PIPELINE SAFETY OVERSIGHT AND LEGISLATION

HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND ENVIRONMENT

OF THE

COMMITTEE ON ENERGY AND COMMERCE

HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

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PIPELINE SAFETY OVERSIGHT AND LEGISLATION

THURSDAY, SEPTEMBER 23, 2010

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND ENVIRONMENT,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to call, at 2:10 p.m., in Room 2123, Rayburn House Office Building, Hon. Edward J. Markey [chairman of the subcommittee] presiding.

Present: Representatives Markey, Inslee, Butterfield, Matsui, McNerney, Dingell, Green, Harman, Matheson, Barrow, Upton, Stearns, Shimkus, Pitts, Burgess, Scalise, and Barton (ex officio).

Staff Present: Greg Dotson, Chief Counsel, Energy and Environment; John Jimison, Senior Counsel; Jeff Baran, Counsel; Joel Beauvais, Counsel; Melissa Cheatham, Professional Staff Member; Caitlin Haberman, Special Assistant; Lindsay Vidal, Deputy Press Secretary; Mitchell Smiley, Special Assistant; Aaron Cutler, Minority Counsel; Andrea Spring, Minority Professional Staff; Peter Spencer, Minority Professional Staff; and Garrett Golding, Minority Legislative Analyst.

OPENING STATEMENT OF HON. EDWARD J. MARKEY, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF MASSACHUSETTS

Mr. MARKEY. Welcome, ladies and gentlemen, to the Subcommittee on Energy and Environment and this very important hearing on pipeline safety oversight and legislation.

This week marks the end of a summer of fossil fiascos for the U.S. oil and gas industry. From April to August the country watched with horror as the BP disaster unfolded, leaving 11 workers dead and spilling nearly 5 million barrels of oil into the Gulf of Mexico.

What has gone less noticed by many is a wave of major accidents during the same period on the country's aging oil and pipeline system.

In June, a Chevron pipeline burst near Salt Lake City, spilling over 20,000 gallons of crude into a creek that feeds the Great Salt Lake.

On July 26th, a pipeline owned by Enbridge ruptured near Marshall, Michigan, spewing nearly 1 million gallons of crude oil into Talmadge Creek and the Kalamazoo River. The oil ultimately was contained just 80 river miles from Lake Michigan, but only after doing massive damage to local communities and the environment.

Earlier this month a PG&E natural gas pipeline exploded in the San Francisco suburb of San Bruno, leaving seven people dead or missing, destroying several dozen homes and damaging over 100 others.

The very same day yet another Enbridge oil pipeline burst near Chicago, spilling over 250,000 gallons of crude.

There are over 2.5 million miles of oil and natural gas pipelines in this country, many of them laid a half a century or more ago. Some of these pipes appear nearly as fossilized as the fuel they transport. This summer's tragic accidents underscore the potential danger they present if not properly maintained.

Here, as with the BP disaster, it is critical that we unearth the causes of these accidents and hold the responsible parties fully accountable. Just as important, we must reexamine and strengthen our laws to ensure that accidents like these do not happen again. Now is the time for that discussion, as the Federal pipeline safety law is due for renewal this year, a duty that this committee and subcommittee shares with the Transportation and Infrastructure Committee. That is what today's hearing is about.

We are grateful to have before us Congressman Mark Schauer in whose district the Marshall spill occurred. He has been heavily involved in response to the Marshall spill. He is also the lead sponsor of H.R. 6008, the Corporate Liability and Emergency Accident Notification, or CLEAN Act, a bipartisan pipeline safety bill cosponsored by our ranking member, Fred Upton from the State of Michigan, and others that the House will vote upon today.

We will hear from the head of the Pipeline and Hazardous Materials Safety Administration, the Federal agency in charge of pipeline safety regulation, about the recent accidents and the Obama administration's proposal to strengthen the Federal pipeline safety law.

We also welcome the Vice Chairman of the National Transportation Safety Board, which is responsible for investigating the recent accidents in Michigan, California, and elsewhere.

We will hear from Steve Wuori, the man in charge of Enbridge's pipeline operations and its response to the Marshall and Romeoville spills. In addition to these two accidents Enbridge has had over 160 pipeline incidents since 2002. Enbridge has had over 200—over 160 pipeline incidents since 2002 and was recently fined $2.4 million for a 2007 accidents in which two workers were killed. I trust that the subcommittee will have many questions for Mr. Wuori.

Finally, we will hear from the Pipeline Safety Trust, which seeks to improve pipeline safety and from the three major trade associations representing pipeline owners.

I look forward to the testimony of our distinguished witnesses. I thank all of the members for their participation. I now turn to recognize the ranking member of the subcommittee, the gentleman from Michigan, Mr. Upton.

OPENING STATEMENT OF HON. FRED UPTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. UPTON. Thank you, Mr. Chairman. I appreciate having this hearing today, which perhaps will be the last of this Congress, so we will see.

Pipeline safety is an issue that is certainly important to every community in our country. The U.S. currently has over 200,000 miles of oil pipelines and 260,000 miles of natural gas pipelines, an often unseen underground labyrinth that allows our communities to function and prosper. The safety security and integrity of this infrastructure is of the highest importance to our Nation and certainly worthy of this committee's oversight. Unfortunately, as southwest Michigan recently found out firsthand, communities cannot fully appreciate the importance of pipeline safety until something goes wrong, and in our case it was an 800,000-gallon pipeline leak.

We are still waiting on answers. It is vital that we receive the answers promptly from the Department of Transportation's Pipeline and Hazardous Materials Safety Administration, as well as Enbridge, regarding the Michigan spill. We must continue to work aggressively to ensure that there are no delays at the Federal level.

Thankfully, the emergency response was swift and decisive. Our local emergency responders and volunteers certainly stepped up to the plate, and I commend them on the wonderful job that they continue to do.

Pipelines are the arteries of our Nation's energy infrastructure. Through our hundreds of thousands of miles of pipelines we transport the energy that fuels our economy, heats our homes, and powers our daily lives. Unfortunately, recent accidents have thrust this vital infrastructure into the headlines for the wrong reasons and perhaps highlighted the need for safety reassessments.

Given the vast size of our pipeline system and the limited resources at our disposal, it is imperative that safety inspections and regulations are as efficient and as productive as possible.

While today's hearing is rightly focused on oversight issues, attention should also be given to allocating these finite resources in a more cost effective and efficient manner to assure that we maximize our safety efforts.

Legislation has to be sensible and improve safety rather than impose arbitrary mandates that sometimes increase costs and only creates the appearance of safety.

As we are not too long away from adjournment, I hope an issue as important as PHMSA reauthorization goes through the regular and proper order rather than being jammed through a lame duck session which may only be a day or two.

This committee does have a vital role to play in the legislative process. This issue is certainly worthy of more than just one hearing. Just ask the folks in southwest Michigan. They will tell to you get the job done right to protect our communities.

Again, pipeline safety is an important bipartisan issue, and I look forward to hearing from or witnesses today on the issues. I yield back the balance of my time.

Mr. MARKEY. I thank the gentleman very much. We recognize the gentleman from Washington State, Mr. Inslee, for an opening statement.

OPENING STATEMENT OF HON. JAY INSLEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. INSLEE. Thank you. One of the great painful things is to see these tragedies repeated. We had a horrendous incident in Bellingham, Washington on June 10, 1999, where a pipeline explosion killed three young men, and I got to know the families quite well and they were courageous people who helped Congress fashion at least one approach to try to improve pipeline safety. So to continue to see other families suffer from the failure of the industry to adequately inspect and maintain the lines is deeply painful.

I think the frequency of these events clearly call on us to review additional action. I will just mention two things that I think we ought to at least listen to people about, and that is the rate and type of inspections in non-dense, non-urban areas, which still can be dangerous; second, whether there are additional types of testing that we ought to be talking about.

During our original debate in 2000 and later than that we talked about the benefits of hydrostatic testing, to actually exposing pipelines to pressure with water in them that can be a built-in suspenders approach. I think this is something we have to consider.

Thank you, Mr. Chair.

Mr. MARKEY. I thank the gentleman. The chair recognizes the gentleman from Texas, Mr. Burgess.

OPENING STATEMENT OF HON. MICHAEL C. BURGESS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. BURGESS. Thank you, Mr. Chairman, and thank you for having the hearing today. It is certainly an important one for this committee to hold.

For several months we have actually watched as other committees held hearing after hearing on pipeline safety, chipping away at the jurisdiction that rightfully belongs in this committee. Pipeline safety is a matter of energy policy, and it is crucial to what we do here.

The events in Michigan and California have been tragic reminders that safely maintaining our Nation's energy infrastructure is an ongoing process and we must be diligent in protecting the lives in and around those pipelines.

It is true in many areas of the country, including my backyard in north Texas, civilization is encroaching on pipelines just as pipelines are encroaching on civilization. Homes are being built closer and closer to the infrastructure that was laid decades ago in what used to be rural areas. Now the population has increased and urban density is forcing people to move further and further into the country, and pipelines that were once miles from anywhere are suddenly right beneath residents' backyards.

More and more people require natural gas. It is one of the cleaner fuels on the market. And more pipelines and infrastructure will be needed to meet that demand. What is not clear how to best move forward with regulating this increased infrastructure.

Some on this committee are calling for new Federal regulations as we revise and reauthorize the existing pipeline statute. Certainly that might be required, but investigations into the pipeline explosions are still months from being completed, and perhaps they will have some useful data to share with us at some point and perhaps we should look at that.

We see this time and again with this committee. We never let a crisis go to waste, but not all regulations need to be at the Federal level. A consortium of mayors in my district collaborated on a pipeline best practices guideline. Mr. Chairman, I would like unanimous consent to insert into the record—

Mr. MARKEY. Without objection, it will be so included.

Mr. BURGESS. —the pipeline best practices developed by the mayors of Denton and Dish, Texas, Argyle and Bartonville.

[The information appears at the conclusion of the hearing.]

Mr. BURGESS. We don't want to be continuing to study a problem when another crisis occurs. But we are also obligated to get the correct regulations.

So, Mr. Chairman, I am glad we are here today. We need to be looking into what is causing these explosions. Is it just a coincidence that the incidents have occurred within a short span of each other or is there a fundamental flaw in how we monitor and design our pipelines? We need firm answers to questions like these in order to best know how to move forward with balancing our need for increased clean energy with the health and lives of those who live so close to the energy infrastructure.

I thank you for the courtesy and I will yield back the balance of my time.

Mr. MARKEY. The gentleman's time is expired. The chair recognizes the gentleman from North Carolina, Mr. Butterfield.

OPENING STATEMENT OF HON. G.K. BUTTERFIELD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. BUTTERFIELD. Thank you. I too want to thank you for convening this very important hearing and thank the witnesses for their testimony today.

Mr. Chairman, I am going to talk as quickly as I can. We just got notice that we may be having votes in just a few minutes.

Let me extend my sympathies to the families of those who lost their lives in San Bruno in the pipeline explosion. It was a terrible tragedy by any estimation. Hopefully it will focus our discussion and make us more exact in the pursuit of good policy.

In addition to the San Bruno PG&E explosion, the two Enbridge spills this year certainly demands this body's attention. This is an issue that effects nearly every Member of this body as the millions of miles of pipeline in this country are literally in our constituents' backyards. We have a responsibility to guarantee that the rules that these companies operate under are sufficiently crafted to maintain the integrity and safety of the pipelines and to protect our communities from environmental disaster or even death.

I am particularly interested in the testimony of the Administrator. The latest incident suggests the pipeline safety program is

in need of serious attention. I look forward to her suggestions on how to improve this program.

I yield back.

Mr. MARKEY. The gentleman's time has expired. The chair recognizes the gentleman from Pennsylvania, Mr. Pitts.

OPENING STATEMENT OF HON. JOSEPH R. PITTS, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. PITTS. Thank you, Mr. Chairman. Thank you for holding this important hearing on pipeline safety oversight and related legislation.

Like all of us, I believe that it is critical to ensure the safety and security of our Nation's pipelines. The tragic events in San Bruno, California, and the Enbridge incident highlight the high stakes and potential consequences of the faulty lines.

In my congressional district there are several natural gas pipelines that run through beautiful countryside and in close proximity to neighborhoods. It is of the utmost importance to me that these pipelines are functioning safely and effectively.

The safety of the 2½ million miles of natural gas and hazardous liquids pipelines in the United States is overseen by the Pipeline and Hazardous Materials Safety Administration. The pipeline safety statute, which is generally reauthorized every 4 years, is up for consideration this year. Clearly ensuring the safety of our pipelines is a bipartisan issue, and I want to work with my colleagues on the other side of the aisle on prudent regulations. We need clear regulations and robust safety standards.

Before we legislate I think it is important to first learn the facts about what happened in California and Michigan so we know what steps to take. We want to ensure that we are prudently legislating and addressing issues that will contribute to reliable and secure pipelines which deliver their products to American households and businesses every day.

I look forward to hearing from our witnesses today, and thank you and yield back.

Mr. MARKEY. We thank the gentleman. The chair recognizes the chairman emeritus of the Energy and Commerce Committee, the gentleman from Michigan, Mr. Dingell.

OPENING STATEMENT OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. DINGELL. Mr. Chairman, thank you for your courtesy and thank you for holding this hearing today.

Pipeline safety is a most serious issue, and I commend you for your attention to this matter. This has been a matter of concern to this committee for a long time. For years pipeline safety was largely disregarded by the executive branch no matter who happened to control that particular part of our government, and it was only after this committee interested itself very vigorously in these matters that the matter began to be set aright.

If my colleagues will remember, we had a number of years of difficulty during which this committee had a vigorous duel with the

industry to see to it that we finally came to something that would in fact assure the necessary protections to the American public.

Pipeline failure can take many forms. It can be an explosion that comes close to reminding one of an atom bomb, or it can be a slow leak, or it can be something which pollutes and contaminates our waters and our lands. It can have an enormously destructive effect to humans, wildlife, the environment, and indeed to all the things that we care about.

I am particularly pleased that our good friend and colleague, Mr. Schauer, is here before us today. He is an extremely valuable member of the Michigan delegation and serves Michigan Seventh Congressional District just to the west of the district that I have the honor to serve. He serves his district with distinction and honor and has particular concern about the events associated with pipeline failure because of the enormous consequences that a recent failure has had in his district.

I also would like to welcome an old friend of mine, former member of the staff of this committee, our good friend Rick Kessler, who, as many will remember, used to staff this committee on these very issues.

In late July, Enbridge's pipeline known as 6B ruptured just south of Marshall, Michigan. The end result of the rupture was the release of nearly a million gallons of crude oil, which flowed into the Kalamazoo River, a tributary of Lake Michigan.

Again, on September 9th Enbridge reported a second pipeline spill, this time in Illinois. This time 256,000 gallons of oil were released before the pipeline was shut down. On the same day a natural gas pipeline operator by PG&E exploded in San Bruno, California. Like far too many pipeline explosions over the years, this one saw the tragic loss of life.

I have spent much time over the years on this issue of pipeline safety. We, and I mean this committee, have made tremendous improvements, and we have been able to do so in a bipartisan manner. I am pleased to be a cosponsor of Mr. Schauer's bill, which is scheduled for floor consideration on the suspension calendar today. This legislation moves the ball forward some more.

The common sense legislation does three simple and necessary things: One, a company must report a leak within an hour of discovery; two, increases fines for failure to report; three, requires DOT to maintain a searchable database of all reportable accidents and incidents involving hazardous liquids. I think we should strongly support this legislation, but I want to make it clear it is no replacement for reauthorization and reform of the Pipeline Safety Act.

I am still concerned about the historically lax enforcement by the Pipeline and Hazardous Safety Material Administration. I look forward to hearing from PHMSA about their actions with regard to the aforementioned incidents.

The Department recently released a draft proposal for reauthorization. It is quite possible this is a good starting point, but it is also something which must be carefully scrutinized to see whether it meets the needs of the country.

As currently goes on, only about 7 percent of natural gas pipelines are subject to integrity management programs that this com-

mittee put in place in 2002, clearly insufficient. The administration draft does nothing to address this matter. The granting of waivers remains all too real a possibility. The draft lacks sufficient improvements to the matter of inspections and repairs. It does nothing to address the issues that we should have dealt with years ago, including remote shut-off valves for natural gas and making pipelines more able to accommodate smart pigs, which is still the best technology for addressing the question of pipeline safety.

I look forward to hearing from our witnesses today, Mr. Chairman, and I look forward to working with you and my colleagues on the committee for reauthorization that will make further needed and significant improvements to the law. Thank you, Mr. Chairman.

Mr. MARKEY. We thank the gentleman. The chair recognizes the gentlelady from California, Ms. Matsui.

OPENING STATEMENT OF HON. DORIS O. MATSUI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. MATSUI. Thank you, Mr. Chairman. Thank you for calling today's hearing, and I would also like to thank the witnesses for appearing before us today.

The recent explosion that devastated the San Bruno neighborhood captured the Nation's attention. It was hardly the first tragedy involving a PG&E natural gas pipeline in northern California. I want to express my sympathy to the families of those who lost their lives, their homes, and the many who were injured.

I will never forget being alerted on Christmas Eve 2008 about another natural gas pipeline leak that caused an explosion and a fire in Rancho Cordova, California that killed one of my constituents Wilbert Pena and hospitalized five others.

As the NTSB and the California Public Utilities Commission continue their investigations into the cause of the San Bruno incident, it is critical that we ensure that the pipeline safety program protects consumers and meets the needs of our Nation's energy requirements. Failure to take the necessary steps to do so will significantly endanger our public health and our economy.

As oversight of pipeline safety and security continues, we should question the manner in which safety corresponds with ongoing efforts to secure the nearly half a million miles of oil and natural gas transmission pipeline nationwide and other infrastructure. It is also important that we examine the effectiveness of existing regulatory authorities and the current pipeline safety regulations and enforcement mechanisms.

This committee is well positioned to scrutinize these matters and has already received a proposal from the administration suggesting ways in which we might address them.

I look forward to hearing from the panelists today and working with the committee's stakeholders on these important endeavors. I thank you, Mr. Chairman. I yield back the balance of my time.

Mr. MARKEY. Thank you. We thank the gentlelady. The chair recognizes the gentleman from Illinois, Mr. Shimkus.

Mr. SHIMKUS. I will waive for questions, Mr. Chairman.

Mr. MARKEY. The chair recognizes the gentleman from Florida, Mr. Stearns.

OPENING STATEMENT OF HON. CLIFF STEARNS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. STEARNS. Thank you, Mr. Chairman, and thank Ranking Member Upton for calling this important hearing, examining the recent oil and gas pipeline accidents in Michigan an California as well as the pipeline safety legislation that is being proposed by the Obama administration.

The development and distribution of our oil and natural gas resources is vital to our economy, and transporting these fuels through pipelines remains the safest means of distribution to families and businesses throughout this country. However, recent pipeline failures have highlighted a catastrophic effect a release can have on a community and the environment.

In July, Enbridge reported the rupture of a 30-inch pipeline resulting in the release of 800,000 to 1 million gallons of oil that contaminated nearby creeks and rivers before being contained.

Enbridge also reported a second incident on September 9th, which they estimated released over 256,000 gallons of oil before the pipeline was shut down. On the same day a 30-inch natural gas pipeline operated by PG&E exploded in San Bruno, California, resulting in a fire that took the lives of at least seven people and injured dozens more.

In all three cases the National Transportation Safety Board has instigated a safety investigation to determine what went wrong. The investigators have stated it could take up to 18 months for a full report to be released. So I believe we owe it to the families and those killed in the explosions and those affected by the Enbridge leaks to fully understand what caused the leaks and how best to mitigate the risk of another disaster. Proceeding with legislation without all the facts will only serve to give a false sense of security to anyone who lives near an oil or natural gas pipeline without addressing the actual causes of these disasters.

So, Mr. Chairman, thank you for calling this hearing. I look forward to the testimony from the witnesses.

Mr. MARKEY. We thank the gentleman. The chair recognizes the gentleman from California, Mr. McNerney.

OPENING STATEMENT OF HON. JERRY MCNERNEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. MCNERNEY. Well, thank you, Mr. Chairman, for convening today's hearing.

Everyone from California was shocked and saddened by the tragedies at San Bruno, and our thoughts and prayers are with the victims and their families. I am closely monitoring the ongoing response efforts and will hold all parties accountable for any actions or omissions that contributed to this horrible accident.

Today's hearing is an important opportunity to investigate the causes of this and similar disasters and how we can prevent this kind of occurrence from happening again. I am grateful for the op-

portunity to hear from today's witnesses and evaluate legislative proposals that could improve the safety of pipelines.

I commend Representative Schauer for working across party lines to develop the CLEAN Act, and I also thank Ranking Member Upton for his commitment to a bipartisan process on this matter.

I also hope to hear from today's witnesses about the evaluation, about their evaluation of the administration's proposal to reauthorize pipeline safety regulation legislation. We should closely analyze this proposal and continue working in a bipartisan fashion to achieve a high quality reauthorization bill.

With that, Mr. Chairman, I yield back.

Mr. MARKEY. I thank the gentleman. The chair recognizes the ranking member of the full committee, the gentleman from Texas, Mr. Barton.

Mr. BARTON. Thank you, Chairman. I am going to put my statement in the record and just say that we appreciate you holding this hearing. It is very important.

We have historically operated in a bipartisan fashion on the reauthorization of the Pipeline Safety Act, and I hope that this is not an exception.

I want to give special recognition to one of our witnesses, Andy Black, who used to work for the committee, and before that worked for me on my personal staff. He is one of our witnesses this afternoon and we welcome the hearing and welcome hopefully a bipartisan effort to reauthorize a very important piece of legislation.

[The prepared statement of Mr. Barton follows:]

Opening Statement of the Honorable Joe Barton
Hearing Entitled "Pipeline Safety Oversight and Legislation"
Committee on Energy and Commerce
Subcommittee on Energy and Environment
September 23, 2010

Mr. Chairman, thank you for holding this timely and important hearing.

Events involving our nation's pipelines over the past several weeks have been tragic and troubling. Over a span of only two months, we've seen the largest oil pipeline spill in years and a massive gas pipeline explosion in California that destroyed dozens of homes and killed four people, with three still missing. As legislators, we have an opportunity to investigate the events that led to these disasters and to work together to reauthorize pipeline safety regulations to prevent accidents like these.

I'm glad we have a comprehensive list of witnesses that can offer us their experience and expertise. I'm especially pleased to see Andy Black at the witness table today, a former staff member of the Energy and Commerce Committee.

While it is important that we reauthorize pipeline safety laws, we need to be careful not to legislate before we get all the facts on these two accidents. As far as I know, the causes of these pipeline failures have

not been determined yet. We must craft strong safety legislation that is targeted to the areas that most need increased vigilance.

Although I'm delighted we are having a hearing on this legislation before moving any further, I want to remind everyone of the process of the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006. Back then, we worked together in a bipartisan manner to craft legislation we could all support. It was a long process, but it was done the right way, and the bill passed by voice vote under suspension on the House Floor.

That being said, we have some concerns about the Administration's proposal that will be highlighted during this hearing. We also want to learn as much as we can about these pipeline disasters. These are serious matters; we don't want to rush to conclusions and make bad legislative decisions.

I look forward to hearing from our witnesses and listening to what NTSB can tell us about their investigations so far. Hopefully, out of these tragedies we will learn how to protect our citizens and environment in a more effective manner.

With that, I yield the balance of my time.

Mr. MARKEY. We thank the gentleman very much, and one of my former staffers, William Meyer, is out in the audience. I would like to recognize him. And any of the other members that want to recognize anyone who used to work for them out in the audience, I think you should be able to do that as well.

Let me turn now and recognize the gentleman from Texas, Mr. Green.

OPENING STATEMENT OF HON. GENE GREEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. GREEN. Thank you, Mr. Chairman. I have no former staffers in the audience as I can tell. I want to thank you for holding the hearing today and I welcome our three panels. I appreciate the opportunity to discuss this important issue, in particular Congressman Schauer's H.R. 6008, the Corporate Liability Emergency Accident Notification Act, and the administration's legislative proposal for reauthorization of the pipeline safety statute that was presented to Congress last week.

The recent leaks in Michigan, Illinois, and then the tragic explosion in San Bruno, California, remind us of the importance of maintaining a safe pipeline system, and my thoughts and prayers go out to the families and friends of those tragically lost in San Bruno.

As we consider these proposals, I ask we keep in mind that transporting our fuels through pipelines is the safest, most reliable, economically and environmentally friendly way to transport fuels. Our job and Nation's job, industry's job is to ensure that this transport is as safe as it can be, and we all agree that one leak is one leak too many.

I am concerned that it has taken three accidents for Congress and the administration to look at this important issue, even with the current law up for the reauthorization. As such, we are now in a situation where we are moving to deal with very serious legislation such a few short legislative weeks, all the while investigation results on three leaks are still coming in.

I appreciate the comments from our panelists on both these proposals and then their take on the status of our pipeline infrastructure at large.

I come from an area where I have lived along pipeline easements literally my whole life, and it is part of our life in my area, and so we take pipeline safety very seriously in our community.

Again thank you, Mr. Chairman. I look forward to the testimony of our witnesses.

Mr. MARKEY. We thank the gentleman. The chair recognizes the gentleman from Louisiana, Mr. Scalise.

OPENING STATEMENT OF HON. STEVE SCALISE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. SCALISE. Thank you, Mr. Chairman.

First, I would like to also extend my deepest condolences to the families and friends of those who lost their lives in California as a result of the explosion in San Bruno.

I appreciate the opportunity to discuss the important issue of pipeline safety today. I look forward to hearing the panel and welcome our colleague from Michigan.

In my home State of Louisiana, tens of thousands of miles of pipeline crisscross throughout the State and provide critical energy resources, not just to Louisianians but also to the rest of the country.

While transport by pipe is still the safest way to get our energy supplies from one place to another, it is imperative that we continuously review and improve our inspection systems and work with industry officials at all levels of government to keep our communities safe from accidents.

I am committed to working with my colleagues to ensure that strong inspection and enforcement laws are on the books as we consider the reauthorization of our pipeline safety laws. However, as we consider reauthorization and as we continue to investigate the causes of both the San Bruno explosion and Enbridge incident in Michigan, we must be very deliberate to make sure that any changes we make to current laws actually improve safety, and we must avoid acting hastily on changes that may leave us more vulnerable to accidents and disasters.

Of course, in my home State of Louisiana we are experiencing this directly. As a supposed answer to the BP oil explosion in the Gulf of Mexico, the President came and put an arbitrary ban on all Outer Continental Shelf drilling, which actually, according to the President's own scientists, reduces safety of drilling in the Gulf and actually leaves us more vulnerable to oil leaks because 70 percent of all the leaks of oil come from oil that is imported on tankers. And so that was a bad policy, that was a wrong reaction to the tragic disaster in our State, and hopefully as we move forward we do it in a much smarter way that actually addresses the problem.

So thank you. I look forward to hearing from the panel, and I yield back.

Mr. MARKEY. We thank the gentleman. Our final opening statement is from the congressman from Utah, Mr. Matheson.

OPENING STATEMENT OF HON. JIM MATHESON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. MATHESON. Thank you, Mr. Chairman. I will be brief. I know we have votes coming up on the floor.

The tragedy in the Gulf and these recent series of oil and natural gas pipeline accidents are unfortunate reminders that we always need to be vigilant in oversight of our energy infrastructure in this country and we should always be evaluating the effectiveness of our current safety laws and regulations.

The incident in Utah when a Chevron pipeline burst in Salt Lake City ultimately leaked 33,000 gallons of oil into Red Butte Creek, which runs through downtown Salt Lake and eventually empties in the Great Salt Lake. In this case fortunately no lives were lost and the oil was basically contained before it get to the Great Salt Lake. But it raises similar questions to a number of these recent accidents referred to in the hearing that need to be addressed.

Right now the cause of the Salt Lake leak that has been reported in the press is that a tree branch fell during a heavy windstorm,

hit a power line, which created an electric arc, which hit a metal fence post, and that fence post happened to be driven into the ground just inches away from the oil pipeline. The electrical arc burned a small hole in the pipe through which the oil leaked. So this raised an important question, why was a fence post within inches of the pipeline?

In addition, it appeared that the monitoring equipment on the pipeline failed to indicate there was a leak for several hours after the leak started, and the first time Chevron was aware of the leak was when the Salt Lake City Fire Department called them the next day. This raises an important question about how effective pipeline monitoring equipment is.

Now the final report on the cause of the Salt Lake leak has yet to be completed by PHMSA, so I won't press for those details, but do I hope the Administrator can speak later in this hearing to the general investigation process and whether questions related to over pipeline integrity, adequacy of current pipeline inspections and how thorough industry is being in their pipeline integrity plans will be addressed in the report and reports on the accidents in Michigan, Illinois, and California, if it turns out some of the factors contributing to the leaks are poor pipeline integrity management plans, inadequate pipeline patrol and inspections, particularly in high population areas, and faulty leak detection equipment, and I look forward to working with my colleagues to ensure the steps are taken to resolve these issues through pipeline safety reauthorization.

Mr. Chairman, with that I will yield back.

Mr. MARKEY. We thank the gentleman very much. That completes all time for opening statements of members.

Now, Congressman Schauer, you are our opening witness, but there are only 5 minutes left to go before the roll call is on the floor. We give you the option. You can give us your condensed kind of 3-minute summary or you can come back and do the more extended version. I leave it up to you.

We recognize then Congressman Mark Schauer, within whose district the Enbridge spill occurred. Since July he has been a leader on the legislation, along with Mr. Upton, to deal with that catastrophe. We yield to you 3 minutes.

STATEMENT OF THE HON. MARK SCHAUER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. SCHAUER. Thank you, Mr. Chairman, Ranking Member Upton, all members of the subcommittee.

Enbridge Energy Partners is the largest oil pipeline company in North America; 286 miles of its lakehead system flows through Michigan through Line 6B.

On July 15th, 2010, 10 days before this incident occurred in Marshall, Michigan, their Vice President told the Transportation and Infrastructure Pipelines and Hazardous Materials Subcommittee that their response time for release in incidents can be almost instantaneous, and our large leaks are typically detected by our control center personnel.

You will hear from the NTSB, they will walk you through timeline. Thirteen hours of alarms were occurring in Edmonton, Al-

berta, at their control center. Their leak detection system failed. Finally, after 911 calls in the local community on the gas odor, 11:00 a.m. The next morning another local utility company informed Enbridge that heavy crude oil was leaking into Talmadge Creek. Soon after Enbridge began lowering boom in Talmadge Creek, but it took almost 2 hours later before the National Response Center was called.

Every second counts in an incident like this, and nearly 1 million gallons of heavy crude oil was spilled into the Kalamazoo River.

My good friend and colleague, your ranking member knows full well and can explain the fear of this oil heading to a lake which is an EPA Superfund site with PCBs. The cause of this spill, a 6-1/2 foot tear in a 41-year old carbon steel pipe, 30 inches in diameter.

This incident should never have occurred. Since 2007 Enbridge has been aware of 390 anomalies; 329 went unfixed. That is unacceptable. That is what regulation will hopefully fix.

In the remaining time let me touch on the CLEAN Act. This bill would clarify the congressional intent of the term "immediately" in the reporting requirements of a spill incident to the National Response Center. The CLEAN Act will define "immediately" as no more than 1 hour after the discovery of an incident. The CLEAN Act will also increase current fines if a spill is not reported immediately to the National Response Center.

Additionally, my bill seeks to increase transparency by directing the U.S. Department of Transportation to create a searchable public database of all reportable hazardous liquid incidents.

Mr. Chairman and Ranking Member Upton and members of the subcommittee, thank you for holding this hearing. It is my sincere hope that with proper standards and oversight for pipeline inspections and repairs, leak detection and spill reporting, we can work toward preventing such devastating spills and protect the safety of our communities and our environment.

Thank you.

[The prepared statement of Mr. Schauer follows:]

STATEMENT OF
Congressman Mark Schauer
Member of Congress
Before the
Subcommittee on Energy and Environment
Committee on Energy and Commerce
U.S. HOUSE OF REPRESENTATIVES
Hearing on Pipeline Safety Oversight And Legislation
September 23, 2010

Mr. Chairman and Ranking Member Upton,

Thank you for holding this hearing today. It's important to the people in Michigan, where 286 miles of Enbridge's Line 6B lays.

According to the National Transportation Safety Board, on Sunday, July 25, 2010, at 5:58p.m., alarms began to sound in Enbridge Energy Partner's control room in Edmonton, Alberta, Canada, on Line 6B of Enbridge's Lakehead Pipeline.

Around 9:30 p.m. on Sunday, July 25, residents in the Talmadge Creek area, just south of Marshall, MI, began calling 9-1-1, to complain about a gas odor.

After multiple alarms went off for over 13 hours, Enbridge sent a technician to the site at 9:49 a.m. the next day to inspect the Marshall Pump station and did not find any leaks at pump station facility. The pump station is located three-quarters of a mile from the site of the rupture.

At 11:18 a.m., Consumers Energy reported to Enbridge that there was oil in the Talmadge Creek. The leak was confirmed by Enbridge personnel at 11:45 a.m., but Enbridge waited until 1:29 p.m., nearly two hours after confirmed discovery by their personnel, to report the spill to the National Response Center. Enbridge had began laying boom on the creek and the river around 11:45 a.m. The proper Federal agencies had not yet been notified.

With this oil spill, I saw the unimaginable. The community was devastated that night and in subsequent days. One million gallons of heavy cold lake blend crude oil poured into Talmadge Creek and then flowed almost 35 miles down the Kalamazoo River, a tributary to Lake Michigan.

Public health was compromised, and more than 60 homes were evacuated. Local medical centers have reported over 120 visits related to illnesses from the oil spill.

Over 1,400 oiled wildlife have been collected thus far. The spill area is still under advisories for drinking water, recreation, and fish consumption.

I never would have imagined that just after Congress held hearings on the BP Deep Water Horizon spill and strengthening the Oil Pollution Act, my community would be dealing with oil-coated geese and a river flowing black.

The ironies here are too many to cite.

Just 10 days before this spill, an executive of Enbridge Energy Partners testified before the Transportation and Infrastructure's Subcommittee on Railroads, Pipelines, and Hazardous Materials on its integrity management system and stated their response time for release incidents "can be almost instantaneous, and our large leaks are typically detected by our control center personnel." As we learned, this was not the case.

Additionally, it took Enbridge almost two hours to report this leak to the National Response Center. Current regulation requires pipeline operators to report incidents immediately upon discovery of a release. In 2002, PHMSA determined "immediately" to be defined as between one and two hours after discovery.

In an accident like this with people and the environment at risk, every second counts, which is why I introduced a bi-partisan bill, H.R. 6008, the Corporate Liability and Emergency Accident Notification Act (the CLEAN Act). This bill will clarify the Congressional intent of the term "immediately" in the reporting requirements of a spill incident to the National Response Center. The CLEAN Act will define "immediately" as no more than one hour after the discovery of an incident. My bill will also increase the current fines if a spill is not reported "immediately" to the National Response Center.

Prior to this hearing, I have reviewed a sampling of reports to the National Response Center pertaining to incidents that have been or are currently under investigation by the National Transportation Safety Board, and I have to say that I was stunned by what I found. Here is just a sampling:

- An incident that is still in all of our minds: June 10, 1999 an Olympic pipeline ruptured in Bellingham, Washington, releasing about 237,000 gallons of gasoline into a creek that flowed through a park. The gasoline ignited and burned about 1 ½ miles along the creek. Two 10-year-old boys and an 18-year-old young man died as a result of the incident. The incident occurred at 4:43 p.m. PST; it wasn't reported to the NRC until 8:03 p.m.

- On August 19, 2000, a natural gas transmission pipeline ruptured. The release gas ignited and burned for 55 minutes. Twelve people were killed. The incident occurred at 6:10 a.m. but wasn't reported until 10:27 a.m.

- On October 27, 2004, a pipeline ruptured near Kingman, Kansas, releasing 204,000 gallons of anhydrous ammonia into a creek, killing more than 25,000 fish including some from threatened species. The incident was reported the NRC about 2 ½ hours later.

- On March 5, 2008, a natural gas explosion destroyed a residence, killing a man and seriously injuring a 4-year-old girl. Two other houses were destroyed, and 11 houses were damaged. The incident occurred at 1:30 p.m.; it wasn't reported until 4:59 p.m.

- A more recent incident: PG&E in San Bruno, California. That tragic rupture, which took the lives of four people (three more are still missing), injured numerous others, destroyed 37 homes, and damaged 11 others, occurred at 6:11 p.m. on September 9, 2010; it wasn't reported to the NRC until 11:35 p.m. Unfortunately, that seems to be par for the course for PG&E. PG&E reported a gas leak in Roseville, California on September 7, 2010 had occurred at 3 a.m.; it wasn't reported to the NRC until 8:01 p.m. Additionally, PG&E was responsible for a fatal incident on December 24, 2008, in Rancho Cordova, California. The incident occurred at 1:35 p.m.; it wasn't reported to the NRC until 6:22 p.m.

- I could go on: A June incident involving a Chevron pipeline wasn't reported for four hours; a September incident involving Exxon Mobile wasn't reported for five hours; a September incident involving Columbia Gas wasn't reported for four hours; a May incident involving Alyeska Pipeline wasn't reported for six hours.

That is unacceptable.

Additionally, my bill seeks to increase transparency by directing the U.S. Department of Transportation to create a searchable, public database of all reportable hazardous liquids incidents.

On the very same day they testified before the Subcommittee on Railroads, Pipelines, and Hazardous Materials, Enbridge requested to the Pipelines and Hazardous Materials Safety Administration that it be allowed to operate Line 6B at reduced pressure for another two and a half years while it considered repairs to the identified defects to this pipeline. This is in addition to the one year that Enbridge had already been operating under reduced pressure while it considered what to do about known 390 defects in its pipeline since 2007 and has since only repaired 61 of these. There are still 329 unrepaired defects on Line 6B that remain today.

Mr. Chairman, under current regulations, railroad employees can lose their license to operate a train for exceeding the speed limit by ten miles per hour, failing to make a brake test, or occupying a main track without permission. Truck drivers can lose their commercial drivers license for speeding, making an erratic lane change, following another vehicle too closely or even bottoming out the undercarriage at a highway-rail grade crossing. Those are serious offenses – don't get me wrong – but a company that controls the longest petroleum pipeline in the world can spill one million gallons of crude oil, devastating a local community and sensitive environmental areas, and not have to fix all the anomalies in their pipeline. That concerns me to no end.

Our current laws and regulations are not working, as we have seen with this spill and others.

I am vehemently opposed to this pipeline restarting before it can operate safely. Given the recent releases in New York and Illinois, and the over 80 release incidents reported by Enbridge since 2002 on just the 6B Line, I have no confidence that it can.

Just a few days ago, the Department of Transportation issued additional corrective action provisions to their Corrective Action Order issued on July 28, 2010. I am pleased to see the Department of Transportation getting tough on Enbridge and forcing them to make repairs to Line 6B that will improve the safety of the line and help prevent future incidents like the spill in Marshall. Setting hard deadlines for repairs, requiring additional assessments of the entire line within 14 days of restart, and hiring Oak Ridge National Laboratories as a third-party monitor during the restart process are all steps in the right direction toward ensuring the integrity of the line and reducing risks to the health and safety of our communities. With the restart plan for Line 6B approved yesterday by the Department of Transportation, I plan to follow this process through to completion, holding both Enbridge and PHMSA to the highest possible standards.

My concerns do not only extend to Enbridge's pipeline safety practices but also the company's practices with the spill claims process and labor practices at the oil spill clean-up site.

Citizens in my district were asked to sign waivers releasing Enbridge from any other liability in exchange for air purifiers or air conditioners. Others were asked sign waivers releasing all of their medical history to Enbridge in return for medical treatment. Some citizens have reported banks redlining people from buying their homes because it was in the vicinity of the oil spill. Additionally, Enbridge offered settlements to most of the witnesses testifying last week before the Transportation and Infrastructure Committee on the spill just 72 hours before the start of the hearing. This is outrageous to me.

