

United States Senate

WASHINGTON, DC 20510

September 29, 2014

Docket Management System
U.S. Department of Transportation
West Building, Ground Floor, Room W12-140
Routing Symbol M-30
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Administrator Quarterman:

We write in regard to the Notice of Proposed Rulemaking (Docket No. PHMSA-2012-0082 (HM-251)) (“proposal”) related to railroad shipments of hazardous materials issued by the Department of Transportation (“Department”), specifically, the advanced notification requirement in Section V(B). We are concerned that the proposal would provide too little information to first responders about flammable materials shipments in Oregon, California, and other states across the nation. Please make this letter part of the record, and consider the information contained herein as the Department prepares a proposed rule.

First, we believe the advanced notification requirement is too narrow because it only covers crude petroleum oil from the Bakken formation within the Williston Basin in northwest North Dakota, eastern Montana and southern Saskatchewan (“Bakken”). It does not require railroads to notify State Emergency Response Commissions (SERC) about millions of barrels of crude oil from outside the Bakken (“non-Bakken”) that are transported by rail. In addition to non-Bakken crude, ethanol and some 71 other Class 3 flammable liquids¹ would be excluded from the proposal, an oversight we believe should be rectified. Second, the advanced notification requirement has a volumetric reporting threshold that only covers shipments of 1,000,000 gallons (about 35 cars) or more of oil. The notification requirement should be lowered in order to capture mixed-freight “manifest” trains of any combination of Class 3 flammable liquid.

Advanced knowledge of hazardous materials cargo being transported through communities allows for emergency planning, training and coordination with other agencies, jurisdictions and the private sector. Christopher A. Hart, acting chairman of the National Transportation Safety Board (“NTSB”), stated in a June 25, 2014 letter (see attached) that “the lack of a requirement for railroads to assist local emergency planners may leave communities unprepared for response to major hazardous materials releases and, consequently, many communities learn about these hazards for the first time during an actual emergency.”

We are troubled when we compare the advanced notification requirement with the broader rules package and past actions by the Department, which we feel highlight inconsistencies that should

¹ Hazmats Table 9c (Hazardous Material Shipment Characteristics by Rail for UN Number: 2007), U.S. Department of Transportation, et al., 2007 *Economic Census: Transportation Commodity Flow Survey*, December 2009.

be reconciled, both to maximize safety and ease compliance. For example, Section V(A) of the proposal classifies all oil and ethanol shipments of 20 or more tank cars as “high-hazard flammable trains,” which, in turn, are subject to additional requirements throughout the proposal. Yet, per Section V(B), the Department is proposing only to require advanced notification for trains with over 35 cars of crude oil. In addition, it is alarming that other Class 3 flammable liquids are excluded from the proposal altogether.

Another example of inconsistency is the Department’s March 6, 2014 issuance of an amended and restated emergency restriction/prohibition order (DOT-OST-2014-0025) that required all petroleum crude oil to be handled as a medium- or high-hazard flammable liquid, even if the crude oil was properly classified as a low-hazard flammable material. If the Department in March was sufficiently concerned to designate all crude oils to be worthy of medium- or high-hazard classification under the Hazardous Materials Regulations, then it stands to reason that advanced notification requirements should reflect that concern by applying to all crude oils, and similarly classified Class 3 flammable liquids.

In constructing its proposal, we believe that the Department has not fully considered the market dynamics that have resulted in a great deal of non-Bakken oil and other Class 3 materials moving to and through West Coast states. The following pages provide information about these markets that support expanding the scope of the proposal’s notification requirements. Specifically, the Department should (1) expand the advanced notification requirement to include all Class 3 flammable liquids, not just oil shipments from the Bakken region, and (2) lower the volumetric threshold for reporting to no higher than 20 carloads of flammable materials, equivalent to High-Hazard Flammable Trains defined in the proposal. As requested above, please take this information into account as the Department develops its proposed rule.

