Docket No. SA-534

Exhibit No. 2-DR

NATIONAL TRANSPORTATION SAFETY BOARD

Washington, D.C.

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
WRITTEN TESTIMONY PROVIDED TO THE JULY 21, 2010 HEARING ON
PIPELINE SAFETY: PUBLIC AWARENESS AND EDUCATION

(76 Pages)

U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

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July 20, 2010

SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Railroads, Pipelines, and Hazardous Materials

FROM: Subcommittee on Railroads, Pipelines, and Hazardous Materials Staff

SUBJECT: Hearing on "Pipeline Safety: Public Awareness and Education"

PURPOSE OF THE HEARING

The Subcommittee on Railroads, Pipelines, and Hazardous Materials is scheduled to meet on Wednesday, July 21, 2010, at 2:00 p.m., in room 2167 of the Rayburn House Office Building to receive testimony on pipeline safety public awareness and education programs. The hearing is the fourth in a series of hearings that the Subcommittee will conduct on pipeline safety.

BACKGROUND

According to the Department of Transportation's (DOT) Pipeline and Hazardous Material Safety Administration (PHMSA), there are 173,500 miles of onshore and offshore hazardous liquid pipeline (about 200 operators) in the United States, which carry more than 75 percent of the nation's crude oil and around 66 percent of its refined petroleum products. Of the 173,500 miles of hazardous liquid pipeline, about 55,000 miles are major crude oil trunk lines, which range in diameter from about eight inches up to 48 inches. Associated with these trunk lines in several locations is significant crude oil tankage, and about 30,000 to 40,000 miles of crude gathering lines, which are smaller lines that gather the oil, gas, and water from many wells, both onshore and offshore, and connect to the larger trunk lines. In addition, there are about 95,000 petroleum product lines, flow lines/piping associated with well operations, and produced water pipelines (containing contaminated water following oil, gas, and water separation).

In addition to the 173,500 miles of hazardous liquid pipeline, there are 323,600 miles of natural gas transmission pipeline. Natural gas transmission pipelines move large amounts of natural gas to direct-served customers and local distribution systems' stations, referred to as "city gates",

where the pressure is lowered for final distribution to end users, such as housing developments, through thousands of miles of small-diameter distribution pipelines. There are 2,036,800 miles of these natural gas distribution pipelines.

All in all, PHMSA oversees 2,534,000 miles of gas and hazardous liquid pipeline in the United States, which account for 64 percent of the energy commodities consumed in the United States.

I. PUBLIC EDUCATION PROGRAMS

The Pipeline Safety Improvement Act of 2002[1] required each owner or operator of a gas or hazardous liquid pipeline facility to carry out a continuing program to educate the public on the possible hazards associated with unintended releases from the pipeline facility, the physical indications that such a release may have occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event. The program also had to educate the public on the use of a one-call notification system prior to excavation and other damage prevention activities. The law also required each owner or operator of a gas or hazardous liquid pipeline facility to review its existing public education program for effectiveness and modify the program as necessary. The completed program had to include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations, and had to be submitted to the Secretary of Transportation for review (or in the case of an intrastate pipeline facility, the appropriate State agency). The law also authorized the Secretary to issue standards prescribing the elements of an effective public education program.[2]

On May 19, 2005, PHMSA issued a Final Rule requiring each operator of a gas or hazardous liquid pipeline to develop and implement, within one-year, the written, continuing public education program required under the Pipeline Safety Improvement Act of 2002.[3] In the rule, PHMSA stated that all pipeline operators would have to follow the guidance provided in the American Petroleum Institute's Recommended Practice 1162 (API 1162), *Public Awareness Programs for Pipeline Operators,* which makes recommendations on what pipeline operators may want to consider including in their education programs.[4]

Congress required each owner or operator of a gas or hazardous liquid pipeline facility to review, within 12 months after the date of enactment of the 2002 law, its existing public education program for effectiveness and modify the program as necessary. However, in the 2005 rulemaking,

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[1] P.L. 107-355, Section 9.

[2] *Id.*

[3] *PHMSA: Pipeline Safety: Pipeline Operator Public Awareness Program*, 70 Fed. Reg. 2883 (May 19, 2005), http://edocket.access.gpo.gov/2005/pdf/05-9464.pdf.

[4] PHMSA has incorporated by reference all or sections of 69 separate industry standards into the pipeline safety regulations and 151 separate industry standards into the hazardous materials safety regulations, including standards developed by the American Gas Association (AGA) and the American Petroleum Institute (API). PHMSA has informed the Committee on Transportation and Infrastructure that government representatives serve on the committees that are responsible for developing the standards, and if PHMSA believes that some aspect of a standard does not meet PHMSA's directive, it will not incorporate the standard in the regulations. The standards that are incorporated by reference in the regulations are only available to the public (free of charge) for review in the DOT's reading room. Otherwise, they must be purchased from the standard developing organization.

PHMSA gave pipeline operators until June 2006 to review and modify their program and until June 2010 to determine their effectiveness.

The National Transportation Safety Board (NTSB) recently raised concerns about PHMSA's oversight of owner/operator public awareness and education programs. On November 1, 2007, a 12-inch diameter pipeline operated by Dixie Pipeline Company was transporting liquid propane when it ruptured in a rural area near Carmichael, Mississippi.[5] The resulting gas cloud expanded over nearby homes and ignited, creating a large fireball that was heard and seen from miles away. About 10,253 barrels (430,262 gallons) of propane were released. As a result of the ensuing fire, two people were killed and seven people sustained minor injuries. Four houses were destroyed and several others damaged. Although the pipeline accident's probable cause was the failure of a weld in the pipeline, the NTSB identified four safety issues, including three involving Dixie's public education program, specifically: (1) the adequacy of Dixie Pipeline Company's public education program; (2) the oversight exercised by PHMSA of the pipeline operator's public education and emergency responder outreach program; and (3) the emergency communications within the community.[6]

According to the NTSB, Dixie's public education program involved the distribution of safety literature to identified stakeholders, which included residents, businesses, emergency response agencies, excavators, and public officials. Dixie's plan called for mailing pipeline awareness literature to excavators and emergency response personnel in the counties in which the pipeline was located on an annual basis; providing literature to residents and businesses within one mile (5,280 feet) on either side of the pipeline once every two years; and providing literature to public officials within the county once every three years.

The pipeline company also relied on a contractor to send out the literature and, based on NTSB findings, the pipeline company did not exercise any oversight of the contractor to ensure that the mailings were accurate, nor did the company ever survey the residents or businesses about the content or effectiveness of the public education literature that they were provided.

The NTSB found that although an operator's public awareness program plan may meet API 1162 recommendations and Federal pipeline standards, there is no guarantee that implementation of the program is effective or that the operator is exercising sufficient oversight of its public awareness and education program.[7]

In October 2009, based on the NTSB findings, the Board sent a Safety Recommendation to PHMSA to initiate a program to evaluate pipeline operators' public education programs, including pipeline operators' self-evaluation of the effectiveness of their public education programs. PHMSA's response was to wait until after June 2010 to "have a better understating of the strengths and weaknesses of the existing public awareness requirements after reviewing operator effectiveness evaluations" (which were to be done by June).

