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THE AMERICAN ENERGY INITIATIVE

THURSDAY, JULY 21, 2011

House of Representatives,  
Subcommittee on Energy and Power,  
Committee on Energy and Commerce,  
Washington, D.C.

The subcommittee met, pursuant to call, at 9:17 a.m., in Room 2322, Rayburn House Office Building, Hon. Ed Whitfield [chairman of the subcommittee] presiding.

Present: Representatives Whitfield, Sullivan, Terry, Burgess, Bilbray, Scalise, Olson, Gardner, Pompeo, Griffith, Upton (ex officio), Rush, Dingell, Green, Gonzalez, and Waxman (ex officio).

Staff Present: Gary Andres, Staff Director; Charlotte Baker, Press Secretary; Michael Beckerman, Deputy Staff Director; Maryam Brown, Chief Counsel, Energy and Power; Andy Duberstein, Special Assistant to Chairman Upton; Garrett Golding, Professional Staff

Member, Energy; Cory Hicks, Policy Coordinator, Energy and Power; Katie Novaria, Legislative Clerk; Jeff Baran, Minority Senior Counsel; and Caitlin Haberman, Minority Policy Analyst.

Mr. Whitfield. I will now call the hearing to order.

As you know, this is a hearing regarding the discussion draft, the Pipeline Infrastructure and Community Protection Act of 2011. We had to interrupt the hearing the last time. We had heard from two panels of witnesses. So, today, we are going to hear from the last panel of witnesses; and we do appreciate you all taking time to come back and offer us your thoughts on this discussion draft.

On the third panel today we have Mr. Andrew Black, who is the president of the Association of Oil Pipe Lines; and he is also testifying on behalf of the American Petroleum Institute.

We have Mr. Daniel Martin, who is senior vice president, pipeline safety, El Paso Pipeline Group; and he is also testifying on behalf of the Interstate Natural Gas Association of America.

We have Mr. Rick Kessler, who is the -- I don't know if he is the executive director or not, but he is here testifying on behalf of the Pipeline Safety Trust.

Mr. Kessler. Vice president.

Mr. Whitfield. Vice president. Thank you.

Then we have Mr. Charles Dippo, who is vice president, Engineering Services and System Integrity, for South Jersey Gas Company and also on behalf of the American Gas Association.

Then we have Mr. Gary Pruessing, who is the president of ExxonMobil Pipeline Company.

Once again, welcome. Thank you for being here. We look forward to your testimony. Each one of you will be given 5 minutes for your

testimony.

Mr. Black, we will begin with you. You are recognized for 5 minutes.

**STATEMENTS OF ANDREW J. BLACK, PRESIDENT, ASSOCIATION OF OIL PIPE LINES, ON BEHALF OF THE AMERICAN PETROLEUM INSTITUTE; DANIEL B. MARTIN, SENIOR VICE PRESIDENT, PIPELINE SAFETY, EL PASO PIPELINE GROUP, ON BEHALF OF THE INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA; ERIC KESSLER, VICE PRESIDENT, PIPELINE SAFETY TRUST; CHARLES F. DIPPO, PE, VICE PRESIDENT, ENGINEERING SERVICES AND SYSTEM INTEGRITY, SOUTH JERSEY GAS COMPANY, ON BEHALF OF THE AMERICAN GAS ASSOCIATION; GARY PRUESSING, PRESIDENT, EXXONMOBIL PIPELINE COMPANY**

**STATEMENT OF ANDREW J. BLACK**

Mr. Black. Good morning. Thank you, Chairman Whitfield. I appreciate the opportunity to appear on behalf of AOPL and API.

Advancing the cause of pipeline safety is a goal we all share. The subcommittee discussion draft would improve pipeline safety by building on the good work in S. 275, the pipeline safety reauthorization bill approved by the Senate Commerce Committee on a bipartisan basis. We hope S. 275 will be approved by the full Senate soon, although there are changes we seek to it before it were to become law.

The draft before this committee today is an improvement over S. 275 in certain areas. My written testimony makes certain suggestions

on how the draft can be improved further.

I specifically want to commend the draft bill's provisions regarding damage prevention. Excavation damage is the leading cause of pipeline accidents that kill or injure people. Eliminating exemptions to one-call programs that require an excavator to call 811 before digging, as the draft would do, is a meaningful pipeline safety enhancement. This section will save lives, reduce injuries, and protect the environment.

The draft wisely delegates many technical and engineering risk management decisions to PHMSA. Proper pipeline regulation involves a technical engineering analysis of risks and potential solutions. I encourage the committee to avoid presuming new regulations are necessary unless there is evidence that the current regulatory framework has failed. In many cases, the draft properly avoids presuming such failures in advance of study.

We support the draft's provisions concerning operator incident notification procedures to the National Response Center and revising PHMSA enforcement processes.

The draft also requires several studies we do not oppose, including on leak detection technologies. The last time leak detection was studied, just 3 years ago, PHMSA did not conclude that this complex issue was in need of a rulemaking. Leak detection is a combination of technologies, practices, and systems, often customized, sometimes proprietary, and not one off-the-shelf technology. While we all want leak detection to improve, priority should be placed on

improving the technology and capability to match increasing expectations.

Our members contribute to research on leak detection and do not believe Congress should require a rulemaking before knowing what the study will conclude. We recommend the committee delete the requirement for a rulemaking in the draft but keep the study.

We fully support timely and accurate reporting of pipeline incidents, but we want to make sure replacing the current reporting standards with a hard deadline does not create the potential for more false-alarm notifications just to achieve compliance with the deadline. False-alarm notifications cause unnecessary deployments of first responders and an unwarranted expenditure of resources and manpower by government. We encourage the committee to discuss this issue with PHMSA and State regulators. You may find the revisions to the reporting procedures in the draft by themselves facilitate more prompt notification of pipeline incidents.

A lot of attention now is being given to the pipeline incident in Montana earlier this month. Once the root cause of an accident is determined, we can identify the proper responses, both technical and regulatory. Any premature regulatory changes not based on the investigation and understanding of the underlying cause of an accident could distract regulators and the industry from addressing the real cause of the incident. Basing pipeline regulation on solid information will help achieve our shared objective of minimizing pipeline accidents. Nobody wants to avoid pipeline failures more than

we do.

The safety performance of the liquid pipeline industry has improved over the past decade but can always improve further toward the goal of zero accidents. Our associations and our members work hard to prevent pipeline accidents and identify and implement lessons that can be learned from them.

Each of the major causes of pipeline failures decreased over the last 10 years, reflecting the success of several different strategies to manage risks. The major causes of pipeline failures are already addressed by a thorough set of Federal and State regulations, including internal corrosion, external corrosion, materials and equipment failures, and operations errors. Also, PHMSA is an aggressive regulator, unafraid to use its many tough inspection and enforcement tools.

We welcome the opportunity to work with members of the committee and other stakeholders, including the Pipeline Safety Trust, on legislation to further improve pipeline safety. The discussion draft is a good start.

Thank you.

[The prepared statement of Mr. Black follows:]

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Mr. Whitfield. Thank you, Mr. Black.

Mr. Martin, you are now recognized for 5 minutes.

**STATEMENT OF DANIEL B. MARTIN**

Mr. Martin. Thank you, Mr. Chairman.

Mr. Chairman and members of the subcommittee, my name is Dan Martin; and I am senior vice president of pipeline safety for El Paso Pipeline Group. El Paso owns and operates 43,000 miles of interstate and natural gas pipelines, representing 13 percent of the total U.S. capacity. Twenty-six percent of the natural gas consumed in the U.S. flows through one of our pipelines.

Today I am testifying on behalf of the Interstate Natural Gas Association of America, or INGAA. Our members include virtually all of the interstate natural gas transmission pipelines in the United States, operating about 220,000 of large-diameter pipelines that are analogous to the interstate highway system.

Last month, INGAA testified before this subcommittee and outlined our perspectives on pipeline safety generally and our positions on particular provisions of the Senate pipeline safety bill, S. 275, specifically.

We stated this last month, but it bears repeating, that while the safety record of the natural gas transmission system is very strong, we at INGAA recognize that continuous improvement in the safety of our pipelines is an imperative. Our goal is zero pipeline incidents.

This is an ambitious goal to be sure, but it is only by setting ambitious goals that the highest levels of performance can be reached.

We think that the draft bill being discussed today does advance continuous improvement in pipeline safety, and therefore we support this bill and offer the following comments:

First, on damage prevention. We think the draft bill is extremely aggressive in terms of eliminating exemptions from participation. Most, if not all, of the groups at this table support comprehensive damage prevention or call-before-you-dig programs as the best solution for avoiding the most preventable and the most deadly type of pipeline accident. Added to the already strong list of prohibited exemptions from the Senate legislation is mechanized excavation, which effectively is requiring universal participation by all major excavators. This is raising the bar significantly.

Next is the provision on integrity management. Our association has embraced the idea of expanding integrity management beyond the existing focus on high-consequence areas, and we therefore support authorization from Congress for DOT to undertake such an effort. We do think that it is important to continue to focus on reducing risks in populated areas and likewise want to see the Integrity Management Program expanded in a manner that reduces risk to an increasing number of people living or working near pipelines. The draft bill enumerates those components of an expansion.

The draft bill also requires a rulemaking on removing the redundancy between legacy class location regulations to natural gas

transmission pipes and the newer integrity management regulations. Both regulations are designed to address the same issue, reducing the risk of an incident in populated areas. The difference is that class location requirements were created in 1970 before pipeline inspection technologies were invented and therefore before the development of pipeline monitoring capabilities that are a reality today under the Integrity Management Program.

Let me be clear. The Integrity Management Program regulates all natural gas transmission pipeline segments located in populated areas, including especially the most densely populated areas. Our goal is to eliminate the belt and suspender situation today, where we have a newer and far superior regulation that has been added, while at the same time an older regulation to accomplish the same objective has remained in place.

As we mention in our written testimony, when DOT performed its cost-benefit analysis on the gas transmission integrity management rule back in 2003, it assumed that class location requirements would be waived for pipe segments covered under the new Integrity Management Program and therefore counted a \$1 billion savings to industry as part of the new rules benefit. Rather than depending on waivers to address this redundancy, though, there ought to be a consistent policy developed through a rulemaking. If integrity management is a program that needs to be expanded, then we should also eliminate older, less effective regulations designed to address the same issues.

Mr. Chairman, we have other comments in our written testimony,

but in the interest of time I will conclude here by thanking you and the subcommittee for inviting INGAA to comment on the draft bill and, most importantly, for getting this reauthorization under way so it can be completed this year.