Flammable Materials Pose Potential Hazards Regardless of their Volume

In his June 25th letter, Acting Chairman Hart wrote that “crude oil of all types and from all regions are flammable materials... accidents involving crude oil or flammable liquids of any kind, especially when these liquids are transported in large volumes such as in unit trains or in blocks of tank cars, can have disastrous consequences, including devastating environmental contamination.” Communities should be aware of the manifest risks that railroads continue using to transport oil and other flammable liquids to and through our states.²

Acting Chairman Hart provided data that show ethanol and oil shipments surpassed 700,000 carloads in 2013, compared to less than 75,000 in 2005, and that since 2008 these trains have been involved in more than two dozen serious accidents across North America. Yet, with the exception of the Lac Megantic accident that killed 47 people, every accident involving crude oil, ethanol and other flammable materials since 2006 has resulted in a hazardous materials release of less than 1,000,000 gallons. These accidents have resulted in millions of dollars of damage, dramatic explosions, fires, injuries and even death. In at least two of these cases, the trains would

² Bruce Kelly, “CP and UP forge Canada-to-California Crude Corridor,” *Railway Age*, August 16, 2013, <http://www.railwayage.com/index.php/management/cp-and-up-forge-canada-to-california-cbr-corridor.html>, accessed on September 22, 2014.

not have been required to notify SERCs, because they carried flammable materials below the current threshold of 1,000,000 gallons or 35 cars.

Six years ago, a BNSF Railway train carrying crude oil derailed near Luther, Oklahoma. The train was primarily transporting non-hazardous products such as corn, oats, grain, beer, lumber and railroad ties. Just 13 cars were carrying hazardous materials, of which nine were filled – one with methanol and eight with petroleum crude oil. Fourteen cars derailed, including all eight oil cars, which had been classified as a low-hazard (Packing Group III) Class 3 flammable material.³ The resulting fire burned for 21 hours, and forced an evacuation of 14 families from nearby rural areas. Television footage from news helicopters captured an explosion that sent a fireball hundreds of yards into the air.⁴

Another accident, on July 11, 2012, in Columbus, Ohio, resulted in a 17-car derailment, including three ethanol cars.⁵ The accident caused \$1.2 million in damage, spilled more than 56,000 gallons of ethanol, and led to a fire that burned for five hours, forcing the evacuation of 100 people within a one-mile radius. One person was injured by an explosion that reached several hundred feet into the air and was described variably as a “mushroom cloud,” “ball of fire” and “eruption.”⁶ Although the train carried 49 hazardous materials cars, only 18 carried Class 3 flammable liquids that would have counted toward – but ultimately fallen short of – the proposed reporting threshold.

These accidents illustrate why the current standard is insufficient, and even the 20-car standard contemplated for “high hazard flammable trains” may be too high. Neither standard would have required railroads operating similar trains to notify SERCs because the cargos would fall below the volumetric reporting requirements. Yet the derailment in Columbus left the city’s mayor “grateful that this did not occur in a more populated area,”⁷ while the Luther explosion was so large that one news reporter flying overhead said, “we can’t say how lucky we are that this happened where it happened in this rural area. If this happened in a residential area or down in the town of Luther there’s no telling what we would have lost out of this.”⁸

Acting Chairman Hart cited several other accidents involving non-Bakken crude such as one on January 31, 2014 in New Augusta, Mississippi, which led to a leak of non-Bakken crude oil that originated in North Alberta. Of that accident, Acting Chairman Hart wrote that “while the derailment ... did not result in a fire or injuries, about 50,000 gallons of crude oil was released into a navigable waterway, affecting environmentally sensitive areas. Residents within a ½-mile radius of the scene had to be evacuated.” Other accidents specifically releasing non-Bakken oil include the May 9, 2014 derailment of a train in La Salle, Colorado (which spilled 6,500 gallons

³ Federal Railroad Administration Office of Safety, Accident Investigation Report HQ-2008-70, https://www.fra.dot.gov/eLib/details/L01913#p1_z5_gD_IAC_kluther, accessed on September 22, 2014.