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[5] NTSB, *Pipeline Accident Report, Rupture of Hazardous Liquid Pipeline with Release and Ignition of Propane, Carmichael, Mississippi*, Pipeline Accident Report NTSB/PAR-09/01 (November 1, 2007).
[6] *Id.*
[7] *Id.*

The NTSB also found that the 911 operators in Carmichael, Mississippi were neither trained nor aware of the hazardous materials the pipeline was transporting. The NTSB made a Safety Recommendation to the API to revise API 1162 to explicitly identify 911 emergency call centers as emergency response agencies to be included in outreach programs under a pipeline operator's public education program.

II. TECHNICAL ASSISTANCE GRANTS

In the aftermath of pipeline tragedies in Bellingham, Washington, in 1999, and Carlsbad, New Mexico, in 2000, Congress created a program in the Pipeline Safety Improvement Act of 2002 to provide pipeline safety information grants to communities. Under the program, known as the Technical Assistance Grant (TAG) program, the Secretary of Transportation is authorized to make grants to local governments and not-for-profit community groups for technical assistance relating to the safety of pipeline facilities in local communities. Congress authorized $1 million for each of fiscal years 2003 through 2006 for the program (which was extended through 2010 in the Pipeline, Inspection, Protection, Enforcement, and Safety Act of 2006 (PIPES Act)[8]); any single grant made under the program was limited to no more than $50,000. Funding for the TAG program is authorized to be appropriated out of the General Fund and PHMSA is specifically prohibited from using the user fees collected from pipeline operators to fund the program.

From 2003 through 2006, Congress failed to specifically fund the program and, as a result, PHMSA refused to move ahead to implement it. To address the issue, a provision was inserted into the PIPES Act to withhold funding from other grant programs until PHMSA established procedures and criteria for initiating the TAG program.

Although funding was authorized for the program in 2002, Congress did not fund it until 2009. Section 5 of the PIPES Act required that at least the first three grants be "demonstration" grants in amounts not exceeding $25,000 each. PHMSA awarded the following four demonstration grants in May, June, and July 2009 for a total of $70,414:[9]

Recipient	Amount
St. Peters, Missouri	$8,784
Brookings County, South Dakota	$12,000
Ft. Worth, Texas	$25,000
Montgomery County, Virginia	$24,630

PHMSA then posted a solicitation for TAG applications on its website and convened a panel of stakeholders to evaluate the grant applications. The four-member stakeholder review panel was comprised of representatives from the National Association of Counties, the National Association of Pipeline Safety Representatives, the Washington State Utilities and Transportation Commission, and PHMSA. The panel reviewed 25 responsive applications, and PHMSA awarded a total of $963,921 to the following 21 recipients in September 2009:[10]

[8] P.L. 109-468.
[9] PHMSA, Letter to Chairman James Oberstar (June 7, 2010).
[10] *Id.*

Recipient	Amount
Copper River Watershed Project, Cordova, Alaska	$48,380
Mesa, Arizona	$50,000
The Tides Center, Suisun City, California	$50,000
Lake Apopka Natural Gas, Winter Garden, Florida	$50,000
Blountstown, Florida	$50,000
Clearwater, Florida	$50,000
Elberton, Georgia	$50,000
Toccoa Natural Gas, Toccoa, Georgia	$50,000
Kansas Municipal Utilities, McPherson, Kansas	$50,000
Prestonburg City's Utilities Commission, Prestonburg, Kentucky	$26,000
City Utilities of Springfield, Springfield, Missouri	$41,383
Northern Plains Resource Council, Billings, Montana	$36,103
Nebraska City Utilities, Nebraska City, Nebraska	$16,500
Hamilton, Ohio	$50,000
Safety, Agriculture, Villages, & Environment, Inc., Kennett Square, Pennsylvania	$50,000
West Vincent Township, Chester Springs, Pennsylvania	$50,000
Bradford Glen Homeowners Association, West Bradford, Pennsylvania	$50,000
Oak Ridge Utility District, Oak Ridge, Tennessee	$50,000
Ft. Worth League of Neighborhood Associations, Ft. Worth, Texas	$48,305
The Association of Washington Cities, Olympia, Washington	$50,000
Pipeline Safety Trust, Bellingham, Washington	$47,250

III. NATIONAL PIPELINE MAPPING SYSTEM

Section 15 of the Pipeline Safety Improvement Act of 2002 required operators of pipeline facilities (except distribution lines and gathering lines) to submit to the Secretary of Transportation certain data appropriate for use in the National Pipeline Mapping System (NPMS), including: (1) geospatial data appropriate for use in the NPMS or data in a format that can be readily converted to geospatial data; (2) the name and address of the person with primary operational control to be identified as its operator; and (3) a means for a member of the public to contact the operator for additional information about the pipeline facilities it operates. Operators are required to update the information annually. The section also authorized the Secretary to provide technical assistance to State and local officials to improve local response capabilities for pipeline emergencies by adapting information available through the NPMS to software used by emergency response personnel responding to pipeline emergencies.

The terrorist attacks of September 11, 2001 placed additional security concerns on the U.S. pipeline infrastructure. As a result, PHMSA restricted access to certain NPMS data to Federal, State, and local government agencies (including emergency responders). However, PHMSA provides a webpage for the public to obtain State information, including who operates pipelines in their area and contact information for those pipeline operators. The website is searchable by State, County, or Zip code.

IV. PIPELINE DAMAGE PREVENTION

In 1998, Congress established minimum standards for State one call notification programs and authorized appropriations for Federal grants to improve State one call notification programs in the Transportation Equity Act for the 21st Century[11] for the purposes of: (1) enhancing public safety; (2) protecting the environment; (3) minimizing risks to excavators; and (4) preventing disruption of vital public services.[12]

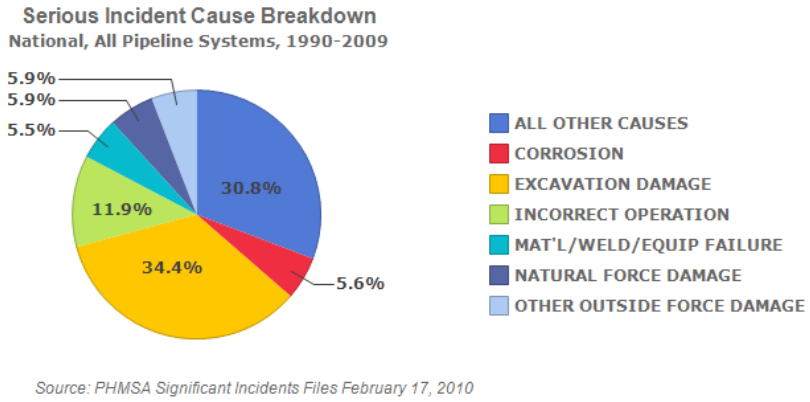
In December 2002, Congress created the nationwide one call notification system in the Pipeline Safety Improvement Act of 2002, which directed the Secretary of Transportation and the Federal Communications Commission (FCC) to establish a 3-digit nationwide toll-free telephone number for excavators to call to dispatch companies that operate underground utilities in the area to mark the exact location of their utilities. The 2002 Act helps excavators avoid hitting the utilities when digging and any fatalities, injuries, environmental damage, or loss to critical infrastructure and services that could occur.

