

RESOLUTION NO. 94-14

RESOLUTION CALLING ON THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT BOARD TO REVIEW THE KINDER MORGAN AND, IF FEASIBLE, REVOKE THE PERMIT AND SUBJECT THE PROJECT TO A COMPLETE CEQA PROCESS

WHEREAS the fossil fuel industries have used up readily accessible fuels and have moved to extreme extraction technologies to remove the remaining forms of fossil fuels; and

WHEREAS, crude oil fracked from the Bakken Shale Formation and mined from the Alberta Tar Sands present existent environmental damage to the land, air and water of those areas; and

WHEREAS these crude oils are discounted in costs and extracted in the center of the North American continent far away from major refineries and consumer markets requiring transportation via pipeline or rail; and

WHEREAS, the US and Canadian rail companies are common carriers, meaning they are required to carry whatever product shippers wish to put on the rail lines resulting in a 4,000% increase of these materials being carried on the rail lines in the past 3 years; and

WHEREAS, this increase in Crude By Rail transportation has resulted in several disasters here and in Canada (Lac Megantic, Quebec, Casselton, North Dakota, Hammond, Indiana, Aliceville, Alabama, Lynchburg, Virginia as well as several near misses) which have resulted in the loss of human life and billions of dollars of damages to communities and their surrounding environment; and

WHEREAS, US consumers are increasingly using less refined fossil fuels products, particularly gasoline thus oil refiners are increasingly turning to export markets for their US refined products; and

WHEREAS, the extraction of and the refining of extreme extracted crude oils such as Bakken and Tar Sands knowingly result in increased green-house gas (GHG) emissions and toxic air contaminant co-pollutants; and

WHEREAS, the Bay Area Air Quality Management District (BAAQMD) issued a permit ministerially to Kinder Morgan to convert its ethanol by rail operation at the BNSF rail yard in Richmond to a Crude By Rail operation and chose to not notify members of the public or even its own governing board; and

WHEREAS, Kinder Morgan signed an exclusive contract with Tesoro Golden Eagle refinery in Avon, California, to supply them with the fracked Bakken crude from North Dakota via tanker trucks over our local roads, and state and federal highways; and

WHEREAS, Kinder Morgan is bringing in up to three unit trains of 100 cars per week into Richmond resulting up to 900 tanker truck trips per week to the Tesoro refinery creating even more diesel pollution in already disproportionately impacted communities; and

WHEREAS, the people of Richmond and the Bay Area had no knowledge of the Kinder Morgan Richmond operation being permitted by BAAQMD until an investigative report by KPIX televised the report showing the operation in action; and

WHEREAS, Earthjustice! on behalf of Asian Pacific Environmental Network, Communities for a Better Environment, Natural Resources Defense Council and the Sierra Club, filed for injunctive relief in San Francisco Superior Court to stop the Kinder Morgan Richmond operation until such time a public review under the California Environmental Quality Act (CEQA) was concluded; and

WHEREAS, Judge James Busch determined the case could not move forward because

the statute of limitations of 180 days had passed by the time the action was filed, leaving the people of Richmond, its institutions and up rail communities unprotected from the risk of catastrophic explosions and unable to comment using CEQA; and

WHEREAS, an analysis of potential blast zone radii of rail lines carrying Bakken and Tar Sands crude through Richmond and West Contra Costa County would impact 27 schools and the Administration Office building of the West Contra Costa Unified School District; and

WHEREAS, the same blast zone map indicates the impact in the City of Richmond would include the Kaiser Hospital, four community centers, most of the Neighborhood Council districts, the Richmond Civic Center, the Richmond police Headquarters and five of seven Richmond Fire Stations; and

WHEREAS, most local schools, parts of Contra Costa College, most of the business district and most residents of the City of San Pablo are in the identified blast zone radius; and

WHEREAS, previous rail car derailment explosions in North America show Richmond emergency responders do not have sufficient equipment and supplies, such as fire suppression foam, to adequately respond to a catastrophic explosion of a rail car derailment explosion; and

THEREFORE BE IT RESOLVED, the City of Richmond disagrees in the strongest possible terms with the BAAQMD staff's decision to issue a ministerial permit without any public notification or review to Kinder Morgan Richmond for the off loading of Bakken crude oil and Alberta Tar Sands crude oil at its leased facility at the BNSF rail yard in Richmond, CA; and

THEREFORE BE IT ALSO RESOLVED, the City of Richmond requests the BAAQMD Board of Directors to review the Kinder Morgan permit and, if feasible, revoke the permit and subject the project to a complete CEQA process

I hereby certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a regular meeting thereof held on October 28, 2014, by the following vote:

AYES: Councilmembers Butt, Myrick, Rogers, Vice Mayor Beckles and Mayor McLaughlin.

NOES: None.

ABSTENTIONS: None.

ABSENT: Councilmembers Bates and Boozé.

DIANE HOLMES
CLERK OF THE CITY OF RICHMOND

(SEAL)

Approved:
GAYLE MCLAUGHLIN
Mayor

Approved as to form:
BRUCE GOODMILLER
City Attorney

State of California }
County of Contra Costa } : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Resolution No. 94-14**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on October 28, 2014.