

**PIPELINE SAFETY:
STATE AND LOCAL PERSPECTIVES**

FIELD HEARING
BEFORE THE
SUBCOMMITTEE ON SURFACE TRANSPORTATION
AND MERCHANT MARINE INFRASTRUCTURE,
SAFETY AND SECURITY
OF THE
COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE
ONE HUNDRED FOURTEENTH CONGRESS
FIRST SESSION
—
SEPTEMBER 18, 2015
—

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ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

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PIPELINE SAFETY: STATE AND LOCAL PERSPECTIVES

FRIDAY, SEPTEMBER 18, 2015

U.S. SENATE,
SUBCOMMITTEE ON SURFACE TRANSPORTATION AND
MERCHANT MARINE INFRASTRUCTURE, SAFETY, AND SECURITY,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Billings, MT.

The Subcommittee met, pursuant to notice, at 10:00 a.m., at Montana State University, 1500 University Drive, Billings Library, Room 148, Billings, Montana, Hon. Deb Fischer, Chairman of the Subcommittee, presiding.

Present: Senators Fischer [presiding] and Daines.

OPENING STATEMENT OF HON. DEB FISCHER, U.S. SENATOR FROM NEBRASKA

Senator FISCHER. Good Morning. The hearing will come to order. I am pleased to convene this Senate Subcommittee on Transportation and Merchant Marine Infrastructure, Safety and Security for our eighth hearing titled "Pipeline Safety: State and Local Perspectives."

First, I would like to thank Senator Daines for hosting this field hearing in his home state of Montana. We are pleased to be here at Montana State University in beautiful Big Sky Country. I also want to thank Senator Jon Tester for joining the Committee today. He and I have shared a strong working relationship, particularly on issues related to transportation policy, and I look forward to working closely with both of you as we move forward on this pipeline safety reauthorization and other important pieces of legislation.

Finally, I would like to acknowledge the presence of the newly confirmed Pipeline Safety and Hazardous Materials Administrator, Marie Therese Dominguez. I was pleased to strongly support Administrator Dominguez's nomination in the Committee and on the floor, and I look forward to hearing more from her today.

Today's hearing will examine the importance of pipeline safety, particularly as it relates to rural areas. According to PHMSA, more than 2.5 million miles of pipelines cross through the United States. Half a million miles of pipeline transports natural gas, oil, and hazardous materials to critical infrastructure, including power plants, military bases, airports, or treatment facilities. Pipelines transport approximately 75 percent of our Nation's crude oil and 60 percent of our refined petroleum products. Accidents related to pipeline

safety are often tremendous disasters that pose harm to the public and our sensitive natural resources.

As many of you know, in 2011, a corroded pipeline spilled 63,000 gallons of crude oil into the Yellowstone River in Laurel, Montana. I understand that is not far from here. In 2010, a natural gas pipeline exploded in San Bruno, California, killing eight people, injuring 60 people, and destroying 37 homes. This year in Glendive, Montana, the Poplar Pipeline spilled nearly 30,000 gallons of crude oil into the Yellowstone River.

Most officials and experts cite these events as among the worst pipeline accidents in recent history. In order to protect the safety and natural resources of Nebraskans, Montanans, and all Americans, Congress must maintain robust oversight of PHMSA activities. State and Federal officials must also ensure that pipelines across the country can continue operating efficiently. After all, pipelines are renowned as the safest way to transport crude oil and natural gas.

As we look forward to PHMSA reauthorization, I am eager to work closely with my colleagues on both sides of the aisle, as well as PHMSA and industry stakeholders. Together we can establish a bipartisan, pro-safety reauthorization bill that strengthens our Nation's pipeline network.

To begin, I am looking forward to hearing more about PHMSA's work to fulfill the Agency's outstanding mandates from the previous reauthorization. In the 2011 PHMSA reauthorization, PHMSA received over 40 new mandates. To date, they have completed well over 50 percent of its mandates, but still have a significant amount to accomplish. I also look forward to working with Administrator Dominguez to reprioritize the Agency's important work in our reauthorization legislation.

With regard to staffing, I understand the Agency is experiencing challenges competing with the private sector for highly skilled labor. I would like to explore the ways in which PHMSA and Congress can work together to accelerate its hiring of field inspectors and analytical experts. In addition, I hope to learn more about PHMSA's work with industry stakeholders on the Agency's Risk-Based Integrity Management Assessment Programs and pipeline inspection requirements, particularly as it relates to high consequence areas.

In January 2015, a National Transportation Safety Board report found that PHMSA's Integrity Management Program's complex requirements often make compliance challenging for pipeline operators. In its quantitative analysis, NTSB found that although the Integrity Management Program has kept material failures on pipelines low, there is no evidence that the overall occurrence of gas transmission pipeline incidents have declined.

In addition, PHMSA's inspections criteria should be reviewed. Currently, pipeline operators must inspect pipelines every seven years. In some instances, PHMSA's inspection requirements may be too little, while in others too frequent. I hope to work with PHMSA to reexamine best practices to improve pipeline inspection and data collection requirements.

Finally, I would like to hear from PHMSA and all the stakeholders on the importance of providing up-to-date and more accu-

rate information for pipeline operators and policymakers. PHMSA should better educate stakeholders and the public, particularly when it comes to high consequence areas, including river crossings, drinking water aquifers, environmentally delicate regions, and population centers.

Again, thank you all for being here today. Together I am certain we can achieve a bipartisan, pro-safety reauthorization to ensure the stability, efficiency, and safety of our Nation's best network of pipeline infrastructure.

I would now like to invite Senator Daines to offer opening remarks.

**STATEMENT OF HON. STEVE DAINES,
U.S. SENATOR FROM MONTANA**

Senator DAINES. Chairman Fischer, thank you for traveling to Montana to chair this subcommittee hearing. We often hear about the urban/rural divide, how what works for folks in New York City or San Francisco does not necessarily work here in Montana. Chairman Fischer, I know you come from a ranch family. You have a cow cap operation in a small town in Nebraska, so I know you feel right at home here in our way of life here in Montana.

Senator FISCHER. Yes.

Senator DAINES. Similarly, many of the hearings held in D.C. are focused primarily on urban issues, and too often the rural voice of America goes unheard. And that is why field hearings like this are so important, and I truly appreciate my colleague, our Chairman from Nebraska, who comes from and understands rural America. Thank you for requesting with me this hearing in Montana and facilitating our rural voices being heard.

On that same note, I would like to thank Committee Chairman John Thune, and Ranking Member Bill Nelson for scheduling our request for this hearing. If you take a look at the makeup of the Commerce Committee today in the U.S. Senate, there is a strong showing of western and rural states. We have a great team that does understand rural issues.

Senator Tester, thanks for joining us today. I appreciate that we have been able to work together on these issues, including introducing an appropriations amendment addressing pipeline river crossings. And for that, I thank you. I also note Congressman Ryan Zinke also wanted to be here to put a statement for the record. However, the House is in session today. They are voting today, and I want to thank him for his support for constructing pipelines to promote job creation and energy independence and safety. He is also a good partner to work with.

Chairman Fischer, I would like to ask unanimous consent to have Congressman Zinke's written statement entered into the record.

Senator FISCHER. Without objection.

[The information referred to follows:]

PREPARED STATEMENT OF HON. RYAN ZINKE,
U.S. REPRESENTATIVE FROM MONTANA-AT-LARGE

Mr. Chairman, Mr. Ranking Member, Senator Fischer, Senator Daines, and Members of the Committee:

I wish to offer my sincere thanks for your willingness to host a hearing here in my great state of Montana about pipeline safety efforts at the state and local levels. While I am sorry I cannot be there in person to participate, this issue is a top concern for many of my constituents and I am honored to share my perspective on this issue.

Pipeline infrastructure, particularly across Eastern Montana, is a critical method to transport crude, natural gas, gasoline, propane, and other energy and chemical resources across the country. With roughly 15,000 miles of pipelines that traverses the state, which is a small portion of our Nation's 2.5 million miles of pipeline, these pipes offer enormous benefits for consumers and businesses. In my mind, safety is at the very top of the list.

Data has shown that compared to trains or trucks, pipelines are a far safer method of transport. When looking at the amount of spillage and the overall rate of accidents, there is minimal comparison; pipes have a lower probability of spill incidents. This is why I support the creation of additional pipelines. According to the Association of Oil Pipelines, in 2013, 8.3 billion barrels of crude oil were moved via pipeline, compared to 291 million barrels of oil by rail. Further shifting the energy supply transports to pipes would allow the rail industry to provide additional support to other important industries in Montana, such as agriculture or manufacturing.

Our pipeline infrastructure is at a crossroads. Despite its immense importance, much of the existing infrastructure is outdated and in desperate need of reform. Even though pipelines are exponentially safer, accidents still happen. The incident in Glendive, Montana, that occurred in January of this year illustrates that work still needs to be done. We must look into revamping our safety and monitoring systems as our energy and pipeline industries continue to expand. Our nation's growth potential must be matched by a world-class infrastructure system that keeps Montanans and our Nation safe.

However, I applaud the local, state, and Federal agencies who responded to the Glendive spill. Their collaboration minimized the impacts and protected the environment from further damage. Within twenty-four hours of the break, all involved agencies were on the scene accessing the situation and developing an action plan for the quickest cleanup. Because of the rapidness and effectiveness of the conjoined response effort, the spill was contained and isolated. Six months later, tests are showing a clean bill of health for the river.

We need to continue to learn from these successful coordination efforts that help minimize impacts on natural resources, adequately involve entities and communities in an efficient and timely manner, and protect health and human safety. You will hear of other examples of triumphs and failures during today's hearing, but I treat these as valuable learning experiences. My hope is that by investing in infrastructure updates and improvements, as well as creating innovative methods to effectively evaluate pipelines, our local and state entities will have far fewer accidents and increased economic growth.

I believe it is incredibly important to have these conversations as we move toward appropriate legislative action and look forward to hearing the testimonies of the participants.

Senator DAINES. Chancellor Mark Nook and his team here at MSU-Billings, thank you for hosting this field hearing and providing this excellent facility. This is a place that my mom attended many, many years ago. Your staff has been a pleasure to work with, including providing great AV support. And as we all know, you are usually only as good as your AV support, and I thank you for that.

I have a little different background perhaps than many in Congress. I spent 28 years in the private sector after graduating from Montana State University-Bozeman as a chemical engineer. In fact, I think I am the only chemical engineer in Congress. Do not hold that against me. I know many other great engineers get their start right here in the Montana State University system. Many of these

engineers have gone on to design, construct, operate, and inspect the pipeline infrastructures that we are here to discuss today.

Earlier this week, we had a biannual Montana High Tech jobs summit in Bozeman. We have bright students with an unparalleled work ethic, matched with access to the great landscapes and quality of life we have here in Montana and our abundant natural resources which has made Montana an attractive place for high-tech jobs. This unique environment has enabled Montanans to lead in innovation and play an instrumental role, an important role, in increasing the safety and efficiency of our infrastructure. Technology has also allowed our pipelines to become more advanced, to become safer, and to become more efficient. I am looking forward to exploring these gains during today's meeting.

Thanks also to our witnesses. I appreciate you joining us in Billings today and testifying on this very important issue. I first want to recognize our two Montana witnesses, Yellowstone County Commissioner Ostlund of Billings and Ms. Slyder from Edgar, Montana. Commissioner, thank you for your 12 years of public service. Ms. Slyder, I appreciate having another Montana engineer at the table. "Environmental engineer" just sounds better than "chemical engineer," so congratulations, although we had to study all the same topics.

I look forward to hearing from both of you about your professional experiences working with and around the pipelines of our state. Thanks for the work that you do for the people of Montana and for being here speaking up for our state.

Ms. Dominguez, welcome to Montana. It is a pleasure seeing you here again. I understand this is your first testimony since your confirmation of PHMSA—as a PHMSA administrator. Thank you for accepting the invitation and joining us today to discuss safety, discuss jobs, and PHMSA's role right here in Montana. I hope you have a little extra time to enjoy some of our great beauty.

Mr. Denton, thank you for traveling to Montana to provide the perspective as a pipeline operator here in Montana. I am grateful we have Montanans at the table here today with both industry leaders and folks from Washington to ensure that the Montana voice is heard. We need Washington to look a little more like Montana, and that is best accomplished when we have decisionmakers come to the states to listen as well as to learn.

The Pipeline and Hazardous Materials Safety Administration, also known as PHMSA, plays a very important role here in Montana, and is vital to ensuring the safe and environmentally sound transportation of our natural resources. PHMSA's jurisdiction covers approximately 2.16—2.6 million miles of pipeline across our Nation, nearly 19,000 miles here in Montana alone.

This infrastructure, along with highways, railroads, airports, is an economic bloodline for our state because Montana produces approximately 30 million barrels of crude oil, 63 billion cubic feet of gas, and 42 million short tons of coal annually, and we export 60 percent of this energy. The oil and gas industries directly employ 7,500 Montanans, 862 just in pipeline construction. In total supports the employment of over 43,000 Montanans; in fact, 6.7 percent of Montana's total employment.

In Montana, we know firsthand the potential that exists from investing in more energy infrastructure. The Keystone Pipeline alone would create an additional 4,000 jobs nationwide and approximately 800 jobs for us right here in Montana. That would double the current number of pipeline construction jobs in Montana alone.

The oil and gas industries contribute \$4.5 billion to our economy. That is over 10 percent of Montana's economic activity. These are good-paying jobs. Because our average salary in Montana is just under \$40,000, the average oil and gas industry salary in Montana is over double that at \$81,000. Additionally, Montana's oil and gas industries provide nearly half a billion dollars in state and local tax revenues. That is helping support our schools, our teachers, and our infrastructures. And pipelines alone paid \$72 million in property taxes to the State of Montana just last year.

During my preparation for this hearing, it was impossible not to reflect on this year's and 2011's pipeline releases into the Yellowstone River. Speaking as somebody who just fished the Yellowstone River two weeks ago, I am grateful for the efforts of both industry and of government to quickly respond to clean up the spills, investigate what went wrong, and institute measures to improve safety and prevent recurrence. By finding out what went wrong in these incidents, we can implement some common sense reforms to prevent similar occurrences in the future.

One of the challenges we have discussed and we will explore more today around PHMSA's hiring practices is the lack of pipeline inspectors in Montana. I want to thank you, Administrator, for working to hire a second pipeline inspector in Montana. I was excited to discuss this new position earlier this month with you, and appreciate PHMSA's taking steps to ensure resources are available to ensure the continued inspection of Montana's pipelines. Thank you.

Pipelines remain the safest way of transporting liquid and gas resources. According to a recent study, pipelines are up to 40 times safer than on our roads. It is imperative to our state that these energy products continue to be moved safely, to be moved efficiently.

Congress plays an important role in the oversight of this infrastructure, and PHMSA—with PHMSA's authorization expiring, I have been working closely with the Senate Commerce Committee on legislation to reauthorize PHMSA. Your experiences, your ideas for improvement is critical as we begin drafting this legislation. Thank you.

Senator FISCHER. Thank you, Senator Daines. Next, it is my great pleasure to welcome my friend, Senator Tester, from the great state of Montana, and I invite him to give testimony before the Committee.

**STATEMENT OF HON. JON TESTER,
U.S. SENATOR FROM MONTANA**

Senator TESTER. Well, thank you, Chairman Fischer, and thank you for allowing me to be a part of this hearing. I appreciate you making the trip to Billings to Big Sky Country. I know it was not an easy trek for you. Steve and I happened to make the flight. She did not, but she got in here two hours earlier, so God works in mysterious ways.

I also want to thank Senator Daines for his leadership on the pipeline issues. Senator Daines, we have worked together in the past, and I look forward to working together in the future to bolster pipeline safety across the Nation, and particularly in the great state of Montana.

You know, I also want to thank the folks on the second panel for their testimony, or third panel, however you want to read this. I think it is critically important when we talk about pipeline safety that we get as many players as possible to the table to talk about what the challenges are and how can work more effectively together. And Administrator Dominguez, thank you very much. We look forward to reading your testimony.

It goes without saying, we rely on pipelines to transport a wide array of important products across this country. And while pipelines are the most efficient and safest way of transportation, they also pose risks to Montana's clean air, and clean water, and to our safety. Oil is a critical resource, but water is more valuable. It is our responsibility to keep our pipelines safe, grows in size and scope every year as our infrastructure ages, and our oil and gas production increases.

We know this all too well in Montana. We have experienced two major spills, as has been pointed out previously. The Yellowstone River—the first spill, was back in 2011 when an Exxon-Mobil pipeline ruptured. Sixty-three thousand gallons went in the river about 20 miles upstream from here. At the time, the river was flooding out of its banks, and that oil extended downstream some 70 miles from the spill site. And in January of this year, a pipeline ruptured near Glendive, spilling about 30,000 gallons of oil into the Yellowstone River, shutting down the Glendive water system for a relatively short period of time due to the spill.

In a recent—in a recent report to Congress, PHMSA found that erosion created exposed pipelines, and that was a factor in at least 16 significant incidents between 1991 and 2012, including the oil spill that I spoke of that happened in July 2011. We need to do more to address the unique challenges of river crossings. Fast-moving water and erosion can change the characteristics of rivers rapidly, exposing these pipelines and making them susceptible to rupture.