Both PHMSA and the FCC have taken steps since the enactment of the Pipeline Safety Improvement Act of 2002 to establish a universal 3-digit number that is recognizable to both excavators and the public. In April 2005, the FCC assigned "811" as the national abbreviated dialing code to be used exclusively for one-call notification centers. The official campaign to advertise "811" as the national "Call Before You Dig" number was launched in May 2007. PHMSA works with its stakeholder partners and in particular with the Common Ground Alliance (CGA), which is comprised of a number of hazardous liquid and gas pipeline companies, to promote the use of this number, both by providing funding for promotion and by including the "811" information in PHMSA outreach.

According to PHMSA's website, "811" has helped reduce the number of excavation damages caused by failure to locate underground utilities prior to digging from 57 percent of all damages in 2004 to 35 percent of all damages in 2009. Further, excavation damage continues to be a leading cause of serious pipeline incidents. More than 256,000 underground utility lines are damaged during excavation each year in the United States; 35 percent of those are due to homeowners and contractors not calling "811" before they dig. As shown below, the largest percentage of **all** serious pipeline incidents between 2004 to 2009 were caused by excavation damage. Corrosion remains the leading cause of all pipeline incidents for hazardous liquid pipelines.

[11] P.L. 105-178.
[12] 49 U.S.C. § 6103.

ALL SERIOUS PIPELINE INCIDENT CAUSE BREAKDOWN FROM 2004-2009



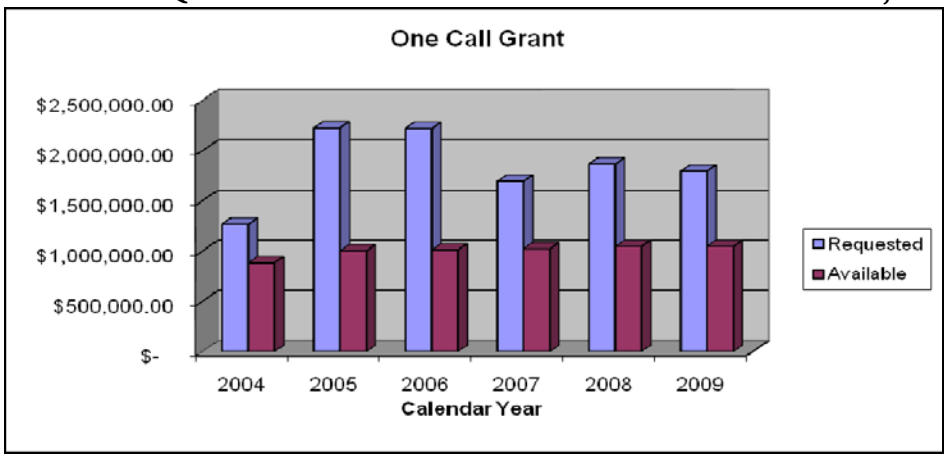
Source: PHMSA Significant Incidents Files February 17, 2010

In an effort to prevent excavation damage to pipelines, PHMSA has provided $500,000 annually to support CGA's efforts. PHMSA has provided over $2.2 million in funding assistance to support CGA's "811" advertising campaign since 2002.

State agencies who participate in the one call program established by PHMSA are also eligible to apply for one call grants on an annual basis. This grant program has a maximum amount request of $50,000 per State, designated to support initiatives which promote efforts specifically aimed at damage prevention. According to PHMSA, the agency received 37 applications for the "PHMSA Pipeline Safety Program One Call Grant" for 2009 and received 36 applications for 2010. PHMSA also states that no eligible State applicant was rejected in either year and the appropriation for these grants was $1,043,000 for 2009 and $1,084,900 for 2010.

According to PHMSA, as shown in Figure 1 below, the total grant dollar amounts requested by States has exceeded the appropriated funds each year since 2004. Although the amounts funded for one call grants has only increased by 3.5 percent over the last six years, the State-requested dollars, on average, have increased by 11.52 percent. PHMSA states that the number of requests for funds continues to increase each year, while the funding level remains flat.

TOTAL GRANT REQUESTS FOR ONE CALL GRANTS VS AVAILABLE FUNDS, 2004-2009



Source: PHMSA, *One Call Report Analysis & Recommendations.*

WITNESSES

The Honorable Cynthia Quarterman
Administrator
Pipeline and Hazardous Materials Safety Administration

Mr. Rick Kessler
Vice President of the Board of Directors
Pipeline Safety Trust

Mr. Bob Kipp
President
Common Ground Alliance

Mr. Peter O'Rourke
Director of Energy Programs
National Association of State Fire Marshals

Mr. Massoud Tahamtani
Director, Division of Utility and Railroad Safety
Virginia State Corporation Commission
On behalf of
National Association of Pipeline Safety Representatives

Mr. Sam Davis
General Manager and CEO
Lake Apopka Natural Gas District (Winter Garden, FL)
On behalf of
American Public Gas Association

Mr. Peter Lidiak
Pipeline Director
American Petroleum Institute

UNITED STATES DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

Hearing on
Pipeline Safety Public Education and Awareness

Before the
Subcommittee on Railroads, Pipelines, and Hazardous Materials
Committee on Transportation and Infrastructure
U.S. House of Representatives

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

Expected Delivery 2:00 p.m.
July 21, 2010

WRITTEN STATEMENT OF CYNTHIA L. QUARTERMAN
ADMINISTRATOR
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION
BEFORE THE
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS
UNITED STATES HOUSE OF REPRESENTATIVES

JULY 21, 2010

Chairwoman Brown, Ranking Member Schuster, members of the Subcommittee, thank you for the opportunity to appear here today. Secretary LaHood, the employees of the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the entire Department of Transportation share public safety as their top priority. The Department is committed to preventing spills on all pipelines through regulation, oversight, enforcement, public awareness and education. Public awareness, education, and damage prevention initiatives aim to increase the public's knowledge of the pipelines where they live and work.

PHMSA works with a broad stakeholder community to shape our public awareness, education, and damage prevention initiatives. PHMSA stakeholders include federal, state and local agencies; public advocacy groups; damage prevention organizations; research and development organizations; and first responders. Engaging stakeholders early and making them a part of pipeline safety policy development provides them with a sense of ownership in making their communities safer and strengthens the implementation, evaluation, and enforcement of pipeline safety programs. This shared responsibility is a driving force behind the success of most of PHMSA's public awareness and damage prevention focused initiatives.

Public awareness, education, and damage prevention are interconnected initiatives aimed at increasing the understanding and knowledge of people who work and live near pipeline rights-of-way. Public awareness covers the pipeline operator requirements to inform citizens living along their pipeline rights of way, as well as local government officials and first responders.

