

# **EAST PALESTINE BOARD OF ED. FILES \$30+ MILLION LAWSUIT AGAINST NORFOLK SOUTHERN OVER BROKEN PROMISES TO STUDENTS, UNPAID EMERGENCY RESPONSE COSTS**

***Norfolk Southern “Walked Away” From Disaster Recovery: Local School Board Files New Lawsuit Against Norfolk Southern for Failing to Fulfill Financial Commitments.***

**EAST PALESTINE, OHIO – APRIL 30, 2025** – The East Palestine City School District Board of Education filed major new lawsuit against Norfolk Southern to recover losses it incurred as a result of the company’s train derailment disaster on February 3, 2023. The [lawsuit](#) was filed in U.S. District Court for the Northern District of Ohio by Ashlie Case Sletvold of the law firm Peiffer Wolf Carr Kane Conway & Wise (Peiffer Wolf).

According to the complaint, the company failed to fulfill its commitment to reimburse emergency response costs, including the use of school facilities by emergency personnel as an incident command center and for housing and transporting residents displaced by the mandatory evacuation orders. Norfolk Southern also failed to fulfill its promise to build a community wellness center at the school, with an estimated cost over \$30,000,000 according to the contractor Norfolk Southern hired for the project. Nor has Norfolk Southern made up for the lost operating expenses to the local schools stemming from the derailment’s impact on property values and resident income on which the schools’ operating budget relies.

The claims include negligence, strict liability for ultrahazardous activities, breach of contract, and promissory estoppel.

James Rook, superintendent, East Palestine City School District, said: **“This disaster upended our students’ lives. Norfolk Southern promised it would not ‘walk away’ and would help our community ‘recover and thrive.’ But Norfolk Southern did walk away from our students. East Palestine has not recovered from the perception of contamination and long-term health consequences. Student enrollment fell significantly in 2024 and will continue to fall because Norfolk Southern has broken its promises to ‘make it right.’ The impact on our students is heartbreaking. Our district will hold Norfolk Southern to its promises so we can continue to give our students the education they deserve.”**

Ashlie Case Sletvold, partner, Peiffer Wolf, said: **“Since the derailment, Norfolk Southern has made over \$16 billion dollars in profits, a windfall it achieved because it pawned off the costs of the trainwreck on this community while hoarding its profits. Norfolk Southern’s eagerness to resume its operations by unnecessarily exploding toxic chemicals to clear the tracks left the schools facing financial instability. Norfolk Southern promised to ‘make it right’ for East Palestine; it must keep that promise to East Palestine’s students.”**

## **The Derailment**

East Palestine is a village of approximately 5,000 residents, located 20 miles south of Youngstown, Ohio, and 40 miles northwest of Pittsburgh, Pennsylvania. Norfolk Southern’s Keystone–Fort Wayne Line runs right through it. On February 3, 2023, Norfolk Southern Railway Train 32N derailed 38 railcars there, because a bearing on a hopper car overheated and caused an axle to separate.

“Hot box detectors” along the tracks to check the temperature of each railcar wheelset are supposed to prevent derailments, but the hot box detectors Norfolk Southern chose to use take 30–60 minutes to accurately measure temperature increases.

30 miles west of the East Palestine, as the train passed through Sebring, Ohio, the hot box detector recorded a temperature of 38°F above ambient temperature on the right side of the hopper car. On the left side, the

temperature was measured at 20°F above ambient temperature. Despite the increased and differential temperatures on the respective sides of the car, no alarm sounded.

20 miles west of East Palestine in Salem, the hopper car was already on fire. The hot box detector there recorded that the left-side temperature was 103°F above ambient temperature. Norfolk Southern chose to adopt procedures that do not alert the train's crew or require them to stop and inspect the train under these circumstances.

Instead, a "non-critical alert" was transmitted to Norfolk Southern's Wayside Help Desk in Atlanta, Georgia. At the Help Desk, a single analyst working a 12-hour shift was monitoring the entire rail system. That analyst did not see the alert from the Salem hot box detector because he was working on another problem.

When the train reached East Palestine, the detector recorded the maximum temperature of 253°F above ambient temperature. This triggered a "critical alarm" and finally alerted the train's crew to the fact that the hopper car was on fire. The crew began to slow the train, but it was too late.

11 tank cars carrying hazardous materials derailed, three of which were mechanically breached during the derailment and released cargo. Those three cars and 32 others caught fire.

One of the breached cars contained butyl acrylates, which burned in a ditch beside the tracks for hours. The ditch fire ignited other cars containing butyl acrylates, ethylene glycol monobutyl ether, 2-ethylhexyl acrylate, propylene glycol, diethylene glycol and petroleum lubricating oil. Five of the 11 cars carrying hazardous materials contained vinyl chloride monomer, a compressed liquified flammable gas. Those cars were not mechanically breached during the derailment but were exposed to fires and released materials from pressure-relief devices over the next day.

Norfolk Southern delayed sending train-consist information to emergency responders, increasing responders' and the public's exposure to post-derailment hazards and limiting their ability to safely and effectively respond. The initial incident commander—the East Palestine deputy fire chief—never received a copy of the train's manifest. He reported that he learned there was vinyl chloride and benzene on the train by "word of mouth."

But at the same time, Norfolk Southern was talking with the train crew, authorizing them to separate the lead locomotives and move them away from the fire to protect Norfolk Southern's property.

### **Norfolk Southern's Unnecessary Vent-and-Burn Plan**

At around midnight on February 4, 2023, a pressure release device on one of the railcars of vinyl chloride actuated. This occurs when the pressure inside a tank reaches a pressure high enough to open the valve. The valve closes when the tank's pressure falls low enough for the valve to close. For railcars exposed to a pool fire, the pressure release device cycles through multiple times. Four of the five vinyl-chloride cars experienced pressure-release-device cycling, which ceased by approximately 6:45 p.m. on February 4.