⁴ For example, see “Luther Ok Explosion,” <https://www.youtube.com/watch?v=sIY1a8-6qgg>; “Train Derails, Explodes in Okla. County,” <https://www.youtube.com/watch?v=r1qSA9JXzVw>; “Train Explosion,” https://www.youtube.com/watch?v=xn_GSxTDnyc. All accessed on September 22, 2014.

⁵ National Transportation Safety Board, Investigator-in-Charge Factual Report, Norfolk Southern Railway Company Train Derailment with Hazardous Materials Release (Accident No.: DCA-12-MR-006).

⁶ *Supra* at note 7, p. 9, 26-27.

⁷ Theodore Decker, “Federal transportation inspectors arrive at train derailment scene,” *Columbus Post-Dispatch*, July 11, 2012, <http://www.dispatch.com/content/stories/local/2012/07/11/train-derails-ignites-near-fairgrounds.html>, accessed September 22, 2014.

⁸ *Supra* at note 6, “Train Explosion,” at 1:40.

of crude from the Niobrara Basin), and the 103,000-liter (about 25,000-gallon) spill of North Alberta crude in White River, Ontario following an April 3, 2013 derailment.

Large Volumes of Non-Bakken Oil are Already Delivered by Rail

West Coast Refineries and Transloading Facilities

West Coast refineries, particularly those in California that make up a majority of the region's refining capacity, are configured to use heavier grades of crude oil than the oil that is produced in the Bakken region.⁹ (Table 1). Railroads, in turn, have expanded their capacity to transport heavy Canadian crude to West Coast markets.¹⁰ As a result, it is likely that a substantial amount of the oil transported to the region by rail will originate outside the Bakken, and thus not be subject to the Department's advanced notification requirements.

We believe the Department should take into account market realities related to crude movement. On the demand side, it must consider the West Coast refining industries' historical use of heavier crude oil, which makes it likely that a substantial amount of the crude they buy from North American oil fields will be from outside the Bakken. On the supply side, there has been tremendous growth of crude-by-rail loading capacity outside the Bakken, for a variety of crude oils that would not be covered by the proposal.

California Energy Commission data (Table 2) illustrates the West Coast's reliance on non-Bakken crude oil alongside the rise of crude-by-rail shipments:

- **Crude-by-rail record:** California refineries received 3.64 million barrels of crude-by-rail in the first six months of 2014, up 662 percent from the same period in 2012. Crude-by-rail shipments in July of this year were greater than such deliveries for all of 2010.
- **Non-Bakken oil fuels crude-by-rail increase:** In each of the last 17 months reported to the Commission, crude from outside North Dakota – where Bakken oil production is centered – accounted for the majority of crude-by-rail deliveries to California refineries.
- **North Dakota oil accounted for a minority of shipments:** In 15 of the last 19 months in which data was available, North Dakota oil accounted for 30 percent or less of crude-by-rail deliveries to California refineries. In three of those months, North Dakota oil accounted for 10 percent or less of shipments, and as little as 7.4 percent.
- **Canadian oil accounts for a majority of shipments:** During the same period, Canadian oil accounted for 24 to 76 percent of crude-by-rail deliveries to California refineries. Most of these shipments involved Western Canadian Select (“WCS”), an oil blend from northern Alberta not subject to advanced notification requirements. Because WCS travels through Washington and Oregon, as well as Idaho and Montana, en route to California, SERCs in at least five states will not receive information about these shipments.

⁹ Lynn Doan and Dan Murtaugh, “Canadian Oil Rises as California Ships in a Record Amount by Rail,” *Bloomberg*, February 3, 2014, <http://www.bloomberg.com/news/2014-02-03/canadian-oil-rises-as-california-ships-in-record-amount-by-rail.html>, accessed September 22, 2014.