I will be happy to answer questions at the appropriate time.

[The prepared statement of Mr. Martin follows:]

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Mr. Whitfield. Thank you very much, Mr. Martin.

Mr. Kessler, you are recognized for 5 minutes.

#### STATEMENT OF ERIC KESSLER

Mr. Kessler. Thank you, Mr. Chairman, and thank you, Chairman Upton and members of the committee and subcommittee. I appreciate you inviting the Pipeline Safety Trust to speak today and provide its views on the draft legislation.

Now, according to PHMSA's own statistics for the past 10 years, pipeline accidents kill or hospitalize at least one person in the U.S. every 8.7 days on average and cause more than \$470 million in property damage each year. Even since the Trust testified last month before the committee, another incident has dumped somewhere on the order of 42,000 gallons of crude oil into the Yellowstone River. On top of tragedies in Michigan, California, and Pennsylvania, I think it is important that we now move forward on a strong bill to address the tragedies of the past year and close gaps in pipeline safety that have been identified to help restore the public trust.

I agree with my friend and former committee colleague, Mr. Black, in that the draft bill is a good start, but, because time is short, I am going to focus on some improvements we think need to be made to the bill.

In Section 2, civil penalties, PHMSA has ample discretion in how it applies fines and usually leans toward the low end, in our opinion,

if a fine is even levied at all. If Congress is to create a new major consequence category, the words "knowingly, willfully, and intentionally" must be removed, since those are standards that are not only very difficult to prove but more appropriate for criminal, not civil, penalties.

Gathering lines, section 4, PHMSA has already told its technical advisory committees that there are problems with the regulations of these lines so there is no more need for study. Instead, this section should require the necessary rule changes; and those changes should include clarifying definitions, adding lines to the national mapping system, reporting incidents, and bringing these lines under similar regulations to transmission pipelines.

In section 5, the new rules for the placement of remote or automatic shutoff valves should be expanded to at least include existing lines in high-consequence areas, not just new lines. The current draft would have provided no increased safety for San Bruno.

Integrity management, we completely support moving forward on expanding integrity management, as INGAA has called for as recently as yesterday. Since class locations also are what in many ways define which pipelines fall under integrity management, at a minimum any change in class location rules must go hand in hand with expansion of integrity management, I think a point my friend, Mr. Martin, was getting at.

With regard to cast iron pipelines, while the survey required in this section is important, this problem has been known for years and

continues to kill people. It is time to move beyond surveys and put in place rules that will force pipeline companies and State rate setting agencies to responsibly and expeditiously replace cast iron, bare steel, and other high-risk pipelines.

Leak detection, we feel this section does little to address the current leak detection shortcomings. Leak detection is already required for pipelines in high-consequence areas, but, as we have seen in Salt Lake City, North Dakota, and Michigan, leak detection systems in place did little good. What is needed is a clear standard to define the size of the leak the system is required to be able to detect and the time required for the system to issue an alarm.

Oil flow lines, the limitation in this section that precludes PHMSA from regulating oil flow lines needs to be removed, in our opinion. There is ample evidence that these lines can and have caused significant damage. We just saw this recently again in Montana with the FX drilling flow line spill which went unreported for a week.

Special permits limits the Secretary to reviewing only a company's regulatory record when considering whether to grant a waiver from a safety standard. Certainly they should be considering that, but, by limiting it, you leave out a number of important considerations, contextual issues like population density or environmental sensitivity.

Maintenance of effort, we question the need to require the Secretary to grant a waiver to States who claim financial hardship, particularly since most States can make that claim if they want to.

I have been a State employee. Most States are in a crunch. But the Secretary already has the authority to waive and has used it. And the reality is that States can charge pipeline companies user fees to fund their safety programs or find other methods, so excuses of financial troubles should have little bearing, and it is also unfair to States that make the effort, particularly as pipe infrastructure greatly expands in nontraditional areas like the Marcellus shale.

Section 26 relating to administrative enforcement is at best unnecessary, since they address regulations DOT can and have started to change on its own initiative. They issued a rule just last week. At a minimum, the requirement for hearing on the record within 20 days must be removed, because it will severely drain very finite sums of resources finitely that should be going to safety.

Finally, in summing up, one critical area covered in the Senate bill left out of this draft was a provision on maximum allowable operating pressure, which is a real problem in San Bruno.

Thank you again. We stand ready to work with you to move this reauthorization forward; and with the changes I have outlined here the committee can continue to report the kind of bipartisan, balanced bill we did when I worked here in 2002 and 2006. Thank you.

[The prepared statement of Mr. Weimer follows:]

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Mr. Whitfield. Thank you, Mr. Kessler.

Mr. Dippo, you are recognized for 5 minutes.

#### STATEMENT OF CHARLES F. DIPPO

Mr. Dippo. Good morning, Mr. Chairman and members of the committee. I am Charles Dippo, vice president of South Jersey Gas Company and chairman of the American Gas Association's Operating Section. I am here today testifying on behalf of AGA, which represents over 200 local energy companies that deliver clean natural gas to more than 65 million customers throughout the United States.

Natural gas pipelines transport one-fourth of the energy consumed in the United States through a safe 2.4 million mile underground pipeline system. This includes 2.1 million miles of local distribution pipelines and 300,000 miles of transmission pipelines that provide service to more than 175 million Americans.

Industry has demonstrated that it can increase the delivery of natural gas while continuously improving safety. Data from PHMSA shows serious incidents and leaks have been reduced by nearly 50 percent over the last 20 years, but as I remind my staff each day, you can never be complacent, because excellence in safety requires continuous improvement.

The pipeline industry leadership has joined Transportation Secretary LaHood in his call to action to repair, replace, or rehabilitate the highest-risk infrastructure and to raise the bar on

pipeline safety. To do so, we must keep our focus on key initiatives that are already showing success. This includes distribution and transmission integrity management, control room management, public awareness, excavation damage prevention, and voluntary initiatives, such as AGA's Best Practices Program.

Secondly, we have an opportunity to enhance safety through better excavation damage prevention programs, establishing a data quality committee, reducing hurdles to implementing new technology, and adopting the latest consensus standards. Most importantly, we must obtain pipeline safety reauthorization.

AGA has reviewed the discussion draft bill and commends the committee for developing a solid, bipartisan bill for pipeline safety. AGA is generally supportive of the draft bill. However, we want to highlight a few areas because they cause us some concern.

Let me begin with automatic and remotely controlled shutoff valves. Transmission pipeline ruptures are rare events and operator resources should focus on preventing rather than mitigating pipeline releases. The presence of an automatic shutoff or a remotely controlled valve on a transmission pipeline will not prevent that incident from occurring. The benefit of these valves is the potential reduction in the amount of natural gas released after the incident has occurred.

Although both automatic and remotely controlled shutoff valves allow for faster closure than a manually operated valve, they also introduce the possibility of false valve closures with unintended

consequences. Nevertheless, AGA supports the bill language that requires the Secretary to initiate rulemaking that will require the use of automatic or remotely controlled shutoff valves or equivalent technology.

AGA also has concerns that the draft bill's provisions that require operators to make telephonic reports to the NRC no later than 1 hour after discovery will cause thousands of unnecessary reports to be submitted. This will overburden the emergency responders, regulators, and other parties that must respond to NRC notifications.

AGA believes Congress has a legitimate concern to assure that there is prompt notification of pipeline incidents. The record shows that most incidents are indeed promptly reported. Operators are responsible for the operational response to incidents in coordination with their local emergency responders. Standard safety practices and the incident command structure mandate that these tasks receive the highest priority. Once the preliminary extent of a situation is known and local action is initiated, operator personnel will notify the NRC. Typically, the call to the NRC will be made in less than 2 hours.

Prompt local emergency response and Federal reporting are important issues. AGA believes that PHMSA has the technical expertise to promulgate the appropriate regulations on this important issue that balances the needs of all parties and to implement technically-based notification requirements.

Finally, it has been suggested that the Transmission Integrity Management Program be changed and expanded beyond high-consequence

areas. AGA believes imprudent expansion would be contrary to the intent Congress has for the program, which is to focus resources on the densely populated and environmentally sensitive areas where an accident will do the most damage.

All pipelines must comply with stringent State and Federal safety standards even before the TIM program is applied. As part of its regulation on transmission integrity management, DOT has already included provisions for pipeline operators to have an added layer of protection on low-stress pipelines which are outside of HCAs already.

AGA believes it is reasonable for Congress to direct DOT to evaluate the effectiveness of the existing Integrity Management Program no later than 1 year after the completion of the baseline assessments in December of 2012. The study should include the comparisons as presented in the draft legislation.

In conclusion, the natural gas utility industry has a strong safety record, and we are committed to working with all stakeholders to improve. To that end, we applaud this committee's focus on moving pipeline safety reauthorization forward. Passage of this important bill this year will help us achieve a common goal -- to enhance the safe delivery of this vital energy resource.

Thank you.

[The prepared statement of Mr. Dipppo follows:]

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Mr. Whitfield. Thanks, Mr. Dippo.

Now, Mr. Pruessing, help me with your pronunciation.

Mr. Pruessing. It is Pruessing.

Mr. Whitfield. You are recognized for 5 minutes.

#### **STATEMENT OF GARY PRUESSING**

Mr. Pruessing. Chairman Whitfield, members of the subcommittee, last week I had the opportunity to discuss with your colleagues on the Subcommittee on Railroads, Pipelines, and Hazardous Materials the pipeline incident that occurred July 1 in the Yellowstone River in Montana. I appreciate the opportunity to do so again with you today.

Since I submitted my statement to the subcommittee last week, we have achieved additional progress in cleaning up the spill which I would like to update you on this morning. Before I begin, however, allow me to repeat our sincere apologies to the people of Montana. We deeply regret that this incident occurred and are steadfastly committed to not only complete the cleanup, but also to build the learnings from this incident into our future operations.

This requires, first, that we understand exactly what occurred. We do not yet know the precise cause of the apparent breach in the Silvertip pipeline and will not likely know until our investigation is complete. We do know that the pipeline had met all regulatory requirements, including a 2009 pipeline inspection and a December, 2010, depth-of-cover survey. Additionally, as recently as last month,

the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration, or PHMSA, performed a field audit of the pipeline's Integrity Management Program.

Of course, we do know the effects of the incident. The pipeline lost pressure the night of July 1, and within 7 minutes our employees shut down the pumps. Shortly thereafter, we began closing the valves to isolate segments of the pipeline and minimize any release.