Also, Hallmark Industrial LLC, an Enbridge subcontractor, was using illegal, undocumented workers to work on the spill clean-up site. There have also been reports of unsafe working conditions and workers who were not qualified with the proper certifications working on the spill clean-up. This is unacceptable.

This Enbridge pipeline spill is just one example of the need for further corporate responsibility and government oversight.

Mr. Chairman, I am pleased that you are holding this hearing today on pipeline oversight and safety. It is my sincere hope that with proper requirements for pipeline inspections and repairs, leak detection and spill reporting standards, we can work towards preventing devastating spills in the future and protect the safety of our communities and our environment.

Thank you again Mr. Chairman for holding this important hearing and allowing me to testify.

Mr. MARKEY. Thank you, Congressman Schauer, for your historic work. You and Congressman Upton have demonstrated bipartisanship at its highest level in the production of this legislation. We thank you for your testimony.

We are going to stand in recess while we cast these 5 votes on the House floor and then we will come back to hear from our witnesses. The subcommittee stands in recess.

[Recess.]

Mr. MARKEY. Welcome back to the Subcommittee on Energy and Environment.

Our next witness is Cynthia Quarterman. Ms. Quarterman is the Administrator for the Pipeline and Hazardous Materials Safety Administration, also known as PHMSA. Got that, everybody listening? You are going to hear PHMSA for the next hour or so. So that is the Administrator for Pipeline and Hazardous Materials Safety Administration, PHMSA.

Prior to her nomination, Ms. Quarterman was a partner in the law firm of Steptoe & Johnson and a member of the Obama administration transition team at the Department of Energy. We welcome you, Administrator Quarterman. Whenever you feel ready, please begin.

STATEMENTS OF THE HON. CYNTHIA L. QUARTERMAN, ADMINISTRATOR, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION; AND THE HON. CHRISTOPHER A. HART, VICE CHAIRMAN, NATIONAL TRANSPORTATION SAFETY BOARD

STATEMENT OF THE HON. CYNTHIA L. QUARTERMAN

Ms. QUARTERMAN. Thank you. Chairman Markey, Ranking Member Upton and Members of the Committee, thank you for the opportunity to appear today and discuss the oversight responsibilities of the United States Department of Transportation's Pipeline and Hazardous Materials Safety Administration and the Obama administration's legislative proposal for the Department's pipeline safety program.

Before I discuss these topics, I would like to extend my sincere condolences to the families of all of those whose lives were forever changed by the September 9th Pacific Gas & Electric pipeline failure in San Bruno, California.

Last week I joined PHMSA investigators on the scene in San Bruno, supporting the efforts of the NTSB and the California Public Utility Commission. I saw firsthand the devastating impact this incident is having on that community. Incidents such as this and the recent oil pipeline failure in Marshall, Michigan, must not happen.

As the sole Federal agency with regulatory oversight for the safety of pipelines, we must do our part to keep communities free of risk and exposure to pipeline failures and enhance public confidence in the safety of the Nation's energy pipelines. To ensure safety is not only the Department's top priority, but also the top priority of those we regulate.

Secretary LaHood unveiled a legislative proposal last week that would strengthen the Department's regulatory oversight capabili-

ties for pipelines. The proposal is designed to hold all operators accountable for operating their pipelines in a safe and environmentally sound manner.

Among other things, the proposal would ways the maximum penalty for the most serious violations from $1 million to $2.5 million. It would authorize 40 additional Federal inspection enforcement experts over the next 4 years. The legislative proposal will also complement additional regulatory initiatives under development to continue to improve pipeline safety.

Specifically, PHMSA is considering identifying additional areas along pipelines that should receive extra protection; establishing minimum requirements for point-to-point leak detection systems for all pipelines; and requiring the installation of emergency flow restricting devices that would isolate leaking pipeline sections, minimizing the amount of product released, among other initiatives.

Mr. Chairman, ensuring the safety and reliability of the Nation's hazardous liquid and natural gas pipeline network is an enormous task. The recent pipeline failures in California and Michigan show that prompt passage of this legislation is more important than ever.

The Department and PHMSA look forward to working closely with you and the other members of the subcommittee to ensure the Nation's pipeline network is safe, reliable, and subject to the most stringent oversight feasible.

Thank you. I will be pleased to answer any questions you might have.

[The prepared statement of Ms. Quarterman follows:]

UNITED STATES DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

Hearing on
Pipeline Safety Oversight and Legislation

Before the
Subcommittee on Energy and the Environment
Committee on Energy and Commerce
United States House of Representatives

Written Statement of Cynthia L. Quarterman
Administrator
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation

Expected Delivery 2:00 p.m.
September 23, 2010

WRITTEN STATEMENT OF CYNTHIA L. QUARTERMAN
ADMINISTRATOR
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION
BEFORE THE
COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON ENERGY AND THE ENVIRONMENT
UNITED STATES HOUSE OF REPRESENTATIVES

September 23, 2010

Chairman Markey, Ranking Member Upton, and Members of the Subcommittee, thank you for the opportunity to discuss the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration's (PHMSA) legislative proposal, reauthorization priorities, and regulatory initiatives.

Safety is the number one priority of Secretary Ray LaHood, myself, and the employees of PHMSA. On behalf of all of us, I would like to extend condolences to the families of all those whose lives were forever changed by the Pacific Gas and Electric natural gas pipeline failure on September 9, 2010. The Department is actively working to ensure the safety and reliability of the nation's pipeline transportation infrastructure and prevent releases on the 2.5 million miles of pipelines it oversees. Over the past 20 years, all the traditional measures of risk exposure have been rising – population, energy consumption, pipeline ton-miles. At the same time, the number of significant incidents involving pipelines has declined 50 percent.

While our safety record continues to improve with the incidence of fewer pipeline accidents, failures such as the recent pipeline incidents in San Bruno, California and Marshall, Michigan are unacceptable. Mr. Chairman, Members of the Subcommittee, I assure you that PHMSA, through aggressive regulation and oversight, will use its full enforcement authority to ensure that operators meet pipeline safety standards. We respectfully request your support in this regard.

The Department's pipeline oversight program is based on three fundamental tenets:

- First, PHMSA must establish safety standards that are both prescriptive and risk-based, verify that operators perform to these standards, and take enforcement actions against operators if they are not in compliance with these standards.

- Second, PHMSA can impact safety culture and operator performance beyond minimum compliance with the regulations.

- Third, pipeline operators must understand and manage the risks associated with their pipelines, including taking actions to prevent pipeline failures and minimizing the impact of any releases should they occur.

However, as recent pipeline failures have shown, the Department needs stronger authority in several key areas of its pipeline safety program. To ensure safety is not only our top priority, but also the top priority of those we regulate, the Department submitted a legislative proposal to strengthen pipeline safety through new regulatory authority, increased penalties, and authorization levels that will strengthen our state partnerships and expand our inspection staff. In addition, the Department is working on significant rulemakings to increase regulatory oversight and improve guidance to operators as well as other efforts to increase coordination with partners and to support research and development.

I. STRONG LEGISLATION

Last week, Secretary LaHood presented to Congress the Administration's legislative initiative for the reauthorization of the Department's pipeline safety program entitled, "Strengthening Pipeline Safety and Enforcement Act of 2010." This legislative proposal is designed to hold all pipeline operators accountable for operating their pipelines in a safe and environmentally sound manner. It strengthens enforcement authority and increases inspection and enforcement resources, closes regulatory gaps, lays the groundwork for expanding integrity management programs beyond existing high consequence areas to additional areas, improves pipeline infrastructure data collection, and advances safety in other important ways.

The proposal provides significant updates to the inspection and enforcement program. The Administration's proposal provides for forty (40) additional inspection and enforcement personnel to allow a greater frequency of inspections. The additional inspectors will also improve oversight of new pipeline construction that is critical given the significant increase in pipeline construction that has occurred in recent years. The proposal also increases the maximum administrative civil penalties for violations of the pipeline safety regulations by 250 percent for the most serious incidents involving fatalities, injuries, or environmental harm. We also support the broader penalty provision provided in HR 6008, the Corporate Liability and Emergency Accident Notification Act (CLEAN Act). Finally, the proposal makes obstruction of an inspection or investigation punishable by the assessment of penalties and clarifies the Department's authority to refer pipeline enforcement cases to the Department of Justice for penalty actions.

The Administration is proposing that Congress remove the statutory exemptions in current law for gas and hazardous liquid gathering lines that operate upstream of transmission lines. While gathering lines were once considered to be low risk due to being remotely located near production areas, the ever-increasing growth of business and residential areas means that communities where people live and work are now located closer to gathering lines than ever before. Should Congress remove the statutory exemptions, the Department would then be able to review the corresponding exemptions in the regulations and remove them as necessary. The proposal also authorizes data collection on transportation-related oil flow lines. These pipelines transport product from a production facility to another pipeline and the Department needs additional data to determine the need for regulation of these pipelines, which are often located in environmentally sensitive areas.

With respect to integrity management programs, the proposal would include a review of whether pipeline safety would be improved by expanding and revising the integrity management

program requirements beyond existing high consequence areas to additional areas. The Administration believes that the time has come for pipeline operators to apply the latest in-line inspection technologies over the widest possible areas of their systems to ensure safety and environmental protection.

The proposal enhances data collection beginning with data on design specifications for new pipeline construction projects. In addition, the Department will collect pipeline infrastructure data on formerly unregulated pipelines such as the gathering and transportation-related flow lines already discussed as well as additional geospatial, mapping, and incident data on existing pipelines. The Department is committed to ensuring that strong regulatory action is taken where incident data shows it is needed. The proposal also provides a cost recovery mechanism for design and construction reviews and will facilitate better coordination with the State of Alaska and other agencies on pipeline construction and expansion projects.

The CLEAN Act would provide for immediate telephonic notice to the Secretary of Transportation and the National Response Center by a pipeline operator at the earliest practicable moment following discovery of a release of natural gas or a hazardous liquid along its system. The Act would require these operators to make a telephonic notification no later than one hour following the time of such discovery. PHMSA currently holds operators to this standard; and thus, strongly supports this provision. In addition to these requirements, the CLEAN Act also calls for the Secretary of Transportation to maintain a database on the Department's website that allows the public to search for natural gas or hazardous liquid incidents by operator. In November of this year, PHMSA expects to publish a new portion of its Stakeholders Communications website that would meet this requirement.

II. REAUTHORIZATION PRIORITIES

1. PHMSA's Reauthorization Proposal Strengthens Its Assistance to States and First Responders.

State pipeline safety agencies are PHMSA's most important asset in assuring the safety of pipelines in American communities. PHMSA's partnership with state pipeline safety agencies have always been the cornerstone of the program. States oversee the bulk of the pipeline infrastructure. Specifically, states are responsible for oversight of virtually all gas distribution pipelines, gas gathering pipelines and intrastate gas transmission, as well as 88% of intrastate hazardous liquid pipelines and 20% of the interstate gas pipelines. PHMSA maintains primary responsibility for the remaining pipelines, including all interstate hazardous liquid pipelines and 80% of the interstate gas pipelines. States employ approximately 63% of the inspector workforce. The recent expansion of Federal pipeline safety initiatives, such as Distribution Integrity Management (DIMP) has increased the resource demands on both federal and state pipeline safety agencies.

In 2006, Congress increased PHMSA's ability to provide grants to state pipeline safety agencies to offset the costs associated with the statutory requirements for their inspection and enforcement programs. In addition, Congress gave PHMSA considerable resources to expand its relationship with state pipeline safety agencies, enabling increased policy collaboration, training,

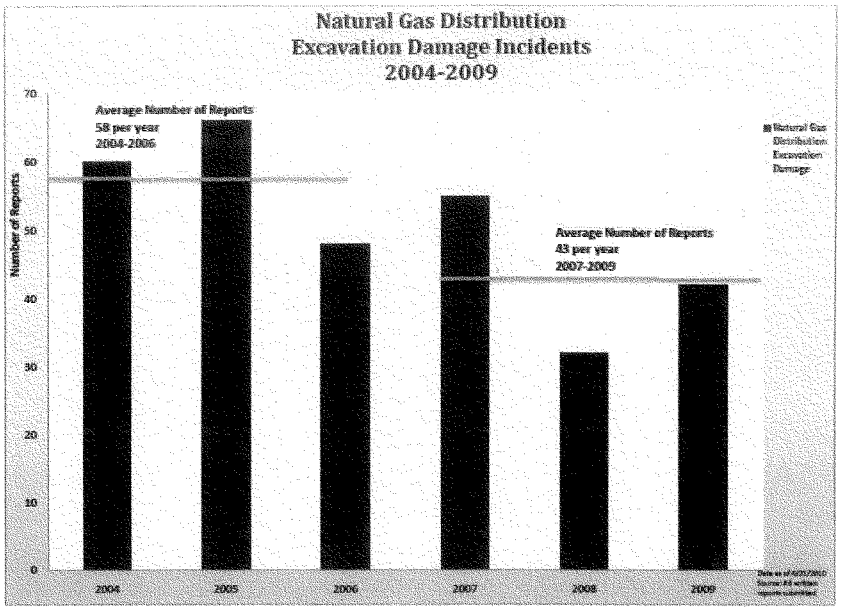
information sharing, and data quality and collection. In FY 2010, PHMSA's $40.5 million appropriation to support state programs will fund 54% of state pipeline safety programs. Additionally, the President's FY 2011 request includes an increase in funds to support state programs totaling approximately $44.5 million, which would reflect a 65% funding of the state pipeline safety programs. .

The importance of these programs was made clear on September 9, 2010 when a 30-inch transmission line, known as Line 132, that carries natural gas to San Francisco ruptured and caught fire. The San Bruno pipeline accident involved an intrastate transmission line regulated by the California Public Utilities Commission (CA PUC). The National Transportation Safety Board (NTSB) has launched an investigation into the causes of the accident, and PHMSA immediately dispatched two additional investigators to support NTSB and CA PUC efforts. The pipeline is currently shut down in the immediate area of the rupture. The remaining portions of Line 132 have been reduced in pressure by 20 percent to increase safety until the causes of the accident are identified. At that time, any additional necessary safety mandates can be ordered. The CA PUC regulates the line pursuant to an agreement with PHMSA. The pipeline safety statute allows states to regulate intrastate pipelines provided that PHMSA certifies that the states have adopted, and are enforcing, the pipeline safety regulations. PHMSA has a certification agreement with CA PUC and under this framework the state agency inspects intrastate natural gas lines that are operated by public utilities and enforces the pipeline safety regulations, and PHMSA conducts annual reviews of CA PUC's performance in this regard and provides funding for California's pipeline safety program. PHMSA provided CA PUC with $1,405,282 (including $516,120 of suspension funding) for its 2009 gas pipeline safety program.

PHMSA has learned that the success of its efforts to constantly improve safety is multiplied by sharing responsibility and accomplishments with pipeline safety stakeholders, both within the federal family and with states and communities. PHMSA proposes to continue supporting strong relationships with other organizations involved in responding to pipeline incidents and emergencies. When PHMSA responds to an incident, its primary concerns are the public's safety and determining an operator's compliance with PHMSA's regulations. PHMSA is often requested to share information and support the investigations of other agencies. In addition, PHMSA has a long history of working closely with local emergency officials in response to pipeline emergencies and its staff effectively participates in incidents where there is an Integrated Command Post. Still, the Department must do more. The Department has reached out to Environmental Protection Agency and the U.S. Coast Guard suggesting a new Memorandum of Understanding to ensure coordination during oil spill response.

2. PHMSA's Reauthorization Proposal Strengthens Damage Prevention Efforts.

The vast majority of America's pipeline network is underground making pipelines vulnerable to "dig-ins" by third-party excavators. While excavation damage is 100% preventable, it remains a leading cause of pipeline incidents involving fatalities and injuries. Three-quarters of all serious consequences from pipeline failures relate to distribution systems and more than one-third of these failures are caused by excavation damage. PHMSA's goal is to significantly reduce excavation damage with strong outreach and public awareness programs. As evident in the chart below, PHMSA is making progress.



The Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 authorizes PHMSA to award State Damage Prevention (SDP) grants to fund improvements in damage prevention programs. Each state has established laws and procedures shaping its state damage prevention program. Since 2008, PHMSA provided over $4 million dollars in SDP grants to 30 distinct state organizations. Eligible grantees include state one call centers, state pipeline safety agencies, or any organization created by state law and designated by the Governor as the authorized recipient of the funding.

SDP grants reinforce nine specific elements that make up the components of an effective damage prevention program, under the PIPES Act:

1. Enhances communications between operators and excavators;
2. Fosters support and partnership of all stakeholders;
3. Encourages operator's use of performance measures for locators;
4. Encourages partnership in employee training;
5. Encourages partnership in public education;

6. Defines roles of enforcement agencies in resolving issues;

7. Encourages fair and consistent enforcement of the law;

8. Encourages use of technology to improve the locating process; and

9. Encourages use of data analysis to continually improve program effectiveness.

PHMSA's Technological Development Grants program makes grants to an organization or entity (not including for-profit entities) to develop technologies that will facilitate the prevention of pipeline damage caused by demolition, excavation, tunneling, or construction activities. A total of $500,000 was appropriated for the program in 2009. Two awards have been made to date.

PHMSA also uses the authority in the PIPES Act to promote public education awareness with national programs such as, "811- Call Before You Dig Program" through the Common Ground Alliance (CGA). PHMSA has provided over $2.2 million in funding assistance for CGA's 811 advertising campaign since 2002.

PHMSA is proud of its continued and steady leadership in supporting national and state damage prevention programs. In March 2010, we participated in the CGA's annual meeting highlighting the importance of the National "811- Call Before You Dig Program." In April 2010, Transportation Secretary LaHood acknowledged the importance of calling before you dig by establishing April as "National Safe Digging Month." The U.S. Senate and the House of Representatives both introduced resolutions designating April 2010 as "National Safe Digging Month." At our urging, forty states, including those represented by the members of this committee, also followed suit. The efforts driven and supported by PHMSA, involved the CGA, many states, and damage prevention stakeholders from around the country, who are advocates for safe excavation practices.

3. PHMSA's Proposal Strengthens the Pipelines and Informed Planning Alliance Advances Smart Growth along Pipelines in Our Communities.

PHMSA has conducted numerous activities to inform the public and engage public interest and participation in all of its initiatives. We funded publicly accessible, internet broadcast viewing of two pipeline events sponsored by the Pipeline Safety Trust, including a focus on safer land use planning. We have made one grant and may make others to professional associations of county and city government officials to represent the public in the Pipelines and Informed Planning Alliance (PIPA). PIPA is an initiative organized by PHMSA to encourage the development and use of risk-informed land use guidelines to protect pipelines and communities.

A companion effort is helping communities understand where pipelines are located, who owns and operates them, and what other information is available for community planning. Following the passage of the PIPES Act, PHMSA worked with the Department of Homeland Security (DHS)/Transportation Security Administration (TSA) to resolve concerns about sensitive security sensitive information. Vital information that communities need for land use,

environmental, and emergency planning around pipelines is now publicly available through PHMSA's National Pipeline Mapping System (NPMS). We continue to work with states, industry, and other stakeholders to make the NPMS information more accurate and useful.

4. PHMSA's Proposal Continues to Invest in Research and Development.

PHMSA proposed to continue investing in research and development, as well as community involvement. PHMSA recently announced it is awarding seventeen research contracts totaling $5.9 million to companies and institutions for the development of new projects that provide innovative solutions to improving pipeline safety and protecting the environment. The awards will support the development of research projects targeted at addressing the associated challenges of pipeline safety with the detection, prevention, and characterization of threats and leaks, and construction quality. To date, PHMSA has invested over $57 million for 161 projects focused on providing solutions for detecting pipeline leaks, preventing damages to pipelines, improvements in pipeline materials, and improved pipeline system controls, monitoring, and operations.

III. REGULATORY INITIATIVES

Under the Obama Administration, PHMSA has begun a comprehensive review of the existing pipeline safety regime and developed initial solutions, through legislation, potential rulemaking, and other actions, to ensure that all pipelines are adequately regulated and that operators put safety first.

The Department's legislative proposal will complement its additional planned regulatory initiatives to continue to improve pipeline safety. In addition to finalizing the DIMP, Control Room Management and Low Stress Pipeline rules, the Department intends to propose additional regulatory actions to further strengthen and improve the pipeline safety regulations in light of the lessons learned from the recent pipeline failure incidents. As a result, the Department is considering a number of important regulatory actions. Specifically, the Department will consider:

- Removing regulatory exemptions for certain unregulated pipelines;
- Identifying additional areas along pipelines that should receive extra protection or be included in the high consequence area category for integrity management protection;
- Establishing minimum requirements for point-to-point leak detection systems;
- Requiring the installation of emergency flow restricting devices in certain areas that can rapidly isolate a leaking section of pipeline and minimize the volume of product released;
- Revising valve spacing requirements on new construction or existing pipelines to specify the maximum allowable distance between valves and/or require that valves be used in certain locations;

- Strengthening criteria for repairs and establishing repair requirements and timeframes for pipeline segments located in areas outside high consequence areas that are assessed as part of an operator's integrity management program; and

- Adopting standards and procedures for improving the methods of preventing, detecting, assessing and remediating stress corrosion cracking.

PHMSA also recently issued a Notice of Proposed Rulemaking[1] (NPRM) proposing to move up the deadlines in the Control Room Management rule. This rule addresses human factors, including fatigue and other aspects of control room management for pipelines where controllers use supervisory control and data acquisition (SCADA) systems. Controllers play a key role in preventing accidents and the rule addresses controller responsibilities, training, alarm management, changing pipeline equipment or configurations, and incident response. The final rule set a program development deadline of August 1, 2011, and a subsequent program implementation deadline of February 1, 2013. The NPRM proposes to expedite the program implementation deadline for most standards to August 1, 2011.

PHMSA has also conducted a thorough review of its inspection and enforcement related regulations, procedures, and guidance, as well as its data collection and transparency efforts, and has taken the following actions:

October 2009	Provided grants and other assistance to strengthen state damage prevention programs and issued an ANPRM to solicit comment on establishing criteria for state damage prevention enforcement. This will satisfy the prerequisite for direct federal enforcement against excavators who violate one call requirements in those states with inadequate damage prevention enforcement programs. PHMSA expects to issue a follow-up NPRM in the fall of 2010 and a final rule in early-mid 2011.
December 2009	Required operators of gas distribution pipelines to develop and implement integrity management programs similar to those required for gas transmission and hazardous liquid pipelines.
December 2009	Issued a Final Rule to address human factors and other aspects of control room management for pipelines where controllers use SCADA systems. This rule addressed several NTSB recommendations.
January 2010	Issued an Advisory Bulletin[2] reminding hazardous liquid pipeline operators of the importance of prompt and effective leak detection capability in protecting public safety and the environment.
March 2010	Notified owners and operators of recently constructed large diameter natural gas pipeline and hazardous liquid pipeline systems of the potential for girth weld failures due to welding quality issues.

[1] NPRM submitted to Federal Register on September 13, 2010. Comment period closes in 60 days.
[2] Pipeline Safety: Leak Detection on Hazardous Liquid Pipelines: January 26, 2010.

June 2010	Issued an Advisory Bulletin[3] to operators of onshore hazardous liquid pipeline facilities required to prepare and submit an oil-spill response plan, requiring them to ensure full compliance.
June 2010	Issued a NPRM regarding the regulation of the remaining population of unregulated rural hazardous liquid low stress pipelines as required by the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006.
Summer 2010	Reviewed its regulatory oversight of offshore transportation platforms.

We are confident that these enhancements to PHMSA's safety regulations will improve safety and reduce the likelihood of significant spills.

IV. CONCLUSION

Mr. Chairman, safety is the Department's highest priority. I assure you that the Department will remain vigilant in ensuring the safety and integrity of all pipelines under its jurisdiction.

Thank you and I am happy to respond to your questions.

[3] Pipeline Safety: Updating Facility Response Plans In Light of the Deepwater Horizon Oil Spill: June 23, 2010.

Mr. MARKEY. Thank you very much.

Our next witness is Christopher Hart, who is the Vice Chairman of the National Transportation Safety Board, which will be known henceforth as the NTSB, not to be confused with PHMSA, for those who are watching on C-SPAN.

He served as Deputy Administrator of the National Highway Traffic Safety Administration, Deputy Director for Air Traffic Safety Oversight at the FAA and has had a very distinguished career.

Mr. Hart, we welcome you. Whenever you feel comfortable, please begin.

STATEMENT OF CHRISTOPHER A. HART

Mr. HART. Thank you. Chairman Markey, Ranking Member Upton, members of the subcommittee, I join in also thanking you for the opportunity to address you today on the reauthorization of the United States Department of Transportation's Pipeline and Hazardous Materials Safety Administration, or PHMSA.

I would start, on behalf of NTSB, to express our condolences as well to the friends and families of those who suffered in these incidents we will be speaking about.

As you know, the National Transportation Safety Board investigates accidents to determine the probable cause and makes recommendations to prevent recurrences, and some of those recommendations go to regulatory agencies such as PHMSA. So thank you for inviting us today to talk about our recommendation history with PHMSA.

PHMSA has made significant improvements in the past 5 years, many of which have been guided by the Pipeline Safety Improvement Act of 2002 and the PIPES Act of 2006. In addition, they have been fairly responsive to the Safety Board's recommendations. In particular, since 2002 we have issued 24 recommendations to PHMSA, and only nine of those remain open and only one from prior to 2002.

Their more notable accomplishments in recent years include Integrity Management Program regulations for various types of pipelines, regulations for improved education among regional emergency response agencies and the public, and implementation of the 811 One-Call System for excavation.

We do have some remaining concerns, however; for example, regulation of low stress pipelines. Our bottom line is that regulations should be based primarily upon the level of risk that the pipeline poses to the public and to the environment. PHMSA has made some good progress in recent rulemakings in that direction, but there are still many types of pipelines that are not addressed and not regulated that pose risk that are comparable to pipelines that are regulated.

In addition, the integrity management programs, there already are integrity management programs for transmission lines, but the PIPES Act expands that to include distributions lines, and that requires some different techniques and we are looking at some of those different techniques. Also, one of the things that is important to that is excess flow valves. We had an example in nearby South Riding, Virginia in 1998 regarding a gas pipeline explosion in a residence due to not having any excess flow valve. So the PIPES

mandates excess flow valves for single family residences, but we recommend that it also apply to apartments, other multifamily dwellings, and commercial properties.

And last but not least, the oversight of integrity management programs, we think it is very good that operators have flexibility and responsibility to develop their own integrity management programs because one size doesn't necessarily fit all, but what that does is it creates an enormous responsibility for the operator to scrutinize whether the program is effective, identify areas where it is not sufficiently effective and needs improvement, and implement corrections.

PHMSA, on the other hand, must determine that operators are implementing and correcting the programs as needed. So it is a good system, but it imposes huge responsibilities on both the operators and PHMSA, and we have examples where that process broke down.

In Kingman, Kansas, it broke down because the operator didn't include the leak history in prioritizing which pipelines to inspect. We have other examples in Carmichael, Mississippi, in 2007 and in Palm City, Florida, in 2009 where the process broke down. So that is very important as to keep that process going.

Since June, the Safety Board has been involved in investigating four pipeline accidents, and you have already heard reference to all of them. Two weeks ago, the 30-inch natural gas transmission pipeline exploded in San Bruno, California, killing at least seven and destroying many of the surrounding homes. I accompanied our investigators to San Bruno as the Board member on the scene.

The 28-foot section of pipe that you see in this picture was thrown 100 feet from where it was buried in the ground. We have transported that section here to D.C. where it will be tested in the metallurgy labs. The other picture you see is the pipe underground from which that pipe was blown.

Also in this month, a crude oil pipeline operated by Enbridge ruptured in Romeoville, Illinois, and we have begun to investigate that event. And the previous event in July, the reason it got as much attention as it did was because of the previous event in July of the same company, a 30-inch diameter crude oil pipeline also operated by Enbridge that ruptured in Marshall, Michigan, that we are hearing about much today that spilled as much as 1 million gallons of oil into the Talmadge Creek and the Kalamazoo River. So pipe sections from both of those are also transported to D.C.

So while our investigations are still underway we expect that they may focus on several areas that we will look at, the control of the pipeline, the pipeline operators, the notification after the emergency, the response, a number of areas that we will be looking at.

So we have had a good relationship, working relationship with PHMSA. They are generally responsive to our recommendations. We look forward to working with them in addressing these areas of concern that I have mentioned.

Thank you, and I would be pleased to take any questions.

[The prepared statement of Mr. Hart follows:]

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Christopher A. Hart
Vice Chairman

Testimony of the Honorable Christopher A. Hart
Vice Chairman
National Transportation Safety Board
Before the
Subcommittee on Energy and Environment
Committee on Energy & Commerce
United States House of Representatives
Hearing on
Pipeline Safety Oversight and Legislation
Washington, DC
September 23, 2010

Introduction/Overview

Chairman Markey, Ranking Member Upton, Members of the Subcommittee, thank you for the opportunity to address you today on the reauthorization of the U.S. Department of Transportation's (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA). PHMSA has made significant progress over the past 5 years. Much of the credit for this success is due to the implementation of statutory mandates included in the Pipeline Safety Improvement Act of 2002, as well as the Pipeline, Inspection, Protection, Enforcement and Safety (PIPES) Act of 2006.

PHMSA has been responsive to the National Transportation Safety Board's (NTSB) pipeline safety recommendations. Between January 1, 2002, and June 1, 2010, the NTSB issued twenty-four pipeline recommendations to PHMSA. As of this date, nine remain open and fifteen have been closed following an NTSB assessment that PHMSA had taken an "acceptable action" or "acceptable alternate action" in response to the recommendation. None were closed with the categorization of "unacceptable action." Additionally, only one recommendation issued prior to 2002 remains open.

Noteworthy accomplishments by PHMSA include implementing regulations addressing integrity management programs for gas transmission pipelines, hazardous liquid pipelines, and natural gas distribution pipeline systems. Regulations and improved industry practices also are in place for expanded public awareness and education programs meant to heighten the awareness of the American public and regional emergency response agencies. The implementation of the 811 one-call system requires the identification and marking of buried pipelines before excavation work occurs.

Additionally, partnerships between the industry and PHMSA have led to a number of joint initiatives, such as development of training programs for public and municipal officials, enhanced collection and analysis of accident data, and greater coordination with state agencies that have been delegated enforcement authority by PHMSA for federal pipeline safety standards.

As a result of the NTSB's 2005 Safety Study, *Supervisory Control and Data Acquisition (SCADA)in Liquid Pipelines*, the Board issued Safety Recommendations P-05-1 through -3

which called on PHMSA to: (1) require hazardous liquid pipeline operators to follow the American Petroleum Institute's recommended practice for the use of graphics on SCADA computer screens, (2) require pipeline companies to have a policy for the review and audit of SCADA alarms, and (3) require training for pipeline controllers to include simulator or non-computerized simulations for controller recognition of abnormal operating conditions, particularly leak events. These three recommendations were also incorporated directly into the PIPES Act. PHMSA published a final rule on December 4, 2009 that included the recommended requirements and applied them to all pipeline systems.

Despite these notable and varied accomplishments, the NTSB has concerns about certain other aspects of PHMSA's pipeline safety program. Two such areas specifically addressed in the PIPES Act are the regulation of low-stress pipeline systems and requirements for the use of excess flow valves.

Regulation of Low-Stress Pipeline Systems

Corrosion failures on the BP Exploration, Inc.'s, low-stress oil transit lines from the Prudhoe Bay oil fields to the Trans Alaska pipeline in 2006, led to provisions in the PIPES Act mandating that PHMSA issue regulations subjecting low-stress hazardous liquid pipelines near unusually sensitive environmental areas to the same standards and regulations as other hazardous liquid pipelines. Low-stress pipelines are those that are operated at a stress level of 20 percent or less of their strength ratings.

At the time the PIPES Act was enacted, federal pipeline safety regulations only applied to low-stress pipelines that were located in populated areas, crossed navigable waterways, or carried highly volatile liquids, such as compressed liquefied propane. In a Notice of Proposed Rulemaking (NPRM), "Pipeline Safety: Protecting Unusually Sensitive Areas from Rural Onshore Hazardous Liquid Gathering Lines and Low-Stress Lines," published on September 6, 2006, PHMSA proposed regulations for rural low-stress pipelines that have a diameter of at least 8 5/8 inches and that are within 1/4 mile of an area defined as unusually sensitive. (The distance in the final rule is 1/2 mile.)

The NPRM also proposed regulations for rural gathering lines that operate at a stress level greater than 20 percent, have a diameter between 6 5/8 and 8 5/8 inches and are within 1/4 mile of an area defined as unusually sensitive. A "gathering line" is a pipeline with a diameter of 8 5/8 inches or less that transports petroleum from a production facility. Again, at the time the PIPES Act was enacted, only gathering lines in populated areas were subject to federal pipeline regulations.

Exempted from the proposed requirements in the NPRM were gathering lines in the inlets of the Gulf of Mexico. Certain gathering lines in inlets of the Gulf of Mexico are subject to burial requirements to ensure that the lines are not exposed and do not pose a hazard to navigation. Otherwise, they are not regulated.

In comments submitted by the NTSB on November 21, 2006, we note that most low-stress pipelines and on- and off-shore gathering pipelines would remain essentially unregulated.

The NTSB also notes that the NPRM would apply a less stringent patchwork of requirements to address corrosion and excavation damages to those low-stress pipelines and gathering pipelines covered by the proposed standards. The NTSB states its belief that the standards codified in Title 49 Code of Federal Regulations, Part 195 for hazardous liquid pipelines should also apply in its entirety to the low-stress pipelines and gathering lines. PHMSA published the final rule on June 3, 2008, without significant change to the NPRM. Publication of this final rule concluded phase one of PHMSA's two phase plan to implement its PIPES mandate to regulate low-stress pipelines.

On June 22, 2010, PHMSA published a second NPRM regarding the regulation of all rural onshore hazardous liquid low-stress pipelines. This second NPRM represents phase two of PHMSA's implementation of its mandate in the PIPES Act. In this NPRM, PHMSA proposes safety requirements for all rural low-stress pipelines not included under the phase one final rule. Specifically, the low-stress pipelines captured under the new NPRM include (1) rural low-stress pipelines of a diameter less than 8 5/8 inches located in or within one-half mile of an unusually sensitive area and (2) all other rural low-stress pipelines that were not included under phase one. PHMSA estimates that the NPRM will apply to 1,384 miles of low-stress pipelines not covered by the previous rule. It appears this latest NPRM will apply to onshore gathering lines that are also low-stress pipelines. However, the NPRM does not address gathering lines in the inlets of the Gulf of Mexico or offshore gathering lines. In comments submitted to PHMSA on August 23, 2010, the NTSB supported the proposal to further regulate low-stress pipelines, but noted the estimated number of miles of additional pipelines that would be covered by the proposed rulemaking was a very small percentage of the hazardous liquid pipelines now in service. The NTSB expressed concerns that many hazardous liquid pipelines would remain unregulated, even though these pipelines pose risks comparable to those now being regulated. The NTSB believes that regulation of a pipeline should be based on the level of risk it poses to the public and to the environment.

The crude oil pipeline rupture in Marshall, Michigan illustrates the devastating impact an oil spill can cause. While the spill has been contained and remediation and restoration of the environment are underway, the effects from the spill will be felt by that community for years to come.

Integrity Management Programs for Distribution Systems and the Use of Excess Flow Valves

The PIPES Act also mandates that the DOT prescribe minimum standards for integrity management programs for distribution pipeline systems. On June 25, 2008, PHMSA published an NPRM, "Integrity Management Program for Gas Distribution Pipelines," with proposed regulations that would require operators of gas distribution pipelines to develop and implement integrity management programs with the same objectives as the existing integrity management programs for hazardous liquid and gas transmission pipelines.

Integrity management programs for hazardous liquid and gas transmission pipelines typically require operators to assess the condition of their pipelines by using "in-line" inspection tools that travel through the pipeline to determine the nature and extent of any defects or pressure

testing that yields information about the integrity of the pipeline. Such techniques are not feasible for typical distribution pipeline systems because of the differences in the design and operating parameters between distribution pipeline systems and hazardous liquid and gas transmission pipelines.

Further, the failure of a distribution pipeline is often initially detected from reports of a gas leak rather than a catastrophic rupture. As a result, development and implementation of an effective leak management program is an important element of an integrity management program for a distribution pipeline.

PHMSA acknowledged these differences in the NPRM and properly emphasized the importance of various leak detection methods as essential elements of an integrity management program for distribution pipeline systems.

In its comments on the NPRM, the NTSB emphasized that while an effective leak detection program is a crucial element of the overall leak management program, the use of equipment that prevents or mitigates leaks is equally important. One such device that mitigates a gas pipeline leak is an "excess flow valve." An excess flow valve is a device installed on the distribution line, usually serving a user residence or facility, that detects an abnormally high flow rate, and when an excess flow is detected, automatically closes a valve, thus shutting off the flow of gas through the distribution line. The NPRM did not adequately address this aspect of leak management, other than incorporating the mandate for PHMSA to require excess flow valves on new or replacement distribution lines serving single family residences. PHMSA complied with this provision of the PIPES Act on December 4, 2009, when it published the final rule on integrity management programs for distribution pipeline systems.

The NTSB has long advocated the use of excess flow valves in gas distribution pipeline systems as an effective means of preventing explosions caused by natural gas leaking from distribution systems. On July 7, 1998, a natural gas explosion and fire destroyed a newly constructed residence in South Riding, Virginia, a suburb of Washington. The accident caused one fatality and one serious injury. The NTSB determined that the gas service line to the home had failed and that an uncontrolled release of gas had accumulated in the basement and subsequently ignited. The NTSB concluded from its investigation that had an excess flow valve been installed in the service line, the valve would have closed shortly after the hole in the service line developed and the explosion likely would not have occurred. The NTSB recommended that PHMSA require excess flow valves be installed in all new and renewed gas service lines, regardless of a customer's classification, when the operating conditions are compatible with readily available valves. The NTSB believes that apartment buildings, other multifamily dwellings, and commercial properties are susceptible to the same risks from leaking gas lines as single-family residences, and we believe this gap in the law and the regulations should be eliminated.

Oversight of Integrity Management and Other Risk-Based Pipeline Safety Programs

Over the past decade or more, PHMSA has adopted a risk-based assessment approach for regulating the DOT pipeline safety program. PHMSA has successfully built a partnership with

various facets of the pipeline industry to develop, implement and execute a multi-part pipeline safety program. All stakeholders, including PHMSA, have, in the NTSB's view, come to rely heavily upon this approach. The NTSB believes that a risk-based approach can be an effective method to develop and execute the pipeline safety program, and there are many positive elements to PHMSA's approach.

The DOT pipeline safety regulations based on risk assessment principles provide the structure, content, and scope for many aspects of the overall pipeline safety program. Within this regulatory framework, pipeline operators have the flexibility and responsibility to develop their individual programs and plans, determine the specific performance standards, implement their plans and programs, and conduct periodic self-evaluations that best fit their particular pipeline systems. PHMSA likewise has the responsibility to review pipeline operators' plans and programs for regulatory compliance and effectiveness.

The NTSB believes that with the risk-based assessment there should be increased responsibilities on both the individual pipeline operators and PHMSA. Operators must diligently and objectively scrutinize the effectiveness of their programs, identify areas for improvement, and implement corrective measures. PHMSA, as the regulator, must also do the same in its audits of the operators' programs and in self-assessments of its own programs. In short, both operator and regulator need to verify whether risk-based assessments are being executed as planned, and more importantly, whether these programs are effective.

In its recent pipeline investigations, the NTSB discovered indications that PHMSA and operator oversight of risk-based assessment programs, specifically integrity management programs and public education programs, has been lacking and has failed to detect flaws and weaknesses in such programs.

