

United States Senate

WASHINGTON, DC 20510

June 9, 2016

The Honorable Christopher A. Hart
Chairman
National Transportation Safety Board
490 L'Enfant Plaza East, SW
Washington, DC 20594

Dear Chairman Hart:

We were troubled to learn that after the recent crude-by-rail accident in Mosier, Oregon, the National Transportation Safety Board (NTSB) decided against sending an investigative team to the site.

We believe that the unique safety mission of the NTSB, and its dedicated investigatory resources provide critical expertise to understanding the root causes of transportation accidents and related safety issues. The NTSB would have brought a vital perspective to investigations being carried out by the Federal Railroad Administration (FRA) and Oregon Department of Transportation.

The statutory requirement of the NTSB is to “investigate or have investigated (in detail the Board prescribes) and establish the facts, circumstances, and cause or probable cause of ... a railroad accident in which there is a fatality or substantial property damage, or that involves a passenger train” and “any other accident related to the transportation of individuals or property when the Board decides ... (i) the accident is catastrophic; (ii) the accident involves problems of a recurring character; or (iii) the investigation of the accident would carry out this chapter.” The NTSB also is required to maintain an office “to investigate and report on the safe transportation of hazardous material.”¹

It should go without saying that crude-by-rail accidents, and others involving unit trains transporting Class 3 flammable liquids, are “problems of a recurring character.” In response to a letter we sent on June 10, 2014, you provided information showing that there had been 16 “significant crude oil and ethanol accidents” between October, 2006 and February, 2014. You also provided information about several other rail accidents that resulted in various types of oil-based products being spilled. Many more oil accidents have occurred since then in communities like Mount Carbon, West Virginia; Galena, Illinois, and Heimdal, North Dakota. The *Associated*

¹ 49 USC § 1131

Press reported after the Mosier accident that “at least 26 oil trains have been involved in major fires or derailments during the past decade.”²

The circumstances of the Mosier oil train derailment, and its impact, were unique and substantial. The one-mile evacuation zone included Interstate 84, a major transportation route in Oregon that runs parallel to the railroad tracks; the interstate’s closure as a result of the accident hindering the response of first responders to the scene. The evacuation zone also included a community school with 200 children, as well as roughly 100 nearby households; some residents had yet to return as of Monday. Oil from the wreck leaked into the sewer treatment plant, forcing its closure. Furthermore, the derailment damaged sewer pipes running beneath the track, which will require weeks of repairs before Mosier’s sewer system will be fully operational. Meanwhile, sewage is being transported seven miles to a treatment plant in neighboring Hood River. During the accident, firefighters were forced to use so much water to quench the fire that Mosier’s main well could not keep up with demand, meaning that water had to be imported from a local vineyard. The water used to fight the fire depleted the primary well, which resulted in a boil order being imposed and forced residents to use boiled water or bottled water in the days after the accident. What’s more, the accident occurred disturbingly close the Columbia River and the Columbia River Gorge, which is of great economic and environmental importance to the region, and was designated as a National Scenic Area in 1986.

We feel strongly that the residents of Mosier, Oregonians, and residents on both sides of the Columbia River deserve to know exactly why this accident occurred and how to prevent future accidents from occurring. We call on the NTSB to investigate major oil train derailments going forward in order to identify every facet of the accident’s cause, and work to prevent, not just mitigate, the potential devastation. We also note that the NTSB will be holding a roundtable to examine tank car safety on July 13, 2016; we ask that, given the recent events, you work with our offices to ensure that an Oregon perspective is present at this important discussion.

We are committed to advancing the safety of rail traffic, and want to ensure safety recommendations are heeded and implemented. In order to assist us as we continue to seek information about the root causes of this accident, please provide the following information:

1. Please explain why the NTSB decided not to send an investigatory team to the Mosier derailment.
2. Given that the NTSB has been investigating multiple freight and passenger rail accidents in recent years, does the NTSB have sufficient resources to carry out its safety mission as related to crude-by-rail and other accidents involving unit trains of Class 3 flammable liquids? In answering this question, please include information regarding:
 - a. The number of rail investigators the NTSB employs;
 - b. The number of hazardous materials investigators the NTSB employs;

² Gillian Flaccus, “Oregon Train Derailment Spills, Oil, Sparks Fire,” *The Associated Press*, June 3, 2016, <http://bigstory.ap.org/article/726c0199cc9e4e309014f8816ae3527a/oregon-train-derailment-spills-oil-sparks-fire>. Accessed June 8, 2016.

