

CAPITOL OFFICE
STATE CAPITOL, ROOM 5035
SACRAMENTO, CA 95814
TEL (916) 651-4007
FAX (916) 445-2527

DISTRICT OFFICE
1350 TREAT BLVD., SUITE 240
WALNUT CREEK, CA 94597
TEL (925) 942-6082
FAX (925) 942-6087

SENATOR.DESAULNIER@SEN.CA.GOV
WWW.SEN.CA.GOV/DESAULNIER

California State Senate

SENATOR
MARK DESAULNIER
SEVENTH SENATE DISTRICT



CHAIR
TRANSPORTATION & HOUSING

COMMITTEES
BUDGET & FISCAL REVIEW
ENERGY, UTILITIES &
COMMUNICATIONS
BUDGET SUBCOMMITTEE NO. 3
ON HEALTH & HUMAN SERVICES
GOVERNANCE & FINANCE
HEALTH

December 4, 2014

Acting Administrator Gregory G. Nadeau
Federal Highway Administration
US Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Administrator Nadeau:

As you know, a Texas federal jury recently found that Trinity Highway Products, LLC, had committed fraud in failing to adequately notify federal officials of changes in its design of highway guardrail end terminals. These safety devices are installed at the end of highway guardrails to absorb the impact of vehicles, intending to reduce the chance of a motorist's injury or death from the impact. The "ET-Plus" model of end terminal, manufactured by Trinity, was the focus of the federal jury case in Texas. This particular model was initially approved by the Federal Highway Administration (FHWA) with 5-inch guide channels. The company failed to notify FHWA of a subsequent design change to a 4-inch guide model, and this change has raised serious questions about whether the device is still capable of its intended safety function.

I am gravely concerned about the effectiveness of Trinity's current end terminal model and the conduct of the company in failing to disclose what could be a material change to a critical highway safety product. I am also concerned that FHWA failed to protect against potentially fatal defects in this product and that it continued to assume and represent to state transportation agencies that this product was safe, even after Trinity disclosed its use of a different design and after state and individuals raised concerns about the device.

FHWA has a unique role in the oversight of highway safety practices, and all states look to you for your leadership and guidance. Your eligibility determinations regarding products like the ET-Plus model represent a key part of that oversight role. FHWA is a guardian of the public trust, so your agency's fierce oversight of vendors and recipients of taxpayer dollars is paramount. In this light, I appreciate your focus on this vital matter and actions to require safety testing of the ET-Plus model end terminal before any further installation on the federal highway system. I ask that you complete your testing as quickly as possible so that states can, in turn, determine what if any remedial action must be taken to ensure the safety of our motorists.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Mark DeSaulnier".

Mark DeSaulnier
District 7