Given the importance of safeguarding our waterways, I really need to know whether we are doing enough to monitor the spill response plans of pipeline owners and operators. It is important that we hold PHMSA to the highest standards, but ultimately the owners and operators of these pipelines need to be an important part of the equation when it comes to maintenance and upgrades to ensure that spills that, by the way, make nobody any money, happen rarely.

We must also make sure that our first responders and the communities have the appropriate information to do their jobs and manage the risk responses. And I hope Commissioner Ostlund can speak to that.

I also need more information about real-time monitoring during flood events, and if PHMSA utilizes river data from other agencies, like the USGS. Today I expect PHMSA will communicate about their efforts to bring new pipeline inspectors on board, so we ap-

plaud those efforts. In 2014, we supported an effort to greatly expand the number of inspectors in PHMSA's Pipeline Safety Division. More inspectors will allow the Agency to prevent future incidents, and that is going to save money. That is going to help everybody be more profitable.

I know hiring and training a new workforce can be extremely difficult, and I look forward to the progress update on the hiring process and how Congress can continue to help you do your job, Administrator. Montana has a tremendous work force, and we have got great schools to train folks. I look forward to working with you, Administrator Dominguez, to see how the Agency can partner with people in our State, including this university, to get good people on the ground, keeping an eye on our infrastructure.

As this hearing unfolds, I hope we will address what we learned from the previous two spills, what can be used on future spills. I hope we will address the oversight of older pipelines. Is it greater or less? The chairman talked about every 7 years the pipelines need to be inspected. Sometimes that is too long; sometimes that is too less. She is absolutely correct.

We need to talk about river crossings. What happens in flood events? We need to find out if our partners are working with us and we are working with them. Critically important. And communication, and the communication not only between oil and gas companies and pipeline companies, but also our local governments and commissioners. Very, very important. And in the case of a spill, who is driving the bus? Who has—who is the lead Agency? Who do we go to find out if things are going in the right direction?

Look, Montana is a great place to live. I hope, Madam Chair, that Senator Daines has the opportunity to take you out on the Yellowstone, maybe fishing. Bow hunting season is on. But the fact is you are probably like us. You are probably gone this afternoon, and that is unfortunate because we do have a great State. We like to think it is better than Nebraska. You may have a different opinion.

But we must do everything we can to make sure that we have energy that is dependable, predictable, affordable, safe, and does the things for our economy to allow our outdoor industry to be able to flourish, some \$6 billion and 64,000 jobs in that industry also. So I am committed to working with Administrator Dominguez, Senator Daines, and you, Madam Chair, to make sure that our kids inherit the best world we can give them.

Thank you very, very much for this opportunity to testify. I will be reading the—what do they call it?

Senator DAINES. Transcript.

Senator TESTER. The transcript. That is it, the transcript. And finally, and least, but not least, I thank you all for being here. I think it shows the importance of this issue to people of the State of Montana. Thank you.

Senator FISCHER. Thank you, Senator Tester. We are all so fortunate to live in the states that we do live in. They are beautiful states. The people are wonderful, and it is a pleasure to be here in Montana. Thank you, sir, for being here.

At this time, I would ask that our panel please come forward. Welcome, and thank you all for being here. We are so fortunate

today to have four really great panel members that are going to offer us testimony and then respond to questions.

We will begin with Marie Therese Dominguez. She is the Administrator of the Pipeline and Hazardous Materials Safety Administration. PHMSA's mission is to protect people and the environment from the risks inherent in transportation of hazardous materials by pipeline and other modes of transportation.

Ms. Dominguez most recently served as Principal Deputy Assistant Secretary of the Army for Civil Works. As Principal Deputy, she provided policy direction and performance oversight for the Army Corps of Engineers Civil Works Programs, focused on water resources, conservation and development, navigation, flood control, hydroelectric power generation, and outdoor recreation.

Welcome, and we would look forward now to your testimony.

**STATEMENT OF HON. MARIE THERESE DOMINGUEZ,
ADMINISTRATOR, PIPELINE AND HAZARDOUS
MATERIALS SAFETY ADMINISTRATION,
U.S. DEPARTMENT OF TRANSPORTATION**

Ms. DOMINGUEZ. Chairwoman Fischer, Senator Daines, thank you very much for inviting me to testify about the reauthorization of the Pipeline and Hazardous Materials Safety Administration, otherwise known as PHMSA.

Our program oversees the safe transportation of hazardous materials through the Nation's 2.6 million miles of energy pipelines. I would also thank Senator Tester and Senator Daines for welcoming me very humbly to the State of Montana. I am always happy to visit Big Sky Country, and you served up some beautiful weather, so thank you very much.

I want to express my gratitude to both of you for confirming my nomination in August. Two months ago I testified before you as the nominee for PHMSA Administrator, and thanks to your support, I am honored to testify before you now as the Administrator to discuss our strategy for enhancing pipeline safety amid rapid industry growth.

When I last testified before you, I told you my goal was to make PHMSA synonymous with safety, trust, and innovation. Safety is our mission, and it is at the heart and at the core of everything that we do. To achieve this mission, we need a strong foundation of trust with our partners in the States, the regulated industry, Congress, and, above all, with the American people. And to be an effective regulatory and enforcement agency amid rapid change, we must be innovative.

Since my confirmation, we have undertaken a number of initiatives to advance our safety mission and culture of trust, and ensure that the Agency is structured for the future. To that end, I was notified this morning that the Office of Management and Budget has completed their review of PHMSA's proposed rule on hazardous liquid pipelines which we have had pending, and they are preparing for notice of publication in the *Federal Register* some time hopefully in the next week or so. The proposed regulations will result in critical safety improvements, and we hope that they will spark a robust dialogue moving forward about pipeline safety in the United States.

More broadly, I have initiated an organizational assessment of PHMSA. Through this assessment, we will work to optimize our regulations, enforcement authority, and internal processes to ensure that PHMSA is structured to be responsive and drive innovation that enhances our safety mission.

In addition, PHMSA is the first USDOT modal administration to develop and begin implementing an Agency Safety Action Plan, or ASAP. The ASAP is led by the Secretary of Transportation, and it is a really important effort across the Department to proactively identify ways we can improve safety. It is really asking the question, how can we better leverage our current authorities and our capabilities to improve safety. As part of the Agency Safety Action Plan, PHMSA is seeking ways to assist with and incentivize high performance among our state partners. And we look forward to working with the Congress to make our State partners as effective as possible.

Montana is one example of PHMSA's strong coordination with State partners, which is ever more important as the industry expands. The recent spills in Montana are unacceptable, and they underscore the importance of PHMSA's safety mission and the need to work with our state and industry partners to push for improvements that mitigate risk and prevent future incidents.

PHMSA continues to investigate January's Bridger pipeline oil spill. After launching a comprehensive investigation, PHMSA issued a corrective action order to that operator. In late April, Bridger received approval from PHMSA to replace its pipeline with a new horizontal directional drilled pipeline crossing, and allowing it to remove service—excuse me—resumé service. We will pursue additional enforcement actions if it is determined that the operator violated any Federal pipeline regulations.

In the wake of the Bridger spill and the 2011 Exxon-Mobil spill, PHMSA has been working closely with the Montana government and pipeline operators to ensure necessary steps are taken to safeguard pipeline water crossings. These efforts are yielding measurable results for Montana. Since mid-2011, 17 pipeline crossings of major rivers have been replaced with HDD pipelines. Of the 64 major river crossings in Montana, 41 are now directionally drilled.

There is more work to do. Thanks to resources provided by Congress, PHMSA is growing by 25 percent. Hiring and training Federal and State inspectors is of the utmost importance as we expand our workforce. We are committed to strategically using the resources that Congress has granted us to invest in our inspection and enforcement capabilities, work to stay ahead of industry trends, strengthen our partnerships, and ensure the highest safety standards.

I look forward to working with you as PHMSA leads the way in driving our State partners in industry toward a pipeline network that is known for safety, trust, and innovation.

[The prepared statement of Ms. Dominguez follows:]

PREPARED STATEMENT OF HON. MARIE THERESE DOMINGUEZ, ADMINISTRATOR,
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, U.S. DEPARTMENT
OF TRANSPORTATION

I. Introduction

PHMSA's reach is vast, but the mission is concise: to protect people and the environment from the risks of hazardous materials transportation in all modes, including the 2.6 million miles of pipeline nationwide. This safety mission is what drives our talented team of experts and professionals, and it is what drives me in my commitment to make PHMSA the premier safety organization in transportation.

The American energy industry is rapidly changing, growing and expanding. As such, PHMSA is at a pivotal juncture; as a regulator, it is critical for PHMSA to keep pace with and anticipate industry trends and make sure that, along with growth, there is a commitment to the highest safety standards—a commitment that the American public can count on.

Thanks to resources provided by Congress, PHMSA is growing by 25 percent. Hiring and training Federal and state inspectors is of the utmost importance as PHMSA expands its workforce. As it carries out this hiring surge and looks ahead to reauthorization of the pipeline safety program, PHMSA is committed to strategically using the resources Congress has granted us to stay ahead of industry trends, strengthen state partnerships and ensure the highest safety standards.

The goal is to make PHMSA synonymous with safety, trust and innovation. Safety is PHMSA's mission and is at the core of everything the agency does. To achieve this mission, PHMSA needs a strong foundation of trust with partners in the states, the regulated industry, and Congress—and, above all, with the American people. And to be an effective regulatory and enforcement agency amid rapid change, it is critical to be innovative and nimble. In recent months, PHMSA has undertaken a number of initiatives to advance its safety mission and culture of trust, and ensure that the agency is structured for the future.

First, PHMSA is undergoing an organizational assessment. Through this assessment, the agency will work to optimize its regulations, enforcement authority and internal processes to ensure that it is structured to be responsive and drive innovation that enhances the safety mission.

In addition, PHMSA is the first USDOT modal administration to develop and begin implementing an Agency Safety Action Plan, or ASAP. ASAP is led by the Secretary of Transportation and is an effort across the Department to proactively identify ways to improve safety. It's asking the question: How can PHMSA better leverage current authorities and capabilities to improve safety?

These efforts will help PHMSA to utilize the resources provided by Congress to create greater efficiency in its structure and program execution, improve data collection and utilization, mitigate risk and advance safety.

The PHMSA team looks forward to working with Congress as the agency leads the way in driving state partners and industry toward a nationwide pipeline network that is known for safety, trust and innovation.

II. Pipeline Safety: Toward Zero Incidents

PHMSA does not accept death, injury, or environmental harm as an inevitable consequence of transporting hazardous materials, and the agency drives toward the goal of zero pipeline incidents. When incidents do occur, PHMSA investigates the root cause of the incident and, if any Federal regulations were violated, levies civil penalties. In addition, Corrective Action Orders (CAO) can require the operator to identify and address the root cause of the incident before they are allowed to return the pipeline to service. The requirements outlined in the CAO can take months or years to implement and can require the operator to make system-wide investments that improve safety.

In January 2015, when a pipeline in Glendive, Montana, spilled as much as 1,200 barrels of crude oil into the Yellowstone River, PHMSA launched a comprehensive investigation into the cause of the spill. A team of technically-skilled inspectors deployed to the scene in Glendive and the Bridger Pipeline Company's control room in Casper, Wyoming, to ensure the operator took all necessary steps to prevent any additional damage as a result of the pipeline failure.

In addition to launching an investigation of the Glendive spill, PHMSA immediately issued a CAO to the Bridger Pipeline Company, directing it to take a number of immediate and long-term actions to verify that the pipeline was safe to resume operation. In late April, Bridger tested and, after receiving approval from PHMSA's Western regional office, replaced the faulty pipeline with a new horizontal directional drilled (HDD) pipeline crossing under the Yellowstone River and resumed service. HDD is a method that allows pipes to be installed with minimal en-

vironmental impacts and at depths that may help reduce the likelihood of failure due to river scouring.

In 2011, when the ExxonMobil Pipeline Company's Silvertip pipeline in Laurel, Montana released 1,509 barrels of crude oil into the Yellowstone River, PHMSA issued a Corrective Action Order that directed the operator to complete numerous safety improvements, including the replacement of river crossings across three major Montana rivers with a deeper HDD pipeline to reduce exposure from erosion and help ensure long-term safety. ExxonMobil reported spending \$34 million to comply with the CAO—above and beyond the \$1 million civil penalty issued by PHMSA. On June 12th of this year, PHMSA denied ExxonMobil Pipeline Company's petition for reconsideration of PHMSA's Final Order and civil penalty.

PHMSA is employing a similar investigative strategy in response to the May 19, 2015, Plains Pipeline, LP oil spill in Santa Barbara, California. Following the spill, PHMSA immediately deployed an investigative team to the scene and an investigator to Plains' Midland, Texas control room to review operational information and data. Plains reported that the failure resulted in the release of 3,400 barrels of crude oil, some of which reached the Pacific Ocean. Investigation by Federal and state agencies continues as to the volume of oil spilled, the miles of beaches impacted, and other impacts to the environment. On May 21, PHMSA issued a Corrective Action Order to Plains with a set of instructions and requirements for mitigating the hazards and restoring safety conditions, operations and culture. The order includes an ongoing metallurgical analysis as well as third-party review of previous internal inspections carried out by the operator. The affected pipeline remains shut down pending completion of an extensive integrity analysis. PHMSA will not allow the line to return to operation until the operator has taken satisfactory actions to mitigate potential risks.

The investigations for both the Glendive and Santa Barbara incidents are still in progress, and PHMSA will pursue additional enforcement actions if it is determined that either operator violated any Federal pipeline safety regulations. These spills highlight the need for continuous improvement and commitment to safety by PHMSA, state partners and operators.

III. Leveraging State Partnerships to Mitigate Risk

The recent oil spills in Montana and California are unacceptable and unfortunate, and they underscore the importance of PHMSA's safety mission and the need to learn from these incidents and work together with state partners to push for improvements that mitigate risk and prevent future incidents. Montana is one example of PHMSA's strong coordination with state partners, which is ever more important as the industry expands.

For example, following the 2011 ExxonMobil spill, PHMSA conducted a joint study with the Montana Governor's Oil Pipeline Safety Review Council. The joint study revealed that many of Montana's pipeline water crossings could be threatened by river flooding and channel migration. PHMSA has been working closely with Montana's Departments of Environmental Quality, Natural Resources and Transportation, as well as Montana pipeline operators, to ensure that necessary steps are taken to safeguard existing crossings. These steps include: in-place safety procedures during flood conditions or increased river flow rates; increased frequency of patrols and depth of cover surveys during and after significant river-flow events; swift remediation measures, if needed; strengthening emergency response preparedness; and replacing trenched crossings with HDD pipelines.

While HDD pipelines are a critical and successful tool, operators must take a comprehensive approach to improving safety. In addition to the HDD pipeline installations, PHMSA has worked with Montana to establish more robust safety procedures for hazardous liquid pipeline operators in the state. The point of our Integrity Management regulations is that all operators of pipelines located in environmentally sensitive areas ("High Consequence Areas") such as river crossings must carefully monitor their systems and take extra precautions to prevent and mitigate the potential impacts of accidents in such areas.

Furthermore, on April 9, 2015, PHMSA issued an advisory bulletin to ensure operators were aware of the inherent risks associated with river crossings and remind them of the need to take extra steps to protect such environmentally sensitive areas.

These efforts are yielding measurable results for Montana. Since the 2011 ExxonMobil spill, 17 pipeline crossings of major rivers (>100 feet wide) in Montana have been replaced with HDD pipelines. Of the 64 major river crossings in Montana, 41 now utilize HDD methods.

This kind of progress shows the need for strong state relationships across the country to stay ahead of industry and pipeline safety trends. States' input and experience is critical as PHMSA sets public policy, strategically allocates resources, and

moves forward with new regulations. Likewise, PHMSA plays an important role in supporting capacity-building and enforcement of high standards nationwide. Through agreements and certifications, states assume authority over more than 80 percent of intrastate gas and hazardous liquid distribution and transmission pipelines by inspecting and enforcing both Federal and state regulations. PHMSA's efforts to support pipeline safety also include providing grant funding to support state damage prevention programs and technical assistance related to pipeline safety issues.

A key resource available to support states is the State Base Grant program, which can increase the capacity for inspection and compliance. Last year, PHMSA provided Montana with more than \$160,000 in grant funding—amounting to 118 inspection days. Over the past 10 years, PHMSA grants have provided more than \$650,000 to Montana. PHMSA recently announced an estimated \$214,000 to Montana to help cover the costs of its natural gas pipeline safety program for the 2015 calendar year. PHMSA also provides Technical Assistance Grants to Montana—\$49,600 in total funding from PHMSA since 2009.

PHMSA has provided significant support to Nebraska as well. Last year, PHMSA provided \$255,000 in grant funding to Nebraska—amounting to 373 inspection days. Over the past 10 years, PHMSA grant funding to Nebraska totaled more than \$1.6 million. Last week, PHMSA announced an estimated \$347,000 to help cover the costs of Nebraska's natural gas pipeline safety program for the 2015 calendar year.