- c. The number of open investigations in the railroad and hazardous materials divisions, respectively, and the number of employees who are or were devoted to each investigation;
 - d. Any additional activities, such as forums, that the divisions currently have planned or recently completed, and the number of employees devoted to each;
 - e. Any additional relevant information related to employee levels or NTSB resources.
3. Please provide a list of all accidents in the United States since 2010 involving unit trains transporting crude oil, ethanol or other Class 3 flammable liquids. In addition to the location of the accident and the rail carrier involved, please list
 - a. The volume of product that leaked;
 - b. Whether there was an evacuation;
 - c. The estimated property damage incurred;
 - d. Whether NTSB conducted an investigation; and
 - e. In cases in which NTSB conducted an investigation, please note which of the three types of investigatory teams that was sent:
 - i. A full launch with a board member on scene;
 - ii. A regional launches in which investigators are present at the accident scene; or
 - iii. An accidents in which FRA was the lead agency but NTSB took a consulting role.
4. We note that the NTSB investigated the crude-by-rail accident in Casselton, North Dakota, but the docket (DCA14MR004), shows that more than two-and-a-half years later, the NTSB has only released a preliminary report. The Board's online docket shows that the last public release of information was more than a year ago.
 - a. When will the NTSB release a final report on the Casselton accident?
 - b. Please list any other open dockets related to railroad accidents involving trains transporting Class 3 flammable liquids.
5. The legislation we introduced in 2015, the Hazardous Materials Rail Transportation Safety Improvement Act, seeks to implement six NTSB recommendations, including two related to track conditions. Please provide the overall status of each recommendation:
 - a. Recommendation R-7-2, dated April 25, 2007 (relating to real-time information regarding the identity and location of all hazardous materials on a train);
 - b. Recommendation R-14-14, dated August 22, 2014 (relating to railroads providing communities and States with current commodity flow data and assisting with development of emergency operation and response plans);
 - c. Recommendation R-14-18, dated August 22, 2014 (relating to ensuring that emergency response information carried by train crews is consistent with the Emergency Response Guidebook);
 - d. Recommendations R-14-75 and R-14-76, dated December 30, 2014 (relating to allowable limits for track conditions); and
 - e. Recommendation R-14-19, dated August 22, 2014 (relating to developing, implementing and periodically evaluating requirements for railroads that transport

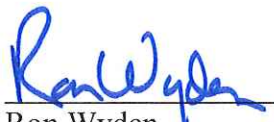
hazardous materials to conduct public education programs for communities along railroad hazardous materials routes).

6. We are concerned not just with mitigating the damage of crude oil and ethanol derailments when they occur, but with preventing such derailments in the first place. Data contained in your 2014 letter to us underscored that the railroad industry has experienced a massive influx over the last decade of Class 3 flammable liquids cargo being shipped in the United States and Canada.
 - a. How has the changing energy landscape of the United States, e.g. growing railroad shipments of crude oil and ethanol, affected transportation safety, and, specifically, railroad safety?
 - b. How has the changing face of energy transportation and related safety issues affected railroad maintenance needs for track, rolling stock and other aspects of railroad networks?
 - c. Given that several crude-by-rail accidents have been related to track failures, what NTSB recommendations related to maintenance and track-related safety issues should Congress consider in light of the changing energy transportation systems? Please note the status of each recommendation.
 - d. What NTSB recommendations related to routing of trains transporting hazardous materials should Congress consider? Please note the status of each recommendation.

Please provide the above-requested information no later than July 5, 2016. In the meantime, if you or your staff has questions, please contact Peter Gartrell (peter_gartrell@finance.senate.gov) or Rebecca Ward (rebecca_ward@merkleysenate.gov) on our staffs.

Thank you for your attention to this important issue.

Sincerely,



Ron Wyden
United States Senator



Jeffrey A. Merkley
United States Senator