Public awareness is also a component of many of PHMSA's non-regulatory programs. For example, many of PHMSA's damage prevention initiatives make specific stakeholders aware of the role they play in keeping themselves and the pipelines safe. Other examples of these non-regulatory initiatives that improve pipeline awareness and understanding is PHMSA's work with the Common Ground Alliance (CGA), in support of the national 811 "Call Before You Dig" program; support of the development of *Pipeline Emergencies 101* training material to educate first responders on pipelines and how to safely respond to a pipeline emergency; and support of the Pipelines and Informed Planning Alliance (PIPA), which is devising recommended practices to address among many things, land use planning adjacent to pipeline rights-of-way. PHMSA also has dedicated Community Assistance and Technical Services (CATS) representatives, who

work with a variety of stakeholders, including the Federal Energy Regulatory Commission, the CGA, states, local government and citizens to keep them informed on matters of particular interest to pipeline safety.

These are only a few of PHMSA's programs focused on public awareness of pipeline issues. Today's testimony will further elaborate on these and other initiatives, some completed, others on-going that support public education, awareness and damage prevention. All of these programs are meant to reduce the likelihood of a pipeline incident and mitigate the risks to the public and the environment in the event of such an incident.

I. IMPROVING SAFETY THROUGH PUBLIC EDUCATION, AWARENESS, AND DAMAGE PREVENTION.

PHMSA has made significant progress in reducing the number of serious pipeline incidents – those involving death or injury, have declined by 50% over the last twenty years. Yet, over the same period, all the traditional measures of risk exposure have risen – population, energy consumption, and pipeline ton-miles. As indicated in Figure 1 below, PHMSA aims to continue the downward long-term trend in pipeline incidents through public education, awareness, and damage prevention.

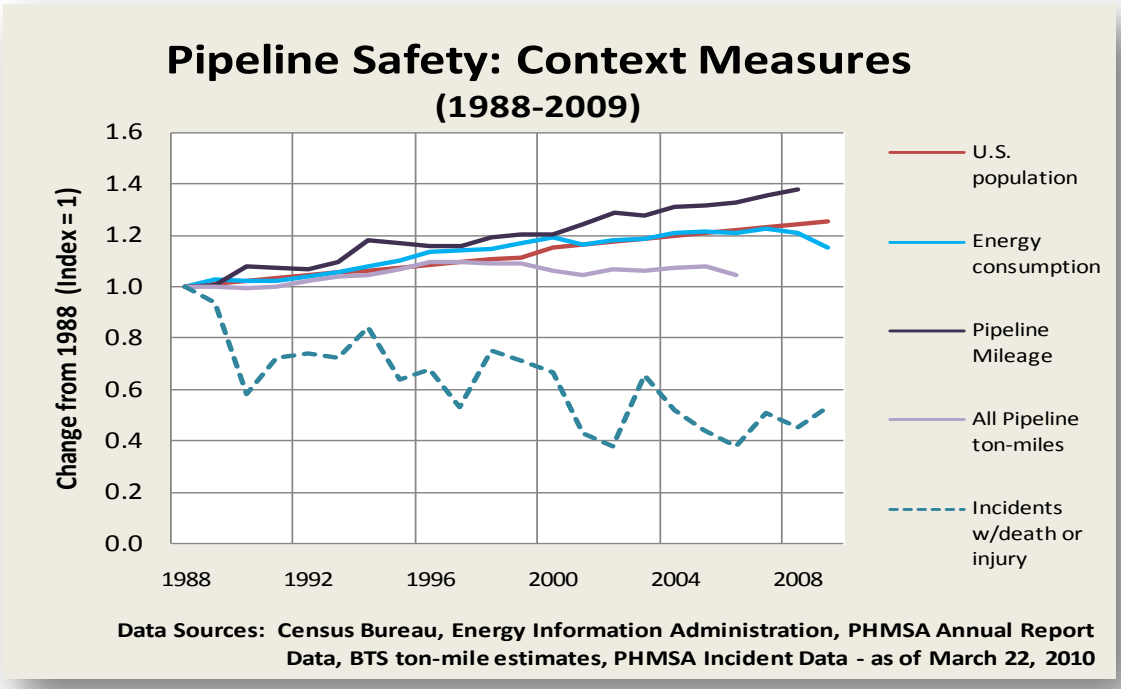


Figure 1: Comparison shows a decrease in deaths and injuries related to pipeline incidents while U.S. population, energy consumption, and pipeline mileage increased over the past 20 years.

A. PHMSA SUPPORTS DAMAGE PREVENTION INITIATIVES THAT SEEK TO ELIMINATE THE LEADING CAUSE OF A PIPELINE FAILURE.

The vast majority of America's pipeline network is underground, making pipelines vulnerable to "dig-ins" by third-party excavators. While excavation damage is 100% preventable, it remains a leading cause of pipeline incidents involving fatalities and injuries. PHMSA's goal is to reduce excavation damage significantly through strong outreach and public awareness programs. As evidenced in Figure 2 below, PHMSA has already been successful in reducing excavation damage incidents as a result of these efforts.

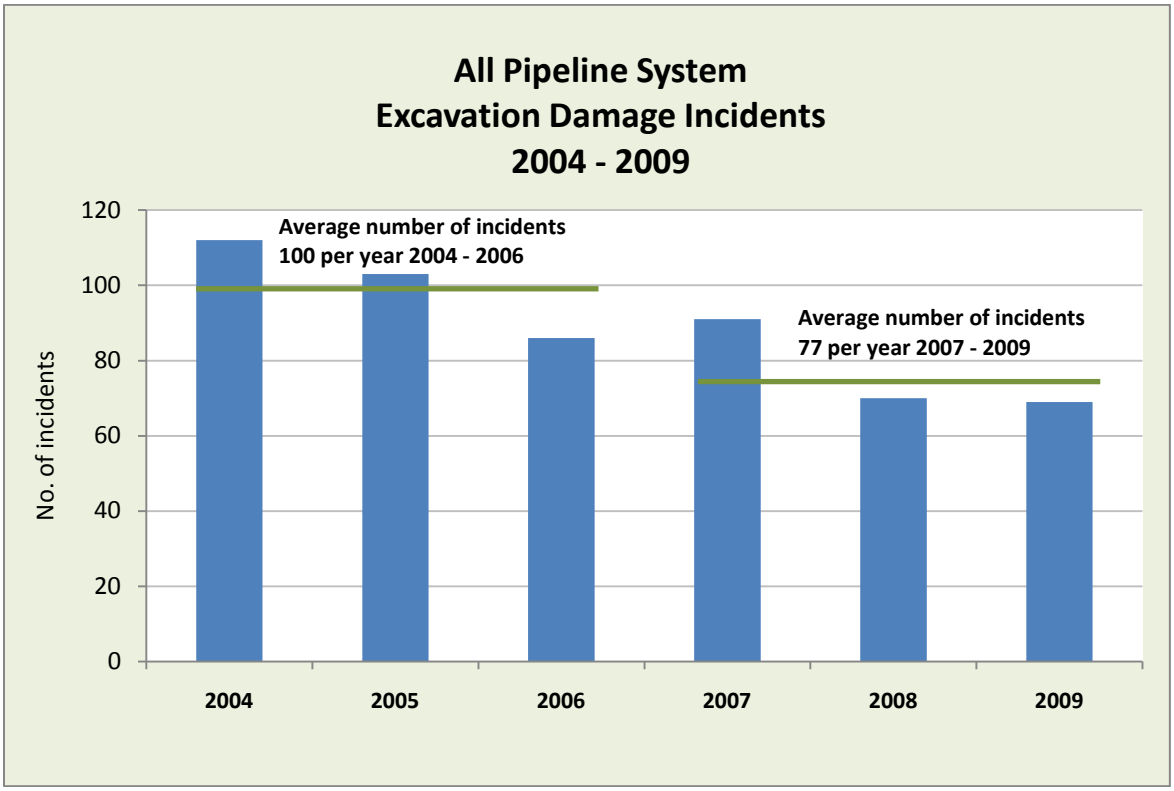


Figure 2: PHMSA is seeing a decline in excavation related damages on all pipeline systems.