In its investigation of the October 2004, rupture of an anhydrous ammonia pipeline near Kingman, Kansas, the NTSB identified deficiencies in PHMSA's auditing procedures when evaluating the operator's integrity management program. The operator did not include assessments of leak history when calculating relative risk scores for various segments of the pipeline. These relative risk scores were used to establish an initial baseline assessment of the integrity of the pipeline in the decision-making process for prioritizing the inspection schedule. Though PHMSA did find omissions of other risk factors during its review of the operator's integrity management program, PHMSA did not identify the omission of the leak history data during its initial review or during a subsequent review of the corrected plan. Consequently, the ruptured pipeline segment was not scheduled for a baseline assessment until 2006, almost 2 years after the October 27, 2004, rupture. The NTSB recommended that PHMSA require an operator to revise its pipeline risk assessment plan whenever it has failed to consider one or more risk factors that can affect pipeline integrity.

The November 1, 2007, rupture of a propane pipeline in Carmichael, Mississippi, resulted in two fatalities, seven injuries, and property damage exceeding $3 million. Before the accident, the pipeline operator relied upon contractors to obtain accurate mailing data and ensure that mailings to the public were completed. However, the operator did not perform oversight to ensure that all appropriate recipients were on the mailing lists and that the mailings met

appropriate regulatory requirements. The operator also had not taken any action to determine whether recipients who received the mailings understood the guidance they contained. The NTSB determined that the pipeline operator failed to properly assess its public awareness and education program by relying upon contractors without appropriate oversight. The NTSB recommended that PHMSA initiate a program to evaluate pipeline operators' public education programs, including the operators' self-evaluations of the effectiveness of their public education programs.

On May 4, 2009, an 18-inch diameter gas transmission pipeline with an operating pressure of 850 psi ruptured near Palm City, Florida. The rupture was located in the Florida Turnpike right-of-way, between I-95 and the Florida Turnpike. The turnpike and interstate were closed for approximately 3 hours due to the accident. Two gas transmission pipelines operated by the same pipeline company were also located in the right-of-way but were reportedly not damaged.

The force of the released gas created a crater approximately 116.5 feet long by 17 feet wide by approximately 2.8 feet deep. Roughly 104 feet of the pipe was ejected from the ruptured pipeline and landed next to the crater. The closest edge of the crater was approximately 25 feet from the northbound paved edge of the Florida Turnpike.

There was no ignition of the released gas, and no fatalities were reported. However, two people were injured when their car reportedly hit debris, ran off the road, and turned over; a Deputy Sheriff was hospitalized after walking through a gas cloud; and the accident resulted in the evacuation of a nearby school and residential community.

The NTSB's ongoing investigation has determined that at the time of the accident, the operator had not identified the ruptured segment as located within a high consequence area, and therefore not covered by the operator's integrity management plan. However, an independent evaluation done by PHMSA at the NTSB's request shows the segment in fact is in a high consequence area. The NTSB is collecting documentation that will determine the cause of this error.

As a result of these investigations, the NTSB is concerned that the level of self-evaluation and oversight currently being exercised is not uniformly applied by some pipeline operators and PHMSA to ensure that the risk-based safety programs are effective. The NTSB believes that to ensure effective risk-based integrity management programs are employed throughout the pipeline industry, PHMSA must establish an aggressive oversight program that thoroughly examines each operator's decision-making process for each element of its integrity management program.

Recent Pipeline Accidents

Since this summer, the NTSB has been involved in investigating four pipeline accidents. In Cleburne, Texas, a natural gas pipeline measuring 36-inches in diameter was struck by a contractor. One person was killed and 6 others were hospitalized.

In July, a 30-inch diameter crude oil pipeline operated by Enbridge ruptured in Marshall, Michigan, spilling anywhere from 800,000 to 1,000,000 gallons of oil into Talmadge Creek and the Kalamazoo River. The NTSB dispatched a team of over 10 investigators to the scene in Michigan. We are currently working on this investigation and have begun examining the pipe in our Materials Laboratory.

In September, another Enbridge crude oil pipeline ruptured in Romeoville, Illinois. Last week, this pipeline was transported to our facilities in Ashburn, Virginia where we will remove segments for testing and further study.

Finally, on September 9, a tragic rupture and explosion of a 30-inch natural gas transmission pipeline claimed the lives of at least 4 people in San Bruno, California. The damage also leveled many of the surrounding homes. I accompanied our investigators to San Bruno as the Board Member on scene. We are only beginning our investigation of this tragedy, and we are still in the early stages of the Marshall investigation. We have much information to collect and analyze, but our investigations into each of these four accidents may focus on:

- **Supervisory Control and Data Acquisition (SCADA) data operations.**

- **Pipeline controller performance.** NTSB investigators are examining the work experience, health, work/rest schedule, qualification, training, and activities of each control room operator involved in the accident.

- **Operator notification and spill response.** The NTSB is gathering and evaluating information from interviews and electronic sources to further determine the timeline of events. This information will accurately reflect when the spill occurred, when notification was made, and how the operator responded.

- **Emergency response and oil spill response.** The team will review the notifications and actions of emergency responders and the pipeline operators to the release of natural gas in San Bruno and the oil spill in Marshall

- **Inspection and Maintenance History.** The NTSB will review and evaluate the inspection and maintenance history of the operator, including but not limited to integrity management plans, risk-based programs, and inspection history.

- **Oversight Activities and Actions.** Federal and state regulators have a role in overseeing the integrity of the pipeline system and ensuring the safety of our national pipeline system. The NTSB will evaluate the oversight exercised by state regulators and PHMSA of the pipeline operators in the San Bruno and Marshall accidents.

- **Aging Pipelines.** The NTSB has noted that the many of the major pipeline accident investigations it has conducted in recent years have involved pipeline systems that exceed 30 years or more of age. The NTSB is uncertain whether this is a definite trend, but will pursue this issue with PHMSA.

Closing

In summary, PHMSA has made great strides in addressing a number of matters mandated by Congress in the Pipeline Safety Improvement Act of 2002, as well as the Pipeline, Inspection, Protection, Enforcement and Safety Act of 2006. The major pipeline accidents in the past few weeks, however, clearly demonstrate that despite the progress, improvements are still needed. The NTSB believes more can be done in these areas and looks forward to a constructive dialogue with PHMSA and the DOT as we advance the interests of pipeline safety, and thus the safety of people living and working near, and receiving service from, our nation's pipelines.

This concludes my testimony and I would be happy to answer any questions you may have.

Mr. MARKEY. Thank you, Mr. Hart, very much. I ask unanimous consent to include in the record a statement from the American Public Gas Association and a letter from the Sierra Club and other environmental organizations. Without objection, so ordered. And I ask unanimous consent that all members have 5 days to include in the record their opening statements which they might not have had an opportunity to make this afternoon.

[The information appears at the conclusion of the hearing.]

Mr. MARKEY. The chair now recognizes himself for a round of questions.

Vice Chairman Hart, is the NTSB investigating whether there were any alarms or other indications of a problem in Enbridge's Line 6B prior to 5:58 p.m. on July 25?

Mr. HART. Yes, we are looking in great detail at the timeline because that is an important aspect of our investigations, how quickly did the operator become aware of the problem and how quickly did they respond to the problem. That one is perhaps partially complicated by the fact that the pipeline was in the course of a scheduled shutdown at the time, and that may complicate the detection and response. But we are looking at that issue in great detail.

Mr. MARKEY. Vice Chairman Hart, it has been reported that PG&E's gas line that ruptured in San Bruno, California, was unusual in that it had a longitudinal seam and numerous wells, indicating that it was made from multiple smaller sections of pipe.

What is the potential significance of this fact, and what do we know about how common this type of pipe may be in PG&E and other pipe systems?

Mr. HART. The piece of pipe that was shipped back to D.C. is a piece of pipe that contains those multiple sections you are talking about. It appears that there were multiple sections because the pipe was negotiating a curve at that point and the multiple sections are the slightly slanted sections that were welded together to negotiate that curve. So that is one of the things we will be looking at in the metallurgy lab is to look to see whether those wells were compromised in the course of this event.

Mr. MARKEY. Thank you.

Administrator Quarterman, some industry groups are lobbying against H.R. 6008, the bipartisan CLEAN Act sponsored by Representative Schauer and Ranking Member Upton. They say that the bill would require pipeline operators to report a spill based on just the rumor of a spill, but the bill only requires reporting within 1 hour of the discovery of the spill.

Aren't they misleading Members of Congress about what this bill does?

Ms. QUARTERMAN. Mr. Chairman, in the body of my written testimony, you will see that the administration is supporting the CLEAN Act and it is consistent with our current requirements that we be notified about an incident or the NRC be notified within an hour or two of the discovery of an incident.

Mr. MARKEY. Administrator Quarterman, in the case of the Marshall spill, nearly 20 hours went by between the time when Enbridge received the first alarm on its system and when it discovered and reported the leak. I recognize that you can't speak to the Enbridge spill specifically. But isn't it clear that we need to estab-

lish mandatory standards to improve leak detection now? Will you commit to promulgating such standards within the next year?

Ms. QUARTERMAN. Mr. Chairman, I mentioned in my opening statement that the administration in complement to the piece of legislation that was offered is working on a regulatory proposal, an Advanced Notice of Proposed Rulemaking, which we hope to have out within the next few days that addresses several questions to leak detection issues.

I think one question that we will be asking is whether we should put in place a particular standard that all companies have to meet across the Board. Currently, it is subject to the discretion of the individual companies to determine what the appropriate leak detection system is. We want to put in place a hard standard.

Mr. MARKEY. Administrator Quarterman, it seems to me like simple common sense that your agency should retain and make public the oil spill response plans that pipeline operators are required to prepare. Why doesn't the agency do that now? And are you going to commit to changing that as soon as possible?

Ms. QUARTERMAN. We do retain copies of the oil spill response plans. They have not been made public for no particular reason. I think they have probably not been made public because there hasn't been much of a request for it. We certainly have no problems with providing those publicly.

Mr. MARKEY. And they will be retained?

Ms. QUARTERMAN. And they will be retained, yes.

Mr. MARKEY. The industry groups testifying today have argued against extending integrity management requirements beyond high consequence areas limited to population centers and ecological reserves.

Isn't it true that spills outside of high consequence areas can and do have serious impacts on human health and the environment?

Ms. QUARTERMAN. Of course they do. In our legislative proposal, there is a provision that we should do a report about what the next steps should be with respect to the integrity management rule and in specific how it is dealt with with respect to high consequence areas. In addition to that, in our regulatory initiative, we will be asking questions about whether the definition of a high consequence area is adequate, and as well as whether or not the repair criteria that are in place for the high consequence area should be extended to all areas that have been subject to an inspection.

Mr. MARKEY. And finally, the industry groups testifying today have argued against the administration's proposal to eliminate the blanket regulatory exemption for gathering lines. Can you expand on why you are seeking to gain authority, to regulate at least some subset of gathering lines?

Ms. QUARTERMAN. Well, I think it is important for the public to know that all pipelines, hazardous liquid pipelines that exist in this country are subject to someone's regulatory authority. Right now there are primarily two exceptions or exemptions in the law. One is for production-related facilities or refinery facilities. And those are being regulated by different entities.

With respect to gathering lines, some of them may be regulated. Some of them may not. We want to ensure that we know that those lines are subject to somebody's authority.

Mr. MARKEY. Okay. Thank you. And what percentage of pipeline incidents caused by excavation are caused by State or local agencies or railroads that are exempt from "call before you dig" requirements?

Ms. QUARTERMAN. That number I will have to get for you. I don't know it off the top of my head.

Mr. MARKEY. We would appreciate that. The chair's time has expired. I will turn and recognize the ranking member, Mr. Upton.

Mr. UPTON. Thank you, Mr. Chairman. Thank you both for testifying. And although we didn't get to ask our colleague Mr. Schauer questions, it was certainly an issue that he and I worked on, shoulder to shoulder on, both in July and August to try to do all that we could to minimize the damage. As I said in my opening statement, we had a great response by our local people and they really did work together. There was a true fear that this would spill into a man-made lake and disturb a large PCB-filled lake and, even worse, get into Lake Michigan. So every minute really did count. I know that a little bit later this afternoon his bill was going to be on the House floor.

So just really, really quickly, you support the bill that is going to be on the House floor this afternoon. Do you think that it is feasible that, in fact, when there is a spill within an hour that they can in fact make that notification?

Ms. QUARTERMAN. Yes. The administration does support the bill. We believe that they should be able to make it within an hour or provide some rational justification for why they were unable to do so.

As I mentioned earlier, we do require, subject to the safety advisory, that they respond within an hour or two.

Mr. UPTON. Mr. Hart, do you accept that? I mean, do you believe that they—companies within an hour should be able to make that call?

Mr. HART. We look at that question with respect to each specific event and determine what appears to be appropriate with respect to each event, and we are doing that in these events.

Mr. UPTON. The last question that I have is that back in the early nineties, the Congress took up major oil spill legislation as it related to responses. I was actually then a member of the Transportation Committee. As part of the effort, I was put on the conference committee and fought successfully to have an oil spill response team for the Great Lakes. At the time we had a major oil spill on a tanker over in Bay City, Jim Barcia, a former colleague, it was in his district, and a tanker pulled off the moorings and there was a major spill on that side of the State.

As we look at this spill, you know, anything that involves particularly a waterway, do you feel that because of the legislation not only for the Great Lakes but around the country that, in fact, there are the appropriate amounts of boom and other material to address situations like this in the future, if in fact they happen? As we did this particular scene, I was in touch with the Coast Guard and with EPA, and they were terrific in terms of getting the right sized boom and everything there that they thought everything—but what is your sense as it relates to the rest of the country in terms of the inventory of boom in case something happens, period?

Ms. QUARTERMAN. PHMSA is not responsible for——

Mr. UPTON. I know EPA is.

Ms. QUARTERMAN. EPA is, yes. And I don't have a survey of the amount of boom across the country.

Mr. UPTON. Might we be able to get that? Would you be able to get that and then give it to us for the record?

Ms. QUARTERMAN. I am certain that we can follow up on that issue. If we know the answer ourselves, we can follow up with our sister agencies.

Mr. UPTON. Thank you. I yield back.

Mr. MARKEY. The gentleman's time has expired. The chair recognizes the gentleman from Vermont.

Mr. WELCH. Thank you, Mr. Chairman.

Mr. MARKEY. Well, with the thanks of the committee, we will be submitting additional questions to the two of you and your agencies, and we would very much appreciate prompt responses. We thank you for your service.

Mr. HART. Thank you.

Mr. MARKEY. This panel is completed. So let's turn to the next panel, if we may. And that is a panel that will begin with Mr. Stephen Wuori, who is the Executive Vice President of Liquids Pipelines at Enbridge Incorporated.

Enbridge operates the longest pipeline system in the world. Mr. Wuori is responsible for all of Enbridge's crude oil and liquids pipeline operations in North America. He has over 27 years of experience with Enbridge, including 20 years in the liquids pipeline business.

Mr. Wuori, whenever you feel comfortable, please begin.

STATEMENTS OF STEPHEN WUORI, EXECUTIVE VICE PRESIDENT, LIQUIDS PIPELINES, ENBRIDGE INC.; RICK KESSLER, VICE PRESIDENT, PIPELINE SAFETY TRUST; DONALD F. SANTA, JR., PRESIDENT, INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA; ANDREW BLACK, PRESIDENT, ASSOCIATION OF OIL PIPE LINES; AND LORI TRAWEEK, SENIOR VICE PRESIDENT AND CHIEF OPERATIVE OFFICER, AMERICAN GAS ASSOCIATION

STATEMENT OF STEPHEN WUORI

Mr. WUORI. Mr. Chairman, Ranking Member Upton, and members of the subcommittee, thank you for the opportunity to discuss Enbridge's approach to pipeline safety.

Mr. Chairman, I want to be absolutely clear, no spill is acceptable to Enbridge. Enbridge operates the largest and most complex liquids pipeline system in the world, and we are committed to upholding the highest standards for pipeline safety and integrity. For that reason, we invest heavily in pipeline integrity and safety management.

Our central mission is to assure that our pipeline networks have the strength and operating fitness to perform safely, reliably, and in an environmentally responsible manner.

I am proud to say that we have approximately 2,200 employees in the United States, and we deliver about 12 percent of the total daily imports of crude oil into the U.S., delivering more crude each

day than any other country or jurisdiction, including Venezuela and Saudi Arabia.

Even though we built our business in the transportation of oil and gas, we are also investing heavily in green energy, including seven wind farms, a hybrid fuel cell system, and North America's largest photovoltaic solar facility. Through our neutral footprint initiative, we are seeking to grow our business without increasing our impact on the environment; and therefore, we intend to plant a tree for every tree we remove, conserve an acre of land for every acre we permanently impact, and produce a kilowatt of green energy for each kilowatt of energy that we use to power our operations.

With respect to Line 6B in Michigan, we have taken full responsibility for cleaning up the spill and addressing all impacts on the environment, on the individuals and on the businesses in the Marshall, Battle Creek, and surrounding area.

Congressman Upton, we recognize that this incident has been a very high priority for you. You earlier reflected on the cooperation with the local agencies, and we have experienced tremendous cooperation with our company, and I want to take this opportunity to extend my thanks to all of those agencies for the cooperation that we have received. Thanks to the dedication of all personnel involved in the response, including the 500 Michigan residents we put to work, the spill was quickly contained and we are now well on our way to remediating it. As a native of Michigan myself, I understand the importance of the affected waterways.

Upon first notification of the release of oil on July 26, the pipeline was isolated. Crews began installing containment boom that is stored in Marshall, and response teams from our regional offices throughout North America arrived that day. Our CEO, Pat Daniel, and I arrived that evening, and we have been based in Marshall since that time.

We mobilized as quickly as we could so that anyone affected would have housing and medical care at our expense. We provided direct assistance for prepaid hotel stays, equipment and services, and we reimbursed individuals for cost of living and other expenses. We also established a home purchase program to help assure affected homeowners that their property values will not go down as a result of the spill.

Mr. Chairman, our intention from day one has been to assure that the people and businesses impacted by the incident are made whole. We acted in good faith to establish a claims settlement process that is simple, fast, and fair. But when questions were raised, we engaged former Michigan Supreme Court Justice Dennis Archer to examine our process and make recommendations for improvements, if needed. Justice Archer's review is underway.

With respect to the cleanup in Marshall and Battle Creek, effective August 10, the Environmental Protection Agency announced that the emergency phase of the incident was over, and by next week we will have completed the bulk of the cleanup. We received PHMSA approval for our restart plan last evening, and we now anticipate that we will meet the restart plan requirements and return Line 6B to service on Monday morning, September 27, subject to receipt of final PHMSA approval.

With respect to Line 6A in Romeoville, Illinois, we focused on rapid cleanup of the spill and addressing the needs of affected residents and businesses. The pipeline was shut down immediately after Enbridge was notified on September 9. Repairs were completed and the line was safely returned to normal service on September 17. The NTSB is investigating, as you have heard, the cause of the leak and also a separate rupture of a water main directly underneath our pipeline. NTSB has reported that both pipes had been punctured.

Mr. Chairman and Mr. Upton, I want to reiterate that for Enbridge, no spill is acceptable. We understand that we must hold ourselves accountable and to the highest standards of openness and care in all the communities where we operate. We have been serving America's energy needs for 60 years, and we intend to continue to be a good neighbor for many decades to come.

Thank you again for providing us this opportunity to share our perspective.

[The prepared statement of Mr. Wuori follows:]

Prepared Statement

of

Stephen J. Wuori
Executive Vice President
Liquid Pipelines
Enbridge Inc.

Before the

Subcommittee on Energy and the Environment
Committee on Energy and Commerce
U.S. House of Representatives

September 23, 2010

Mr. Chairman, Ranking Member Upton, and Members of the Subcommittee:

Thank you for the opportunity to appear before you today to discuss pipeline safety, the spill on Enbridge Energy, Limited Partnership's Line 6B near Marshall, Michigan, and the more recent problem we encountered and already have addressed on our Line 6A in Romeoville, Illinois.

As a native of Michigan, I remain deeply concerned by the Marshall spill. I and other senior executives have been based in Marshall since July 26. In the past eight weeks, our Chief Executive Officer and other senior executives have met with hundreds of residents, local workers, first responders, and government officials. I want to assure you, as we have assured them, that we have taken full responsibility to address the impacts of the spill on the environment and on individuals and businesses in Marshall, Battle Creek, and the surrounding area.

Given the dedication of our employees, the experience of our pre-identified emergency crews, the approximately 500 Michigan residents we employed, and the local, state, and federal officials who worked with us, I am pleased to report that the Line 6B spill was quickly contained and that we had succeeded in removing most of the released oil off the Kalamazoo River within a week. By the end of August, we met the EPA's cleanup mandate at the leak site. By the end of September, we will have succeeded in completing the bulk of the clean up along Talmadge Creek and the Kalmazoo River. We also are now in the process of beginning longer-term monitoring and remediation, working with the EPA, the Michigan Department of Natural Resources and Environment, and other officials to restore the affected areas and to establish a long-term monitoring plan.

Before sharing more with you about our response to the Marshall spill and the more limited Romeoville spill, I want to put in context the scope of our North American operations, our overriding commitment to safety, and our exceptional environmental record. In particular, I want to share with you the extensive pipeline integrity program we have developed and other measures we have implemented in order to create systems for continual improvements and to meet the high standards we have set for ourselves.

For Enbridge, no spill is acceptable. We are committed to upholding the highest standards for pipeline safety and integrity. We will continue to invest heavily in pipeline safety through our preventative maintenance program, routine inspections, well-qualified workforce, and pipeline integrity program. We want to be as confident as we can be that our pipeline networks have the strength and operating fitness to perform safely, reliably, and in an environmentally responsible manner.

Once the investigations into these two incidents have been completed, Enbridge is fully committed to addressing whatever changes might need to be implemented so that we and others in the industry can avoid a repeat of these incidents. We intend to work with you to ensure that the Subcommittee's concerns and those of the communities in which we operate are fully addressed.

Background on Enbridge

Enbridge wants to be the leading energy delivery company in North America. We integrate our core values into our daily activities, helping us work toward achieving our collective vision. Our values guide the way we make decisions and conduct our business. We operate with integrity, honesty, and transparency. We operate to the highest ethical standards with our customers, investors, employees, partners, and regulators, and in the communities through which our facilities cross. And we aim to ensure compliance with all the laws in every jurisdiction in which we operate. As we hope you will find today and as we have sought to demonstrate in Marshall, Battle Creek, and the surrounding area and in Romeoville, we communicate openly and honestly.

By pursuing these core values, we have grown our business substantially over the past 60 years. Today, our company operates the world's longest petroleum liquids pipeline system, serving customers throughout Canada and the United States. I am proud to say that we have approximately 2,200 employees in the United States. Last year, we delivered approximately two million barrels per day of oil to markets throughout North America. In fact, Enbridge transports by pipeline to the United States more crude oil needed by refineries than any other company in the world. At present, we deliver approximately 12 percent of the total daily imports of crude oil into the United States—that is more barrels per day than Venezuela, Saudi Arabia, or any other country has delivered to the United States over the past decade.

As the operator of North America's largest crude oil pipeline system, Enbridge prides itself on safely and reliably delivering energy to people across the continent. We also are proud of our green energy portfolio, which is the fastest growing portion of our business, as we continue to invest more each year in renewable energy projects. In everything we do, we place the highest possible priority on protecting the safety of the communities in which we operate, the environment through which our pipelines traverse, and the people who live and work along our system.

Our goal is to have no leaks or spills, ever. That is why we invested nearly $150 million last year alone on our pipeline integrity programs. And that is why we have a very significant compliance program in place, one that is intended to ensure our employees meet the highest standards for delivering product safely to market. For example, our management scorecard includes safety, environment, and pipeline integrity performance in all of our employee and management performance ratings. We seek to continually improve our performance, to learn from our mistakes, and to achieve our safety objectives.

The substantial sums we spend annually on our pipeline integrity programs support activities such as corrosion control, monitoring, and advanced inline inspection technology that provide an inch-by-inch view of the pipeline. We also run regular ground and aerial pipeline patrols, and maintain a comprehensive program of digs to test the integrity of our pipelines. In addition, we have developed strong public awareness programs. We will continue to invest in these kinds of initiatives in the future to assure ourselves that we are able to maintain the integrity and reliability of our pipeline network.

Our record demonstrates our ability to translate positive ideals into positive outcomes. For instance, we have made considerable progress in reducing the number and magnitude of incidents over time caused by corrosion or third-party excavation. As a result, our underground system largely receives little notice in the communities through which our lines cross.

To put our safety record in perspective, our level of spills is about 40 percent of the industry average. Based on the miles of pipeline we operate, our line break rate is roughly half of the industry average. Between 2002 and 2009, for example, we reported only 0.451 incidents per 1,000 miles of pipelines—well below the 0.786 incidents per 1,000 miles of pipelines reported by all other pipeline operators, as reported to the U.S. Department of Transportation.

Response to the Marshall Spill

Line 6B is a 30-inch pipe that runs from Griffith, Indiana, to Sarnia, Ontario. Constructed in 1969, it has an average daily capacity of 283,000 barrels. The line generally carries light synthetics and heavy and medium crude oil, supplying refineries in Ohio, Michigan, Pennsylvania, and eastern Canada. Initial estimates indicated that approximately 19,500 barrels of crude spilled as a result of the rupture. No one was hurt. A portion of the oil entered Talmadge Creek and from there entered the Kalamazoo River; the rest remained in the vicinity of the spill site.

Under the oversight of a host of federal, state, and local agencies, Enbridge implemented a swift and expansive response to the Line 6B spill. Along with our Chief Executive Officer and a team from our regional offices throughout North America, I arrived on scene on July 26th and have been based in Marshall since then.

Upon first notification of the release of oil, the pipeline was further isolated, having already been shut down for a planned delivery. That day, crews began installing containment boom that had been pre-positioned in Marshall. The initial focus was collection of oil off the creek and river during the first week and then recovery of free oil from the immediate ground around the leak site. As a result of this swift and intensive intervention, the oil did not reach Morrow Lake. As of September 13, the EPA reported that 120,645 feet of boom has been deployed and 25 containment locations have been established. In addition, EPA reported that 9.591,733 gallons of oil/water, 13,058 cubic yards of debris, and 35,798 cubic yards of soil has been shipped off-site.

To address the needs of the local communities and to make information available as quickly and reliably as possible, we began making contact with residents in the areas of greatest direct impact along Talmadge Creek on July 26. By 9:45 p.m. that day, we had set up a hotline and provided the number to the local media to publicize. (As of last week, we have received approximately 9,900 calls from local residents on the hotline.) We also quickly published a website for the incident--

www.response.enbridgeus.com--where area residents could find up-to-date information on the spill, could measure our response to it, and could submit comments or questions. As of last week, we had received approximately 575 comments through the website; every one of those has received a response.

Within two weeks of the spill, we had opened two community centers. As of last week, those two centers had hosted approximately 2,600 visitors. We have a team of employees at each community center to work directly with residents to provide appropriate assistance. We know we will have ongoing questions from residents and we will be there to answer them and address any issues that need to be resolved.

Since arriving on scene on July 26, our Chief Executive Officer and other senior corporate officers, including myself, have made it a point to meet with as many people as possible, often in their homes, so that they could share their concerns directly with us and so that we as an organization could respond as quickly as possible to address their concerns. We mobilized a team as quickly as we could so that anyone affected would have housing and the medical care they deserved as promptly as possible, as well as to address their financial needs.

We established processes that provided direct assistance for pre-paid hotel stays, equipment, and services; reimbursement for cost of living expenses and other qualified expenses incurred directly as a result of the leak, voluntary evacuation, and clean-up activities; a home purchase program in response to potential impacts on home values; procedures for processing claims for property and personal damages (such as business interruption, nuisance and inconvenience, and temporary land access and use); and payment of medical expenses for those individuals without insurance or a primary care physician.

We sought to establish a fair, reasonable, and efficient process with as little bureaucracy as possible. As our Chief Executive Officer has said many times, no one need sue Enbridge to be made whole from this incident. As questions have arisen about aspects of our initiatives, we have sought to remedy them as quickly as possible. For example, where releases were obtained in situations in which only documented expenses were reimbursed or the claimant received something other than a cash payment, we corrected those situations by making clear that we would pay any future claim that is documented, non-fraudulent, and non-duplicative.

Even though we believe the process we put in place was and is fair, we recently decided to bring in former Michigan Supreme Court Justice Dennis W. Archer, an esteemed jurist, to conduct a review of the claims process and, if necessary, recommend ways to improve that process to assure its fairness and privacy protections.

We developed a plan to purchase homes from adversely affected individuals. For those residents who own property within 200 feet of the river--and who had put their homes up for sale before the spill--we will buy those homes at the full list price. For residents who own homes within that area and are concerned about a reduction in value or simply want to move, we will purchase their homes at the pre-spill appraisal value. As of last week, we had purchased 6 properties and have an additional 16 homes in the final stages of purchase. An additional 84 appraisals have been completed or are now underway. Residents will have one year from the spill date to decide if they want to proceed with the sale option. We are hopeful that this voluntary home purchase program,

with transactions occurring at full list or appraisal value, will provide buoyancy to the local real estate market.

We also made a point of working to bring as many people from the community as possible to help with the clean up and remediation effort. Our contractors are contractually required to comply with all laws, and that includes that their workers are fully documented and qualified. When allegations were made about the use of undocumented workers, we contacted the affected contractor and advised it of the allegations and asked it to review the situation with its subcontractor whose workers were being questioned. The contractor subsequently decided to terminate the subcontractor.

Effective August 10, the Environmental Protection Agency announced that the emergency phase of the incident was over. The agency has approved a long-term restoration and monitoring plan. Approximately 17,000 barrels of oil had been recovered by August 31. By next week, we will have completed the bulk of the clean up.

There has been significant progress to date in removing all oiled soil at the release site, with new vegetation already established. We also are approaching completion of removal and cleanup of oiled vegetation and residual oil on the creek bank and river bank. In addition to the many thousands of air and water samples taken by EPA, as of September 6 Enbridge had taken close to 49,000 air samples and 2,000 water samples, a process that continues today. At the beginning of September, we had approximately 1,800 employees and contractors working on cleanup and remediation. As of late last week, approximately 1,400 individuals were engaged in the clean up effort. We are now focused principally on remediation.

Finally, Enbridge has been working with Focus Wildlife, the Michigan Department of Natural Resources and Environment, and the U.S. Fish & Wildlife Service to minimize the impact on wildlife in the area. We established a temporary wildlife rehabilitation center in Marshall to help animals affected by the leak. We have encouraged the public to call our toll-free number to report any wildlife affected by the leak or to register as a potential volunteer. A daily report on the number of wildlife in care and released is available on the U.S. Fish and Wildlife Web site.

Line 6B Pipeline Integrity Program

Because our pipelines are a very important asset and the safety of our operations is of the utmost importance, we pay very close attention to the integrity and reliability of our pipelines, starting with design, operations, inspections, and maintenance. On Line 6B, a comprehensive integrity assessment, testing, and remediation program has been underway for many years. In fact, it had been underway even before we completed in 2004 the baseline integrity assessment test required under the applicable integrity management rules for liquid petroleum pipelines established by PHMSA's Office of Pipeline Safety. Our management program includes efforts to identify, monitor, repair, mitigate, or replace sections of pipe based on the results of our frequent internal inspections. In addition to routine inspections and maintenance, the pipeline has been inspected with various internal inspection tools in recent years, exceeding the requirements set out in applicable pipeline safety rules. In 2005, for example, we undertook the first of three "geometry" runs. In October 2007, we undertook a corrosion inspection using magnetic flux leakage technology. In June 2009, the line was tested for corrosion through the use of ultrasonic technology. That test measures, among other things, pipe wall thickness and thus allows calculations to determine the strength of the

steel when spots along the pipeline show even early signs of potential corrosion or other potential defects. These inspections were conducted along the entire line, rather than just in the high consequence areas as currently required.

Since then, our inspection program has been ongoing. In fact, at the time of the rupture, we had just inserted a crack inspection tool in the pipeline at Griffith. We hope to complete that testing soon.

As with most underground pipelines, corrosion is an ongoing risk that must be managed and ultimately prevented. We carefully maintain our cathodic protection system and internally inspect the lines to monitor for early signs of corrosion. When internal inspections indicate that corrosion is light enough not to be a near-term concern, Enbridge has a program in place to continue assessing, monitoring, and prioritizing repairs. When more serious signs of corrosion are found, we have a program to excavate and stop the corrosion and replace the protective coating, to install a repair sleeve, or to replace a segment so that the potential risk of a leak is avoided. Repair or replacements have the common goal of returning an affected pipe segment to full strength and full operating conditions.

As part of our pipeline integrity program, we conduct weekly checks and maintenance inspections. In fact, we already had planned to undertake two additional internal inspection runs in 2011 on Line 6B. We want to be certain that the conditions identified in the runs in 2007 and 2009 have been appropriately addressed. To that end, in the next few weeks we will be accelerating our already aggressive program of excavations and repairs at each of the features on Line 6B identified in these inspection runs. Our actions are consistent with a regulatory directive, but also with our own commitment to safety. While I believe that our current integrity methods are state of the art and are consistent with or exceed regulatory obligations, we also intend to learn from this event and, where needed, develop new measures that will help us and the industry assure that accidents like this one are prevented.

St. Clair River Dent

When we identify a feature in a line that may threaten the strength of the steel under maximum operating pressures, we investigate it. An internal inspection in August 2009 indicated the existence of a dent in Line 6B where it crosses under the St. Clair River. Following that inspection run, we notified the Pipeline and Hazardous Materials Safety Administration.

We fully appreciate the concerns of the potentially affected communities. Because the site is very difficult to access, we immediately lowered operating pressure to 50% of maximum allowed pressure to be conservative while we completed an underwater inspection of the river bed over the pipe and launched a comprehensive engineering assessment.

The dent is a smooth one without evidence of corrosion or sharp features. Given its characteristics, the dent has most likely been there since the pipe was installed over 40 years ago. The dent is near the top of the pipe. The pipe has a wall thickness of 0.50" and is coated with 3 inches of concrete and covered with a layer of engineered protective gravel. The location is approximately 15 feet under the river bed. The depth of water at that location is approximately 30 feet.

In accordance with federal pipeline safety rules, we have since filed a written technical and engineering assessment report with the regulators. While the probability that the dent will cause a leak is very remote, Enbridge will present to the regulators a schedule for replacing the segment of pipe under the river within one year, as they have required, and believe that we may be able to finalize that work in that time frame or less if conditions will permit us to use a horizontal directional drill.

Romeoville Spill

Line 6A is a 34-inch, 670,000 barrel-per-day line transporting light synthetics, heavy and medium crude oil from Superior, Wisconsin, to Griffith, Indiana. Like Line 6B, it is part of Enbridge Energy, Limited Partnership's Lakehead System.

On September 9, a leak occurred on Line 6A pipeline in Romeoville, Illinois. The pipeline was shut down and isolated immediately after Enbridge was notified. Repairs were completed and Line 6A was safely returned to normal service at approximately 9:50 a.m. on September 17. We have expressed our apologies to the businesses in Romeoville and surrounding area for the disruption, and have extended our appreciation to emergency responders and regulatory agencies for their professional, diligent, and supportive actions.

The National Transportation Safety Board is investigating the cause of the leak and a separate rupture of a water main immediately below our pipeline. Investigators have removed a 12-foot section of the pipeline and have taken custody as well of a section of damaged water main from the leak site. The cause of the leak on Line 6A has not been determined by the NTSB.

Strong Environmental Record

As part of our commitment to undertake socially responsible operations throughout North America, we not only value a clean and healthy environment, but also have undertaken extensive efforts to implement them. At Enbridge's Annual General Meeting in Toronto in May, 2009, our Chief Executive Officer announced an ambitious plan to stabilize Enbridge's environmental footprint. The Neutral Footprint Initiative, which is the result of that vision, is designed to mitigate Enbridge's environmental impact where it is felt most: on the trees we remove, the natural habitat we permanently alter, and the energy we use to power our operations.

It is our responsibility to take a balanced approach to development. Enbridge has begun to plant a tree for every tree we remove to create safe right of way, to conserve an acre of land for every acre of natural habitat we permanently impact, and to generate a kilowatt of renewable energy for every kilowatt our operations consume. Through these and other ongoing initiatives, we have committed to stabilizing our environmental footprint at January 2009 levels.

We also recognize that our relationship with fossil fuels comes with great responsibility. To that end, Enbridge is now investing heavily in renewable and alternative energy technologies, including seven wind farms, North America's largest photovoltaic solar facility, a hybrid fuel-cell system, a geothermal energy project, and waste heat recovery technologies. I am proud to report that this is the fastest-growing portion of our business. With our investment in more than 800 megawatts of green power capacity, we now can supply more than 292,000 homes with energy. These

investments prevent 1.5 million tons of greenhouse gas emissions annually. But this is just a start. We are committed to growing our renewable and alternative energy technologies over time.

Conclusion

As I said at the outset, no spill is acceptable. Since Day 1 in Marshall, we have taken responsibility for cleaning up the spill, addressing the requirements of the regulators as well as the needs of the individuals and businesses in Marshall, Battle Creek, and the surrounding area, and remediating affected areas. We have largely cleaned up the spill in Romeoville and restarted Line 6A.

We are cooperating fully with the pending NTSB and Office of Pipeline Safety investigations. We hope to learn from their findings and from our own reviews of the incidents and share these findings with the pipeline industry. We intend to work with you to ensure that the Subcommittee's concerns and those of the communities in which we operate are fully addressed.

Thank you again for providing us with this opportunity to share our perspective.

Mr. WELCH [presiding]. Thank you very much.

And our next witness is Rick Kessler, Vice President of the Pipeline Safety Trust, a nonprofit organization well known to the committee. Mr. Kessler is well known to the committee, having served as Chief of Staff to Chairman Emeritus Dingell. Sorry he is not here, but that is quite a recommendation around here.

He currently serves as President of Dow Lohnes Government Strategies. And welcome, Mr. Kessler. We look forward to your testimony.

STATEMENT OF RICK KESSLER

Mr. KESSLER. Thank you, Mr. Welch, and thank you, Ranking Member Upton. As you have just heard, I am Rick Kessler, and I am here in my purely voluntary and uncompensated role as the Vice President of the Pipeline Safety Trust.

My experience with pipeline safety stems from my years as a staff of this committee on such issues, starting in 1994 after a natural gas explosion in Edison, New Jersey, all too similar to what just occurred in California. It destroyed the whole apartment complex, left one person dead and many people homeless.

The events of the last 2 months, the Enbridge pipeline environmental catastrophe in Michigan that made houses uninhabitable and, more recently, the devastation and tragedy brought about by the PG&E explosion in San Bruno, drive home the need for significant comprehensive changes to our pipeline safety laws as part of any reauthorization.

Transporting fuels through pipelines is without a doubt the safest way to move these highly dangerous substances, but the question isn't whether pipelines are a safe mode of transportation. It is whether they are as safe as they could and should be and whether they are being regulated in a manner that is efficient, effective, and protective. Unfortunately, the answer to both questions is no.

You have asked the Trust to comment on two legislative proposals currently before the committee, H.R. 6008, the CLEAN Act, and the reauthorization proposal released last week by the Obama administration.

It is our understanding that Mr. Schauer, Ranking Member Upton, and others introduced H.R. 6008 in response to the Enbridge pipeline accident that affected both their districts. The bill's main provisions require pipeline owners and operators to notify the Secretary and the National Response Center within 1 hour of discovering a hazardous liquid or natural gas leak. It would not expand the category of leak required to be reported nor require a leaking line be shut down, as some have erroneously asserted. Rather, it merely directs releases that are required to be reported today be reported more quickly in the future, no more than an hour from when they are first discovered by the pipeline operator.

The second major provision in the bill raises the cap on civil penalties, and we applaud the increase but caution that it is not a panacea.

The CLEAN Act's third major provision requires the Secretary to establish a database of all reportable incidents. While PHMSA already makes incident data of this sort available for download, we

think this provision would be a step forward if the intent is that PHMSA makes such information available in a more user-friendly format on their Web site.

