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COMMUNITY RESOLUTION ON HIGH-HAZARD FREIGHT TRAINS

WHEREAS, Minnesota is a major national thoroughfare for rail transportation of high hazard flammable materials such as crude oil, ethanol and other officially classified “high-hazard” materials including radioactive materials and toxic inhalation hazards such as anhydrous ammonia and chlorine gas;

WHEREAS, as a result of vapor leak or derailment and spill, both oil and ethanol may form explosive mixtures with air and travel to sources of ignition and flash back, making areas up to one-half mile or more from the incident site vulnerable (i.e., evacuation zones as defined by the United States Department of Transportation);

WHEREAS, over 350,000 Minnesotans, are living in evacuation zones near oil and ethanol train routes, and many more work, attend school, worship, or do business in high-hazard rail evacuation zones;

WHEREAS, there have been numerous major incidents involving oil, ethanol and other hazardous material train derailments, spills, fires and explosions causing significant property and environmental damage and loss of life in North America due in part to the exponential increase in rail transport of crude oil, ethanol and tar sands oil; specifically the United States Department of Transportation reports that 1,400,000 gallons of oil spilled from freight trains in 2013 which is more than the previous 40 years combined, and 2014 had the highest frequency of spills, as compared to any other prior year on record, at 141 incidents reported. The following is a partial list of significant freight rail incidents occurring in 2015, which involve ethanol and oil spills in the United States and Canada:

- Feb. 4, 2015 Dubuque, Iowa - A fiery derailment of a 81-car Canadian Pacific ethanol train occurred when 11 tank cars carrying **ethanol** jumped the tracks, spilling into the Mississippi, and three of the tank cars burst into flames. There were no injuries, but the area around the incident was evacuated.
- February 14, 2015 Gogama, Ontario - An undisclosed quantity of **oil** spilled when a 100-car Canadian National Railway train carrying crude from Alberta’s tar-sands region to eastern Canada derailed and caught fire. Passenger train service between Toronto and Winnipeg was cancelled while the crash was cleared. The train and the track it was traveling on had both been inspected earlier that same day.
- February 16, 2015 Boomer, West Virginia - 19 cars of a 109-car CSX crude **oil** train derailed, sending fireballs and explosions into the air, prompting the declaration of a state of emergency for two counties. Between 200 to 300 people needed to evacuate their homes. Residents relied on bottled water after a treatment plant closed amid worries that oil had leaked into the nearby Kanawha River water source.
- March 5, 2015 Galena, Illinois - A 105-car BNSF Railway train carrying Bakken **oil** from North Dakota derailed near the Mississippi River. 21 tank cars came off the tracks, and 5 caught fire. Residents within a mile radius of the crash site were evacuated. The train hadunjacketed cars, which lack an insulated steel shell that provides thermal protection after derailment.
- March 7, 2015 Gogama, Ontario - A 94-car Canadian National Railway train carrying Alberta crude **oil** derailed and burst into flames two miles northwest of the town of Gogama. 5 of the 38 cars that hopped the tracks went into the Makami River, part of the Mattagami River System. Residents of Gogama and the Mattagami First Nation were advised to stay indoors and avoid drinking the water.
- May 6, 2015 Heimdal, North Dakota - 6 tanker cars caught fire after a BNSF **oil** train derailed. No injuries were reported, but the small town of Heimdal and a number of nearby farms were evacuated.
- July 17, 2015 Culbertson, Montana - 20 tanker cars of a 106-car Berkshire Hathaway-owned BNSF train derailed, spilling 35,000 gallons of crude **oil**. A BNSF hazardous materials team used earthen

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dams to contain the oil before it reached any waterways, and no injuries were reported, but about 30 people had to be evacuated from their homes;

- September 19, 2015 Scotland, South Dakota – at least 7 tank cars of a 98-car BNSF **ethanol** train derailed and spilled, 2 tank cars ignited and the subsequent fire fight lasted over 8 hours. A bridge was destroyed and ethanol leaked in to the environment and required remediation.