In the meantime, Norfolk Southern communicated with the manufacturer of the vinyl chloride—OxyVinyls—about the risk of explosion. The manufacturer assessed the risk of explosion through polymerization as low and recommended monitoring for an increase in temperature along with modeling to assess the possible consequences of a tank car failure. It did not recommend blowing up the cars.

But Norfolk Southern was already considering a "vent and burn" for all five vinyl-chloride cars because it was the quickest way to get trains running on the tracks again. In a vent and burn, a tank car is punctured with explosives to reduce the pressure in the tank car and release the contents, which are directed through a trench and burned in a pit.

A vent-and-burn tactic is the last resort to unload a damaged tank car, according to the United States Department of Transportation, Federal Railroad Administration's Handbook for Vent and Burn Method of Field Product Removal (1994). It is to be used "only when all other emergency product removal methods have been considered and rejected, and the consequences of not relieving the internal tank car pressure are determined to be greater than using this procedure."

When Norfolk Southern decided to employ the vent and burn, the temperatures of four of the five vinyl-chloride cars were stable, and one was elevated but progressing in a downward direction. Norfolk Southern, eager to clear the tracks and resume its operations, insisted the readings were inaccurately low. The vinyl-chloride manufacturer disagreed and consistently maintained that there was no risk of explosion.

But the vent-and-burn plan was implemented by the incident commander anyway based on information provided by Norfolk Southern and conveyed at a meeting at around on February 6. OxyVinyls was not invited to the meeting and Norfolk Southern chose not to communicate the manufacturer's dissenting opinion that vent and burn was not necessary before the incident commander approved the vent and burn. Instead, Norfolk Southern described explosion or polymerization of the vinyl chloride as an imminent threat, inaccurately representing that the tank cars were at risk of catastrophic failure from a polymerization reaction, which created unwarranted urgency and led to the unnecessary decision to vent and burn the vinyl-chloride railcars.

Relying on information conveyed by Norfolk Southern, government officials in Ohio and Pennsylvania ordered evacuation of the surrounding area and advised residents that the conditions could cause an explosion with the potential of deadly shrapnel, and later that Norfolk Southern's plan would release deadly fumes into the air.

Before implementing the vent-and-burn plan, the incident commander was given just 13 minutes to approve Norfolk Southern's proposed course. When the incident commander asked Norfolk Southern's contractors to explain why the vent and burn was necessary, they explained that if a tank car's pressure rose to 150°F, they would withdraw personnel from the area and cease any effort to prevent an uncontrolled explosive tank rupture.

But by that time, the highest tank car temperature had fallen from 138°F the previous afternoon to 126°F. Norfolk Southern and its agents nevertheless urged the vent and burn procedure as the only option to prevent catastrophic failure of a tank car, leading the incident commander to consent.

Norfolk Southern did not disclose that its main concern in pushing for the vent and burn was to reopen the tracks and resume operations. A Norfolk Southern contractor breached the vinyl-chloride cars on February 6, 2023. Burning the vinyl chloride resulted in a column of black smoke that grew into a cloud of soot, carbon monoxide, hydrogen chloride, and phosgene (a toxic gas).

### **The Aftermath of the Unnecessary Vent and Burn of Vinyl Chloride**

While East Palestine's schools were closed from February 6–10, 2023 as a result of the disaster, Norfolk Southern resumed rail service through East Palestine on February 8.

The Board of Education responded to requests from Norfolk Southern to assist in transporting and housing evacuated residents in its facilities. District buses went door-to-door to evacuate residents from their homes and transport them to the schools for emergency shelter. The schools opened its doors to serve as the command center for the disaster response. East Palestine's teachers and staff underwent professional development training focused on trauma and its impact on students to assist them with processing the disaster in their community. Norfolk Southern repeatedly assured the Board of Education that Norfolk Southern would reimburse the Board for the costs associated with the use of its facilities and equipment. Norfolk Southern has not fulfilled its promises to do so.

Norfolk Southern also promised the Board to build a community wellness center on school property, and to relocate and rebuild the athletic facilities located at the site Norfolk Southern chose for the wellness center. The general contractor Norfolk Southern engaged for the project estimated the total cost at over \$30,000,000.

Believing this promise and at Norfolk Southern's request, the Board and school devoted substantial employee time to assist, including complying with Norfolk Southern's request to engage stakeholders and create a Wellness Center Steering Committee, which held a number of meetings and generated input from students and community members about what the wellness center should contain and what services it should provide. To date, Norfolk Southern has not fulfilled its promise to build the community center or relocate and rebuild the athletic facilities.

The school district relies on property and income taxes from the local community to fund its operations. Yet Norfolk Southern has not taken responsibility for making up those deficits caused by the impact of the disaster. Because of Norfolk Southern's repeated promises to the public and elected officials to cover all of the costs of the derailment and explosion, East Palestine never received a federal disaster declaration that would have made resources available for the district's recovery.

The East Palestine Board of Education's lawsuit follows a [\\$600 million class-action settlement](#) for residents within a 20-mile radius of the disaster, [\\$310 million settlement](#) with the Justice Department and U.S. Environmental Protection Agency (EPA), and [\\$22 million settlement](#) with the Village of East Palestine. Norfolk Southern's \$600 million class-action settlement offer was approved by a federal judge in September 2024, but the company later filed a motion to force railcar owner GATX and the chemical manufacturer OxyVinyls to share the cost. OxyVinyls this month [agreed to help pay the settlement](#), but a federal jury decided that Norfolk Southern was 100% responsible for the harm resulting from the disaster and found [GATX was not liable](#).

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