



Legislative Building  
Olympia, WA 98504-0482

## Washington State Senate

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June 19, 2014

Hon. Anthony Foxx  
Secretary  
U.S. Department of Transportation  
1200 New Jersey Ave, SE  
Washington, DC 20590

Mr. Matt Rose  
Chief Executive Officer  
Burlington Northern Santa Fe Railway Company  
2650 Lou Menk Drive  
Fort Worth, TX 76131-2830

Mr. John Koraleski  
Chief Executive Officer  
Union Pacific Corporation  
1400 Douglas Street  
Omaha, NE 68179

Re: Request for Disclosure of All Bakken Crude Oil Shipments by Rail through  
Washington State Communities

Dear Secretary Foxx, Mr. Rose, and Mr. Koraleski:

We were pleased to learn through press reports today that it is the view of the United States Department of Transportation (USDOT) that the reports submitted to state emergency response commissions (SERCs) per USDOT's May 7 emergency order are not sensitive security information that must be withheld from the public, including communities along the routes of these shipments of crude oil from the Bakken formation. As state legislators we worked hard to pass state legislation in the recently concluded session of the Washington State Legislature that would have provided for transparency regarding petroleum shipments through our communities, but that legislation did not pass. This letter urges both that the Burlington Northern Railroad and Union Pacific Railroad not attempt to block the public's access to this information, and further urges that future reports address all rail shipments of Bakken crude oil, whether or not the shipments exceed the May 7 order's threshold of one million gallons.

With regard to the public's access to this information, we are very mindful that the cities, counties, fire districts, and other local governments across Washington State with emergency

response capacity must develop their budgets for emergency response personnel, equipment, and training based upon the array of risks that are specific to their community. In developing this capacity, they invariably must involve their citizens in an informed dialogue regarding the allocation of the local government's limited fiscal resources. For this reason we believe it is very important that the elected officials who establish the budget and policy oversight for first response agencies, as well as the citizens who elect those officials, have access to the same information that the USDOT order requires to be provided to SERCs and other state and local emergency response agencies.

Here in Washington our state attorney general has advised our SERC, the Washington Military Department's Emergency Management Division, that the information submitted to the state is subject to the state's Public Records Act's, and that there are no applicable exemptions to that Act's requirement that it be subject to public disclosure. However, the Burlington Northern Railroad has refused to acknowledge this through a proposed agreement offered by the state.

It is further our understanding that at present the Emergency Management Division has not yet responded to pending public disclosure requests, to allow the Burlington Northern Railroad to seek a judicial ruling to block such public disclosure. For all of the foregoing reasons, we urge that Burlington Northern not seek to block public disclosure, and acknowledge, as has the USDOT, that this information does not contain sensitive security information, and, indeed, contains important information needed by local governments and their citizens to adequately plan for the allocation of local emergency response resources to address potential responses to incidents involving the increasing volume of Bakken crude rail shipments through their communities.

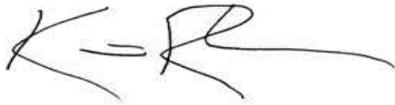
In addition, we urge the USDOT to amend its May 7 order to require that these reports address the shipment of all Bakken crude oil, including shipments that may be less than one million gallons on a train. The current reporting threshold in the May 7 order means that shipments on a train of any less than about 35 rail tank cars need not be included, yet several recent derailments and spills and/or explosions of crude oil involved fewer tank cars while causing considerable damage. Indeed, the Union Pacific Railroad (UP) submitted no report to Washington's SERC for June, indicating it did not anticipate shipments on a single train that would exceed the one million gallon threshold. Yet it is our understanding that UP makes regular shipments of crude oil within the state, apparently in mixed freight trains.

An incident involving release and ignition of Bakken crude from even one rail car could potentially cause the loss of life and severe damage in some of our densely populated communities through which the UP lines run. Therefore, it is important that the reports include all Bakken crude shipments, as multiple mixed freight trains that include Bakken crude-laden tank cars also pose significant risks that should also be considered as our communities develop their emergency response capacity and plans.

Therefore, in summary, we urge: (1) that Burlington Northern Railroad acknowledge that the reported information is subject to public disclosure, as provided in the proposed agreement offered by Washington; and (2) that the USDOT amend its May 7 order to require that the

reports include all anticipated Bakken crude shipments, while continuing to distinguish the total trains that exceed the one million gallon threshold. If not required by the USDOT, we nevertheless request that both Burlington Northern and Union Pacific voluntarily include such information in future monthly reports.

Sincerely,

Handwritten signature of Kevin Ranker, consisting of stylized initials 'K-R' followed by a horizontal line.

Kevin Ranker  
Washington State Senator

Handwritten signature of Christine Rolfes in cursive script.

Christine Rolfes  
Washington State Senator