We estimate that no more than 1,000 barrels of oil spilled. We notified the National Response Center and immediately began implementing our emergency response plans, drawing upon our local resources at the ExxonMobil Billings refinery, as well as our experts from across the country.

A unified command center led by the Environmental Protection Agency and involving more than 780 people now directs the response. This coordinated effort, combining the resources of government, industry, and others, is crucial to effective cleanup and recovery.

I speak on behalf of our entire company in thanking the public servants at all levels of government and the volunteers from nongovernmental organizations contributing to the effort. This includes professionals from PHMSA, the Environmental Protection Agency, the U.S. Department of the Interior, the Montana Department of Environmental Quality, Montana Fish, Wildlife, and Parks, Yellowstone County Commissioners, local response organizations, International Bird Rescue, and many others.

As part of our cleanup strategy, we have divided the aerial down

river of the spill into four zones. In the first two clean-up zones, covering a combined distance of approximately 19 miles, we have deployed over 57,000 feet of boom, 277,000 absorbent pads, and several vacuum trucks, boats, and other equipment to capture oil. Our priority is to ensure that the cleanup is safe and effective, a task made more challenging by the persistent high water levels in the Yellowstone River.

On July 17th, we completed a 2-day procedure to remove any remaining crude oil from the Silvertip pipeline at the Yellowstone River crossing. The work was conducted under the direction and oversight EPA and the Montana Department of Environmental Quality. At the same time, through the unified command, we continue to conduct air and water quality monitoring of over 200 miles of the river as well as wildlife assessments and recovery efforts. To date, EPA monitoring confirms there is no danger to public health and no reported water system impacts.

We have also brought in recognized experts such as International Bird Rescue to actively monitor the impact on local wildlife. So far, impacts have been limited and small in number, and a list is available on our Web site. Monitoring and mitigating the impact of the spill on wildlife will remain a priority throughout the spill cleanup.

The Silvertip pipeline plays an important role in supplying energy to the Billings area and therefore helps sustain local jobs and economic growth. We are committed to replace the damaged pipe using horizontal directional drilling techniques with a new section that will

lay approximately 30 feet below the riverbed, consistent with the PHMSA direction.

Of paramount concern to us is the impact on local communities. We established a community information line and have received more than 390 calls. About 170 of these calls are claims related to property, agriculture, and health; and we are actively responding to each one of these. We have also sent several teams door to door to visit approximately 250 residents in the most impacted areas. It is our goal to respond to individual concerns within 24 hours.

I am pleased to report that these outreach efforts have mostly received a very positive response. In fact, about 170 of the calls to the information line have been offers of help. This outpouring of local volunteer support is immensely helpful. It testifies to the resilience, industry, and generosity of the people of Montana; and we deeply appreciate their understanding and support.

To repeat, ExxonMobil Pipeline Company takes full responsibility for the incident and the cleanup, and we pledge to satisfy all legitimate claims. But even then our work will not be done. We are equally committed to learn from this incident and to build those learnings into our future operations.

Thank you.

[The prepared statement of Mr. Pruessing follows:]

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Mr. Whitfield. Mr. Pruessing, thank you; and I thank the panel for your testimony.

I will recognize myself now for 5 minutes of questions.

The discussion draft of the bill states that notice should be given to the National Response Center at the earliest practical moment following discovery of a release of gas or hazardous liquid and not later than 1 hour following the time of discovery. Now, some of you made reference to that notification requirement, and we know that when you pass legislation it is not unusual that sometimes you end up in courts and then trying to define what it actually means.

I would just ask each of you to comment briefly on what does this mean to you: 1 hour after an operator sees the sign. Does it mean something out of the ordinary, or 1 hour after confirmation, or is there any ambiguity from your perspective and how could we improve it in any way?

Mr. Black.

Mr. Black. We understand that to apply 1 hour after confirmation of discovery. Right now, it is earliest practicable moment in the regulations right now. PHMSA interprets that as about 1 to 2 hours, and I believe when the administrator was here she didn't suggest a change was needed. But if you do do it, we interpret that as 1 hour after confirmation of discovery.

Mr. Whitfield. Mr. Martin?

Mr. Martin. Yes, that is the same for us. One hour after time of discovery is what we would interpret that to be.

Mr. Whitfield. Mr. Kessler?

Mr. Kessler. I think, generally, I would be in agreement.

Mr. Whitfield. Okay. Mr. Dippo?

Mr. Dippo. That is correct. We would also agree.

The concern with the natural gas distribution industry, though, of course, is that there are releases almost every day relative to struck mains and services, and our concern would be how this would impact the overloading of the NRC.

Mr. Whitfield. Mr. Pruessing?

Mr. Pruessing. We agree. It is 1 hour after confirmation.

Mr. Whitfield. Okay. All right.

Now, last week, Congresswoman Speier testified, and she addressed this grandfather pipeline issue that one or two of you mentioned in your testimony. I would ask what is needed to confirm the maximum allowable operating pressure for those pipelines constructed before the 1970 pipeline safety regulations were implemented? Do you support the Senate provision on this issue?

Mr. Black?

Mr. Black. The Senate provision did not cover hazardous liquid pipelines. There is not the equivalent grandfathering issue.

Mr. Whitfield. Mr. Martin?

Mr. Martin. INGAA members commit to a systematic validation of records and the maximum allowable operating pressure in their pipelines in the highly populated areas.

Mr. Whitfield. Mr. Kessler?

Mr. Kessler. The situation was that there wasn't an accurate record of the pipe in the ground, and all regulators regulate to the record, not so much the actual physical properties. So we do strongly support the Senate provision. We think it is reasonable.

Mr. Whitfield. Okay. Mr. Dippo?

Mr. Dippo. Yes. The concern is, of course, that a one-size-fits-all approach to the maximum allowable operating pressure is it does not work for the natural gas distribution utility industry. We do believe that, in terms of the records validation, that all operators should be doing that with their facilities. But we are reluctant to get involved with validating MOP through hydrostatic testing of lines that are in service.

Mr. Whitfield. Mr. Pruessing?

Mr. Pruessing. ExxonMobil Pipeline operates liquid pipelines, so, as Mr. Black said, there is no grandfathering for the liquid lines.

Mr. Whitfield. Okay. Now, the National Association of State Pipeline Self-Regulators, when they testified, addressed redundancy between class location requirements and integrity management. Can you all elaborate on where these redundancies exist and where they do not?  
Mr. Black?

Mr. Black. It is not a liquids issue, just gas.

Mr. Whitfield. Okay. Mr. Martin?

Mr. Martin. Yes, for the gas pipelines, what we were talking about, class location requirements are embedded throughout the regulations, from design, construction, operation, and maintenance;

and the focus we were talking about with the Integrity Management Program that went into place back in 2003, that is really on the area of operation and maintenance. And where we see the overlap is we are collecting a tremendous amount of information in the new regulation and requirements and evaluating the risks and the threats associated with our pipelines and taking the appropriate action, where the existing class location requirements simply state in some cases you must just change out the pipe without looking at all this information.

So getting back to the cost-benefit analysis that was done back in the 2003 evaluation, that was the \$1 billion savings they were talking about, is the redundancy related to the new requirements versus changing out the pipe. We think those dollars, those safety resources, ought to be expended elsewhere in our programs, even if we are talking about expanding the HCAs beyond the existing requirements today. Those are resources that could be used to do that more effectively.

Mr. Whitfield. Mr. Kessler?

Mr. Kessler. Looking at redundancies is something we support in that area, but, again, we believe this has to be coupled with -- you cannot disassociate that from other regulations, particularly the Integrity Management Program. So you really can't move one block without affecting the other. So you need to do both together.

Mr. Whitfield. Okay. Mr. Dipppo?

Mr. Dipppo. Yes, I would agree with Mr. Martin's position that there is duplication in the regulation. In fact, a transmission pipe operated by a local distribution company is covered both by

transmission integrity management and distribution integrity management. We feel DOT needs to study this inefficient duplication.

Mr. Whitfield. Do you have any comment, Mr. Pruessing?

Mr. Pruessing. No.

Mr. Whitfield. Okay. At this time, I would like to recognize the gentleman from Michigan, Mr. Dingell, for 5 minutes of questions.

Mr. Dingell. Mr. Chairman, you are most kind. I commend you for this hearing.

I would like to welcome our panel, particularly my old friend Rick Kessler, who has been in this room before, as you will well recall. I would like to direct this question first to Mr. Kessler.

Normally, the standard for criminal violation is knowingly or willfully violating the law. In the current pipeline safety statute, the standard for criminal penalties is knowingly and willfully. That appears to me to be an unusually high standard to meet. The bill proposes to extend the standard of knowingly and willfully to civil penalties. Is that right?

Mr. Kessler. It does propose to do that, in part.

Mr. Dingell. It makes it very hard to reach civil penalties and apply them to serious misbehavior, does it not?

Mr. Kessler. It does, Mr. Dingell. In fact, to our knowledge, the knowingly and willfully standard currently in law has only successfully been applied once, and that was in the Bellingham situation.

Mr. Dingell. Mr. Kessler, section 18 of the draft deals with

waivers from the law. The discussion draft has only two items the Secretary must consider in granting a waiver: one, the applicant's compliance history; and, two, the applicant's accident history. I am concerned this may preclude the Secretary from considering other information, such as whether the pipeline runs through a wildlife refuge or other environmentally sensitive areas like a national park or something of that kind. The Senate version of this legislation contains a clause which allows the Secretary to consider any information or data the Secretary considers relevant.

Now, Mr. Kessler, yes or no, do you believe the Secretary needs additional authority to ensure that these waivers are issued properly? Yes or no.

Mr. Kessler. Yes.

Mr. Dingell. Now, Mr. Kessler, do you believe that the provision in section 17 dealing with cost recovery for design reviews at PHMAS would allow PHMSA to generate significant cost recovery? Yes or no.

Mr. Kessler. Not as currently structured, sir.

Mr. Dingell. Should it?

Mr. Kessler. Yes, sir.

Mr. Dingell. Now, for the rest of the witnesses, starting with you, Mr. Black, how many projects have your groups had in recent years that cost more than \$4 billion?

Mr. Black. I don't know of any, but I don't have that data.

Mr. Dingell. Would you submit that for the record? As a matter of fact, would our other panel members please do that?

[The information follows:]

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Mr. Dingell. Now, section 5 of the draft bill requires automatic or remote shutoff valves where technically, operationally, and economically feasible on new -- and I emphasize the word "new" -- pipeline.

Starting with you, Mr. Black, yes or no, is this something the industry is doing already? Yes or no.

Mr. Black. On new construction, yes.

