

Congress of the United States
Washington, DC 20515

July 3, 2024

The Honorable Merrick Garland
Attorney General
United States Department of Justice
950 Pennsylvania Avenue N.W.
Washington, D.C. 20530

Dear Attorney General Garland,

On February 3, 2023, a Norfolk Southern (NS) train carrying hazardous materials derailed in East Palestine, Ohio. According to the National Transportation Safety Board (NTSB), the derailment was caused by the failure of a wheel bearing on a rail car that overheated and caused an axle to separate. The post-derailment fire likely began with the release of a Class 3 flammable liquid from a DOT-111 tank car that was punctured during the derailment.

Thank you for your department's work with the Environmental Protection Agency to come to a settlement with Norfolk Southern regarding the harms caused by this derailment announced last month. We write to you today, however, not about the settlement, but about the NTSB's concerning finding that NS intentionally misled first responders on the vent and burn decision, putting the public at risk.

The NTSB states that "acting on information provided by Norfolk Southern and its contractors that a dangerous chemical reaction was occurring within a vinyl chloride monomer (VCM) tank car, the incident commander managing the response chose to expand the evacuation zone and perform a vent and burn (a deliberate breach of a tank car) on all five derailed VCM tank cars. The incident commander was not aware of dissenting opinions the VCM shipper [OxyVinyls] had provided to NS and its contractors. A contractor hired by NS breached the VCM tank cars at 4:37 p.m. on February 6, releasing and igniting their lading."

Thus, the NTSB's summary makes clear that Norfolk Southern and its contractors intentionally withheld information—that OxyVinyls believed that a vent and burn was not necessary—from the incident commander and others at unified command. Further, according to NTSB Chair Jennifer Homendy, Norfolk Southern and its contractors misled the incident commander and others about temperatures within the VCM tank cars, claiming they were drastically rising when, in fact, they were not. We can only conclude that the goal was to reinforce what NS described as an urgent need for a vent and burn.

The implication of this dishonesty is clear: the vent and burn was not necessary, and Norfolk Southern and its contractors pursued it to expedite the process of resuming rail operations at the expense of public safety. The black plume of fire, toxic chemicals, and smoke that we witnessed was the result of Norfolk Southern's misrepresentation of the situation to the incident

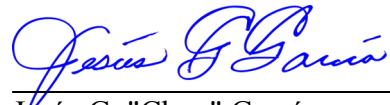
commander. This not only put the first responders at the site at risk, but also the surrounding communities and any downstream, downwind communities. It is unacceptable.

We, therefore, urge you to further investigate Norfolk Southern and its contractors involved to determine whether they deliberately withheld critical information from the incident commander and purposefully misrepresented that the tank cars were at risk of catastrophic failure from a polymerization reaction, resulting in the unnecessary decision to vent and burn five derailed vinyl chloride monomer tank cars in a rush to resume freight rail service. Lives changed forever that day and we want to ensure that responsible parties are held to account for their actions.

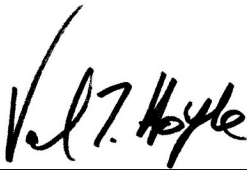
Very respectfully,



Chris Deluzio
Member of Congress



Jesús G. "Chuy" García
Member of Congress



Val Hoyle
Member of Congress



Patrick Ryan
Member of Congress