As part of the Agency Safety Action Plan, PHMSA is seeking ways to assist with and incentivize high performance among state partners, and looks forward to working with Congress to make its state partners as effective as possible.

IV. PHMSA Hiring Surge: A Workforce to Address Evolving Safety Challenges

The FY 2015 Omnibus provided PHMSA's pipeline safety program with 109 new positions, 80 percent of which will be in the inspection and enforcement areas. These additional inspectors will allow PHMSA to increase its pipeline inspection regimen and improve oversight of interstate hazardous liquid and gas pipeline operations in Montana, Nebraska and across the country.

PHMSA has an aggressive strategy underway to recruit, hire and fill these positions as quickly as possible. The majority of these positions will consist of inspectors and enforcement personnel to be located across our five regional offices to oversee operators' pipeline safety programs, conduct critical inspections and accident investigations, and participate in spill response activities. Twelve of these new positions will be allocated to the Western regional office, which is responsible for the State of Montana.

One challenge is that PHMSA competes directly with industry to fill these positions. The engineers and transportation specialists who are the target candidate pools for these positions are highly sought after by the expanding U.S. oil and gas industries that PHMSA regulates. It is difficult to match not only industry salaries, but also the speed with which industry is able to hire.

To address these challenges, PHMSA is pursuing a comprehensive strategy to encourage talented people to seek careers in public service. PHMSA uses hiring authorities and pay flexibilities such as the Veterans Employment Opportunities Act and the Veterans' Recruitment Appointment; recruitment, relocation and retention incentives; and the student loan repayment program. PHMSA is seeking Direct Hire Authority. The agency posts vacancy announcements on social media (*Twitter* and *LinkedIn*); conducts outreach to professional organizations and veterans groups; and attends career fairs and on-campus hiring events. PHMSA also plans to explore creating new partnerships with colleges and universities with engineering programs.

As the workforce increases, training is critical to achieve the highest possible level of safety. Hiring and training Federal and state inspectors is of the utmost importance as PHMSA expands its workforce by 25 percent from increased appropriations. Enhanced training opportunities for both Federal and state inspectors include tailored training for inspectors, finding the right mix between classroom and distance learning to alleviate travel challenges.

V. Data-driven Regulation

PHMSA's priorities and activities are guided by three strategic principles: Safety, Trust and Innovation. It is PHMSA's responsibility to use its regulatory and enforcement authority effectively to assure all Americans that, even as the industrial landscape changes, safety is a constant.

Completing all Congressional mandates is critical to PHMSA's pipeline safety program, allowing the agency to meaningfully strengthen its oversight program.

PHMSA has completed 26 of the 42 mandates contained in the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011.

For example, in 2013 PHMSA completed section 28 of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, which directed the agency to conduct a water crossings study to determine if the depth of cover over buried pipelines was a factor in any accidental release of hazardous liquids.

PHMSA has a plan in place to address the remaining open mandates and is working diligently to do so. Four mandates were addressed this year by reporting to Congress on the potential extension of existing regulations to unregulated gathering lines, submitting the first of two reports to Congress on the Research & Development program, offering maintenance-of-effort waivers to states for FY 14, and implementing continued improvements to the Facility Response Program.

The hard work continues. The damage prevention final rule was published on July 23; the rule goes into effect on January 1, 2016. With the support of the Office of Management and Budget (OMB), over the summer PHMSA issued two proposed rules on expansion of excess-flow valve requirements, and updated incident notification requirements for pipeline operators and operator qualification. The Operator Qualification, Cost Recovery and Accident Notification proposed rule addresses two mandates from the 2011 Act—the requirement that operators notify the National Response Center of an incident as soon as practicable, but not more than one hour after confirmed discovery, and the authorization for PHMSA to recover costs for pipeline design reviews.

PHMSA is working to publish its proposed natural gas transmission and hazardous liquid rules by the end of this calendar year, and is working diligently within the Department and with OMB to meet this goal. These rules will improve pipeline safety significantly in Montana, Nebraska and nationwide.

The rulemaking process is methodical to ensure that new rules are effective, efficient, and reflect feedback from all stakeholders. In addition to working to advance the gas and liquid rules, PHMSA is working to balance representation on the gas and liquid pipeline technical advisory committees to ensure that their recommendations are borne out of balanced and robust conversations. There are obvious challenges in getting there; membership in the advisory committees changes, due in part to new appointments, retirements and career changes. In the last 24 months, PHMSA has lost 8 members representing the government and public sectors. It is important to rebalance these committees again to benefit and protect the American public from pipeline transportation risks.

To assist with future rulemaking efforts and the broader safety mission, PHMSA has initiated an agency-wide data assessment. The assessment will evaluate PHMSA's data and analytical needs and review the current status of data, technology systems, and skills of the PHMSA workforce. It will then develop a gap analysis and comprehensive strategy to become a predictive, data-driven, risk based regulatory development and enforcement safety agency.

PHMSA continuously works to develop new ways to mitigate risk with one aspirational goal in mind: zero deaths, injuries, environmental and property damage, and transportation disruptions related to hazmat transportation. Serious pipeline incidents have declined an average of 10 percent every three years since 1988, despite increased energy production, aging infrastructure, and increased pipeline mileage.

To sustain this safety record, PHMSA is positioning to be more predictive, in order to anticipate the risks of the future and drive innovation that enhances the safety mission. Research and development is vital to that effort.

PHMSA conducts R&D in partnership with industry, universities, and other stakeholders, working together to identify gaps in current technology and reach consensus on the sector's most pressing challenges. PHMSA's investments have contributed to new pipeline technologies entering the market, including above-ground, radar-based pipeline mapping and a nondestructive testing method for unpiggable pipelines. In addition to these collaborative R&D efforts, PHMSA conducts R&D in the public interest to enhance our rulemaking efforts and our safety mission.

VI. Data-sharing Need

Of the 2.6 million miles of pipeline within the United States, states monitor 80 percent. Yet the information the states gather through inspections and enforcement activities is not shared between states or with PHMSA. Linking state and Federal inspection, enforcement, and geospatial data, and providing a consolidated national view of all pipeline data, is a vital component in identifying current and emerging risks that drive improved safety performance and informed regulations. To that end, PHMSA has consistently requested a nationwide integrated database of pipeline inspection and enforcement data.

This nationwide integrated database will close important gaps in the inspection, enforcement and remediation of unsafe pipelines and their operators with two important elements. First, it will share the safety inspection records by operator and by element of the inspection and communicate those results to all impacted inspectors in states with common operators and common practices. Simply put, a dangerous practice or pipeline element found in one location will be communicated quickly to all inspectors and operators that would have an interest in the condition identified in order to avoid environmental damage and disasters in and around our communities. Second, this database will plot the results of inspections along the available pipeline mapping systems, giving a better optic of the coverage of inspections, pipelines, and incidents.

The improved data collection and sharing will also help inform PHMSA's future rulemaking activity by allowing PHMSA to capture data from the States on the 80 percent of the Nation's pipelines that they oversee. Through this project, PHMSA and state inspection and enforcement data could be combined with current incident and annual reporting data to provide complete safety records for all pipeline operators and a more complete view of the pipeline landscape to inform future regulation. This would include the identification of pipelines that pose a higher risk of failure as well as a more complete view of overall fitness level information to be assessed when significant determinations such as enforcement actions or the issuance of special permits are being considered.

VII. Enhancing Enforcement

Enforcement authorities are a critical aspect of preventing and deterring accidents. PHMSA is undergoing an assessment of its enforcement capabilities and how it can use them more effectively. Results over the course of the next three to four months will help the agency create better alignment and efficiency in program delivery, and identify opportunities to enhance enforcement of the authorities Congress has granted PHMSA.

One of PHMSA's most effective enforcement tools is the Corrective Action Order (CAO), which directs an operator to take immediate action to prevent or mitigate the risks from a pipeline that poses a threat to life, property, or the environment. However, a CAO only applies to a single operator and cannot address emerging safety issues that affect multiple operators. Advisory bulletins are important tools that provide industry with clear guidance on issues that impact safety. While most pipeline operators will adjust their practices based on information communicated in Advisory Bulletins, the bulletins do not carry the weight of law. As PHMSA works toward a comprehensive understanding of its enforcement capabilities, it is committed to using all enforcement authorities wisely to address the greatest risks and maximize safety.

VIII. Promoting a Strong Safety Culture at PHMSA and Industry-Wide

PHMSA improves safety by using all the tools at our disposal—safety regulations, research and development, education and outreach, inspections, and enforcement tools such as corrective actions, civil penalties and other interventions. A critical part of this safety system is to continually strive for improvement and to find new ways to raise the bar on safety.

With stronger safety partnerships and enhanced coordination with states, PHMSA aims to further enhance a risk-based approach to safety management and a strong safety culture throughout the entire pipeline sector and regulated industries.

Leading by Example

PHMSA is leading by example through the Agency Safety Action Plan and organizational review. The ASAP should serve as a model for the entire pipeline sector to take a close look at where safety improvements can be made and to take concrete steps to drive toward enhanced safety in a methodical and comprehensive way. The ASAP is a PHMSA-wide effort, with the strong support of the Secretary of Transportation.

In the next few weeks, PHMSA will also begin an organizational assessment. With additional positions and funding for both the pipeline and hazmat safety programs, Congress has invested in PHMSA. The organizational assessment, in conjunction with a Human Capital Strategy and Staffing Study, will help determine how to allocate these resources and how to position the organization for efficiency and long-term success. It also will help ensure effective use of resources to support PHMSA's mission, reduce risk and improve safety.

Safety Management System Recommended Practice

In 2010, the National Transportation Safety Board (NTSB) recommended that the American Petroleum Institute (API) facilitate the development of a safety manage-

ment system standard specific to the pipeline industry, in collaboration with industry, regulators and other stakeholders. PHMSA participated in the development of API Recommended Practice (RP) 1173, the recently published recommended standard for implanting Safety Management Systems in the pipeline industry.

PHMSA fully supports the implementation of RP 1173 and plans to promote vigorous conformance to this voluntary standard. The recommended practice is a proactive, system-wide approach to reducing risks and provides operators with a comprehensive framework to address risk across the entire life cycle of a pipeline. The standard promotes pipeline safety, while implementing guidelines for continuous improvement.

Moving forward, PHMSA will continue to work with states and other stakeholders to encourage the implementation of RP 1173 across the pipeline industry.

IX. Conclusion

PHMSA employs a talented team of experts and professionals, and is dedicated to maintaining the highest levels of safety in today's and tomorrow's industry. PHMSA has a variety of capabilities at its disposal: enforcement authority, a workforce of world-class technical experts, and safety partnerships. The goal is to work within the organization, with partners and with Congress to implement changes that allow for long-term success and safety in Montana, Nebraska and nationwide.

Senator FISCHER. Thank you, Administrator.

Next, I would like to welcome Todd Denton. He is President of Phillips 66 Pipeline LLC, where he is responsible for the operation of approximately 11,000 miles of crude oil, refined products, and NGL pipelines. He has 24 years experience in the industry, beginning his career as a project engineer for Diamond Shamrock. He later moved into engineering management positions with UDS and Valero LP, and he has been in operations management for the past eight years.

Welcome.

STATEMENT OF TODD DENTON, PRESIDENT, PHILLIPS 66 PIPELINE LLC

Mr. DENTON. Thank you, Senator. I appreciate you having me. I am Todd Denton, President of Phillips 66 Pipeline LLC. We are members of the Association of Oil Pipe Lines and the American Petroleum Institute. So today I will share with you examples of our pipeline safety efforts, as well as industry-wide pipeline safety improvement initiatives.

Phillips 66 Pipeline LLC, a wholly-owned subsidiary of Phillips 66, operates, as you mentioned, more than 11,000 miles of pipelines in the United States and 1,500 miles of pipelines here in Montana. Our pipelines are remotely monitored and controlled through a state-of-the-art 24-hour control center. We also have five storage terminals here in Montana where refined products are distributed to retail outlets.

Phillips 66 is one of the largest refiners in the United States with 11 refineries, including one right here in Billings, and a net crude oil processing capacity of 1.8 million barrels per day. We employ 14,000 people worldwide, and we are investing billions of dollars every year in projects that contribute to the health of the U.S. economy.

Phillips 66 proudly employs over 400 Montanans. These are good-paying jobs that can support a family, provide for medical care, savings for college, and retirement some day. We also support Montana communities, schools, police departments, and fire stations by contributing over \$15 million annually to property taxes.

In addition, we recognize the responsibility that we have to operate safely. Safety, honor, and commitment are our core values. We work extremely hard to ensure our pipelines operate with minimal impact to the public or environment.

Pipelines are an exceedingly safe way to deliver the energy America needs. For all of industry, the average barrel of crude oil or petroleum product reaches its destination safely greater than 99.999 percent of the time. Over the past 15 years, pipeline incidents impacting the public or environment are down 50 percent. Corrosion and accidental third-party damage incidents are each down more 76 percent.

So one of our current safety areas of focus involves geohazards, primarily river crossings and land movement. Flooding in 2011 on the Yellowstone River and the Missouri River Basin as well will heighten awareness for Phillips 66 and others in the pipeline industry. As a result, we added a large-scale effort to our already robust integrity management program in our Billings division to survey over 400 crossings to verify the depth of cover, identify those prone to erosion and water channel changes, identify and assess hundreds of potential land movement features that could impact our pipelines, and develop metrics to prioritize higher-risk areas based on factors, such as depth of cover, channel migration and scour potential, impact from debris, land movement, and potential consequences.

We then used the data gathered to select and execute permanent mitigation strategies, such as new horizontal directional drills, or HDDs, new trenched crossings targeting double potential scour depth, bank stabilization, and pipeline relocations. We also operate a real-time monitoring program for flood events that includes proactive snow level and precipitation monitoring, and USGS real-time data for stream flows, which include 40 live flow stations.

These efforts do not come cheaply. The Billings Division alone plans to spend nearly \$120 million on approximately 100 projects from 2012 through 2017. This program has been successful in part due to the cooperation of many stakeholders and government agencies, including PHMSA, the Montana Governor's Office, multiple state, county, and local agencies, the Tribal Nations, and many landowners. While I speak for Phillips 66 Pipeline, we are not alone in these efforts within our industry. Other operators in Montana and throughout the United States are undertaking their own river crossing programs.

In addition, leaders of the liquids pipeline industry added a strategic initiative just this year to update industry-wide river crossing guidance. This strategic initiative will significantly update and expand American Petroleum Institute Recommended Practice 1133 to focus intensely on the surveying, evaluation criteria, mitigation strategies, and monitoring of existing river crossings. I will personally serve as the executive champion for this effort, overseeing its development and ensuring it receives the attention it deserves across the industry.

As a Montana conservation group, Montanans for Healthy Rivers, has said, "It is no exaggeration to call rivers the lifeblood of Montana. They provide us with drinking water, irrigation water, water for industry, and boundless recreational opportunities. The

The future of Phillips 66 Pipeline in Montana is care and stewardship of the rivers and lands that we cross. Phillips 66 Pipeline and the entire liquids pipeline industry are committed to a goal of zero incidents, and a safety performance strategic plan that includes improvements in technology, risk management, safety culture and management practices, and response capabilities.

Thank you for your invitation to testify today, and I look forward to answering any questions you have. And, Senator, with your permission, I believe we have a two-minute video that explains some of our river crossing programs that we can share with you.

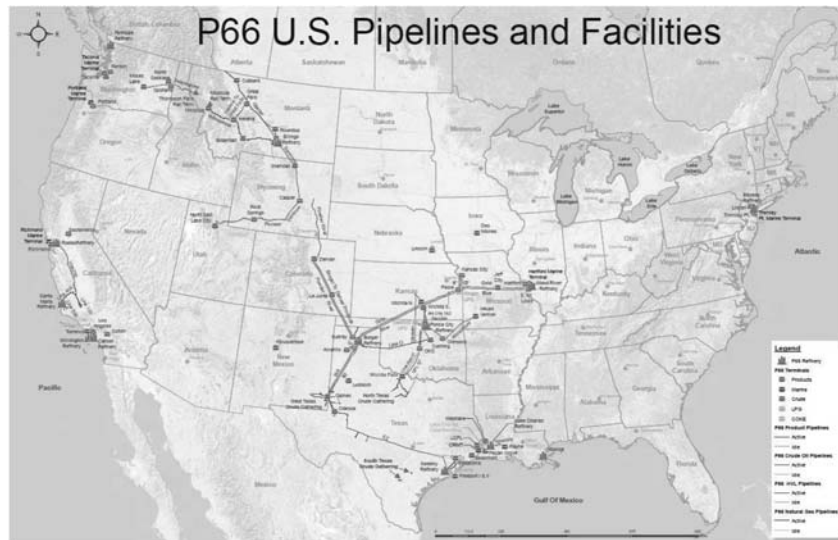
Senator FISCHER. OK.

[Video shown.]

[The prepared statement of Mr. Denton follows:]

PREPARED STATEMENT OF TODD DENTON, PRESIDENT, PHILLIPS 66 PIPELINE LLC

Thank you. I am Todd Denton, President of Phillips 66 Pipeline LLC. We are members of the Association of Oil Pipe Lines and the American Petroleum Institute. Today, I will share with you examples of our pipeline safety efforts, as well as industry-wide pipeline safety improvement initiatives.