PHMSA is proud of its continued and steady leadership in supporting national and state damage prevention and public awareness programs. PHMSA promotes public education awareness with national programs such as the "811- Call Before You Dig" program through the CGA. PHMSA provided over $2.2 million in funding assistance for CGA's 811 educational outreach campaign since 2002. In March 2010, PHMSA participated in the CGA's annual meeting highlighting the importance of the National "811- Call Before You Dig" program. Also this year, the U.S. Senate, House of Representatives, and Transportation Secretary Ray LaHood all promoted the importance of "calling before-you-dig" by designating April as National Safe Digging Month, with the Congress introducing individual resolutions. At PHMSA's urging,

forty states, including those represented by members of this Subcommittee, also followed suit with Statewide Safe Digging Month Proclamations. The efforts driven and supported by PHMSA involved the CGA, many states, and damage prevention stakeholders from around the country who are advocates for safe excavation practices.

B. PHMSA ENCOURAGES STATES TO SPREAD THE DAMAGE PREVENTION MESSAGE.

PHMSA recognizes that protecting communities, the environment and the pipeline infrastructure through public education and awareness is a shared responsibility among all stakeholders. PHMSA has developed grant programs through its One Call Grant program and State Damage Prevention (SDP) grants. PHSMA has awarded SDP grants to fund improvements in damage prevention programs. SDP grants reinforce the nine specific elements that make up the components of an effective damage prevention program:

1. Enhances communications between operators and excavators;
2. Fosters support and partnership of all stakeholders;
3. Encourages operator's use of performance measures for locators;
4. Encourages partnership in employee training;
5. Encourages partnership in public education;
6. Defines roles of enforcement agencies in resolving issues;
7. Encourages fair and consistent enforcement of the law;
8. Encourages use of technology to improve the locating process; and
9. Encourages use of data analysis to continually improve program effectiveness.

Each state has established laws, regulations, and procedures shaping its state damage prevention program. Since 1995, PHMSA has awarded over $14 million dollars in One Call Grants. PHMSA has also provided over $4 million dollars in SDP grants to 30 distinct state organizations since 2008. Eligible grantees include state one call centers, state pipeline safety agencies, or any organization created by state law and designated by the Governor as the authorized recipient of the funding. The results of these grants are extremely encouraging and PHMSA commends the states that have received these grants and are working to strengthen their damage prevention laws and programs.

C. PHMSA ENSURES OPERATORS MAKE THE PUBLIC AWARE OF THEIR OPERTIONS.

To address public awareness requirements, in May 2005, a Final Rule was issued that required each operator of a gas or hazardous liquid pipeline to develop and implement a written public continuing education program. These programs are required to follow the guidance of the

American Petroleum Institute (API) Recommended Practice (RP) 1162, "Public Awareness Programs for Pipeline Operators." This RP was developed with participation from all relevant stakeholder groups, including PHMSA, and is based on the knowledge and experience of various pipeline safety and communication experts. PHMSA has incorporated this recommended practice by reference, into its regulatory program under 49 CFR 192.616 and 49 CFR 195.440. The public can view and download an electronic copy of RP 1162 by visiting API's website. Pursuant to this requirement, pipeline operators are required to provide the affected public with information about how to recognize, respond to, and report pipeline emergencies. The regulations also address specific outreach requirements that operators must meet in targeting educational messages to emergency officials, local public officials, and excavators.

In June 2005, PHMSA issued Advisory Bulletin (ADB-06-02) requesting pipeline operators to submit their written public awareness programs to the PHMSA Public Awareness Program Clearinghouse for review. A team of PHMSA's CATS representatives compared these programs with the program requirements using criteria developed by PHMSA and its state pipeline safety partners. Since the adoption of the public awareness requirements into the PHMSA regulations, federal and state inspection staff has been reviewing public awareness elements during standard pipeline inspections. These inspections generally include a review of the written programs and/or a review of records verifying program implementation.

In June 2010, PHMSA and its state partners held a public awareness workshop to review the initial four-year public awareness implementation cycle to understand industry's implementation strategies and challenges. In the second half of 2010, state and federal inspection programs are specifically evaluating operator public awareness program effectiveness. The results of these inspections, along with knowledge gained from the public awareness workshop will be used to refine PHMSA's program to evaluate operator public awareness programs. PHMSA will also prepare an advisory bulletin, develop detailed guidance for pipeline safety inspectors, and prioritize inspections of public awareness programs based on pipeline mileage by operator and the type of commodity transported. In addition, PHMSA will ensure that public awareness programs include provisions for outreach to 911 operators.

D. PHMSA ALSO ENSURES STATES HAVE TECHNICAL ASSISTANCE TO PARTICIPATE IN PIPELINE MATTERS.

PHMSA encourages communities to take part in efforts to develop technical solutions for environmental and emergency planning, zoning, and land use management near pipelines, and to prevent damage to pipelines. PHMSA created the Technical Assistance Grant (TAG) program to provide grants to local communities and organizations for technical assistance related to pipeline safety issues. Technical assistance is defined as engineering or other scientific analysis of pipeline safety issues. The funding can also be used to help promote public participation in official proceedings.

In 2009, PHMSA selected 21 communities and organizations to receive funding through the agency's TAG program. Grants totaling $1 million were used to foster open communication

between the public and pipeline operators on pipeline safety and environmental issues and perform other important tasks. Examples of such projects include the use of geographic information systems for enhanced pipeline monitoring and technical aspects of public awareness campaigns to promote the sharing of information between pipeline operators and landowners.

Each technical assistance grant recipient must provide a report to PHMSA within one year of its award demonstrating completion of the work as outlined in its grant agreement. PHMSA is thoroughly overseeing this process and will evaluate the expected outcomes of each grant recipient. PHMSA's CATS representatives will offer their technical support to communities and organizations as well to address pipeline safety questions that may arise during the course of the grant agreement period.

