



January 9, 2014

The Honorable Mark Warner, Chairman
Senate Subcommittee on Surface Transportation and
Merchant Marine Infrastructure, Safety and Security Committee
475 Russell Office Building
United States Senate
Washington, DC 20510

The Honorable Roy Blunt, Ranking Member
Senate Subcommittee on Surface Transportation and
Merchant Marine Infrastructure, Safety and Security Committee
260 Russell Office Building
United States Senate
Washington, DC 20510

The Honorable Jeff Denham, Chairman
House Subcommittee on Railroads, Pipelines, and Hazardous Materials
1730 Longworth Office Building
United States House of Representatives
Washington, DC 20515

The Honorable Corrine Brown, Ranking Member
House Subcommittee on Railroads, Pipelines, and Hazardous Materials
2111 Rayburn Office Building
United States House of Representatives
Washington, DC 20515

Dear Senator Warner, Senator Blunt, Rep. Denham, and Rep. Brown:

On behalf of the Center for Biological Diversity and our more than 15,000 members and activists in the Northeast, we are writing to you today to ask for your urgent attention to a growing threat to the human and natural communities of the Lake Champlain area, the Adirondacks, and the Hudson River watershed. This threat is the rail transport of highly flammable, explosive North Dakota Bakken crude oil. In the wake of multiple train derailments in the last six months that have included enormous conflagrations of burning crude, millions of gallons of oil spilled into nearby water bodies, and horribly, in a single accident, dozens of mortalities, it is time for high-level oversight and intervention.

We ask for you to call for a moratorium on the rail shipment of Bakken crude in New York specifically, as well as the northeastern United States more broadly. We further ask for you to call for an in-depth review of all the risks posed by rail shipment of Bakken crude oil, including threats to the environment and public safety. While this assessment is conducted, Bakken crude oil must not be allowed to continue to flow through the “moving pipelines” that our railroad

routes have become. These tracks bisect our villages and towns, pass near our urban centers, cross our water sources, and in some places, literally dangle over the iconic lakes and rivers that make this part of the world a beautiful and special place to live.

At the present moment, hundred-car trains are carrying the same volatile cargo¹ southward along the western shore of Lake Champlain and to the Port of Albany that just last week exploded in the fiery derailment of a train at Casselton, North Dakota,² and two days ago prompted the evacuation of a New Brunswick town following a derailment and fire.³ Trains are also converging on Albany and the Hudson River Valley from west-east rail lines, and these also bear the same incendiary crude that has been involved in five major rail accidents since last summer. Plans are in the works to further escalate the amount of Bakken crude moving through upstate New York, as Albany and the Hudson River corridor become a major transportation funnel for oil shipped from the western United States and Canada to East Coast refineries.⁴ As much as one-quarter of the shale oil being produced in North Dakota may now be moving by rail to the Port of Albany.⁵

In addition to the derailment at Casselton last week, and Tuesday's train wreck in New Brunswick, in early November a train carrying 2.7 million gallons of Bakken crude derailed in Pickens County, Alabama.⁶ The ensuing explosion sent flames 300 feet into the air and oil spilled into a wetland feeding the Tombigbee River.⁷

And on July 6 last year, one of the worst train accidents ever in North America occurred at Lac-Mégantic, Quebec. A 72-tanker⁸ train carrying Bakken crude careened, unmanned, into town in the middle of the night, killing 47 people and incinerating the downtown area. Roughly 1.6 million gallons of crude oil spilled from the train, some of it reaching the lake that served as the focal point for this popular tourist town. Oil has been found as far as 74 miles downstream from the spill site.⁹

¹ Anderson, Eric. "Warning issued for crude oil: Agency says Bakken shale variety fire risk may be higher." *Albany Times Union*, Jan. 2, 2014. <http://www.timesunion.com/business/article/Warning-issued-for-crude-oil-5109728.php#photo-5674154>

² Nunez, Christina. "N.D. Oil Train Fire Spotlights Risks of Transporting Crude," *National Geographic Daily News*, Dec. 31, 2013, <http://news.nationalgeographic.com/news/energy/2013/12/131231-north-dakota-oil-train-fire/>

³ Ho, Solarina. "Evacuation Ordered as Train Carrying Crude Oil Derails, Catches Fire 35 Miles From Caribou." *Bangor Daily News*, Jan. 7, 2014. <http://bangordailynews.com/2014/01/07/news/world-news/evacuation-ordered-as-train-derails-catches-fire-in-new-brunswick/?ref=latest>

⁴ Anderson, Eric. "Hudson Valley's Crude Pipeline: Rail Traffic for Oil Delivery to East Coast Refineries through Albany Area is Rising." *Albany Times-Union*, Feb. 28, 2013. <http://www.timesunion.com/business/article/Hudson-Valley-s-crude-pipeline-4318641.php>