Phillips 66 Pipeline LLC, a wholly-owned subsidiary of Phillips 66, operates more than 11,000 miles of pipelines in the United States and 1,500 miles of pipeline in Montana. Additionally, the company owns or operates more than 50 finished-product, LPG, and crude oil storage and distribution terminals. Our pipelines are remotely monitored and controlled through a state-of-the-art 24 hour control center. We also have five storage terminals here in Montana.



Phillips 66 Pipeline Central Control Center, Bartlesville, OK

Phillips 66 Pipeline LLC transports both raw and finished petroleum products, including crude oil, propane and refined products such as gasoline, diesel and jet fuel. The company also stores motor fuels at terminals, where tanker trucks pick them up for delivery to local retail outlets.

Phillips 66 pipelines deliver products to and from refineries across the country, including our own Phillips 66 refinery here in Billings. Phillips 66 is one of the largest refiners in the United States with 11 refineries and a net crude oil processing capacity of 1.8 million barrels per day. We employ 14,000 people worldwide and we are investing billions of dollars every year in projects that contribute to the health of the U.S. economy.

Phillips 66 and Phillips 66 Pipeline are proud to be part of communities in Billings and across Montana. Phillips 66 employs over 400 Montanans. These are good paying jobs that can support a family, provide for medical care, savings for college and retirement some day. Phillips 66 facilities also support local communities through property taxes. Montana schools, police departments and fire stations all benefit from over \$15 million in local taxes paid by Phillips 66.

Phillips 66 Pipeline recognizes not only the benefits it provides to Montana communities, but also the responsibility we have to operate safely in Montana. We work extremely hard to ensure our pipelines operate with minimal impact to the public or environment.

Pipelines are an exceedingly safe way to deliver the energy America needs. The average barrel of crude oil or petroleum products reaches its destination safely greater than 99.999 percent of the time. Since 1999, pipeline incidents impacting the public or environment are down 50 percent. Corrosion-caused pipeline incidents are down 76 percent, thanks to the widespread use of smart-pig in-line inspection to detect corrosion in pipes. Pipeline incidents caused accidentally by third-party damage are down 78 percent.

Pipeline incidents at river crossings are one focus of the Subcommittee here today. A study conducted by the U.S. Pipeline and Hazardous Materials Safety Administration (PHMSA) concluded these are relatively rare events. Over a 20 year period, PHMSA found 0.3 percent of all reported liquids pipeline incidents had exposed pipe in riverbeds as a contributing factor in the incidents. That said, Phillips 66 Pipeline and the liquids pipeline industry recognize that while relatively rare, pipeline incidents at river crossings are very real with real impacts on the local surrounding communities.

One of our current safety areas of focus involves geohazards—primarily river crossings and land movement. Flooding in 2011 on the Yellowstone River and the Missouri River Basin heightened awareness for Phillips 66 and others in the pipeline industry. As a result, we added a large-scale effort to our already robust integrity management program in our Billings division to:

- Survey over 400 crossings to verify the depth of cover and identify those prone to erosion and water channel changes;
- Identify and assess hundreds of potential land movement features that could impact our pipelines; and
- Develop metrics to prioritize higher risk pipelines based on:

- Depth of cover;
- Channel migration and scour potential;
- Possible impact from debris;
- Land movement; and
- Potential consequences (such as downriver water users).

We then used the data gathered to select and execute permanent mitigation strategies such as:

- New Horizontal Directional Drills (HDD);
- New trenched crossings targeting double potential scour depth;
- Bank stabilization; and
- Pipeline relocations

We also operate a real-time monitoring program for flood events that includes:

- Proactive snow level monitoring
- Historic flow rates and trigger maximum flow rates
- USGS real-time data for stream flow which includes 40 flow stations

These efforts do not come cheaply. The Billings Division alone plans to spend nearly \$120 million on approximately 100 projects over 6 years averaging nearly \$20 million per year. This program has been successful in large part due to the cooperation of many stakeholders and government agencies including PHMSA, the Montana Governor's office, multiple state, county, and local agencies, the Tribal Nations, and many landowners.



Horizontal Directional Drill, Pipe Pull-in, Clark Fork River

The experiences and efforts of Phillips 66 Pipeline are not alone in the liquids pipeline industry. Other operators in Montana are undertaking their own river crossing programs. In addition, this year leaders of the liquids pipeline industry added a strategic initiative to update industry-wide river crossing guidance.

American Petroleum Institute Recommended Practice (RP) 1133 sets out criteria for the design, construction, operation, maintenance and abandonment of onshore pipelines. Developed after flooding on the San Jacinto River in Texas 20 years ago, the current RP focuses primarily on construction techniques in floodplains and commercially navigable waterways.

Our strategic initiative will update and expand this industry-wide guidance to focus more intensely on the monitoring and management of existing river crossings. We expect the updated guidance to include strategies for surveying existing crossings, developing evaluation criteria and plans, undertaking mitigation strategies

and implementing monitoring programs. I will personally serve as the executive champion for this effort, overseeing its development and ensuring it receives the attention it deserves across the industry.

As a Montana conservation group (Montanans for Healthy Rivers) has said, “[i]t is no exaggeration to call rivers the lifeblood of Montana. They provide us with drinking water, irrigation water, water for industry, and boundless recreational opportunities. The history of Montana is the history of its rivers, and so will be its future.” (<http://healthyriverstmont.org>)

The future of Phillips 66 Pipeline in Montana is care and stewardship of the rivers and lands we cross. Phillips 66 Pipeline and the entire liquids pipeline industry are committed to strong, robust river crossing programs protecting our natural and public resources.

Thank you for your invitation to testify before you today and I look forward to answering any questions you may have.

Senator FISCHER. Thank you, Mr. Denton.

Next, I would like to welcome Commissioner John Ostlund. He is serving his third term as Yellowstone County Commissioner for District 1, which has jurisdiction over parts of Billings and Lockwood, Montana.

He was first elected to the three-member commission in 2002, and prior to that position, Mr. Ostlund headed the Yellowstone County Road Department. Welcome, sir.

STATEMENT OF JOHN OSTLUND, COMMISSIONER, YELLOWSTONE COUNTY, BILLINGS, MONTANA

Mr. OSTLUND. Good morning, Chairman Fischer and Senator Daines. Thank you for the opportunity to be here today.

Pipeline safety and protecting our environment is our number one priority in Yellowstone County. However, with that said, the three refineries and their associated incoming crude lines and out-bound gas and diesel distribution lines provide enormous employment opportunities with high-paying jobs, a stable tax base for our roads, bridges, schools, and public safety.

In 2011, Yellowstone County awoke to a broken pipeline spilling crude into an already flooding Yellowstone River. The disaster tested our ability to manage a quick response to stop the flow, capture as much of the released oil as possible, and start the process of an enormous cleanup project. I came away from that 2011 Yellowstone River spill with a new appreciation of how the Federal EPA, State DEQ, Exxon’s team of professionals, and local elected officials faced with a serious environmental challenge can work together to evaluate the cause, launch an immediate cleanup, and work through the summer to end up with a finished product that we are all proud of.

Many lessons were learned from the spill. Old and new pipeline crossings, river pipeline crossings, have been bored much deeper under our free-flowing rivers and streams, new check valves have been added, along with additional monitoring equipment to prevent future problems. While no system is flawless, pipelines have the best safety record for transporting oil and gas, and are the most efficient way to deliver both crude oil and the finished products. Our refineries provide a stable economic base, great opportunities for employment, a stable tax base, and are one of the reasons that our county has remained fairly recession proof when other parts of the Nation have suffered major periods of economic decline.

While it is very important to set our goals for pipeline safety high and expect 100 percent compliance with all of the rules and regulations, I would ask that we be careful not to overregulate any industry. Our Federal government has a history of making the process so complicated and lengthy that projects like our Northeast Highway Bypass, already 15 years in the planning, just this year received a record of decision allowing us to take the next steps to move the process forward. Just imagine the cost increases when it takes 20 years to move a project from concept to completion.

Everyone wants a clean and healthful environment. However, we must find a way moving forward to ensure that the process does not become the problem. Our taxpayers foot the bill for study after study that causes delay after delay. Common sense should tell us that we can effectively regulate business without grinding that business to a halt.

I would be happy to answer any questions.

[The prepared statement of Mr. Ostlund follows:]

PREPARED STATEMENT OF JOHN OSTLUND, COMMISSIONER,
YELLOWSTONE COUNTY, BILLINGS, MONTANA

Chairwoman Senator Deb Fischer—Honored members of the Senate Committee on Commerce, Science, and Transportation, thank you for allowing me to testify on an issue as important to Montana as pipeline safety.

For the record, my name is John Ostlund and I am a Yellowstone County Commissioner.

The 2.6 million miles of pipeline networks in our Nation are vital parts of our country's infrastructure. In Montana and Yellowstone County, they supply the gas, diesel, heating oil, jet fuel and cooking fuel that are the life blood of our economy.

Pipeline safety is very high in our priorities especially after the Exxon spill in 2011. We have an expectation that all regulations and rules will be 100 percent complied with.

With that said, I worked on a daily basis with the excellent team from Exxon, the Federal EPA, the State DEQ, and our local elected officials on the cleanup and can tell you from personal experience that Exxon did a first class job on restoring the Yellowstone River to a pristine condition. Additionally, Exxon bent over backwards to insure each and every property owner was compensated for any loss and made whole.

As a follow-up with the refineries, it is important to note the lessons learned from the spill and mitigation efforts from the pipeline companies and refineries to reduce future possibilities of another catastrophic incident. River crossings have been looked at, new pipelines and older ones are being bored much deeper under our important waterways, and new valves have been installed with additional monitoring equipment with a focus on pipeline safety and more efficient operations while working to reduce the possibility of future incidents.

It is in the pipeline and refineries best interest to comply with all safety regulations and I see a strong desire by the private companies to go above what is expected to provide a safe environment for transportation of our Nation's critical fuel supply and look out for the best interest of their stockholders.

While regulation and compliance are important, please consider that OVER regulation drives up costs, slows progress, and impedes new development at a time when oil production in our great country is at an all-time high. America's national security depends more every year on producing and refining our own gas and diesel as we watch the Middle East become less stable. Our economy in Yellowstone County has been very stable. One big reason for that economic stability is that three of the four refineries in the state are located in Yellowstone County, along with the associated oil supply pipelines and diesel and gas distribution lines. All together, the pipelines in our state pay \$72 million dollars per year in taxes. And, if you add utility gas distribution lines into the picture, tax revenue exceeds 100 million dollars. Cenex Harvest States alone provides 337 jobs in Montana exceeding wages of \$65,000 per year (which is twice the Montana average salary), with an additional 860 jobs in pipeline construction. Exxon has 250 professional and competitive wage jobs and employs over 100 contractors every day of the year.

In total, class nine properties which are mostly pipelines, over the last few years, have paid 12.5 percent to 13 percent of all property taxes paid in Montana.

I have not mentioned Phillips 66 who will be here today with their own numbers; however, I can tell you collectively that our 3 refineries and the pipelines that support their operation play a major role in Yellowstone County's economic success story.

Of the total property tax revenue collected, the three refineries pay 32 percent of Yellowstone County's Road and Bridge budget. Those monies directly provide for all of the maintenance and repair of our county's rural road system, both asphalt and gravel.

These refineries, that are also great community partners, play a critical role in our county's recession proof economy and are always there when a school or a Little League team needs a helping hand.

I do have some recommendations looking forward at the regulatory process. The MOST important is not to OVER REGULATE. The process I worked through with Exxon, the EPA, DEQ and our local elected officials worked very effectively. Exxon, the pipeline companies and the Board of County Commissioners were very satisfied with the end product of a clean environment, new thought processes regarding deeper lines at river crossings, additional valves and monitoring equipment and a renewed focus on pipeline safety.

As I continue to dialog with the refineries, I am impressed with a total commitment to the goals of a 100 percent safety record.

If any one thing could be done to reduce the possibility of pipeline breaks it would be to provide further education in the 811one call systems. Excavation without the one call locations has much more risk of damaging the system with catastrophic results than natural disasters can produce.

In summary, the best example of over regulation I can provide is our National Highway system and the time required to move a project from concept to completion.

In Yellowstone County, we are working on a federally funded highway project called the Northeast Bypass. The five mile project started as a concept 15 years ago and, because the environmental process now takes more time and costs more than the project itself, we have just completed the Record of Decision allowing us to take additional steps to work toward actual construction of the bypass. When it takes 15 years to get to the point you can think about starting construction you can see regulations are more of the problem than the solution.

Chairwoman Fischer and honored members of the senate committee, while we all want a clean and healthful environment I have more fear for our country's future from over regulation than from industry performance. Washington, DC has over regulated business to the point of grinding those business ventures to a halt, the process has become the problem and, while spending millions of tax payer dollars on studies, we are not producing any measurable results.

I ask that any additional rules be well thought out and that we empower as many of those rules as possible to be handled at the local government level.

Chairwoman Fischer and honored members of the senate committee, thank you for allowing me to testify today. I would be happy to answer any questions.

Senator FISCHER. Thank you, sir. Next we have Michelle Slyder, and she is currently the Director or with the Department of Transportation, a Compliance Manager—correct—in pipelines and terminals at CHS located in Billings, Montana. She has experience serving on committees and councils, such as the Cirque Oil and Gas Industry, the Montana CGA Committee, the Montana Utility Coordinating Council, and the Montana Liquid and Gas Pipeline Association.

Welcome.

**STATEMENT OF MICHELLE SLYDER, FOUNDING MEMBER/
TREASURER, MONTANA LIQUID GAS PIPELINE ASSOCIATION**

Ms. SLYDER. Good morning Chairman Fischer, Senator Daines, and members of the Subcommittee. My name is Michelle Slyder, and I am here to testify today on behalf of the Montana Liquid and Gas Pipeline Association, commonly known as the MLGPA, which

is comprised of the 30 major pipeline operators in Montana. Through this testimony I will share with you the specific approaches the MLGPA has implemented across the state of Montana, including many that go above and beyond the Federal code of regulatory requirements in regards to public awareness.

Federal regulations currently require pipeline operators to perform public awareness outreach to four main stakeholder audiences: emergency responders, public officials, excavators, and the affected public. This outreach can be accomplished via many forms of engagement such as direct mail, advertising and face-to-face meetings. Regulations specify the frequency and content requirements, but leaves the methods of outreach up to individual pipeline operators. The following testimony identifies the methods utilized by the MLGPA to address public awareness program requirements.

Per Federal regulation, emergency responders and public officials must be engaged on an annual basis for emergency responders and on a three-year interval for public officials. The MLGPA meets or exceeds these requirements by providing direct mail to both audiences on an annual basis via membership with the Pipeline Association for Public Awareness. In addition to baseline training and messaging, the MLGPA provides emergency responders with interactive pipeline emergency response training scenarios, emergency contact directories for pipeline operator information, capabilities assessments and reports, an identified site and emergency planning application, and interoperable response procedures that can be modified to meet local requirements.

In 2007, the MLGPA also began hosting more than 20 face-to-face meetings annually with emergency responders and public officials across the state. Through these meetings, the MLGPA members meet with an average of 600 stakeholders annually. This outreach is performed by the members and not contractors, and is crucial to establishing the relationships necessary to ensure effective response and teamwork in the event of a pipeline release. These relationships have been built and maintained over many years by the MLGPA's commitment to meeting the expectations of the predominantly volunteer emergency responder audience.

This has been achieved by securing continuing education credits for the peace officers and emergency medical services, and modifying the presentation approach on an ongoing basis. For example, the original presentations contained the baseline messaging as required by PHMSA, but resulted in minimal engagement of the audience due to the volume of material being presented.

We have modified those presentations now to the current meeting format, which includes site-specific scenarios in a local tabletop exercise format and local case studies that allow emergency responders to learn from real-world events. The MLGPA also accommodates volunteer participation by rotating the location and timing of the events to coincide with regular fire department meetings in rural locations.

In 2008, the MLGPA also teamed with the National Association of State Fire Marshals to co-sponsor the NASFM Pipeline Emergencies Train the Trainer Program in Montana. This was the first time industry had ever engaged NASFM to bring the training to the State level. There were more than 50 stakeholders in attend-

ance, which was the highest ever achieved by any state at that time. The MLGPA members also gave presentations and staff informational booths at the Volunteer Fire Chiefs annual meetings, Montana Career Fire Chiefs Association annual meetings, the Montana Disaster and Emergency Service meetings, as well as offering pipeline training opportunities for responders to participate in pipeline-specific incident command structure training, tabletop exercises, boom deployments, town hall meetings and facility tours.

Moving on to the excavator and affected public outreach that is performed by the MLGPA, we accomplish it through a substantial amount of supplemental outreach through collaboration with Montana811 and the Montana Utility Coordinating Council. This outreach includes implementation of funding of a statewide advertising campaign and effectiveness surveys that utilize over \$100,000 a year to promote the “Call Before You Dig” message, improving prevention of pipeline accidents.

