

United States Senate

WASHINGTON, DC 20510

June 10, 2014

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

Dear Acting Chairman Hart:

We write seeking the National Transportation Safety Board's (NTSB) expertise regarding concerns we have with the Department of Transportation's emergency restriction/prohibition order DOT-OST-2014-0067 ("emergency order") setting notification requirements for railroads transporting crude oil from the Bakken shale formation in the Williston Basin ("Bakken region").

The emergency order was an important step toward improving communication between railroads and state governments, which we hope will lead to safer transportation of crude oil on railroads. However, we remain concerned that the emergency order does not go far enough in providing critical information that would allow first responders to better protect the public from a potentially catastrophic accident. In recent months, we met with first responders and community leaders in Portland and Bend, Oregon. The message during those meetings, and throughout Oregon, has been clear and consistent— fire departments need more information about oil train shipments to adequately prepare for a potential accident. In its current form, the emergency order leaves these communities with significant information gaps about large volumes of oil being transported from oil basins other than the Bakken region, which comprises North Dakota, Montana, and southern Saskatchewan.

Railroads have played an important role helping the United States reach its highest level of domestic oil production since 1988. Energy companies have increasingly relied on railroads' contractual and geographic flexibility to move oil from interior oil fields to coastal refineries, resulting in the cancellation of proposed pipeline projects. With the Association of American Railroads reporting a more than 4,000% increase in crude-by-rail carloads since 2008, North American networks are now crowded with oil trains crisscrossing the continent, passing through communities large and small, like the ones we have heard from in Oregon.

Much of the attention in the press and among regulators has focused on oil from the Bakken region. However, the attached maps developed by the Department of State show that the proliferation of oil-loading facilities reaches far beyond the Bakken region (see Attachment A). The map shows that loading facilities are located in at least seven states and two Canadian provinces outside of the Bakken region. These maps also show there is currently twice as much oil-loading capacity outside the Bakken as within it, and that non-Bakken oil-loading capacity is projected to grow more quickly than Bakken oil-loading between now and 2016.

We believe the broad geographic extent of crude-by-rail growth deserves more attention, and we continue to question the emergency order's narrow requirement that railroads only provide information regarding oil produced in the Bakken region. While we recognize that a great deal of crude-by-rail shipments are transported in unit trains comprising 100 tank cars or more, we are concerned that the emergency order's 1,000,000-gallon (roughly 35 tank cars) notification threshold still may be too high. Crude oil also is transported through Oregon – and other states – in mixed-freight trains that, in the case of an accident, spill or fire, could pose significant challenges for first responders.

We appreciate the leadership role that the NTSB has taken on these issues, and we ask that you please respond to the following questions related to the transport of crude oil on railroads:

1. The emergency order covers only “crude oil ... sourced from the Bakken shale formation in the Williston Basin.” However, the market for crude-by-rail is not limited to the Bakken, as demonstrated by the attached maps, which show that nearly twice the volume of oil is transported from North American oil-producing regions outside the Bakken region as within it:
 - a. Does the NTSB share our concern that crude oil produced outside of the Bakken and transported on railroads poses potential hazards in the case of an accident?
 - b. If so, what are examples of hazards that non-Bakken crude pose to first responders and the public?
2. We are concerned that the 1,000,000-gallon notification threshold in the emergency order may not sufficiently capture smaller cargoes of crude oil, and that such smaller cargoes could pose dangers of serious accidents or significant spills involving crude oil transported on railroads:
 - a. Please list accidents within the last 10 years that the NTSB has investigated – or is investigating – that involved the release of less than 1,000,000 gallons of crude oil or other flammable materials, and resulted in a substantial spill, fire or explosion. Please provide available information about injuries or deaths, property damage, the number of cars that ruptured, the volume of cargo that was being transported and the origin of the cargoes.
 - b. Please list any accidents the NTSB is aware of that occurred in Canada within the last five years involved the release of less than 1,000,000 gallons of crude oil or other flammable materials, and resulted in a spill, fire or explosion. Please provide available information about injuries or deaths, property damage, the number of cars that ruptured, the volume of cargo that was being transported and the origin of the cargoes.
 - c. Is the NTSB aware of any accidents in the United States, Canada, or Mexico within the last five years that involved a mixed freight or non-unit trains resulting in a spill of crude oil or flammable materials?
3. As noted above, first responders from throughout Oregon told us in recent meetings that they need more consistent and detailed information from railroads about shipments of crude oil through their towns and communities.
 - a. Please list any outstanding Board recommendations related to greater transparency, information sharing or similar topics involving the transportation of


flammable or hazardous materials. Has the Department of Transportation satisfactorily addressed any such recommendations?


