



Department of Transportation

ANDREW M. CUOMO
Governor

PAUL A. KARAS
Acting Commissioner

April 30, 2018

Honorable Crystal D. Peoples-Stokes
Member, New York State Assembly, 141st District
The Assembly State of New York
District Office
425 Michigan Avenue, Suite 107
Buffalo, NY 14203

Re: Parkside Community Association concerns

Dear Assemblymember Peoples-Stokes:

Thank you for your interest in rail safety; and for sharing with us the concerns raised by the Parkside Community Association (PCA) following the Canadian Pacific Beltline Railroad (CPBR) accident that occurred last September. I wanted to follow up with you to address not only the outcome of the accident investigation, but also the questions/concerns outlined in PCA's letter to your office subsequent to that incident. The scope of those questions required the assistance of the NYS Division of Homeland Security and Emergency Services (DHSES) as well as the NYS Department of Environmental Conservation (DEC); accordingly, I have included below a point of contact for each responding agency should your office or representatives of PCA require additional information.

Findings of the post-accident investigation

As you know, the accident occurred when the CPBR was transporting empty double stacked containers southbound over CSX-owned track when one of the containers shifted, striking the Route 5 bridge at the intersection of Main and Green Streets. In determining the cause of the accident, it was confirmed by representatives of Transport Canada (TC) that the containers were loaded at Vaughn Yard in Toronto by a private contractor; and that a new employee mistakenly judged that the required Inter Box Connectors (IBC's) were in the proper "lock" position. Unfortunately, they were, in fact, not properly engaged; and during transport, one of the top containers became dislodged and rotated out of alignment, striking the Route 5 bridge. We have been informed by representatives of Canadian Pacific that the contractor has taken corrective action in the form of employee discipline as well as conducting a safety briefing to alert all employees as to the urgency and importance of utilizing the correct procedures to ensure that all containers are properly secured.

Responses to the safety concerns identified by PCA

1. "A full disclosure of all chemicals passing through Buffalo, specifically on the Beltline Railroad in the Parkside neighborhood, and of the potential dangers these chemicals may cause to our families and communities";

Response from DHSES, Office of Fire Prevention and Control (OFPC)-

- With limited exceptions (see next bullet), railroads operate under federal law as common carriers and are not currently required to report to any state or other local jurisdiction the type and quantities of materials being moved by rail, including hazardous materials.
- The exception referenced in the previous bullet resulted from the tragic impacts of the oil train derailment in Lac Megantic, Quebec in July of 2013; and the subsequent exponential growth in the transportation of Bakken crude by rail (CBR) across the US. The USDOT issued an emergency order in May 2014 which remains in effect today, requiring that railroads transporting one million or more gallons of Bakken crude in a single "unit train" must provide specific data to the designated State Emergency Response Commission (SERC); in New York State, DHSES serves as the designated SERC. This data includes the average frequency of unit trains traversing the state; the counties through which they will pass; a description of the crude oil being transported; as well as contact information for the railroad including emergency response capabilities. Accordingly, DHSES continues to receive the required information from the railroads; that information is available to county and local officials upon request from the DHSES, Office of Emergency Management.

2. "The procedure for an independent inspection of and repairs to railroad bridges";

Response from NYS Department of Transportation (NYSDOT)-

- Current federal policy does not require the operating railroads to provide the states with their bridge inspection data. Additionally, states do not have the authority to perform or otherwise require an independent inspection of railroad-owned bridges. Railroads are required, however, to certify annually that their bridges have been inspected and that they are in a generally good state of repair. Further, Section 11405 of the FAST Act permits any duly elected or appointed official of a state or political subdivision of a state to file a request for a public version of the bridge inspection report for any railroad-owned bridge located within in their respective jurisdiction.

3. "The procedure for training and equipping firefighters and other first responders in the event of another accident and/or derailment";

Response from OFPC-

- Training for firefighters is available through the State Fire Training Program which is administered by OFPC.
 - This training includes hazardous materials response programs such as Hazardous Materials Operations-level training appropriate for firefighters; Hazardous Materials Technicians-level training for Hazardous Materials Response Teams; and specialty training for transportation incidents.
 - This training is available via outreach offerings at the local level, including at fire departments and County Fire Training Centers; and via residential offerings at the NYS Academy of Fire Science in Montour Falls.
 - OFPC is currently developing a training course specific to incidents involving High Hazard Flammable Trains (HHFT) which transport large volumes of ignitable liquids such as crude oil or ethanol. Initial offerings will be available at the NYS Academy of Fire Science during 2018.
 - OFPC has also developed a guidance document entitled “Strategic and Tactical Guidance for Rail Incidents Involving Crude Oil” to assist the fire service with preparing for, and responding to, these incidents.
- While equipping firefighters and other first response personnel such as Hazardous Materials Teams is a local responsibility, in response to Governor Cuomo’s Executive Order 125, OFPC established and maintains the NYS Foam Task Force which supports and supplements local foam capabilities necessary to address incidents involving crude oil, ethanol and other ignitable liquids.
 - This Task Force consists of 19 foam trailers pre-positioned along major rail and road transportation corridors across NYS. 18 of these trailers are staged with local agencies which have agreed to participate via written agreement, including the Buffalo Fire Department. These participating agencies may employ the foam trailers when needed for local incidents and have also agreed to deploy their assigned trailers to support incidents on behalf of the State when activated by OFPC.
 - OFPC provided the initial training addressing operation of the foam trailers and continues to provide ongoing annual refresher training to each Foam Task Force member agency.
- Additionally, DHSES administers and distributes Federal Homeland Security grant funding to Regional Partnerships across the state via a targeted grant program which supports hazardous materials response teams. This funding bolsters the ability of the hazardous response teams in each partnership to

acquire necessary materials and equipment, including required personal protective equipment.

4. "The process and timing for informing the public of evacuation plans prior to the occurrence of any additional incidents."

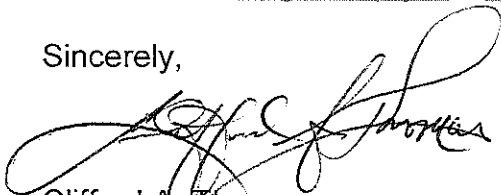
Response from DEC-

- As part of additional actions taken by State agencies in response to Governor Cuomo's Executive Order 125, the DEC led an initiative, supported by OFPC and local, county and other state and federal agencies, to develop Geographic Response Plans (GRP) for the primary rail corridors being utilized to transport crude oil across NYS.
- These GRP's include information to support emergency response plans/protocols and actions at the local level, including evacuations during a spill incident.
- Although developed primarily for rail incidents involving the transport of crude oil, the information and guidance included within the GRP's is appropriate and applicable to spill incidents involving other hazardous materials as well.
- Additionally, to assist localities with spill incidents, 24 spill response trailers have been procured by DEC and deployed to counties along the crude by rail corridor. These trailers contain the material and equipment necessary to assist localities with the initial response to and mitigation of a spill event.

I am hopeful that the information provided herein helps to provide both your office and the PCA with a more complete understanding of the ongoing response planning efforts as well as the training and equipment resources currently available to assist affected localities. However, should you have additional questions, following is contact information for NYSDOT, OFPC and DEC, respectively:

Clifford.Thomas@dot.ny.gov James.Cable@dhses.ny.gov matt.franklin@dec.ny.gov

Sincerely,



Clifford A. Thomas
Director
Rail Safety Bureau

cc: Maurice O'Connell, Regional Vice President, CSX Transportation