¹⁰ *Ibid.*

Going forward, crude-by-rail shipments to California refineries are expected to increase to as much as 150 million barrels annually by 2016 – equal to 25 percent of total oil deliveries to the state.¹¹ Given current and historical trends of crude supply, it seems likely that a substantial portion of these crude-by-rail deliveries will be non-Bakken oil that the proposal does not cover.

Similarly, Washington’s refineries buy WCS oil,¹² in line with their historical practice of processing crudes from Alaska’s North Slope (ANS).¹³ Refiners and third-party marketers increasingly “blend” WCS with Bakken crude to mimic ANS crude that their operations are optimized to use.¹⁴ Tesoro Corporation transports crude oil from Alberta by pipeline to its Anacortes refinery.¹⁵ Phillips 66’s Ferndale refinery also receives Canadian crude¹⁶ and has plans for a 30,000-barrel-per-day crude-by-rail receiving terminal.¹⁷ As Bakken rail shipments to these refineries grow, they will likely usher WCS rail shipments to meet greater blending needs.

Oregon and Washington have “trans-load” facilities where non-Bakken rail shipments are delivered, then sent by ocean-going vessel to West Coast customers. Tesoro has proposed a 360,000-barrel-per-day terminal in Vancouver, Washington, which would receive Colorado shale oils¹⁸ not covered by this proposal. In Oregon, a subsidiary of Arc Logistics Partners LP (“Arc”) began operating a crude oil terminal in Portland on the Willamette River. Arc receives oil from Utah via Union Pacific,¹⁹ which is not covered by the proposal. The company signed a 15-year lease on a facility with storage capacity of 1,466,000 barrels, and plans to invest \$10 million on infrastructure upgrades.²⁰ Descriptions of the lease in documents filed with the Securities and Exchange Commission suggest that the site is likely to be further expanded, meaning greater volumes of non-Bakken Utah oil could be delivered there. (Attachment A)

Billions of dollars have been invested in building oil train loading- and unloading facilities across North America at the same time rail networks have been expanding. Regardless of pipeline construction, crude-by-rail will not be confined to carrying Bakken oil. The attached maps show crude-by-rail-loading facilities in seven states and two Canadian provinces outside of the Bakken region (Attachment B). These maps also show there is currently twice as much oil-loading capacity outside the Bakken as within it, and non-Bakken oil-loading capacity is projected to grow more quickly than Bakken oil-loading between now and 2016. The Department must recognize these dynamics in its proposal.

¹¹ Governor’s Proposed Budget Summary 2014-15, State of California, p. 119, <http://www.ebudget.ca.gov/2014-15/pdf/BudgetSummary/NaturalResources.pdf>, accessed September 22, 2014.

¹² John-Laurent Tronche, et al., *West Coast refiners change crude slate*, Platts Oilgram News, May 19, 2014, available from LexisNexis.

¹³ See, for example, BP plc, <http://www.bp.com/en/global/corporate/about-bp/bp-worldwide/bp-in-america/our-us-operations/refining/refineries.html>, accessed September 22, 2014.

¹⁴ John R. Auers and John Mayes, “North American production boom pushing crude blending,” *Oil & Gas Journal*, May 6, 2013, <http://www.ogj.com/articles/print/volume-111/issue-5/processing/north-american-production-boom-pushes.html>, accessed September 22, 2014.

¹⁵ Tesoro Corporation, Form 10-K for the fiscal year ended December 31, 2013, February 24, 2014 p. 8.

¹⁶ Phillips 66 Form 10-K for the fiscal year ended December, 31, 2013, February 21, 2014, p. 10 & 49.

¹⁷ Phillips 66, Analyst meeting transcript, April 10, 2014, http://www.phillips66.com/EN/investor/presentations_ccalls/Documents/2014-analyst-mtg-transcript.pdf, accessed September 22, 2014.

¹⁸ Lynn Doan, *Bloomberg*, Global Partners Rail Terminal Approved as Tesoro Waits, August 20, 2014, <http://www.bloomberg.com/news/2014-08-20/global-partners-rail-terminal-approved-as-tesoro-waits.html>, accessed September 22, 2014.

