

OIL TRAINS, from page 12

Canadian Minister of Transport mandated two-person crews for trains carrying dangerous goods. In January the U.S. Federal Rail Administration proposed a rule on two-person crews, but the Obama administration has so far declined to consider the proposal. Since 2007 the biggest rail companies have doubled train lengths, moving trains a mile long or greater. Factoring in this extra length and tonnage, a two person crew today represents one-sixth the number of workers standard in the 1980s.

Pipelines on wheels, protests on stilts

By any metric, the volume of oil by rail has skyrocketed in recent years, with 1,000 of these trains now coming through the Columbia Gorge every year. This has caused a commensurate rise in oil spills. The year 2013 saw more oil spilled from trains than there had been in the previous four decades combined, according to the Pipeline and Hazardous Materials Safety Administration. In 2014 the number of oil spills was even greater, totaling 141.

The U.S. Department of Transportation completed an analysis earlier this year predicting an average of 10 oil train derailments every year for the next 20 years. According to an analysis of industry data by OPB, hazardous material trains spill 0.01 percent of the time, so if the 1,000 oil trains coming through the Gorge are any representation of the larger problem, we could expect 10 of these to derail and spill each year. According to the public database at the FRA's Office of Safety Analysis, 15 trains actually did derail and released hazardous materials in Multnomah County between 2011 and 2014.

Abby Brockway learned about these statistics first-hand after an incident in her own neighborhood. On July 24 last year a train loaded with 100 oil cars derailed in downtown Seattle. "The derailment under the Magnolia bridge was just a little too close to home – just a mile away from my daughter's school," Abby said in a phone interview. "I've spent years worrying about

climate change, wondering why our leaders were doing nothing about it. After that day I realized that I couldn't wait any longer – I needed to take action."

On Sept. 2, Abby and a group of activists with Rising Tide Seattle entered the Delta rail yard, not far from the derailment. There, Abby scaled an 18-foot tripod directly on top of the train tracks, and stayed there all day to talk to the media about the danger of oil trains, and to invite others to stand up for their communities. She waved two bright flags – one in each hand – while sporting a banner that read "Cut oil trains not conductors."

Jen Wallis, a conductor with over 10 years of experience with the BNSF railroad, would later write "when my co-workers saw that tripod up in Everett with the sign that said 'Cut oil trains, not conductors', they were blown away." She added, "We understand completely now that we are fighting an industry that cares as much about us as they do the environment, which is not at all."

After eight hours on the tripod, Abby and four other people were arrested, and their trial is set for Oct. 19. Activist groups from across the country are calling for a week of similar actions for an entire week starting on July 6, the anniversary of the Lac Megantic disaster.

By 2014, even the oil industry realized it had a serious PR problem. Last May BNSF Executive Chairman Matt Rose said, "Without focus on the elements of safety, the social license to haul crude by rail will disappear." The CEO of Continental Resources, Harold Hamm, was even more blunt. "If we have one more big safety event," he said, "they're going to try and shut us down."

The accidents, of course, did not stop, so the railroads have instead worked to beef up their public image to create the impression of responsibility, while pinning the blame on individual workers. The safety language thus employed often distorts the real cause of accidents, leading critics to argue that the latest batch of safety legislation is actually industry-supported, and designed to create the appearance of action while making us all more comfortable with oil trains. According to Dan Leahy, a former labor organizer who

recently taught at Evergreen, the safety standard coming from Washington state "substitutes reason and caution for breathless rhetoric and turns communities into sacrifice zones for the 1 percent."

On May 1, the Department of Transportation announced its own new batch of safety rules for oil trains. These rules were practically a universal disappointment and were criticized for a number of reasons, including: creating more secrecy on where oil trains move, failing to phase-out DOT-111's (also known as "Pepsi-cans on wheels") until 2020, failing to address crew sizes, ignoring worker fatigue, and setting arbitrary speed limits far above the speed of the average derailed oil train.

The Umatilla, Yakama, Warm Springs and Nez Perce tribes are all appealing the new regulations, and are asking the Department of Transportation to return to the consultation process.

When asked if the Yakama believes the risks of oil trains can be mitigated, Chair JoDe Goudy responded, "There is no word in our language for mitigation." He went on to explain, "The Columbia Gorge contains ancestral use areas that are sacred and sensitive in nature. These are critical to the perpetuation of Yakama culture."

Chuck Sams, director of communications for the Confederated Tribes of Umatilla, says that his tribal government has very serious concerns about the risk of oil trains. "Any mass conflagration or derailment, whether on our reservation or on ceded territory, would have massive effects on our treaty rights and salmon," he said.

For Sams, the new DOT rule that takes emergency information away from first responders and gives it to fusion centers run by the Department of Homeland Security is a key concern. "That will not make us safer. It will slow down our response time," Sams explained.

Towards a moratorium

In July 2014, the Columbia Gorge Commission called for a moratorium on all fossil fuel movements in the Gorge, passing a resolution that asked the governors of Washington and Oregon to contact the commission so that the three entities could

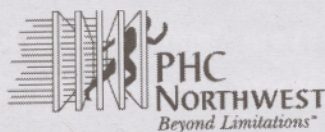
work together.

The Commission's attorney, Jeffrey Litwak, says the call for a moratorium was an invitation to state regulators. As an inter-state compact, Litwak says, the Gorge Commission is uniquely positioned to provide strong regulations that withstand federal challenge, but needs help from the states. And Litwak should know. He wrote the book on inter-state compact law, and teaches about it at Lewis and Clarke law school. "We know we can pass strong regulations," Litwak says. "What we don't know is what kind of regulations Oregon and Washington are looking for, and why they haven't reached out to us so far."

Such an alliance with state regulators would be a big help against the federal doctrine of pre-emption, which instructs local legislators not to interfere in "federal" matters that have already been touched upon in Congress – even if they can cause local oil spills. This doctrine is a primary reason the mayor of Washougal camped out along the railroad tracks to count trains this April, rather than pass a law demanding information from the rail companies.

Back in March, Rail Workers United came together with community members to envision what the future of railroads might be if they worked together. One option was to ban fossil fuel shipments, and replace them with electrified passenger rail, providing the kind of inter-city rail service that flourished in the U.S. before the ascendancy of the automobile industry. In 1947, General Motors, Firestone, and Standard Oil were found guilty of criminally conspiring to dismantle streetcar lines in 45 cities between 1936 and 1946. For such crimes against the public interest, corporate officers were fined \$1 each, and their corporate accounts were fined \$5,000. Over the same period, inter-city electric rail collapsed from some combination of criminal conspiracy and shifting public policy.

It isn't clear yet whether electric rail could ultimately win broad support, and unite labor and environmentalists. But what is clear is that activists and labor are finally thinking big, and under the new regime of strange weather, big change is coming.



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