Of course, the CLEAN Act isn't intended to be a vehicle for full scale reauthorization. It is a narrowly crafted but useful step forward to address a number of issues raised by the recent accidents, and we support it as such. We hope, however, the bill is amended to require enhanced leak detection on pipelines and urge you to include such a reasonable provision in the bill or in any reauthorization package.

Last week, the Obama administration released a draft pipeline safety reauthorization proposal. Had this 12-page bill been unveiled a year ago, it might have been a nice first step on the long road to reauthorization. However, coming as it has on the heels of major catastrophic accidents and with only a short time left to reauthorize the act, the only way to characterize it is too little, too late.

Certainly there are positive provisions in the bill, including increased staffing and funding for PHMSA. The bill also takes baby steps towards regulating gathering lines by removing the provision in the law that prohibits PHMSA from acting in this area. However, even this is flawed because it requires no further regulatory action.

Also, the bill would merely study expansion of integrity management in high consequence areas, but doesn't expand inspections beyond the 7 percent of natural gas transmission lines covered by the 2002 act, nor does it address the quality of those inspections or the repairs made in their wake. One generally positive development is the administration's proposed changes to the overly broad provisions of the existing law dealing with waivers.

The last time I appeared here, I stated the Trust's support for the sensible use of waivers so long as certain commonsense standards were put into place to protect public health and the environment. Section 10 of the administration proposal addresses some of our concerns by imposing higher standards for waiver applicants, time limiting the duration of a waiver, explicitly requiring PHMSA to recover processing costs, and directly authorizing the Secretary to revoke waiver for cause.

Ultimately, as I indicated earlier, the problem of this proposal has little to do with what is in it but rather what is not in it. For instance, there is little or nothing to do in the proposal that would address issues raised by the Michigan and California incidents or the many other accidents that have occurred during the same period.

The good news is that with significant additions, this proposal could be part of the kind of bipartisan, proactive reauthorization package that emerged from this committee in both 2002 and 2006. Such a package must address, in addition to the things I previously mentioned, expanding the miles of pipelines that fall under integrity management, making more pipeline safety information publicly available, requiring a remote or automatic shutoff valves for gas transmission, and emergency flow restrictions devices on hazardous liquid pipelines, enhanced requirements for accommodating inter-

nal inspection devices, or smart pigs, and a number of other equally important issues raised in my written testimony.

I see I am running out of time. I just want to thank you again for this opportunity to testify and note that over the last decade this committee has proven to be a bipartisan bastion of common sense in the realm of protecting the public and the environment from unsafe pipelines. We urge the committee to continue its leadership role on the issue and look forward to working with you in the future.

[The prepared statement of Mr. Kessler follows:]

Testimony of
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Presented by

Rick Kessler
Vice President

BEFORE THE

SUBCOMMITTEE ON ENERGY AND ENVIRONMENT
COMMITTEE ON ENERGY AND COMMERCE
US HOUSE OF REPRESENTATIVES

HEARING ON

HR 6008, The CLEAN Act
and
"THE STRENGTHENING PIPELINE SAFETY AND ENFORCEMENT ACT" DRAFT

September 23, 2010

Good afternoon, Chairman Markey, Ranking Member Upton and Members of the Subcommittee. Thank you for inviting me to speak today on the important subject of pipeline safety. My name is Rick Kessler and I am testifying today in my purely voluntary, uncompensated role as the Vice President of the Pipeline Safety Trust. My involvement and experience with pipeline safety stems from my years as staff for this committee on such issues; starting in 1994 after a natural gas explosion in Edison, New Jersey –all too similar to what just occurred in San Bruno, California —destroyed a whole apartment complex and left 1 person dead and many, many people homeless.

The events of the last two months –the environmental catastrophe near Kalamazoo in Marshall caused by Enbridge Pipelines Inc. that made houses uninhabitable and, more recently, the devastation and tragedy brought about by the PG&E pipeline explosion in San Bruno— drive home the need for significant, comprehensive changes to our pipeline safety laws as part of any reauthorization. To paraphrase Santayana, "Those who fail to learn from history are doomed to repeat it" and if we don't learn the right lessons from these recent, devastating failures, then we will unfortunately live to see the grieving families of more victims and the despoiling of even more of our land and water.

The Trust also is concerned that there have been a number of other, significant pipeline and pipeline-related releases this year including:

- The spill by Alyeska Pipeline in Alaska in May;
- The spill by Chevron Pipe Line Company near Salt Lake City in June; and
- The spill by Enbridge Pipelines Inc. near Romeo, IL in September.

We hope that the Congress, the Pipeline and Hazardous Materials Safety Administration, and the National Transportation Safety Board (NTSB), which is investigating the Michigan and San Bruno accidents can ascertain if there's a systemic problem resulting in these multiple releases or if they are independent events.

About The Pipeline Safety Trust

The Pipeline Safety Trust came into being after the 1999 Olympic Pipeline tragedy in Bellingham, Washington that left three young people dead, wiped out every living thing in a beautiful salmon stream, and caused millions of dollars of economic disruption. The vision of the Pipeline Safety Trust is simple: communities should feel safe when pipelines run through them, and trust that their government is proactively working to prevent pipeline hazards. We believe that local communities who have the most to lose if a pipeline fails should be included in discussions of how best to prevent pipeline failures; and, we believe that only when trusted partnerships between pipeline companies, government, communities, and safety advocates are formed, will pipelines truly be safer.

We also believe that trust in pipeline safety increases in proportion to the amount of verifiable scientific information that is readily available for all concerned to review. Such information must form the basis for any and all legitimate public awareness and education programs about pipeline safety. For the most part, outside review and involvement increases the confidence in

pipeline safety as those with concerns learn that pipelines truly are a safe way to transport fuels. In those instances when safety has lapsed, such review will help to more quickly correct the situation and create a push for even greater levels of safety. Consequently, one of the Trust's highest priorities is to make available as much relevant and accurate information as possible for independent review. In sum, we believe the public has a right to know about the safety of pipelines that affect their communities.

Overview

The availability of natural gas, oil and other fuels are vital to our economic well being and transporting those fuels through pipelines is without a doubt the safest way to move these highly dangerous substances. So the question isn't whether pipelines are a safe mode of transportation compared to other ways to move fuel, the real question is whether they are as safe as they could and should be and the secondary question is whether they are being regulated in the most efficient, effective and protective manner they could or should be.

Unfortunately, the answer to both questions is: no.

You have asked me, on the Trust's behalf, to comment on two legislative proposals currently before the committee: H.R. 6008, The Corporate Liability and Emergency Notification Act (CLEAN), sponsored by Rep. Mark Schauer of Michigan and the reauthorization proposal released last week by the Obama Administration.

H.R. 6008

It is our understanding that the CLEAN Act was introduced by Mr. Schauer, Mr. Upton and others in response to the Enbridge pipeline accident in Marshall, Michigan. The bill has three major provisions with the main one requiring pipeline owners and operators to notify the Secretary of Transportation and the National Response Center within one hour of discovering a hazardous liquid or natural gas leak. It would not expand the category of leak required to be reported; rather, it mandates that releases required to be reported today, be reported more quickly in the future –no more than an hour from when they are discovered by the pipeline operator. While the NTSB continues to investigate both the cause and the circumstances surrounding the Enbridge spill, that provision appears to address a significant concern raised about the company's response or lack of response to the leak wherein the leak may not have been reported for as long as 24 hours after it was first detected. This is clearly unacceptable and highlights a small but extremely significant gap in the law that would be fixed by the CLEAN Act.

The second major provision of the bill would raise the cap on civil penalties PHMSA could assess against an owner or operator under the Pipeline Safety Acts. We applaud this increase, but caution that it is not a panacea. While PHMSA has shown improvement over the past decade in its efforts to enforce the law and –with a great deal of bipartisan help from this committee in the form of the PIPES Act—make its enforcement efforts more transparent, we remain mindful of PHMSA's lax enforcement of the law in the not too distant past. No matter how high the cap on penalties may go, they are useless as punishment or deterrent without a regulator who is willing to use them and use them in a fair and consistent manner.

The CLEAN Act's third major provision would require the Secretary to quickly establish a database of all reportable incidents. While PHMSA already makes incident data of this sort available for download, we think this provision would be a step forward if the intent is that PHMSA make such information available in a user-friendly format on their website sortable by a variety of factors such as pipeline company, location, cause, etc. This appears to be a helpful codification of PHMSA's existing incident database.

The CLEAN Act is not intended to be a vehicle for a full scale reauthorization of the Pipeline Safety Act; it is a narrowly targeted, but useful step forward to address a number of issues raised by the Enbridge spill near Marshall, Michigan as well as other recent accidents in Illinois and Utah, and we support it as such. It is our understanding that the bill may be amended to include a requirement for enhanced leak detection on pipelines and we would wholeheartedly urge the committee to include such a reasonable provision in the bill. The Pipeline Safety Trust raised the issue of leak detection in our last appearance before the Subcommittee two and a half years ago, and we still have yet to see any real effort on PHMSA's part to set standards for leak detection and require the best achievable technology in that area. However, it's clear from these many, recent incidents that we are long past due for addressing this matter, so we urge the committee to require adoption of a tough, but achievable leak detection standard along the line of Alaska's performance standard as it considers this bill or when it moves on a full reauthorization package.

The Strengthening Pipeline Safety and Enforcement Act of 2010

Last week, the Obama Administration released a draft proposal for reauthorization of the pipeline safety laws. Had this 12-page bill been released a year ago, it might have been a nice first step on the long road to reauthorization. However, coming as it has after major, catastrophic accidents in California and Michigan, and with only a short time left to reauthorize the Act, the only way to characterize it is: too little, too late.

Certainly, there are positive provisions in the bill, including increased staffing and funding for PHMSA and increasing fines. The bill also takes some baby steps toward the important issue of regulating gathering lines by removing the provision in law that prohibits PHMSA from regulating in this area; however, even this is severely flawed because it requires no further regulatory action. While the bill would study the expansion of integrity management in high consequence areas, it takes no real action to expand inspections beyond the mere 7 percent of natural gas transmission pipelines covered by the 2002 Act nor does it address the quality of those inspections and the repairs made in their wake.

Another provision in the bill that is, on balance, a positive development are the Administration's proposed changes to the overly broad waiver provisions of Section 60118(c) of the existing law. The last time I appeared here, I stated the Trust's support for the sensible use of waivers under the following circumstances that still apply:

- Waivers should not be processed if PHMSA does not have the resources to do so without undermining its existing pipeline safety programs. If these waivers are a priority of the industry, then Congress should consider implementing fees for waiver applications to provide PHMSA with the resources to get the job done.

- Waivers should only be considered for pipeline segments that have fully completed their initial baseline assessment, and must not be considered for those operators using Direct Assessment.

- Waivers should only be considered for pipeline segments where operators have provided PHMSA with sufficient information to show that the baseline assessment was adequate, and that they have identified the pertinent threats and have a plan in place to correctly monitor and address those threats.

- Waivers should not be considered for pipeline segments where failures have occurred within the past ten years from causes within operators' primary responsibility (corrosion, material failures, incorrect operation, etc.).

- Waivers should not be considered for pipeline segments that include bare steel pipe, ineffective pipe coating, or ineffective cathodic protection.

- Waivers should not be considered for pipeline segments where identified threats (such as selective seam corrosion) include issues where time-to-failure calculations are unreliable.

- Waivers should be revoked if failures occur from causes within operators' primary responsibility (corrosion, material failures, incorrect operation, etc.).

- Waiver applications, supplemental information, correspondence, and final waivers should all be included in an easy-to-locate, publicly-accessible, web-based docket.

- All National Environmental Policy Act requirements must be fulfilled in development of PHMSA's waiver process.

While it keeps intact overall the sweeping waiver authority contained in the Act and does not address the low burden of proof required for the Secretary to grant waivers, Section 10 of the Obama Administration proposal would nonetheless address a number of our concerns. Among those problems mitigated by the proposal are higher standards for waiver applicants, time limiting the duration of a waiver, an explicit requirement for PHMSA to recover the costs of processing from industry –costs that can significantly eat into the agency's safety budget under today's laws--, and explicit authority for the Secretary to revoke a waiver for cause.

Ultimately, as I indicated earlier, the problem with the The Strengthening Pipeline Safety and Enforcement Act of 2010 has little to do with what is in it, but rather with what is not in it. For instance, there is little to nothing in the proposal that would address any of the issues raised by either the San Bruno or Marshall incidents or so many of the other accidents that have occurred during the same period. So, it is disheartening, to say the least, to see this proposal put forward within a week of a tragedy that took the lives of 7 people and less than two months after a catastrophe that drove scores of people from their homes and severely harmed the environment.

However, with significant additions, this proposal could be part of the kind of comprehensive, proactive, bipartisan reauthorization package that emerged from this committee in both 2002 and 2006. Such a package must address:

- **Expanding the miles of pipelines that fall under the Integrity Management rules.**

- **Requiring remote or automatic shut off valves for gas transmission pipelines and emergency flow restricting devices on hazardous liquid pipelines**

- **Enhanced requirements for accommodating internal inspection devices or "smart pigs"**

- **Moving forward to address unregulated pipelines and clarifying regulations of gathering and production pipelines**

- **Developing and implementing enhanced standards and requirements for leak detection on hazardous liquid lines**

- **Making more pipeline safety information publicly available**

- **Continuing implementation and funding of Technical Assistance Grants to Communities and boosting the Pipeline Safety Information Grant Program created by Mr. Boucher and this Subcommittee in 2002**

- **Implementing expansion of Excess Flow Valve requirements**

- **Making public awareness programs meaningful and measurable**

- **Continuing to push state agencies on damage prevention**

- **Ensuring adequate distribution and promotion of the Pipelines and Informed Planning Alliances report on recommended practices that local government can adapt to provide greater safety when development is proposed near transmission pipelines**

Expanding the miles of pipelines that fall under the Integrity Management rules

Implementation of Integrity Management rules have been one of the most important aspects of both the Pipeline Safety Improvement Act of 2002 and the Pipeline Inspection, Protection, Enforcement and Safety (PIPES) Act of 2006. The earlier act focused mainly on transmission pipelines and the PIPES Act extended Integrity Management to the much larger realm of distribution pipelines. All of these efforts represent a significant increase in regulations meant to increase pipeline safety, and we would like to commend both PHMSA and the industry for the initial implementation of these programs.

One of our major concerns is that the Integrity Management rules that require hazardous liquid and gas transmission pipeline operators to more carefully assess their pipelines only apply to limited sections of pipelines that fall in High Consequence Areas (HCAs). These assessments are

most frequently accomplished by internal inspection of the pipelines with smart pigs. Due to these important new pipeline safety regulations, pipeline operators found, excavated and repaired more that 34,000 anomalies on pipelines between 2002 -2008. This represents a significant improvement in the future safety of our nation's important transportation infrastructure.

Currently 44% of hazardous liquid pipelines and only 7% of natural gas transmission pipelines fall under these important integrity management rules, requiring that they *ever* do these inspections. Yet despite Congressional action, 56% of hazardous liquid pipelines and 93% of natural gas transmission pipelines still are not required to comply with these important regulations.

To illustrate why this is a problem consider that we just passed the ten-year anniversary of the Carlsbad, New Mexico pipeline explosion that killed twelve people. In response, Congress passed the Pipeline Safety Improvement Act of 2002, which required Integrity Management of natural gas transmission pipelines within High Consequence Areas (HCAs). Yet HCAs are defined so narrowly that they don't even include the Carlsbad pipeline area despite the fact that twelve people died there in one pipeline incident. What this means to people who live around these pipelines is that if you live near a pipeline in a more rural area, your life is not worth protecting with these important integrity management rules. As Jim Hall, Chairman of the National Transportation Safety Board at the time of the Carlsbad incident said "No American would want to use any transportation vehicle that would not be properly inspected for 48 years, nor should we have pipelines traveling through any of our communities in this condition." Chairman Hall's words are as true today as they were in 2000. With the recent ten year anniversary of the Carlsbad pipeline incident, and in memory of the twelve men, women and children who died there as the result of an uninspected pipeline, the Trust asks Congress to expand Integrity Management to all pipelines so that their deaths might not have been in vain.

When Integrity Management was first conceived and implementation began, inspections were limited to High Consequence Areas (HCAs) because this represented a huge undertaking on the more than 90,000 miles of gas transmission and hazardous liquid pipelines that are included within these HCAs. At that time, leaders within Congress and PHMSA stated that in the future these types of inspection requirements would be expanded to additional miles of pipeline outside of the HCAs. The future is now, and we believe the industry now has the experience and equipment necessary to begin similar inspection on the over 365,000 miles of pipelines that currently have no such regulatory requirements. This is extremely important when you consider that of all the deaths caused by these types of pipelines since 2002 over 75% of them have occurred along pipelines that are outside of HCAs, so currently are not required to meet the Integrity Management rules. For these reasons the Trust asks that you direct PHMSA to initiate a rulemaking by a date certain to implement a similar Integrity Management program on all the pipelines that fall outside of current HCAs.

Requiring remote or automatic shut off valves for gas transmission pipelines

Require remote or automatic shutoff valves – Sixteen years ago, when I first began working with this committee on pipeline safety, we were debating a requirement for remote or automatic shutoff valves on natural gas pipelines in the wake of the Edison, NJ accident and the

hour it took to shut off the flow of gas that fed the fireball due to the lack of a remote controlled shut off valve. It is both puzzling and sad that we have to again debate the benefits of requiring remote or automatic shut off valves after another tragedy, this time in San Bruno, California.

In 2010 it is unacceptable that the only way to shut off a large pipeline spewing fire into a populated neighborhood is to find someone with a key to a locked valve, have them drive to the valve and operate it manually. In good weather in San Bruno that method took an hour and a half to shut off the flow of fuel. How long would that method take after an earthquake? We ask that you direct the Secretary of Transportation to immediately begin a study to determine the type, placement, feasibility and phase in period for installation of more up-to-date valves, and that a rule-making for such installation is accomplished by December 31, 2012.

For liquid pipelines in 1992, 1996, 2002, and 2006, Congress required OPS to "survey and assess the effectiveness of emergency flow restricting devices...to detect and locate hazardous liquid pipeline ruptures and minimize product releases"[1] with the first such requirement having a deadline in 1994 (16 years ago!). Following this analysis, Congress required OPS to "prescribe regulations on the circumstances under which an operator of a hazardous liquid pipeline facility must use an emergency flow restricting device."[2] (emphasis added)

OPS/PHMSA never issued a formal analysis on emergency flow restricting device (EFRD) effectiveness. Instead, in its hazardous liquid pipeline integrity management rule,[3] OPS rejected the comments of the NTSB, the U.S. Environmental Protection Agency, the Lower Colorado River Authority, the City of Austin, and Environmental Defense and chose to leave EFRD decisions up to pipeline operators after listing in the rule various criteria for operators to consider. Such an approach to EFRD use does not appear to meet Congressional intent, partly because the approach is essentially unenforceable and not protective of important environmental assets such as rivers and lakes including those not considered High Consequence Areas.

Congress needs to reiterate its previous mandates to PHMSA on EFRD use on liquid pipelines and ensure they are followed to mitigate the extent of future pipeline releases.

Enhanced requirements for accommodating internal inspection devices or "smart pigs"

Internal inspection devices or "smart pigs" are the best available technology for inspecting pipelines. The biggest barrier to using them in many areas is that the pipelines themselves too often are not able to accommodate these devices. Isn't it finally time to require operators to present the Secretary with plans by a date certain for upgrading, at a minimum, segments of

[1] See 49 USC 60102(j)(1).

[2] See 49 USC 60102(j)(2).

[3] See 49 CFR 195.452(i)(4).

their lines in HCAs to be able to accommodate these devices that really provide a legitimate assessment of the pipelines condition?

Developing and implementing enhanced standards and requirements for leak detection on hazardous liquid lines

In its hazardous liquid transmission pipeline integrity management rule, PHMSA requires that operators have a means to detect leaks, but there are no performance standards for such a system.[4] This is in contrast to the State of Alaska, for example, which requires that *all* crude oil transmission pipelines have a leak detection system capable of promptly detecting a leak of no more than 1% of daily throughput.[5] PHMSA listed in the integrity management rule various criteria for operators to consider when selecting such a device. Again, such an approach is virtually unenforceable and not protective of important environmental assets such as rivers and lakes including those not considered High Consequence Areas.

The recent releases in Michigan and Utah are examples of what can go wrong when a pipeline with a leak detection system has no performance standards for operations.

The Trust's position is that Congress needs to direct PHMSA to issue performance standards for leak detection systems used by hazardous liquid pipeline operators by a date certain to prevent damage from future pipeline releases.

Moving forward to address unregulated pipelines and clarifying regulations of gathering and production pipelines

After numerous spills from low stress pipelines on Alaska's North Slope, Congress directed PHMSA to move forward with new rules to better regulate them. Section 4 of PIPES required PHMSA to "issue regulations subjecting low-stress hazardous liquid pipelines to *the same standards and regulations as other hazardous liquid pipelines*" (emphasis added) with limited exceptions for pipelines regulated by the U.S. Coast Guard and certain short-length pipelines serving refining, manufacturing, or truck, rail, or vessel terminal facilities. This section's clear directive to PHMSA to have these rules adopted by December 31, 2007 has only been partially followed since PHMSA decided to implement this directive in a phased approach and so far has only adopted phase one of those rules and made no announcement about phase two. Congress needs to require clear answers from PHMSA regarding the initiation and implementation of the phase 2 rules.

Meanwhile, significant drilling for natural gas has led to a large expansion of gathering and production pipelines in highly- populated urban areas. For instance, in Fort Worth, Texas there are already 1,000 producing gas wells within the city limits and at least that many more planned. Development of improved gas drilling methods has led to thousands of new wells being drilled and proposed in more populated areas of Texas, Arkansas, Louisiana, Pennsylvania and New York. Pipelines will connect all these wells, and the regulatory oversight of these

[4] See 49 CFR 195.452(i)(3).

[5] See 18 AAC 75.055(a)(1).

pipelines in these d areas is less than clear and in some cases non-existent. The standards for PHMSA's rules to determine which pipelines fall under minimum federal regulations were written by the American Petroleum Institute and incorporated by reference into the regulations. If the public wants to review these standards they have to buy a copy of this part of the federal standards from API for $126. What the API written standards actually require provides much wiggle room for gas producers to design their systems to avoid regulations.

PHMSA also only regulates a limited amount of these gathering and production pipelines, and leaves the rest of the regulations up to the states if they choose to assert any authority. We believe it is time to ensure that any gathering or production pipeline in a populated area with similar size and pressure characteristics as other currently regulated pipelines fall under the same level of minimum federal regulations. At a minimum we think Congress should require PHMSA or the National Transportation Safety Board to produce a study on the onshore gas production and gathering pipelines that are not covered by current federal standards. This study should explain what pipelines are not covered, what the extent of them is, how many are located in populated areas, the relative risk, and a proposed regulatory regime for inclusion of all these pipelines under minimum federal standards.

Continuing to Make More Pipeline Safety Information Publicly Available

Perhaps the key issue regarding increasing public awareness and education is to ensure that the information in which the public already has an interest is easily available.

Over the past two reauthorization cycles, PHMSA has done a good job of providing increased transparency for many aspects of pipeline safety. In the Trust's opinion, one of the true successes of PIPES has been the rapid implementation by PHMSA of the enforcement transparency section of the Act. It is now possible for affected communities to log onto the PHMSA website (http://primis.phmsa.dot.gov/comm/reports/enforce/Enforcement.html) and review enforcement actions regarding local pipelines. This transparency should increase the public's trust that our system of enforcement of pipeline safety regulations is working adequately or will provide the information necessary for the public to push for improvements in that system. PHMSA has also significantly upgraded its incident data availability and accuracy, and continues to improve its already excellent "stakeholder communication" website.

One area where PHMSA could go even further in transparency would be a web-based system that would allow public access to basic inspection information about specific pipelines. An inspection transparency system would allow the affected public to review when PHMSA and its state partners inspected particular pipelines, what types of inspections were performed, what was found, and how any concerns were rectified. Inspection transparency should increase the public's trust in the checks and balances in place to make pipelines safe. Just as Congress required PHMSA to institute Enforcement Transparency in the PIPES Act of 2006, The Trust hopes you will require similar Inspection Transparency this year.

There is also a need to make other information more readily available. This includes information about:

• **High Consequence Areas (HCAs).** These are defined in federal regulations and are used to determine what pipelines fall under more stringent integrity management safety regulations. Unfortunately, this information is not made available to local government and citizens so they know if they are included in such improved safety regimes. Local government and citizens also would have a much better day-to-day grasp of their local areas and be able to point out inaccuracies or changes in HCA designations.

• **State Agency Partners.** States are provided with millions of dollars of operating funds each year by the federal government to help in the oversight of our nation's pipelines. While there is no doubt that such involvement from the states increases pipeline safety, different states have different authority, and states put different emphasis in different program areas. Each year PHMSA audits each participating state program, yet the results of those program audits are not easily available. We believe that these yearly audits should be available on PHMSA's website and that some basic comparable metrics for states should be developed.

• **Emergency Response Plans.** As has been learned in the recent Gulf of Mexico tragedy, it is crucial that these types of spill response plans are well designed, adequately meet worst-case scenarios, and use the most up-to-date technologies. While 49 CFR §194 requires onshore oil pipeline operators to prepare spill response plans, including worst case scenarios, those plans are difficult for the public to access. To our knowledge the plans are not public documents, and they certainly are not easily available documents.

The review and adoption of such response plans also misses a great opportunity to educate and increase awareness among the public. Currently the process is closed to the public. In fact PHMSA has argued that they are not required to follow any public processes, such as NEPA, for the review of these plans. If the Gulf tragedy has taught us nothing else it should have taught us that the industry and agencies could use all the help they can get to ensure such response plans will work in the case of a real emergency.

It is always our belief that greater transparency in all aspects of pipeline safety will lead to increased awareness, involvement, review and ultimately safety. That is why we believe Congress should make citizen right to know provisions a priority for inclusion in this pipeline reauthorization. There are many organizations, local and state government agencies, and academic institutions that have expertise and an interest in preventing the release of fuels to the environment. Greater transparency would help involve these entities and provide ideas from outside of the industry. The State of Washington has passed rules that when complete spill plans are submitted for approval the plans are required to be made publicly available, interested parties are notified, and there is a 30 day period for interested parties to comment on the contents of the proposed plan. We urge Congress to require PHMSA to develop similar requirements for the adoption of spill response plans across the country, and that such plans for new pipelines be integrated into the environmental reviews required as part of the pipeline siting process.

Increasing Awareness and Education by Continuing Implementation and Funding of Technical Assistance Grants to Communities

Over the past year and a half, PHMSA has finally started the implementation of the Community Technical Assistance Grant program authorized as part of the Pipeline Safety Improvement Act of 2002 and clarified in the PIPES Act. Under this program, more than a million dollars of grant money has been awarded to communities across the country that wanted to hire independent technical advisors so they could learn more about the pipelines running through and surrounding them, or be valid participants in various pipeline safety processes.

In the first round of grants, PHMSA funded projects in communities in seventeen states from California to Florida. Local governments gained assistance so they could better consider risks when residential and commercial developments are planned near existing pipelines. Neighborhood associations gained the ability to hire experts so they could better understand the "real" versus the imagined issues with pipelines in their neighborhoods. And farm groups learned first-hand about the impacts of already-built pipelines on other farming communities so they could be better informed as they participate in the processes involving the proposed routing of a pipeline through the lands where they have lived and labored for generations. All of the examples of local government implanting the PIPA recommendation we mentioned earlier were funded through these technical assistance grants. Overall –despite the unacceptably long delay in implementation-- we view the first round of this new grant program as a huge success.

However, ongoing funding for these grants is not clear, so the Trust asks that you ensure the reauthorization of these grants to continue to help involve those most at risk if something goes wrong with a pipeline. We further ask that you consider raising the cap on the amount of an individual grant, removing the limitation on funding sources for the grants, and –most importantly-- do whatever is necessary to ensure that the authorized funds are actually appropriated.

One area that should be considered with any new grant program is the amount of promotion and time it takes to get the word out about new sources of grant money. The Pipeline Safety Trust worked hard during the first round to promote this program to ensure that local government and citizen groups around the country knew about it and applied. Such targeted promotion, especially for a new grant program, is needed to ensure that PHMSA receives enough strong grant applications to choose from. During the application period for the second round of these grants, promotion was not as well organized and we have since learned from several groups around the country that they did not apply because they had no idea the grants were available again. While this will certainly correct itself as the knowledge of this grant program grows, we hope that PHMSA will improve its promotion and that Congress will take the long-term view of the value of this program while it grows to maturity.

Implementing expansion of Excess Flow Valve requirements

One of the Trust's priorities that was well addressed in the PIPES Act was to require the use of Excess Flow Valves (EFVs) on distribution pipelines for most new and replaced service lines in single family residential housing. While this was a huge step forward, the National Transportation Safety Board (NTSB) has continued to push for an expansion of the use of EVFs in multi-family and commercial applications "**when the operating conditions are compatible with readily available valves.**" After attending PHMSA sponsored workshops on this issue, the Trust agrees with the NTSB that the technology exists and the path forward to

define such applications is quite clear. We ask that you set a date certain for PHMSA to move forward on a rulemaking to expand the use of EFVs in these types of applications.

Making public awareness programs meaningful and measurable

Since the San Bruno disaster people in that neighborhood have asked why they had no idea they had such a pipeline in their midst. That is a good question since federal regulations require pipeline operators to have a program that includes ***"activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations."*** Unfortunately the implementation of these required programs has not been effective.

The Pipeline Safety Improvement Act of 2002 required pipeline operators to provide people living and working near pipelines basic pipeline safety information, and gave PHMSA the authority to set public awareness program standards and design program materials. In response to this Congressional mandate, PHMSA set rules that incorporated by reference the American Petroleum Institute's (API) recommended practice (RP) 1162 as the standard for these public awareness programs. According to RP 1162's *Foreword* (page iii) of API recommended practice, the intended audiences were not represented in the development of RP 1162, though they were allowed to provide "feedback." The omission of representatives from these audiences from the voting committee reduces the depth of understanding the RP could have had regarding the barriers and incentives for such programs, and undercuts the credibility of the recommended actions. The public awareness program regulations--49 CFR § 192.616 and 49 CRF § 195.440—mandate that operators comply with RP 1162. In essence, this amounts to the drafting of federal regulations without the equal participation of the stakeholders the regulations are meant to involve. With non-technical subject matter, such as this recommended practice deals with, it is difficult to justify excluding the intended audiences from the process and allowing the regulated industries to write their own rules.

This public awareness effort represented a huge and important undertaking for the pipeline industry, and as such the effectiveness of it will evolve over time. We were happy that the rules included a clause that set evaluation requirements that require verifiable continuous improvements. While we understand that the initial years of this program have been difficult, we have been disappointed in some of these efforts as they were clearly farmed out to contractors to meet the letter of the requirement instead of the intent of the requirement. Recently, the National Transportation Safety Board cited the failure of these programs in the investigation report of a deadly pipeline explosion in Mississippi that killed a girl and her grandmother.

An evaluation of the first five years of this program is due this year, and API has been working on an update of this recommended practice for some time now. One of the draft proposals from API is to remove the requirement to measure whether the programs have led to actual changes in behavior. We hope that Congress will keep a close eye on the discussions of this issue over the coming months and be prepared to step in and clarify that the intent of this program is to change the behavior of the intended audiences to make pipelines safer, not to count how many innocuous brochures can be mailed. After tragedies like the one in San Bruno we should not have people asking why they didn't know about the pipelines in their neighborhoods.

Continuing to push state agencies on damage prevention

Property owners, contractors, and utility companies digging in the vicinity of pipelines are still one of the major causes of pipeline incidents, and for distribution pipelines over the past five years excavation damage is the leading cause of deaths and injuries. Unfortunately, not all states have implemented needed changes to their utility damage prevention rules and programs to help counter this significant threat to pipelines.

In the PIPES Act of 2006 Congress made clear its desire that states move forward with damage prevention programs by defining the nine elements that are required to have an effective state damage prevention program. The Trust is pleased that PHMSA has recently announced its intent to adopt rules to incorporate these nine elements, and their intent to evaluate the states progress in complying with them. We also support PHMSA's plan to exert its own authority to enforce damage prevention laws in states that won't adopt effective damage prevention laws. We hope Congress will encourage PHMSA to move forward with this proposed rulemaking in a timely manner, and make it clear to the states that federal money for pipeline safety programs depends upon significant progress in implementing better damage prevention programs.

It may also be necessary for Congress to clarify important parts of good damage prevention programs. Many states have exemptions to their damage prevention "one call" rules for a variety of stakeholders including municipalities, state transportation departments, railroads, farmers, and property owners. We believe such exemptions, except in cases of emergencies, are unwarranted for municipalities, state transportations departments and the railroads, and urge both Congress and PHMSA to make it clear that these types of exemptions are not acceptable in an effective damage prevention program. While we are skeptical regarding exemptions of any type, limited exemptions for the farm community and homeowners in specific circumstances may be necessary to make the programs efficient, affordable and enforceable.

Although PHMSA likes to call itself a data-driven agency, there is a serious lack of data to determine the extent, causes, or perpetrators of excavation damage to pipelines. For example, the PHMSA incident database only includes about 70 total pipeline incidents nationwide in 2008 caused by excavation damage. Yet the Common Ground Alliance's 2008 DIRT database reports well over 60,000 excavation events that affected the operation of natural gas systems alone.

Why are PHMSA's numbers so low? PHMSA only requires natural gas pipeline operators to file reports when there is a death, hospitalization, or over $50,000 of property damage measured in 1984 dollars (about $90,000+ in today's dollars). Industry complaints about reporting requirements may be part of the reason that reporting thresholds are so high, but Section 15 of the PIPES Act also required PHMSA to respond to a GAO report to ensure that "incident data gathered accurately reflects incident trends over time," which is why data is normalized to 1984 dollars. While this makes good sense for tracking property damage, nowhere did GAO or Congress recommend that thousands of incidents related to excavation damage be left out of the database thereby creating another data gap making it impossible to track the larger problem of excavation damage trends over time.

The Common Ground Alliance's database—while more telling—can not be relied on for complete and valid data for two reasons: (1) reporting is voluntary and consequently of a "hit and miss" nature; and (2) reporting is anonymous, making the data not verifiable. Without valid and complete data it will be impossible to actually measure whether damage prevention programs are well targeted or effective.

For these reasons, the Trust asks that Congress direct PHMSA to correct this substantial data gap by ensuring a more accurate reporting and database for excavation damage to ensure that the effort and money being spent is well targeted and effective. Because most states have taken on the responsibility of operating state-based damage prevention programs it may well be easiest to just have PHMSA require states to adopt reporting requirements as part of their damage prevention programs.

One existing example is in Texas where in 2007 Texas adopted regulations requiring both pipeline operators and excavators to report excavation damage to pipelines. These reports are submitted directly to the Texas Railroad Commission's website, and anyone can search the database for incidents in specific locations, on specific pipelines, by specific excavators, or for the individual damage report forms. This system seems to give Texas regulators and involved stakeholders adequate information to target damage prevention and enforcement activities, and track improvement over time. More information is available at: http://www.rrc.state.tx.us/programs/damageprevention/index.php

This type of state-based reporting system can go hand-in-hand with PHMSA's recent Advanced Notice of Proposed Rulemaking about better defining adequate damage prevention programs. While some consistency between state reporting requirements may be necessary so state programs can be adequately evaluated and compared, this ultimately may be an easier reporting system to institute than either the expansion of PHMSA's or refining of CGA's.

Ensuring adequate distribution and promotion of the Pipelines and Informed Planning Alliances report on recommended practices that local government can adopt to provide greater safety when development is proposed near transmission pipelines

Section 11 of the Pipeline Safety Improvement Act of 2002 included a requirement that PHMSA and FERC provide a study of population encroachment on and near pipeline rights-of-way. That requirement led to the Transportation Research Board's (TRB) October 2004 report Transmission Pipelines and Land Use, which recommended that PHMSA "develop risk-informed land use guidance for application by stakeholders." PHMSA formed the Pipelines and Informed Planning Alliance (PIPA) in late 2007 with the intent of drafting a report that would include specific recommended practices that local governments, land developers, and others could use to increase safety when development was to occur near transmission pipelines.

Most large pipelines were placed in rural areas years ago, but as the populated areas around our cities expand it has led to a growing encroachment of residential and commercial development near large high-pressure pipelines. This increases the risk to the pipelines from related construction activities, as well as to the people who ultimately live and work nearby if something should go wrong with the pipeline.

After more than two years of work by more than 150 representatives of a wide range of stakeholders, the draft report and the associated 46 recommendations are finally due to be released any minute. This will be the first time information of this nature has been made widely available to local planners, planning commissions, and elected officials when considering the approval of land uses near transmission pipelines. We fully agree with the sentiment of Congress in the Pipeline Safety Improvement Act of 2002 that,

> ***"The Secretary shall encourage Federal agencies and State and local governments to adopt and implement appropriate practices, laws, and ordinances, as identified in the report, to address the risks and hazards associated with encroachment upon pipeline rights-of-way..."***

A recent statewide survey of local government planning directors conducted by the Pipeline Safety Trust showed that to successfully implement these needed "practices, laws, and ordinances" will take a good deal of well targeted education and promotion by a wide range of stakeholders outside of the pipeline industry and PHMSA. In order to make this effort successful, the Trust asks that this year Congress authorize, just as was authorized in PIPES for the successful promotion of the 811 "One Call" number, $500,000/year to promote, disseminate, and provide technical assistance regarding the PIPA recommendations.

Conclusion

Thank you again for this opportunity to testify today. Over the past decade, this committee has proven to be a bipartisan bastion of common sense in the realm of protecting the public and the environment from unsafe pipelines. In both 2002 and 2006, the committee was the engine that drove safety forward through Congress and into law and it did it with an overwhelming consensus from both sides of the aisle. The Pipeline Safety Trust hopes that the committee will resume its leadership role on this issue. We hope you will closely consider the ideas and concerns we have raised today and move a comprehensive pipeline safety reform and reauthorization bill. If you have any questions about our testimony, the Trust would be pleased to answer them and, of course, we stand ready to work with you and your colleagues on reauthorizing the pipeline safety laws that our so important to ensuring the well-being of millions of Americans and the environment that is their birthright.

Mr. WELCH. Thank you, Mr. Kessler.

Our next witness, Mr. Santa, President of Interstate Natural Gas Association of America. Previously I understand you served as Commissioner at the Federal Energy Regulatory Commission and have also served as Majority Counsel to the U.S. Senate Committee on Energy and Natural Resources. We around here think that is a little bit of a demotion compared to Mr. Kessler. But thank you for joining us. When you are ready, please begin.

STATEMENT OF DONALD F. SANTA, JR.

Mr. SANTA. Thank you, Mr. Welch and Ranking Member Upton, for the opportunity to appear here today on behalf of the Interstate Natural Gas Association of America, or INGAA. INGAA represents the interstate natural gas pipeline industry, and it also is INGAA's members that operate the natural gas transmission pipelines, the interstate pipelines that are subject to the Pipeline Safety Act and direct regulation by PHMSA. There also are interstate—intrastate, excuse me, natural gas transmission lines that are subject to the Pipeline Safety Act but are typically regulated by State agencies.

On behalf of INGAA and its members, we would like to express our condolences to those who have suffered a loss as a result of the tragic San Bruno accident. Clearly we need to discover the facts and the causes of that accident, and we pledge to work on effective solutions as a result of those lessons to improve pipeline safety.

The first point that I would like to make to the subcommittee is that transmission pipelines are very safe compared to other modes of transportation and energy delivery. This is borne out by the Department of Transportation Bureau of Transportation Statistics Figures. Interstate pipelines typically are buried and in remote locations. Fatalities and injuries to the general public from pipeline accidents are rare, as is damage to public property. Still, protection of the public in highly populated areas is and always has been a high priority in the pipeline safety programs. Over the past 10 complete years—that is 2000 through 2009—excavation damage is the leading cause of serious pipeline accidents; that is, the accidents that cause a fatality or an injury.

