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March 6, 2015

The Honorable Anthony R. Foxx  
Secretary of Transportation  
United States Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, D. C. 20590

RE: Rail Safety – Expedited Action Requested

Dear Secretary Foxx:

The League of California Cities has been monitoring transport of crude oil and other hazardous materials by rail for several months, and has recently adopted as its policy several goals for safety improvements based on input from our key state agencies. We believe that implementation of these rail safety improvements should be expedited at the federal level to accomplish improved rail safety as soon as possible.

The continued increase in the transport of crude oil by rail, combined with recent rail accidents involving oil spills and resulting fires, has served to heighten concerns about rail safety among many of our member cities. Specifically, two derailments accompanied by fires involving unit trains (100 or more tank cars) carrying crude oil in West Virginia and in Ontario, Canada last month have greatly increased public anxiety about what steps the relevant federal regulatory agencies are taking to improve rail safety, and on what timetable.

The Board of Directors of the League of California Cities at its February 20, 2015 meeting adopted ten specific recommendations as official policy on this issue, which we now respectfully submit to you as priority items for improving rail safety, and by extension the public safety of the 482 California communities we represent. We have three points to emphasize in submitting these recommendations. First, irrespective of whether these improvements are required of railroads, petrochemical companies, hazardous materials shippers, or the owners or lessees of rail tank cars, we urge that they take the form of mandates, rather than the more traditional recommendations. Second, the mandates should be accompanied by the imposition of a hard deadline for their implementation. Third, we strongly recommend that the Department of Transportation include these recommendations for improved rail safety in the final rule for the Safe Transportation of Crude Oil and Flammable Materials.

### **League of Cities Policy Recommendations – Oil by Rail**

The League of Cities urges the federal agencies with appropriate jurisdiction (primarily the National Transportation Safety Board, the Federal Railroad Administration, and the Pipeline and

Hazardous Materials Safety Administration) to take the following actions to improve rail safety with respect to the transport of Bakken crude oil and other hazardous materials by rail:

- 1) **Mandate Electronically Controlled Braking Systems:** Require installation of electronically controlled, pneumatic braking systems (ECP) on trains carrying Bakken crude and ethanol by a date certain. This technology allows for faster and more efficient braking to a full stop.
- 2) **Expedite retrofit or phase-out of tank cars failing to meet current safety standards:** Require phase-out or retrofitting of older, DOT-111 tank cars manufactured prior to October 2011, to be completed by a date certain. The Association of American Railroads adopted higher manufacturing standards requiring greater structural integrity for these tank cars which took effect at that time to facilitate safer transport of flammable liquids, including ethanol and all crude oil.
- 3) **Mandate Provision of Real-Time Information to first responders in event of accidents:** Require via federal regulations that railroads and producers of petroleum and other hazardous materials shipped by rail make available to first responders, via a secure access portal on their websites, the cargo manifest information, or “consist,” on trains containing these substances. This information ideally should also be accessible via mobile applications, allowing rapid access by first responders to cargo manifest information in real time, particularly in accidents where the manifest is not available on the train.
- 4) **Federal funding for first responders:** Increase federal funding for training and equipment purchases for first responders, to improve their ability to respond to hazardous materials accidents.
- 5) **Mandatory Speed Limits:** Impose mandatory maximum speed limits in all areas.
- 6) **Mandate Stricter Reporting Requirements:** Lower the threshold for the number of tank cars that trigger a reporting requirement to the California Energy Commission and the State Emergency Response Commission, from 33 to 20. Currently petroleum producers and railroads only have to submit reports of trains carrying Bakken crude oil if the train includes 33 or more tank cars. Each tank car holds 34, 500 gallons. This will lower the trigger for the reporting requirement from shipments of 1.1 million gallons or more, to shipment of 690,000 gallons or more.
- 7) **Identify priority routes for positive train control (PTC):** PTC is an advanced technology incorporating GPS tracking to automatically stop or slow trains before an accident can occur. It is specifically designed to prevent train-on-train collisions, derailments due to excessive speed, and unauthorized movement of trains. Require PTC to be employed on all rail lines used for the transport of hazardous materials, with a date certain by which the technology will be online.
- 8) **Mandate railroad industry compliance with Individual Voluntary Agreement negotiated with the U.S. Department of Transportation by codifying the following actions as requirements:** (Note: The requirements below have been voluntarily agreed to by railroads, but there is currently no legal or regulatory requirement for their compliance. Such requirements should be codified, given their significant impact on rail safety)

- Reduced speed for crude oil trains with older tank cars going through urban areas
- Analyses to determine the safest routes for crude oil trains
- Increased track inspections
- Enhanced braking systems (electronically controlled pneumatic brakes) ECP
- Installation of wayside defective bearing detectors along tracks
- Better emergency response plans
- Improved emergency response training
- Working with communities through which oil trains must move to address community concerns

**9) Clear methodology for funding:** Devise a clear methodology on how funds are to be distributed, to ensure that sufficient funds pass through that state and county agencies to the local agencies involved in first response.

**10) Regulate the parking and storage of tank cars:** Mandate improved safety regulations addressing the storage or parking of tank cars in populated areas.

The League of California Cities understands that this area of regulation is largely pre-empted by federal law; that is why we are urging specific and timely action by the federal agencies charged with regulatory oversight in this area. We do not expect that derailments and accidents will cease altogether, but we anticipate that stricter safety standards will reduce their numbers over time.

Thank you for your attention to this matter. Please contact me or the League's Washington advocate, Leslie Pollner, at (202) 469-5149 with any questions. We look forward to continuing to work with you on California's important local priority issues.

Sincerely,



Christopher McKenzie  
Executive Director

cc: Senator Dianne Feinstein  
Senator Barbara Boxer  
Members of the California Congressional delegation  
Federal Railroad Administration  
National Transportation Safety Board