

**Testimony in support of amending HB 2209
To the House Committee on Veterans and Emergency Preparedness
By Michael Lang, Friends of the Columbia Gorge
February 7, 2019**

Good afternoon, Chair Evans and members of the Veterans and Emergency Preparedness Committee. Thank you for the opportunity to testify on HB 2209. My name is Michael Lang. I'm the Conservation Director for Friends of the Columbia Gorge ("Friends"). Friends is a nonprofit organization with over 7,000 members dedicated to protecting the outstanding resources of the Columbia River Gorge National Scenic Area and supporting its communities.

On the behalf of Friends, I want to thank Chair Evans, the committee, the Speaker's office, state agencies, the Tribes and the railroads for crafting HB 2209. The bill shows progress toward preparing Oregon for future oil train derailments and oil spills, but it is in need of amendments.

All of the crude oil transported by rail through Oregon and most transported through Washington travels through the Columbia River Gorge National Scenic Area in unit trains carrying approximately 3 million gallons of crude oil each. In the last quarter of 2018, the Washington Department of Ecology reported that an average of 53 million gallons of crude oil were transported by rail per week. All but a tiny fraction was transported through the Gorge. Oregon does not have similar reporting requirements.

Since 2015, Washington has in place comprehensive state laws requiring state-approved contingency plans, proof of insurance for railroad companies to cover cleanup costs of a spill involving the entire train load in bad weather conditions, fees assessed to the railroads carrying crude oil on high hazard routes, and prior notification of oil train shipments. Some of the trains entering Oregon pass through Washington first on the BNSF line. Many of the trains passing through Oregon on Union Pacific rails are destined for Puget Sound terminals and refineries. These railroad companies are complying with Washington oil train emergency response laws and the same laws should be applied in Oregon.

HB 2209 would:

- Require oil spill contingency plans for spills resulting from the transportation of oil on "high hazard trains routes."
- Require railroads to have insurance to cover about 15% of the cleanup costs for a true worst-case oil spill from an oil train derailment involving an entire train-load of oil. This would leave the state, local governments and private landowners responsible for the remaining costs of damages and clean up if the railroad could not pay.

- Appropriate general funds to cover the costs of contingency planning and trainings.

Friends supports amending the bill to require the following:

- Railroads must carry adequate insurance to cover the costs of a true worst case spill involving the entire train lading in the worst weather conditions.
- Fees assessed on the railroads to cover the costs of contingency planning and trainings.
- 24-hour notification to emergency responders for facilities receiving oil trains.

These requirements have been in Washington law since 2015 and have been effective in better preparing the state for the derailments and spills. Adopting these amendments would establish cross-border consistency with Washington and improve emergency response in Oregon.

In a widely criticized move in 2018, the Trump administration repealed an important safety requirement for oil trains to use electronically controlled pneumatic (ECP) brakes by 2021. ECP brakes would have improved the safety of oil trains and likely reduced the severity of derailments and resulting oil spills. In fact, the Federal Railroad Administration determined that it is likely that no train cars would have ruptured in the Mosier incident if ECP brakes were used. This Trump rollback makes it more urgent than ever to pass comprehensive oil train emergency response legislation.

Why HB 2209 with amendments is necessary

- **Pipelines on rails:** Since September, 2012, crude oil is being transported by rail at high speeds through the Columbia River Gorge National Scenic Area, the Deschutes River canyon, and many communities across Oregon. Oil is transported through our state to refineries in California and Washington, or for export, with no direct benefit to Oregon's economy. Explosive Bakken oil and tar sands oil are transported in unsafe rail cars that puncture at speeds as low as 14 mph, leading to oil fires and explosions. New federal safety standards for rail cars only slightly improve impact resistance. Unit trains of oil carry up to 120 oil tank cars containing over 3 million gallons of oil. These *pipelines on rails* endanger communities and waterways along major rail routes through Oregon, risking severe damage to public safety, drinking water, and Columbia River salmon habitat.
- **Oil-by-rail is unsafe.** In the past five years, several oil train derailments, explosions, and fires in North America have resulted in 47 deaths, the evacuation of thousands of people, millions of gallons of oil spilled into waterways, and billions of dollars of property damage and environmental destruction. In 2016, an oil train derailed in the small Gorge town of Mosier, catching fire and spilling 42,000 gallons of oil. Mosier was spared only because it was a rare and windless day, thus preventing an unstoppable fire that could have

incinerated the town. The Federal Railroad Administration (FRA) determined that Union Pacific Railroad's negligence caused the derailment.

- **Oil-by-rail terminals threaten our communities and our rivers.** Several oil-by-rail terminals were proposed in the Northwest, mostly in Washington. Most have been denied because of the unacceptable risks to communities and the environment. These include Tesoro's Vancouver Energy project, which would have been the largest oil-by-rail terminal in the North America. Governor Jay Inslee denied this terminal in January 2018 due, in part, to the risks of a catastrophic rail accident that could cost billions of dollars and result in dozens of fatalities.
- **Oregon has the weakest laws on the West Coast related to oil trains.** In the Mosier derailment, oil spill and fire, Oregon had to rely heavily on the Washington Department of Ecology for assistance. Both California and Washington have passed laws that include fees on the railroads to help the states prepare for a disaster. These new laws have not been preempted by federal railroad laws. Without comprehensive oil train safety laws, Oregon will continue to lack basic protections from oil trains.
- **Lifting of the crude oil export ban could result in more crude oil terminals in the future.** For 35 years, the U.S. ensured energy independence by prohibiting export of U.S. crude oil. In 2015, Congress lifted the U.S. crude oil export ban, thus creating the likelihood of new export terminals on the West Coast. As soon as the price of oil rebounds, residents of the Northwest can expect to see more proposals for oil export terminals.
- **The Trump administration weakened rail safety laws.** In 2018, the Trump administration repealed the 2015 requirement for oil trains to use electronically controlled pneumatic (ECP) brakes by 2021, which would have improved the safety of oil trains and likely reduced the severity of derailments and resulting oil spills. Safety advocates, transportation union leaders and lawmakers oppose the repeal of the ECP brake rule. Several Governors, including Governor Kate Brown, criticized the repeal and called on federal policy makers to put in place the strongest rail safety measures. (Source: Governors Brown and Inslee Joint Media Release, Dec. 8, 2017)

Friends of the Columbia Gorge does not want Oregon to be the weak spot on the West Coast for oil trains. Please support amendments to HB 2209 and help protect our communities, waterways and the Columbia River Gorge National Scenic Area from another oil train derailment and spill. Thank you for considering this bill and the proposed amendments.