Mr. Dingell. Mr. Martin?

Mr. Martin. On new construction, yes.

Mr. Dingell. Mr. Kessler?

Mr. Kessler. As far as I know, on new construction, yes.

Mr. Dingell. Mr. Dippo?

Mr. Dippo. Yes, both on new construction and on existing.

Mr. Dingell. And our last witness?

Mr. Pruessing. To my knowledge, yes.

Mr. Dingell. Now, you all know about the recent San Bruno explosion which resulted in eight deaths and the destruction of 38 homes. It took PG&E 90 minutes to manually shut off the valve, resulting in some 35 million additional cubic feet of gas being released. I seem to remember this was subject to debate some 15 years ago, and I would note that action has not been taken on this problem, which appears to continue to exist.

Now, question: If the San Bruno pipeline had an automatic or remote shutoff valve, would this have reduced the amount of damage caused by the accident? Yes or no. Starting with you, Mr. Black,

please.

Mr. Black. It could have, yes.

Mr. Dingell. Mr. Martin.

Mr. Martin. I believe it could have reduced it, yes, but I think there still would have been the issue of the gas escaping from the pipeline after they were closed.

Mr. Dingell. Mr. Kessler.

Mr. Kessler. We believe it definitely would have, just as it would have in Edison, New Jersey, 15 years earlier.

Mr. Dingell. The next witness?

Mr. Dippo. Yes, anytime the valves are shut quicker would reduce the amount of damage.

Mr. Dingell. Mr. Pruessing?

Mr. Pruessing. We only operate liquid lines, so I am not in a position to speak to the gas systems.

Mr. Dingell. Mr. Chairman, I have completed my time, and I thank you for your courtesy.

Mr. Whitfield. Thank you, Mr. Dingell.

At this time, I recognize the chairman of the full committee, Mr. Upton, for 5 minutes.

The Chairman. Thank you, Mr. Chairman.

Again, I want to thank the panel for coming back because we had votes last week. So I appreciate your adjusting your schedules to be able to be here this morning.

I have actually a couple of questions.

Mr. Pruessing, there was a story in today's USA Today and some other publications as well that said Federal inspectors found a problem in the oil pipeline a month before it ruptured in a Montana river, but it was not significant enough to force a shutdown, the government's top pipeline regulator said on Wednesday.

Was this rupture -- was this problem anywhere close to the place where it actually ruptured or not? Can you tell us a little bit about this?

Mr. Pruessing. Those of us that are in the industry understand that pipe is manufactured to a certain specification, and there is a certain tolerance around that pipe. It is not unusual to find some small variations in the thickness of a pipe.

When we did our inspection in this line in 2004 and again in 2009, we identified one small area of a pipe that was slightly thinner. Again, over that period 2004 to 2009, that had not changed. It is likely an original fabrication issue and certainly was within tolerance. It did not affect the performance of the pipe, and it did not require it to be addressed under the regulations. At this point in time, we have no reason to believe it had anything to do with this incident.

The Chairman. Okay. I only have a limited time. That is good. I appreciate your answer.

I want to go back to Mr. Dingell's question but expand it a little bit as regards to automatic shutoff valves in high-consequence areas. We had a little of that testimony by our colleague last week, which

I think all of you heard, and that is the question as to retrofitting these pipelines in high-consequence areas. We all liked the answer -- I think it is in the bill -- that any new pipeline has to have this type of equipment.

But let's talk about retrofitting literally the tens of thousands of miles of oil and gas pipelines with automatic shutoff valves. What are the costs? What percentage of the pipelines could be viewed as high-consequence areas and how far apart do they have to be if we looked at the issue of retrofitting?

Mr. Black, and we will just go down the line.

Mr. Black. First, operators are required right now to consider the use of remote operate and automatic shutoff valves in high-consequence areas, and that analysis and decision is available to PHMSA for inspection and audit. So there is a requirement for this review right now. And often these valves are used upstream at a river crossing.

But retrofitting, CRS has looked at this issue, and on new construction, which is cheaper, they said it can be in the hundreds of thousands, potentially even more millions of dollars. When you think about 170,000 lines of liquid miles, that is tremendously more expensive. Liquid lines don't get compressed. What is important is to shut off the pumps and then close the valves and try to isolate it.

But they do analysis right now on the drain-down and determine where those valves should be. There is not a specific mileage. It should be site specific, and it is today.

The Chairman. As I recall, one of my questions last week was, do we know what percentage of the pipelines already have this type of equipment on them, and the answer was they did not know. I will maybe add to that my question as we go down the line.

Mr. Black. I am not aware of that data. Forty-four percent of the liquid lines are in high-consequence areas, so for that 44 percent this determination is required. But I don't have that information. I am not sure if PHMSA does either.

Mr. Martin. For the interstate natural gas system, 6 percent of our mileage are in HCAs. So that is the mileage for the interstate system.

Much as Mr. Black said, when we do the Integrity Management Program, we do the evaluation on the valves as well. On new construction, that is something that is looked at for automatic or remote control valves.

As far as retrofitting existing valves or going beyond HCAs, that is something that we are looking at right now. But I don't have a cost figure for you for that. It would vary, based on the pipeline, the location, availability for power and so forth in there for some of these valve operators.

Mr. Kessler. Mr. Chairman, we believe that there should be a requirement that these be used where technically and economically feasible, particularly in high-consequence areas. I think that is the most important aspect to cover. We are not saying -- this should be a risk-based type of approach to retrofitting. We recognize that this

is costly, which is why we would agree that technically and economically feasible is a good standard.

Mr. Dippo. Yes, Mr. Chairman. I would just indicate that AGA members have -- there is a provision, as Mr. Black indicated, in the code for adding these additional levels of protection for high-consequence areas in terms of retrofitting valves for automatic or remote operation. So the costs are very site specific, and the spacing would also be very site specific.

But, as Mr. Kessler had testified earlier, our biggest concern would be the entire cost. For AGA members, we have estimated that would be over \$13 billion to go back and completely retrofit, and our concern would be how that funding requirement takes away from other fitness-for-service requirements such as bare steel or cast iron replacement programs.

The Chairman. I know my time has expired, but if you might provide that information in terms of how you calculated the \$13 billion to the committee, that would be great. Thank you.

Mr. Dippo. Yes.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

The Chairman. Mr. Pruessing.

Mr. Pruessing. We already have a number of remotely controlled valves along all of our pipelines, and we actually used those to isolate this line that we recently talked about.

In liquid systems, automatic shutoff valves are a bit of an issue because of the large mass you have, and you can actually over-pressure a line if you slam a valve closed too quickly. So automatic shutoffs are a concern about liquid systems, but certainly remotely operated valves are something that are used broadly already.

The Chairman. Thank you.

Mr. Whitfield. Mr. Green, you are recognized for 5 minutes of questioning.

Mr. Green. Thank you, Mr. Chairman; and thank you for extending the hearing. I know we had it last week, and even 5 minutes is not enough because most of you know where I come from pipelines are just part of our daily life. I have so many questions, we will probably submit some in writing.

Mr. Black, I believe you advocated for taking significant care when considering the regulation of offshore gathering pipelines. Onshore are not currently regulated gathering pipelines.

Mr. Black. They absolutely are, by States.

Mr. Green. By States. Do they have any Federal standards at all? Or is there some continuity between Federal standards for pipelines and what typically the States would have in Texas, as an example, or Louisiana or Oklahoma would have, a significant amount of

gathering pipelines?

Mr. Black. I can't speak to that. A lot of gathering is affiliated with production, and we are representing transmission pipelines.

Mr. Green. Would the situation with Exxon in Montana, would that be considered a gathering line?

Mr. Black. No, that was a transmission line.

Mr. Green. An actual transmission line from the field to the refinery.

Can you tell me about your concern about offshore regulation of the gathering pipelines?

Mr. Black. Sure. For decades, the law by Congress has been that this is regulated by States. If it is only offshore, it is subject to the Federal lands agency there. We haven't seen the evidence that the regulatory framework has to be changed.

You are well aware of the hurricanes that have come through in the last decade or so, and the pipeline network has proven itself quite resilient there. There is a study in the bill, and we don't oppose that study. We think it will find that the current regulator framework works.

Mr. Green. Okay. Let me ask the total panel for thoughts on the 1-hour notification. I guess I have concern about the definition, because, as Mr. Dippo talked about, there are some releases that are very brief and I would call them a leak if they were liquid as compared to a rupture. Is there a difference in the 1-hour notification or an

hour notification if you discover there is a rupture as compared to just a leak that you can repair very quickly?

Mr. Black. Well, operators know the rules. They know what types of events need to be reported. If -- well, we have been talking about improving the reporting procedures to try to facilitate prompt discoveries. We think going to 1 hour without those particularly could facilitate false alarms.

But to answer your question directly, there is a specific understanding of what types of events need to be reported quickly and what do not, because they are small, like you say.

Mr. Green. In the report to the National Response Center, does that trigger some type of national Federal response? Because, in all honesty, most of the immediate response is from the pipeline owner and their resources and also the local EMS and the first responders locally.

Mr. Black. We think the National Response Center process is a good one. It is one call for the operator to make, and the National Response Center notifies all of the local and Federal agencies and first responders along the right-of-way that need to be known. The Senate bill somehow confuses this and might place the requirement of an operator to notify State and local responders. We think the important thing is to get, as this committee did, get one call made to that National Response Center, as is done now.

Mr. Green. And the responsibility of the National Response Center would also be the network that they have on the State level?

Mr. Black. They know who to call, depending on the issue and

where it is.

Mr. Green. Okay. In the current regulation concerning notification, obviously, you feel like it is preferable. Is there anything else we could do, any suggestions, including Mr. Kessler, on the difference between the 1 hour and the current requirement?

Mr. Kessler. A little confusion here I think is that the bill language, much like the committee-passed and House-passed legislation last year on this subject, does reference and take as its baseline the existing regulation. So if you are getting false alarms, if you are going to get false alarms after we move the reporting requirement up to an hour, those are the same false alarms you are getting now. That is not going to change. What is going to change is the timeframe and also how you report these things, which is something industry had asked for, how you categorize them.

Mr. Green. Mr. Pruessing, you said -- and I have to go back to your testimony -- but Exxon actually notified the National Response Center within the hour, or within an hour?

Mr. Pruessing. When we actually had identified we had a leak and identified where that was, we had called the National Response Center within 34 minutes of that time.

Mr. Green. Okay. So you fit the newer standard at least for liquid pipeline, and I understand there is a substantial difference between natural gas and liquids.

Mr. Pruessing. Yes.