Members of the MLGPA also help staff Montana811 excavator meetings, allowing an average of 1,200 excavators to meet face to face with pipeline operators every year. MLGPA members also assist Montana811 in staffing ag safety days and expos, home improvement shows, minor league baseball games, and the University of Montana and Montana State Cat/Griz games. And MLGPA members have also installed tank signs that promote the “Call Before You Dig” message in high visibility areas such as Billings, Glendive, Logan, Missoula, Helena, and Cut Bank, as well as billboard signs across the state.

In conclusion, I would like to share that the success of the MLGPA has been built on the foundation established through collaborative efforts and extensive face-to-face outreach with all of the stakeholders across Montana. The members of the MLGPA consider collaborative organizations to be at the cornerstone of our success. The extensive level of stakeholder engagement in Montana proves that it is effective to allow operators the flexibility to implement common sense local strategies to address Federal requirements, and that there is no one-size-fits-all approach to public awareness.

Thank you for inviting me to testify today and provide information on the commitment the MLGPA. I would be happy to answer any questions.

[The prepared statement of Ms. Slyder follows:]

PREPARED STATEMENT OF MICHELLE SLYDER, FOUNDING MEMBER/CURRENT
TREASURER, MONTANA LIQUID AND GAS PIPELINE ASSOCIATION

I. Introduction

Good morning Chairman Fischer, Senator Daines, Senator Tester, and members of the Subcommittee. My name is Michelle Slyder, I am here to testify on behalf of the Montana Liquid and Gas Pipeline Association, commonly known as the MLGPA, which is comprised of 30 major pipeline operators in Montana.

Through this testimony I will share with you the specific approaches the MLGPA has implemented across the state of Montana, including many that go above and beyond the Federal code requirements in regards to public awareness.

Federal code currently requires pipeline operators to perform public awareness outreach to four main stakeholder audiences: emergency responders, public officials, excavators, and the affected public. This outreach can be accomplished via many forms of engagement such as direct mail, advertising and face to face meetings. The code specifies the frequencies and content requirements and leaves the methods of

outreach up to individual pipeline operators. The following testimony identifies the methods utilized by the MLGPA to address public awareness program requirements.

II. Emergency Responder and Public Official Outreach

Per Federal code, pipeline operators are required to deliver baseline messaging to emergency responders annually and public officials every three years. The MLGPA meets or exceeds these requirements by providing direct mail to both audiences on an annual basis via membership with the Pipeline Association for Public Awareness, referred to as PAPA. In addition to baseline messaging, the MLGPA provides emergency responders with interactive pipeline emergency response training scenarios, emergency contact directories, capabilities assessments and reports, an identified site and emergency planning application, and interoperable response procedures that can be modified to meet local requirements.

In 2007, the MLGPA began hosting more than 20 face to face meetings annually with emergency responders and public officials. Through these meetings, the MLGPA members meet with an average of over 600 stakeholders annually. This outreach is performed by the members and not contractors and is crucial to establishing the relationships necessary to ensure effective response and teamwork in the event of a pipeline release. These relationships have been built and maintained over many years by the MLGPA's commitment to meeting the expectations of the predominantly volunteer emergency responder audience. This has been achieved by securing Peace Officer Standards and Training and Emergency Medical Services (EMS) continuing education credits to help responders meet their annual training requirements and modifying the presentation approach on an ongoing basis. For example, the original presentations contained the baseline messaging, as required by Pipeline Hazardous Materials Safety Administration (PHMSA), but resulted in minimal engagement of the audience due to the volume of data being presented. In order to engage the audience and maintain attendance levels, it became apparent that the approach needed modification. The current meeting format includes site specific scenarios in a local tabletop exercise format and local case studies that allow emergency responders to learn from real world events. The MLGPA also accommodates volunteer participation by rotating the location and timing of the events to coincide with regular fire department meetings in rural locations.

In 2008, the MLGPA teamed with the National Association of State Fire Marshals (NSAFM) to co-sponsor the NASFM Pipeline Emergencies Train the Trainer Program in Montana. This was the first time the industry had ever engaged NASFM to cosponsor the training and there were more than 50 stakeholders in attendance, which was the highest ever achieved by any state at that time.

MLGPA members also give presentations and staff informational booths at the Volunteer Fire Chiefs annual meeting, Montana Career Fire Chiefs Association annual meeting, and Montana Disaster & Emergency Services meetings, as well as offer pipeline training opportunities for responders to participate in pipeline specific incident command structure training, tabletop exercises, boom deployments, town hall meetings and facility tours.

III. Excavator and Affected Public Outreach

The MLGPA accomplishes a substantial amount of supplemental outreach to excavators and the affected public through the partnership it has developed with the Montana Utility Coordinating Council and Montana811. This outreach includes:

- Implementation of a statewide advertising campaign and effectiveness surveys utilizing over \$100,000 a year to promote the "Call Before You Dig" message to all Montana residents.
- Members of the MLGPA help staff Montana811 excavator meetings, allowing an average of 1200 excavators to meet face to face with pipeline operators every year.
- MLGPA members also assist Montana811 in staffing ag safety days and expos, home improvement shows, minor league baseball games, and University of Montana-Montana State "Cat/Griz" games.
- MLGPA members have also installed tank signs promoting "Call Before You Dig" in high visibility areas in Billings, Glendive, Logan, Missoula, Helena and Cut Bank as well as billboard style signs along many highways across the state.

IV. Conclusion

The success of the MLGPA has been built on the foundation established through collaborative efforts and extensive face to face outreach with all stakeholders. The members of the MLGPA consider collaborative organizations to be a cornerstone of our success. The extensive level of stakeholder engagement in Montana proves that

it is effective to allow operators the flexibility to implement common sense local strategies to address code requirements and that there is no one size fits all approach to public awareness.

Thank you for inviting me to testify today on the commitment of the members of the MLGPA to the communities in which we operate. This concludes my testimony and I would be happy to answer any questions you may have.

Senator FISCHER. Thank you, Ms. Slyder, and thank you to all our panel for your testimony.

Since we are from Nebraska and Montana, Senator Daines and I agreed that we are going to be a little more informal in our questioning than we usually are with a—with a Senate hearing. So we are going to see how that works.

[Laughter.]

Senator FISCHER. But we think it will be great. So I am going to begin with a few questions. Senator Daines then will do some. We will have a little back and forth, and I hope the panel is willing to go with us on this as well.

First, I would like to begin with you, Administrator. I know that you have just been in the position a few months. How is it going?

Ms. DOMINGUEZ. Well, thank you very much. It is going well.

Senator FISCHER. Good. Are we seeing any major changes to the Agency? Are you looking at some different changes with the organization because I know that is a very strong suit that you have?

Ms. DOMINGUEZ. Thank you. We are. I have been in the position now for just over a month officially. I was confirmed on August 5. Again, thank you. And we have had an aggressive kickoff here. Coming in I was able to bring some new leadership members to the team, and we have started an aggressive assessment of the organization. One of the things we are going to be launching here in the next couple of weeks is an organizational assessment of the entire Agency to look for potential efficiencies, how are we structured. Congress has been incredibly generous in its funding to help us increase our inspector workload moving forward, and we are doing all we can to hire into those positions. The appropriations that came through last year were very helpful in that regard.

But moving forward, what we want to make sure is that we are taking those resources and we are actually not only distributing them well across the Nation where they need to be, but also making sure that all of our programs and our operations are working as efficiency as possible, and that we are structured to not only handle the growth that has been given to us, but then move forward to make sure that we are addressing future energy needs of this country because clearly our energy markets are changing, and we need to make sure that we can address them.

Senator FISCHER. Can you talk a little bit about how you are moving forward in meeting the congressional mandates from 2011, and what specific challenges you may be facing there?

Ms. DOMINGUEZ. We have had—we had a good number of mandates that were outlined in the 2011 Act. And we have worked through about 26 of the 42 existing mandates that include rulemakings, reports to Congress, et cetera. I will tell you that with the notice that we received this morning from the Office of Management and Budget, a number of those existing requirements that were outlined—a couple of those existing requirements that were

outlined in the 2011 Act, we hope to address through this rule-making on hazardous liquids. It is one of the two major rulemakings that we have been working on, and it has been something that has been a key priority of mine since coming on board, was to try and move these through our regulatory process.

So I look forward to actual publication of the rule so that we can share it with our stakeholders and engage in a very good dialogue. We want to bring transparency. We want to communicate what those rulemakings are, and then get some good dialogue so that we can move to final issuance of some rules here and complete the mandates.

Senator FISCHER. And as you look at that Agency Action Plan, what specific initiatives have you been considering?

Ms. DOMINGUEZ. Well, as I mentioned, the ASAP, the Agency Safety Action Plan, is something that I have started with the Secretary of Transportation. He is very much focused on looking at all of the modes of transportation to make sure that we are taking a good critical eye on leveraging our existing capabilities and the authorities that we presently have. So we have started that. The first part of our assessment is our enforcement regime, and we hope in the next month or two here we are going to start to see some preliminary results, and—

Senator FISCHER. What direction do you think you are headed in on the specifics?

Ms. DOMINGUEZ. What we are trying to do is make sure that as we look at all of the enforcement capabilities, for instance, this is one area, all of the enforcement capabilities that we have, we go from a corrective action order, which is directed at a single operator when they meet a certain imminent hazardous threshold, and we are needing to address critical deficiencies. That is a very, very high threshold, and it goes all the way down to, you know, literally fines.

So the question is, given that range, is there anything more that we can do? Are we doing it well, and where can we make some improvements? Are there additional things that we should potentially talk to the Congress about? Those are the areas that we are looking at.

Senator FISCHER. Thank you very much. Senator Daines?

Senator DAINES. Thanks, Chairman Fischer. We have an opportunity to give some feedback to PHMSA and also to get 45 days of assessment, Administrator Dominguez, of what you think as well, building on what Chairman Fischer asked. So whether you want to do it as a start/continue kind of feedback and what should PHMSA should stop doing, start doing, continue doing, or perhaps one to two things that PHMSA is doing right now, one or two areas where PHMSA could be improved. Very much just to have that dialogue here today.

It is kind of nice to have this open conversation versus having to write letters to an office and go through the bureaucratic channels of D.C. Here we have a chance to have an open conversation. And so, let us start with—we will let the Administrator go last on that because I know you have your own assessments as well.

So a couple of things are going well. A couple of things at PHMSA that should change. Who would like to start?

Mr. DENTON. I will take a shot.

Senator DAINES. All right, Mr. Denton.

Mr. DENTON. So I think on the positive side, PHMSA has very qualified, competent inspectors, and they go after their tasks. They know the regulations. They know the assets, and they do well when they come into our facilities. I think a couple of improvements may be around getting inspection results out sooner. Potentially, you know, it takes months sometimes before we see those. And in the meantime, we may be having another inspection where if we had those results, we could be implementing those improvements. And perhaps the—some of the hirings that they will be doing over this next year can help speed that up as well.

Senator DAINES. Could you elaborate? In terms of kind of on average, what kind of time delays from the time of inspection until you see the report will you start taking corrective action? About how long is that?

Mr. DENTON. From our side?

Senator DAINES. Yes.

Mr. DENTON. Many times it is about a year.

Senator DAINES. A year.

Mr. DENTON. Right.

Senator DAINES. From the time the inspection occurs—

Mr. DENTON. Right.

Senator DAINES.—until you are told the result of the inspection.

Mr. DENTON. Or it can be sooner. It can be—it can be later, and it has varied quite a bit over the years. I will say it has gotten better in recent years.

Senator DAINES. In the last 45 days perhaps.

Mr. DENTON. We have seen—

Senator DAINES. That is right.

Mr. DENTON.—we have seen improvements already.

Mr. DENTON. That is right.

[Laughter.]

Senator DAINES. That is great, OK.

Mr. DENTON. So then, second, I would probably say, you know, a little bit of a frustration for us is we would like to see a little more consistency among the inspectors. There are five different regions. We also have five different operating regions. We operate in all five of PHMSA's regions, so we often see different—you know, they each have different focuses, and so sometimes there is a little bit of inconsistency there.

And then, I guess, third, we would like to see a move towards performance-based regulations. And I think we will have an opportunity, not necessary regulations, but performance-based inspections. And with the new safety management system—

Senator DAINES. Mr. Denton, what does that mean? I am not clear what “performance-based inspection” means.

Mr. DENTON. So, and I will tell you, we even do this to ourselves, you know. Internally we audit ourselves to death, right? So we look at things we call operations excellence, compliance issues, you know, health, safety, environmental, things like that. And a lot of times it becomes a little bit of a check the box, you know. Here is the—here is the rule. Here is what you need to do, so check the box. That is fine. We need to be addressing those things. But let

us look at what really makes a difference, right? Are there things that maybe we do not necessarily have a rule for that we can make some improvements on?

And at the end of the day, industry and PHMSA have the same end goal, right? I mean, we both want to drive toward zero incidents. So I think there is a collaborative effort that we can make there. And as I started to say a minute ago, the biggest piece I think that will—recently that will contribute to that is our recent safety management system recommended practice. You know, that is something that has been in the—say, the refining industry for many years. You are probably familiar with it as a chemical engineer.

That has not been in the pipeline industry, and so that just rolled out. It was published in July, and we will be moving into our implementation phase. And that is much of a performance-based type standard, so we would like to get that implemented. I think we will see improvements there, and PHMSA can use as part of, you know, those improvements as well.

Senator DAINES. You are going to get the last word, Administrator. So we are going to—you are going to get the—

Ms. DOMINGUEZ. I am taking notes.

[Laughter.]

Senator DAINES. No, you are going to get to close here. So we will kind of go down the line between either Commissioner Ostlund or Ms. Slyder.

Mr. OSTLUND. Madam Chairman and Senator Daines, thank you for the question. You know, quite honestly I think consistent application of the rules to everyone is very, very important. We need to know that wherever—we are in the same level playing field. And we spend a lot of time and a lot of focus with our operators on the pipeline safety around the 811 call system, and it appears that you are much more likely to see a spill. Even though it will not likely be the magnitude of a river spill, you are much more likely to find a problem with the result of construction equipment than anything else.

And so, a focus on more training for the 811 system. More education, I think, would be extremely important and very helpful, and reduce the amount of accidents that we do have, down time, and spills, and contamination.

Senator DAINES. Thanks, Commissioner. Ms. Slyder?

Ms. SLYDER. I would like to offer up that PHMSA does an outstanding job of assisting pipeline operators in engaging the stakeholders from a public awareness perspective. They have CATS coordinators—community assistance and technical specialists—basically that help engage when we need them to help drive process improvements.

For example, in the State of Montana, we are currently trying to revise the one-call damage prevention line in the State, and the CATS coordinator from PHMSA has been heavily engaged throughout that process. And I think that, again, it speaks to that collaborative approach even between the regulators and the pipeline operators trying to do what is right. So I would like to definitely, you know, commend them on that effort because it is a commitment to provide those resources to us.

One area that I would like to see them continue to focus some emphasis on is, you know, sometimes we get wrapped up in the statistics of what we are doing, and it kind of comes back to Mr. Denton's comment about the actual performance of it. When we look at what the MLGPA does in the State, our biggest measure of effectiveness is not a statistic. It is not how many did we outreach to. It is not numbers. It is how engaged are they in the process, and are they coming back and reaching out to us for additional information.

So that is how we gauge our success is are the DES coordinators coming to us and developing pipeline response annexes? Are fire departments wanting more information, wanting to come into our facilities, and learn more about what they need to do to be effective when it comes to pipeline emergency response? And so, to me that is the piece that I would like to see, you know, is that we focus more on, like you said, the bigger performance of the program, not just statistics.

Senator DAINES. Great, thank you. Administrator?

Ms. DOMINGUEZ. Thank you. I greatly appreciate all the witnesses' statements, and comments, and insights. I first and foremost want to talk about—you mentioned inspection results. I am hoping that the resources that have been provided to us are going to greatly assist us in our—in our capability of turning around our inspection results to our operators in a more efficient manner, and hopefully more in a timely way. We have been in need of those resources to actually help assist doing that—in doing that.

Senator DAINES. Let me ask a question. Is there—is there a goal or a standard set in terms of we should—we should try to get it with in 90 days or 30 days? Is there some kind of standard in PHMSA of the time from inspection until we get the report back to the operator?

Ms. DOMINGUEZ. I am sure there is. I do not know directly if there—I am sure there is a performance associated with it. If not, I will be asking those questions immediately after this hearing. But I think that there should be, and I think that one of the opportunities that we have moving forward is actually to make sure that we are leveraging these new inspectors as they come on board and helping as part of their training understand the importance of conveying our inspection results back to the operators, because it does further foster that culture of safety.

I think that the other that—I had a chance yesterday here in Montana to meet with a number of—in fact, everyone here on the panel, some members of Commissioner Ostlund's conservation districts from the Yellowstone River as well, but had a chance to sit down with Phillips and had a chance to sit down with Ms. Slyder and some of her colleagues, and really understand the context in which they are operating.

One of the things that I was able to talk to in particular with all three is about this larger safety management system, and how do we actually go to a more performance-based set of criteria that we can all work from? And PHMSA has been headed in that direction in a number of ways. We as the regulator, as you know, set the minimum standard for what operators need to meet, and we expect that they go above that in their integrity management sys-

tems, and all of the information that they put into those systems. So the ability to actually be more performance-oriented is inherent in the regulatory framework that we operate off of.