⁵ Anderson, Eric. "Oil Shipments are Albany-bound: North Dakota Crude Will Be Shipped by Rail to Port, Loaded on Barges." *Albany Times-Union*, Aug. 8, 2012. <http://www.timesunion.com/business/article/Oil-shipments-are-Albany-bound-3773979.php>

⁶ Karlamangla, Soumya. "Train in Alabama Oil Spill Was Carrying 2.7 Million Gallons of Crude." *Los Angeles Times*, Nov. 9, 2013. <http://articles.latimes.com/2013/nov/09/nation/la-na-nn-train-crash-alabama-oil-20131109>

⁷ "Train carrying oil derails, explodes in Alabama." *Al Jazeera America*, Nov. 8, 2013, <http://america.aljazeera.com/articles/2013/11/8/train-carrying-oilderailsexplodesinalabama.html>

⁸ McNish, Jacquie and Grant Robertson. "The Deadly Secret Behind the Lac-Mégantic Inferno." *The Globe and Mail*, Dec. 3, 2013. <http://www.theglobeandmail.com/report-on-business/industry-news/energy-and-resources/the-hazardous-history-of-the-oil-that-levelled-lac-megantic/article15733700/?page=all>

⁹ Beaudin, Monique. "Lac-Mégantic Oil Spill Even Worse Than First Feared, Investigation Shows." *Montreal Gazette*, Oct. 22, 2013.

Nationwide, crude-by-rail shipments increased 44 percent just between 2012 and 2103, according to the Association of American Railroads.¹⁰ Over the last five years the number of rail carloads of crude oil has increased by 40 times in the United States.¹¹

Some of the most scenic, ecologically important and historically significant landscapes and water bodies in the Northeast are now also at risk from the rapid escalation of crude oil transport out of the Bakken fields. Since 2012 rail transport of crude oil along the Canadian Pacific line in eastern New York has increased dramatically. In the last two years, the “Port of Albany has become a major transshipment point for Bakken crude.”¹² In addition to crude oil shipments on the Canadian Pacific line, CSX Transportation and Burlington Northern Santa Fe also ship Bakken crude by rail through the Albany area.¹³ Plans are in the works for a new rail yard and tanker car offloading facility downstream of Albany on the west bank of the Hudson River at New Windsor, New York. Oil is already moving by rail on the CSX line along the Hudson, to northern New Jersey. Industry plans include expansion of a second rail line to accommodate as many as five tanker trains a day.¹⁴

The Center for Biological Diversity is deeply concerned that the enormous increase of crude-by-rail transport along Lake Champlain and the Hudson River is not receiving adequate scrutiny with regard to its environmental and public health and safety risks. As a conservation organization we are very worried about the threat of a crude oil spill into Lake Champlain, one of the great ecological jewels of the Northeast. Also at risk are numerous wetlands, smaller streams and rivers, including, of course, the Hudson River itself. Many of these water bodies are home to sensitive aquatic life, as well economically valuable sport fisheries. The Lake Champlain Basin is regionally significant for its diversity of plants and wildlife; it supports some of the richest wetland complexes in the Northeast.¹⁵ Likewise, the upper Hudson River watershed is host to regionally significant habitat for anadromous fish and globally rare tidal freshwater wetland communities and plants. The Hudson River also supports other significant fish and wildlife species, including multiple state and federal listed species.¹⁶

We believe that railway transport of Bakken crude needs much broader oversight as a matter of public safety. The mayor of Casselton, North Dakota stated after the Dec. 30 train wreck: "There have been numerous derailments in this area. It's almost gotten to the point that it looks like not *if*

<http://www.montrealgazette.com/news/Mégantic+spill+even+worse+than+first+feared+investigation+shows/9063521/story.html>

¹⁰ Nunez, “N.D. Oil Train Fire...”

¹¹ Lavelle, Marianne. “Oil Train Tragedy in Canada Spotlights Rising Crude Transport by Rail.” July 8, 2013, National Geographic Daily News, <http://news.nationalgeographic.com/news/energy/2013/07/130708-oil-train-tragedy-in-canada/>

¹² Anderson, “Warning issued...”

¹³ Ibid.

¹⁴ Anderson, “Hudson Valley’s Crude Pipeline...”

¹⁵ Lake Champlain Basin Program. 2012. *State of the Lake and Ecosystems Indicators Report*.

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¹⁶ “Significant habitats and habitat complexes of the New York Bight Watershed: Upper Hudson River Estuary.” http://library.fws.gov/pubs5/web_link/text/upp_hud.htm

we're going to have an accident, it's *when*. We dodged a bullet by having it out of town, but this is too close for comfort."¹⁷

Among the towns and small cities the Canadian Pacific line passes through are Plattsburgh, Westport, Port Henry, Whitehall, Fort Edward, and Saratoga Springs. After the disasters at Casselton, Pickens County, Alabama and Lac-Mégantic, it is more than prudent to ask: What is the risk of allowing Bakken crude to travel by rail through these communities in upstate New York and down along the Hudson River? Should these pass-through towns have a say in this recent, dramatic change in the use of the rail routes that go through them? What hazards do derailments, spills and explosive fires like those seen in multiple locations in the last year pose to local residents, plants and wildlife, as well as our air and water?