E. PHMSA IS ALSO TRYING TO HELP LOCAL COMMUNITIES MAKE WISE LAND USE PLANNING DECISIONS RELATING TO PIPELINES.

PHMSA has also taken steps to promote recognition of land use planning issues related to development near transmission pipelines. In 2000 to 2001, PHMSA undertook research and solicited input on how to communicate pipeline risks to communities. From this came the idea of developing guidance for communities regarding land use and development near transmission pipelines. PHMSA initiated a cooperative agreement with the Transportation Research Board (TRB) of the National Academies to undertake the study. That agreement was later modified to meet the Pipeline Safety Improvement Act of 2002 requirements for PHMSA to address pipeline encroachment. The results were published in TRB Special Report 218 in October 2004 and included several recommendations for PHMSA related to the development of risk-informed land use guidance. PHMSA initiated PIPA to address the TRB recommendations. Similar to the 1999 Common Ground Study that later resulted in the establishment of the CGA, PIPA is a collaborative effort by stakeholder representatives utilizing a consensus process to identify and recommend practices related to "risk-informed" planning for land use and development around transmission pipelines. PIPA consists of approximately 130 stakeholder representatives of the pipeline industry, local city and county governments, the public, developers, fire marshals, and state and federal regulators. PHMSA anticipates the stakeholders will complete their recommended practices at the time of the publication of the PIPA Final Report which is expected in August 2010.

PHMSA has conducted other activities to inform the public and engage interest and participation in all of its initiatives. PHMSA funded publicly accessible internet broadcast viewing of two pipeline events sponsored by the Pipeline Safety Trust, including a focus on safer land use planning. PHMSA has entered into multiple cooperative agreements with professional associations of county and city government officials to represent their communities and the public interest in PIPA.

F. PHMSA MAKES PIPELINE INFORMATION READILY AVAILABLE TO THE PUBLIC.

A companion effort is helping communities understand where pipelines are located, who operates them, and what other information is available for community planning. PHMSA works with the Department of Homeland Security's Transportation Security Administration to resolve concerns about sensitive security information. Vital information that communities need for land use, environmental, and emergency planning around pipelines is now publicly available through PHMSA's National Pipeline Mapping System (NPMS). The NPMS is a geospatial dataset containing the nation's hazardous liquid and gas transmission pipelines, liquefied natural gas facilities, and a partial dataset of breakout tanks. NPMS data is used for regulatory support, inspection planning, trending and analysis, mapping, emergency response support, and to allow the general public to view pipelines in their area. PHMSA continues to work with states, industry, and other stakeholders to make the NPMS information more accurate and useful.

PHMSA is improving efforts to reach the public by providing local officials with public education resources within communities so citizens can learn how they can protect themselves and pipelines. PHMSA CATS representatives provide pipeline safety information to citizens and advise local officials who then are able to make informed decisions about local land use. PHMSA also utilizes the Internet to give citizens and other stakeholders instant access to community specific pipeline information on our stakeholder communications website. Stakeholders can view incident, accident, and enforcement data to help ensure pipeline safety in their communities. PHMSA has used its website and databases to provide on-the-spot enforcement information to stakeholders. The web site provides public access to a variety of incident and accident data and reports and information about the pipeline safety enforcement program. The site provides year-by-year reports on cases initiated and closed, the status of different types of enforcement cases, and reports on civil penalty cases showing the amounts proposed, assessed, and collected. Information and documents on individual cases are also provided. These documents include the initial notices that allege operator violations or inadequacies; operator responses to these allegations; and the orders documenting PHMSA's final determinations. In addition, PHMSA updates enforcement information on a monthly basis. Use of the enforcement transparency web site has climbed steadily since its inception in May 2007 and averaged more than 1,500 hits per day in 2009. In 2010, PHMSA expanded and improved the information on civil penalty cases and began displaying enforcement data from state pipeline safety agencies as well.

G. PHMSA PREPARES FIRST RESPONDERS FOR PIPELINE FAILURES.

Finally, in the event of a pipeline incident, PHMSA takes its relationship with the first responder community seriously. PHMSA provides training material to assist responders to safely and effectively handle a pipeline emergency. PHMSA has supported the National Association of State Fire Marshals (NASFM) and the first responder community through the development and dissemination of *Pipeline Emergencies 101* training materials for firefighters. In addition, PHMSA has worked with the International Association of Fire Chiefs and NASFM

to address gaps in knowledge so that emergency responders know which tools are most effective, including responses to biofuel incidents. PHMSA is currently working with NASFM to revise the curriculum of *Pipeline Emergencies 101*.

II. RESPONDING TO CURRENT CHALLENGES.

While PHMSA is gearing up to deal with the new challenges, the agency is continuing to exert vigilant and visionary leadership to remain steps ahead of the pipeline safety issues it is faced with today. PHMSA has accomplished many goals with its state partners. At the same time however, it is important that states continue to recognize the role that effective and fair enforcement plays in reducing excavation damage to underground infrastructure. Strong, balanced, and effective enforcement needs to be a part of all damage prevention laws. Some states are lacking when it comes to state damage prevention laws by not specifically addressing enforcement or by not permitting civil penalties for violations of state laws. The continued usage of exemptions in state one call laws is another area of concern. In order for one call laws to be truly effective and fair, all underground utilities, one call centers, locators and excavators must play by the same rules. The use of exemptions allows for preferential treatment to a group of stakeholders and allows them to play by separate rules. To address these issues, PHMSA is developing a rulemaking to pursue administrative civil penalties against excavators who violate damage prevention requirements and damage a pipeline in the absence of effective enforcement by the state where it occured. The hope is that this rulemaking, along with all the other current public awareness, education and damage prevention initiatives, will highlight the importance for all stakeholders to call 811 before digging, respect the marks identifying the locations of underground utilities, and practice safe digging techniques.

In closing, PHMSA looks forward to increasing its public awareness and damage prevention programs as they mature and yield results. With this in mind, PHMSA will continue to look at performance measures and ways it can improve the data that it collects. While PHMSA's expanded partnerships with state and local officials are helping to strengthen the effectiveness of safety and prevention efforts, we look forward to working with Congress to further enhance public education, awareness, and damage prevention for pipelines.

Thank you. I would be pleased to answer any questions you have.

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Pipeline Safety TRUST

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Testimony of
THE PIPELINE SAFETY TRUST

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Presented by

Rick Kessler, Vice President

BEFORE THE

SUBCOMMITTEE ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS
TRANSPORTATION AND INFRASTRUCTURE COMMITEE
U.S. HOUSE OF REPRESENTATIVES

HEARING ON

Pipeline Safety Public Awareness and Education

July 21, 2010

Good morning, Chairwoman Brown, Ranking Member Shuster and Members of the Subcommittee. Thank you for inviting me to speak today on the important subject of pipeline safety. My name is Rick Kessler and I am testifying today in my purely voluntary, uncompensated role as the Vice President of the Pipeline Safety Trust. My involvement and experience with pipeline safety stems from my years as one of the primary staff members on such issues in the House of Representatives and my subsequent work with the Pipeline Safety Trust.

The Pipeline Safety Trust came into being after the 1999 Olympic Pipe Line tragedy in Bellingham, Washington that left three young people dead, wiped out every living thing in a beautiful salmon stream, and caused millions of dollars of economic disruption. After investigating this tragedy, the US Department of Justice (DOJ) recognized the need for an independent organization that would provide informed comment and advice to both pipeline companies and government regulators, and would provide the public with an independent clearinghouse of pipeline safety information. The federal trial court agreed with the DOJ's recommendation and awarded the Pipeline Safety Trust $4 million which was used as an initial endowment for the long-term continuation of the Trust's mission.

