



Commissioner Charles Kilpatrick
Department of Transportation
Commonwealth of Virginia
1401 E. Broad Street
Richmond, VA 23219

September 4, 2015

Dear Commissioner Kilpatrick,

Trinity Highway Products is committed to the safety of American roadways. We are the leading manufacturer of guardrail, end terminals and crash cushions in the United States. We have been manufacturing roadside hardware for more than 40 years and lead the industry in providing the most innovative technology. Our commitment to safety extends to the Commonwealth of Virginia where we are a major supplier of roadside safety products, and we take pride in the role our products have played in helping reduce reported fatalities on Virginia roadways by 92% during the last ten years. Those reductions have happened, in part, because of one simple fact: The ET Plus® System works.

Guardrails, and their end terminals, come into service when—due to circumstances and conditions unrelated to the guardrail or end terminal—a car has veered off the road, often at high speeds and often as a result of a collision with another moving vehicle. Guardrails and end terminals are engineered for the purpose of lessening the damage to vehicles and occupant injury during roadway accidents. Over the years, they have been designed and tested to meet federally established standards. During more than 10 years of service in Virginia, the ET Plus® System has performed to these standards and has made Virginia's roads safer. As Greg Nadeau, Administrator of the Federal Highway Administration (FHWA), says of all guardrails: "... [they] help make roads safer and lessen the severity of crashes." Mr. Nadeau cautions, however that, "guardrails cannot completely protect drivers in every situation. Factors like size, speed and orientation of the vehicle, and the condition of the guardrail prior to impact, can affect guardrail performance."

The ET Plus® System is also the most tested product of its kind, repeatedly passing all NCHRP Report 350 tests, including the eight tests recently requested by Virginia Department of Transportation (VDOT) and the Federal Highway Administration. As you know, each of those eight tests was observed by VDOT officials and validated by Dr. Clay Gabler, an independent expert from Virginia Tech University. We also note that VDOT had the opportunity to provide feedback and ask for changes to the testing protocol at that time. And finally, when the Federal Highway Administration asked earlier this year for specific performance feedback related to the ET Plus® System, VDOT's response was "...end terminals are performing as expected."

It is for these reasons that Trinity has serious concerns about VDOT's intention to run non-standard crash tests on the ET Plus® System. Our concerns are twofold. First, conducting non-standard tests suggests VDOT is deliberately attempting to conduct tests with the specific intent of making the product appear to fail. In essence, the product is being deliberately set up to fail. This clearly suggests that VDOT is motivated not by safety, but by its pending litigation against Trinity Highway Products. VDOT's refusal to properly develop and share the proposed testing protocols and lack of transparency around the testing reinforces our concerns.

Second, VDOT's decision not to test all comparable end terminal systems installed on Virginia's roads to the same standards makes no sense. VDOT is requiring the already most tested system to undergo additional and non-standard tests, while at the same time exempting less tested systems from the same requirement. If these tests are truly about the safety of Virginia motorists, then the right thing for VDOT to do is to perform these additional and non-standard tests on all other comparable end terminals that are on Virginia's roadways.

We are highly confident that the ET Plus® System will perform as designed and tested provided it is properly installed, maintained and repaired. The FHWA has emphasized to all States the importance of proper installation, maintenance and repair of end terminals in the field to ensure they perform as designed and tested. On December 1, 2014, Trinity informed VDOT of concerns with the condition of the ET Plus® Systems in use on Virginia roadways that were not properly installed, maintained, or repaired. It is unrealistic to expect the ET Plus® System – or any other roadside safety product – to perform as expected when not properly maintained. We are unaware of any actions taken on the part of VDOT related to our expressed concerns and the broader population of end terminals. Additional testing does not address this potential lack of maintenance vulnerability faced by Virginia motorists.

The bottom line is this: The testing of the ET Plus® System using non-standard tests and the refusal to test ALL end terminal products in a uniform, reliable and universal manner, is inconsistent with VDOT's single stated purpose of looking out for the safety of the motoring public.

We stand ready to discuss these matters.

Sincerely,



Gregg Mitchell
President, Trinity Highway Products

cc: Aubrey Layne, Secretary of Transportation, Commonwealth of Virginia