¹⁹ Tony Schick, “Oil trains now delivering Utah crude to Portland,” *Oregon Public Broadcasting*, May 16, 2014, <http://earthfix.opb.org/energy/article/trains-carrying-utah-crude-oil-destined-for-portla/>, accessed September 22, 2014.

²⁰ Arc Logistics Partners LP, Form 10-Q for the quarterly period ended March 31, 2014, May 9, 2014, p. 20.

Oil Price Differentials and their Impact on Oil Distribution

It also would be appropriate for Department's proposed rule to recognize the effect of increasingly dynamic nature of North American oil markets, and margins, or "spreads", between different oils and basins has on oil shipping. The inherent network flexibility of railroads allows for basin-to-basin switching that buyers and sellers use to seek out the best prices. As such, large volumes of non-Bakken oil could quickly begin flowing through communities anywhere in the nation that previously had no such shipments. Price swings can be sustained for varying amounts of time for reasons ranging from fundamental supply-demand changes to speculation, capacity limitations, geopolitics and weather.

The spread between WCS and West Texas Intermediate (Table 3) contributed to the rapid influx of Canadian crude into West Coast refineries discussed above. However, the state's refineries not only shifted short-term purchasing patterns, but long-term capital investments. Kinder Morgan jettisoned a proposed pipeline from the Permian Basin to California due to a lack of interest from potential refining customers.²¹ A refining industry official was quoted by *Reuters* as saying, "I think we're more interested in trying to move heavy Canadian crude down to California to process in our refineries." Since that time, California Energy Commission data also show that the volume of crude-by-rail deliveries to California from New Mexico, whose Lea County wells would have fed into the Kinder Morgan's pipeline, has nearly tripled.²²

The Path Forward

The advanced notification requirement is a critical part of the Department's proposal and we support its inclusion in a proposed rule. In response to questions posed in the proposal, we agree that reporting information to SERCs is a sensible approach, and that measures should be put in place to protect security-sensitive information. However, restricting information-sharing by SERCs would be counterproductive to the proposal's intent – alerting first responders of flammable materials traveling through their communities. Security also should be of high concern, but it is worth noting that railroads provide information about their crude-by-rail routes –though not volume information critical for emergency-response planning – on their websites. It seems counterintuitive to advertise route information to potential customers and investors, while objecting to the release of volume information to local first responders.

Our general support for advanced notification requirements does not diminish our concern that the proposal falls short in its current form. It fails to cover non-Bakken oil shipments, smaller shipments of oil that could, in Acting Chairman Hart's words, "have disastrous consequences, including devastating environmental contamination," and other flammable materials that pose a danger to communities.

To address these concerns, the Department should (1) expand the advanced notification requirement to include all Class 3 flammable liquids, not just oil shipments from the Bakken

²¹ Kristen Hayes, "Kinder Morgan shelves Texas-to-California pipeline plan," *Reuters*, May 31, 2013, <http://www.reuters.com/article/2013/05/31/kindermorgan-pipeline-california-idUSL2N0EC1JA20130531>, accessed September 22, 2014.

²² See Table 2

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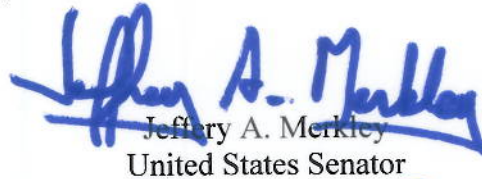
region, and (2) lower the volumetric threshold for reporting to no higher than 20 carloads of flammable materials, equivalent to High-Hazard Flammable Trains defined the proposal.

Thank you for your attention to this important matter, and for your continued work protecting communities from transportation hazards. Please do not hesitate to contact our offices if we can provide additional information or be of further assistance.