The vision of the Pipeline Safety Trust is simple. We believe that communities should feel safe when pipelines run through them, and trust that their government is proactively working to prevent pipeline hazards. We believe that local communities who have the most to lose if a pipeline fails should be included in discussions of how best to prevent pipeline failures. And we believe that only when trusted partnerships between pipeline companies, government, communities, and safety advocates are formed, will pipelines truly be safer.

We also believe that trust in pipeline safety increases in proportion to the amount of verifiable scientific information that is readily available for all concerned to review. Such information must form the basis for any and all legitimate public awareness and education programs about pipeline safety. For the most part, outside review and involvement increases the confidence in pipeline safety as those with concerns learn that pipelines truly are a safe way to transport fuels. In those instances when safety has lapsed, such review will help to more quickly correct

the situation and create a push for even greater levels of safety. Consequently, one of the Trust's highest priorities is to make available as much relevant and accurate information as possible for independent review. In sum, we believe the public has a right to know about the safety of pipelines that affect their communities.

In my testimony this morning I will cover the following areas that are still in need of improvement:

- **Educating Local Government through the Pipelines and Informed Planning Alliance (PIPA)**
- **Increasing Awareness and Education by Continuing Implementation and Funding of Technical Assistance Grants to Communities**
- **Making Public Awareness Programs Meaningful and Measurable**
- **Ensuring that PHMSA's "CATS" Program Stays Well Focused**
- **Developing Incentives for State Pipeline Safety Advisory Committees to Better Involve the Public**
- **Continuing Important Damage Prevention Effort**
- **Continuing to Make More Pipeline Safety Information Publicly Available**

<u>Educating Local Government through the Pipelines and Informed Planning Alliance (PIPA)</u>

Across the country encroachment of new development near pipelines (as seen below) has created increasing conflicts. Local government is the entity with zoning and permitting authority to help solve these problems.

Section 11 of the Pipeline Safety Improvement Act of 2002 included a requirement that PHMSA and FERC provide a study of population encroachment on and near pipeline rights-of-way. That requirement led to the Transportation Research Board's (TRB) October 2004 report Transmission Pipelines and Land Use[1], which recommended that PHMSA "develop risk-informed land use guidance for application by stakeholders." PHMSA formed the Pipelines and Informed Planning Alliance (PIPA) in late 2007 with the intent of drafting a report that would include specific recommended practices that local governments, land developers, and others could use to increase safety when development was to occur near transmission pipelines.

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

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

Some communities that were involved in the drafting of the PIPA report have already moved forward on implementing some of the recommendations. For example, Fort Worth Texas has implemented a new mapping effort based on the PIPA recommendations so their planners and public works people have a clearer idea of the location of pipelines in their community. The Association of Washington Cities has undertaken an effort to help educate all the planners in Washington State about how to do better planning near pipelines. One piece of their effort was the creation of an entire website[2] devoted to planning near pipelines. And Brookings County, South Dakota recently adopted a Transmission Pipeline Risk Reduction Overlay District based on the PIPA recommendations. That effort was recently highlighted in an article in County News from the National Association of Counties, which we have attached at the end of this testimony.

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[1] *trb.org/publications/sr/sr281.pdf*

[2] http://www.mrsc.org/Subjects/PubSafe/transpipes.aspx

Our point is that once local government learns about the ways it can help ensure pipeline safety it may well act. Unfortunately there currently is no plan or funding to adequately disseminate the recommendations of PIPA to ensure that local governments across the country have any knowledge about how they can use their zoning and permitting authority to partner in efforts to increase pipeline safety. To move forward with this important effort, the Trust asks that this year Congress authorize --just as was authorized in PIPES for the successful promotion of the 811 "One Call" number-- $500,000/year to promote, disseminate, and provide technical assistance regarding the PIPA recommendations. Only through such a PIPA implementation effort will local government become aware of its abilities to better protect pipelines and the people living near them.

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

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

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

were funded through these technical assistance grants. Overall –despite the unacceptably long delay in implementation-- we view the first round of this new grant program as a huge success.

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

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

Finally, we urge PHMSA to resist the pressure to spend the money on applications that do not meet the Congressional intent of the program. While the second round of grants have not yet been announced, we have heard from some local governments around the country that municipal gas utilities have tried to apply for these grant funds to undertake pipeline projects that are clearly part of their existing pipeline maintenance and operation requirements. Funding municipal utilities with this community technical assistance grant money is clearly outside of the intent of what Congress approved this program for, and will cause a rush by such utilities that will overwhelm this limited funding. In creating the grant program in 2002, Congress explicitly excluded “for-profit entities” from qualifying for grants to ensure that the

program's monies reached its intended audience of local governments and nonprofit citizen groups, NOT pipeline companies. That some municipally-owned companies may be seeking to exploit a possible loophole in the law to grease their own operations unfairly at the expense of local governments, legitimate citizen groups, and competitor companies who are disqualified from receiving funding under this program is shameful. It is unfortunate that we must ask this Committee and Congress clarify in statute –and continue to drive home in statements-- that this grant program is not to fund --and never was supposed to fund-- the activities of any pipeline operator, public or private, regardless of its status under the tax code.

Making public awareness programs meaningful and measurable

The Pipeline Safety Improvement Act of 2002 required pipeline operators to provide people living and working near pipelines basic pipeline safety information, and gave PHMSA the authority to set public awareness program standards and design program materials. In response to this Congressional mandate, PHMSA set rules that incorporated by reference the American Petroleum Institute's (API) recommended practice (RP) 1162 as the standard for these public awareness programs. According to RP 1162's *Foreword* (page iii) of API recommended practice, the intended audiences were not represented in the development of RP 1162, though they were allowed to provide "feedback." The omission of representatives from these audiences from the voting committee reduces the depth of understanding the RP could have had regarding the basic messages, barriers and incentives for such programs, and undercuts the credibility of the recommended actions. **Even the limited "feedback" that the affected community is allowed is further limited by the requirement that to review the recommended practice (now part of federal regulations) a community member would have to purchase it from API for $93!**

For an example of how this one-sided process may have changed the effective outcome, consider how public awareness guidelines that are created by the pipeline industry will develop basic messages that are very different in tone than equally accurate messages developed by the affected community. If the real goal is to get the potentially affected public to read all the information, then the basic lead-in message is very important to ensure the rest of the information is ever read. Below on the left is an example of the basic lead-in message found in

all of the mass mailed public awareness materials we have seen that came out of this industry controlled process. On the right is an equally accurate message. Which message is more apt to get people to read the rest of the awareness materials about how to protect themselves?

