



STATE OF NEW YORK

October 21, 2014

The Honorable Jack Dalrymple  
Governor of the State of North Dakota  
600 East Boulevard Avenue  
Bismarck, ND 58505-0100

Dear Governor Dalrymple:

As a result of the recent boom in domestic petroleum production, New York State is experiencing a dramatic increase in the number of crude oil trains passing through the state from production areas centered in your state to refineries in the Mid-Atlantic and Canada. New York State is concerned with the volatility of Bakken crude oil and believes all the states subject to the boom continue to be vulnerable to the impacts of derailment, spill, fire or explosion. The devastating accidents in Lac Megantic, Quebec and Casselton, North Dakota demonstrate the critical need to address this issue.

New York State has worked hard to increase the safety of crude-by-rail since Governor Cuomo issued Executive Order 125, directing state agencies to evaluate the capacity to prevent and respond to crude oil incidents. On April 30, 2014, New York's environmental, transportation, health, energy, and homeland security agencies issued a report with recommendations for action at the federal, state, and industry levels. The report contains a priority recommendation that dissolved gas should be removed from Bakken crude prior to shipment in order to reduce its volatility. In recent comments on the proposed federal regulations on improved tank car standards, New York State again urged the U.S. Department of Transportation to require such pre-treatment. As this is a common practice in other oil producing areas, New York State believes it is not only prudent for health and safety purposes but also economically feasible. Importantly, the rail transportation industry strongly supports safer tank car standards and removal of dissolved gas prior to shipment.

While the federal government continues to develop more stringent regulations, New York State urges North Dakota to act swiftly on these regulations to require treatment of Bakken crude oil prior to shipment under the proposed rule amendment currently under consideration by the North Dakota Industrial Commission (Case No. 23084).

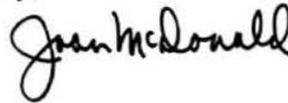
Federal oversight of the interstate railroad network and tank car standards explicitly preempts states from independently regulating crude transport once the crude enters the railroad network. Once crude oil is shipped, neither New York nor any other state can regulate or impede shipments, as long as the shipments are in compliance with federal rules. Those rules are outdated and woefully inadequate, but until the federal government finalizes new regulations, states are subject to the legal principle of preemption. Therefore, North Dakota, through its oversight of oil and gas wells, is uniquely positioned to enhance safety and reduce downstream risk to many states before the crude oil enters the federally-regulated railroad network.

No single action will fully address our concerns, and a comprehensive approach including improved railroad safety, enhanced tank cars, increased emergency responder resources and training, and on-site stabilization of crude oil, is imperative. Only through such a comprehensive approach will we reduce the risk involved with shipping high-hazard contents. We appreciate your consideration and partnership on this issue.

Sincerely,



Joseph J. Mattens, Commissioner  
Dept. of Environmental Conservation



Joan McDonald, Commissioner  
Dept. of Transportation