwall, and near critical public infrastructure including hospitals, municipal buildings, public schools, colleges, waste water treatment facilities, as well as homes and private businesses; and

WHEREAS, Bakken crude oil is commonly transported in class DOT-111 rail tank cars; which are designed for general purpose liquid transport, not for hazardous cargos; which railcars lack even the most basic safety measures (shields, pressure vents, and double hulls), and despite repeated recommendations from the NTSB over the past 30 years (most recently in March 2012 and January 2014) that these rail cars not be used for crude oil transport; and

WHEREAS, PHMSA and FRA issued a joint safety advisory on May 7, 2014 advising railroad companies to avoid using DOT-111 railcars to ship Bakken crude oil whenever reasonably practicable; and

WHEREAS, DOT-111 railcars are unacceptably dangerous, as demonstrated by the statistically high number of accidents and spills involving their use, particularly in light of the woeful state of railroad enforcement, inspection, oversight, and safety, highlighted by the testimony of the Chair of the Surface Transportation Board in April, 2014, that "no community is prepared for a worst-case scenario" for crude oil-by-rail disasters; and

WHEREAS, the volume of oil carried in a DOT-111 railcar is just small enough to avoid triggering the development of a "comprehensive" response plan, meaning that no collaboration is required between the railroads and the towns through which these rail cars pass (along the Hudson or through the rest of the nation), and that no official government certification is required to assure that there is adequate emergency response capacity; and

WHEREAS, there have been a series of crude oil train derailments in the United States and Canada that have led to loss of life, loss of property, and significant economic and environmental damage, including the loss of 47 lives in Lac-Mégantic, Quebec, in July 2013; and

WHEREAS, on April 30, 2014, 17 tanker cars derailed in Lynchburg, Virginia, including three that rolled into the James River and one that spilled about 30,000 gallons of crude oil into the river, requiring the shutdown of a downstream public water supply; and

WHEREAS, there have been at least five oil train derailments in New York State since December 2013, including those in West Nyack, Town of Ulster, Selkirk, Albany and Cheektowaga; and

WHEREAS, CSX Corporation was fined \$10,000 for failing to timely report its two February 2014 oil train derailments in Ulster and Selkirk, New York; and

WHEREAS, a train carrying crude oil blocked access to about 60 homes in the Town of Saugerties on March 31, 2014, for approximately 90 minutes without notifying local emergency responders; and

WHEREAS, on June 29, 2014, 100 gallons of oil spilled from a rail car at the Global Partners, LLC terminal facility in the Port of Albany, a spill that was not reported to local officials; and

WHEREAS, joint state-federal "inspection blitzes" have identified dozens of train and rail car safety defects requiring corrective action in rail yards in Albany and Buffalo, highlighting the risks facing our communities and environment, but no such inspections have been performed on tracks in Orange County; and

WHEREAS, on January 28, 2014, New York State Governor Andrew Cuomo signed an Executive Order recognizing that crude oil transportation by rail car and river vessels presents an ongoing major risk to New York communities and the environment, shortly after two safety recommendations by the National Transportation Safety Board reached the same conclusion and called for major system-wide reforms; and

WHEREAS, on May 7, 2014, the United States Department of Transportation Secretary Anthony Foxx issued an Emergency Order requiring rail carriers to provide State Emergency Response Commissions with advance notice; it is imperative that emergency managers and first responders are given up-to-date information on what materials are being transported through their regions, when these transports are occurring, and where this crude oil will be stored; and

WHEREAS, the NYS Department of Environmental Conservation has granted numerous permits to subsidiaries of Global Partners LP (Global) and Buckeye Partners LP (Buckeye) which authorize the transfer of up to 2.8 billion gallons per year of crude oil from train to barge or ship in the Port of Albany, for transport down the Hudson River; and

WHEREAS, approximately one articulated barge per day carrying 4 million gallons and one tanker per week carrying 7 million gallons currently pass Orange County on the Hudson River; and

