

May 8, 2014

The Honorable Terry McAuliffe  
Office of the Governor  
Patrick Henry Building, 3<sup>rd</sup> floor  
Richmond, VA 23219

Dear Governor McAuliffe:

Waterkeepers Chesapeake is a coalition of nineteen independent programs working to protect the waterways of the Chesapeake and Coastal Bays. Five of our Waterkeeper programs, including the Upper and Lower James Riverkeepers, work in Virginia and represent several thousand members. We are writing today to express our alarm about the train derailment and resulting oil spill and explosion that set the James River on fire at Lynchburg on April 30<sup>th</sup>. We are thankful that no one was injured, including the first responders, by this explosion. At least 25,000 gallons of crude oil were spilled into the river and threatened the drinking water supplies downstream, including the state capital. This toxic crude oil is a great threat to the ecology of the river during a particularly sensitive time of spring spawning runs for migratory fish, such as shad and herring.

This accident is an emphatic illustration of the risks associated with the recent exponential increase in crude oil trains travelling along the banks of the James River and other rivers in the region. The type of crude oil being transported, known as Bakken crude, is highly volatile and is being transported in antiquated rail cars that are grossly inadequate in protecting against spills or explosions as this accident clearly shows. Other crude oil train accidents across the country and in Canada have shown that the human, environmental and economic toll of these accidents can be devastating. Accordingly, we urge your immediate attention to this issue.

Virginia's prevention of such an incident depends largely on adequate federal regulation of the rail industry. A series of federal actions must be implemented immediately to avert further accidents. We urge you to join Virginia Senators Kaine and Warner in immediately calling on the federal government for swift action on the following measures:

1. Finalize the Pipeline and Hazardous Material Safety Administration's new tank car regulations to remove the dangerous DOT-111 tank car from crude-oil-by-rail service;
2. Strengthen and codify into federal regulation the voluntary safety measures adopted by railroad companies governing the shipment of crude oil;
3. Update critical environmental and contingency response plans and partner with Virginia to develop area-specific geographic response plans to protect Virginia and its environment; and
4. Develop appropriate classification and testing Bakken and similar crude oils in order to provide critical information to state and local emergency responders who would be on the front line of any incident.

In addition to the Lynchburg derailment, our region experienced a coal train derailment near Bowie, Maryland, and a landslide that compromised CSX train tracks in Baltimore during the same week as the

## **WATERKEEPERS® Chesapeake**

*Protecting Families by Fighting Pollution*

Lynchburg disaster. These incidents as well as the recent coal ash spill on the Dan River in North Carolina and the chemical storage tank leak on the Elk River in West Virginia, both of which polluted drinking water supplies, should be a wake up call to the risks that face the James River and Virginia's citizens on a daily basis from the transport and storage of hazardous materials along our rivers. Over 80% of Virginia's registered toxic chemicals are stored within the James River basin and the river has suffered from numerous shipping accidents and spills in the past. We must learn from these events and ensure that our public safety and environmental protection requirements address current threats and prevent such events from happening in the future.

Yesterday's emergency order and safety advisory from the U.S. Department of Transportation is welcomed, but long over due, and not strong enough. We are disappointed that the Order only applies to trains carrying 35 cars or more of Bakken crude oil. Instead, a requirement that all rail transport of crude oil involve the notification of State Emergency Response Commissions would be more transparent and best protect first responders, communities and the environment. Furthermore, a mere advisory to remove unsafe tanker cars unnecessarily leaves communities at risk. In Canada, a mandatory removal of unsafe DOT-111 tanker cars from rails has already been ordered, and the same order should be implemented in the United States.

It is incumbent upon us to ensure that our local rivers, drinking water supplies and communities are protected from this new and growing toxic threat. The status quo where the oil companies get all the benefit and our communities and rivers face all of the risks needs to end immediately. We urge you to act immediately to preserve the James Rives and provide for the safety of Virginians. Our Waterkeeper programs in Virginia and throughout the region stand ready to assist administration officials in addressing this issue. We look forward to hearing from you soon.

Sincerely,

Elizabeth Nicholas  
Executive Director

CC: Molly Ward, Secretary of Natural Resources  
Aubrey Lane, Secretary of Transportation