Mr. Green. Mr. Dippo, this is just for my own reference. South

Jersey gas distribution, in your testimony you talked about the additional discovery of natural gas. Are you actually receiving natural gas from some of the shale plays that we see in West Virginia and Pennsylvania?

Mr. Dippo. Yes, sir.

Mr. Green. I guess because we have heard in the last few weeks some concern about our shale plays being a little over-dramatized in the success of them, but we are actually cooling homes, I assume, in New Jersey today with that natural gas.

Mr. Dippo. Yes, sir. Cooling and heating, of course.

Mr. Green. Thank you, Mr. Chairman. Obviously, five minutes for a Texan is not long enough.

Mr. Whitfield. Thank you, Mr. Green.

Mr. Olson, you are recognized for 5 minutes.

Mr. Olson. I thank the chair. We are going to have the Texas run here, it looks like. My colleague after me is going to be another one from Texas.

I want to thank the panel today for coming back, for your patience, your expertise, and your perspectives.

At the last hearing, I made a statement that no member cares more about pipeline safety than the one who represents the 22nd Congressional District of Texas. That is me. And since a picture is worth 1,000 words, I have brought little pictures for you all today.

The first one here is a PHMSA product. This is the pipeline system in Harris County, Texas. The little red Post-It note down here

is where I grew up, and the one on the right side of the chart is where I live now and where I am raising my family. Those of you who have been to Houston rush hour may not believe it, but the gold lines are the transportation infrastructure for cars and trucks. The red and the blue lines are the transportation and infrastructure for our petrochemical industries. The blue lines are gas transmission pipelines. The red lines are hazardous liquid pipelines.

Focusing a little more on the area right over here in southeastern Harris County, you might know what that is. Bearing down a little, this is the pipeline infrastructure that supports the Port of Houston. It is the Nation's most busiest port in terms of foreign tonnage. Again, Harris County is the third most populous county in the country. Houston is the third most populous city. The place where I grew up is right there. So you can see how important this pipeline infrastructure, having a safe infrastructure, is to the people of the greater Houston area and also to our economy.

I just want to invite any of my colleagues, if you want to come down and see a pipeline infrastructure firsthand, give me a call. I am happy to take you down there and take you around and show you how it really works down there.

I just have a couple of questions for you, and this is for Mr. Martin and Mr. Black. The discussion draft proposes that automatic and remotely controlled shutoff valves be mandated for pipelines that are constructed or entirely replaced, and Mr. Reamer testified that these valves should be placed in all high-consequence areas.

Do you have a sense of what this sort of retrofitting will cost -- a couple of questions -- if it is feasible? And then just one example. There is a great company in the district I represent, in the greater Houston area, Spectra Energy. I toured their facility. They have incredible remote-sensing valves all throughout their pipeline going up to the northern and eastern part of the United States. Would they be asked to somehow retrofit the current system they have got there, or would they be held to some sort of new standards?

Do you have any sense of what would happen to companies who already have got a tremendous system that can guarantee that the flow from some sort of drop in pressure will be shut off, nothing will escape for the next 15 minutes, something that would have been very beneficial out in California?

Mr. Martin. I would just say on the automatic and remote, I think there are some applications, that it is appropriate to have those installed, and I think that is what we are proposing to look at, is doing a study. Where it is technically and economically feasible to install those, those should be looked at, focusing on the high-consequence areas. That is obviously where you would want to focus your time and your resources on. So that is something that the INGAA companies are looking at and certainly support as far as the bill goes.

As far as costs, we have talked about that. There are so many variables in there about what the actual costs would be that I couldn't give you a number now. We really would have to look at that in some

great detail to determine what some sort of cost would be for those. But that is certainly a significant consideration that has to be given for any requirement to do that on a broad basis.

Mr. Olver. Mr. Black, anything you want to add?

Mr. Black. On liquid lines, remote-controlled valves are used pursuant to a risk and engineering analysis that is required in high-consequence areas and elsewhere. You will see them used. They are prevalent on new construction.

These can be costly. You have got the valve itself, the dig, the lost use of the assets. Whoever is getting the product from you doesn't get it during that time. And then, as Mr. Martin said, the cost of bringing power and communications there just increase it.

We don't have specific costs, because these are costs determined by the location and the use. But in retrofits they are much more expensive, and we think on existing high-consequence area lines there is not a gap. That determination is required.

Mr. Olson. I see that I have used up the balance of my time. Again, I would like to extend, if anybody here on the panel or any member of this committee would like to get out of the D.C. heat and trade it for the Houston heat, cooler, come on down. I will help you out.

I yield back.

Mr. Whitfield. We will let you know about that, Mr. Olson.

Mr. Gonzales, you are recognized for 5 minutes.

Mr. Gonzalez. Thank you very much, Mr. Chairman.

Again, I also want to wish to thank the panel and seeing Mr.

Kessler here today, but especially for the delay, just the way things happen around here.

I am glad, I think Mr. Diplo pointed out, just to put things in perspective, if you are looking at 2.5 million miles of pipeline that are carrying natural gas, hazardous liquids, and crude oil throughout this country, compare it to basically any federally funded or any highway that receives any Federal funds -- and that is just about every road out there -- would only comprise half that amount, about 994,000 miles. So you can imagine what is underground and such that needs to be regulated and inspected for many, many reasons.

Yet we did have Administrator Quarterman here last week, and I think -- I didn't write it down, maybe my colleagues would remember -- but I think she said PHMSA has maybe 500 employees, 200 that are assigned to pipeline safety and such. So we understand the partnership that is absolutely necessary by the enormity of the challenge, and that is you have got to have, obviously, industry but all of your State officials and regulators. So whatever standard we set here, we are really passing it off to be executed by others. I think that is the greatest challenge.

I am going to start off with oil, and the reason for that is just looking into the future and where we are and hopefully increasing domestic production. But, presently, we import 1,930,000 barrels per day of crude from Canada, followed by Mexico, 1,140,000, and then Saudi Arabia, 1,080,000.

I would ask Mr. Pruessing and I believe Mr. Black, my oil guys,

what is the special challenge of the Canadian crude, and that is tar sand crude, that it presents in the way of pipelines and moving it through the pipelines? And, again, any additional challenges, things we need to be preparing for, things that are or are not adequately addressed under the present regulatory scheme? Mr. Black?

Mr. Black. When diluted bitumen or oil sands crude is moved through a pipeline, it is just like every other heavy crude from California or Venezuela. No special corrosion risk. There is a study. It is in this discussion draft.

Mr. Gonzalez. But to get it to flow does take a process, doesn't it? It is diluted. What is that process?

Mr. Black. They mix the bitumen with a condensate that is part of the natural gas processing and convert it into diluted bitumen. That is one way to process oil sands crude.

That is not really a concern. The concern for us accessing western Canadian crude is just increasing pipeline takeaway capacity. A lot of that crude is stranded right now, and the market is calling for more access to it.

Mr. Gonzalez. Mr. Pruessing.

Mr. Pruessing. The technology is actually well established. We have been running heavy crudes in the industry for a very long time; and, as Mr. Black has indicated, these heavy crudes just need to be diluted so they can be pumped.

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[10:17 a.m.]

Mr. Gonzalez. Now I want to ask Mr. Kessler and then -- off of Mr. Kessler's questioning regarding it is going to be a new category. I think Mr. Dingell also touched on major consequent violations for on the civil side. And I agree with Mr. Dingell. I don't understand why the standard, if it is going to be of major consequence, that you just have a knowingly standard. Because I would imagine that much happens as a result of negligence. And so -- but what is the logic? What would be the reasoning, as you see it, to create a major consequence violation category under civil and then have a standard that really applies to criminal prosecution when it comes to the willful and knowingly.

Mr. Kessler. I see none. As I said, the provision in current law of knowingly and willfully is an aberration because it is generally knowingly or willfully. And the standard has only been successfully prosecuted once with Bellingham. And then to put it in a civil penalty section, I have just never seen it. I don't -- I believe the chair and others who came up with the proposal are trying to do something good here, but I think the standard is misplaced as well as intentionally. Those are all things that generally apply to criminal. They get to state of mind, not negligence or gross negligence.

Mr. Gonzalez. My time is up, so I thank everyone.

I yield back, Mr. Chairman. Thank you.

Mr. Whitfield. We appreciate you all raising that issue on the standard on the civil penalties. A number of people on both sides of the aisle have expressed concern about that, and we appreciate you all mentioning that.

Mr. Pompeo, you are recognized for 5 minutes.

Mr. Pompeo. Thank you, Mr. Chairman. I am close enough I am not sure I need this.

One of the things -- I am new to all of this. One of things I see done in the regulatory environment is we just keep adding standards, and I understand we want to continue to improve safety where we can. I know industry wants that, too.

Mr. Kessler, I am interested, it sounds like you have a history on this committee and the issue is pretty deep. Is there anything in this piece of legislation or in the existing rules that you would say, yeah, that doesn't make sense anymore, we are driving costs, we are forcing pipeline distribution companies, these folks, to spend money, and it no longer makes sense? We can either let them not spend the money or spend it more effectively on safety someplace else?

Mr. Kessler. Absolutely. As I alluded to earlier, I think if you couple the repeal of redundant or unnecessary class location with expanded protections, integrity management, then, yeah, that is something that you should be getting rid of, but it has to be done in context.

Also, similarly, I think some of the -- I lost my train of thought.

I am sure there are things. This is a statute that is kind of all over the place. It always has been. It has always been a desire, I think, of the members of this committee to make it make more sense, which a good thing.

So I think there are some things in the bill. One thing I think was inadvertent in the bill -- and this isn't our issue -- but you asked a question that gives PHMSA arrest authority, and I think that probably doesn't make sense. It is a nice sentiment, I think leftover from days when the Coast Guard was at DOT, but probably -- PHMSA's never been a law enforcement agency.

Mr. Pompeo. Gotcha. Thank you.

For Mr. Black and Mr. Dippo, you came through with various things that you would like to see changed. If you were to prioritize and say, hey, here is the most important thing I would like you all to go back and look at. Seriously, can you kind of -- I cut the list, but could you prioritize and say, here are the two things I think are most critical that I think you need to go revisit from this draft legislation.

Mr. Black. I think two of the most costly things that could be done in this industry and reauthorization is a leak detection standard without knowing what PHMSA would do and then some retrofit requirement for remote control valves beyond what is considered today. You don't have the remote control valves issue unsatisfactorily to us in the draft, but you do require a leak detection rulemaking before even PHMSA has completed a study and concluded one is necessary. So that would be our top priority.