WHEREAS, the National Transportation Safety Board advises that routing high-hazard freight trains through populated areas involves significant risk of loss of life AND property and environmental damage;

WHEREAS, the United States Department of Transportation predicts that high-hazard freight trains will derail an average of 10 times a year over the next two decades, causing an estimated \$4 billion in damage and possibly killing hundreds per year;

WHEREAS, in January 2015, the Minnesota Department of Public Safety reported that first responders rated their area's preparedness for high-hazard freight train incidents as inadequate as represented by an average rating of 2.6 on a scale of 1 to 5;

WHEREAS, the International Association of Fire Chiefs recommends the use of alcohol-resistant, aqueous film-forming foam or alcohol-resistant film-forming fluoroprotein foam in fires involving ethanol/gasoline mixtures containing more than 10% ethanol (e.g., E85);

WHEREAS, the alcohol-resistant, aqueous film-forming foam or alcohol-resistant film-forming fluoroprotein foam and containment equipment is not readily available to rail incident first responders, including public firefighters;

WHEREAS, railroad companies are currently exempted from or do not comply with the Emergency Planning and Community Right-to-Know Act, which requires facilities that manufacture, store and process hazardous materials to report safety data to local and state authorities including fire departments;

WHEREAS, railroad companies have declined to disclose their decision-making process for determining high-hazard freight train route selection and are now feverishly expanding track capacity before the federal government can implement the restrictions that the United States Pipeline and Hazardous Material Safety Administration announced in May 2015;

WHEREAS, there have not been environmental impact studies conducted or reports issued addressing the effects of carrying oil, ethanol and toxic inhalation hazards by rail through the City of Minneapolis;

WHEREAS, railroad companies have declined to disclose even to Minnesota Department of Transportation the level and types of liability insurance they carry for train spills, fires, explosions and derailments;

WHEREAS, railroad companies have declined to disclose or have inadequately disclosed their worst-case scenario disaster plans for oil or ethanol train incidents to Minnesota Pollution Control Agency as required by law;

WHEREAS, track defects are the second leading cause of incidents on railways in the United States;

WHEREAS, the City of Minneapolis has multiple railway bridges and trestles that appear rusty, unkempt and dilapidated, justifiably giving rise to public concern that the responsible party is not adequately maintaining these railway bridges;

WHEREAS, both the DOT-111 tanker cars typically in use today to carry crude oil and ethanol and the newer DOT-1232 tanker car standards have both been involved in train derailment catastrophes involving oil and ethanol;

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WHEREAS, oil tanker rail cars are being decommissioned and stored in areas near populated and environmentally sensitive areas;

WHEREAS, new Federal rules governing oil and ethanol transportation by rail do not require reduction in volatility of the liquid fuels, even though such reduction is required for crude oil transport by ship;

WHEREAS, railroads are critically under-insured against the risks of an oil or ethanol train incidents in an urban area, as commercial insurance coverage for catastrophic accidents does not exist according industry experts;

WHEREAS, the vast majority of accident response costs and deadly risks associated with the transport of oil and ethanol by rail through Minneapolis is being borne by those who live and work in Minneapolis, as opposed to the railroad carriers, shippers and producers of oil and ethanol who profit most from this increased risk;

WHEREAS, there are not federal or state minimum insurance requirements for railroads carriers, shippers or producers of oil, ethanol or other kinds of hazardous cargo or taxes imposed that could help cover casualty loss and cleanup cost associated with hazardous freight rail incidents;

WHEREAS, the Burlington Northern Santa Fe Railroad, the Twin Cities & Western Railroad, the Canadian Pacific Railroad and any other railroad company actively haul oil, ethanol and/or other hazardous materials through Minneapolis, and travel very near to the Target Field and the TCF Bank Stadium;

WHEREAS, the Burlington Northern Santa Fe Railroad, the Twin Cities & Western Railroad, and the Canadian Pacific Railroad have taken some voluntary action to reduce risk (e.g., reduced travel speeds in some cases), the companies as well as industry groups representing their interests continue to oppose federal and state safety regulations such as public information disclosure, minimum staffing requirements on trains and electronically controlled pneumatic braking systems;

WHEREAS, the general well-being and safety of the City of Minneapolis and other communities should not be put at risk and specifically the residents, workers, visitors, homes, schools, places of business, health care facilities, government, freight rail, commuter rail, light rail, critical utility infrastructure including the water intake/processing facility for several cities and a power generation plant, as well as parks including the Mississippi River National Park segment and other amenities used and enjoyed by hundreds of thousands of Minnesotans on a daily basis should not be subject to significant, preventable threat from the increasing rail shipments of high-hazard cargo through our long-established communities;

WHEREAS, Minnesota is the land of over 10,000 lakes and many railroad routes carrying high-hazard materials put the state's water resources (e.g., wetlands, lakes, rivers, ground water, etc.) and associated wildlife at risk of contamination or destruction in the event of a spill or other incident;

The **[insert name of town, city, county or neighborhood association/district]** does hereby resolve and demand that:

1. Public policy, including local, state and federal regulation, call for the banning or rerouting of freight trains hauling oil, ethanol and other hazardous substances through or near population centers, environmentally sensitive areas (e.g., wetlands, rivers and lakes), areas including facilities producing or using large amounts of highly flammable or volatile substances, and areas of critical importance to national and local security, as well as hospitals and public transit rights-of-way;

