



GOVERNOR JOSH SHAPIRO

February 14, 2023

Alan Shaw, President and CEO
Norfolk Southern Corporation
1200 Peachtree Street, NE
Atlanta, GA 30309

Dear Mr. Shaw:

I am writing to express my serious concerns regarding Norfolk Southern Corporation's management of the Norfolk Southern train derailment that occurred near East Palestine, Ohio on February 3. The derailment occurred approximately a quarter mile from the Pennsylvania state line and has had a significant impact on the residents, businesses, and environment in Beaver County.

Earlier today, I met with elected leaders and emergency management officials in Beaver County, including State Senator Camera Bartolotta, State Rep. Josh Kail, State Rep. Jim Marshall, State Rep. Robert Matzie, Beaver County Commissioners Dan Camp, Jack Manning, and Tony Amadio, and Beaver County Emergency Services Deputy Director Kevin Whipple, who share my concerns about Norfolk Southern's poor handling of this incident.

The Pennsylvania Department of Environmental Protection (DEP) and Pennsylvania Emergency Management Agency (PEMA) were not immediately contacted by Norfolk Southern and learned of the incident independently in the first few hours after it occurred and immediately began monitoring for impacts to the residents, businesses, and environment in the Commonwealth. Through this process, DEP and PEMA observed at least three priority issues with Norfolk Southern's management of the response that put the safety of our first responders and residents at significant risk.

First, Norfolk Southern failed to implement Unified Command, creating confusion and resulting in a general lack of awareness for first responders and emergency management of the tactics Norfolk Southern planned in response. Early in the incident, Norfolk Southern personnel separated themselves from the rest of the incident management structure at the Incident Command Post to conduct separate operational and tactical planning, forcing state and local response agencies to react to tactics that were developed unilaterally and without the combined input of key state agencies.

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Second, Norfolk Southern gave inaccurate information and conflicting modeling about the impact of the controlled release that made protective action decision making more difficult in the immediate aftermath of the derailment. Norfolk Southern failed to notify state and local response agencies initially of their intention to vent and burn all five cars containing vinyl chloride, rather than just the single car Norfolk Southern personnel identified originally. Furthermore, Norfolk Southern failed to immediately inform authorities as to the number of rail cars that contained dangerous chemicals. Norfolk Southern's failure to participate in the Unified Command and share accurate information led to confusion and wide variability in potentially affected population estimates in the downwind plume impacting the Commonwealth.

Third, Norfolk Southern's unwillingness to explore or articulate alternate courses of action to their proposed vent and burn limited state and local leaders' ability to respond effectively. As discussed, Norfolk Southern response personnel improperly planned tactical response operations without adequate input from elected officials, local response organizations, or state agencies, resulting in a single plan of action to vent and burn all five cars without allowing for input from Pennsylvania emergency management leaders. Norfolk Southern failed to explore all potential courses of action, including some that may have kept the rail line closed longer but could have resulted in a safer overall approach for first responders, residents, and the environment.

While I appreciate that responding to train derailments presents an array of complex challenges, failure to adhere to well-accepted standards of practice related to incident management and prioritizing an accelerated and arbitrary timeline to reopen the rail line injected unnecessary risk and created confusion in the process. You can be assured that Pennsylvania will hold Norfolk Southern accountable for any and all impacts to our Commonwealth.

Norfolk Southern has repeatedly assured us of the safety of their rail cars — in fact, leading Norfolk Southern personnel described them to me as "the Cadillac of rail cars" — yet despite these assertions, these were the same cars that Norfolk Southern personnel rushed to vent and burn without gathering input from state and local leaders. Norfolk Southern's well known opposition to modernized regulations require further scrutiny and investigation to limit the devastating effects of future accidents on peoples' lives, property, businesses, and the environment.

While regulation of the railroad industry is largely the purview of our federal partners, we plan to take direct action here in the Commonwealth of Pennsylvania. I have called on the Pennsylvania Public Utility Commission, which is charged with oversight of the Commonwealth's railroads, to review Norfolk Southern's conduct and report back their findings. Like me, members of our state legislative delegation are troubled by the conduct of Norfolk Southern during this incident. As they proceed with their review and

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oversight responsibilities, I have pledged offered the full cooperation of my Administration in order to help them facilitate holding your company accountable to Pennsylvanians.

I have also spoken directly with the President of the United States and the U.S. Secretary of Transportation, who have both pledged their full support to the people of Pennsylvania and have been constructive partners during this process. I urge the federal Pipeline and Hazardous Materials Safety Administration (PHMSA) to reexamine what constitutes a high-hazard flammable train and revisit the need for regulation requiring high-hazard flammable trains to carry more advanced safety and braking equipment.

As you conduct your after-action report, I expect you to address these concerns and report back on what steps you are taking to rectify the situation and ensure this does not happen again.

I await your response.



Governor Josh Shapiro

CC:

Secretary Pete Buttigieg, United States Department of Transportation
Senator Bob Casey
Senator John Fetterman
Congressman Chris Deluzio
Acting Attorney General Michelle Henry
State Senator Elder Vogel Jr.
State Senator Camera Bartolotta
State Representative Jim Marshall
State Representative Josh Kail
State Representative Robert Matzie
Beaver County Commissioner Dan Camp
Beaver County Commissioner Jack Manning
Beaver County Commissioner Tony Amadio
Beaver County Emergency Services Deputy Director Kevin Whipple
Chairman Gladys Brown Dutrieuille, Pennsylvania Public Utilities Commission