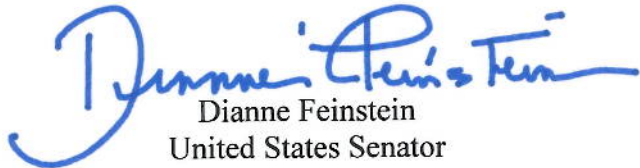
Sincerely,



Ron Wyden
United States Senator



Jeffrey A. Merkley
United States Senator



Dianne Feinstein
United States Senator



Barbara Boxer
United States Senator

Table 1: Refinery Crude Oil Input Qualities by Region (weighted average API gravity)

Year	East Coast (PADD 1)	Midwest (PADD 2)	Gulf Coast (PADD 3)	Rocky Mountains (PADD 4)	West Coast (PADD 5)
2004	32	31.96	29.7	32.54	27.69
2005	32.39	31.96	29.66	32.48	27.67
2006	32.25	32	30.09	32.94	27.91
2007	32.21	32.26	29.85	32.58	28.29
2008	32.34	32.54	29.54	32.44	27.46
2009	32.45	32.76	29.55	33.1	27.79
2010	33.48	33.27	29.94	33.42	27.69
2011	33.09	33.24	30	33.19	27.59
2012	33.41	33.14	30.66	33.68	27.55
2013	34.46	33.16	30.01	33.85	27.85

Source: Energy Information Administration, http://www.eia.gov/dnav/pet/pet_pnp_crq_a_EPC0_YCG_d_a.htm

Table 2: Crude Oil Delivered to California Refineries By Rail 2012-2014

	Colorado	North Dakota	New Mexico	Utah	Wyoming	Canada	Others	Total Crude by Rail Deliveries
Jan-12	-	16,034	7,196	-	-	35,755	-	58,985
Feb-12	-	25,266	6,362	-	-	19,616	-	51,244
Mar-12	-	70,706	8,987	-	-	-	7,473	87,166
Apr-12	-	29,874	17,176	-	-	11,124	-	58,174
May-12	-	48,082	17,758	-	-	10,543	11,945	88,328
Jun-12	-	47,020	19,924	-	-	2,248	-	69,192
Jul-12	-	91,261	16,522	-	-	18,831	9,450	136,064
Aug-12	-	134,475	13,866	-	-	63,163	8,339	219,843
Sep-12	-	100,116	6,578	-	-	22,969	-	129,663
Oct-12	-	42,189	14,052	-	-	7,646	-	63,887
Nov-12	-	36,859	11,970	-	-	1,674	124	50,627
Dec-12	-	62,325	12,927	-	-	-	-	75,252
Jan-13	5,861	119,450	21,382	-	-	4,774	4,373	155,840
Feb-13	13,582	206,172	37,861	-	6,683	23,900	8,338	296,536
Mar-13	34,717	94,695	41,888	-	10,771	58,405	605	241,081
Apr-13	67,291	103,954	38,361	-	-	126,234	5,750	341,590
May-13	87,951	128,209	33,636	-	-	185,172	11,259	446,227
Jun-13	69,959	93,317	32,858	-	7,967	206,978	-	411,079
Jul-13	73,023	46,946	38,768	-	5,083	306,432	11,172	481,424
Aug-13	54,926	50,830	36,045	-	12,901	354,135	738	509,575
Sep-13	14,990	165,296	34,186	-	19,544	222,983	-	456,999
Oct-13	-	152,382	36,490	-	96,718	597,861	-	883,451
Nov-13	23,383	100,352	22,741	-	53,657	676,161	16,015	892,309
Dec-13	55,025	87,079	37,509	-	228,074	709,014	63,961	1,180,662
Jan-14	28,053	82,620	51,136	21,490	18,878	372,277	9,376	583,830
Feb-14	642	71,541	63,538	44,794	45,612	200,125	9,283	435,535
Mar-14	1,661	122,885	58,407	42,930	35,069	132,872	1,229	395,053
Apr-14	25,969	121,000	65,818	51,621	42,829	249,906	172	557,315
May-14	12,352	183,189	71,901	44,202	42,856	267,624	173	622,298
Jun-14	15,830	121,057	78,829	82,115	9,043	200,065	39,074	546,013
Jul-13	39,451	123,422	95,840	124,781	9,545	97,419	17,110	507,568