Late last week in response to the recent spate of blazing derailments of trains carrying Bakken crude, the federal Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a rare safety alert,¹⁸ stating that crude oil produced in the Bakken region may be more flammable and therefore more dangerous than other types of crude oil. The alert included a reminder to emergency responders that light sweet crude, such as that from the Bakken region, has a flash point of below 73° F, and therefore “pose[s] significant fire risk if released from the package in an accident.” PHMSA is in the process of doing further testing of Bakken crude, to determine other characteristics such as corrosivity and hydrogen sulfide content. In the meantime PHMSA is reiterating regulatory requirements for proper classification and labeling of crude oil shipments.

Unfortunately PHMSA’s alert does nothing to reduce the risk of another disastrous derailment of a train carrying Bakken crude. Whereas the recent North Dakota and Alabama wrecks occurred outside of populated areas and resulted in no human injuries, the consequences of a derailment in another, more settled area could be equally catastrophic as the Lac-Mégantic incident. And whether a derailment occurs in a town or in a rural area, spilled crude threatens surface and groundwater sources, wetlands, streams, rivers, and lakes, and other sensitive wildlife habitats.

A ban on transport of hazardous substances was instituted in Lac-Mégantic following the July 6 derailment and destruction of the village downtown.¹⁹ Rather than wait for a similar disaster to befall some North Country hamlet or heavily populated area of the Capital District or Hudson River Valley, we ask for a cessation of transport of hazardous Bakken oil. We believe such a moratorium is a necessary precaution until such time as a meaningful, thorough review of the risks posed by crude-by-rail shipment of Bakken oil can be conducted. We ask for you to call for a halt to Bakken crude oil shipments on the Canadian Pacific line between the Canadian border and Albany, in New York, and on other rail lines coming into New York State. We ask that rail transport of Bakken crude oil anywhere else in the Northeast also be put on hold.

In closing, we wish to make clear that the danger of transporting Bakken crude by rail is only one risk among many posed by our society’s dependence on fossil fuel energy. The escalation of fossil fuel extraction, transport, and use, however and wherever it is done, is an overarching

¹⁷ “N.D. Oil Train Fire Spotlights Risks of Transporting Crude,” Dec. 31, 2013,

<http://news.nationalgeographic.com/news/energy/2013/12/131231-north-dakota-oil-train-fire/>

¹⁸ http://phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/1_2_14%20Rail_Safety_Alert.pdf

¹⁹ “Rail activity to resume Wednesday through Lac-Megantic, Que.” *Toronto Sun*, Dec. 16, 2013.

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danger that places people and species around the globe at risk by releasing more greenhouse gases into our atmosphere and further destabilizing our climate. Climate change is harming us all, and will not be solved by making safer tanker cars, or building pipelines instead of sending oil by rail. We here in the Northeast are currently experiencing an acute symptom of a much larger problem. The symptom at hand is the high risk of explosive crude-oil train derailments. This must be addressed, and we are asking for your help in this matter.

Ultimately, however, the danger of moving flammable Bakken crude by rail in the Northeast must be seen within the greater context of our ability as a society to shift to a low-carbon, lower impact energy and economic system. .

Thank you very much for your timely attention to this urgent matter of human safety and environmental health.

Sincerely,

A handwritten signature in black ink that reads "Mollie Matteson". The signature is written in a cursive style and is underlined.

Mollie Matteson, Senior Scientist
Northeast Office, Center for Biological Diversity

mmatteson@biologicaldiversity.org
802-318-1487 (cell)



January 9, 2014

The Honorable Charles Schumer
322 Hart Office Building
United States Senate
Washington, DC 20510

The Honorable Patrick Leahy
473 Russell Office Building
United States Senate
Washington, DC 20510

The Honorable Kirsten Gillibrand
478 Russell Office Building
United States Senate
Washington, DC 20510

The Honorable Bernie Sanders
332 Dirksen Office Building
United States Senate
Washington, DC 20510

The Honorable William Owens
405 Cannon Office Building
United States House of Representatives
Washington, D.C. 20515

The Honorable Peter Welch
2303 Rayburn Office Building
United States House of Representatives
Washington, D.C. 20515

The Honorable Paul Tonko
2463 Rayburn Office Building
United States House of Representatives
Washington, D.C. 20515

The Honorable Christopher Gibson
1708 Longworth Office Building
United States House of Representatives
Washington, D.C. 20515

Dear Senator Schumer, Senator Gillibrand, Senator Leahy, Senator Sanders, Rep. Owen, Rep. Tonko, Rep. Gibson, and Rep. Welch:

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Sincerely,

A handwritten signature in black ink that reads "Mollie Matteson". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Mollie Matteson, Senior Scientist
Northeast Office, Center for Biological Diversity

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