That said, moving forward, the industry is taking a leadership role, and I greatly appreciate it, and I am challenging them in an even greater direction on safety management systems and a safety management culture, and then building off of the standard that they have introduced under API-1173. It is a great framework for truly integrating a number of aspects of performance-based operation. It is really a continuous improvement cycle, and it is something that we at PHMSA are also looking at doing for our own internal regulatory processes as well.

But it is a great—it is a big challenge. It is a number of industries, as you may know, already engaged in it, a number of departments within the Department of Transportation, such as the aviation industry, are already in an SMS culture. I think there is opportunity moving forward to do that in the pipeline culture as well.

Senator DAINES. Thanks, Administrator. Chairman Fischer?

Senator FISCHER. Thank you, Senator Daines. Mr. Commissioner, could you talk a little bit about the experience you have in addressing that 2011 spill in the Yellowstone, and what you learned from that, and how you had to then deal with the spill in 2015?

Mr. OSTLUND. Chairwoman Fischer and Senator Daines, I would be glad to. That was quite an experience in 2011, and, of course, one of the first things that you hear about at the local level is how bad the Federal Government is and how poorly they operate. And I can tell you from experience that that was not the case at all. In fact, the Federal regulators that come in, along with the State DEQ, worked extremely effectively with the local community, and they provided all fact-based analysis to the public during the public meetings and hearings. And they talked about whether or not there were carcinogens in the oil, and the vapor, and all the questions that were asked by the public that were exposed to the spill.

I actually thought the process was kind of refreshing. It is never good to have a disaster, but after the disaster occurred, it was incredible to see the team work so effectively together. Exxon just did, I thought, a bang-up job. They brought all of the people that they needed and all the resources in, and we talked to very few people along the way that were not completely happy and satisfied with the way the spill was being dealt with. And if you fly, or drive, or boat down the river right now, you will find no remnants of that spill. They bent over backward to clean up.

I quite honestly think that that was one of the most effective responses that I have seen to a natural disaster, and was quite impressed with everyone.

Senator FISCHER. Good to hear. How have PHMSA grants helped Montana? Have they assisted in public safety in any way? Are you aware of the grant situation?

Mr. OSTLUND. You know, I am not aware of any grant applications that we have had directly, so.

Senator FISCHER. Anybody else on the panel aware of that? Ms. Slyder?

Ms. SLYDER. They do have a damage prevention grant that the Montana Utility Coordinating Council has teamed with Joel

Tierney with the Public Service Commission to get that application in for those grants. In the past, they have been used for damage prevention outreach. We have hosted utility locator training schools in the state as a result of those grants, and we continue to look for opportunities like that.

Right now, the grant opportunities for damage prevention in the state are not available to us because of the need to update our one-call law in the state of Montana. We did apply, and we did not receive funding this year as a result of that, so we are working toward that currently.

Senator FISCHER. When you apply for the grants, I would ask you, do you—do you see good cooperation with PHMSA on that? Are they—are they aware of concerns that you have at the state and local level?

Ms. SLYDER. Yes, they are engaged in the process, and have a lot of communication, I believe, with Joel Tierney at the PSE to really evaluate that need, and what the basics are, and why we are looking to do what it is we are asking them to do, yes.

Senator FISCHER. And as you have mentioned, is it the 811—

Ms. SLYDER. Yes.

Senator FISCHER.—system that you have in place there? What are the efforts of the State and local officials with that, regarding that call system? How is that coming along, because most incidents occur because somebody puts a pipeline in.

Ms. SLYDER. Yes, there are a significant amount of incidents that are actually caused by third party damage. We have a very engaged stakeholder audience here in the State of Montana. Through the one-call law rewrite efforts, we have found that most of the stakeholders want to see us get to where we have an improved one-call law that meets the requirements that PHMSA has set forth, and are very engaged in the process.

And I think that, again, the MLGPA's overlap and work through Montana811 speaks to that as well. All of the utilities in the State of Montana host these face-to-face meetings annually with excavators. We also perform the public awareness outreach that I talked about, as well as outreach to farmers and ranchers specific to damage prevention. So we are doing a lot in the state to try to promote safe excavation practices and the use of one-call, and our numbers and statistics are showing a positive trend.

Senator FISCHER. And I know, Mr. Denton, your company has a very good safety record, but accidents happen. How are you reaching out to local stakeholders?

Mr. DENTON. I will add on to the 811 piece. You know, going back, I mentioned improvement over the last 15 years, and really I attribute that to two big things. One is technology with the introduction of smart pigging, which took care of a lot of the corrosion type issues. And then the second was a cultural change, which was really the 811 "Call Before You Dig."

But we are still having some of those incidents, and the number of incidents of those types are small. I believe it is less than 10 percent. But they have a much more likelihood to be a serious incident because you have someone there that may be digging into your pipeline with the potential for a fatality or injury even. So I think, in fact, they are over a third of the serious incidents.

So the new damage prevention rule that came out from PHMSA I think is very important. We would like to see additional enforcement in the states. I think, in fact, Montana is one of four states that does not necessarily enforce 811 laws, so that is one improvement we would like to see.

In the meantime, as an industry we spend a lot of time and effort on public awareness, and that has been a big improvement. You know, 10 years ago you would send a postcard to a local landowner, hey, you have a pipeline near you, just be aware of it. We are getting a lot more creative now. We are going to schools. We are contributing money to PTOs if they will have a session on pipelines in their area. We are going face-to-face to landowners.

And then the emergency response piece of it that was mentioned earlier has been a big piece of it. The last—we started an emergency response advisory board about two years ago involving all of the fire—I did not know there were so many fire associations, but there are. We got them in there, getting the word out. We started this online training free portal, and I believe over 3,500 first responders have signed up for that already. So that is helping get that word out.

Senator FISCHER. And how do you address public concerns about the safety of pipelines, especially when they are crossing rivers, when they are near aquifers? How do you, I guess, explain to the public your command and control center? I think it is in Oklahoma City? Is that correct?

Mr. DENTON. Correct.

Senator FISCHER. How can you monitor a pipeline in Montana, and how quickly can you know if an issue arises so that we can make sure that our water is protected?

Mr. DENTON. Right. So two—I guess two pieces to that. First, with the landowner issues, that is one of our bigger challenges, and a lot of it is education. You know, if we are going in with a new pipeline, it is having town halls, public meetings, talking about our safety record, the monitoring and mitigation measures that we have. Sometimes it may even be, and Montana is a good example, where we have done these 100 projects.

In many cases, the landowners at first have been in opposition to that, but once we get in front of the county commissioners, have the town hall meetings, explain to them here is what we are doing, we are going deeper into the river, we are making the pipeline safer, then everyone really gets on board with that. So that is one piece of it.

As far as the monitoring, you know, that was really another cultural improvement that came out starting in about 2010, 2011. That was an NTSB recommendation. PHMSA put out a control room management rule in 2010 that was a big part of that improvement. A lot of the incidents back in that timeframe, you would see a lot of the volume released, was not necessarily from the original release, but the control center trying to restart the pipeline.

So that is a cultural change in the control center. We call it “think leak.” And in our control center we tell them if there is any doubt whatsoever, shut the pipeline down. We have instances, for example, where a landowner may be out taking a walk. They smell

something, and they see our pipeline marker. They call us. We shut it down. And sometimes it may just be a dead animal on the right-of-way, right, or something like that, but we do not take any chances with that.

And I will give you two examples. We have had—we had two—one of the things that we wanted to go after following the Marshall release was pipeline ruptures, and so we put out a white paper on that. And then at Phillips, we actually had two pipeline ruptures in 2013. One was an excavator that hit the pipeline, and the other was a landslide. In both cases, our control center saw those—the pressure changes and everything on the pipeline, within a couple of minutes had the pipeline shut down in five minutes and blocked in. And in one case we had personnel on the pipeline. By the time they called the control center, they already had the line shut down and blocked in.

So we see data very quickly. They are trained to respond very quickly, and we have had some success at making those changes.

Senator FISCHER. And your response, when it—which I am happy to hear it is a quick response, you shut it down. You mentioned the restart and the issues there. Do you have personnel on the ground to look at the pipeline to make sure it is all right, if it is visible—

Mr. DENTON. Exactly.

Senator FISCHER.—to be able to monitor it, or do you depend completely on the—on the computer's technology for it?

Mr. DENTON. No, we have a full—we have a pretty robust process now where—and it goes back to an incident that we had several years ago, 10 years ago, where we did the same thing. We started a pipeline. So now if we shut a pipeline down for any reason, we will send local personnel out to confirm. We will do what we call a standup test to confirm the integrity of the pipeline, and then we get approval from the division manager and the control center manager before we will restart that pipeline.

Senator FISCHER. How often do you have pipelines that are shut down?

Mr. DENTON. We on average probably average one a day. I would say 5 to 10 a week.

Senator FISCHER. And I guess when you look at the risks involved, how serious a risk is it when the pipeline is shut down compared to a dead animal that somebody smells that you said—I mean, what—

Mr. DENTON. For the most, if it is—

Senator FISCHER. What I am looking for is the risk involved to those pipelines.

Mr. DENTON. Right. So a controlled shutdown is very safe. We turn off the pumps, because pipelines go up and down.

Senator FISCHER. The reason. The reason they are shut down is what I am looking for.

Mr. DENTON. Right, OK. So there can be several triggers, right? So we have a lot of data. In fact, we have 40,000 data points coming into our control center from the field, so we have a lot of data, a lot of analysis that goes into that. We have what we call line balancing.

So maybe they see a little bit of imbalance in the line, so that will trigger a response. So we will get people involved, and we will

make an analysis. This does not look right, shut it down, and then we will go investigate it. It may be an odor complaint from the landowner. It may be an instantaneous where we see, you know, the data is just obvious that it is. So those are the type of things that prompt those shutdowns.

Senator FISCHER. But how often is it a serious matter that shuts it down?

Mr. DENTON. Oh, I would say 99 percent of the time it is not an issue, right? Whatever we shut the pipeline down for, there was not a problem. So it, and—

Senator FISCHER. So it is a pretty thorough monitoring system.

Mr. DENTON. It is. And, in fact, I remember we had a meeting with NTSB Chairwoman, Deborah Hersman, a couple of years ago, and she asked that very question about, you know, OK, your controllers are paid to move the product through the pipeline. And we said, no, they are paid to move the product through the pipeline safely. That is the first priority. And so, we never want to have—you know, if there is a spill, we want to take care of it very quickly. But it is rare. It is very rare.

Senator FISCHER. Administrator, you have been ready to jump in.

Ms. DOMINGUEZ. Sorry. I just wanted to—the reason I think it is important to understand what Mr. Denton is referring to is because the difference in operation that he is describing by if they identify a potential leak, whether it is, you know, a dead animal or any other anomaly that they are noticing in their operation center. Their immediate response is to assess it and shut the line down as opposed to taking the time to identify somebody to go out, look. You know, there is time involved in a physical inspection versus shutting it down, then going to inspect.

And so, in the rare instance that there is in that one percent out of your 99 percent, what I took away from our discussion is that there is more prevention built in. There is more risk reduced—risk is reduced as a result of actually shutting it off. And shutting the pipeline off and understanding what the harm might be, and then going back to a safe restart versus, you know, potentially literally containing—

Mr. DENTON. Containing.

Ms. DOMINGUEZ. Yes, thank you.

Senator FISCHER. And my last question on this area, people are concerned about pipelines. How do they compare with moving hazardous material by rail or by truck?

Mr. DENTON. Our perspective, it is the safest way to move hazardous liquids and just the sheer quantity that we move in the United States. I mean, our pipeline company alone, we deliver over two million barrels per day to multiple destinations all throughout the United States. So it—for the—for the quantity that we move, pipelines is generally the safest way.

Senator FISCHER. Administrator, do you have numbers on that?

Ms. DOMINGUEZ. I do not have numbers on it. I know that there—our responsibility at PHMSA is to make sure—our mission literally is to make sure that there is the safe transportation of all hazardous materials, regardless of mode. So as you know, we work both with rail, freight, highway, and pipeline to make sure that every mode that we are working with is as safe as possible.

Senator FISCHER. And how do pipelines compare?

Ms. DOMINGUEZ. Pipelines are very safe. We are doing everything that we can for every mode of transportation to make sure that they are as safe as possible, regardless of the mode.

Senator FISCHER. OK, thank you very much.

Mr. DENTON. And we believe rail is a safe way as well. In fact, we do move some crude oil by rail. We need—we need both.

Senator FISCHER. Thank you. Senator Daines?

Senator DAINES. Thank you, Chairman Fischer. I just want to zero in on a Montana question. And I was looking at your testimony, Administrator, about the major river crossings where we have pipelines. And if I am reading the information correctly, since 2011, we have gone from 24 HDD crossings, the horizontal directional drilling crossings, to now 41, so there have been 17 since 2011. Of the 64 major river crossings—I guess we define “major” as 100 feet or more. So there are 23 across our state that still would not be HDD.

My question is, how should we think about that? What is the plan? Is that—what kind of risk does that present right now for our bigger rivers?

Ms. DOMINGUEZ. So after the 2011 incident, there was a report that we participated in with the Governor of Montana. There was a task force that was put together, and really looked at assessing all of the river crossings throughout the state. The majority of those that we identified as the most significant risk have been HDD drilled.

Moving forward, there is still additional work that we are doing in terms of assessing and monitoring, but we believe that the majority of them, with the exception—all of them have been HDD drilled, except the one here in Billings, which was determined by all parties involved that the—because of the stable environment of the Yellowstone in this particular area, the rip-rap and other measures that have been taken, that HDD probably was not the best way moving forward to move product. But nonetheless, the risk has been reduced in that particular area.

Senator DAINES. We just saw that in the video, an example of that. Just for everybody who is watching, how deep—if we go do an HDD crossing, how deep are we below the river bed?

Ms. DOMINGUEZ. I am going to turn that over to my colleague.

Mr. DENTON. Typically we would go 40 feet below the river bed, but it also depends on the potential scour.

Senator FISCHER. Potential?

Mr. DENTON. Scour. Also it depends on the—you know, we have some land movement issues in Montana. There are instances where we have gone 200 feet deep to get under potential slip plains that exist out in the hills. So it really depends on every situation, and it also depends on the conditions—the soil, the rock—what kind of things you are running into.

Senator DAINES. Is there something built into the inspection methodology that relates to when you have a major runoff event? I think every Montanan knew from the winter of 2010—when you saw the Yellowstone in the spring of 2011, I distinctly remember crossing the Yellowstone there at Springdale. My wife and I got out of our pickup, and we saw these huge cottonwoods come rushing

down the Yellowstone, the forces of water. They were doing tremendous changes in what is going on there at the river bed.

Is that built—that seemed like a pretty common sense thing. When that kind of event happens, that ought to raise a lot of alarms if we do not have a HDD crossing.

Ms. DOMINGUEZ. We actually have built in our inspection criteria literally, rather, GIS data that we are working to—that we collect with—along with the U.S. Army Corps of Engineers, the U.S. Geological Survey. It is part of our inspection routine as we go out through the course of our inspections, and look to see how we can—and what we are doing is looking to see how we can further enhance the data that we do collect to make sure that we are knowing everything we can about river crossings.

Senator DAINES. And are there any other—of these major river crossings that are not HDD, how many are planned to be converted to HDD in the next couple of years? Do we have any sense for that in Montana? There are—there are 23 remaining if I am doing my math properly.

Mr. DENTON. So I do not know the exact number. Like I said, we have got 100 projects that we identified that we need to do. We are probably about 80 percent through with that. Some of the remaining ones are HDD. Some will be traditional cut-ins and lowerings.

But I will say, back to your comment about assessing the risk, that is really in the PHMSA regulations already. We are required to assess those risks and those threats and respond to those, including river crossings. So the burden is on us to do those assessments. The 2011 flooding obviously pointed that out that we need to do more.

Senator DAINES. Right.

Mr. DENTON. And so, today we have—we are kicking off that strategic initiative where we think we can put a lot more specific guidance out there, because today it is really more focused on new construction, but there is a lot of existing pipelines that we need to make sure we are assessing and mitigating those risks.

Senator DAINES. OK. And, I guess, the engineer in me, I could not resist when you mentioned “smart pigging.” Maybe give us the quick 30 seconds. What is that doing to help us reduce the risk of a spill?

Mr. DENTON. So, again, that really—

Senator DAINES. It does not involve pork production, I do not think.

[Laughter.]

Mr. DENTON. No. It is also called “in-line inspection,” but it is basically a small computer that you put through a pipeline, and there are several different types. So we look for deformation. So we call those dent tools where someone may have dented your pipeline and it could be a risk for failure. There is what is called magnetic flux tools that basically magnetizes the pipe, looks for metal loss on the pipe. There are crack tools looking for tiny, small cracks that might not show up on a different type of tool. We have positional tools that we can run to see if the pipeline is moving from land movement, things like that. So there are a lot of different tools.