- b. What testimony has the NTSB received regarding greater transparency, information sharing or similar topics involving the transportation of flammable or hazardous materials? Please detail the source of any such testimony and the main points related to the topic of transparency or information sharing.
- c. Why does the NTSB believe that greater transparency or information sharing for flammable or hazardous material cargoes could help first responders in the case of an accident?

Please provide answers to these questions no later than the close of business on June 24, 2014. If you or your staff has questions, please contact Peter Gartrell on Senator Wyden's staff at (202) 224-5244 or Elizabeth Cooney on Senator Merkley's staff at (202) 224-3753.

Thank you for your attention to this important issue.

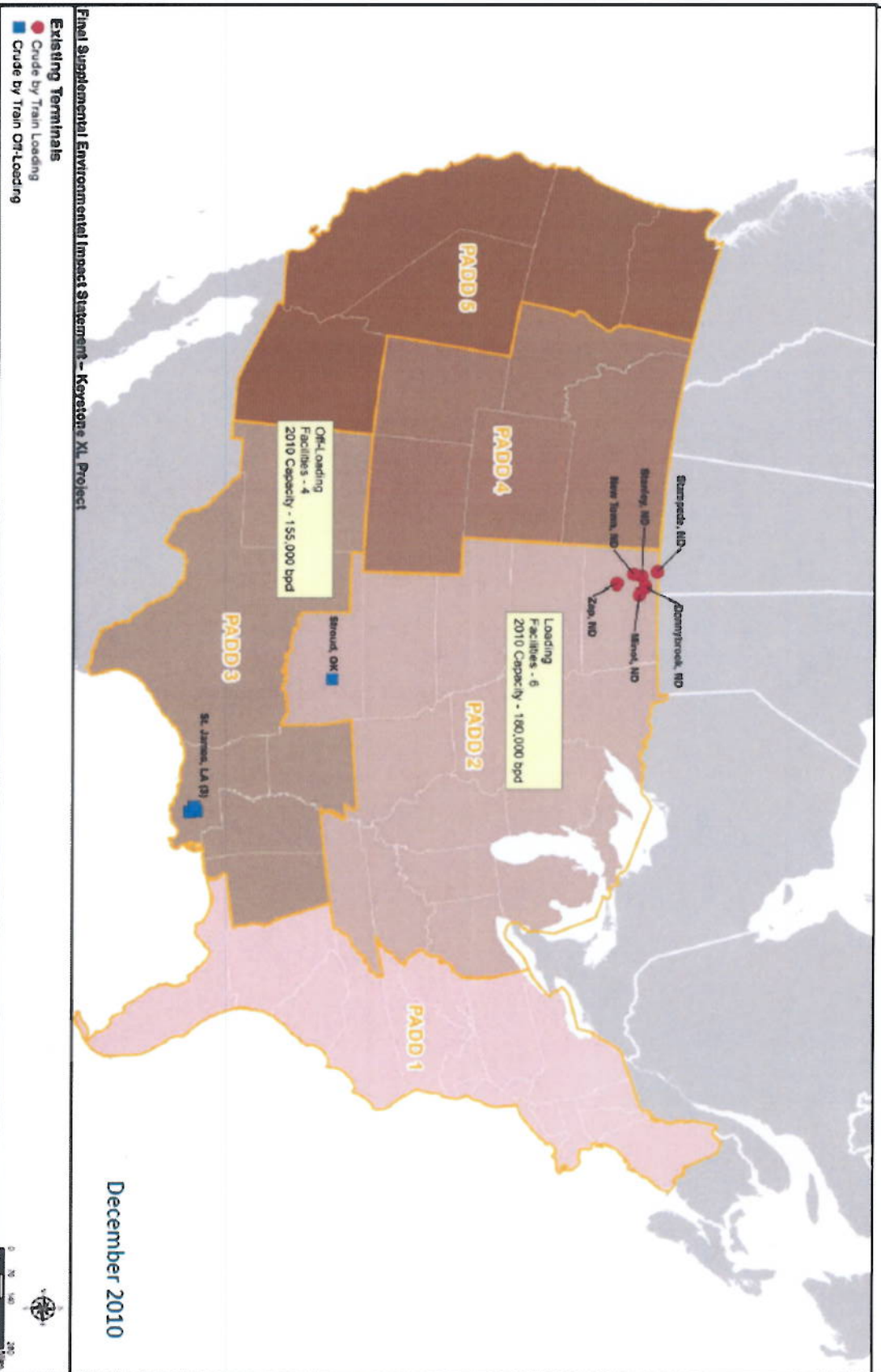
Sincerely,


Ron Wyden
United States Senator


Jeffrey A. Merkley
United States Senator

Attachment A

Crude-by-Rail Facilities in December, 2010



Crude-by-Rail Facilities in December, 2013