2. The Community Right-to-Know Act be amended to require that railroad companies be subject to full compliance with its provisions and for meaningful penalties to be enforced in the case of non-compliance;

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3. Adequate training and resources be provided and updated on a regular basis for first responders serving along oil, ethanol and other hazardous material train routes and public awareness and readiness campaigns such as evacuation plans and shelter in place plans be developed, implemented and updated on an ongoing basis;
4. The necessary equipment (e.g., containment booms) and alcohol-resistant, aqueous film-forming foam or alcohol-resistant film-forming fluoroprotein foam be readily available to local first responders along high hazard freight rail lines to contain oil and ethanol spills and to combat high-hazard freight train fires;
5. Railroad companies disclose their train route selection plan and worst-case scenario disaster plan to Minnesota Department of Transportation, to local authorities, and to the United States Department of Transportation for review;
6. Active and decommissioned oil tanker rail cars be responsibly and safely stored away from populated and environmentally sensitive areas;
7. Community-Based Risk Assessments, as outlined in Exhibit A, be developed by rail carriers and communicated to the City of Minneapolis for approval at least 270 days prior to any change in any existing track configuration, the addition of new track or any increase in existing route capacity or actual shipments through the City of Minneapolis.
8. Public policies require rail rights-of-way land owners, rail track owners, railroad tank car owners, carriers and shippers to show proof of being adequately insured to provide that property owners, residents, workers, others affected by high-hazard freight train incidents, and their surviving families would be made whole with respect to property loss or damage and would be compensated for personal injury or loss of life resulting from such an incident;
9. Rail line owners along with state and federal regulators conduct immediate and ongoing inspections of railroad tracks, crossings and bridges on which oil, ethanol and toxic inhalation hazards are carried through the City of Minneapolis and that the results of the inspections performed within the limits of the City of Minneapolis be sent to the City of Minneapolis Council and that qualified inspectors be granted access upon request when reasonable doubt exists with regard to the safe condition of tracks, crossings, trestles or bridges, and that local authorities may close unsafe track or structures to rail freight until safe conditions have been restored;
10. Railroad companies (e.g., Burlington Northern Santa Fe Railroad, the Twin Cities & Western Railroad and the Canadian Pacific Railroad) take full responsibility for the risks they impose on the City of Minneapolis residents, and support the federal regulations necessary for the rail industry to bear the full cost of the safe production and transport of hazardous materials such as oil, ethanol and toxic inhalation hazards, rather than relying on cities to subsidize their risks.
11. Copies of this resolution be sent to the Governor of Minnesota, Minnesota Department of Transportation, the United States Department of Transportation and the Minnesota delegations to the Minnesota Legislature and the United States Congress.

Signed by:

Date:

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Exhibit A: Community-Based Risk Assessment

The Community-Based Risk Assessment related to proposed changes in existing track or the installation of new track is to follow instructions set forth in the Federal regulation § 172.820 which specifies a set of defined safety and operational factors. The intent is to require rail carriers to assess community risks and safety concerns using 27 factors, such as proximity to populated and environmentally sensitive areas and to provide the City of Minneapolis with a risk assessment that considers the potential impacts on the population, the environment, drinking water sources, public amenities such as park systems and sports stadiums/arenas, major landmarks, public transportation, and rail operations arising from a rail incident and/or an act of terrorism.

In performing this analysis, the rail carrier must seek relevant information from state and local officials, as appropriate, regarding security risks to high-consequence targets along or in proximity to the route(s). A high-consequence target means a property, natural resource, location, area, or other target designated by the Secretary of Homeland Security that is a viable terrorist target of national significance, the attack of which could result in catastrophic loss of life, significant damage to national security or defense capabilities, or national economic harm.

The Community-Based Risk Assessment must be in writing and include the 27 factors contained in Appendix D of Federal regulation § 172.820 which are:

- Volume of hazmat
- Rail traffic density
- Trip length
- Railroad facilities
- Track type and class
- Track grade and curvature
- Signals and train control systems
- Wayside detectors
- Number and types of grade crossings
- Single vs. double track
- Frequency and locations of track turnouts
- Proximity to iconic targets
- Environmentally sensitive areas
- Population density
- Venues along route
- Emergency response capability along route
- Areas of high consequence
- Passenger traffic
- Speed of train operations
- Proximity to en route storage or repair facilities
- Known threats (from TSA)
- Measures in place to address safety and security risks
- Availability of alternative routes
- Past incidents
- Overall time in transit
- Training and skill level of crews
- Impact on rail network traffic and operations

The rail carrier must complete the assessment and submit to the City of Minneapolis for approval at least 270 days prior to any track changes. The analysis is to use data from the most immediately available 12-month period.