And back to some of the comments earlier about the seven-year requirement. In liquids pipelines, it is five years, so we are re-

quired to reassess every 5 years. And depending on the situation, we may do it every 3 years depending on the risks for that pipeline. So with the smart pigging, the in-line inspection tools have been a huge benefit, and they are getting better and better every year. And we are—that is another piece of our strategic improvement is more research and development on improving those tools.

Senator DAINES. OK. Thank you.

Senator FISCHER. Thank you, Senator Daines. This will probably be my last questions unless you stir me on here. The talk about inspections, that it is 7 years, or five years, or 3 years, and we have the pigs going in, and all sorts of things I think with technology that can be available.

So I would like to ask all of you, what do you see advancements in technology doing for this business and for the inspections, but also how do you evaluate risk? Is it—is it location of pipelines, depth, materials used when they were built, the age of them? How do you make those risk assessments? And then I would ask the administrator if the inspection timeline is going to be adjusted for high-risk pipelines as you move forward in the future. So however you want to start on that.

Mr. DENTON. I will start with the risk piece of it. So every operator has a risk management program, and it is essentially divided into two parts. So the threats: what are the—what are the threats to pipeline, and then, what are the consequences? And you combine those two together, and that is your risk.

So we have in our risk management program multiple—we have like nine different threat categories, so it may be third-party damage. It may be corrosion. It may be manufacturing defects, construction quality, things like that. And then there are multiple sub-categories under each of those. So we assess thousands of segments based on those threats, and then we look at the consequences.

And so, just taking river crossings as an example, so like our—the consequences we will look at population impact, drinking water impact, ecological impact, as well as waterway impacts.

Senator FISCHER. And if could interrupt you.

Mr. DENTON. Sure.

Senator FISCHER. As you are—as you are looking at all the impacts here, do you bring in stakeholders? Do you bring in the commissioner? Do you bring in local elected officials? How do you manage that?

Mr. DENTON. Sometimes. We often bring in third party technical consultants, for example, so—

Senator FISCHER. Well, I am talking about local people. Do you bring in local people? Commissioner, are you involved in any of it?

Mr. OSTLUND. Chairwoman Fischer and Senator Daines, thanks for the question. Yes. The answer is, yes, and, of course, Mr. Denton not being local. We have regular meetings. In fact, Yellowstone County has a disaster and emergency services director and along with the refineries and the pipeline companies checking their crossings on a regular basis every year during the flood stages of the river. And when we have potentials for disaster, our DES director, along with our road and bridge department, spends extra time looking at the river, evaluating all of the spots.

Typically, you will find pipelines near bridges, and that—it is spots where you can find significant erosion, so we monitor those very closely not only to protect the roads, but to protect the pipelines. I do have regular meetings with all the local refinery executives. I sit on the Exxon Refineries Advisory Board—Community Advisory Board and meet regularly with the other refineries to talk about mitigation and ways that we can work together to make the system work. So I think the input and the exchange there is very good and very healthy.

And with regard to inspections, something that has not been mentioned in the process today is that local refineries do hire us, private companies around here that do aviation inspections of all the lines across the State. And so, there is a regular routine patrol done by aircraft or helicopter that goes around——

Senator FISCHER. Drones? Do you use drones yet?

Mr. OSTLUND. Well, I cannot answer that question yet.

Mr. DENTON. They are looking at it.

Mr. OSTLUND. Yes, but they go out and look, and they look for spots where you might see oil to the surface of the ground, or you might excavation near a pipeline or whatever, and they report back. So I think the communication is very good at the local level. Thank you for the question.

Mr. DENTON. And the answer is we do include local officials, especially on new projects, things like that, but we do need that input. What are the consequences in your community, right, if we have a spill? And so, that is one of the inputs into our model as well.

Senator FISCHER. And I would assume you have plans then in the manner that you contact the community. We just saw a river damaged in Colorado because—well, I guess that was under the watch of the EPA and I know local communities, and a lot of the different political subdivisions we are hearing did not get that information right away. Do you have plans that we can let people know something is occurring that does have an effect on them, that they can be contacted?

Mr. DENTON. Absolutely, and we obviously want them to know about that ahead of time even if something does happen. But, yes, we—in fact, we do very large-scale drills every year. We had one in Spokane, Washington a few months ago, and we bring in all of the local responders. We will bring in EPA. PHMSA will participate. We will even bring in our peer companies to critique that drill, and then county commissioners. And we will do a full-scale—we will even have a media mockup, you know, press conferences, things like that. And we will deploy equipment out on the rivers and rights-of-ways, you know. It is a good opportunity because every time we do that, we learn something.

Senator FISCHER. Right.

Mr. DENTON. You can add this and do this better.

Senator FISCHER. Right. So, Administrator, how are you going to bring all this to look at your regulations and deal with high risk?

Ms. DOMINGUEZ. Thank you for the question, Senator. Before I forget, I want to mention one thing. Speaking of drills really quickly, there is actually a drill that is being conducted here in terms of emergency response. It was done over the last 2 days up in

Northwest Montana, Flathead region. So I am hoping—looking to see the results of that exercise, but I hope—I hope it went well. But it is a coordination amongst all the emergency responders as well as the operators to make sure that we are doing things well.

Moving forward, I think that one of the opportunities that we have is to further enhance and further inform our risk modeling system. And as we said, this is an opportunity to make sure that the integrity—one of the things that Congress has been very focused on and we greatly appreciate it is making sure that our integrity management system, which really gets at this risk-based modeling, is as informed as it possibly can be because what we do, as I said before, is we set the minimum criteria that we hope operators then take and inform their larger risk models that they operate for their systems. Some of our rules that we are engaging in now will further enhance that data collection and further inform it.

I also think that we were talking briefly about the facility response plans. One of the things we are doing is we have reviewed literally every facility response plan that has been filed with the Agency over the course of the last two years. We are looking to make sure that operators are—have a current operation plan filed, and are executing accordingly in the event that there is an incident. So we want to make sure that those are as up to date as possible.

It is a constant exercise. It takes a lot of energy and resources. We are trying to do all we can to make sure that we are as up to date on those response plans as possible.

Senator FISCHER. Great. Thank you. Senator Daines?

Senator DAINES. All right. I think we are getting close to wrapping up, but I want to direct a question to Commissioner Ostlund regarding another pipeline that became quite famous, perhaps infamous, called the Keystone pipeline. You are a publicly elected official. You are involved in managing Yellowstone County. You see this is creating jobs. You see them pay taxes. You have got to make all those decisions here as you look at revenues coming in from your tax base and economic growth or an economic downturn perhaps, and the investments that you ultimately make in our community.

How would this impact—how would the Keystone pipeline impact Yellowstone County, Montana as you see it? Should we be allowed to construct it and get that project completed?

Mr. OSTLUND. Senator Daines, thank you for the question. I think the answer to that is pretty easily achievable. We are looking right now at a downturn in oil prices in the Bakken, and, of course, you can see the economic impact in Billings, in the region, in Williston, North Dakota. And across the State, the pipelines and distribution lines pay 13 percent of the total property tax revenue collected by the State of Montana. If you add in the refineries and if we were to get the Keystone, you can probably see that percentage, over 20 percent. So one-fifth of the revenue collected by the State of Montana.

It would add jobs in a state where they are always important. It would offer us an opportunity to hook onto that line to deliver Montana-made products, which are oil and gas down to the refineries. I see nothing but benefit from the Keystone pipeline.

But, most importantly, it allows us a chance to address our national security. We should have all of our oil and gas available from continents that we support, trust, and believe in, and not be reliant upon OPEC to deliver oil and gas over here. We have the available technology. We have the reserves. We have the ability to build the pipeline. It would benefit our country, and our State, and our country significantly.

And quite honestly, the Montana Association of Counties has sent a number of letters to all the senators, including yourselves, supporting the Keystone pipeline, and 100 percent of the oil and gas counties in Eastern Montana have signed onto that. And we think it would be a valuable resource, and we certainly think it needs to be built.

Senator DAINES. And from a technology viewpoint—this might be for Mr. Denton—where is the Keystone pipeline in terms of the technology advances? How would that pipeline be in comparison to other pipelines?

Mr. DENTON. So I cannot speak completely for TransCanada, but from what I understand it will be, as are many pipelines constructed today, the best technology. It is better steel. It is better coding. We are doing directional drills, underwater crossings, you know. That is much more common in new construction, probably the top leak detection type things. And we are—in fact, we have another initiative that is a construction quality management system that we are working on.

TransCanada will be a big part of that and contributing to that effort with lessons learned that they are doing on that pipeline. Many others are building big pipelines as well, and so we hope to have more collaborative efforts like that and take the best practices of all.

Senator DAINES. OK. My follow-up—my last question to the Administrator, as the Administrator of PHMSA, what will you do to facilitate the construction of safe operation of new pipelines? Looking at all the projections, we are going to be building pipelines in this country for many, many years to come. How will you lead to encourage and facilitate the construction of new pipelines to make sure it is done in a timely manner?

Ms. DOMINGUEZ. Senator Daines, I really appreciate the question because I think that new construction is terribly important. I think that as we look to—we, as you know, set our regulations to make sure that there is safe construction, and those criteria are actually being met as the pipe is going into the ground.

It is a very vulnerable time for a pipeline. The construction, the first few years of operation, it requires a lot of monitoring. It requires a lot of inspection. It is, you know—if you look at pipeline risks and failures, new—when it is new and it goes into the ground, it is one of the first opportunities that we have to actually make sure that things are going well. Also on the back end as it looks to age there are things that also indicate some harm moving forward. So, again, it is a little bit of, you know, on both ends of that bathtub curve opportunity.

So with new construction, we are working very hard with advancing our inspection force to make sure that we are able to put enough inspectors out to review the new pipe that is going into the

ground and make sure that it is being done well, and it is following our standards. And then also working with our operators to make sure that they are going above and beyond to make sure that they are understanding any trends that they might be seeing, and informing us as well as others about how things are going as they operate.

Senator DAINES. Thank you. Thanks, Chairman Fischer.

Senator FISCHER. Thank you, Senator Daines.

The hearing record will remain open for two weeks, and during this time, Senators are asked to submit any questions for the record. Upon receipt, the witnesses are requested to submit their written answers to the Committee as soon as possible.

I have also received a number of requests to submit public comments for the record, and these can be submitted electronically through the Commerce Committee website within the next 2 weeks. I ask unanimous consent that any comments be entered into the official record.

Without objection.

[The information referred to follows:]

PREPARED STATEMENT OF MAPPS—AN ASSOCIATION OF PHOTOGRAMMETRY,
MAPPING AND GEOSPATIAL FIRMS

MAPPS (www.mapps.org) is a national association of private sector geospatial firms. Our member firms span the entire spectrum of the geospatial community, including satellite and airborne remote sensing, surveying, photogrammetry, aerial photography, LiDAR, hydrography, bathymetry, charting, aerial and satellite image processing, GPS, and GIS data collection and conversion services and companies that provide hardware, software, products and services to the geospatial profession in the United States and other firms from around the world. A significant number of our member firms are prime contractors or subcontractors to USDOT, PHMSA and other Federal agencies, and to the state and local governments that receive Federal grant monies, as well as to private sector pipeline operators, utilities, and other commercial clients.

We enthusiastically support the oversight of pipeline safety by Senators Fischer of Nebraska and Daines of Montana. We commend this leadership on the ongoing focus on reauthorization of the Pipeline and Hazardous Materials Safety Administration (PHMSA) and related activities and programs.

MAPPS is deeply concerned about the lack of location data on pipelines, as well as other underground infrastructure and utilities. This is an important missing ingredient in assuring pipeline safety, as well as providing for accident prevention and post-incident mitigation.

In July 2015, at a *hearing* held by the House Committee on Energy and Commerce on the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Stacy Cummings, then-Interim Executive Director of PHMSA testified that:

*“PHMSA has consistently requested additional funding to support enhancing our risk management, analytical frameworks and mapping capabilities. Through PHMSA grants, state pipeline safety programs are funded up to 80 percent, but **PHMSA has limited insight into state data on where interstate pipelines actually exist**, their conditions, and the inspection reports performed by our state partners.”*

In January 2013, at a *hearing* on pipeline safety, then-Commerce Committee Chairman Senator Jay Rockefeller (D-WV) said:

*“They crisscross underneath our cities and country sides, yet most of the time we are not even aware they are there. They deliver critical fuel that powers our homes, factories, and offices, and also transport the oil and gas that keep our cars, trucks, and planes operating . . . Compared to other forms of transportation, pipelines are a relatively safe, clean and efficient way of transporting the goods they carry. Unfortunately, this is not always the case . . . **Lack of records about older pipelines is a real problem** and contributed to a catastrophic pipeline explosion in California that killed several people.”*

As recently as January 2013, the Government Accountability Office (GAO) released a study (GAO-13-168) on pipeline safety urging “better data” with an emphasis on “location”, “proximity” and “topography.”

The National Transportation Safety Board (NTSB) has also issued numerous accident reports, findings, and recommendations regarding the location of pipelines, utilities and infrastructure. In January, 2015, NTSB *adopted* a safety study on integrity management of gas transmission pipelines in high consequence areas that calls for

“expanded and improved resources and guidance at the Federal level, including improvements to the National Pipeline Mapping System and better integration of geographic information system (GIS) technology.”

Existing records have many problems. A large number of these records are either positionally inaccurate, reference physical features that may no longer exist, are incapable of being found, were altered during conversion to other formats, or have other problems.

It is estimated that the pipelines in the United States could encircle the Earth 25 times. The American Public Works Association estimates that an underground utility line is hit somewhere in the United States every 60 seconds. There is a critical need for current, accurate location data regarding pipelines.

Geospatial information directly influences all aspects of Accurate Safe Utility Location (ASUL) risk assessment and emergency management. Advanced location surveying technologies, including light detection and ranging (LiDAR), sonar, radar and imagery, provide input into Geographic Information System (GIS) data and other geospatial assets are of most critical value in emergency response during the initial hours and days immediately following any incident. When utilized in the field at specific incident response locations, ASUL maps can be effective and life-saving tools. In California, a utility’s disastrous gas pipeline incident brought forth an emergency plan from an independent review panel, NTSB, industry associations and regulators such as PHMSA, California Public Utilities Commission (CPUC), former NTSB leadership, American Gas Association (AGA), Interstate Natural Gas Association of America (INGAA) and others.

Over the past decade, many deaths, injuries, and billions of dollars in repairs to the utilities and damaged property have been associated with poorly mapped or maintained distribution systems. Millions of dollars in environmental cleanup, countless road and facility closures, and dozens of evacuations are the additional results of these breakdowns. It is important to note that these systems most often physically parallel and work in tandem with existing transportation corridors, such as railroad and highway structures. These systems connect nearly every household to a common grid, often exposing citizens to unsafe and potentially explosive conditions. Because Federal, state and local governments control the corridor rights-of-way, report, and react to incidents (through state One Call, Miss Utility, or 811 systems), and issue permits for projects surrounding these systems, accurate geo-location surveying and mapping must be in place so that these facilities are not damaged or allowed to further deteriorate.

Federal officials, transportation designers, telecom, and utilities and pipeline operators, as well as government, need accurate location information to manage existing underground infrastructure and plan for future growth and development. Surveys and maps of underground utilities are often inaccurate. In many cases, they don’t even exist. The lack of location data is often cited by the NTSB, GAO, and other authorities as a factor in pipeline and other utility accidents. The inaccuracy of location data, unmarked utilities, and crowding within rights of way are major factors contributing to disruption to underground infrastructure. Digging, drilling or excavating in the vicinity of unknown, unmarked, unmapped, or incorrectly located utilities can be costly in terms of wasted excavation time, service disruption and utility downtime, environmental damage, and—worst of all—personal injury or loss of life. One Call, Miss Utility, or 811 systems are often nonresponsive to surveyors.

An Accurate Safe Utility Location + Infrastructure Mapping Reform (ASUL+IMR) is needed for accurate location of America’s underground utilities. This data partnership program will save lives, time, and money. Such a partnership should begin with current private sector protocols and practices and be open to evolving standards and technologies. This initiative should include both management of physical infrastructure, the information technology systems used to manage our most basic daily consumption of power, water, communications, transportation and natural gas, and be compatible with One Call, Miss Utility, or 811 systems. Accurate geospatial location can enable safe corridor utility distribution through surveying and mapping data sets provided by and for terrestrial and mobile LiDAR; acoustical sounding; data from ground penetrating radar as well as other applicable geophysical tech-

nologies; GPS; structures and topography; critical infrastructure; cadastral; airborne imagery and elevation; and transportation and pipeline. Small businesses providing surveying, mapping and geospatial data, products and technologies can work closely with utilities, end users, and government to provide innovation and flexibility in the planning, mitigation, response, and remediation phase.

Federal officials, transportation designers, telecom, and utilities and pipeline operators, as well as government, need accurate location information to manage existing underground infrastructure and plan for future growth and development. Surveys and maps of underground utilities are often inaccurate. In many cases, they don't even exist. The inaccuracy of location data, unmarked utilities, and crowding within rights of way are major factors contributing to disruption to underground infrastructure. Digging, drilling or excavating in the vicinity of unknown, unmarked, unmapped, or incorrectly located utilities can be costly in terms of wasted excavation time, service disruption and utility downtime, environmental damage, and—worst of all—personal injury or loss of life. Many location records do not reflect the “as-built” location of the infrastructure.