Detailed statistics from PHMSA are included in INGAA's written testimony, and I would note that these statistics do not include the 2010 accidents. Those are the two excavation accidents on intrastate pipelines in Texas and the San Bruno accident.

The second point I would like to emphasize is that the Integrity Management Program, or IMP, has made the natural gas transmission pipeline network safety. Protection of the public from the risk of pipeline accidents has always been a priority, and the IMP program was preceded by the class location system that required an extra measure of safety in urban areas.

The IMP program, mandated by the Congress in the Pipeline Safety Improvement Act of 2002, is modeled on industry best practices that preceded that standardized program. This program has produced significant results. IMP requires integrity management inspections of natural gas transmission pipelines located in close proximity to population centers. These are referred to as high consequence areas, or HCAs. All HCAs must be inspected in 10 years by the end of 2012 and all must be reinspected within 7 years of

that baseline assessment. We are now over three-quarters of the way through those baseline assessments and over 19,000 miles of pipelines within HCAs have been inspected. As a result of those inspections, over 3,000 repairs have been performed to address actionable anomalies.

Pipelines are now beginning the reinspection of segments that were inspected early in the program. It is noteworthy that the rate of actionable anomalies being discovered in these reinspections is far lower than what was discovered during the baseline assessments. I would also note that over 90 percent of the assessments being performed by INGAA members are being done using inline inspection devices. That is smart pigs.

Still, it is a cause for concern that the San Bruno accident occurred in a high consequence area that is covered by the IMP program. We need to understand the root cause of that accident, what it tells us about the effectiveness of the IMP program in that case, and what lessons should we apply to other similarly situated pipelines.

Finally, with regard to the IMP program, many recent stories have emphasized the point that only 7 percent of the transmission pipeline mileage in the U.S. is being inspected. Let me respond.

First, the industry and the regulator are doing exactly what the Congress directed. The emphasis of the program is to focus on highly populated areas where the consequences to the public from a pipeline accident would be the greatest.

Second, IMP is but one layer of a multifaceted pipeline safety program that covers everything from pipeline design and construction to pipeline operation and maintenance to control room operators. And in addition, integrity management is just one kind of inspection.

Third, as a practical consequence of the logistics and economics of operating inline inspection tools, much greater mileage has been inspected with these tools than just the mileage in HCAs. Compared to the mileage inspected within HCAs under the program, seven times more mileage has been inspected outside of HCAs during the same period and this has been reported to PHMSA, and any actionable anomalies discovered in these non-HCA pipelines have been repaired.

Mr. Chairman, I see that I am running out of time here. My written statement includes INGAA's positions on both the administration's draft reauthorization bill and the CLEAN Act, and in the interest of time I will conclude my remarks now and look forward to your questions.

[The prepared statement of Mr. Santa follows:]

TESTIMONY OF
DONALD F. SANTA, JR.
PRESIDENT
INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA

BEFORE THE
SUBCOMMITTEE ON ENERGY AND ENVIRONMENT
COMMITTEE ON ENERGY AND COMMERCE
UNITED STATES HOUSE OF REPRESENTATIVES

HEARING ENTITLED
PIPELINE SAFETY OVERSIGHT AND LEGISLATION

SEPTEMBER 23, 2010

Interstate Natural Gas Association of America
20 F Street NW, Suite 450
Washington, DC 20001
202-216-5900
www.ingaa.org

Mr. Chairman and Members of the Subcommittee:

Good afternoon. My name is Donald Santa, and I am president of the Interstate Natural Gas Association of America (INGAA). INGAA represents the interstate and interprovincial natural gas pipeline industry in North America. INGAA's members transport the vast majority of the natural gas consumed in the United States through a network of approximately 220,000 miles of interstate transmission pipeline. These transmission pipelines are analogous to the interstate highway system; in other words, these are large capacity transportation systems spanning multiple states or regions.

Before I proceed with my testimony, I want to say a few words about the San Bruno accident. We express our sincere condolences to those who lost family members and friends, who were injured, or who had their homes damaged or destroyed in the tragedy in San Bruno. While PG&E is not an INGAA member, nor was the San Bruno pipeline an interstate pipeline, the events in California several days ago underscore the need for and importance of continued high levels of pipeline safety practices across the entire natural gas industry. Because the cause of the accident is not yet known, we think it is important not to jump to any conclusions about what specifically must be done going forward. Once the facts from the accident investigation are known, we commit to working with policymakers on developing effective, well-founded solutions that will improve the overall safety performance of the industry.

Natural Gas

While natural gas has been an important part of the United States energy supply portfolio for many years, the recent focus on energy security and controlling greenhouse gas emissions is making natural gas even more important to America's energy future. Natural gas currently provides about 25 percent of the total energy utilized in the nation. This includes fueling the generators that produce about 20 percent of our electricity and heating the bulk of our homes and businesses. The clean-burning properties of natural gas make it an attractive resource for the future as the U.S. looks for ways to reduce carbon and other emissions. Many experts have advocated natural gas as a logical "partner" for renewable power resources, with natural gas providing reliable electricity when conditions do not permit the operation of solar and/or wind generation. In addition, natural gas remains a largely domestic energy resource. The U.S. produces approximately 85 percent of the natural gas consumed domestically; most of the remaining natural gas supplies are imported from Canada. Only about two percent of our natural gas supply is imported from outside of North America. There is little doubt that natural gas can fulfill its potential as a long-term contributor to the U.S. energy future. Natural gas supplies have grown dramatically in just the last five years, and it is estimated that the U.S. natural gas resource base can supply us for more than 100 years at current consumption levels.

Regulatory Structure for Interstate Natural Gas Transmission Pipelines

Mr. Chairman, I will limit my comments to the segment of the natural gas delivery system represented by INGAA – the interstate natural gas transmission system. As I mentioned, interstate natural gas transmission pipelines can be compared to the interstate highway system and as such, cross state boundaries and have a significant impact on interstate commerce. Congress recognized the inherently interstate nature of this commerce by enacting the Natural

Gas Act to provide for federal economic regulation of interstate pipelines in 1938 and, shortly thereafter, expanded this federal role to include siting authority for such pipelines. This law now is administered by the Federal Energy Regulatory Commission (FERC).

With regard to pipeline safety, Congress enacted the Natural Gas Pipeline Safety Act in 1968. This law (as amended) provides for the exclusive regulation of interstate natural gas and hazardous liquid pipelines by the Office of Pipeline Safety (OPS) located within the Pipeline and Hazardous Materials Safety Administration (PHMSA). The authority to regulate intrastate pipelines, such as the PG&E line in San Bruno, is largely delegated to state pipeline safety agencies.

Following enactment of the Natural Gas Pipeline Safety Act, OPS adopted pipeline safety regulations for natural gas transmission pipelines based on engineering consensus standards developed by the American Society of Mechanical Engineers. These engineering consensus standards first were adopted by the industry in 1953 and had been continually updated over the following decades. The initial pipeline safety regulations included requirements for design, construction, operation, inspection and maintenance of natural gas transmission pipelines. This included imposing more stringent requirements for each facet of pipeline safety regulation in highly populated areas. OPS established performance measures (e.g., pipeline accident reports, company activity records and engineering documentation) and initiated a formal inspection and enforcement program for interstate natural gas transmission pipeline systems. Safety guidelines for natural gas intrastate and distribution pipelines were issued under similar pipeline safety regulations and were delegated to the state pipeline safety agencies. Hazardous liquid pipelines were incorporated into the OPS regulatory structure in 1984.

The pipeline safety processes of INGAA member companies and the applicable regulations for natural gas transmission pipelines have evolved and become more refined over the last 40 years as new technology has became available and societal expectations have changed. These substantive changes in processes and regulations have been accomplished through:

- Continuing research,
- Improved practices and processes,
- Revised engineering consensus standards,
- New regulatory initiatives,
- Focused Congressional actions, and
- Improved education and training.

Natural Gas Transmission Pipelines are the Safest Mode of Energy Transportation

While natural gas transmission pipeline operators will not be satisfied without continuous safety improvement, the safety record of our industry compares very well to other modes of transportation and energy delivery.[1] One way to measure safety performance is to identify the number of accidents involving a fatality or injury. These are classified as "serious" incidents by OPS. Because natural gas pipelines are buried and typically are in isolated locations, pipeline accidents involving fatalities and injuries are very rare.

[1] See information at www.bts.gov.

For example, the table below (from OPS) sets forth safety statistics for natural gas transmission pipelines during the five-year span that includes the period since the last Pipeline Safety Act reauthorization. This table first depicts the categories of fatalities and injuries. It also categorizes property damage based on whether it is damage to public property or damage to the pipeline operator's property and the amount of natural gas lost to the atmosphere during both the accident and the subsequent repair of the pipeline.

National Gas Transmission Onshore: Consequences Summary Statistics: 2005-2009

Year	Public Fatalities		Industry Fatalities		Public Injuries		Industry Injuries		Total Property Damage (C) (D)	Damage to Public Property (E) (C)		Damage to Industry Property (F) (C)		Value of Product Lost (C)	
2005	0	0%	0	0%	2	40%	3	60%	$214,506,403	$98,072,639	45%	$105,375,752	49%	$11,058,012	5%
2006	1	33%	2	66%	1	33%	2	66%	$31,020,029	$2,869,452	9%	$20,882,094	67%	$7,268,481	23%
2007	1	50%	1	50%	1	14%	6	85%	$44,562,382	$1,630,991	3%	$24,096,641	54%	$18,834,750	42%
2008	0	0%	0	0%	2	40%	3	60%	$111,608,494	$6,643,699	6%	$98,424,350	88%	$6,540,445	5%
2009	0	0%	0	0%	7	63%	4	36%	$31,789,417	$2,005,498	6%	$25,216,056	79%	$4,567,863	14%
Totals	**2**	**40%**	**3**	**60%**	**13**	**41%**	**18**	**58%**	**$433,486,727**	**$111,222,281**	**25%**	**$273,994,894**	**63%**	**$48,269,552**	**11%**

From 2005 to 2009[2], there have been two public fatalities due to natural gas transmission line accidents. One in 2006 involved a bystander near an incident caused by excavation damage to the pipeline, and the other in 2007 involved a driver in an automobile near a pipeline incident caused by corrosion. The three non-public natural gas transmission pipeline fatalities since 2005 were a third-party excavator, a pipeline employee and a contractor working for a pipeline company.

During this same period, 2005 to 2009, there were 13 injuries to the public. Four of these injuries were suffered by citizens in vehicles that struck and damaged pipeline facilities. There also were five injuries to third-party excavators and 13 injuries to either pipeline employees or contractors working for the pipeline company.

As you can see from the table, on the average, natural gas transmission pipeline incidents do not greatly affect public property. The exception in 2005 primarily was attributable to $85 million of damage to a power plant adjacent to a pipeline accident. The large amount of industry property damage in 2005 was related to the Katrina/Rita hurricane damage in the Gulf Coast region and the large number in 2008 was largely due to a tornado destroying a pipeline compressor station ($85 million).

The table above does not include information for 2010. We are aware of two excavation damage-related accidents in Texas this summer that caused three fatalities, plus the accident in San Bruno, California which caused at least four fatalities.

[2] Additional information is available in individual pipeline incident reports http://www.phmsa.dot.gov/portal/site/PHMSA/menuitem.ebdc7a8a7c39f2e55c12031050248a0c/?vgnextoid=fdd2dfa122a1d110VgnVCM1000009ed07898RCRD&vgnextchannel=3430fb649a2dc110VgnVCM1000009ed07898RCRD&vgnextfmt=print

Progress Since the Last Reauthorization

Pipeline Integrity Program

Section 14 of the Pipeline Safety Improvement Act of 2002 (PSIA) mandated a standardized integrity management program (IMP) for natural gas transmission pipelines located in populated areas. The focus on populated areas is important. Existing pipeline safety regulations covered a full range of matters – from design, to construction and materials, to operations, inspections and maintenance. These regulations applied to all natural gas transmission pipelines. Congress in the PSIA went one step further to create an additional layer of regulation focused on enhancing safety in populated areas.

Specifically, the PSIA requires operators of natural gas transmission pipelines to: (1) identify all the segments of their pipelines located in areas where the pipeline is adjacent to significant population density, known as high consequence areas (HCAs); (2) develop an integrity management program to reduce the risks to the public in these HCAs; (3) undertake structured baseline integrity assessments (inspections) of all pipeline segments located in HCAs, to be completed within 10 years of enactment; (4) develop a process for repairing any actionable anomalies[3] found as a result of these inspections; and (5) reassess these segments of pipeline every 7 years thereafter in order to verify continued pipe integrity.

The PSIA requires that these integrity inspections be performed using one of four methods: (1) an inline inspection device (commonly referred to as a smart pig); (2) hydrostatic pressure testing (filling the pipe up with water and pressurizing it well above operating pressures to verify a safety margin); (3) direct assessment (digging up and visually inspecting sections of pipe); or (4) "other alternative methods that the Secretary of Transportation determines would provide an equal or greater level of safety."

Following such inspections, a pipeline operator is required by the PHMSA regulations implementing the PSIA to repair all non-innocuous anomalies and adjust operation and maintenance practices (i.e., apply additional corrosion protection measures in active corrosion areas to prevent further corrosion growth) to minimize the probability of "serious incidents"[4].

Baseline IMP assessments – the type of work in which our industry now is engaged – are an effective means of identifying active corrosion problems as well as any material or original construction defects that were not discovered when a pipeline was built. Corrosion is an on-going, time-based phenomenon that is managed and controlled using integrated technologies and processes (e.g., cathodic protection, pipe coatings). Internal inspection devices are the most versatile and efficient means for assessing the condition of natural gas transmission pipelines and, therefore, this method is preferred by most operators. The other assessment alternatives authorized by statute are useful when smart pig technology cannot be used. A drawback associated with these alternatives is that they require a pipeline to cease or curtail natural gas delivery operations for significant periods (e.g., hydrostatic pressure test) or else require extensive excavation of the pipeline during every assessment (e.g., direct assessment).

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[3] An actionable anomaly is defined as a precursor to a possible reportable incident in the future.

[4] "The rule will ***significantly reduce the likelihood*** of pipeline accidents that result in ***deaths*** and ***serious injuries***.": Page 69800, Federal Register / Vol. 68, No. 240 / December 15, 2003.

Periodic risk-based reassessments are an effective method for identifying whether corrosion prevention systems are adequately preventing this "time-dependent" deterioration. While material and original construction defects are uncommon, they are for practical purposes eliminated for the remaining life of the pipeline once they are identified during a smart pig assessment (or a post-construction hydrostatic test) and repaired. Newer smart pigs also can effectively identify small dents in the pipeline. These dents may or may not be precursors for a corrosion failure, depending upon whether the pipe has been gouged. Sorting through these dents to identify actual corrosion precursors now is a focus using these newer smart pig devices.

Now that we are over three quarters of the way through the IMP inspection baseline period (2002 – 2009), the data amply supports the conclusion that the integrity of our pipelines is being maintained and that such pipelines are becoming safer as a result of eliminating the precursors to possible future accidents. It also is clear that the industry is dutifully implementing the IMP program prescribed by Congress. All INGAA member companies have been subject to in-depth IMP audits by PHMSA to assure that the programs are comprehensive and implemented consistent with Congressional mandates and PHMSA requirements.

As presented in the following tables, PHMSA has posted data on IMP results achieved through the end of 2009. The first table depicts the transmission pipelines that have been subject to an assessment under the IMP program (baseline). Let me highlight a particular performance measure. The "immediate" category includes isolated anomalies (e.g., corrosion, pipe dent with a gouge) that should be repaired quickly, since these situations might lead to a leak or pipe rupture within a short period. The "scheduled" category addresses individual anomalies (e.g., corrosion) that should be repaired or reassessed before they grow to a level that would place them in the "immediate" category. The bottom row of this table presents the rate (per mile) of finding either "immediate" or "scheduled" category anomalies after decades of operation (e.g., 10-50 years).

Baseline IMP Data for Gas Transmission Pipeline Integrity Program	Natural Gas Onshore Transmission Miles within U.S.	Transmission Pipeline Miles Assessed per Year coincidently with the IMP program	Total Number of Miles of Pipelines within HCAs	Miles of Pipe Assessed within HCAs per Year	Number of Immediate Category Anomalies (failure precursors) within an HCA	Number of Scheduled Category of Anomalies within an HCA
2004	298,207	31,273	21,764	3,997	104	599
2005	297,968	19,516	20,561	2,908	261	378
2006	293,696	20,250	19,949	3,500	169	342
2007	291,898	25,940	19,277	4,661	258	452
2008	295,779	20,258	19,568	2,454	146	217
2009	292,887	23,092	19,103	2,343	124	251
Cumulative Baseline Inspection Results		140,329		19,864	1,062	2,239
Rate of Anomalies found (dents & corrosion) in the Baseline Assessment (per Mile)					*.053*	*.113*

As these "immediate" and "scheduled" time-dependent precursors (e.g., anomalies that could possibly grow in size) are remediated and rendered benign, we expect that the rate of "immediate" and "scheduled" anomalies will decrease with subsequent assessments. This is because the gestation period for these corrosion anomalies to grow (if corrosion is active) to the point at which they may pose an imminent risk of leak or rupture is significantly longer than the seven-year reassessment requirement mandated by the PSIA.

Since the inception of the IMP program in 2002 through 2009, there have been ***no reported significant incidents*** caused by corrosion to pipelines within the HCAs that have been assessed.

The next table depicts the results of reassessments that are occurring on natural gas transmission pipelines that had received a baseline assessment during the first years of the IMP. As with the baseline assessment, "immediate" and "scheduled" precursors first are identified, then are assessed to determine if anything has changed since the last test, and finally are remediated. As shown in the fourth row of this table, the rate of occurrence of corrosion anomalies and dents is significantly reduced from the rate observed during the baseline assessment. The last row of the table [5] presents the rate of corrosion anomalies (only) found during the reassessments.

Reassessment Data for Gas Transmission Pipeline Integrity Program	Miles of Pipe Re-Assessed within an HCAs per Year	Immediate Categories of Anomalies (failure precursors) within an HCA	Scheduled Categories of Anomalies within an HCA
2008	348	9	4
2009 (preliminary)	903	20	16
Cumulative Reassessment Inspection Results	1285	29	20
Rate of Anomalies (dents & corrosion) found in the Reassessment (per Mile)		*.023*	*.016*
Rate of Corrosion Anomalies (only) found in the Reassessment (per Mile)		*.003*	*.011*

This data is evidence that the IMP is achieving its primary purpose because it is reducing possible corrosion precursors. It is worth emphasizing that other data obtained from pipeline operators that have completed multiple integrity assessments over a number of years, and reviewed by GAO, strongly suggests a dramatic decrease in the occurrence of time-dependent precursors requiring repairs in subsequent assessments. This is due to corrective action being implemented as a result of prior integrity assessments. Also, technical analysis[6] undertaken in 2005 by the Pipeline Research Council International (PRCI), an international consensus research group, demonstrated a significant reduction in the number of serious anomalies found during risk-based reassessments (as compared to baseline assessments), suggesting that risk-based assessments using smart pig technology are extremely effective in identifying potential problems before they manifest themselves as safety problems.

Much has been made recently of the fact that IMP focuses on only about seven percent of total natural gas transmission pipeline mileage. First, this is fully consistent with the intent of

[5] IMP data collected by OPS, enhanced by detailed interviews with INGAA respondents

[6] *Integrity Management Reinspection Intervals Evaluation*, Pipeline Research Council International, Inc., December 2005

Congress in the PSIA to focus on areas where natural gas transmission pipelines are located adjacent to significant population density (i.e., HCAs). The vast majority of natural gas transmission pipeline mileage is located in less densely populated areas. Second, as a practical matter, a significantly greater total mileage of natural gas transmission pipelines is receiving integrity inspections and repairs as a result of the IMP. This is because pipeline operators are completing these inspections predominately using smart pigs. Pigs must be "launched" and "received" at aboveground facilities such as compression stations, which typically are located 75 to 100 miles apart. While a pipeline segment between a compression stations may contain only a few miles of scattered HCAs, the entire 75-to-100 mile segment must be inspected in order to capture those few HCA miles. The level of this "overtesting" that has occurred as a result of IMP is illustrated in the first of the preceding two tables. In 2009, for example, about 23,000 miles of pipeline actually was inspected and repaired, even though only 2,343 miles were located in HCAs. INGAA estimates that approximately 65 percent of total transmission mileage will have been inspected and repaired by the end of the baseline testing period in December of 2012. As pipelines are updated, and as new pipelines are constructed, we believe that number will grow even higher.

It is important to note that the PG&E pipeline segment in San Bruno is located in a high consequence area, and therefore is subject to the integrity management program. According to PG&E, this segment of pipeline was inspected multiple times within the last few years. Before drawing any conclusions about changing the integrity management program, we need to discover and analyze the causes of the San Bruno incident.

Pipeline Controller Regulation

In 2001, the National Transportation Safety Board (NTSB) issued a report concerning fatigue among hazardous liquid pipeline controllers. In response, OPS undertook an effort from 2002 to 2008 to investigate pipeline control operator fatigue and identify possible solutions. While the NTSB report did not focus on natural gas transmission pipeline control room operators, INGAA participated extensively in this study effort. OPS issued a Notice of Proposed Rulemaking on this matter in September 2008. During the rulemaking, INGAA proactively worked with other pipeline trade associations to recommend changes to the proposal that would reflect the difference of practices and risks between hazardous liquid, natural gas transmission and natural gas distribution control operations.

Since the rule was finalized in December 2009, INGAA member companies, working in collaboration with the Southern Gas Association, have developed an implementation manual for natural gas transmission and distribution operators. This implementation manual has been reviewed by OPS and NTSB. In February 2010, the NTSB announced that it was satisfied that its recommendation on control room personnel fatigue had been addressed by these actions. As a result, control room operator fatigue was removed from the NTSB list of "Most Wanted" safety improvements. PHMSA last week proposed to expedite the implementation of the pipeline controller rule. INGAA supports this proposal.

Improved Incident Data and Transparency

In 2007, INGAA requested that OPS reassess the reporting criteria for reportable incidents and suggested that incident forms be amended to facilitate better data analysis of the causes and consequences of these incidents. For example, the value of natural gas lost from an incident is included in total property damage numbers. As natural gas prices increased dramatically over the last 10 years, this metric caused an increase in reportable incidents since property damage above a fixed threshold is one trigger for reporting an incident. INGAA asserted that incident data should not be artificially impacted by natural gas commodity prices. OPS undertook an effort to modify its data requirements and the result is an accident reporting form that more accurately depicts the severity of incidents. We believe this data will assist the industry, OPS and concerned public assessing the risk of natural gas transmission pipelines and determining whether modified practices and procedures are reducing the occurrence of pipeline accidents.

Incorporation of Safety Culture

INGAA member companies are exploring new avenues for improving employee and public safety performance. While important, there are limits on the ability to achieve improvements based solely on traditional techniques such as training, qualification and increased inspection. Pipeline workers – whether they are pipeline employees, contractors or excavators – must be motivated to make safety a primary focus. There must be a safety culture. Safety culture has been described as an inherent attitude towards safety of an individual, whether they are supervised or not supervised. Our goal is to create and improve this safety culture.

The U.S. Chemical Safety Board has advocated safety culture as a constructive means to improve safety performance, and INGAA has embraced this philosophy. The natural gas transmission pipeline industry has had an excellent employee safety record over the decades and we have extended that focus and thought process to encompass work practices as they impact public safety. We are now in the third year of implementing this process and have invited our contractor community (members of the INGAA Foundation, which is affiliated with INGAA) to adopt the philosophy as well.

Comments on Administration Draft Reauthorization Legislation

Mr. Chairman, as you know, the Obama administration, on September 15th, released a draft bill to reauthorize the Pipeline Safety Act. Given how recently this draft was made public, INGAA is only now starting to receive comments from member companies. Therefore, I can provide only a limited response today.

Class Location and Integrity Management

Section 11 of the draft requires the Secretary of Transportation to undertake a review of the current integrity management program, and by October 31, 2012, make recommendations to Congress on expanding the program beyond populated areas to "additional areas or entire pipelines," while at the same time making recommendations on whether such upgrades would eliminate the need "class location requirements."

The class location requirement is a legacy regulatory program for natural gas transmission pipelines. For 40 years, these regulations have required natural gas transmission pipeline operators to conduct continuing surveillance in order to recognize changes in the population in close proximity to pipelines, and to classify segments as being in one of four categories, with one being rural and four being heavy urban. As a pipeline segment moves up in a class number, the operator is required to increase the margin of safety either by installing stronger piping, by reducing operating pressure or by confirming an adequate safety margin through hydrostatic testing. The class location system was created before internal inspection devices were invented and was an early attempt to reduce the likelihood of an accident in a populated area. The current integrity management program addresses what are effectively the same issues, albeit in a much more sophisticated and fact-specific way. INGAA previously has recommended that Congress and PHMSA review a phase-out of what has become a redundant program.

Utilizing integrity management practices outside of populated areas is something that the pipeline industry already is achieving through the overtesting mentioned previously. INGAA, however, believes that it is important to maintain the focus and priority on mitigating risks in populated areas, because this is where pipelines have the greatest potential impact on people. The focus should remain on such areas, and any update to the integrity management rule should remain consistent with that principle.

Excavation Damage Prevention Program

INGAA is surprised that the draft bill does not place an emphasis on additional steps to reduce excavation damage. The "serious" incident data cited earlier in my testimony points to the importance of damage prevention as an essential means to avoid fatalities and injuries. The Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (PIPES Act) took an important step forward by creating incentives for states to adopt improved damage prevention programs that meet nine critical elements identified in the Act. This helped to raise the performance bar across the states.

One of the larger issues still existing in some of the state excavation damage prevention programs is the categorical exclusion of certain excavators from the notification requirements of state "one-call" systems. These excluded groups often include entities such as state highway departments (and their contractors), municipal governments and railroads, who together represent a significant percentage of excavation activity each year. In order to provide the public with maximum protection, exemptions from state one-call programs should be strongly discouraged. We recommend that such one-call exemptions be a factor that PHMSA must consider when deciding whether to make annual state pipeline safety grants and one-call grants. INGAA also recommends developing best practices for state enforcement of one-call programs, and linking the adoption of such best practices with state grant funds.

The importance of damage prevention was highlighted in two recent pipeline accidents in Texas. On June 7th, an intrastate natural gas pipeline near Dallas was struck by utility workers building a power line, causing one fatality and eight injuries. The next day, another intrastate natural gas pipeline in the Texas Panhandle was struck by a bulldozer engaged in construction work, causing two fatalities and one injury. The Texas Railroad Commission (which regulates these pipelines)

and the National Transportation Safety Board are investigating these accidents. It is clear, however, that miscommunication occurred between the excavators and the pipeline operators.

The fact that these preventable accidents are still happening is evidence that more remains to be done. An effective damage prevention effort is about more than just making the first call; it also means full participation by all excavators and underground utility operators, accurate and timely marking of underground utilities when a call is made, and using due caution when excavating around marked underground utilities. Federal pipeline safety policy should encourage every state program to place a high priority on achieving these goals.

Gathering Line Regulation – User Fees

INGAA does not take a position on whether natural gas gathering lines should be regulated under the Pipeline Safety Act. We note, however, that should Congress adopt such a change, current law would dictate that the costs incurred by PHMSA to regulate gas gathering lines (as well as the cost of PHMSA grants to assist the states with such regulation) would be paid by natural gas transmission pipeline operators. This is because the statute governing user fees – 49 USC 60301 – limits the collection of user fees (in the natural gas sector) to "transmission" gas pipeline operators. Transmission pipeline operators and the customers paying such pipelines' rates should not be compelled to pay the costs associated with regulating another pipeline sector. If Congress chooses to extend regulation under the Pipeline Safety Act to natural gas gathering lines, we urge that Section 60301 be amended to authorize PHMSA to collect user fees from gathering pipeline operators.

Cost Recovery for Design Reviews

INGAA members already help to fund the pipeline safety program at PHMSA through pipeline safety user fees, as previously mentioned. The PHMSA budget includes the personnel and dollars associated with the design review of natural gas pipeline projects. Absent a provision to exclude the cost of natural gas pipeline design review from the program costs that serve as the basis for the generally applicable user fees, the proposed new authorization to collect these fees would be appear to be double-dipping for an activity whose costs are already being recovered. INGAA therefore opposes this provision.

Special Permits

INGAA is concerned regarding the implications of the proposed amendment to section 60118(c) that would provide a five-year term for the waiver of operating requirements and successive renewal terms of not more than five years. In almost all special permit cases, pipeline operators make significant capital investments in alternate technologies that achieve the same or greater level of safety as required under current regulations. Given the economic characteristics of the natural gas transmission pipeline industry (e.g., capital intensive, long-lived assets) the method by which pipeline transportation rates are established under FERC regulation, such investments are recovered over long periods (sometimes up to 30 years) that greatly exceed the proposed five-year term for waivers. The risk created by a statutory provision that would authorize the revocation of special permits after five years will have a chilling effect on pipeline operators'

willingness to make large capital investments in deploying new technologies that will lead to improved safety performance of the nation's pipeline systems.

HR 6008, the CLEAN Act

INGAA appreciates the purpose of this legislation to ensure that the National Response Center will be alerted to a pipeline release as soon as possible. The law should be flexible, however, in giving a pipeline enough time to determine whether an alarm is accurate, and if so, where the release is occurring. Providing inaccurate or incomplete information to first responders is a potentially counterproductive outcome. We therefore recommend that the amount of time allowed in proposed section 60138(b) be modified to "not later than two hours following the time of such discovery."

Conclusion

Mr. Chairman, pipeline safety has received widespread attention in recent days. Like everyone else, INGAA and its member companies want to use the lessons learned from the tragic events in San Bruno to improve the safety of natural gas transmission pipelines. But before that, we must first learn what caused the accident. INGAA supports an assessment of the pipeline safety program that is driven by solid technical analysis, so that changes in the law, the regulations and the implementation of those requirements will have the greatest likelihood of achieving actual improvements in pipeline safety. We pledge to work with you in making constructive improvements.

Thank you for holding this hearing and for inviting me to participate on behalf of INGAA. Please let us know if you have any additional questions, or need additional information.

Mr. WELCH. Thank you very much. Our next witness is Andrew Black, President of the Association of Oil Pipelines. Like Mr. Kessler, Mr. Black is also known to the committee, having served as the Republican Deputy Staff Director of Policy for the committee. Welcome. And Mr. Black has also served as the Director of the Office of External Affairs for the Federal Energy Regulatory Commission and Director of Federal Government Relations for the El Paso Corporation.

Mr. Black, welcome.

STATEMENT OF ANDREW BLACK

Mr. BLACK. Thank you, Mr. Chairman. Congressman Upton, it is good to be back. I am Andy Black, President and CEO of the Association of Oil Pipe Lines. I appreciate the opportunity to appear on behalf of AOPL and API. I will discuss the oil pipeline industry's commitment to safety, our improved safety record, and the importance of improving damage prevention programs in pipeline safety reauthorization legislation.

Pipelines are the safest way to move crude oil and refined petroleum products, such as gasoline, diesel fuel, jet fuel, home heating oil, and propane. A reminder of the strong safety record of pipelines may seem discordant in the aftermath of a pipeline accident, but it must be kept in perspective. Pipelines are also the most reliable, economical, and environmentally favorable way to move these fuels. Pipeline operators have every incentive to invest in safety. Most important is the potential for injury to members of the public, employees, contractors. Operators could also incur costly repairs, cleanups, litigation and fines in the event of accidents. And the pipeline may not be able to accommodate customers, losing the business use of the pipeline asset if the facility needs to be shut down.

Operators face a rigorous set of Federal Government requirements for construction, operation, and maintenance of a pipeline. Regulations also cover public awareness, reporting, design standards, operational controls, pressure testing, maintenance standards, qualification of personnel, emergency response and more. While we do not know the cause of the major recent pipeline accidents, it is important to note that laws and regulations already address the leading causes of pipeline failures, including corrosion, excavation damage, materials and equipment failure, and operations.

This industry had a wakeup call after a fatal incident in 1999 that Mr. Inslee described earlier. Congress and the Office of Pipeline Safety asked more of pipelines, and pipelines answered the call. As a result of new laws and regulations and vigorous industry efforts, liquid pipeline spills along rights-of-way have decreased over the past decade in terms of both the number of spills and the volume of product released. Each of the major causes of pipeline accidents also showed decreases during this time period, reflecting the successes of multiple different strategies to manage risk. We are proud of this improved record, but we are not content. We still strive for zero accidents.

Operators invest millions of dollars annually to maintain their pipelines and comply with Federal pipeline safety laws and regula-

tions. In one recent survey, liquid pipeline operators representing three-fourths of U.S. mileage reported spending approximately $2.7 billion on integrity management activities in the past 6 years. These costs will only increase as integrity management tools become more expensive, more sophisticated, and more effective at identifying issues for pipeline operators to address.

Operators work hard to learn lessons from pipeline incidents and share ideas for improvement and best practices throughout the industry. The industry has standing teams and workshops to discuss integrity management issues, review incidents, analyze data, and make recommendations to executives. The industry invests in research and development at the company and consortium level to develop new technologies and practices to confront pipeline challenges.

As attention turns to reauthorization of the pipeline safety laws, we ask for the help of Congress to protect pipelines from excavation damage. Third party damage is less frequent today but still accounts for 31 percent of all significant liquid pipeline accidents, the leading cause.

In some States, State laws requiring the use of the 811 "call before you dig" number do not exist, are weak or inadequate, or are not adequately enforced. Some State agencies, municipalities, and other local entities are exempted from requirements to use the One-Call System. These exemptions create a gap in enforcement and in safety because the threat of pipeline damage is the same, regardless of who the excavator is. The Office of Pipeline safety can close the gap by exercising One-Call civil enforcement authority granted by Congress in 2006. They can conduct enforcement proceedings for a One-Call violation within the boundaries of a State if the Secretary has determined that a State's enforcement is inadequate to protect safety.

We urge OPS to complete their rulemaking to implement this authority, and we encourage Congress or OPS to require termination of these exemptions by the States or risk Federal enforcement and loss of grant funds.

We continue to study the recent pipeline safety proposal by the administration. Although there is much we do not oppose, I note significant concerns with two provisions. First, we oppose the proposal to create a fee for OPS inspections of pipeline construction. OPS has long had construction-related authority and their activities had long been paid for by pipeline user fees for decades. We see no reason for the new fee, which will ultimately increase costs passed on to consumers.

Secondly, we oppose a proposal to transfer a regulation of certain gathering lines from States and other Federal agencies to the OPS. Gathering lines gather crude to be sent to processing facilities. They are small pipelines in areas where crude oil is produced. They are often not large enough to accommodate smart pigs. They are local, with local effects and not transportation lines. This regulatory framework has not failed under the oversight of EPA or other Federal agencies and the States.

Moving to H.R. 6008, pipeline operators certainly support prompt notification to the National Response Center of a pipeline release. We support the intent of the bill. We do not oppose the bill and are

not lobbying against it in its current form. We recommend additions to the bill that would eliminate a rigid volume reporting rule that can cause a pipeline to hesitate before notifying the government of a release. We will also stand on guard against changes that might mistakenly increase the potential for false alarm notifications just to comply with an arbitrary deadline.

Congress has provided OPS with a thorough set of tools to regulate pipeline safety. They are an aggressive regulator conducting rigorous inspections and vigorously enforcing compliance. We lament the recent accidents and have sent condolences to those who are affected but see no reason to greatly expand the pipeline safety program.

Thank you.

[The prepared statement of Mr. Black follows:]

Testimony of
Andrew J. Black
on Behalf of the
Association of Oil Pipe Lines (AOPL) and the American Petroleum Institute (API)

Before the House Committee on Energy and Commerce
Subcommittee on Energy and the Environment

September 23, 2010

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Introduction

I am Andy Black, President and CEO of the Association of Oil Pipe Lines (AOPL). I appreciate this opportunity to appear before the subcommittee today on behalf of AOPL and the American Petroleum Institute (API).

AOPL is an incorporated trade association representing 51 liquid pipeline transmission companies. API represents over 400 companies involved in all aspects of the oil and natural gas industry, including exploration, production, transportation, refining and marketing. Together, our organizations represent the operators of 85 percent of total U.S. oil pipeline mileage in the United States.

Pipelines are the safest way to transport liquid fuels. A reminder of the strong safety record of pipelines may seem discordant in the aftermath of a pipeline release, but is important to keep in perspective. I will discuss the industry's commitment to safety, our improved safety record, and our view that pipeline safety reauthorization should be narrowly focused on existing programs, specifically damage prevention.

Liquid pipelines overview

Pipelines are the safest, most reliable, economical and environmentally favorable way to transport oil and petroleum products, other energy liquids, and chemicals, throughout the U.S.

Liquid pipelines bring crude oil to the nation's refineries and petroleum products to our communities, including all grades of gasoline, diesel, jet fuel, home heating oil, kerosene, and propane. Some of our members transport renewable liquid transportation fuels via pipeline, as well. Our members transport carbon dioxide to oil and natural gas fields, where it is used to enhance production. In addition to providing fuels for the transportation sector (including cars, trucks, trains, ships and airplanes), we provide hydrocarbon feedstocks for use by many other industries, including food, pharmaceuticals, plastics, chemicals, and road construction. America depends on the network of more than 170,000 miles of liquid pipelines to safely and efficiently move energy to fuel our nation's economic engine.

Hazardous liquid pipelines transport more than 17 percent of freight moved in America, yet pipelines account for only 2 percent of the country's freight bill. Approximately 2.5 cents of the cost of a gallon of gasoline to an end-user can be attributed to pipeline transportation[1], resulting in a low and predictable price for pipeline customers (referred to as "shippers"). Liquid pipeline transportation rates are regulated by the Federal Energy Regulatory Commission (FERC). Rates are generally stable and predictable, and do not fluctuate with changes in crude oil and gasoline or other fuel prices. Typically, pipelines only take custody of the product tendered for transportation and, as such, are unaffected by changes in the price of commodities being transported.

[1] "Liquid Transportation Fuels from Coal and Biomass: Technological Status, Costs, and Environmental Impacts", National Academy of Sciences, 2009.

Pipelines are the preferred mode of transportation for crude oil and refined petroleum products. The approximate share of domestic shipments, measured in barrels of product moved per mile, is:[2]

- Pipelines – 68 percent
- Water Carriers – 25 percent
- Trucks – 4 percent
- Rail – 3 percent

Our industry had a wake-up call after the Bellingham, Washington fatalities in 1999. Congress and the Office of Pipeline Safety (OPS) asked more of pipelines, and industry has answered the call. As a result of enhancements to pipeline safety laws, implementing regulations, and vigorous industry efforts, liquid pipeline spills along rights-of-way have decreased over the past decade, in terms of both the number of spills and the volume of product released.

In addition to its record of fewest releases, pipeline transportation enjoys the lowest input energy requirement and carbon footprint as compared to other transportation modes (barge, truck, rail, and marine). Replacing a medium-sized pipeline that transports 150,000 barrels of gasoline a day would require operating more than 750 trucks or a 225-car train every day. Use of trucks or trains would increase mobile source greenhouse gas emissions, wear and tear on our roads, highways, rails, and bridges, and the number and volume of releases.

Pipeline operators insist on safety

Pipeline operators have every incentive to invest in safety. Indeed, in our members' view, there are no incentives to cut corners on pipeline safety. Most important is the potential for injury or loss of life to members of the public and their employees and contractors. If a pipeline experiences a failure or a release, there are numerous consequences for the operator. The operator could also incur potentially costly repairs, cleanup, litigation, and fines. Next, the pipeline may not be able to accommodate its customers. Finally, the pipeline company's reputation could be hurt.