Source: California Energy Commission,

http://energyalmanac.ca.gov/petroleum/statistics/2014_crude_by_rail.html

Quarter	Western Canada Select	West Texas Intermediate	WCS-WTI Spread
1Q08	\$ 75.98	\$ 97.86	\$ 21.88
2Q08	\$ 102.24	\$ 123.80	\$ 21.56
3Q08	\$ 100.68	\$ 118.23	\$ 17.55
4Q08	\$ 39.72	\$ 59.06	\$ 19.34
1Q09	\$ 30.09	\$ 43.18	\$ 13.09
2Q09	\$ 44.01	\$ 59.69	\$ 15.68
3Q09	\$ 49.79	\$ 68.14	\$ 18.35
4Q09	\$ 55.09	\$ 76.03	\$ 20.94
1Q10	\$ 60.26	\$ 78.84	\$ 18.58
2Q10	\$ 55.44	\$ 77.88	\$ 22.44
3Q10	\$ 52.23	\$ 76.09	\$ 23.86
4Q10	\$ 60.69	\$ 85.16	\$ 24.47
1Q11	\$ 72.41	\$ 94.41	\$ 22.00
2Q11	\$ 84.72	\$ 102.28	\$ 17.56
3Q11	\$ 75.05	\$ 89.51	\$ 14.46
4Q11	\$ 81.56	\$ 94.03	\$ 12.47
1Q12	\$ 75.82	\$ 102.99	\$ 27.17
2Q12	\$ 73.53	\$ 93.30	\$ 19.77
3Q12	\$ 76.75	\$ 92.16	\$ 15.41
4Q12	\$ 61.32	\$ 88.17	\$ 26.85
1Q13	\$ 66.99	\$ 94.30	\$ 27.31
2Q13	\$ 77.48	\$ 94.14	\$ 16.66
3Q13	\$ 83.10	\$ 105.82	\$ 22.72
4Q13	\$ 66.34	\$ 97.56	\$ 31.22
1Q14	\$ 77.76	\$ 98.65	\$ 20.89
2Q14	\$ 83.78	\$ 103.06	\$ 19.28

