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**BY EMAIL AND U.S. MAIL**

Richard Tyler McGrath, Esq.  
Senior Assistant Attorney General  
Chief, Construction Litigation Section  
Office of the Attorney General  
Commonwealth of Virginia  
900 E. Main Street, 2nd Floor  
Richmond, VA 23219

Re: VDOT Testing of the ET PLUS Tangent W-Beam Guardrail Terminal (GR-9)

Dear Richard:

I am writing to follow up on Trinity's request for inspection at the KARCO test facility in Adelanto, California. As you know, the inspections did not happen today. Trinity was not permitted to enter the KARCO premises today because the test installation is not ready, apparently. Now you have confirmed that Trinity cannot have access until 9:30 a.m. tomorrow, September 17. VDOT's crash testing starts tomorrow at Noon. Trinity will be at KARCO at or before 9:30 a.m., but there is no way that the inspection of a 150-foot test article, dozens of components, the test vehicle and instrumentation can be completed in the two hours allotted. VDOT's lack of transparency is stunning.

Based on what we hear from the VDOT engineers, they are experiencing problems today with the test installation and their procedures appear to have severe shortcomings. For example:

- VDOT is literally "driving" (pounding) the posts into the native soil, rather than augering a hole and back-filling with compacted NCHRP Report 350-standard soil. VDOT's post installations are contrary to required Report 350 test procedures. This approach (driving versus augering) also increases the probability that the guardrail posts and rail are not properly aligned, which will compromise the ability of the end terminal to function as designed.
- VDOT is apparently re-installing the same posts, in the same incorrect manner, less than 24 hours before the start of testing.

- Trinity has not been permitted to see any of the test vehicles in order to inspect for prior damage, confirm sound mechanical and structural condition, or confirm the absence of aftermarket accessory equipment.
- Trinity has not been permitted to inspect the equipment mounted within the vehicles that will determine the crash test readings and data.

These are just a some examples of concerns raised during telephone calls today with the VDOT engineers. Trinity had asked for an opportunity to inspect the installation and vehicles in advance, and remains concerned that VDOT's lack of transparency will have serious and far-reaching consequences for the test outcome.

Below are a few of the many questions Trinity has been asking, and which remain unanswered on the eve of VDOT's new crash testing:

- Is VDOT installing "used" extruder heads as part of the test articles at KARCO?
- Has VDOT confirmed that the extruder heads were actually manufactured and sold by Trinity Highway Products, versus counterfeit end terminal systems previously discovered on Virginia roadways?
- Have these extruder heads been impacted before and how did VDOT determine there were no previous impacts?
- Where is the chain of custody for the extruder heads?
- What system configuration is VDOT installing and testing at KARCO (*e.g.*, 1 HBA post and 7 SYTP)?
- Where did VDOT obtain the dozens of other component parts of the end terminal systems (*e.g.*, cable anchor assembly, angle strut, bearing plate, anchor rail, HBA post, SYTP, bolts, blockouts) and from whom? And, where is the chain of custody?
- Is VDOT using component parts that were not manufactured by Trinity?
- Where did VDOT or KARCO obtain the test vehicles? Do the test vehicles have any prior damage or body work? Has KARCO run a title history report on each vehicle?
- What is the current condition of the test vehicles?
- Have the test vehicles been modified in any way?

As I said this morning by email, because Trinity will not have access until the date of testing, this denies my client a reasonable and meaningful opportunity to inspect the test articles, vehicles, equipment and apparatus. For that reason alone, I recommend VDOT postpone the start of testing to accommodate adequate time for Trinity to do its inspections. Moreover, if VDOT is



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having so much trouble installing the end terminal system that it is still removing and re-installing system posts just hours away from the testing, this calls into question the reliability and validity of the outcome once the testing commences.

On a final note, it appears that VDOT is encouraging a circus-like atmosphere by allowing the news media to attend and broadcast from KARCO. Yet your client continues to bar Trinity's outside counsel and experts from the premises, not to mention VDOT's prohibition on qualified engineers inspecting the test set-up in any significant way.

Thank you.

Sincerely,

*/s/ Matthew B. Kirsner*

Matthew B. Kirsner

cc: Sarah R. Teachout, Esq.  
Mr. Gregg Mitchell  
Counsel of Record in Case No. CL13-698,  
Circuit Court of the City of Richmond, VA