Mr. Dippo. Yes, and our concerns would be expansion of the transmission integrity management regulations beyond the current high-consequence areas, particularly before PHMSA has had the opportunity to review the effectiveness of the existing program, which is not scheduled to have baseline assessments completed before 2012.

And then, of course, the concern about the extreme costs associated with retrofitting existing valves for automatic or remote-controlled actuation in high-consequence areas and the effect that that may have on pulling funding away from other replacement programs that we are involved in.

Mr. Pompeo. Great, thanks.

I have just got 1 more minute. Mr. Dingell asked Mr. Kessler about Section 19, the waiver provisions, where there is just two considerations. I don't think anyone else had a chance to chance to speak to that. It just gives two things that the administrator can consider in Section 18 when granting special permits. Did anyone else have a view?

Mr. Kessler's view was there ought to be potentially other things that the administrator could consider. Anybody else have a view of if we got it right?

Mr. Black. Well, S. 275 section on special permits we thought gave PHMSA the authority to be subjective rather than objective on special permit applications. I haven't seen a proposal like Mr. Kessler is talking about, about additional contextual information. We think risk of the special permit proposal should absolutely factor into

the decision. Where we want S. 275 to improve is make sure the Secretary and the administrator are using objective information.

Mr. Pompeo. You want to know what you are up against.

Mr. Martin. I don't have any additions.

Mr. Kessler. I think Mr. Black makes a good point. I mean, there does need to be certainty for industry. It is just that if a gas pipeline goes through an earthquake zone, high-density population area, in granting a waiver for that segment you should look at that, or an oil pipeline through a national park or refuge. So we are saying those should be enumerated, and the industry does deserve certainty on these things.

Mr. Pompeo. Thank you. Thank you all.

I yield back.

Mr. Whitfield. Thank you.

At this time, I recognize the gentleman from Illinois, Mr. Rush, for 5 minutes.

Mr. Rush. Thank you, Mr. Chairman.

Mr. Kessler, in our last hearing on pipeline safety we discussed the issue of transporting diluted bitumen such as the type of Canadian crude Keystone XL pipeline carried through the middle of the country if it is approved. The discussion draft calls for a say on this subject, but it doesn't take the next step of requiring PHMSA to update its regulations. The study shows there is an increased risk when transporting diluted bitumen.

In your opinion, do you believe that this discussion draft goes

far enough in ensuring that we will have the necessary procedures and mechanisms in place to safely transport diluted bitumen through the heart of the country, or do you believe that there are additional steps that we can include in this bill to ensure that we are being proactive and taking every precaution on this subject?

Mr. Kessler. Thank you, Mr. Rush.

We do support the study in the bill and would support that, whatever recommendations are made from that, that they be implemented. We don't take a position on the oil sands, tar sands bitumen itself, but we do believe there are unique characteristics that must be addressed and engineered, too. We have seen something like a dozen leaks from the XL pipeline in the last year, and this can be and should be addressed. It is something that we are right to study, and then PHMSA should take the necessary steps based on that study.

Mr. Rush. I want to divert my questions to another matter that are very seldom discussed in these type of hearings. I just want to ask Mr. Black, you represent the Association of Oil Pipe Lines and also on behalf of the American Petroleum Institute?

Mr. Black. Yes, sir.

Mr. Rush. How many minority contractors are members of the Association of Oil Pipe Lines?

Mr. Black. Could you repeat your question?

Mr. Rush. How many minority or women-owned businesses are members of the Association of Oil Pipe Lines?

Mr. Black. I don't have that information.

Mr. Rush. Can you get it to me?

Mr. Black. Yes, sir.

Mr. Rush. The same on the American Petroleum Institute.

Mr. Black. I will be happy to ask for that.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Mr. Rush. Mr. Pruessing, you are president of ExxonMobil Gas.

Mr. Pruessing. ExxonMobil Pipeline Company, liquid pipelines.

Mr. Rush. How many minority contractors -- minority and women-owned contractors do you contract with?

Mr. Pruessing. I will have to get that information for you, sir.

Mr. Rush. Okay, all right, okay.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Mr. Rush. Mr. Pruessing, ExxonMobil estimated that its Silvertip pipeline spilled up to 42,000 gallons of crude oil into the Yellowstone River in Montana, and the cause of the rupture is not yet known. This pipeline was buried beneath the river and crossing, and because of severe flooding the river was moving very quickly.

Prior to the rupture, in the city of Laurel PHMSA raised concerns about whether the floodwaters would erode the material covering the very pipeline, leaving it exposed to debris. According to PHMSA, the agency contacted ExxonMobil on June 1st, and ExxonMobil confirmed that there was at least 12 feet of cover, is that correct?

Mr. Pruessing. Actually, sir, we did a depth-of-cover survey in the river in December of 2010. We confirmed that there were 5 to 8 feet of riverbed cover over the pipeline in the riverbed. Then, as you moved on to shore, between the shoreline and the first valve we had approximately 12 feet of cover on the shoreline.

Mr. Rush. And was that in the bank or under the bed?

Mr. Pruessing. The 12 feet was actually on the shoreline between the edge of the river and the first valve.

Mr. Rush. What action did ExxonMobil take in June to maintain that cover and keep the pipeline buried far enough below the river to protect it from debris collision?

Mr. Pruessing. There are a number of things we have been doing to maintain the integrity of this line. If you go back to 2009, we had done an inline inspection consistent with the regulations to confirm that the pipe was safe and it didn't have any integrity

problems. I mentioned the December, 2010, depth-of-cover survey. Actually, PHMSA came in just a month ago, in June of 2011, and did a full review, an audit of the integrity management program for this pipeline.

Further, we were working with the city of Laurel during the high water period. We actually took the shutdown of the pipeline during 1 day to stand back and do a further risk assessment to confirm that we had a safe line. In working with PHMSA and the city of Laurel and looking at the integrity data, we had -- we believe we had a safe line, so we restarted the line.

Mr. Rush. Uh-huh.

Mr. Kessler, current regulations require an underground pipeline crossing a river to be buried at least 4 feet beneath -- below the bottom of the river. Are you confident that 4 feet is adequate to contain a pipeline from erosion and debris in cases of flooding or high-speed waters?

Mr. Kessler. It does not appear to be. I am not an engineer, but, thus far, it does not appear to be, particularly if it is not reexamined and required to be maintained at least at that level.

Mr. Rush. Would it make sense to vary the required depth of the pipeline based on the characteristics of the river?

Mr. Kessler. It certainly might indeed, Mr. Rush.

Mr. Rush. As I understand it, the requirement to bury the pipeline at least 4 feet below the river applies when the pipeline is constructed, but there is no specific requirement to maintain the

burial depth of 4 feet over time, and that seems like a huge gap --

Mr. Kessler. Agreed.

Mr. Rush. -- the regulations. Do you have any additional thoughts on this?

Mr. Kessler. We agree, and there are different ways to get at this, and that is definitely a gap, we think, in the regulation, the idea that it doesn't have to be reexamined to maintain that depth. So --

Mr. Rush. Thank you very much. My time has concluded.

Mr. Whitfield. At this time, I recognize the gentleman from Colorado, Mr. Gardner, for 5 minutes.

Mr. Gardner. Thank you, Mr. Chairman; and thank you for the testimony today. Just a couple of quick questions.

Several years ago, we had a big debate in the Colorado State legislature regarding borrow ditch excavation and notification and calls; and that got, as you can imagine, pretty interesting conversations both sides of the issue.

When it comes to section 3 of the bill, there is language in there that talks about appropriate -- the minimum standards for State one-call notification programs in order to receive funding from the Federal Government to that program. It talks about appropriate participation by all underground facility operators, appropriate participation by all excavators, including all government contract excavators, flexible and effective enforcement under State law. And then exemptions prohibited, a State one-call notification program may

not exempt mechanized excavation.

Are you satisfied with this language or is there a concern from States that this language may actually prohibit some activities that the States have exempted right now? Is anybody aware of activities that the State has exempted from their notification system, that this could actually override State law or State exemptions?

Mr. Martin. I don't know that I am aware of any of those that override, but I am not all that familiar with all of the details in the State requirements on that. I do think the language that is in the draft bill is very appropriate.

As you mentioned, some of the borrow pits -- I know there are some examples that are used that says it is a borrow pit, no harm. But a borrow pit runs out. You have to extend that borrow pit. It might go wider, where a pipeline or utility might be. So that would be the reason why we would want to include all excavation activities into something like that, so that we are reasonably safe that a utility isn't impacted by somebody excavating it.

Mr. Gardner. For instance, Colorado right now has some exemptions for their notification on landscaping. Would this language exempt mechanized excavation? Would that override an exemption for landscaping exemptions in the State?

Mr. Martin. If I understood that to be, it would be putting additional requirements on the States to include those groups. That would be my understanding.

Mr. Kessler. Mr. Gardner, we are generally in lockstep with the

industry on this issue. It is the exemptions themselves that are one of the major problems with our one-call system. And actually having been a landscaper in my previous life and operated backhoes and whatnot, I can tell you I am pretty lucky over time that I never hit an underground facility. They should definitely be included. I don't think it is a huge ask.

Mr. Gardner. I certainly think when it comes to using backhoes and thing like that, but you know where there may be other activities --

Mr. Kessler. Ditch switches, things like that.

Mr. Gardner. Ditch switches certainly ought to be included in that. But you have other activities, too, that may be lesser disturbance that we ought to consider. The States I think have done a good job -- at least Colorado has done a good job of taking those conversations into account. So I want to take a little more look at this language to make sure that we are not overriding State exemptions that have been well-thought and well-planned.

Mr. Kessler. I think the telecom industry also has similar issues and is supportive in the same way. The pipeline industry and safety community is, too. So you should consider them as well.

Mr. Gardner. Appreciate that. I thank you.

I yield back the balance of my time.

Mr. Whitfield. Thank you, Mr. Gardner.

At this time, I recognize the gentleman from California, Mr. Waxman, for 5 minutes.

Mr. Waxman. Thank you, Mr. Chairman.

Over the last 12 months, we have seen a series of oil and natural gas pipeline failures all across the country. I think it is clear that our pipeline safety laws need to be improved and updated. As the committee develops pipeline safety legislation, we need to ensure that the legislation meaningfully addresses the regulatory weaknesses revealed by these accidents.

Mr. Kessler, your organization is devoted to enhancing the safety of pipelines. I would like to ask you about some of the tragic accidents we have seen this past year and what needs to be done to prevent similar accidents from occurring in the future.