Source: Bloomberg data

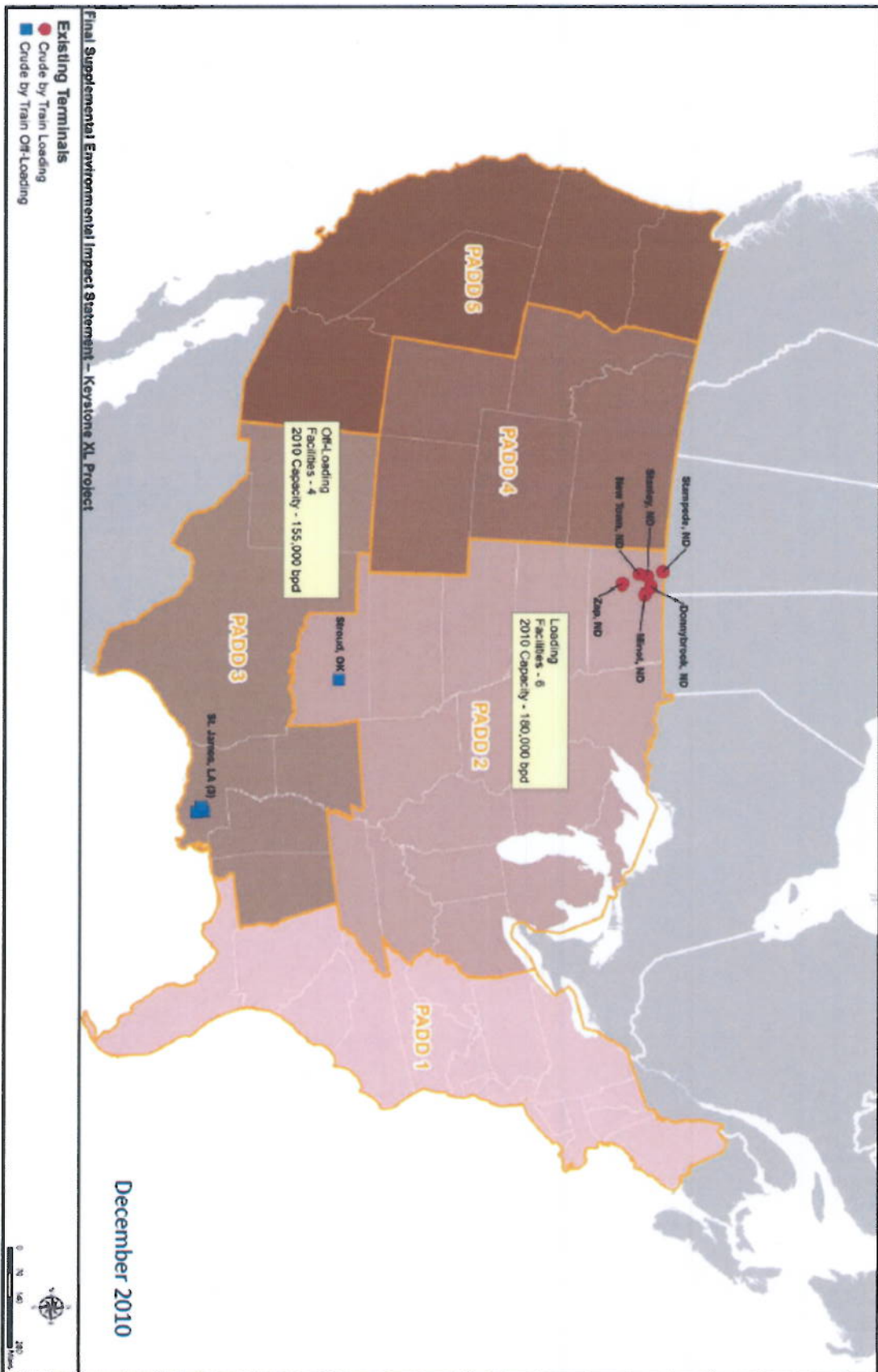
Attachment A

Summary of Portland Terminal Lease Terms

Base Rent	Variable Rent
<ul style="list-style-type: none"> • Arc’s initial base rent started at \$230,000 a month; • In July 2014, the base rent is increased to \$417,522 a month through the end of the lease’s fifth year; • The base rent will increase by a factor of 0.00958 each month after August, 2014 for construction costs incurred by the lessor, LCP Oregon Holdings LLC, which is estimated at \$10 million; • After the capital improvements are completed, the base rent would increase about \$95,800 per month; • At the end of year five of the agreement, the base rent will increase by the change in the consumer price index (“CPI”) for the first five years of the lease; • Every year after the fifth year, the base rent would change by the two percent or the change in the CPI, whichever is greater. 	<p>While the base rent would not be influenced by the flow of hydrocarbons into the Portland Terminal, the lease includes a provision that escalates monthly lease payments based on volume. The variable rent would be triggered when hydrocarbon volume surpasses 12,500 barrels per day of oil equivalent (about 18 carloads of oil). The variable rent is capped at 30% of the base rent payments no matter the total volume. That suggests that variable rent could reach or exceed \$153,000 each month after the capital improvements are completed by the lessor.</p>
<p>Source: Arc Logistics Partners LP, Form 10-Q for the quarterly period ended March 31, 2014, May 9, 2014, p. 20,</p>	

Attachment B

Crude-by-Rail Facilities in December, 2010



Crude-by-Rail Facilities in December, 2013

