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S. Theis Rice
Senior Vice President and Chief Legal Officer

Subject: A Letter to Stakeholders – Overview of Litigation Involving the ET Plus® Guardrail End Terminal System

False Claims Act Judgment: We Are Appealing and Remain Confident in Our Products and Business Practices

Most of our stakeholders are aware that in October 2014 we received an adverse jury verdict in the federal False Claims Act litigation pertaining to our ET Plus® guardrail end terminal system (ET Plus). We appealed the judgment entered by the district court to the United States Court of Appeals for the Fifth Circuit and filed our opening brief on March 21, 2016. Briefing by all the parties should be completed by midsummer 2016. We expect the Fifth Circuit will not issue a ruling in this case earlier than late 2016.

On March 28, 2016, *amicus curiae* briefs were filed in the Fifth Circuit by a diverse group **in support of Trinity's appeal**. *Amicus curiae* is Latin for "friend of the court" – a person or group who is not a party to a lawsuit, but who has a strong interest in the matter on appeal – who files a brief in the matter with the intent of influencing the appellate court's decision. Six separate *amicus curiae* briefs were filed by:

- (i) Eleven states – Texas, Alabama, Arkansas, Colorado, Indiana, Louisiana, Nevada, Oklahoma, South Carolina, Utah and Wisconsin;
- (ii) the National Association of Manufacturers (NAM), United States Chamber of Commerce, and the American Tort Reform Association (ATRA)
- (iii) five former United States Department of Justice Officials;
- (iv) Mothers Against Drunk Driving (MADD);
- (v) the Cato Institute; and
- (vi) the Washington Legal Foundation (WLF).

While each amici amply supports their positions, they all believe there will be negative ramifications if the judgment is allowed to stand.

We remain absolutely confident in our products and our business practices, and we maintain that the allegations in the case are baseless and without merit. We believe our filing in the Fifth Circuit spells out in a clear and convincing way why the original judgment should not stand. We believe it is a compelling argument of the errors that were made and why this case should not have been brought to trial from the start.

Additional Crash Testing and Joint Task Force Initiatives Confirm the ET Plus Meets FHWA Standards

Following the verdict, we agreed to perform a series of eight additional crash tests on the ET Plus. In a press conference following these tests, the Federal Highway Administration (FHWA) confirmed that in each of the eight tests conducted, the ET Plus met all crash test criteria and performance standards. The FHWA also reconfirmed its previous findings that the ET Plus was acceptable for use on the nation's roadways and fully eligible for federal aid reimbursement.

This confirmation came as no surprise. Since the ET Plus was first introduced in 2000, it has never lost FHWA acceptance for use or eligibility for federal aid reimbursement.

In addition, the FHWA formed two joint task force initiatives to evaluate the ET Plus, partnering with the American Association of State Highway and Transportation Officials (AASHTO) as well as several state departments of transportation and independent experts.

The first joint task force evaluated measurements of ET Plus devices installed on roadways in multiple states. After completing its evaluation, the task force concluded that it found no evidence that multiple versions of the ET Plus with 4-inch guide channels were manufactured. Further, the task force confirmed that the eight end terminals used in the additional crash tests were representative of the devices installed on roadways across the country.

The second joint task force evaluated the in-service performance of all extruding guardrail terminals, including the ET Plus. This task force concluded the following: first, that all extruding end terminals, no matter the design or manufacture, will have some performance limitations given that actual crash conditions may differ from the test conditions; and second, that the ET Plus system had no unique limitations. This further substantiates that the ET Plus performs as designed and tested when properly installed and maintained.

Other Pending Litigation

In 2015, Trinity Industries and Trinity Highway Products were named in multiple suits that stemmed from the adverse judgment in the False Claims Act litigation. False Claims Act qui tam actions have been filed in several states by the same plaintiff that filed the federal action, and in addition, other cases have been filed, including individual product liability cases, product liability class actions, a shareholder class action, and multiple books and records requests under Delaware law. As with the claims made in the federal False Claims Act litigation, we strongly believe the allegations in these matters are baseless and without merit. We stand behind our products and our business practices, and we are confident that these claims will not prevail.

The nature and extent of these suits are disclosed in Note 18 to the financial statements in Trinity's Form 10-K for the fiscal year ended December 31, 2015. Please also refer to www.etplusfacts.com for additional information.

Closing Remarks

It is with great pleasure I conclude this note by reporting that Trinity Highway Products has resumed manufacturing and shipping the ET Plus to customers. We share the FHWA's and AASHTO's commitment to roadway safety, and we are proud that the ET Plus has repeatedly demonstrated – in crash tests and in service – that it is a crashworthy roadside device. When installed and maintained properly, the ET Plus has shown, time and again, that it performs as designed and tested, and in accordance with established federal standards. We appreciate your taking the time to read this letter. We believe it is important for our stakeholders to know the facts.



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