



WORK SESSION MEMORANDUM

Date: October 28, 2014
To: City Council
From: Bryan Montgomery, City Manager 
Subject: **Work Session relating to Railroad Operations in and through Oakley**

Summary and Background

Councilmember Burgis requested an opportunity for the City Council and Staff to discuss various concerns with railroad operations in and through Oakley. She also suggested that a representative from the BNSF Railroad be invited to attend this work session. An invitation was extended; however, the BNSF representative was unavailable to attend, but did have a lengthy discussion with Staff by phone and followed up with some helpful emails.

Many cities have voiced concerns with railroad operations in their communities and the League of California Cities held a workshop on the topic at its recent annual conference that Councilmember Burgis attended. The League also conducted a follow up webinar last week and City Clerk/Paralegal Libby Vreonis participated. (Ms. Vreonis' summary of the webinar is attached to this memorandum). The cities' concerns related primarily to the materials that the railroads may be transporting through the communities and the noise that is caused by the trains - particularly the train horns. Unfortunately, the regulatory authority over railroad operations is vested with the federal government with some limited delegation to state governments; and local governments do not have any direct regulatory authority.

Ms. Vreonis and I had a productive conversation with a Regional Assistant Vice President at BNSF who provided a number of answers to our questions and followed up via email with additional information. We received the required form for the Fire Chief to request the "Commodity Flow" information. This information details what materials are passing through a jurisdiction, but the information is to *only* be disseminated to emergency response personnel. Chief Henderson submitted this form and quickly received the information. BNSF has also provided dates for training it provides to first responders.

The issue of train noise is also controlled by federal regulation and the trains are required to sound horns at crossings and at any other time there is a perceived danger

on or near the tracks. There is an option for cities to create what are called "quiet zones" where railroad crossings are improved to the degree that sounding the horn is to only occur in the event of a perceived emergency. City staff looked into this option a few years back and determined that the cost of the improvements, on-going maintenance and insurance liability costs were too high to research it further. Just the study to evaluate quiet zones was estimated to cost \$30,000. (The City of Martinez had just wrapped up a quiet zone study at about this time and where we learned more of the costs of a study and required improvements. Here is a link to that report: <http://www.cityofmartinez.org/civicax/filebank/blobdload.aspx?blobid=7092>)

Staff believes that the renewed pressure from cities across the State has helped the railroads be more responsive to concerns; however, there appears to be very little that local jurisdictions can do to regulate railroad activities. The development of quiet zones is something cities can do, though at a very large cost.

Fiscal Impact

Not applicable

Recommendation

Receive Staff's report and discuss concerns and possible future actions relating to railroad operations in and through Oakley.

Attachments

1. Memorandum report - League webinar

**MEMORANDUM***Office of the City Clerk*

Date: October 20, 2014
To: Bryan Montgomery, City Manager
From: Libby Vreonis, City Clerk / Paralegal
Subject: Oil by Rail

The League of California Cities (LOCC) webinar regarding oil by rail was presented October 15th. The following information will provide an overview of the information shared and how it may impact the City of Oakley.

Crude oil production is increasing in the Bakken shale in North Dakota and in Canada which increases oil transport in the United States. Moving oil by rail is more expensive than moving it by pipeline; however, it is faster and offers greater flexibility. Rail infrastructure and rail tank car production is increasing to meet the demand. The amount of crude oil moving through California could increase in the next couple of years due to this increased production. Trains transporting crude oil are expected to travel through populated and environmentally sensitive areas.

With increased oil transport by rail, the potential for more accidents increases. Rail transport accidents involving oil over the past two years have occurred for numerous reasons, including track failures, inadequate rail car equipment and human error. Experts believe tank cars containing highly flammable crude oil that is above its boiling point can rupture and contribute to accidents. The National Transportation Safety Board and other agencies have found deficiencies in the regulation of rail safety, including incorrect characterization and labeling of oil, inadequacies in route planning to avoid population centers and environmentally sensitive areas, lack of adequate response plans, outdated tank cars, insufficient labeling, and inadequate information about the oil being transported.

On the Federal level, responses to concerns of rail safety have included requirements to have proper testing, characterization, classification and designation of oil shipped by rail; investigating how shippers and carriers classify crude oil; reviewing operating procedures and safety plans; restricting leaving trains unattended and requiring advance notification to State Emergency Response Commissions (SRC) of weekly shipments of large volumes of crude oil by county. Voluntary measures have included reduced speeds of trains

transporting crude oil in older tank cars going through urban areas, analyzing safest routes, increased track inspections and improving emergency response training and plans.

In California, state agencies are responsible for enforcing federal safety requirements and engage in prevention, planning and emergency response. Efforts to improve safety at the state level include pushing for an increase in rail inspectors, improving emergency preparedness and response programs, requesting improved identifiers on tank placards for first responders, requesting railroads to provide real-time shipment information to emergency responders, requesting railroads to provide more public information regarding safety measures railroad companies are taking, develop and post an interactive oil by rail map identifying rail lines with vulnerability points, expedite phasing out older tank cars, implement new technology to help prevent accidents (updated brake system, using GPS to slow or stop trains prior to accident), and update incident reporting requirements, just to name some. Some safeguards must be taken not to release too much information regarding oil and hazardous material transport by rail to ensure domestic safety.

In Oakley, it is possible we could have transport of crude oil or other hazardous materials through our city in route to another destination. In relation, I inquired of the following during the webinar:

Q: May municipalities require railroads to provide advanced notification when transporting hazardous materials through cities? Have any cities adopted ordinances requiring such notification?

A: **Cities would most likely be preempted by Federal law to adopt such an ordinance. Notification is provided through the State Office of Emergency Services (OES) and SRC which will notify local first responders. The LOCC did not have confirmation of any cities considering such ordinance.**

Q: Trains moving through our city have blocked arterial roads for considerable amounts of time. May we adopt an ordinance to require the trains to pass through within a specified time?

A: **Cities would likely be preempted by Federal law to adopt such an ordinance. It was recommended to address the issue with OES first and allow them to investigate and take action or communicate our concern directly with our representative of Congress.**

In addition, the following question was asked due to our residents' concerns regarding the noise coming from the trains:

Q: Our city would like to consider implementing a quiet zone for railways located near residential neighborhoods. Are there any restrictions on us doing so?

A: It would likely be preempted by Federal law as Federal law currently regulates.

Thereafter, in hearing your comments as well as Bill's comments, it appears some cities are adopting quiet zones, but at considerable expense.

In summary, it appears that state and federal agencies are working toward improving safety measures and are recognizing the urgency to do so with increased oil production and transportation. We may be preempted by Federal law to adopt local regulations that may impose greater restrictions than Federal laws that currently exist. At this time, perhaps we connect with the railroads and first responders to establish communication of materials being transported. We also can research other cities that may be implementing quiet zones and possibly request staff assistance with a cost analysis.