Last year, an Enbridge pipeline spilled over 800,000 gallons of oil into the Talmadge Creek which flows into the Kalamazoo River. The pipeline was hemorrhaging oil all night long, but the company was not able to detect this massive leak. The discussion draft includes a provision on leak detection. Do you think it is adequate? And, if not, how can it be strengthened?

Mr. Kessler. We applaud the committee draft for including leak detection, but, no, we don't think it is adequate. We think some kind of a best-available-technology standard -- or really what we need to get at is the amount that triggers it and the timeliness of providing these warnings. Clearly, that didn't happen in the case of the Kalamazoo River. And the contents of that actually have different properties than normal. We are finding more heavy metal, and it is more difficult to clean up. So it is even more important, I think.

Mr. Waxman. Okay. Last September, the San Bruno gas pipeline

explosion left eight people dead and many other injured. There was also tremendous property damage. Observers said that the suburban neighborhood looked like a war zone. The California Public Utilities Commission investigated and found that PG&E did not have records that could verify the type of pipeline they had in the ground and was therefore not properly operating and inspecting the pipeline.

The Senate bill includes a provision on maximum allowable operating pressure verification. The discussion draft does not include this provision. Mr. Kessler, in your written testimony, the Pipeline Safety Trust encouraged the committee to add this provision to the bill. Can you explain how this provision would address the problem we saw at San Bruno and why we should add it?

Mr. Kessler. Thank you, Mr. Waxman.

Again, in almost every statute in the committee's jurisdiction I am aware of, we regulate two records. We don't actually necessarily regulate to the physical -- the individual physical properties or under question. If you don't have accurate records, you can't regulate accurately. You can't set standards. You can't tell. So the Senate provision is vital we think, and based upon an NTSB recommendation, to making sure our regulatory system works as it should. Without it, everything is in question.

Mr. Waxman. In February, an old cast iron natural gas pipeline exploded in Allentown, Pennsylvania, killing five people. As I understand it, this pipeline was over 80 years old and wasn't scheduled to be replaced for another 100 years. Mr. Kessler, the discussion

draft includes a provision requiring a survey of cast iron pipelines. Do you think this is adequate? And, if not, what should we require instead?

Mr. Kessler. Thank you.

We are glad it is in there, but we believe it absolutely needs to go farther to assess the risk and require action. I think Atlanta, Georgia, long ago took steps to replace its cast iron pipeline. We have been talking about this. I think there has been something on the books for at least 30 years. And it is really time to act. Especially when natural gas prices are going down and we are building more pipe, we can I think capture some of that delta and then use that for this replacement program. You know what, one way or the other, you are going have to replace them and it would be better to replace them before they blow up than afterwards.

Mr. Waxman. I think that makes sense. I want to thank you for your answers.

I look forward to working with the majority to strengthen the discussion drafts so that our pipeline safety laws are up to the challenge of preventing future tragedies like those we have seen during the past year.

I thank you, Mr. Chairman. I yield back the balance of my time.

Mr. Whitfield. Thank you, Mr. Waxman.

At this time, I recognize the gentleman from Oklahoma, Mr. Sullivan, for 5 minutes.

Mr. Sullivan. Thank you, Mr. Chairman.

This is for the entire panel. I will start with Mr. Black.

With regards to expanding integrity management beyond high-consequence areas, should there be some sort of logical process for how the expansion occurs? For example, should the focus be on covering more people living or working around pipelines and therefore adding pipeline segments based on population in a phased manner?

Mr. Black. There is an ongoing rulemaking on liquids, on expansion of the pipelines, and on expansion of integrity management areas. We think the focus should remain, as Congress and PHMSA has put it, on high-consequence areas and make any expansion of that risk based. There may need to be a review of the repair schedule that is required within high-consequence areas right now if that is to be expanded. That repair schedule may not be as technically based as it should, and it is probably in need of updating.

Mr. Martin. Yeah, if there is an expansion of the high-consequence areas, I think it is something -- a study that should be conducted through the PHMSA organization with input from the industry as to the effectiveness of doing that. I do think it should be focused on population, as I stated in my testimony, of people living and working around our pipeline system. So I would agree with that.

Mr. Kessler. I think any expansion we should delegate to the agency with the expertise and require input from not just industry but local governments, safety and environmental groups, a wide array of affected groups.

We do think that any change in the class rating system needs to

go hand in hand with expanding integrity management, but they should be looked at together. Either we can study both, or we can require action on both. But I don't think you can do one without the other. And I think we should give some direction to the agency, but I think we should allow the agency to do its work.

Mr. Dippo. Yes, AGA would agree with the position offered by Mr. Martin of INGAA that we believe PHMSA should study the existing regulations and what has been accomplished in the baseline assessment period, which is expiring next year, before they try to fix the existing regulation. It could, as you say, involve expanding HCAs to address areas that are more highly populated or perhaps expanding the number of miles that are being covered by the high-consequence areas.

But the idea is to understand for distribution companies there are many transmission facilities that are embedded into the distribution system. And as part of doing these assessments it is imperative that we take into account the singular directional fees that exist on the majority of our lines.

Mr. Pruessing. ExxonMobil Pipeline uses the same integrity management program for all of our pipelines, including those that are not in HCAs. I do agree with Mr. Black's comment. It would be important to look at the repair schedules to make sure the risks are included in that.

Mr. Sullivan. Thank you.

Mr. Martin, Pipeline Safety Trust testifies that all gathering lines should come under the same regulation as transmission pipelines.

Do you agree?

Mr. Martin. Well, representing the Interstate Natural Gas Association, we don't have the gathering lines as part of the association. So that is really not an area that we are focused on at this point.

Mr. Sullivan. Okay. And then, Mr. Black -- I have a little bit of time here -- with regards to the leak detection standards, what is AOPL's view of the current provision? How would the best available standard affect operators who are forced to implement leak detection technology?

Mr. Black. Well, we don't know, but it could set up a standard that is very unattainable and quite costly with potentially little benefit. Right now, operators are required to conduct a leak detection capability evaluation in high-consequence areas. That is available to PHMSA for inspection and audit.

We have proposed in the PHMSA rulemaking that they require that of us throughout the transmission system. We think that is where the focus should be, is between PHMSA and the operator, evaluating what the leak detection capabilities are.

We also support research on this, and we think it is important to improve the technology. I think some type of a best available technology doesn't fit with leak detection as a series of practices and not one technology.

Mr. Sullivan. Thank you, sir.

I yield back.

Mr. Whitfield. Thank you, Mr. Sullivan.

At this time, I recognize the gentleman from Louisiana, Mr. Scalise, for 5 minutes.

Mr. Scalise. Thank you, Mr. Chairman. I appreciate you having this hearing on the legislation.

Of course, both the House and the Senate need to take action before the end of the fiscal year for reauthorization if we are going to continue to have a guideline for pipeline safety. I think what is important about this draft document is that it does seem to incorporate a lot of lessons learned, and all of us want to continue to learn as there are incidents.

Nobody wants to see any kind of pipeline incidents, but we also -- just as, if a plane crashes, you surely don't stop all other planes from flying. You find out what happened to cause that crash to do whatever you can to make sure it doesn't again. In some cases, there may be things that went wrong, human error, and you can't necessarily do a lot about that, might do some things. But, in some cases, you might have a mechanical error or might have problems where you might need a recall. But, at the same time, the FAA doesn't ground all the planes.

But you need to learn your lessons, and that seems like that the gist of this is. It seems like some of those safety improvements are incorporated into the draft, and that is good news.

I do want to ask -- I was looking on section 20 of the legislation. It talks about leak detection, and it requires the Secretary of

Transportation to come back to us, the relevant committees, with guidelines on leak detection systems utilized by operators of hazardous liquid pipelines, transportation-related flow lines. And then it further goes on in subsection B to require the Secretary to prescribe regulations and, of course, have notice hearings, the requisite things to come up with the best regulations for leak detection.

It was suggested by one of the panelists that we actually set standards in this bill, as opposed to having the Secretary bring us some of those recommendations. I wanted to ask you, Mr. Black, to get your take on that, kind of the difference between what was presented by one of the panelists versus what is in the draft document in section 10 dealing with leak detection.

Mr. Black. Part A in section 10 is the study. We don't oppose the study. A study was completed about 3 years ago and concluded what I think we all know here, that this is very complex, there is no one size fits all. And they did not conclude a rulemaking was necessary.

Item B assumes what the study will find. It assumes that there is a rulemaking requirement. And we do not believe that the Congress should presume that the rulemaking is necessary. We encourage the support of the Federal Government on leak detection technologies. I know PHMSA is considering some of this, as are we. We fund consortium research on leak detection availabilities. I think that is the focus, rather than a rulemaking.

Mr. Scalise. Okay, I appreciate that input.

As we look at continuing to make improvements, ultimately

bringing this formal bill to a markup and hopefully moving it through the chambers, I hope you also keep in mind that it is critical that we continue to maintain our ability to transport oil products, natural gas products through our pipelines. Because if you don't have that pipeline system -- I think most would agree that it is probably the safest method and most efficient method of transporting these types of products that people use every single day throughout our country. Because if you don't have that, you will be putting them on rail or on trucks and moving them in other ways. And so you have got a system that is built in right now.

We need to learn from any mistakes that have been made in the past and continue to improve safety, but, at the same time, keep in mind -- unless you are somebody that just doesn't believe anybody should be able to use fossil fuels, which there are clearly people like this on this committee. But, in the real world, I don't think many people are ready to plug in their cars to a plug and get to where they need to go. They are going to be using fossil fuels for a long time. And if we are going to do that, we better have good methods of transporting.

And, clearly, if you look at all the different methods available, I think most would agree the most safe and efficient method is the pipeline system. And so as we continue to improve upon it, I think it is also important to remember that we cannot let this authorization expire, which it would if we didn't have this legislation.

So, again, thank you, Mr. Chairman, for bringing it; and I look forward to the debate as it continues on with actual legislation.

Mr. Whitfield. Thank you.

At this time, I would like to recognize the gentleman from California, Mr. Bilbray, for 5 minutes.

Mr. Bilbray. Thank you, Mr. Chairman.

Mr. Chairman, I know it doesn't specifically address this piece of legislation, but, Mr. Kessler, there is one thing that I think we don't talk about enough and that is, you know, long-term planning and trying to get cooperative efforts before a crisis. We always kind of respond to crisis.

My question is, you were talking about how many people die every year or whatever with these accidents. We lose -- what -- 100 people a day on our interstate freeways. But the Federal Government has taken a lead and required local governments to take a lead at citing freeway alignments, doing the environmental, looking at the big picture. We don't ask the companies that build freeways for us to do the environmental assessment and do the alignments and do it the right-of-way acquisition. We have government involved but in a proactive way, not a reactive way.

