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The Honorable Heidi Heitkamp
U.S. Senator
SH-502 Hart Office Building
Washington, DC 20510

Dear Senator:

Thank you for your efforts to bring government and industry together to promote the safe and efficient movement of crude oil by rail. You recently wrote Administrator Quartermann and me, encouraging the Pipeline Hazardous Materials Safety Administration (PHMSA) and the oil and gas industry to increase collaboration and share crude characterization and classification data. I would like to take this opportunity to update you on the ongoing efforts by our industry on this and other crude oil by rail issues. As you know, we are looking in a holistic way at how to prevent accidents, mitigate impacts if they occur and support emergency response. Since we last spoke, we have been engaged in the following:

Prevention

- We are participating on the FRA's Railroad Safety Advisory Committee to evaluate regulations affecting issues such as hazardous materials transportation by rail, train crew size, and train securement.
- We are working with our colleagues in the rail industry to establish collaborative working groups to identify and address any other issues associated with the safe shipment of crude by rail.

Mitigation

- Since February, API has held bi-weekly meetings of the industry including PHMSA, railroads, petroleum, and tank car builders to develop a standard on the material characterization, transport classification, and quantity measurement of crude oil for the loading and unloading of railroad tank cars. Ultimately, this standard will provide the best processes for classifying, handling, and transporting crude oil. While we expect to have a first ballotable draft in June of this year, we will be providing regular updates to you and other interested parties as the content gets developed.
- While there appears to be some confusion around the collection of data, at least four of our member companies have provided data to PHMSA thus far. As I testified before the House Transportation and Infrastructure Committee in February, API does not collect any of this data but we have and will continue to encourage other members to do so. Furthermore, specific to the Bakken region, the North Dakota Petroleum Council has contracted with the engineering and management consulting firm Turner, Mason & Company and an independent commercial laboratory to conduct quality assurance tests that



will study the range and variability of Bakken crude oil qualities. Turner, Mason & Company will collect multiple samples from twelve different locations and six depots throughout the Williston Basin of North Dakota and Montana over a period of several weeks. The results of this study will be provided to API as part of the collaborative industry effort on crude oil transportation safety and an update will be provided at the Williston Basin Petroleum Conference in May. The results will also be provided to PHMSA as a complement to the proprietary data that individual companies are already sharing. Finally, we look forward to collaborating with PHMSA to review their crude oil quality data compiled through Operation Classification.

- Since 2009, we have collaborated with the Association of American Railroads (AAR) and a host of shipper associations including the American Chemistry Council, the Chlorine Institute, and the Renewable Fuels Association, and other shippers to determine the best packaging designs for our products. Since 2011, we have been building state-of-the-art tank cars (CPC-1232) to the industry consensus standard that exceeds federal regulations. PHMSA should write an interim final rule adopting the CPC-1232 industry standard for new tank cars and allow the use of cars built in good faith to those standards to remain in service for their useful life without major retrofits. This would provide certainty to the industry and provide a path for immediate action by PHMSA. Additionally, this rule will enable the agency to continue to work on a proposed rule on legacy DOT-111's and possible modifications for tank cars not yet built.
- We are continuing to meet with the shippers, tank car builders, railroads and have invited PHMSA and the FRA to review the Rail Safety Institute's (RSI) proposal on new tank car design and retrofit of the legacy tank cars. We have also held multiple meetings with RSI and shipper organizations to determine the best approach to these issues. Additionally, a meeting has been established with the AAR to (1) review the model that is used to determine how tank car design impacts the probability of release of crude oil during a derailment and (2) determine if there are other issues that need to be considered to holistically assess the risk of moving crude oil by rail.

Response

- API member companies are partnering with the carriers to conduct training as well as drills and exercises at various locations around the country. These efforts not only ensure better preparedness for an incident, but they also provide an education to responders and ensure consistency throughout the Nation.
- We are currently working to determine how to best share our expertise in emergency response and spill response from our core business in pipelines, marine and refineries with the railroads. We are exploring ways to expand these initiatives to ensure that this knowledge can be applied to a rail incident. For instance, API, together with the Association of Oil Pipelines, had previously partnered with the National Association of State Fire Marshalls (NASFM) to develop an on-line training module for a response to a



crude release from a pipeline. We are currently working to add a module that focuses specifically on crude releases from rail.

- We are engaging with carriers on emergency response activities and are participating in training programs, exercises and drills and have joined Transportation Community Awareness and Emergency Response (TRANSCAER) program. These training programs enhance readiness and support the ability of oil companies, carriers and representatives from the public sector (federal, state and local levels) to evaluate protocols and establish appropriate plans and procedures to effectively respond to a spill.

API is committed to safely moving oil and natural gas products through all modes of transportation and we continue to work toward zero incidents. We appreciate your leadership on this issue and look forward to continuing to work with you.

Respectfully,

A handwritten signature in black ink, reading "Jack Gerard", with a long horizontal flourish extending to the right.

Jack N. Gerard
President & CEO

Cc: The Honorable Anthony Foxx, Secretary of Transportation
Dan Utech, Special Assistant to the President for Energy and Climate Change