Operators of liquid pipelines invest millions of dollars annually to maintain their pipelines and comply with federal pipeline safety laws and regulations. A large percentage of liquid pipeline assets are inspected regularly and all are monitored continuously, using a combination of practices. Pipeline operators continually seek to reduce the risk of accidental releases by taking measures to minimize the probability and severity of incidents. These measures include proper pipeline route selection, design, construction, operation, and maintenance, as well as comprehensive public awareness and excavation damage prevention programs.

In recent years, there has been increasing regulatory and industry attention to the role of corrosion, a leading cause of pipeline failures. There are two ways in which pipe is protected from external corrosion: through the use of coatings and by an impressed electrical current that makes a pipe act as a cathode. Since corrosion is an electro-chemical process, this electrical charge inhibits corrosion even if the protective coating has been damaged. A protective coating is applied to steel pipe at the pipe mill to help prevent corrosion when placed into service. During the pipeline construction process, construction crews apply protective coatings to joints to safeguard the outside surface of pipeline girth welds from corrosion.

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[2] Association of Oil Pipe Lines, *Shifts in Petroleum Transportation*, 2009.

Pipeline supervisory control and data acquisition (SCADA) systems use various techniques to monitor for pipeline leaks. Software monitors pipeline pressure instruments and volumetric metering equipment and uses algorithms to search the data for a signal that may indicate a leak on the pipeline. However, these systems are not perfect, particularly on pipelines moving lower volumes than the capacity for which they are designed.

Pipeline companies perform visual inspections along rights-of-way, including from the air, for signs of damage, leakage, and encroachment. Pipeline controllers are also trained to identify signs of leaks and respond quickly to shut off pipeline flow, contact first responders (company and local government emergency response), and government officials.

In some cases, an operator will install check valves, which automatically prevent backflow into a pipeline during a shutdown, or remote control valves that can be monitored with SCADA systems from a control room and closed if an accident occurs. These valves must be installed if an operator determines they are needed to protect a High Consequence Area (HCA) in the event of a release.[3] Special attention is given to waterway crossings, as it is a common practice to locate block valves on each side of a waterway.

Pipeline safety laws and regulations

In 1979, Congress enacted comprehensive safety legislation governing the transportation of liquids by pipeline in the Hazardous Liquids Pipeline Safety Act of 1979 (HLPSA, 49 U.S.C. 2001). HLPSA added to previous laws and regulations and expanded the existing statutory authority for safety regulation. Since then, several new laws have been passed to govern the liquids pipeline industry, including: the Pipeline Safety Act (PSA) of 1994, the Pipeline Safety Improvement Act of 2002 (PSA), and the Pipeline Inspection Protection, Enforcement, and Safety Act of 2006 (PIPES).

Pipeline safety is closely regulated by the Pipeline and Hazardous Materials Safety Administration (PHMSA) which includes OPS. PHMSA's OPS is responsible for establishing and enforcing regulations to assure the safety of liquid pipelines (Title 49 CFR Parts 190-199). OPS sets stringent performance-based regulations and standards that are intended to address the dynamic nature of pipeline operations. Operators of liquid pipelines invest millions of dollars annually to assess and maintain their pipelines and comply with federal pipeline safety laws and regulations. OPS is an aggressive regulator, conducting rigorous inspections and vigorously enforcing compliance with pipeline safety laws.

Operators face a rigorous set of federal government requirements for construction, operation, and maintenance of a pipeline. Regulations also cover public awareness, reporting, design standards, construction methods, operational controls and limitations, pressure testing, maintenance standards, qualification of personnel, and emergency response. Laws and regulations address the leading causes of pipeline failures, including corrosion, excavation damage, materials and equipment failure, and operations. Both industry and government continue to do research in all of these areas to improve this record further.

[3] 49 CFR Part 195.452.

Integrity management

In addition to all of the other provisions, pipeline operators are required under federal regulations (Title 49 CFR, Part 195.450 and 452) to develop an Integrity Management Plan (IMP), for pipelines that could affect High Consequence Areas (HCAs). HCAs for liquid pipelines include any of the following:

- Population centers, urbanized areas, or areas with large population density;
- Commercially navigable waters; and
- Unusually sensitive areas such as water supplies and ecological reserves.

Liquid pipeline operators are required in their IMPs to identify segments that could impact HCAs, conduct periodic integrity assessments on those segments at intervals not to exceed five years, and review assessment results to make mitigation and repair decisions. A risk-based approach establishes the appropriate assessment interval within the five-year period for liquid pipelines. When identifying segments which could affect HCAs, operators conduct risk assessments and consider local topographical characteristics, operational and design characteristics of a pipeline, and the properties of transported commodities in determining potential impacts of an incident. These assessments set a point of comparison so that operators may gauge the impact of time-dependent threats, like corrosion. This is an extra layer of oversight based on the fact that the consequences of a release are potentially greater if there is impact on HCAs. Many operators use these same techniques beyond pipeline segments which could affect HCAs. Liquid pipeline baseline assessments for pipelines that could affect HCAs were completed for existing pipelines by March 2008. Operators are now on their second or third round of assessments.

Assessments include in-line inspection by "smart pigs", which detect features in the pipe that need to be addressed, such as corrosion, pipeline deformation, cracking and other anomalous features. This technology includes sensitive internal detection devices, such as magnetic flux leakage tools (MFL) and ultrasonic testing, to examine pipeline wall thickness and detect other anomalies. Another assessment method used by pipeline operators is pressure-testing.

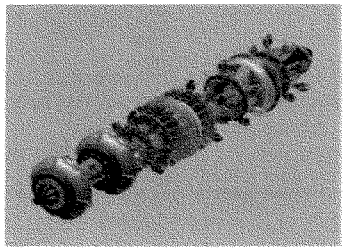

Diagram of a smart pig

It is important to note that as integrity management tools become more sophisticated, they are more effective at identifying issues for pipeline operators to consider and more expensive. As a result, integrity management compliance costs have trended upward since implementation of the IMP regulations, a trend that the industry expects to continue in the coming years. Liquid

pipeline operators representing approximately 75 percent of the OPS-regulated pipeline mileage report spending approximately $2.7 billion on pipeline integrity management activities, and approximately $600 million on integrity management related to pipeline-owned tankage, from 2004 to 2009.

With customer pressure to keep transportation costs, and hence, liquid fuel costs, as low as possible, pipeline operators need to be able to rank risk and consequence, and apply scarce resources accordingly. Pipeline operators should not be required to treat every mile of pipe with the same level of oversight. Extending the prescriptive integrity management plan investigation and mitigation schedules beyond HCAs areas could imperil the appropriate risk-based focus on protecting people and the environment within HCAs.

Liquid pipeline safety record has improved

If properly constructed, maintained, and protected, pipelines should have extraordinarily long lives. Old age in a pipeline does not automatically mean a pipeline segment should be replaced or is unsafe.

The frequency of releases from liquid pipelines decreased from 2 incidents per thousand barrel-miles[4] transported in 1999-2001 to 0.7 incidents per thousand barrel-miles in 2006-2008, a decline of 63 percent. Similarly, the number of barrels released per thousand barrel-miles decreased from 629 in 1999-2001 to 330 in 2006-2008, a decline of 48 percent[5]. The industry is proud of this record, but continues to strive for zero releases, zero injuries, zero fatalities and no operational interruptions.

Each of the major causes of pipeline accidents showed decreases during this time period, reflecting the success of several different strategies to manage risk.

Cause	*Decrease from 2001 to 2008 (3-year averages)*
Corrosion	74 percent
Third-party damage (excavation or other mechanical damage)	62 percent
Equipment	55 percent
Pipe materials and seams	34 percent
Operator error	51 percent

[4] One barrel mile equals one barrel (or 42 gallons) transported one mile.

[5] These figures are from the Industry's Pipeline Performance Tracking System, an industry-led reporting system that tracks pipeline system spills.

Liquid pipeline operators learn from release incidents and pursue continuous improvement

Pipeline accidents provide opportunities to learn lessons, and pipeline operators seize those regrettable opportunities. The U.S. oil pipeline industry participates in an Environmental and Safety Initiative (ESI) to make further improvements in spill and accident prevention. Led by pipeline executives, the ESI promotes achievement of operational excellence through sound risk management approaches, implementation of proven pipeline safety technologies, and investment in new technologies.

The Performance Excellence Team (PET) of the ESI pursues environmental and safety excellence in operations and system integrity. PET promotes inter-company learning and high quality, accurate and useful data analysis leading to actionable recommendations to the pipeline industry for continuous performance improvement. PET members from operations, engineering, regulatory compliance and environment, health and safety offices meet regularly to share information and capture and document good practices.

The liquid pipeline industry collects and analyzes data on pipeline spills. Every spill of at least five gallons is reported to the U.S. Department of Transportation. In addition, industry members contribute more detailed spill data to the Pipeline Performance Tracking System (PPTS). The stated philosophy of PPTS is to measure, learn, manage and improve. Through PPTS, the industry develops metrics for evaluating changes in pipeline performance, evaluates and sets leading performance measures for the pipeline industry, and identifies leading indicators that may predict future performance. PPTS data helps provide actionable recommendations to the pipeline industry targeting continuous performance improvement and solutions addressing today's and tomorrow's challenges.

Hazardous liquids pipeline employees also participate in the annual Pipeline Information Exchange workshop, a confidential forum in which operators can share learning opportunities from specific pipeline incidents or near misses. Attendees include control room operators, safety managers, and executives. The objective is for participants to take these learnings back to their respective companies to help prevent similar situations from occurring.

Finally, pipeline operators invest in research to identify new technologies and practices to improve pipeline safety. In addition to company research, pipeline operators and associations fund research conducted by Pipeline Research Council International (PRCI), a global cooperative R&D organization for the energy pipeline industry. PRCI members contribute technical and operations experts from their companies to work with expert consultants, maintain a research forum of ideas, and produce tangible solutions companies can implement. Over the last five years, liquid and natural gas pipelines and the federal government contributed more than $35 million toward PRCI pipeline research.

Pipelines need to be restarted soon after safe operation is assured

Pipeline accidents are rare. In the event of an accident, a pipeline operator has three major goals. The first goal, of course, is to contain the spill, complete any clean up, and help the affected community. A second objective is to repair the pipe, determine when operations can resume safely, and restart the pipeline. A third objective is to take steps elsewhere along the pipeline to avoid a similar occurrence.

Pipeline operators recognize the importance of restarting safely as soon as possible. While a pipeline sits idle, the products it carries are not being delivered to customers. Refineries can run short of crude oil and distribution terminals can run short of supplies of gasoline, diesel fuel, jet

fuel, or other refined products. This can prompt local gasoline shortages and price spikes. Airlines can face fuel shortages at certain airports. Military bases and manufacturing can see supply levels threatened.

After Hurricane Katrina briefly disrupted power to pipeline pump stations and refineries along the Gulf Coast, drivers in the southeast experienced lines at gasoline stations and abnormally high prices at the pump. When the affected pipelines and refineries got back into service, the problems quickly ceased. More recently, when Enbridge's Line 6A was down after an outage (apparently caused by local conditions, not the general integrity of Line 6A), retail gasoline prices spiked in Michigan and Ohio due to fears of a prolonged outage. Refineries dependent upon Enbridge's Line 6B for crude oil have reported shortages of crude oil after the Marshall, Michigan release, hampering productivity and threatening employment temporarily. As of this writing, Enbridge Line 6B has not yet been approved for a restart, but Enbridge has submitted a revised plan and additional requested information. The restart plan for Enbridge's Line 6B calls for lower operating pressure, which offers an extra margin of safety.

Despite the rarity of pipeline accidents, pipeline operators are skilled at repairing or replacing pipe and preparing the line for resumption of safe operation. Most pipeline transportation service interruptions are brief, because delaying a restart any longer than necessary hurts customers and can even disadvantage the people and businesses located near the accident. We encourage OPS to approve pipeline restarts as soon as possible once safe operation can be assured.

Damage prevention and One-Call

Excavation damage to pipelines is less frequent today, but often results in extremely high consequences. Incidents from excavation damage by third parties accounted for only 7 percent of release incidents from 1999 to 2008. However, 31 percent of all significant incidents (those that result in spills of 50 barrels or more, fire, explosion, evacuation, injury or death) come from excavation damage by third parties. Further, at an even higher frequency, pipelines suffer damages from third parties that are not severe enough to cause a release at the time of excavation.

To protect communities, sensitive environmental areas, as well as the pipeline itself, the pipeline industry and other operators of underground facilities joined together to create notification centers that are used by those preparing to conduct excavation close to underground facilities. These centers – called One-Call Centers – serve as the clearinghouse for excavation activities that are planned close to pipelines and other underground utilities. Established by federal law in 2007, 811 is the national "call-before-you-dig" number which informs operators when someone wants to dig near the pipeline, and homeowners, and excavators about the location of underground utilities before they dig to prevent unintentional damage to underground infrastructure, including pipelines.

When calling 811 from anywhere in the country, a call is routed to the local One-Call Center. Local One-Call Center operators discern the location of the proposed excavation and route information about the proposed excavation to affected infrastructure companies. Under One-Call regulations, excavators must wait a specified amount of time before beginning any excavation project, to allow operators of underground infrastructure time to locate and mark underground infrastructure to protect it from excavation-related damage.

In addition, pipeline operators, associations, state regulators and federal and state agencies take part in the Common Ground Alliance (CGA), an association that promotes effective damage

prevention practices for all underground utility industry stakeholders to ensure public safety, environmental protection, public awareness and education to guard against excavation damage. Membership in CGA spans 1,400 members and sponsors, demonstrating that damage prevention is everyone's responsibility. Industry has worked closely with CGA to develop best practices and participates fully in its damage prevention programs, including the establishment and implementation of 811.

The need for improved damage prevention enforcement

We believe more must be done to encourage adherence to state damage prevention laws and strengthen state and national programs already in place. We recognize and support the role of the states in preventing damage to pipelines. However, in some cases, state excavation damage prevention laws are weak or incomplete, or are not adequately enforced.

In many states, state agencies, municipalities and other local entities are exempted from requirements to use the One-Call system before they undertake excavation activities. These exemptions create a gap in enforcement and safety, because the threat of pipeline damage is the same regardless of who the excavator is or who he works for.

The OPS could close the gap by exercising its One Call Civil Enforcement authority as modified by Section 2 of the PIPES Act of 2006 (Public Law 109-468). The Secretary of Transportation has authority to conduct enforcement proceedings for a violation within the boundaries of a state if the Secretary "has determined that the State's enforcement is inadequate to protect safety" after the Secretary "issues, through a rulemaking proceeding, the procedures for determining inadequate State enforcement of penalties."

The DOT's OPS commenced such an undertaking in October of last year with an Advanced Notice of Proposed Rulemaking.[6] Under the proposed rule, OPS would assess a state's damage prevention program and make the determinations of adequacy or inadequacy called for by Congress. As AOPL and API commented in the rulemaking,[7] we recommended that as a minimum requirement in a state damage prevention program, all excavators, including state agencies and municipalities:

(1) use state One-Call systems prior to excavation;

(2) follow location information or markings established by pipeline operators;

(3) report all excavation damage to pipeline operators; and

(4) immediately notify emergency responders when excavation damage results in a release of pipeline products.

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[6] 74 Fed. Reg. 55797-55803; October 29, 2009; Pipeline Safety: Pipeline Damage

Prevention Programs; Advance notice of proposed rulemaking;

Docket #: PHMSA-2009-0192

[7] December 14, 2009 letter to Jeffrey D. Wiese regarding 74 FR 55797 (October 29, 2009).

Similarly, we believe OPS should promulgate a final rule that prohibits state programs from being determined "adequate" if they allow One-Call exemptions for state agencies, municipalities, and other commercial excavators.

AOPL and API believe Congress has given the Department of Transportation the authority to close the safety gap caused by state-granted exemptions to One-Call damage prevention laws. We believe OPS should use that authority to close that gap and that Congress should consider directing OPS to do so expeditiously. We recommend OPS move forward soon with a final rule to promote more effective and streamlined damage prevention rules that will promote safety and respect for pipelines. We support more aggressive enforcement, recognizing it will apply equally to pipeline operators should they fail to adhere to excavation damage prevention laws.

Additionally, we believe OPS should withhold damage prevention grant funds from states with programs that do not meet the fundamental minimum requirements we suggested. This is fully consistent with the intent of Congress in Section 2 of the PIPES Act of 2006, which allows the Secretary to make a grant to a state authority to assist in improving damage prevention programs. The Secretary is to "take into consideration the commitment of each State to ensuring the effectiveness of its damage prevention program, including legislative and regulatory actions taken by the state."

Pipeline safety reauthorization

AOPL and API are ready to work with Congress, OPS, and stakeholders to reauthorize pipeline safety laws. We believe Congress should focus on prevention of excavation damage, the leading cause of injury and death from pipeline accidents. Congress should encourage or direct OPS and the states to improve damage prevention laws, regulation and enforcement where necessary.

We believe Congress should think carefully about the consequences of overhauling a regulatory model that is driving down the number of releases and incidents from pipelines. First, the causes of the recent releases in Marshall, Michigan, and San Bruno, California have not been reported by the National Transportation Safety Board. It would be premature to suggest that any recent incident means current safety regulations need to be changed, let alone to know what those changes should be. Existing laws and regulations cover the major causes of releases; we may find that these recent incidents do not reveal any gaps.

Second, the upcoming "lapse" in authorization for OPS programs in the PIPES Act of 2006 will have no real effect upon the ability of OPS to inspect or enforce safety regulations on pipelines. User fees will continue to be collected from pipeline operators. OPS programs will continue subject to appropriations. No safety laws or regulations will be suspended.

The PIPES Act and previous legislative efforts have given OPS a thorough set of tools and authorities to effectively regulate the safety of liquid pipelines. The vigorous actions of OPS in response to Enbridge's release in Marshall, Michigan, demonstrate this. We believe there is no reason for Congress to greatly expand the pipeline safety program or impose significant new mandates upon OPS or the industry in a new reauthorization bill.

AOPL and API staff have begun to review the pipeline safety reauthorization proposal announced last week by Deputy Secretary of Transportation John Porcari. While the associations and its members have not had sufficient time to carefully review the proposed "Strengthening Pipeline Safety and Enforcement Act of 2010," (SPSEA) we offer some initial comments.

SPSEA proposal - New fees for construction reviews funded for 25 years by user fees

We oppose Section 9 of the proposal, which gives OPS authority to receive compensation through a fee on natural gas and liquid pipeline operators for "design review, consulting, and field support" that the agency provides for new pipeline construction over 10 miles in length.

OPS manages a rigorous set of construction codes and enforcement activities by its inspectors. Judging from the intensity of OPS inspection activities during construction, there does not appear any funding constraint on OPS' ability to be actively engaged in construction oversight. Since FY 1986, OPS has received user-fees from the pipeline industry to cover costs, including those associated with inspection activities. Pipeline operators pay user fees for the life of the asset, once product begins to flow through the pipeline. Last year, OPS received approximately $37 million from the liquid pipeline industry with nearly half of that revenue coming from user-fees and half from the Oil Spill Liability Trust Fund, which the industry pays into. We believe OPS should continue to fund its construction inspection activities out of user fees, as they have done since 1986. The unsubstantiated construction fee proposal would serve only to increase costs for pipeline infrastructure construction, and ultimately increase consumer costs, with no apparent benefit. Section 9 would also require a 120-day notice of intent before any pipeline construction can begin, without any justification.

SPSEA proposal - Transfer of gathering lines regulation to OPS

We oppose Section 6 of the proposal, which would remove the statutory exemption from OPS regulation for natural gas and liquids gathering lines, and then direct a rulemaking to review all regulatory exemptions for these lines. Upon the completion of the review on or before October 1, 2012, the Secretary of Transportation would issue exemptions as he or she sees fit.

Gathering lines are very small pipelines usually from 2 to 8 inches in diameter in the areas of the country in which crude oil is produced. These small lines gather the oil from many wells, both onshore and offshore, and connect to storage facilities or larger trunk lines measuring from 8 to 24 inches in diameter. Many gathering lines are not large enough for the use of "smart pigs". These lines are currently subject to regulation by EPA under the Clean Water Act, and by the States in which they are located. These lines are local in nature, with local effects and ideally suited for local regulation, not federal regulation. This regulatory framework has not failed. The value of subjecting these gathering lines to OPS regulation is unclear.

H.R. 6008 proposal on notification deadlines

The pipeline industry supports prompt notification to the National Response Center (NRC) of pipeline releases, which is the intent of H.R. 6008, the "Corporate Liability and Emergency Notification Act." We recommend a change to the bill to address a conflict presented by the proposed notification deadline.

Pipeline operators are currently required by federal regulation to notify the NRC of a pipeline release at "the earliest practicable moment.' The NRC, in turn, provides notice to agencies, federal responders and other appropriate entities. The introduced bill would replace a technically-based administrative interpretation of "earliest practicable moment" with an arbitrary and inflexible one-hour deadline. When a pipeline operator contacts the NRC to report a release, it is required to estimate the volume of the release. Currently, a pipeline operator is not allowed to revise the estimate later. This can cause operators to use much of the notification period to develop more precise estimates which may not be immediately necessary.

Pipeline operators believe notification provisions should be changed to provide the NRC and federal responders information they need to calibrate responses, and eliminate the hesitancy and estimation challenges inherent in initial estimates so soon upon the occurrence of an event. We believe a pipeline operators should be 1) allowed to tell the NRC during initial notifications whether a suspected release could be small, medium, large, or very large, and 2) provide an improved volume estimate later in the required accident report. That change could help facilitate the earlier responses sought by those who support H.R. 6008. Alternatively, the National Response Center could be required to allow revisions of volume release estimates.

We also want to make sure future versions of this or other legislation do not increase the potential of false alarm notifications. When pipeline control system alarms indicate changes in pressure, flow rate, and other operation parameters, controllers quickly institute established procedures to investigate the alarm and if necessary, shut in the pipeline system. In many cases, a pipeline operator finds an alarm is not, in fact, a pipeline release but is due to other changes in operations. With good reason, the administrative interpretation allows the operator to verify that a release has occurred before notifying the NRC, and to produce the volume estimate that can never be adjusted. It is not a perfect system since it relies on human interpretation of response to information but it does ensure that notifications are thoughtful and as accurate as possible. Advancing the statutory notification deadline earlier than might be appropriate would likely cause pipeline operators to notify the NRC of potential releases even before definitively or even reasonably concluding a release has occurred. False alarm notifications cause false alarm deployments of first responders, an unwarranted expenditure of resources and manpower. In order to comply with an impractical standard, operators would likely treat any abnormal condition as a suspected release even before concluding a release is actually occurring.

We are prepared to work with the author, cosponsors, and committees of jurisdiction on these issues.

Conclusion

Pipelines are the safest way to transport liquid fuels. The safety record for every major release cause has improved over the last decade. Liquid pipeline operators strive for zero releases, zero injuries, zero damages to property and the environment, and continuous improvements in pipeline safety. Every spill is one too many.

Pipeline operators work hard to learn from pipeline incidents and share ideas for improvements and best practices throughout the industry. The industry has standing teams and workshops to discuss incidents and misses, analyze data, share best practices, and make recommendations to executives. The industry invests in research and development to develop new technologies and practices to confront pipeline challenges.

Operators of liquid pipelines invest millions of dollars annually to assess and maintain their pipelines and comply with federal pipeline safety laws and regulations. They face a rigorous set of federal government requirements for construction, operation, and maintenance of pipelines. Regulations also cover many aspects of pipeline construction, operation, maintenance, and awareness. Laws and regulations address the leading causes of pipeline failures, including corrosion, excavation damage, materials and equipment failure, and operations.

To assist the cause of pipeline safety, Congress should expand on earlier steps to prevent excavation damage to pipelines, the leading cause of significant pipeline accidents. Congress and the Office of Pipeline Safety should assist damage prevention by improving enforcement in the states and eliminating exemptions from One-Call "call before you dig" requirements.

Mr. WELCH. Thank you very much. And our final witness is Lori Traweek, Senior Vice President and Chief Operating Officer at the American Gas Association. Ms. Traweek's experience includes work as an offshore and onshore engineer for ARCO Oil and Gas Company in Texas and Louisiana.

Welcome. We look forward to your testimony.

STATEMENT OF LORI TRAWEEK

Ms. TRAWEEK. Thank you very much, Mr. Chairman. The advantage of going last is that I will be able to reiterate much of what you have heard this afternoon.

My name is Lori Traweek, Senior Vice President and Chief Operating Officer at the American Gas Association. We represent 195 energy utilities that distribute natural gas throughout the country.

Our hearts also go out to those who are suffering, who lost loved ones, homes as a result of the tragic San Bruno accident.

No incident is acceptable. Every incident is one incident too many. As I speak, senior executives and safety leaders from around the country working at natural gas utilities are now in Boston at the fourth annual AGA Executive Safety Leadership Summit. They are there to discuss employee safety, public safety, contractor safety, and customer safety. Not surprisingly, this year, San Bruno and the tragedy there is a focus of those conversations.

We hold these best practices forums and exchange because first and foremost, the industry's goal is safely reliably and efficiently delivering natural gas to the more than 70 million customers in the United States who rely on this fuel for their energy needs. When there is a tragic incident like this, similar to Congress, the regulators, the public, we too want to determine what could have been done to prevent the incident and then take appropriate actions to prevent a recurrence.

Until the NTSB has concluded its investigation, however, it is best we not speculate about the causes of the accident and possible solutions. Any speculation could result in ineffective or unnecessary reactions. While the cause of the incident is being determined, we encourage all who are interested in learning about the safe delivery of natural gas to visit our Web site. Also, it is equally important that all citizens are aware of the industry's One-Call safety program, 811 "call before you dig."

The natural gas industry spends an estimated $7 billion each year in safety-related activities. The design, construction, operation, inspection, and maintenance of all operating natural gas pipelines are subject to rigorous oversight by Federal and State regulators. This includes the promulgation of the transmission integrity management rule that adds a layer of protection for pipelines in high consequence areas in addition to the multitude of periodic inspections/maintenance performed on all pipelines throughout the system.

In 2006, Congress passed the PIPES Act, which included four core provisions key to enhancing the safety of pipelines operated by utilities: First, excavation damage, the single greatest threat to distribution system safety and reliability. Our combined efforts of regulators, stakeholders, and natural gas operators have been success-

ful. Improvements have been made. But as you have heard from Mr. Black, more can be done.

Second, the DOT has promulgated an Integrity Management Program for distribution pipelines. Operators have been and continue to aggressively write and implement integrity management programs to meet the August 2011 implementation date. 1,450 operators, 2.1 million miles of pipe, and 70 million customers will be positively impacted by this rule.

Third, DOT now requires distribution gas utilities to install an excess flow valve on new and replacement service lines for single family residences. Millions of EFVs have been installed by operators.

And fourth, DOT has promulgated a regulation for control room management which natural gas pipeline operators are implementing on an accelerated schedule.

Finally, on a personal note, gas transmission pipelines run through my neighborhood. Therefore, my husband, two children and I live in a high consequence area. I can say without hesitation that because of the safety—the record of this industry and because of the regulations that are in place, I do not feel compelled to move because of the tragic incident in San Bruno. I do, however, want to know what happened. We all want to know what happened so we can consider what appropriate actions can be taken to avoid a similar occurrence in neighborhoods across the country.

That is why AGA is committed to working with Congress and Federal and State regulators to ensure that natural gas distribution and transmission systems continue to be the safest and most reliable method, delivering a clean and reliable energy source.

Thank you.

[The prepared statement of Ms. Traweek follows:]

Testimony of Lori S. Traweek
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Before the U.S. House Energy and Commerce Committee
Subcommittee on Energy and Environment

September 24, 2010

Good morning, Mr. Chairman and members of the Committee. My name is Lori Traweek and I am the senior vice president and chief operating officer for the American Gas Association (AGA). AGA represents 195 local energy companies that deliver natural gas throughout the United States.

Let me first say, our hearts go out to those who are suffering and have lost loved ones and homes as a result of the tragic natural gas explosion in San Bruno, CA. Any natural gas incident, no matter the size, is one incident too many. For that reason, AGA and its member utilities are committed to fostering best practices and engaging in industry dialogue with all key stakeholders to advance safe operations. As I speak, senior executives and safety leaders from gas utilities around the country are meeting at our fourth annual AGA Executive Safety Leadership Summit to discuss how the natural gas industry can improve pipeline safety, along with the safety of our employees, contractors and our customers. We also held our semi-annual operations technical committee meetings this week to address issues related to corrosion control, gas control, and a variety of pipeline and employee safety issues. Not surprisingly, the San Bruno tragedy was a focus of the conversations. We hold these forums because, first and foremost, the industry's goal

is to safely, reliably and efficiently deliver natural gas to the more than 70 million customers in the United States who rely on natural gas for their energy needs. When there is a tragic incident like this, similar to Congress, the regulators and the public, we too want to determine what could have been done to prevent the incident and then take appropriate actions to prevent a reoccurrence.

The utilities that deliver the natural gas are subject not only to their own stringent internal controls, but also must meet rigorous federal and state oversight -- and the safety of the public is, and always will remain, our industry's paramount priority.

The natural gas industry operates an extensive 2.4 million miles of distribution and transmission pipelines that stretches across the country. The industry spends an estimated $7 billion each year in safety-related activities. Moreover, the design, construction, operation, inspection and maintenance of ALL operating pipelines are subject to rigorous oversight within the company and by federal and state regulators. This includes the promulgation of a pipeline integrity management rule that adds a layer of protection for pipelines in high consequence areas in addition to the multitude of periodic inspections and repairs performed on all pipelines throughout the system. Federal pipeline safety regulations apply to all natural gas transmission and distribution pipelines in the United States. And through annual certifications and agreements, nearly all individual states have enforcement responsibility for pipelines within their own state. State agreements with PHMSA require that each state adopt and enforce the federal regulations. Additionally, states may promulgate and enforce their own regulations in addition

to the federal regulations, provided they are consistent with, and at least as strict as, the federal regulations

As noted previously, we are all anxious to learn the cause or causes of the tragic San Bruno incident. Until the NTSB has concluded its investigation, however, it is best we not speculate about the causes of the accident and possible solutions. Every incident is a unique event that is taken seriously and investigated thoroughly. It is always critically important to understand the probable causes of an incident. The information will allow stakeholders to understand if the incident was isolated or has broader implications.

We do understand, however, that people have immediate concerns about the safety of natural gas transmission and distribution lines. To that end, AGA has attempted to gather relevant data in one place on its website and has also developed a Frequently Asked Questions document, which I have included as an attachment to my written testimony. We would encourage any and all who are interested in learning more about the safe delivery of natural gas to visit www.aga.org.

In addition to understanding how the nation's pipeline system operates and the role it plays in delivering the natural gas that is so vitally important to meeting the nation's energy needs, it is equally important that all citizens are aware of the industry's one-call safety program - "811 Call Before You Dig" to help reduce the number of incidents caused by excavation damage to pipelines.

I want to reiterate, any natural gas incident, no matter the size, is one incident too many. Please know that AGA and its members are committed to working with Congress and federal and state regulators to ensure that the natural gas distribution and transmission system continues to be the safest and most reliable method of delivering energy throughout the nation.

In 2006, Congress passed the PIPES Act, which included several significant mandates. Over the last several years, our efforts have been focused on working with federal and state regulators in the development and implementation of these provisions.

Specifically, there were four core provisions of the PIPES Act of 2006 that are key to enhancing the safety of pipelines operated by gas utilities:

- Excavation Damage Prevention
- Distribution Integrity Management Programs (DIMP)
- Excess Flow Valves
- Control Room Management

EXCAVATION DAMAGE PREVENTION

- Excavation damage represents the single greatest threat to distribution system safety, reliability and integrity
- Regulators, natural gas operators, and other stakeholders are continually working together to improve excavation damage prevention programs and initiatives, such as the national call before you dig campaign

Excavation damage prevention is a shared responsibility. Our combined efforts are having a positive impact in reducing excavation damages to all underground facilities, but as always, more can be done. For instance, AGA would support eliminating exemptions from the requirement to call before you dig and taking actions to ensure that all states have effective damage prevention programs that reflect the nine elements defined in the 2006 PIPES Act.

DISTRIBUTION INTEGRITY MANAGEMENT

- The PIPES Act mandated DOT to establish an integrity management program for distribution pipeline operators
- DOT published the final distribution integrity management program (DIMP) rule on December 4, 2009
- The effective date of the rule was February 12, 2010 and operators have been given until August 2, 2011 to write and implement their program
- It will impact 1,450 operators, 2.1 million miles of piping, and 70 million customers
- The final rule allows operators to develop a DIMP plan that is appropriate for the operating characteristics of their distribution delivery system and the customers that they serve.
- Operators are aggressively implementing the DIMP rule.

EXCESS FLOW VALVES

- The PIPES Act mandated that DOT require distribution gas utilities install an excess flow valve (EFV) on new and replacement service lines for single family residences, if the service line met specific conditions, beginning on June 1, 2008.
- Operators have installed millions of EFVs.

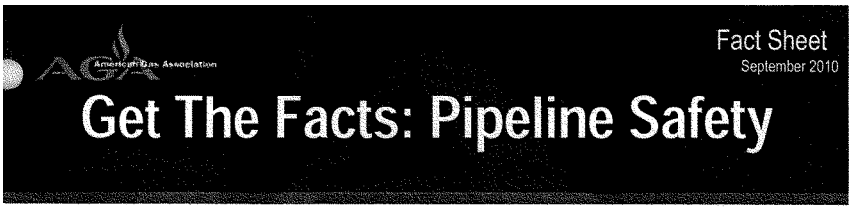
PIPELINE CONTROL ROOM MANAGEMENT

- The PIPES Act mandated DOT to establish a regulation for control room management for natural gas and hazardous liquids pipeline operators
- DOT published the final control room management (CRM) rule on December 3, 2009
- The effective date of the rule was February 1, 2010. Operators are required to develop a CRM plan that addresses the following major issues:
    a) Human factors for controllers, including fatigue management and training
    b) Formal declaration of roles and responsibilities of controllers
    c) Alarm management to signify the possibility of an abnormal operating condition
    d) Confirmation that SCADA systems have accurate information on operating pressures, flow rates and valve positions
- PHMSA has recently issued a notice of proposed rulemaking which will accelerate the implementation date to August 1, 2011 for most of the plan requirements

In conclusion, AGA is committed to working with Congress and federal and state regulators to ensure that the natural gas distribution and transmission system continues to be the safest and most reliable method of delivering this critical energy source throughout the nation. Thank you for the opportunity to appear here today. I am prepared to answer any questions at the appropriate time.

Attachments:

- FAQs
- Mandated Inspections Document



Q: What is the overall safety record of the natural gas industry?

The natural gas industry has an excellent safety record. And transportation by pipeline is the safest form of transportation. In 2007, there were more than 43,000 transportation fatalities in the United States. Of these, less than 0.03 percent was attributed to natural gas transmission and distribution pipelines. Please see the Department of Transportation's Bureau of Transportation Statistics web site for more information:
http://www.bts.gov/publications/national_transportation_statistics/html/table_02_01.html

The safety of the public is, and will always remain, the natural gas industry's paramount priority. The natural gas industry operates an extensive system of 2.4 million miles of distribution and transmission pipelines that stretches across the country to provide service to 70 million residential, commercial and industrial customers. The design, construction, operation, inspection and maintenance of ALL operating pipelines are subject to state and federal regulations and requirements. For more information on the natural gas industry's safety requirements and work, please click on the following link:
http://primis.phmsa.dot.gov/comm/SafetyStandards.htm?nocache=6621

Q: Who provides oversight to ensure that pipeline operators are complying with these safety regulations?

The Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) is the federal regulatory agency responsible for the oversight of pipeline safety in the United States. Click on the link below to learn more about PHMSA.
http://primis.phmsa.dot.gov/comm/

The pipeline safety regulations apply to all pipelines in the United States. Through annual certifications and agreements, individual states have enforcement responsibility for pipelines within their own state. The state agreement with PHMSA requires a state to adopt and enforce the federal regulations. These states may enforce both the federal regulations and their own regulations, which are consistent with, and at least as strict as, the federal regulations.

Q: Tell me where I can find more information about the regulations that govern the natural gas pipelines in the United States.
The regulations are posted at:
http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=0a9201ef9fa229d3d3e7f54da724fcf0&rgn=div5&view=text&node=49:3.1.1.1.4&idno=49

Q: Has there been a recent increase in the number of natural gas pipeline accidents occurring in the United States?

Annual pipeline accident information starting in 1990 through 2009 is available at PHMSA's web site at: http://primis.phmsa.dot.gov/comm/reports/safety/SerPSI.html?nocache=6572.

Accident data from 2010 will likely be added sometime in 2011.

Q: What causes natural gas pipelines to fail?

Historically, excavation damage is the leading cause of most serious pipeline failures. Accident information is grouped into eight cause categories: excavation damage, corrosion, natural forces, other outside force damage, material or welds, equipment, incorrect operation, and other. Accident cause information is available at PHMSA's web site: http://primis.phmsa.dot.gov/comm/reports/safety/SerPSIDet_1990_2009_US.html?nocache=7692

Q: How do I get access to maps showing the location of all the pipelines in my local area?

PHMSA has created a National Pipeline Mapping System (NPMS) that shows the general location of all natural gas transmission pipelines and other pipeline facilities in the United States. This map is available to the public and can be accessed by clicking on the following link: http://www.npms.phmsa.dot.gov/. There is no map available to the public showing the location of natural gas distribution pipelines.

Q: Explain the difference between transmission pipelines and distribution pipelines.

In general, a transmission line is a larger diameter line operating at a higher operating pressure and transports the natural gas between states, counties, cities and towns. Distribution pipelines are generally the smaller diameter lines at lower operating pressures that deliver natural gas directly to local homes and businesses.

Q: What exactly is a "High Consequence Area" (HCA) and how can I tell if I live and work in an HCA?

"HCA" is not a term associated with the safety or condition of a particular pipeline. Instead, this term was created by the public, regulators and industry personnel to improve pipeline safety by focusing comprehensive inspections on certain transmission pipeline segments. Transmission pipelines that are located in areas where people live and work or are known to congregate on a regular basis are then deemed as being in an "HCA." By regulation, this subset of transmission pipelines then receives the greatest level of inspection and have an added layer of protection to avoid accidents that otherwise would have the greatest (negative) consequence on the public.

Q: Are natural gas utilities doing anything to educate their customers and the public on pipeline safety issues?

Yes. All natural gas pipeline operators are required to develop and implement a pipeline safety public awareness program to educate the public in the vicinity of the pipeline, as well as state and local emergency response personnel, public officials and excavators. Pipeline safety education methods are determined based upon the intended audience, but methods used include print materials, personal contact, telephone calls, public service announcements, community events and open houses. Pipeline operators continually review the public awareness materials and distribution methods to ensure the intended stakeholders are adequately informed and, when possible, collaborative efforts are identified.

The public awareness information includes: 1) pipeline purpose and reliability; 2) potential hazards and preventative measures taken by the operator; 3) leak recognition and response; and 4) emergency preparedness specific to each jurisdiction. Individuals living in the vicinity of a pipeline receive public awareness information at a minimum of once every two years.

Q: What kind of testing is performed on natural gas pipelines to ensure these lines will not fail?

There are several different types of inspections and testing that can be used to evaluate the condition of natural gas pipelines. Different types of inspections and testing methods are used, based upon a variety of factors for both transmission pipelines and distribution pipelines. The inherent differences that exist between distribution pipelines and transmission pipelines often dictate what type of inspection can even be considered by the pipeline operator.

Q: Tell me more about the inspections being conducted for the transmission pipelines. Are all transmission pipelines being inspected or just those that are in an HCA?

All existing transmission pipelines have some form of periodic inspection. The purpose is to obtain information on the pipeline to determine if it has a leak or if it is not receiving adequate protection from the threat of corrosion. In addition, pipeline right-of-ways are surveyed to ensure that population encroachment has not become an issue and that there are no excavation activities in the vicinity of the pipeline that may result in any damage.

