

# United States Senate

WASHINGTON, DC 20510

June 22, 2016

Sarah E. Feinberg  
Administrator  
Federal Railroad Administration  
1200 New Jersey Avenue, SE  
Washington, D.C. 20590

Dear Administrator Feinberg:

We are writing to express our strong objections regarding Union Pacific's intention to resume crude oil unit train traffic through the Columbia River Gorge less than a month after a fiery derailment on June 3, 2016 in Mosier, Oregon.

We urge the Federal Rail Administration (FRA) to use the emergency order authority outlined in 49 U.S.C. 20104 to put in place safeguards for unit trains transporting hazardous materials through the Columbia River Gorge. Specifically, we request that the FRA place a moratorium on unit trains transporting crude oil and other hazardous materials through the Gorge until the FRA has issued a final investigative report for the Mosier accident, and has ensured all steps have been taken to prevent similar accidents from occurring in the future. Additionally, if unit trains transporting hazardous materials do resume travel through the Gorge, we ask that speed restrictions be put in place, and additional track inspections be required immediately preceding the unit trains.

The FRA is authorized to issue emergency orders where an unsafe condition or practice, or a combination thereof, "causes an emergency situation involving a hazard of death, personal injury or significant harm to the environment ..." (49 U.S.C. 20104). These orders may immediately impose "restrictions and prohibitions ... that may be necessary to abate the situation." (*Ibid.*) We believe this moratorium and additional safety requirements are necessary to ensure the safety of our communities, constituents, and ecological resources.

On a national level, FRA noted last year that "despite efforts by DOT, the railroad industry, tank car manufacturers, and other interested parties, trains transporting large quantities of petroleum crude oil and ethanol continue to derail in this country."<sup>1</sup> Such accidents have been numerous. The *Associated Press* reported after the Mosier accident that "at least 26 oil trains have been involved in major fires or derailments during the past decade."<sup>2</sup> And while much has been made of the decline in crude-by-rail traffic in the shadow of lower oil prices, 325,000 carloads of crude oil crisscrossed the United States last – 16 times what was shipped in 2010. The most recent

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<sup>1</sup> Federal Railroad Administration, *Emergency Order Establishing a Maximum Operating Speed of 40 mph in High-Threat Urban Areas*, FRA 30-1, April 7, 2015, [https://www.fra.dot.gov/eLib/details/L16319#p1\\_z25\\_gD\\_ISO](https://www.fra.dot.gov/eLib/details/L16319#p1_z25_gD_ISO).

<sup>2</sup> Gillian Flaccus, "Oregon Train Derailment Spills, Oil, Sparks Fire," *The Associated Press*, June 3, 2016, <http://bigstory.ap.org/article/726c0199cc9e4e309014f8816ac3527a/oregon-train-derailment-spills-oil-sparks-fire>. Accessed June 22, 2016.

monthly figures from the Energy Information Administration show that crude-by-rail shipments ticked upward in March.

In Oregon, and the Columbia River Gorge, in particular, there are unique reasons for additional safety measures. The Gorge has unique environmental, economic, cultural and tribal importance. Unit trains travel on tracks that pass through and near many small towns that are not well-equipped to deal with the type of fire that occurred in Mosier. The Gorge was designated a national scenic area in 1986, and is adjacent to the Mark O. Hatfield Wilderness, both of which are protected by federal law. The Gorge also is bisected by the Columbia River, which is home to important fishing grounds for Columbia River Treaty Tribes, as well as endangered species subject to federal protection. In addition, the Gorge is a top destination for outdoor activities and tourism that are important economic drivers for the state and region.

The impacts of the Mosier oil train derailment were 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 not only disrupted commerce, but hindered the response of first responders to the scene, which could have compounded the incident's effects. The evacuation zone included a community school with 200 children, as well as roughly 100 nearby households. Oil from the wreck leaked into the sewer treatment plant, forcing its closure.

Furthermore, the derailment damaged sewer pipes running beneath the track, which required weeks of repairs, and sewage to be 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, we have heard from residents, local elected officials, conservation groups, and other stakeholders about what could have happened if the train derailed within the town, adjacent to the Columbia River, or if it hadn't occurred on an uncharacteristically windless day.

We are committed to improving the safety of rail traffic, and we request that the FRA thoroughly address specific concerns arising from this accident. To better understand this incident and related issues, we request the FRA examine these and other important questions:

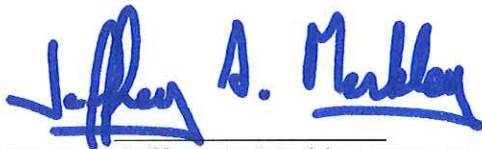
1. Preliminary findings by the Oregon Department of Transportation (ODOT) and Union Pacific is that the likely cause of the derailment was a broken "lag bolt," which allowed the rails to spread, and led to the car's wheels moving off the rail.
  - a. What caused the lag bolt, or multiple lag bolts, to fail?
  - b. How old were the lag bolts on this section of track? How old were the plates? How old were the rail ties? How old were the rails?
  - c. Why did the most recent inspections in Mosier fail to detect the failed bolts?
  - d. How has metal fatigue been incorporated into the analysis?
  - e. How often do inspections identify failed lag bolts?



- f. What is the most effective inspection for this issue and how often is it currently required?
    - g. What additional safeguards can be implemented to reduce the failure rate or to replace this fastening system?
  2. In 2015, the Transportation Safety Board of Canada Petroleum wrote that “petroleum crude oil unit trains with heavily loaded tank cars will tend to impart higher-than-usual forces to the track infrastructure during their operation. These higher forces expose any weaknesses that may be present in the track structure, making the track more susceptible to failure.”<sup>3</sup>
    - a. Do you agree with the Transportation Safety Board’s assessment that “higher forces expose any weaknesses that may be present in the track structure, making the track more susceptible to failure?”
    - b. How does the FRA model the added risk of derailment of track curvature, thermal expansion, and additional forces from oil trains?
    - c. Given the drastic increases in unit trains transporting crude oil and ethanol, what steps has FRA taken – or plan to take – to strengthen track inspection and integrity standards?
    - d. What, if any, steps has the Department of Transportation considered to reduce the higher forces being exerted by unit trains?
  3. Mosier often has strong winds -- 25 miles-per-hour or more. The region also is often at high risk of brush and forest fires during the summer.
    - a. How are weather conditions along routes taken into consideration as part of emergency planning?
    - b. Do emergency plans take into account local water resources to address hydrocarbon fires?

Thank you for considering an emergency order regarding the transportation of hazardous materials unit trains in the Columbia River Gorge, as well as your continued work to improve railroad safety.

Sincerely,



Jeffrey A. Merkley  
United States Senator



Ron Wyden  
United States Senator

<sup>3</sup> Transportation Safety Board of Canada, *Rail Safety Advisory Letter from Kirby Jang to Brigitte Diogo*, April 15, 2015, <http://www.tsb.gc.ca/eng/medias-media/communiqués/rail/2015/r15h0021-20150317.asp>