MAPPS respectfully urges the Committee to enable safe corridor utility distribution through legislative reforms that will apply cost-effective, current, state-of-the-art professional geospatial services and technology to location requirements in Federal law governing pipeline and underground utility safety. Conformance with American Society of Civil Engineers (ASCE) standard guideline 38–02 for the collection and depiction of existing subsurface utility data will help contribute to public health, safety and welfare.

Once again, thank you for your leadership and MAPPS stands ready to work with the Senate and the Committee to enact legislation allowing for safer operation of pipelines.

PREPARED STATEMENT OF THE NATIONAL SOCIETY OF PROFESSIONAL SURVEYORS
(NSPS)

The National Society of Professional Surveyors (NSPS) is the national voice of land surveying professionals throughout the United States.

As Congress acts to reauthorize the Pipeline and Hazardous Materials Safety Administration (PHMSA) as well as activities and programs related to pipeline safety and operation, NSPS is deeply concerned about the lack of location data on pipelines, as well as other underground infrastructure and utilities.

We bring to the attention of the Committee the challenges in accounting for and coordinating location data for all such pipelines as aggregated by Federal agencies as such data is gathered from state and local government entities, or other non-Federal sources.

In April 2015, the Obama Administration *cited* “approximately 2.6 million miles of pipeline” given that there is not a comprehensive inventory or database for all such pipelines and related surveying and mapping data. Citing past disasters caused by factors such as extraordinary natural events, and ever-aging infrastructure, the White House *urged* in the Quadrennial Energy Report (*QER*) a \$2.5 to \$3.5 billion investment to replace the most at-risk natural gas pipelines—a number that is only a fraction of the \$270 billion the report says is needed to address leak-prone distribution mains across the country. The report painted a stark picture of the state of that infrastructure, citing aging and increasingly unreliable steel and cast-iron pipelines particularly prone to rupture, often with devastating consequences. In a tragic example, a 30-inch underground natural gas pipeline exploded in September 2010 in San Bruno, California, causing a fire that killed eight people, injured 58 and destroyed 38 homes.

Discrepancies exist with regard to mileage and classification data, related to location data, as compiled in two governmental reports in 2013. The Congressionally authorized National Academies of Science (NAS) *report* found that:

“Most of the *estimated 55,000 miles* of crude oil transmission pipeline in the United States are interconnected to form a national network that links oil production regions, storage hubs, and refineries. This extensive network accounts for more than 90 percent of the ton-mileage of crude oil transported within the United States.”

Additionally, the report stated:

“Pipeline systems traverse *different terrains* and can vary in specific design features, components, and configurations.”

A January 2013 Congressional Research Service (CRS) *report* said that:

“Nearly half a million miles of pipeline transporting natural gas, oil, and other hazardous liquids crisscross the United States . . . Recent pipeline accidents in Marshall, MI, San Bruno, CA, Allentown, PA, and Laurel, MT, have heightened congressional concern about pipeline risks and drawn criticism from the National Transportation Safety Board (NTSB).”

The CRS report went on to articulate the role of geospatial data in recent law:

“In 2006, questions were raised about the accuracy of pipeline location data provided by operators and maintained by PHMSA in the National Pipeline Mapping System (NPMS). At the time, agency officials reportedly acknowledged limitations in NPMS accuracy, but did not publicly discuss plans to address them. P.L. 112-90 authorizes PHMSA to collect additional geospatial and technical data from pipeline operators to achieve the purposes of the NPMS. Congress may review whether these or other statutory measures are sufficient to verify that pipeline operator information is complete and correct, particularly for older parts of the pipeline network.”

NSPS urges Congress to enact safe corridor utility distribution legislation whereby the expertise found in the professional surveying and mapping community is robustly engaged to enhance pipeline and underground utility safety.

Once again, thank you for your leadership and NSPS stands ready to work with the Senate and the Committee to enact legislation allowing for safer operation of pipelines.

YELLOWSTONE RIVER CONSERVATION DISTRICT COUNCIL
Billings, MT, September 18, 2015

Hon. DEB FISCHER,
Hon. STEVE DAINES,
Hon. JON TESTER,
United States Senate.

Dear Senators Fischer, Daines and Tester,

On behalf of the Yellowstone River Conservation District Council (YRCDC), I appreciate your efforts to hold this Senate Commerce, Science, and Transportation Committee field hearing regarding “Pipeline Safety: State and Local Perspectives” in Billings, Montana.

For more than a decade the YRCDC has led the way in facilitating dozens of meetings within the Yellowstone River corridor, with the objective of providing a comprehensive scientific study of the Yellowstone River.

This report presents the results of the Cumulative Effects Analysis (CEA) conducted for the Yellowstone River Corridor Study. The corridor study was led jointly by the U.S. Army Corps of Engineers and the Yellowstone River Conservation District Council, with participation from multiple federal, state and local agencies, as well as several non-profit organizations and private businesses.

This study has been undertaken as a result of public attention and concerns about the combined effects of damaging flood events (1996 and 1997) and increased development pressures along the Yellowstone River Corridor.

The study focuses on the 12 counties along the main stem river corridor from Yellowstone National Park to the confluence with the Missouri River in North Dakota.

One result of this study was the development of several scientific-based recommended practices regarding current and future impacts in the river corridor. These recommendations include valuable information provided by the hazardous material pipeline risk assessment document commissioned by the YRCDC.

Montana Conservation Districts are on the front line of resource conservation development and protection. Our knowledge of local lands and people are of great value to the many agencies involved with protecting our lands and waterways.

The Yellowstone River Council has a great interest in providing safe pipelines for the transport of oil, gas and other hazardous materials, especially considering the inherent risks involved with over the road and rail methods of transportation.

We encourage you to support the reauthorization of the Pipeline and Hazardous Materials Safety Administrations valuable services in overseeing and enforcing Federal regulations.

Montana depends on a vibrant business community that is enhanced by the oil and gas industry, but we also count on those agencies that work to protect our pristine landscape and environment. PHMSA provides those protections and deserves your support.

Montana Conservation Districts and the Yellowstone River Conservation District Council are on the front lines providing local oversight and protections for Montana's waterways and we are eager to support continued efforts to protect our neighborhoods in this "Last Best Place".

Sincerely,

DON YOUNGBAUER,
Chairman.

Cc: The Honorable Marie Therese Dominguez, PHMSA Administrator

7.1 POSITION STATEMENT—OIL/GAS/BRINE WATER PIPELINE CROSSINGS

Background

Following the 2011 rupture and resulting oil spill from the ExxonMobil Silvertip Pipeline near Laurel, the YRCDC commissioned a hazardous material pipeline risk assessment that was completed in 2012. A second pipeline oil spill near Glendive in January 2015 again heightened public awareness of the vulnerability of these pipelines and the environmental damage that can result from these spills. The pipeline risk assessment shows the presence of 39 pipelines intersecting the Yellowstone River 100-yr Channel Migration Zone (CMZ) at 21 crossings. Thirty of the pipelines cross the channel while nine pipelines are located within the CMZ.

Factors that affect pipeline failure risk are either internal or external. Internal factors are intrinsic to the pipeline itself, such as corrosion, weld failure or age. External factors are those that are a function of the environment through which the pipeline must pass. These external factors include lateral channel migration and channel bed scour that can expose shallowly buried pipelines. Depth of cover, bank armoring, and "pinch points", such as bridges, can exacerbate the potential for pipeline exposure by concentrating the erosive forces from floods and ice.



Exposed pipeline in the river at risk of being ruptured.

Recommended Installation and Management Guidelines

The following are guidelines for new and existing pipeline crossings that the YRCDC wants the Pipeline and Hazardous Materials Administration (PHMSA) and all pipeline companies responsible for pipeline crossings on the Yellowstone River and tributaries to adopt.

- *Horizontal Directional Drilling:* All new pipeline crossings will use Horizontal Directional Drilling (HDD) technology that places the pipeline at a minimum of 30 feet beneath the river channel bottom. Crossings will be located on a stable straight channel reach where possible. River bends and braided sections should be avoided. The HDD entry and exit points will lie outside the 100-yr CMZ boundary. All drilling pads, staging areas and disturbed areas will be reclaimed following the HDD pipeline installation.
- *Existing Pipelines:* All existing at-risk pipelines that were installed using open-trench technology will be replaced using HDD technology following with the same criteria as outlined for new pipelines.

- *Oversight*: State and Federal oversight agencies must require HDD technology be used on all new pipeline crossings on the Yellowstone River mainstem and the perennial/intermittent tributaries that feed into the Yellowstone River.
- *Spill Detection*: Spill detect ion and remote shutoff valve technology will be incorporated into all pipelines to minimize the volume of spilled material and expedite response time.
- *Pipeline Inspections*: Pipeline companies need to conduct annual inspections of pipeline crossings with special attention given to real-time monitoring during major flood and ice jams.

Implementation Strategy

1. *Pipeline Crossings Review*: The YRCDC will work with member Conservation Districts on a consistent policy that clarifies their role in reviewing and commenting on new proposed pipeline crossings or the replacement of existing ones in their respective counties. The policy will further clarify the applicability of 310 permits for pipeline crossings.
2. *State and Federal Agency Coordination*: The YRCDC will periodically hold a meeting with state and Federal oversight agencies to discuss the status of pipeline crossings throughout the Yellowstone River Basin and to offer suggestions on design criteria and agency oversight.

Specific Restoration Project Recommendations

None identified

Additional Information & Data Needs

- (1) *Pipeline Risk Assessment*: Expand and update YRCDC's 2012 Pipeline Risk Assessment. Depth of cover data within the CMZ for all 39 pipelines will be requested from the National Pipeline Mapping System (NPMS) under the jurisdiction of PHMSA. There will be a detailed risk of exposure assessment conducted on each pipeline based on depth of cover and site specific scour analysis.

MONTANA ASSOCIATION OF CONSERVATION DISTRICTS
Helena, MT, September 23, 2015

Senator Steve Daines (RMT), and Senator Deb Fischer (RNE), Chairman of the Surface Transportation and Merchant Marine Infrastructure, Safety, and Security Subcommittee, Washington, DC

Dear Senators Daines and Fischer:

We are writing concerning the Senate Commerce, Science, and Transportation Committee field hearing entitled "Pipeline Safety: State and Local Perspectives" held on Friday, September 18th at Montana State University, Billings.

Please consider this letter our formal comments to be entered into the record regarding the pipeline safety hearing.

1. We would like to express our interest in safe pipelines across the USA.
2. We would like to bring to light that Conservation Districts have an 80 year + knowledge of local people, lands and waterways.
3. We would request that you include Conservation Districts early on in the case of a spill. We believe that our knowledge of local lands and people would be of value.
4. We would like to mention that there are 3,000 Districts nationwide with 15,000 locally elected officials.
5. We would like to mention that in some states such as Montana, Districts have specific responsibilities ref waterways regarding stream crossing permits.
6. In Montana at least, we would like to participate in trainings to learn technical aspects of pipeline stream crossings. This might best be accomplished at one of our annual conventions.

Thank you for your consideration.

ELENA EVANS,
Executive Director,
Montana Association of Conservation Districts.

Senator FISCHER. With that, I would like to thank all of you for being here today. I think we have had a very informative and good discussion. Thank you to our panelists. Thank you, Senator Daines. Great job. Love Montana.

We are adjourned.

[Whereupon, at 11:40 a.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. STEVE DAINES TO HON. MARIE THERESE DOMINGUEZ

Question 1. Ms. Dominguez, thank you for traveling to Montana, taking the time to hear first-hand from Montana officials, pipeline operators, and community stakeholders. A major concern raised during the hearing was PHMSA's slow inspection report turnaround time. As a Montana operator highlighted, they sometimes have to wait one year following an inspection to receive a report from PHMSA. What is PHMSA's target inspection report turnaround time? What is PHMSA doing to expedite reports and notices following an inspection so operators can address any deficiencies?

Answer. The PHMSA pipeline inspection process is a risk-driven, data-informed process that evaluates the safety and compliance of pipeline systems. Many of these systems are large and involve thousands of miles of pipelines and multiple pump/compressor facilities. A typical inspection requires 2–5 engineers/inspectors and lasts 3–8 months. The PHMSA inspection process is composed of multiple stages, including:

- *Pre-Inspection Review of Data and Inspection Planning*
 - PHMSA analyzes all known information about a pipeline company and its pipeline system(s), including material risk factors, proximity to people and sensitive environmental areas, and incident and compliance histories.
 - The analysis helps PHMSA decide where to focus its inspections of operator processes, records, and facilities, and often requires the full team *one-two weeks* to complete.
- The *Inspection* is composed of five distinct parts, which typically occur over 3–8 months:
 - *Entrance Interview*: PHMSA meets with company officials to outline the scope of the inspection and establish the detailed inspection schedule so that appropriate company personnel are available during the subsequent inspection.
 - *Procedure Review*: PHMSA reviews the company's processes and procedural manuals to determine compliance with Federal safety standards.
 - *Records Review*: PHMSA reviews the company's operations and maintenance records to identify any safety issues and to determine if the records reflect compliance with Federal safety standards and the company's own procedures.
 - *Field/Facility Review*: PHMSA conducts an on-site inspection and evaluation of multiple field locations throughout the system being inspected. This may include multiple pump/compressor facilities and mainline pipeline/valve installations.
 - *Exit Interview*: PHMSA conducts an exit interview at the end of every inspection and often at significant "pause points" in between. During these discussions, PHMSA identifies to company representatives any safety concerns or probable violations. It is important to note that company representatives do not need to wait until they receive a formal enforcement letter to act upon safety concerns and probable violations.
- *Inspection Report Time Frames*: PHMSA staff's own performance plans provide target completion timeframes for inspection paperwork:
 - *Preliminary Inspection Report*—30 days after completion of the inspection.
 - *Final Inspection Report*—60 days after completion of the inspection.

When all available information has been assembled, PHMSA decides which issues, if any, identified during an inspection or accident investigation warrant enforcement actions, and which type of enforcement tool to apply for each issue. These decisions dictate what type of evidentiary documentation is needed to validate an

enforcement case. Probable violations of Federal safety standards may need a proposed civil penalty, a proposed compliance order, and a legal review. An enforcement notice letter is then prepared that clearly alleges the violations and includes a Violation Report, which presents the full extent of PHMSA's evidence proving the violations and supports the proposed penalty, if applicable. PHMSA has established target times from the end of its on-site inspection to the issuance of an enforcement notice letter. These target times depend on the enforcement tool used, as follows:

- For Notice of Probable Violation cases—225 days
- For Warning Letter cases—120 days
- For Notice of Amendment cases—200 days

In 2014, the actual median times were:

- For Notice of Probable Violation cases—230 days
- For Warning Letter cases—90 days
- For Notice of Amendment cases—264 days

PHMSA has undertaken a number of initiatives to speed up the inspection and enforcement process, recognizing that expediting our enforcement process is important to ensure that operators promptly correct non-compliances, and to provide greater fairness by apprising operators of the agency's position in a timely manner. These have included recently modifying our procedures to allow for the issuance of critical enforcement actions in mid-inspection, rather than waiting for the completion of the full 3–8 month inspection process. PHMSA also issues monthly internal case-management reports that compile performance metrics on the processing of cases for each enforcement step, compared against established target times for key enforcement steps, and holds accountable those responsible for timely completion.

As a result of its initiatives, PHMSA has reversed a years-long trend of increasing times between initiating and fully closing cases that include proposed civil penalties or proposed compliance orders (*i.e.*, Notice of Probable Violation cases). From 2009 to 2014, the average processing time decreased by 54 percent, from 1,370 days to 624 days. PHMSA continues the effort toward quicker case processing, keeping in mind that our enforcement process allows for “due process,” where the operator is given an opportunity to respond to the allegations in our enforcement notice letters. As permitted by our regulations, operators sometimes request informal hearings to defend their actions and present their case. Subsequent to hearings, operators are often provided additional time to submit further written material supporting their case. These procedures can add to the total time from initiation to closure.

Question 2. We hear in this Committee increasingly from witnesses that performance and outcome based regulations are worth pursuing given the proactive safety practices of industry and the rapid evolution of technology. Based on my experiences in the private sector, I know industry sets a high standard for safety and is most often the source of safety technology innovation. What role will performance based regulations play in future rulemaking as PHMSA works to complete outstanding 2011 Congressional mandates? Will this help facilitate innovation?

Answer. PHMSA's safety framework relies on a mix of performance-based and prescriptive regulations. Prescriptive regulations provide operators with minimum safety requirements where appropriate and performance-based regulations accommodate technical changes to improve safety. This approach gives operators the flexibility to develop innovative solutions that improve safety while addressing the unique and changing risks of their specific systems.

Performance-based regulations have proven effective in addressing the complexities of regulating vastly different systems and conditions and encouraging innovation. They will continue to serve these purposes as we continue to address the remaining 2011 mandates. PHMSA will continue to seek opportunities to address these mandates, leverage new technologies, share lessons learned from inspections and accident investigations, and adopt best practices.

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