In addition to these baseline inspections, the federal regulations do specify that the level of inspection must be more rigorous on transmission pipelines in HCAs. This type of integrity inspection can be done primarily by techniques known as In-Line-Inspection (ILI), Pressure Testing, or Direct Assessment. While these three techniques have some fundamental differences in their application and in what circumstances they can be utilized, they are all designed to provide the pipeline operator detailed and comprehensive information on the condition of the pipeline and whether or not repairs are necessary.

Due to the way pipeline systems are configured, there are actually tens of thousands of miles of transmission pipelines outside an HCA that have had this formal integrity inspection.

Q: Is it true that only seven percent of all the natural gas transmission pipelines are being inspected, as has been cited recently by the media?

No. All natural gas transmission pipelines are required to be designed, constructed, operated, maintained and frequently inspected in accordance with federal standards. In addition, state pipeline safety agencies require intrastate transmission pipelines to follow state specific regulatory requirements. For transmission pipelines that are in HCAs, federal regulations stipulate even more comprehensive inspections. Operators have voluntarily performed more than the required inspections of pipelines in HCAs. Transmission pipelines outside HCAs are required to be inspected by leak surveys, corrosion monitoring and patrolling.

Q: When a large pipeline does experience a failure, how long does it take for the utility or pipeline operator to respond and make the area safe?

This depends on a number of factors unique to the situation and it is impossible to pinpoint a specific time period. Pipeline operators work diligently throughout the year with the emergency responder community as they are often the first ones to respond to an incident.

Q: How old are the natural gas pipelines in the United States? Why don't natural gas utilities replace all of the oldest pipelines?

There is a wide range with respect to the age of pipelines. Age is not the sole factor used to determine when a pipeline is replaced, as an older pipeline can still provide safe and reliable service. Operators work with state and federal regulators to continually monitor the natural gas pipelines to determine if leaks are occurring, when repairs are required and when a pipeline needs to be replaced. The replacement of pipelines is an ongoing process. Gas utilities often submit multi-year replacement projects to their state commissions for approval. Immediate pipeline replacement will be performed if a hazardous situation is identified.

For more information on the natural gas pipelines in the United States, please click on the following link: http://primis.phmsa.dot.gov/comm/PipelineBasics.htm?nocache=6223.

Q: How does the public know the industry is committed to safety?

Safety is and always will be unequivocally the number one priority for the natural gas transmission and distribution industry. The industry spends billions of dollars each year to ensure the safety and reliability of the natural gas infrastructure. Natural gas utilities are subject not only to their own stringent internal controls, but also must meet rigorous federal and state oversight.

Q: What actions can I take to help ensure the pipelines in my neighborhood are safe?

There are three actions that individuals can take:

1. Be alert for signs of a natural gas leak. There are several ways to detect a natural gas leak:

   Smell: Because an odorant is added to natural gas by the utility to help you detect its presence, the best sign of a natural gas leak is if you smell something similar to rotten eggs.

   Sight: Look for dirt blowing into the air, persistent bubbling in standing water, or discolored or dead vegetation around the pipeline area.

   Sound: Listen for any unusual hissing or roaring sound.

2. Be sure to call 811 at least two full days before you perform any digging work, even if it is something as simple as planting a tree in your yard. This will allow the local utilities to come and mark the location of any underground lines so that you can avoid damaging them when you dig. http://www.call811.com/

3. Help make sure that all those who are performing any excavation work in your neighborhood have notified 811. This would include any work done in the public right-of-way, as well as work done by individuals in their yard. If a call to 811 has been made, underground utilities in the vicinity of the excavation site will come to the site prior to the start of excavation and will mark the location of their buried facility through painted lines, flags or other markers. If a call to 811 has not been made prior to excavation, this could possibly result in damage to underground facilities, including natural gas pipelines.

Information on how to respond to a potential leaks or these signs varies throughout the country based on a variety of factors, including climate and soil condition. To learn how transmission pipelines near you or your distribution utility addresses leak, contact them directly.

2010 Pipeline Safety Act Reauthorization
Issue Paper
Examples of Mandated Inspections
9/20/10

The following list includes many of the periodic inspections mandated by 49 CFR Part 192. This list does not include all mandated inspections and tests performed as part of new pipe construction; repair actions required for either transmission or distribution pipelines; requirements in the newly promulgated Control Room Management program; or state requirements added to pipeline safety programs.

49 CFR 192.241, 192.243	Inspection and testing of welds on distribution and transmission lines to determine acceptability. Nondestructive testing (X-ray) for transmission lines > 20% SMYS.
49 CFR 192.459	Examination of buried pipeline anytime it is exposed to determine pipe and pipe coating condition.
49 CFR 192.501, 192.619	Establishes the pressure testing requirements for new pipelines to provide an initial verification of the integrity of the pipeline.
49 CFR 192.465(a) External corrosion control: Monitoring	Buried pipeline corrosion protection pipe/soil readings at test stations and non-critical bonds along the pipeline must be checked at least once a year
49 CFR 192.465 (b) & (c) External corrosion control: Monitoring	Rectifiers and critical bonds for buried pipeline external corrosion control systems must be checked at least 6 times a year at intervals not exceeding 2 ½ months
49 CFR 192.477 Internal corrosion control: Monitoring.	If corrosive gas is being transported, coupons or other suitable means must be used to determine the effectiveness of the steps taken to minimize internal corrosion. Each coupon or other means of monitoring internal corrosion must be checked two times each calendar year, at intervals not exceeding 7-1/2 months.
49 CFR 192.705 Transmission lines: Patrolling	Patrol conditions on and adjacent to transmission line right-of-way for factors affecting safety and operation. Frequency of patrols based on class location: ranging from once each calendar year to four times each calendar year.
49 CFR 192.706 Transmission lines: Leakage surveys	Leakage surveys of a transmission line must be conducted at least once each year at intervals not exceeding 15 months. In Class 3 locations, twice each calendar year at intervals not exceeding 7 ½ months. In Class 4 locations, four times each calendar year at intervals not exceeding 4 ½ months.
49 CFR 192.481(a) Atmospheric corrosion control: Monitoring.	Distribution pipelines exposed to the atmosphere must be checked for external corrosion at least once every 3 years, at intervals not exceeding 39 months.
49 CFR 192.721 Distribution systems: Patrolling.	Distribution pipelines in places or structures where anticipate physical movement or external loading could take place must be patrolled at least 4 times each calendar year in business districts, at intervals not exceeding 4 ½ months and twice each calendar year outside business districts, at intervals not exceeding 7 ½ months.

49 CFR 192.723(b)(1) Distribution systems: Leakage surveys and procedures	Distribution pipelines in business districts must be checked for leaks at least once each calendar year, not exceeding 15 months, including tests for gas presence in subterranean facilities and other areas in the vicinity of a leak.
49 CFR 192.723(b)(2) Distribution systems: Leakage surveys and procedures	Distribution pipelines outside business districts must be checked for leaks at least once every 5 years, not exceeding 63 months.
49 CFR 192.723(b)(2) Distribution systems: Leakage surveys and procedures	Where electrical readings for corrosion protection are impractical, the leak checks must be at least once every 3 years, not exceeding 39 months.
49 CFR 192.739 Pressure limiting and regulating stations: Inspection and testing.	Each pressure limiting station, relief device and pressure regulator station must be inspected at least once each year, not exceeding 15 months.
49 CFR 192.743 Pressure limiting and regulating stations: Capacity of relief devices.	The capacity of each pressure relief device at pressure limiting and pressure regulating stations must be determined at annual intervals by testing the device in place or by review and calculation.
49 CFR 192.745 Valve maintenance: Transmission lines	Each transmission line valve that might be required during any emergency must be inspected and partially operated at least once each calendar year, not exceeding 15 months.
49 CFR 192.747 Valve maintenance: Distribution systems	Each distribution line valve that may be necessary for the safe operation of the system must be inspected at least once each calendar year, not exceeding 15 months.
49 CFR 192.749 Vault maintenance	If larger than 200 cubic feet in size, each underground vault housing pressure regulating or pressure limiting equipment must be tested for gas leaks at least once a year, not exceeding 15 months.
49 CFR 192.921 Transmission line baseline assessments	Complete baseline integrity assessment of transmission lines in HCAs prior to December 17, 2012
49 CFR 192.939 Transmission line reassessment intervals	Complete reassessments of transmission lines in HCAs in accordance with the reassessment interval defined in 192.939, at intervals not to exceed 7 years.
49 CFR 192.935 Transmission lines: Preventive and Mitigative Measures	For pipelines lying outside of HCAs operating at 30% SMYS or below, implement additional measures to address the threats of excavation damage, internal corrosion and external corrosion
49 CFR 192.1007 (DIMP)	Implement measures, which may include more frequent inspections or patrols, to address risk.

Mr. WELCH. Thank you very much for your testimony. We appreciate the testimony of all the members of the panel. The chair will recognize himself for 5 minutes for a few questions.

Mr. Wuori, on July 15, 10 days before the spill, near Marshall, Michigan, an Enbridge executive testified before the Transportation and Infrastructure Committee that the company's response time for release incidents can be almost instantaneous. It turned out that not only did Enbridge not discover the spill, but we understand Enbridge also did not report the spill to the National Response Center for nearly 2 hours after confirming the existence of the leak, nearly 20 hours after the first pressure alarm, after 10 separate alarms, and over 16 hours after people began calling 911 to report oil or gas odors.

So the obvious question is this: How is it possible that it took this long for Enbridge to discover and report what was a very massive leak?

Mr. WUORI. Mr. Chairman, the systems that were described by Rich Adams in his testimony are the systems that we have installed in the company both with regard to the pipeline operation and leak detection in the company, and for years we have been striving to improve upon those.

Mr. WELCH. The question is, why not the report? The discovery in the report. The systems apparently worked to send a signal that something was wrong. So the question was, what took so long?

Mr. WUORI. As you know, we are a participating party in the NTSB investigation. We have our own investigation underway, and all of the timeline events are part of that investigation. And I really can't speculate, and it wouldn't be fruitful for me to try to draw conclusions too early based on the early data.

Mr. WELCH. So you don't know or you won't say?

Mr. WUORI. I do not know at this time. We haven't finished our investigation. And when we do, we will draw the right conclusions, and then we will apply those learnings to the system.

Mr. WELCH. Let me ask you this: Were there any alarms or other anomalies detected by Enbridge or its employees with regard to Line 6B prior to 5:58 Eastern Daylight Time on July 25, 2010?

Mr. WUORI. What we do know is that we have an internal inspection tool, an inline inspection tool that is in the line. And that was in the process of being run prior to the Sunday evening. But yet there is nothing that I can speculate on in terms of that time frame. We had a lot of communication going on between the field and the control center during that period.

Mr. WELCH. The question is simple. 5:58 was the event. Were there any alarms or other anomalies that were detected prior to 5:58? I mean, that is a known answer. There were or there weren't, right?

Mr. WUORI. Yes. I think we heard earlier though from Vice Chairman Hart that that is part of the investigation and therefore I can't draw conclusions on that either.

Mr. WELCH. That is the point of the question. I am not asking you for a conclusion. I am asking you for just a factual report as to whether there was an anomaly or an alarm that occurred before 5:58.

Mr. WUORI. I am not aware, Chairman, of any alarms or anomalies prior to that time.

Mr. WELCH. And you would know?

Mr. WUORI. I would not necessarily know every single alarm from where I sit, no.

Mr. WELCH. Okay. The chairman yields to the ranking member.

Mr. UPTON. Thank you, Mr. Chairman. I appreciate your testimony, all of you. Mr. Black and Ms. Traweek, I appreciated your comments as it related to the One-Call. And certainly I think those are very good ideas that as we look at the reauthorization to take into account, I just wonder, Mr. Black, if you might be able to provide our subcommittee with information as it relates to municipalities, State agencies, if you can identify those which are exempt in some number or State so that we can have that as we work with our Members from those States to make sure that they can be onboard to really have a uniform system that works and so that folks in any community will have some sense of order if that call is made. I don't know if you can prepare that for us in the next couple of weeks or whatever as we look to do this, whether it be in this Congress or the next.

Mr. BLACK. Last time we looked, 41 States had some kind of exemptions from One-Call laws. We got that information from NAPSR, National Association of Pipeline Safety Representatives, State regulators. Congress has given the DOT the authority to eliminate those to determine that exemptions do not meet the minimum standard of what an adequate State damage prevention plan is. We encourage Congress, when you are considering reauthorization, to direct DOT or encourage and persuade them to continue on the road that they already appear on, which is really pushing the States to eliminate those. If they can't successfully get the States to eliminate those, we think DOT, with Congress' direction, should weigh in and should do Federal damage prevention enforcement in the States, which you have already given that authority to do.

Mr. UPTON. Ms. Traweek, do you agree? If any of you have information that might be useful for us, I think that would be helpful.

Mr. Wuori, we are all aware of the Department of Transportation release, and I am looking at one here. I will put it in the record if you haven't seen it, which calls for the gradual—the is the headline—gradual restart plan for Enbridge Line 6B in Michigan, approved by PHMSA under strict oversight. As I understand it, it is expected that this line will open on Monday next week. Is that still your assessment?

Mr. WUORI. That is our current assessment, Congressman. We do need final PHMSA approval on the steps that we are now taking between last night's approval of the plan and the final approval to restart. So we will require their final approval before we restart. We have projected Monday the 27th.

Mr. UPTON. Do you know if it is early Monday, late Monday?

Mr. WUORI. Typically on a line restart, we would do it in daylight hours, so it would likely be Monday morning.

Mr. UPTON. The last question that I have, you all are aware of the legislation that we are going to be debating yet this evening, a bill that I have cosponsored with other Members on both sides of the aisle that calls for—the main element of it is the require-

ment that within an hour of knowledge of a mishap that that call be made. I would like to know from each of you if you support that idea, do you think that it is workable? Yes or no is sufficient.

Mr. Wuori.

Mr. WUORI. I think the only tradeoff in the 1 hour is the accuracy of the volume estimate. When you call the National Response Center, you are asked to give a volume estimate for good reasons. And typically our policy has been it is a two-hour time frame in which to develop the volume estimate of any spill and also any other conditions that should be reported. Shortening it to 1 hour would then require an understanding that the volume estimate process may not be as accurate.

Mr. UPTON. Mr. Kessler.

Mr. KESSLER. We do support it, and we understand the concerns about the volume estimate reporting and think those can be worked through. They are reasonable concerns, but they in no way diminish or impact the need or the reasonableness of your legislation.

Mr. UPTON. Mr. Santa.

Mr. SANTA. Yes, Mr. Upton, in our comments INGAA noted that we would recommend that the time be modified to 2 hours rather than 1 hour in order to provide pipeline operators with an opportunity to discover whether the alarm is accurate, to discover where the release, if it is occurring, is occurring, and also note the tradeoff that—there is a cost if it is a false alarm and the operator——

Mr. UPTON. That is always good news if it was false. Sorry, right?

Mr. SANTA. Well, I would just note that you would be notifying first responders and things of that nature. But we are not opposing it, but we are recommending that the time period be extended to 2 hours.

Mr. BLACK. We are not opposing the bill. We want to help it get better; and if it does get better, we can support it. The volume reporting process, which is very rigid right now, creates a hesitancy for a pipeline. If we can eliminate that—and I think that we can—then 1 hour works perfectly. As long as that 1 hour is applied from the pipelines operator's discovery of a release, not a time a pipeline operator should have known, we think that issue is going to get resolved well either in the legislation or at DOT by a rulemaking.

Mr. UPTON. Ms. Traweek.

Ms. TRAWEEK. We also are not opposing the legislation. We would prefer the 2 hours. But most importantly, we think that it is necessary to be able to verify that it is actually an incident before that reporting is made. I know it is good news to be able to say that it was a false alarm. But there can be thousands of calls made that, once checked out, turn out not to be an incident at all. And as Mr. Santa suggested, the thought of having to bring emergency responders out or to trigger the type of responses that you get from that kind of false alarm I think would be more negative results of that than positives.

Mr. UPTON. Thank you very much. My time has expired.

Mr. WELCH. I want to thank all the witnesses. And on behalf of——

Mr. MARKEY. Mr. Chairman.

Mr. WELCH. On behalf of Mr. Markey, I want to say welcome back.

Mr. MARKEY. Thank you, Mr. Chairman. May I be recognized?

Mr. WELCH. Mr. Upton? Want to vote? Yeah, we vote unanimously. We will recognize the chairman.

Mr. MARKEY. I thank the gentleman very much.

Mr. Wuori, in 2007 and 2009, Enbridge inspections on Line 6B identified nearly 400 corrosion defects that required repair under Federal regulations. Both of these inspections also identified metal loss in the area of the rupture in Michigan but, according to Enbridge, did not have to be repaired under Federal regulations.

How is it that there could be nearly 400 corrosion defects on this line that required repair under Federal regulations but the defect in the area where the spill occurred did not meet the repair criteria?

Mr. WUORI. Congressman, that is part of our investigation and part of the NTSB's investigation in looking at exactly the area of the spill and exactly the condition of the pipe there.

I would add that the indications that you note are the result of inline inspection tools that run through the pipeline. If you ran a tool through a brand-new pipeline, you would get a number of indications. And then those are prioritized into a dig program. But the specific indication at the site of the spill is part of the investigation as to what happened.

Mr. MARKEY. Well, you can imagine why observers would be suspicious, and I just hope that your answers are good answers that you give because it doesn't make any sense on its face.

Mr. Wuori, Enbridge's Line 6B was constructed in 1969, and the pipe was coated in the field using then commonly used polyethylene tape. In a May 21, 2009 pipeline integrity assessment conducted by Enbridge on its 6B line, it states that, quote, The external corrosion pattern may be attributed to the tinting of the PE coating.

Can PE tape lead to corrosion by allowing water to get under it.

Mr. WUORI. Congressman, polyethylene tape was used commonly in the 1960s, 1970s and into the early 1980s. One of the issues with polyethylene tape-coated pipelines is exactly what you describe, and that is tinting of the coating and then the entry of water underneath that coating which makes it more difficult for the cathodic protection systems to work. As part of the pipeline integrity management plan that our company has—and I am sure that other companies have also—to run inline inspection tools to look for areas where that has had any effect.

Mr. MARKEY. Was the Enbridge 6A line also coated in PE tape?

Mr. WUORI. Yes. The Line 6A is a polyethylene-coated line.

Mr. MARKEY. What percentage of Enbridge's pipelines are coated with this tape?

Mr. WUORI. I don't know that offhand, Congressman. I would have to get that number for you.

Mr. MARKEY. Mr. Kessler, do you want to comment on this and the preexisting knowledge that they have with regard to this corrosion pattern that is attributable to the tinting of PE tape on pipes?

Mr. KESSLER. I think you have actually stated it quite well in terms of its ability to hold water, and it appears to promote corro-

sion in these instances. So I think you are on a good track asking these questions at this time.

Mr. MARKEY. Do any of the rest of you wish to comment on this? Is this sufficient warning that there is a problem and that it should be attended to on a systematic basis to ensure that this risk is not posed to other pipes across the system?

Mr. KESSLER. I do want to raise—just reiterate the issue you raised about the lack of standard over the repairs. I think that is an important point, the question of how things can go unrepaired or how they actually are repaired and the need for clarification and set standards and practices for these things under law.

Mr. MARKEY. Thank you. Mr. Wuori—and I want to just follow up briefly on a question that Mr. Welch asked earlier—don't you think that for 20 hours to elapse from the first alarm that something might be wrong to the spill actually being reported is just too long?

Mr. WUORI. That is part of the investigation that is underway by ourselves and also by the NTSB and other agencies. And that timeline, I assure you, is being looked at very carefully. We don't want to draw—and I certainly can't draw any conclusions this soon into that investigation.

Mr. MARKEY. Mr. Kessler, what do you think? Is 20 hours too long?

Mr. KESSLER. If that is correct, it is about 19 hours too long. And I think Mr. Upton and Mr. Schauer agree with that. It raises a real question about standards for leak detection on liquid lines and whether they are adequate, whether we should be moving to a more modern standard, maybe based—we have talked about basing it on the Alaska standard. But something that is technologically and economically feasible, but a standard. So——

Mr. MARKEY. Mr. Santa, do you think 20 hours is too long to respond? Is there a circumstance where 20 hours could be an acceptable time to elapse?

Mr. SANTA. Mr. Chairman, I am not familiar with the exact circumstances of the accident and the reasons that may have caused that and really don't feel that I am in a position to comment about it for the record.

Mr. MARKEY. Mr. Black, do you want to comment on that? Is 20 hours too long.

Mr. BLACK. I don't know the details of their incident. I know leaks are difficult to detect in certain situations, like small leaks.

Mr. MARKEY. Ms. Traweek, you represent the American Gas Association.

Ms. TRAWEEK. Yes.

Mr. MARKEY. From the perspective of the American Gas Association, do you think that 20 hours is an acceptable amount of time that can elapse?

Ms. TRAWEEK. I think it is critically important to understand what the circumstances were, and once those circumstances are understood if the response time was inadequate, then absolutely they should be held accountable.

Mr. MARKEY. The report was 16 hours after the 911 calls about odors. It was 4 hours after an Enbridge employee went to the pump station three-quarters of a mile from the spill. Ultimately Con-

sumers Energy, not Enbridge, did cover this leak. As you hear those facts, do you believe that there is any excuse for a 20-hour time period to elapse before there is an actual, you know, response from Enbridge?

Mr. Wuori.

Mr. WUORI. Congressman, nobody wants to know the answers to those questions more than we do, and that is why we are investigating and the TSB is investigating all of those circumstances, including 911 calls prior to.

Mr. MARKEY. Well, I am very concerned that this is something that, if it is a pattern, is going to lead to catastrophic conditions, and if the American Gas Association, you know, ultimately accepts this, if there is no credible explanation, then it is a cause for concern, that families across the country should understand that they could be at risk. And I just think that since time is of the essence in these responses that the families are there, believing that there are protocols in place that ultimately lead to rapid responses and they actually don't exist, then that detrimental reliance is ultimately going to lead to catastrophic conditions, ultimately rumbling through these families lives and sending them up on trajectories that will change an entire generation of those families, and I just think it is just not an acceptable standard and it must be changed.

Thank you, Mr. Chairman, very much.

Mr. WELCH. I will yield to the gentleman from Massachusetts for any closing comments.

Mr. MARKEY. I am fine. Thank you.

Mr. WELCH. Well, thank you very much, the panelists. We look forward to working with you.

[Whereupon, at 5:08 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

September 23, 2010 – Hearing on Pipeline Safety Oversight and Legislation

Thank you Mr. Chairman for convening today's hearing. Today we will examine our nation's pipeline safety, a welcome evaluation that deserves this committee's attention. With over 2.5 million miles of natural gas and hazardous liquid pipelines across our country, it is an extensive underground infrastructure network that is often overlooked when talking about our nation's energy security.

First I'd like to take a moment to extend my condolences to those who are suffering and have lost loved ones as a result of the deadly natural gas pipeline explosion earlier this month in San Bruno, California.

This tragic pipeline explosion raises serious concerns about the safety of natural gas pipelines. The Los Angeles Times recently reported that Pacific Gas and Electric (PG&E), the operator of the San Bruno pipeline explosion, has reported gas line leaks more than six times the average compared to other large pipeline operators. While many from the industry, as I'm sure we will hear in today's testimonies, will contend that the number of pipeline leaks has declined nationally, why is PG&E's yearly average up an alarming 40 percent?

Until the investigation is complete and we know exactly what caused the explosion, it's difficult to know what lessons can be learned, but we must assure those impacted that the responsible parties will be held accountable, and we must assure the rest of the country that we are taking the responsible and appropriate steps to improve existing pipeline safety law.

In a state like California, with areas of high population coupled with the lingering risk of a major earthquake, it is particularly important for operators to maintain the highest level of safety standards. Pipelines flow right through communities, many of which are close to earthquake fault lines. According to the Pipeline and Hazardous Materials Safety Administration's National Pipeline Mapping System, a hazardous liquid pipeline and gas transmission pipeline traverse the most populous cities in Riverside County, the district I'm honored to represent, while running parallel to the San Andreas Fault. Today, I urge my colleagues to keep this in mind because it is a key safety concern that must be considered.

Congress has the responsibility to conduct strict oversight and assess current pipeline safety statute and it is my hope that we can work together towards preventing devastating accidents like the one in San Bruno, improve our country's energy infrastructure security, and allow our communities to prosper knowing their energy will be delivered safely.

December , 2009

A group of public officials and members of the Texas Pipeline Association worked in a collaborative manner to form a workgroup aimed at improving communications between the pipeline industry and local municipal governments located in the Barnett Shale. This group met on a number of occasions to discuss the issues that surround pipeline routing through municipal territories.

The following municipalities participated in the workgroup; DISH, Northlake, Argyle, Copper Canyon, Flower Mound, Lewisville, Denton, Southlake, Fort Worth, Mansfield, Arlington, and Cleburne. Company officials from the following companies also participated; Devon, Atmos, Energy Transfer, Crosstex, Chesapeake Energy, Enbridge Inc., Epco, Quicksilver, Williams E & P, and the Texas Pipeline Association. State and national public officials also participated or sent staff members to participate; State Representatives Tan Parker and Lon Burnham attended personally, and State Senators Davis, Nelson, and Harris sent representatives, and US Congressman Michael Burgess also sent a member of his staff.

The results of the collaborate effort was the Best Practices for Pipeline and Municipality Relations. This document is designed to enhance the routing process, through communication and mutual respect. The pipeline industry also adopted a document called General Guidelines For Right Away Acquisition, Construction and Operations which is reference in the main Best Practices document.

Two documents are attached; Best Practices for Pipeline and Municipality Relations and General Guidelines For Right Away Acquisition, Construction and Operations. Please review them and consider adopting them via resolution, or motion. For your convenience Resolution 09-06, adopted by the town of DISH, TX has been included. You may also contact the town of DISH for an electronic copy of this resolution.
The following public officials are in support of this document:

Calvin Tillman, Mayor, DISH, TX

Sue Tjeml, Mayor, Copper Canyon, TX

Mark Burroughs, Mayor, Denton, TX

Pete Dewing, Mayor, Northlake, TX

Tan Parker, Texas State Representative

Andy Eads, Denton County Commissioner

RESOLUTION NO. ____

A RESOLUTION OF THE TOWN OF DISH, TEXAS, ENDORSING REGIONAL "BEST PRACTICES" STANDARDS CALCULATED AT FOSTERING IMPROVED INTRASTATE GAS UTILITY-MUNICIPAL RELATIONS WITH REGARD TO THE ACQUISITION AND ROUTING OF PIPELINE RIGHTS-OF-WAY THROUGH INCORPORATED AREAS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of DISH, Texas is a Type C general law municipality located in Denton County, and created in accordance with the provisions of Chapter 8 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the development of the Barnett Shale has necessitated the installation of a comprehensive intra-state pipeline network though which produced hydrocarbons are carried from gas well operators to the public utility system; and

WHEREAS, this pipeline network frequently conflicts with the long range comprehensive planning goals of north Texas municipalities and creates hardship for individual property owners affected by pipeline routing; and

WHEREAS, in an effort to mitigate the conflict and hardship posed by pipeline right-of-way acquisition and routing the Texas Pipeline Association, a private trade association representing the interests of the intrastate pipelines in Texas, has endorsed the concept of a regional "best practices" policy; and

WHEREAS, through the collaborative efforts of many north Texas municipalities and the Texas Pipeline Association and its members, the parties have developed the attached guidelines entitled: "Best Practices for Pipeline and Municipality Relations" (hereinafter referred to as "Best Practices Guidelines"); and

WHEREAS, the non-binding Best Practices Guidelines constitute a series of non-legislative standards setting forth the parties' expectations with respect to pipeline pre-routing, right-of-way acquisition and construction; and

WHEREAS, the Board of Commissioners of the Town of DISH has determined that it is in the best interest of the public health, safety and general welfare to endorse the Best Practices Guidelines attached hereto; and

WHEREAS, Board of Commissioners would further encourage intrastate gas utilities to endorse and commit to the standards set forth in the Best Practices Guidelines, with respect to pipeline operations in incorporate areas.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF DISH, TEXAS:

SECTION 1.

That the Board of Commissioners of the Town of DISH, Texas, does hereby endorse the "Best Practices for Pipeline and Municipality Relations" attached hereto as Exhibit "A". The Best Practices Guidelines are not intended to serve as legislation of the Town of DISH and instead are calculated at fostering improved intrastate gas utility-municipal relations with regard to the acquisition and routing of pipeline rights-of-way through the Town.

SECTION 2.

This Resolution shall be effective from its date of adoption.

PASSED AND APPROVED ON THIS ____ DAY OF _____, 2009.

_____
MAYOR

ATTEST:

_____
TOWN CLERK

EFFECTIVE: _____

Best Practices for Pipeline and Municipality Relations

Pre-Routing:

1. Municipality will designate the department or person with whom pipeline operators should meet prior to obtaining easements and planning of final pipeline route.
    a. Municipality will provide a packet of information which includes all ordinances and other planning documents which are applicable to pipelines. Pipeline operators will read all ordinances in advance.
    b. Pipeline operators will present municipality with preliminary route(s) from origin to terminus within the municipality's corporate boundaries together with fixed routing issues (e.g. known well locations that must be connected, existing right of way considered, required and anticipated issues along the preliminary route known by the pipeline operators to affect the routing).
    c. Municipalities will provide comments on preliminary route within a reasonable amount of time. Reasonable time is defined as *not longer than two (2) weeks for gathering lines and not longer than four (4) weeks for transmission lines.* Pipeline operators will respond to municipalities' comments.

2. The following language is from Section 181.005(c) of the Texas Utilities Code, and pipeline operators will comply with its requirements in determining routes within a municipality:

    > *In determining the route of a pipeline within a municipality, a gas corporation shall consider using existing easements and public rights-of-way, including streets, roads, highways, and utility rights-of-way. In deciding whether to use a public easement or right-of-way, the gas corporation shall consider whether:*
    >
    > *(1) the use is economically practicable;*
    > *(2) adequate space exists; and*
    > *(3) the use will violate, or cause the violation of any pipeline safety regulations.*

    a. Route will- be as consistent as practical with existing municipal planning documents for existing and future municipal land uses while respecting private property rights.
    b. Both parties will strive for the most direct, cost effective, and time efficient route for the pipeline company.

3. Pipeline operators will actively participate in planning of preferred pipeline routes with contiguous municipalities on a project by project basis.

Right-of-way Acquisition:

1. Pipeline operators will require right-of-way agents to be registered with the Texas Real Estate Commission (TREC).
2. Pipeline operators commit to negotiate in good faith with property owners before resorting to eminent domain.
3. A current copy of the GENERAL GUIDELINES FOR RIGHT OF WAY ACQUISTION, CONSTRUCTION AND OPERATIONS is attached to this document as Attachment A.

Construction Phase:

1. Municipalities commit, when practical, to grant temporary working easements within public rights of way during construction.
2. Pipeline operators will promptly respond to complaints and will provide to the city contact information for a 24-hour representative who can be reached at all stages of construction.
3. Pipeline operators will commit to avoid removing trees unless necessary for safety and/or regulatory compliance.
4. Pipeline operators will provide copies of plans and final pipeline route within the municipality in a format acceptable to the Municipality.
5. Municipalities and their contractors will commit to use the State's One-Call system when undertaking any excavations in order to avoid damaging pipelines.

Desirable:

1. Pipeline operators will work with municipalities to employ principles to reduce noise impact on neighboring residents and businesses.
2. When the pipeline operator has the right to do so and it is reasonable to do so, and when it would not unreasonably interfere with pipeline operations, the pipeline operator may grant municipalities above ground uses in easements.

TEXAS PIPELINE ASSOCIATION

GENERAL GUIDELINES FOR RIGHT OF WAY ACQUISTION, CONSTRUCTION AND OPERATIONS

While building and operating the necessary infrastructure to transport natural gas and liquid hydrocarbon products which provide for the critical energy needs of Texas and beyond, member companies of the Texas Pipeline Association, and their representatives, commit to maintain safe operations, respect landowners and communities, and be responsible stewards of the environment. Texas Pipeline Association member companies and their representatives also commit to conduct their business in accordance with the following guidelines:

Communication

- Establish and maintain communication with landowners and communities.
- Provide landowners with appropriate company contact information during right of way acquisition, construction, and operations.

Right of Way Acquisition

- Communicate to landowners and to public officials, as appropriate, the scope and purpose of proposed projects, and the processes involved in construction, operation and maintenance of facilities.
- Strive to reach right of way acquisition agreements with landowners by negotiating in good faith with honesty and fairness.
- Respect landowners' property.
- Assure company employed and contract right of way agents hold a current certificate of registration from the Texas Real Estate Commission.

Construction

- Be respectful of construction impact on community activities and attempt to minimize construction effects on community activities.
- Practice good housekeeping on landowners' property, including protection of livestock and wildlife
- Timely restore construction site in compliance with contractual obligations.

Operations

- Conduct operations in accordance with state and federal regulations.
- Strive to communicate with landowners prior to any significant maintenance operations on their property.
- Train personnel in safe operation practices and conduct emergency planning when appropriate.
- Apply appropriate engineering standards for our facilities and operations.

Finally, the member companies will provide these guidelines to all employees and representatives involved in Right of Way Acquisition, Construction and Operations to promote commitment and compliance with these guidelines.

Subcommittee Charter

(1) That the objective of the subcommittee is to establish a set of guidelines for both the cities and the pipeline industry for the future construction of intrastate and gathering pipelines in the Barnett Shale Region.

(2) That the guidelines would be adopted **as "Best Practices for Pipeline and Municipality Relations"** ***by the Barnett Shale cities and the TPA members, and that the guidelines have not been drafted as a Model Ordinance.***

(3) That it is not the intention of the TPA or the municipalities to form specific policy or legislation in drafting these "best practices".

(4) That the work product of the subcommittee will not be released or discussed in any form with entities or persons outside of the subcommittee until the subcommittee members have all mutually agreed to a final work product.

(5) That the guiding principles established under the work product will contain items that are required of both parties, i.e., the guidelines cannot be one sided.

(6) That the intent of the subcommittee is to have reached agreement on the work product such that it could be released to the member cities and by the TPA, if mutually agreed upon by the subcommittee, by Dec 31, 2009.

(7) That it is recognized that the work product would need the approval of the Board of Directors of the TPA before it is adopted as recommended guiding principles for TPA member companies. The work product would be submitted for approval by the TPA Board at its April 2010 Board meeting.

(8) That it is recognized that the work product would need the approval of the individual participating Barnett Shale cities via their respective governing bodies before the work product is adopted by the cities as "best practices" and that such approval would be reached by April 30. 2010.

(9) The intent is for the "best practices" to be supported by a significant group of cities in the Barnett Shale and 75% of the members of the TPA with operations in the Barnett Shale. However, if the guiding principles are not adopted by either, individual pipeline companies or cities may decide to follow these principles on their own.

TESTIMONYOF THE AMERICAN PUBLIC GAS ASSOCIATION

BEFORE THE HOUSE ENERGY AND COMMERCE SUBCOMMITTEE ON ENERGY AND ENVIRONMENT HEARING ON PIPELINE SAFETY AND OVERSIGHT

SEPTEMBER 23, 2010

Mr. Chairman and members of the Committee, the American Pubic Gas Association (APGA) appreciates this opportunity to submit testimony on behalf of public gas systems to the Committee for this important hearing on pipeline safety.

APGA is the national association for publicly-owned natural gas distribution systems. There are approximately 1,000 public gas systems located in 36 states. Publicly-owned gas systems are not-for-profit, retail distribution entities owned by, and accountable to, the citizens they serve. They include municipal gas distribution systems, public utility districts, county districts, and other public agencies that have natural gas distribution facilities. Public gas systems range in size from the Philadelphia Gas Works which serves approximately 500,000 customers to the city of Freedom, Oklahoma which serves 12 customers.

Overview

Safety is the number one concern of public gas systems. No other issue rises to the level of safety for the local distribution company (LDC) that provides retail natural gas service to its consumers. Gas utilities are the final step in taking natural gas from the production field to the homeowner or

business. As such, our members' commitment to safety is second to none and they keep focused on providing safe and reliable service to their customers.

Our members receive their natural gas from large interstate and intrastate transmission pipelines. Transmission pipelines usually consist of long and straight lines of steel pipe that have a large diameter and are operated at relatively high pressures and stress. By contrast, the distribution pipelines in LDC's are smaller in diameter (as small as 1/2 inch), and are constructed of several kinds of materials including cast-iron, steel and plastic. Distribution pipelines also operate at much lower pressures and stress and always carry odorized gas that can be readily detected by smell.

Public gas systems are an important part of their community. Our members' employees live in the community they serve and are accountable to local officials (and their friends and neighbors). Public gas systems are generally regulated by their consumer-owners through locally elected governing boards or appointed officials. However, when it comes to pipeline safety, nearly all of our members are regulated by an individual State's pipeline safety office. All of our members must comply in the same manner as investor- and privately-owned utilities with pipeline safety regulations issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA).

While the manner of safety regulation may be the same, one major difference between the average investor-owned utility and the average public gas system is size: in the number of both customers served and employees. Approximately half of the 1,000 public gas systems have five (5) employees or less. As a result, regulations and rules have a significantly different impact

upon a small public gas system than they do upon a larger system serving hundreds of thousands or millions of customers with several hundred or even thousands of employees and an in-house engineering staff. As with small business, the burdens of regulation on these tiny utilities can be unbearable if not tailored to the realities of the community.

Implementation of the PIPES ACT

The Pipeline Inspection, Protection, Enforcement and Safety Act of 2006 (PIPES Act) contained several provisions that addressed safety issues at the LDC level, including excavation damage prevention. Excavation damage is the leading cause of natural gas distribution pipeline incidents and APGA strongly supports efforts to reduce excavation damage. The PIPES Act established an incentive program for states to adopt stronger damage prevention programs. Specifically, the Act outlined nine elements of effective damage prevention programs. In order to obtain damage prevention program grants from the U. S. Department of Transportation, a state must demonstrate, or have made substantial progress towards demonstrating, that its damage prevention program has incorporated these nine elements. This flexible approach has allowed states to implement the nine elements in a manner that meets their individual needs.

These elements, along with the 811 national "Call Before You Dig" number, which began in May, 2007, have helped address excavation damage. APGA strongly supports this approach to limiting excavation damage which recognizes that government has a responsibility to adopt and enforce effective damage prevention programs. APGA commends Congress and PHMSA for these efforts towards addressing excavation damage.

Distribution Integrity Management

Another critical component of the PIPES Act was the requirement that LDC's establish Distribution Integrity Management Programs (DIMP). Even before the PIPES Act passed, PHMSA had convened a working group of federal and state regulators, industry and the public to advise PHMSA on how to approach DIMP. The group met over a 12-month period. APGA and its members actively participated in the group. In December 2009, PHMSA issued a final regulation on DIMP. APGA would also like to commend PHMSA for its leadership and work toward the development of a final rule that will significantly enhance safety.

The final rule requires all distribution pipeline operators, regardless of size, to implement a risk based integrity management program that addresses seven key elements:

1. Develop and implement a written integrity management plan.
2. Know the infrastructure performance.
3. Identify threats, both existing and of potential future importance.
4. Assess and prioritize risks.
5. Identify and implement appropriate measures to mitigate risks.
6. Measure performance, monitor results, and evaluate the effectiveness of its programs, making changes where needed.
7. Periodically report performance measures to its regulator.

Basically, a gas distribution system must have a written plan in place and the plan must demonstrate an understanding of the gas distribution system, including the characteristics of the system and the environmental factors that are necessary to assess the applicable threats and risks

to the gas distribution system. The operator must also identify additional information needed and provide a plan for gaining that information over time through normal activities. The plan must consider eight categories of threats to the pipeline system. An operator must consider incident and leak history, corrosion control records, continuing surveillance records, patrolling records, maintenance history and excavation damage experience to identify existing and potential threats.

