

Environmentalists Sue to Block Explosive Fracked Oil Shipments in Richmond

[Jean Tepperman](#) — Mon, Mar 31, 2014 at 2:49 PM



A train carrying fracked crude exploded in Quebec last year, killing 48 people.

The fight against shipping crude oil by rail through Bay Area communities intensified late last week when environmental groups filed suit to stop Kinder-Morgan from shipping highly explosive Bakken crude oil through its rail yard in Richmond. The groups are also suing the Bay Area Air Quality Management District (BAAQMD) for approving Kinder-Morgan's switch to transporting crude oil with no public notice or comment,

which they say is a violation of the California Environmental Quality Act.

Sandy Saeteurn, Richmond organizer for the Asian Pacific Environmental Network, said, "The idea of trains carrying explosive Bakken crude oil in and out of our neighborhoods is outrageous. It's like BAAQMD just pulled the pin off of a bomb, allowing it to roll all around town, knowing it's only a matter of time before it stops ticking, and explodes on all of us."

Bakken crude, fracked from shale fields in North Dakota and shipped by rail in the United States and Canada, has been responsible for several recent accidents and explosions, including the explosion at Lac Megantic, Quebec, last July, which killed 47 people.

Last September Kinder-Morgan began shipping Bakken crude through its Richmond rail yard, previously used to ship ethanol. In addition to the risk of explosions, the lawsuit cites the report of engineering consultant Phyllis Fox that "the project emits significant amounts of air pollution (including toxic air contaminants and greenhouse gases)," at much higher levels than did the shipment of ethanol.

The environmental groups, Asian Pacific Environmental Network, **Communities for a Better Environment**, the Sierra Club, and the Natural Resources Defense Council, represented by the law firm Earthjustice, are requesting an injunction to stop Kinder-Morgan from bringing crude oil to its Richmond facility immediately. In their request for an injunction, the environmental groups also point to the issue of environmental justice: "The communities that will be most affected by the project's accidents, air emissions, noxious odors, and other environmental health impacts are overwhelmingly minority and low-income neighborhoods. The communities

surrounding the project have minority population percentages of 92-95%. Likewise, the poverty rate for many nearby neighborhoods is in the 40-100% bracket.“

The lawsuit also charges the Air District with violating the California Environmental Quality Act (CEQA) by quietly approving the switch from ethanol to crude oil without any public notice or environmental review. This kind of below-the-radar approval, the complaint says, is only supposed to go to routine projects that don't involve any judgment calls. CEQA calls for an environmental impact review — including public notice and opportunities for public comment — of any project that may have a significant effect on the environment.

BAAQMD staff seems to have approved the project, not only without environmental review and public comment, but also without a full discussion by the Air District board. In a letter to the Richmond mayor and city council March 25, Contra Costa Supervisor and BAAQMD Board Member John Gioia said he had “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.” Gioia said he was putting the issue of crude-by-rail on the BAAQMD board agenda for its April meeting.

Andres Soto, an organizer for Communities for a Better Environment, commented, “If the BAAQMD Board knew nothing about the permit, it should be embarrassed, and it should actually exercise its authority and hold its staff accountable to the community. The BAAQMD's hush-hush permitting process for the Kinder Morgan permit reinforces the high level of distrust that the community has towards the BAAQMD staff.”

Last week the Richmond City Council unanimously passed a resolution calling on federal legislators to put stricter regulations on the transportation of crude oil by rail. The same night, the Berkeley City Council passed a resolution opposing the shipment of any crude oil by rail through Berkeley.

The National Transportation Safety Board has issued a warning that current regulations are “no longer sufficient” to deal with the recent spike in crude-by-rail shipping, and planning for accidents is “practically nonexistent.” It urged that crude-by-rail be rerouted away from populated areas. The environmental groups' lawsuit claims, “Rail transport of crude oil inherently risks harm to human life, health, and the environment.”

Richmond city officials expressed frustration that they had no power to regulate railroad activities, since only the federal government has jurisdiction over railroads. But the lawsuit claims that Kinder-Morgan's switch to crude oil, including the installation of new equipment in the rail yard, is subject to California environmental laws.