WHEREAS, the *Stena Primorsk*, the first tanker carrying crude oil on the Hudson River, ran aground and pierced its outer hull just six miles downstream of the Port of Albany in December 2012, though none of the 12 million gallons of oil it carried were spilled; and

WHEREAS, recent barge collisions resulting in petroleum spills in the Mississippi River and Galveston Bay have shown that even double-hulled vessels are not protective in all accidents; and

WHEREAS, Global has submitted pending applications to the New York State Department of Environmental Conservation (DEC) seeking approval to redevelop its oil terminals in New Windsor and Newburgh to handle between 1.3 billion and 1.8 million gallons of crude oil per year; the expanded facility could double the number of trains and marine vessels carrying crude oil that pass through Orange County; and

WHEREAS, Global has also submitted an application to the New York State Department of Environmental Conservation to modify its Title V Air Facility Permit to install boilers to heat heavy crude oil at its facility in the Port of Albany, which would give Global Partners and its affiliates the capability to ship heavy crude oils, such as tar sands bitumen from Alberta, Canada, through Orange County on the Hudson River; and

WHEREAS, there have been no spill response drills in Orange County waters focused on responding to a spill of heavy crude oil; and

WHEREAS, Orange County shorelines include private residences and businesses, public parks, and critical public infrastructure that would be at significant risk in the case of a crude oil spill; and

WHEREAS, tourism based on a clean environment is an important part of Orange County's economy; and

WHEREAS, the Global New Windsor site is located in the Hudson River Estuary and within 1.4 miles of three distinct Significant Coastal Fish and Wildlife Habitats: Hudson Highlands, Moodna Creek and Fishkill Creek; and

WHEREAS, the Global New Windsor site is located at the mouth of the Quassaick Creek, which is the focus of years of citizen and government efforts to study, manage and restore the health and biodiversity of this water resource; and

WHEREAS, the tidal nature of the Hudson River could cause oil from a spill to be quickly transported both up- and downriver, threatening the drinking water supplies of those communities who derive their sure drinking water from the Hudson River, including Highland, Poughkeepsie and during times of drought the City of New York via the Delaware aqueduct tap at Chelsea; harming fish and wildlife;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh recognizes that the transport of crude oil, especially Bakken and heavy crudes, by rail and marine vessel through our communities presents an immediate, significant danger to the people, economy and environment of our region; and

BE IT FURTHER RESOLVED, that the City Council of the City of Newburgh calls upon the United States Department of Transportation, the United State Environmental Protection Agency, the New York State Departments of Transportation ("DOT") and Environmental Conservation ("DEC") to: (i) immediately order a full environmental impact study of the potential impacts of increased crude oil transport by train, barge, or ship through Orange County, and, (ii) to enact stringent rules and regulations for the transportation of crude oil, and

BE IT FURTHER RESOLVED, that the City Council of the City of Newburgh urges and encourages federal and state agencies to explore and develop alternative means for the distribution and transportation of crude oil; and

BE IT FURTHER RESOLVED, that the City Clerk of the City of Newburgh is hereby authorized to mail copies of this Resolution to United States Department of Transportation, the United State Environmental Protection Agency; U.S. Senator Charles E. Schumer, U.S. Senator Kirsten E. Gillibrand, U.S. Congressman Sean Patrick Maloney; Governor Andrew Cuomo, NYS DEC Commissioner Joe Martens, and State Senator William J. Larkin, Jr. (39th District) and Assemblyman Frank Skartados (104th District),

I, Lorene Vitak, City Clerk of the City of Newburgh, hereby certify that I have compared the foregoing with the original resolution adopted by the Council of the City of Newburgh at a regular meeting held 12/14/14 and that it is a true and correct copy of such original.

Witness my hand and seal of the City of Newburgh this 13 day of Dec 2014

Lorene Vitak
City Clerk