Just like we require the council of governments and the States to participate in the citing of the freeways and just as cities and counties in the urban areas cite power lines, gas lines, and water lines, don't you think it is about time we start talking about having council of governments be proactive of where is the best place to put the utility easements and try to do this comprehensively as a responsibility of good planning, rather than continuing to ask the

private sector to always sort of go do it yourself and it is not our job?

Mr. Kessler. Mr. Bilbray, more planning, more collaboration, more discussion between companies and local, State, Federal Government is always a good thing. And, as you know, oil pipelines are cited by States and interstate gas by the FERC under the Gas Act. And there are gaps. And, in fact, this committee in 2002 included a provision that required development of planning and information. You know, there is a lot of encroachment on existing pipelines. It is not the pipeline's fault that cities have grown up around pipelines. And what you need to do, as you said, better plan and better communicate. And we have advocated for -- there is a report that has come out of the 2002 Act, but we need to fund that kind of outreach, and we need to do more of what you are talking about.

Mr. Bilbray. I only bring this up because those of us that were in the game -- I started off at 25 as a council member and I was a mayor at 27, so a county of 3 million I supervised. I think those of us in government are quick to point fingers at the private sector that they need to do more, but we are slow at talking to ourselves or our colleagues in government of saying we need to be willing to take the heat. We have got to be willing to stand up and say this is the best way for an alignment or this is the safest way, whatever.

Mr. Chairman, I just wanted to bring that up because I think we are treating symptoms a lot of times with regulatory oversight mandates because we haven't set the great foundation and required those at the

State and especially at the regions to take the responsibility at being proactive and telling the private sector, hey, just like we do with our streets in our urban areas, here is the alignment. This is the alignment we set aside for you. You have access to this. And here we go.

And we may even want to charge for it, which they do in urban areas, but we at least take the heat of running those lines down, rather than somebody later showing up, my God, I didn't even know this was running through my city. Not only should they know that, but they should be required to participate in the decision making of where it runs through their city, just like we do with freeways.

We don't allow cities and counties to say, it is not my business. We don't have a Federal FERC or a Federal transportation agency deciding those easements. We don't have State do that. We have local and regional do that. And you agree we ought to be moving towards that kind of participation in our utilities.

Mr. Kessler. Again, the committee was wise to put the provision in in 2002 under Mr. Tauzin and Mr. Barton. We got a good report. We need to actually put those things into effect. You are absolutely right. More collaboration, more planning is always better. It is good for the companies, and it is good for the general public and the environment.

Mr. Bilbray. And more government trying to find answers, rather than trying to find fault.

Okay, I yield back.

Mr. Whitfield. Thank you, Mr. Bilbray.

Before I conclude this hearing, I would like to ask one other question. And then, Mr. Green, did you want to ask a few more questions? I had the impression that you would like to ask a few more.

My question would be this. On section 10 of the bill entitled leak detection, we talk about a study by the Department of Transportation on technical limitations and so forth, and all of you are sort of experts in this field. I would just ask a general question on your view of the technology and leak detection. Are we making real progress in that area or what are your impressions on that?

Mr. Black. Yeah, I think the ability to detect a leak is improving. I think the expectations for a pipeline operator on detecting a leak are also improving.

The reason this is a tricky issue is leak detection is a bunch of things. It is your SCADA system, it is your gauges, the accuracy of your gauges, your control room processes, your displays, formulas that are used in determining whether this is a false positive or indeed a leak. All of that is improving but certainly needs to improve further.

Mr. Whitfield. Mr. Martin.

Mr. Martin. Yes, obviously, in the bill that was addressing liquids lines, gas or different material that is going through the pipeline, but we do have leak detection programs. And I would just agree with Mr. Black on the advancements. We have done a lot of work and made a lot of progress, but we still have a lot of work to do.

Mr. Kessler. We have done a lot of study of this issue. And I would note that the State of Alaska on liquid pipelines -- not exactly the most liberal or certainly not an anti-production State -- has a 1 percent standard -- leak detection standard. We would love to see that taken nationwide, but we recognize there is different characteristics, different pipelines, both the pipelines themselves and the surrounding area.

This is not about getting companies to pay unreasonable amounts. This is about risk, and it is about putting these things with the best technology where they are most useful, not everywhere. This is being made out to be something much more than it is. If Alaska can do it, why can't other States? Why can't the country do this?

Mr. Whitfield. Mr. Dippo?

Mr. Dippo. Yes, I know the bill discusses leak detection on the liquid side, but on the gas side, as Mr. Martin said, we do do leak detection every day, continuously. That is part of running a system and making sure that it is fit for service.

Mr. Whitfield. Okay. Mr. Pruessing.

Mr. Pruessing. I agree with Mr. Black that leak detection takes a number of different areas. It covers a lot of things.

I would say that there is really not a standard out there right now that anybody's technology meets what everybody wants, so it continues to evolve. And a lot of companies, ourselves included, are doing internal proprietary work to try to develop that next level of standard. There is not something out there right now that is off the

shelf that people could go use that would meet all the requirements that people are asking for.

Mr. Kessler. I would just like to point out that the bill draft does contemplate economic circumstances, technical circumstances. You have wisely included that. So I don't think it is fair to say that these aren't going to be considerations, because you have wisely seen that they will be. So I just want to make sure that was --

Mr. Whitfield. Thank you.

You do? Mr. Rush has questions; and then we will go to you, Mr. Green.

He defers to you, Mr. Green.

Mr. Green. I just want to follow up some of the questions from members and on the hour versus the immediate. How often do operators -- and this would be both liquid and gas -- just have some anomalies in the pipeline that you may not think it is a rupture, but it is -- and you find out it really is something. Is that pretty common? Is it in liquids, Mr. Pruessing?

Mr. Pruessing. You can have indications on a pipeline that do not actually reflect a leak but that just -- you don't understand. So there could be cases where you would make that call without really having a full understanding if you had a leak or not.

Mr. Green. And you would assume you would make that call based on the safest possible --

Mr. Pruessing. Yes, we are always going to take the conservative approach.

Mr. Green. Mr. Dippo?

Mr. Dippo. Yes, the concern for the natural gas distribution industry is to focus on the response. So with the proposed legislation, we are concerned the 1-hour limit will take the focus away from making that initial emergency response to the scene. And, as I said, with the one-call provisions and some existing exemptions, it is not unusual for us to see struck means and services on a daily bases.

Mr. Green. Would it make sense to have different standards for liquids versus natural gas? Have there been any discussions of that over the years, depending on the product that goes through the pipeline?

Mr. Dippo. I am not aware that there has been any of those discussions. Again, our focus would want to be to respond to the emergency situation and then follow up with the reporting call to the NRC.

Mr. Green. Mr. Chairman, I have a series of questions. I would like to see what is happening for ExxonMobil, mainly their relationship between EPA and the response. I know we don't have time now, but if I could submit those and see how the relationship has evolved on those disasters. We all watched what happened with BP, the Department of Energy, and different Federal agencies, because it was all on the national news. Montana is not the Gulf of Mexico maybe, but if I could submit those questions, I would appreciate it.

Mr. Whitfield. Absolutely.

[The information follows:]

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Mr. Whitfield. Mr. Rush, you are recognized.

Mr. Rush. In recent years, there has been a large expansion known as gathering pipelines. These are the pipelines that bring natural gas and oil from production facilities to Federally regulated transmission pipelines. With thousands of new gas wells being drilled, even highly populated urban areas now have gathering pipelines beneath them, and some of these gathering pipelines are of similar size and operating pressure as transmission pipelines. The problem is that the Federal Pipeline Safety Agency is explicitly prohibited from regulating gathering pipelines under current law.

Mr. Kessler, does it make sense for the pipeline safety statute to include a blanket regulatory exemption for gathering pipelines?

Mr. Kessler. No, sir. The development of the Marcellus shale and other nontraditional areas is a tremendous benefit to the country. It is great that it is being developed, and it is resulting in more and more pipelines. And, as you point out, some of these gathering lines really have all the characteristics -- whether it is pressure, size -- of a transmission line. And like the old saying goes, if it looks like a duck and quacks like a duck -- to paraphrase -- it probably should at least be considered to be regulated as a duck, and the law doesn't allow that right now.

Mr. Rush. Well, why is it important for PHMSA to consider regulating some of these gathering pipelines?

Mr. Kessler. I think you already made that case. Because of lot of them are popping up in nontraditional areas that are densely

populated, that have no experience, and again have all the characteristics of the things that we do regulate. It shouldn't be what we call them. It should be the characteristics of the line themselves that require the regulation.

Mr. Rush. As I understand it, the administration proposal includes a provision to first eliminate the statutory barrier. Then the proposal would require PHMSA to review all of the existing regulatory exemptions for gathering pipelines and eliminate the ones that are not justified. Under that approach, all gathering pipelines wouldn't necessarily be regulated like transmission lines; is that correct?

Mr. Kessler. That is correct.

Mr. Rush. PHMSA would have the flexibility to decide which gathering lines should be treated like transmission lines; is that correct?

Mr. Kessler. That is correct, sir.

Mr. Rush. I think the approach proposed by the administration makes a lot of sense. The Federal pipeline safety agency shouldn't be barred from regulating all gathering pipelines, as there are certain gathering pipelines that pose the same risks as the new transmission pipelines that are currently regulated. I would like to work with them in order to strengthen this section of the discussion draft.

I want to bring to your attention the fact that just this month there was a gathering line oil spill in Montana that apparently went unreported for at least a month.

With that, Mr. Chairman, I yield back the balance of my time.

Mr. Whitfield. Well, thank you, Mr. Rush.

It is my understanding that our staffs are working together and that you all have submitted a list of priorities from your perspective. So, hopefully, we can come out with a product.

Your testimony helped us a lot today, and we appreciate that. We appreciate all of you being here. I know Mr. Kessler and Mr. Black roamed the halls of the Energy and Commerce Committee for a few years, so we hope that you felt good being back with us today.

Mr. Rush. Mr. Chairman, I might remind the witnesses that I am looking forward to getting the report on the minority membership and their various associations.

Mr. Whitfield. Yeah, there were some unanswered questions and then some questions will be submitted. In fact, we will keep the record open for 10 days so that members may have an opportunity to submit additional materials.

And, with that, we conclude the hearing and look forward to working with all of you as we proceed on this legislation.

Thank you.

[Whereupon, at 11:05 a.m., the subcommittee was adjourned.]