A key component of this rule, and one strongly supported by APGA, is that the rule was designed to be flexible. The rule allows each LDC to manage its system with the goal of improving safety based on the system's unique performance characteristics, as opposed to following prescriptive rules that could divert resources away from the most significant threats for that particular utility. For example, the transmission integrity management rules imposed a fixed, interval, inspection-intensive program aimed primarily at detecting corrosion and mechanical damage. A review of PHMSA's annual and incident report data for the three-year period 2005-2007 found that failures on distribution systems due to corrosion was the least likely of the eight threats listed in the DIMP rule to result in fatalities, injuries or significant property loss. On the other hand, a failure due to excavation damage is eleven times more likely to result in a reportable incident than a corrosion-caused failure. Under the DIMP rule, each operator must still assess the risk of corrosion, but only take additional actions above and beyond current regulations if indicated by its risk assessment.

The DIMP rule also requires operators to file annual reports with PHMSA listing the number of excavation damages that occurred during each calendar year. PHMSA adopted the Common

Ground Alliance's Damage Information Reporting Tool (DIRT) definition of "damage" which includes "any impact that results in the need to repair or replace an underground facility due to a weakening, or the partial or complete destruction, of the facility, including, but not limited to, the protective coating, lateral support, cathodic protection or the housing for the line device or facility." In the past, only excavation damage that resulted in a leak was reported on the annual reports, so PHMSA will be receiving significantly more damage reports than it collected in the past. This annual report data is available to the public on PHMSA's website allowing PHMSA, the industry, state regulators and the public to evaluate trends in excavation damage.

"SHRIMP"

"SHRIMP," short for "Simple, Handy, Risk-based Integrity Management Plan," is a DIMP plan development tool developed by the APGA Security and Integrity Foundation (SIF). The SIF is a non-profit 501(c)(3) corporation created by APGA in 2004. The SIF is dedicated to promoting the security and operational integrity and safety of small natural gas distribution and utilization facilities. The SIF focuses its resources on enhancing the abilities of gas utility operators to prevent, mitigate and repair damage to the nation's small gas distribution infrastructure. The SIF delivers programs and services to the industry through a cooperative agreement with PHMSA while working closely with the National Association of Pipeline Safety Representatives (NAPSR) and other state pipeline safety organizations.

SHRIMP is a web-based tool that walks the user through the steps of developing a Distribution Integrity Management Plan, similar to how tax preparation software walks users through preparing income tax returns. It asks questions about the material of construction of the distribution system; the results of required inspections and tests; the number and causes of leaks on the system and other information relevant to assessing the eight threats in the DIMP rule. Where any threat is elevated, SHRIMP offers suggestions for additional actions the user could implement to reduce that threat as well as performance measures to determine whether the additional action chosen is effective at reducing the threat. The output is a complete, written DIMP plan customized for the user's system that meets all the requirements of the regulation. SHRIMP is available to all distribution operators (investor owned, municipal, master meter, etc) and it is free to the small systems with fewer than one thousand customers.

Control Room Management

The PIPES ACT also required PHMSA to regulate fatigue and other human factors in pipeline control rooms. PHMSA issued control room management rules in December 2009. While these rules may be reasonable when applied to transmission pipeline controllers, unfortunately PHMSA's definition of a controller has the unintended consequences of classifying hundreds of public gas system employees as pipeline controllers. PHMSA's rule fails to differentiate between Supervisory Control and Data Acquisition (SCADA) systems and telemetry systems that simply transmit data to a central office. All SCADA systems include telemetry, but all telemetry is not SCADA if it provides no means to control the operation of the pipeline. By PHMSA's definition, however, anyone who can display telemetered data on a computer is a controller.

Distribution systems typically monitor the pressure and flow at the gate stations where they receive gas from their transmission pipeline supplier. They may also record pressures at various points around the distribution system to ensure there is adequate pressure to deliver gas to customers at the extreme ends of the system. For years these data were recorded on paper charts, manually collected each day. Increasingly utilities are installing telemetry to transmit these data back to the office where it can be periodically reviewed throughout the day by utility managers. This allows faster response to low flow/low pressure situations and frees up the personnel who collected pressure charts for other inspection and maintenance activities. Some systems allow telemetry to be viewed remotely via the internet. This telemetry is for business purposes, not public safety.

Because distribution systems operate at relatively low pressures and are an interconnected network rather than a straight line pipeline, a complete rupture of a distribution line would be unlikely to cause a flow surge or pressure drop detectable by the telemetry system. Even were a pressure drop to be detected, all these "controllers" can do is send other personnel to investigate – they have little or no actual control over the system and no ability to isolate a suspected leak.

For years distribution systems operated safely without the ability to monitor these data in real time. Even today, many of these "SCADA systems" are left unattended at night and over weekends and holidays. Yet PHMSA's rules would require utilities to implement a fatigue management program for individuals and their supervisors who have access to a telemetry monitor that can safely go unattended over nights and weekends. This rule adds significant costs

to a utility's decision to automate the transmission of operational data back to offices and thus stifles the use of telemetry to gas distribution operations.

APGA's concerns could be easily addressed were PHMSA to simply adhere to the unambiguous language in its controller definition that states a controller is one who both monitors AND controls via a SCADA system. Instead, PHMSA stated in the preamble to the rule that it believes "control via a SCADA system" actually means control via means other than a SCADA system, resulting in the unintended consequences described above.

Reauthorization

APGA supports reasonable regulations to ensure that individuals who control the Nation's network of distribution pipelines are provided the training and tools necessary to safely operate those systems. In this regard, over the past several years the industry has had numerous additional requirements placed on it, e.g. DIMP, excess flow valves, control room management, operator qualification, public awareness and more. Many of our members are in the process of working to comply with the administrative burdens of these additional regulations. Given that our members are non-profit systems in many cases with limited resources, these additional regulations, while important, do distract them from important operations, inspection and maintenance tasks. For this reason, APGA strongly supports a clean reauthorization of the Act.

Should the Committee consider revisions to the Act, there are a number of issues APGA would ask the Committee to consider. We urge the Committee to give great consideration before imposing any additional regulatory burdens upon LDC's through this reauthorization effort. In terms of reauthorization, APGA is specifically concerned about an expansion in the requirements for excess flow valves and potential changes in the funding mechanism for PHMSA.

Excess Flow Valves (EFV's)

The PIPES Act included a provision requiring operators to install excess flow valves on new and replaced single residential service that operate year around at or above 10 pound-force per square inch gauge. Exceptions are provided if EFVs are not available, if it is known there are contaminants in the system that would cause the EFV to fail or if it is known there are liquids in the system. Prior to this installation requirement, there was a customer notification rule in place that required gas systems to make their customers aware of the availability of EFVs and install an EFV if the customer was willing to pay installation costs. It was limited to new and renewed services because EFVs are installed underground where the "service line" to a residence connects to the gas main. If a hole is already open and a new connection to the main is being installed, adding an EFV at that time costs just a fraction of what it would cost to install or replace an EFV when no other work is planned at the main-service connection.

Each EFV has a preset closure flow rate. Once installed on a service line it will prevent gas from flowing at any flow rate higher than its preset closure flow rate. There is no way short of replacing the EFV to change its closure flow rate. This is typically not an issue with EFVs on residential service lines since the gas demand to a residence does not typically change

drastically. A residence will have a relatively constant and predictable gas demand over its lifetime so the EFV can be sized accordingly.

However, APGA is greatly concerned about an expansion of the EFV requirements to commercial and industrial businesses and multifamily residences. A commercial building, unlike a residential unit, may see huge changes in gas demand as tenants in the space move in and out. For example, a space in a strip mall that today is occupied by a shoe store could be converted to a restaurant or bakery tomorrow. The gas demand could double or triple. That could require replacing the meter, regulator and EFV. Since the first two items are above ground, replacement is relatively inexpensive. However, the EFV is buried and replacing it would be very costly, often hundreds of times the initial cost of the EFV. To address this problem, an operator could install a grossly oversized EFV with closure flow at or near the free flow limits of the service line. However, a valve so oversized would probably not close even if the line were ruptured, defeating the purpose of having an EFV on the line in the first place.

The same and additional issues apply to installing EFVs on service lines to industrial customers. The flowrates and operating pressures to many industrial customers exceed the capacity of commercially available EFVs.

The potential costs of a false closure of the EFV can be significantly greater for a commercial or industrial customer than a residence. Both would suffer business losses in addition to the inconvenience of no heat or hot water. An evening's loss of business to a restaurant could run into the thousands of dollars, however some industries such as microprocessor chip

manufacturers could see millions of dollars of product ruined by the loss of temperature control required by their processes.

The industry has experience with EFVs designed for typical flow rates to single-family residences, but has little or no experience with EFVs designed for larger flows.

PHMSA has established a working group of government, industry and public experts to study the issues related to installing large volume EFVs on other than single residential services. We encourage Congress to allow this stakeholder working group to proceed towards making specific recommendations on this issue.

Funding of User Fees

Under the current formula, user fees for funding PHMSA are collected by natural gas transmission operators from their downstream customers. User fees are mandatory costs a natural gas transmission operator can pass through to customers in its cost-of-service. This allowable pass-through treatment is similar to other mandatory safety program costs. As a result, it is natural gas distribution operators that pay the user fees to transportation operators in their transportation rates, and it is the natural gas transmission operators that, after collecting the user fees from its customers, pass those fees to PHMSA in the annual pipeline safety user fee assessment.

APGA supports this current formula and we believe it has worked well over the years. APGA is strongly opposed to any changes in the current formula that would shift the user fees to the LDC's. The pipelines currently build these fees into their costs and if they believe they are not recovering the costs, they have an option provided to them under Section 4 of the Natural Gas Act to file for a rate increase with the Federal Energy Regulatory Commission. Since the Federal Energy Regulatory Commission has never turned down a request to include pipeline safety user fees in transportation rates charged by interstate pipelines, the decision whether or not to pass through all or a portion of the user fees to its customers is completely within the pipeline's discretion. If for business reasons a natural gas transmission operator makes a business decision not to pass this safety cost through to one or more of its customers (e.g., it wishes to discount rates to certain customers, avoid filing a rate case, etc.), any consequence arising from that decision should be borne by that natural gas transmission operator.

Shifting fees to distribution would mean that LDC customers would pay both the user fees assessed to the LDC AND the fees passed on in transportation rates charged by their pipeline supplier. Gas customers served directly from a transmission line would pay a lesser amount of user fees per unit of gas than if the same customer were served through the LDC. The current user fee system also greatly simplifies fee collection as there are fewer transmission pipeline operators than there are LDCs. The current system of user fee collection has worked well for over 20 years.

San Bruno Accident

On September 9 a 30 inch diameter, high pressure, natural gas transmission pipeline ruptured and the escaping gas ignited killing 4 people, destroying many houses and disrupting the lives of many San

Bruno residents. Our thoughts and prayers are with the residents and families affected by the recent natural gas transmission line incident in San Bruno, CA. We are deeply saddened by the tragedy.

APGA and its members recognize the importance of operating and maintaining a safe pipeline system. The National Transportation Safety Board (NTSB) is currently investigating the cause of the accident. When all the facts are known, the lessons learned will be applied by the industry to ensure such accidents never happen again.

There are over 2 million miles of gas transmission and distribution pipelines in the United States. The San Bruno pipeline was a transmission line. Transmission lines tend to be large diameter and operate at high pressures in order to efficiently transport large quantities of gas over long distances. Distribution lines are smaller and much lower pressure than transmission lines. The kind of rupture that occurred in San Bruno could not occur on a distribution line because the pressures are much lower than that in transmission pipelines. Ruptures on distribution typically only occur when the line is damaged by an outside force such as excavation equipment. A distribution line rupture places the excavator and people and property in the immediate vicinity at risk, but could not result in the widespread damage seen in the San Bruno accident.

In addition much attention has been placed on the age of the pipeline involved in the San Bruno accident. Reportedly the steel pipe was over 50 years' old, however contrary to what many have insinuated, steel does not lose strength with age. All of the skyscrapers in the world are steel-framed buildings and many, including the Empire State Building, are well over 50-years' old, yet no one has suggested that these buildings should be replaced because the steel frame is aging. Unless steel is damaged by corrosion or by mechanical damage steel pipelines can be safely operated longer than

50-years. Federal regulations and industry practices require monitoring for corrosion and damage prevention programs to prevent mechanical damage.

The close proximity of the houses to the pipeline no doubt contributed to the severity of the accident. The issue of development near pipelines has been addressed by two Transportation Research Board studies and the ongoing Pipelines and Informed Planning Alliance initiative by PHMSA. Those reports contain useful information about what government and communities can do to address this issue.

As Congress, federal and state pipeline safety regulators and industry assess the causes and consider actions to address safety issues raised by the San Bruno accident APGA urges everyone to wait until the facts are known before legislating specific solutions.

Conclusion

Natural gas is critical to our economy, and millions of consumers depend on natural gas every day to meet their daily needs. It is critical that they receive their natural gas through a safe, affordable and reliable delivery by their LDC. We look forward to working with the Committee towards reauthorization of the Pipeline Safety Act.

Chairman Jay Rockefeller and
Subcommittee Chairman Frank Lautenberg
Senate Commerce, Science, and
Transportation Committee
524 Russell Senate Office Building

Chairman James Oberstar and
Subcommittee Chairwoman Corrine Brown
House Transportation and Infrastructure
Committee
2165 Rayburn House Office Building

Chairman Henry Waxman and
Subcommittee Chairman Edward Markey
House Energy and Commerce Committee
2125 Rayburn House Office Building

September 22, 2010

Dear Chairman Rockefeller, Chairman Oberstar, Subcommittee Chairman Lautenberg, and Subcommittee Chairwoman Brown, Chairman Waxman, and Subcommittee Chairman Markey:

On behalf of our millions of members and supporters, we write to you today to express concern with current pipeline safety regulations and to suggest modifications necessary to truly protect Americans' health and welfare. We appreciate the Obama Administration's efforts to address pipeline safety through the draft legislation sent to Congress last week; however, this draft falls far short of what is needed to protect the U.S. public and in some areas weakens protections. We have seen the impacts of the insufficient state of our pipeline safety regulations in Kalamazoo, Michigan, and San Bruno, California, most recently. These tragic incidents serve as a stark wake-up call that we must take dramatic steps to strengthen the oversight of oil and gas pipelines.

To achieve this, we recommend the following changes to pipeline oversight legislation:

- The Pipeline and Hazardous Materials Safety Administration (PHMSA) should be required to conduct a comprehensive review, subject to public notice and comment, of its pipeline safety regulations to determine those regulations that are out-of-date and in need of revision. For example, current federal regulation passed in 1981 requires only a 50-foot distance between new pipelines of any size and existing homes, businesses, hospitals, schools, while many new high-pressure pipelines can result in fatal explosions from a much farther distance than 50 feet. This inadequate, out-dated, one-size-fits-all standard must be revised to match current infrastructure and technological capabilities. For example, because of increasing U.S. imports of Canadian tar sands oil, this study should include an assessment of the interaction of tar sands oil, or bitumen, with traditional pipeline material, and the impacts this heavier crude has on corrosion and failure rates.
- The above study should also include an investigation into the use of mislabeled and defective steel (about which PHMSA issued an advisory bulletin in 2009), detailing steps the agency is taking to address the problem, and recommendations on how it will be prevented in the future.
- A moratorium should be placed on the issuing of special permits until the above study has been conducted and the regulations amended in consideration.
- Pipeline companies must be required to provide upfront financial commitments to host landowners to pay for the removal, fill or other mitigation of abandoned large-diameter pipelines. Absent this, private landowners and local government face a substantial risk that they will bear the full cost of abandonment. Further, landowners and stakeholders must be informed about the exact nature of the materials contained within abandoned pipelines. A requirement that the pipeline company dig up the pipe and reclaim the right-of-way should be

considered. Additionally, a mandatory retirement process should be established by regulation for older pipelines based on age, frequency of leaks, evidence of systemic materials defects, and other warning factors.

- Pipeline companies should be required to post a bond to ensure full funding for proper remediation in the case of spills or leaks.
- The integrity management plan structure must be re-evaluated; specifically, the definition of high-consequence areas, and the additional oversight requirements mandated for these areas, should be expanded to include a higher percentage of pipelines. The designation as high- or low-consequence should be reported to all landowners along proposed pipeline right-of-ways, and legally mandated integrity management plans should be subject to public notice and comment so that the citizens who have the most at stake, whose homes, businesses, families and lives are at risk, have a say in the adequacy of this safety planning.
- PHMSA should provide for public notice and comment on pipeline emergency response plans (ERP) before the start of project operations so that the citizens and first responders put most at risk can review and comment on these.
- Pipeline companies should be required to disclose the exact nature of chemical diluents used in the transport of the heaviest crude oils. In considering a project for permitting and operation, landowners and stakeholders should be informed as to the content of pipelines running through their land, particularly in the event of a spill.
- Opportunities for public review and participation in PHMSA's pipeline safety activities must be expanded. Currently, PHMSA allows public review and comment in only one of its project-specific regulatory processes, that for waivers of federal safety standards pursuant to 49 U.S.C. § 60118 (PHMSA uses the term "special permits" instead of "waiver," 49 C.F.R. § 190.341). PHMSA provides *no other* formal opportunities for public review of any of its project-specific regulatory actions, such as its review and approval of integrity management plans and emergency response plans. The result of this opaque regulatory process is that PHMSA's project-specific safety activities are currently conducted almost entirely without opportunity for stakeholder input. Disturbingly, the Administration's recent draft pipeline safety legislation would allow PHMSA to ***eliminate*** public participation even in the "special permit" process. It would allow PHMSA to make project-specific changes in *any* existing safety standards without *any* opportunity for public review and comment on the change. We hope you agree that in all aspects of pipeline oversight, public participation and agency transparency should be *increased*, not decreased. The Administration bill in its current form achieves the opposite.

Again, we appreciate the efforts of the Administration and Congress to address the failures of our current pipeline oversight mechanisms, but we hope to see these additional steps taken to safeguard the American public against further tragedy at the hands of our energy infrastructure. We look forward to working with you to ensure that these concerns are addressed in upcoming legislation.

Sincerely,

Debbie Sease, Director of Campaigns
The Sierra Club

Corry Westbrook, Legislative Director
National Wildlife Federation

Alex Moore, Dirty Fuels Campaigner
Friends of the Earth

Carrie La Seur, President and Founder
Plains Justice

Lauren Pagel, Policy Director
EarthWorks

Sara Kendall, DC Office Director
Western Organization of Resource Councils

Cc:
Senator Barbara Boxer
Senator Diane Feinstein
Congressman Mark Schauer
Congressman Ed Markey
Administrator Cynthia Quarterman, Pipelines and Hazardous Materials Safety Administration

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

JOE BARTON, TEXAS
RANKING MEMBER

ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115

Majority (202) 225–2927
Minority (202) 225–3641

October 18, 2010

The Honorable Cynthia L. Quarterman
Administrator
Pipeline and Hazardous Materials Safety Administration
East Building, 2nd Floor
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Administrator Quarterman:

Thank you for appearing before the Subcommittee on Energy and Environment on September 23, 2010, at the hearing entitled "Pipeline Safety Oversight and Legislation."

Pursuant to the Committee's Rules, attached are written questions for the record directed to you from certain Members of the Committee. In preparing your answers, please address your response to the Member who submitted the questions.

Please provide your responses by November 1, 2010, to Earley Green, Chief Clerk, via e-mail to Earley.Green@mail.house.gov. Please contact Earley Green or Jennifer Berenholz at (202) 225-2927 if you have any questions.

Sincerely,

Henry A. Waxman
Chairman

Attachment

Chairman Henry A. Waxman
House Committee on Energy and Commerce
Hearing on 'Pipeline Safety Oversight and Legislation'
September 23, 2010

The Honorable Doric O. Matsui

Question 1: Do you believe that the agency's enforcement strategy and penalties to deter future non-compliance and incentivize better industry performance should be updated? If you agree, what specific steps would PHMSA take to do so?

Response 1: Yes, PHMSA believes its penalty limits should be updated. The Administration's proposed legislation would increase both the daily and maximum civil penalty limit for major pipeline safety violations.

Question 2: Penalties are an effective tool to ensure operator accountability. Is the current cap on PHMSA's administrative civil penalties of up to $100,000 per violation, per day and up to $1 million for a related series of violations adequate to accomplish this objective?

Response 2: PHMSA employs civil penalty enforcement and agrees it can be an effective means of emphasizing the importance of compliance to company executives. As reflected in the Administration's proposed legislation, PHMSA believes the civil penalty caps should be increased to improve enforcement effectiveness and increasing the cap from $250,000 to $1 million. impact.

Question 3: Do you have any suggested modifications for Congress as it reviews the Administration's recent proposal to reauthorize pipeline safety programs?

Response 3: PHMSA recommends that Congress adopt the Administration's proposal to send a strong message to the pipeline industry that non-compliance will be met with robust, effective enforcement.

The Honorable Jim Matheson

Question 1: Currently, the purported cause of the Salt Lake spill is that a branch fell during a heavy windstorm, created an electric arc, which hit a metal fencepost that was driven to the ground just inches from the pipeline. When the electricity arced through that fencepost, it burned a hole in the pipeline. While this appears to be a very unusual accident, do you believe that industry inspections of pipelines are thorough enough to note what other potential hazards, like this fencepost, are surrounding their pipelines? How effective would more frequent patrolling (weekly, biweekly) be in helping prevent or eliminate risks?

Response 1: The existing Federal pipeline safety regulations explicitly require the protection of pipelines from fault currents or lightning. However, verifying that patrollers are trained to identify the risks that electrical facilities and other structures pose to pipelines is not currently a focus of PHMSA inspections. It is an area that is worth looking into further. In regards to the Chevron spill specifically, PHMSA issued a Notice of Probable Violation with a proposed Compliance Order and a proposed Civil Penalty of $423,600 on November 1, 2010.

Question 2: In the Salt Lake spill, it appears that the monitoring equipment on the pipeline failed to indicate there was a leak for several hours after the hole was created, and the first time Chevron was aware of the leak was when the Salt Lake City Fire Department called them the next day. How effective are current monitoring systems for safety and immediate leak notification? Are best available monitoring and pipeline shut off technologies required to be used by the industry? If not, why not?

Response 2: PHMSA regulations specify that operators must have a means for detecting and responding to leaks on its systems. The regulations do not specify the type of technology or equipment to be used. Many operators employ computational pipeline monitoring leak detection systems. These types of systems, which vary in complexity relative to each unique pipeline system, should use the latest technology available. In PHMSA has issued an ANPRM seeking comments on whether PHMSA should standardize leak detection criteria. In early 2008, per the Pipeline Inspection, Protection, Enforcement and Safety Act of 2006 requirement, PHMSA sent a study on leak detection to Congress. We would be happy to provide an additional copy of the study.

Question 3: Do you believe the current fine(s) for pipeline safety violations are high enough to ensure industry takes pipeline safety precautions seriously? If not, what level of fines can be imposed on pipeline operators that would so severely impact them that they would work extremely hard to prevent another spill?

Response 3: The Administration's proposed legislation would increase both the daily and maximum civil penalty limit for major pipeline safety violations. PHMSA agrees civil penalties can be an effective means of emphasizing the importance of compliance to company executives. PHMSA believes the civil penalty caps should be raised to improve enforcement effectiveness and increasing the cap from $250,000 to $1 million.

Question 4: A large portion of pipelines in this country were built over fifty years ago. What is the lifecycle of a hazardous materials pipeline? How frequently are aging pipelines phased out or required to be upgraded/replaced?

Response 4: The life cycle of pipelines includes the phases of planning and design, construction,, operations & maintenance, and retirement of the pipeline asset. While accounting factors address the service life of a pipeline for investment purposes, properly maintained pipelines do not have a defined service life and can and do safely operate for many decades. Age is only one of many factors PHMSA expects operators to consider when addressing pipeline integrity. Other factors include maintenance and incident history, pipe manufacturing method, and operating environment, to name only a few. Because of this, PHMSA does not assign service life or target replacement dates, however PHMSA has broad authority to require operators to address problem pipelines, which may include replacement.

Question 5: Given that many oil and gas pipelines run through highly populated areas, is it feasible to require these pipelines to be relocated? If not, what technologies exist to upgrade the pipelines to safeguard these urban environments?

Response 5: Relocation options for pipelines in populated areas are subject the availability of available corridors, and the willingness of the public, whose energy needs are served by the pipelines, to accept higher rates to cover relocation costs. PHMSA's mission focuses on the safety of people living and working safely near pipelines and the protection of the environment. Inspection tools and methods are currently available to verify the integrity of pipelines in urban and other areas including in-line inspection tools using "smart pigs," pressure testing, and a number of electronic inspection techniques. Technologies also exist to upgrade low pressure pipelines in urban areas, including pipe liner systems. Full pipe replacement is also an option where necessary. Finally, PHMSA

aggressively pursues and supports updated and new technology by funding research and development projects to enhance the accuracy of inspection tools and to develop new inspection tools

Question 6: Salt Lake City, Salt Lake County, and the western U.S. are all situated in high seismic areas. What is being done with regulations and safety assessments to address the safety risks to human populations and drinking water because pipelines are allowed to be located in fault areas? Does PHMSA require pipeline integrity management plans to take geographical considerations, like proximity to fault lines, into account?

Response 6: Yes, pipeline integrity management plan requirements must take into account all threats to the pipeline, including seismic and land movement issues. PHMSA inspectors check to see if operators are adequately addressing these risks. The integrity management regulations are designed to provide additional protections for high consequence areas like drinking water and high population areas.

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

JOE BARTON, TEXAS
RANKING MEMBER

ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115

Majority (202) 225–2927
Minority (202) 225–3641

October 18, 2010

The Honorable Christopher Hart
Vice Chairman
National Transportation Safety Board
490 L'Enfant Plaza East, SW
Washington, DC 20594

Dear Mr. Hart:

Thank you for appearing before the Subcommittee on Energy and Environment on September 23, 2010, at the hearing entitled "Pipeline Safety Oversight and Legislation."

Pursuant to the Committee's Rules, attached are written questions for the record directed to you from certain Members of the Committee. In preparing your answers, please address your response to the Member who submitted the questions.

Please provide your responses by November 1, 2010, to Earley Green, Chief Clerk, via e-mail to Earley.Green@mail.house.gov. Please contact Earley Green or Jennifer Berenholz at (202) 225-2927 if you have any questions.

Sincerely,

Henry A. Waxman
Chairman

Attachment

1. **When federal agencies respond to an incident, there are often requests to share information and support the investigations of other agencies. Do you believe that the existing regulatory framework ensures cooperation between federal agencies to prevent accidents and protect safety? If no, could you please offer specific examples of ways in which this structure could be improved?**

   The NTSB believes that the existing statutory framework ensures cooperation among the various agencies with an interest in transportation safety.

   The NTSB is charged with completing an objective, independent and detailed investigation of certain transportation accidents. It does so with the assistance of other federal, state and local agencies working within the NTSB's party system. We have generally experienced strong support from such agencies for our fact gathering in the early stages of investigation. Likewise, the NTSB is cognizant of Congress's desire that, "[t]he Board and other departments, agencies, and instrumentalities shall ensure that appropriate information developed about the accident is exchanged in a timely manner." 49 U.S.C. § 1131(a)(3).

   We believe the process has worked admirably well over the years, with the NTSB routinely obtaining factual information in the possession of regulatory bodies, and prompt witness testimony of regulatory employees having personal knowledge of factual information related to oversight activities by such regulatory bodies. Similarly, the NTSB regularly provides requested factual information it has collected to regulators and law enforcement entities as well, as they pursue safety-related regulatory reviews and criminal investigations into the facts and circumstances surrounding an accident. We believe, again consistent with statutory requirements, that NTSB preserves it independence by alone determining probable cause(s) of an accident it investigates (see 49 U.S.C. § 1131(a)(2)(A), "However, those departments, agencies, or instrumentalities may not participate in the decision of the Board about the probable cause of the accident."). Likewise, the NTSB does not participate directly in a regulatory inspection or enforcement investigation, nor does the NTSB participate in activities solely intended to advance the criminal investigation, such as suspect interviews. This is to ensure the NTSB's focus remains on transportation safety and to enhance the ability of NTSB investigators to obtain cooperation from key witnesses following an accident.

   In summary, we believe the current statutory balance is appropriate and serves the interests of the various agencies having statutory responsibilities following a transportation accident.

2. **Do you have any suggested modifications for Congress as it reviews the Administration's recent proposal to reauthorize pipeline safety programs?**

   PHMSA has made great strides in addressing a number of matters mandated by Congress in the Pipeline Safety Improvement Act of 2002, as well as the Pipeline, Inspection, Protection, Enforcement and Safety Act of 2006. The major pipeline accidents in the past few months, however, clearly demonstrate that despite the progress, improvements are still needed. As noted in our statement before the subcommittee, the NTSB believes more can be done in the areas of:

   - Regulation of low-stress pipeline systems
   - The use of excess flow valves in natural gas distribution systems
   - Oversight of integrity management programs
   - Establishing requirements for automatic shutoff valves and remote controlled valves

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

JOE BARTON, TEXAS
RANKING MEMBER

ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115

Majority (202) 225–2927
Minority (202) 225–3641

October 18, 2010

Mr. Rick Kessler
Vice President
Pipeline Safety Trust
1155 North State Street, Suite 609
Bellingham, WA 98225

Dear Mr. Kessler:

Thank you for appearing before the Subcommittee on Energy and Environment on September 23, 2010, at the hearing entitled "Pipeline Safety Oversight and Legislation."

Pursuant to the Committee's Rules, attached are written questions for the record directed to you from certain Members of the Committee. In preparing your answers, please address your response to the Member who submitted the questions.

Please provide your responses by November 1, 2010, to Earley Green, Chief Clerk, via e-mail to Earley.Green@mail.house.gov. Please contact Earley Green or Jennifer Berenholz at (202) 225-2927 if you have any questions.

Sincerely,

Henry A. Waxman
Chairman

Attachment

Pipeline Safety TRUST

Credible.
Independent.
In the public interest.

1155 North State Street, Suite 609, Bellingham, WA 98225 **Phone** 360-543-5686 **Fax** 360-543-0978 http://pipelinesafetytrust.org

Answers to questions from the Honorable Doris O. Matsui

1. The steel transmission pipeline involved in the San Bruno explosion was constructed in 1956. Taking the age of this pipeline into account, what improvements have been made with regard to pipeline technology since that time to maintain pipeline integrity and prevent threats to safety?

There are a number of improvements that have been made since 1956 that improve the safety of pipelines if they are implemented correctly. They include:

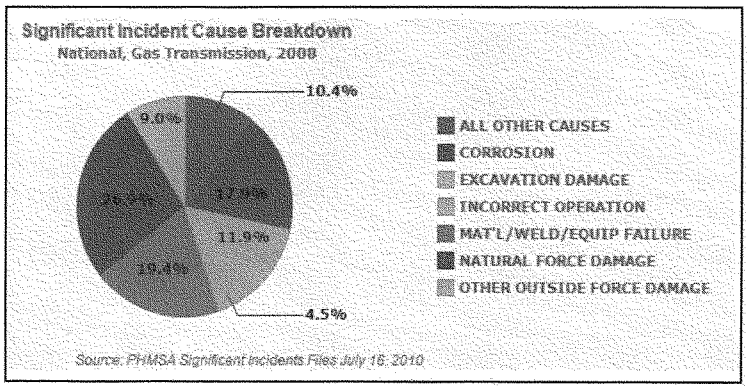
- Better cathodic protection
- Better standards for and quality of steel
- Better welding technologies
- Better pipeline coatings
- Better inspection techniques, particularly internal in-line inspections
- Better understanding of integrity threats and integrity management planning

2. Knowing that proper maintenance should maintain the pipeline, would you agree that industry should consider re-examining pipeline technologies?

Yes, not only should technologies be re-examined, but the integrity management plans of companies need to be carefully reviewed to ensure that the best and most appropriate technologies are being used to maintain pipelines. Unfortunately only 7% of the gas transmission pipelines in this country, like the one in San Bruno, are required to have integrity management plans that require companies to show they are considering the proper technologies and inspecting them on a regular basis for proper maintenance.

3. It is well noted that pipeline releases have caused relatively few fatalities in absolute numbers. However, a single pipeline accident can be catastrophic. In fact, 63 natural gas pipeline transmission accidents occurred in 2008 according to the U.S. Department of Transportation. If industry is properly servicing its pipeline networks, why do accidents similar to the incident in San Bruno continue to occur?

There are many reasons that pipelines incidents continue to occur. The charts below shows the cause of the 67 significant incidents on natural gas transmission pipelines in 2008, and as you can see nearly 50% of the incidents are caused by things clearly within the pipeline operators control (corrosion, operation, materials, welds, their own excavation, etc). This shows that the industry is not always "properly servicing its pipeline networks."



National Gas Transmission: Significant Incident Details: 2008

Reported Cause of Incident [B]	Number	%
CORROSION		
EXTERNAL CORROSION	6	8.9%
INTERNAL CORROSION	6	8.9%
Sub Total	12	17.9%
EXCAVATION DAMAGE		
OPERATOR/CONTRACTOR EXCAVATION DAMAGE	4	5.9%
THIRD PARTY EXCAVATION DAMAGE	4	5.9%
Sub Total	8	11.9%
INCORRECT OPERATION		
UNSPECIFIED INCORRECT OPERATION	3	4.4%
Sub Total	3	4.4%
MAT'L/WELD/EQUIP FAILURE		
ENVIRONMENTAL CRACKING-RELATED	1	1.4%
BODY OF PIPE	1	1.4%
PIPE SEAM	1	1.4%
BUTT WELD	3	4.4%
JOINT/FITTING/COMPONENT	5	7.4%
MALFUNCTION OF CONTROL/RELIEF EQUIPMENT	2	2.9%
Sub Total	13	19.4%
NATURAL FORCE DAMAGE		
EARTH MOVEMENT	1	1.4%
HEAVY RAINS/FLOODS	14	20.9%
LIGHTNING	1	1.4%
HIGH WINDS	2	2.9%
Sub Total	18	26.8%
OTHER OUTSIDE FORCE DAMAGE		
FIRE/EXPLOSION AS PRIMARY CAUSE	1	1.4%
VEHICLE NOT ENGAGED IN EXCAVATION	5	7.4%
Sub Total	6	8.9%
ALL OTHER CAUSES		
MISCELLANEOUS CAUSE	6	8.9%
UNKNOWN CAUSE	1	1.4%
Sub Total	7	10.4%
Totals	67	100.0%

4. The California Public Utilities Commission has asked PG&E to determine the amount of time it would take to prepare a list of where gas transmission lines manual shut-off valves could be replaced with remotely operated or automatic versions. Do you concur with experts who have stated that automatic or remote valves allow utilities to more quickly halt the flow of gas after explosions?

Yes, clearly a valve that closes automatically or that can be operated from a control room can be closed much faster than finding an employee who has a key to the valve and having them drive to the location and close the valve by hand.

AGA
American Gas Association

LORI S. TRAWEEK
Senior Vice President & Chief Operating Officer

November 1, 2010

The Honorable Doris O. Matsui
United States House of Representatives
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515-6115

Re: September 23, 2010, Pipeline Safety Oversight and Legislation

Dear Representative Matsui:

Thank you for your work to improve pipeline safety. As requested, the American Gas Association (AGA) has provided answers to the written questions for the record of the above referenced hearing.

Question No. 1. *- It is well noted that pipeline releases have caused relatively few fatalities in absolute numbers. However, a single pipeline accident can be catastrophic. In fact, 63 natural gas pipeline transmission accidents occurred in 2008 according to the U.S. Department of Transportation. If industry is properly servicing its pipeline networks, why do accidents similar to the incident in San Bruno continue to occur?*

AGA Response: AGA and its members believe that any incident, no matter the size, is one incident too many. The natural gas industry prides itself on being the safest and most reliable method of delivering energy throughout the nation – energy that 70 million residential, commercial and industrial natural gas customers depend on every day.

AGA has reviewed the Department of Transportation (DOT) database for pipeline incidents and has listed information on the 2008 incidents below. The database listed 67 incidents on gas transmission pipeline in 2008.

Incident Cause Category	Number	Percentage	Fatalities	Injuries
Corrosion	12	17.9%	0	0
Excavation damage	8	11.9%	0	1
Incorrect operation	3	4.4%	0	2
Material, weld, equipment failure	13	19.4%	0	1
Natural force damage (Floods, etc)	18	26.8%	0	0
Other outside forces (vehicles)	6	8.9%	0	1
All other causes	7	10.4%	0	0
Total	67	100%	0	5

There were 296,045 miles of gas transmission pipelines in 2008. Therefore, the average incident rate was approximately one incident per 4,700 miles, while operating 24 hours a day, 365 days a year. That is the distance equivalent of going from Washington, D.C., to Los Angeles and then back east to Chicago. It is important to note that a number of the incidents in 2008, such as excavation damage, natural force damage (i.e., floods, earthquakes, lightning, high winds) and other outside forces (e.g., vehicular damage) are largely outside the control of natural gas operators. These incidents account for approximately half of the natural gas transmission incidents reported in 2008. It should also be noted that a significant number of the incidents did not result in injuries or fatalities and were reported based on property damage or the discretion of the operator.

AGA does not view the tragic incident in San Bruno as representative of other pipeline incidents, or an indication of a systemic problem with the nation's transmission infrastructure. The San Bruno incident is arguably the most significant natural gas transmission incident in the past 30 years. The operator, federal and state investigators, and the National Transportation Safety Board, are working diligently to determine the cause or causes of the accident. The San Bruno incident appears unique in its scope and consequences, meaning it may not be directly applicable to other gas transmission pipeline in California or across the nation. AGA stands ready to work with you and all of the relevant parties to apply the lessons learned from the San Bruno incident so that the natural gas distribution and transmission system continues to be the safest and most reliable method of delivering energy throughout the nation.

Question No 2. *- The California Public Utilities Commission has asked PG&E to determine the amount of time it would take to prepare a list of where gas transmission lines' manual shut-off valves could be replaced with remotely operated or automatic versions. Do you concur with experts who have stated that automatic or remote valves allow utilities to more quickly halt the flow of gas after explosions?*

AGA Response: Automatic Shut-off Valves (ASVs) and Remote Control Valves (RCVs) have the potential to shut off gas quicker than manual valves, but the location, siting, permitting, installation and maintenance of these types of valves in densely populated areas are very challenging and complex undertakings. Further, technical studies show that the majority of the property damage and injuries occur in the first few minutes of a rupture when the peak flow of gas is released. This initial damage will occur regardless of whether a manual valve, RCV or ASV is installed.

Current pipeline safety regulations require operators to consider installation of RCVs or ASVs to mitigate the consequences of a potential failure and define the spacing for the installation of shutoff valves based on potential risks associated with population density. However, gas transmission systems, unlike hazardous liquid pipelines, are designed to operate continuously. Hazardous liquid pipeline customers such as refineries and power plants have storage tanks to manage pipeline interruptions. The continuous nature of the nation's natural gas pipe infrastructure makes the installation of automatic and remote valves even more complex.

Automatic and remote shutoff valves present the possibility of an inadvertent shutdown of the gas supply to hospitals, power and chemical plants, or cities, which could have severe adverse consequences.

Natural gas is a compressible fluid and the discharge from a rupture will not stop immediately when a valve is closed. ASVs and RSVs (like manual valves) will require a time lag before gas flow is stopped because:

1. Time is required for the pressure change to travel from the gas release site to the valve pressure sensor.
2. Time is required for the valve to close.
3. After the valve is closed, the compressed gas in the pipe will continue to flow to the gas release site.

Finally, it is critical to note that there are risks in attempting to shut down gas transmission pipelines to retrofit them with automatic or remote valves. Construction and tie-in procedures on live pipelines create some of the most potentially hazardous operating conditions encountered. In addition, excavations necessary for new or retro-fit valve installations, including ASV and RCV equipment, have the potential to damage the pipe and/ or pipe coating that protects the pipe from external corrosion, which could compromise the integrity of the transmission line.

I hope the information provided will help the legislative and regulatory processes. AGA is committed to operational excellence in the safe, reliable efficient delivery of natural gas to the 70 million customers who rely on this clean, abundant and domestic fuel to meet their energy needs. If you need additional information please contact me.

Respectfully,

Lori S. Traweek