"According to National Transportation Safety Board statistics, pipelines are the safest method for transporting natural gas and petroleum products. Pipelines have a safety record unparalleled by any other mode of transporting energy products"	OR	**Every day and a half in this country there is a significant pipeline incident, and every 5 or 6 days a person is killed or injured because of such a pipeline incident. Do you know where pipelines are in your area and what to do if something goes wrong?**

The public awareness program regulations--49 CFR § 192.616 and 49 CRF § 195.440—mandate that operators comply with API RP 1162. In essence, this amounts to the drafting of federal regulations regarding public awareness without the equal participation of the public stakeholders the regulations are meant to involve. With non-technical subject matter, such as this recommended practice deals with, it is difficult to justify excluding the intended audiences from the process and allowing the regulated industries to write their own guidelines. With the above example in mind, consider how different a public awareness program might look if the affected public was in charge of its design instead of an industry with conflicting motives.

The public awareness requirements represented a huge and important undertaking for the pipeline industry, and as such the effectiveness of it will evolve over time. We were happy that the rules included a clause that set evaluation requirements that require verifiable continuous improvements. While we understand that the initial years of this program have been difficult, we have been disappointed in some of these efforts as they were clearly farmed out to contractors to meet the letter of the requirement instead of the intent of the requirement. Recently, the National Transportation Safety Board cited the failure of these programs in the investigation report[3] of a deadly pipeline explosion in Mississippi that killed a girl and her grandmother.

[3] http://www.ntsb.gov/publictn/2009/PAR0901.htm

An evaluation of the first five years of this program is due this year, and API has been working on an update of this recommended practice for some time now. One of the draft proposals from API is to remove the requirement to measure whether the programs have led to actual changes in behavior. PHMSA recently held a workshop on these public awareness programs, and ways to incorporate an effectiveness review into pipeline inspections. We hope that Congress will keep a close eye on the discussions of this issue over the coming months and be prepared to step in and clarify that the intent of this program is to change the behavior of the intended audiences to make pipelines safer, not to count how many innocuous brochures can be mailed.

Ensuring that PHMSA's "CATS" Program Stays Well Focused

PHMSA's Community Assistance and Technical Services (CATS) representatives serve as the frontline to provide information and education to a wide variety of stakeholders including the general public. Currently there are eleven CATS representatives around the country who serve as the first point of contact for the public and local government who have questions about the pipelines in their area. Clearly the best and most effective form of education is when a person can have their specific concerns addressed by someone who can answer them in a professional non-biased way. That is the important service that CATS provides, and The Pipeline Safety Trust has been a huge supporter of this program ever since it was created to fill the "local" void in this federal agency.

Our main concern with this program is whether is has the resources and focus necessary. Just as it is important that there are adequate numbers of inspectors to ensure compliance with regulations it is also important that there are adequate numbers of CATS representatives to ensure positive communication with the various affected communities. It would appear to us that many times the CATS are called upon to fill work assignments that fall outside of their mission of "facilitating clear communications among all pipeline stakeholders." If Congress shares our vision of increasing pipeline safety through better information availability, and clear communication of that information, then we recommend that you ensure that PHMSA provides this valuable program with adequate resources and personnel, and doesn't continually divert them to other priorities.

Developing Incentives for State Pipeline Safety Advisory Committees to Better Involve the Public

In the Pipeline Safety Improvement Act of 2002, Congress providing one incentive for states to more actively raise awareness, educate and involve the public. Section 24 of the Act stated:

> *"Within 90 days after receiving recommendations for improvements to pipeline safety from an advisory committee appointed by the Governor of any State, the Secretary of Transportation shall respond in writing to the committee setting forth what action, if any, the Secretary will take on those recommendations and the Secretary's reasons for acting or not acting upon any of the recommendations."*

This simple paragraph provided the states with an option to not only create an advisory body to better educate and involve the public, but also a route to get timely answers from the Secretary of Transportation to pipeline safety concerns that such an advisory body may have. This ability to get answers from DOT within 90 days provides more timely feedback on concerns than most state regulatory agencies report available for their own requests.

This little known option of creating Governor-appointed pipeline safety advisory committees to increase public awareness and education has not been promoted by PHMSA at all. In fact, in at least one case we are aware of, PHMSA penalized a state that did create such a committee by refusing to allow federal pipeline safety grant funds to that state to be used to cover the small costs of staffing such a public pipeline safety advisory committee.

If Congress believes that the public should be better educated and involved regarding pipeline safety issues then we recommend that Congress direct PHMSA to actively promote the creation of such Governor-appointed pipeline safety advisory committees[4], and provide the added incentive that for any state that does create such a committee an additional $25,000 in federal grant money will be available for the coordination and staffing of such a committee.

Continuing Important Damage Prevention Efforts

Damage to pipelines from people digging is still one of the leading causes of pipeline incidents. Damage prevention is one of the areas where increased awareness and education of a variety of public stakeholders (contractors, excavators, public works officials, equipment rental

[4] An example of one such Governor-appointed committee can be found at: http://www.wutc.wa.gov/pipeline/ccops

operators, etc) can have a direct impact on reducing the number of pipeline incidents. During the past two reauthorization cycles Congress has provided significant resources to help get the national Common Ground Alliance up and functioning as well as for promotion of the national 811 – Call Before You Dig number. These efforts need to continue and Congress should ensure they have the resources needed to do the job they have been charged with.

It also is important to ensure that these public awareness efforts are spending the money in well-targeted and effective ways. Since many of these efforts are controlled by the involved industries, it is all too easy to target messages in ways that direct the concerns and blame away from themselves. Message targeting can only be done effectively if there is adequate data on who is damaging pipelines so the awareness efforts can be directed at the correct audience. It makes little sense to direct hundreds of thousands of dollars of damage prevention messages at children and home owners if in reality it is other utility contractors (telephone, cable, water, sewer, electric) who are actually doing most of the damage. The Common Ground Alliance and a few states have started to collect the data necessary to make better targeting decisions, but there is still a long way to go.

If Congress wants to ensure that money provided for these damage prevention efforts is being well spent, we suggest that you direct GAO or another appropriate agency to audit the effectiveness of current damage data collection, and report on what that data reveal regarding the cause of these types of incidents.

Continuing to Make More Pipeline Safety Information Publicly Available

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

Over the past two reauthorization cycles, PHMSA has done a good job of providing increased transparency for many aspects of pipeline safety. In the Trust's opinion, one of the true successes of PIPES has been the rapid implementation by PHMSA of the enforcement transparency section of the Act. It is now possible for affected communities to log onto the PHMSA website (http://primis.phmsa.dot.gov/comm/reports/enforce/Enforcement.html) and

review enforcement actions regarding local pipelines. This transparency should increase the public's trust that our system of enforcement of pipeline safety regulations is working adequately or will provide the information necessary for the public to push for improvements in that system. PHMSA has also significantly upgraded its incident data availability and accuracy, and continues to improve its already excellent "stakeholder communication" website.

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

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

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

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

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

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

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

Conclusion

Thank you again for this opportunity to testify today. The Pipeline Safety trust believes that increased public awareness, education and involvement in pipeline safety issues will ultimately

make pipelines even safer. Unfortunately in the past these efforts have not been a high priority for regulatory agencies and certainly not the pipeline industry, and oftentimes these efforts are not well funded, targeted, or promoted. The Pipeline Safety Trust hopes that you will closely consider the ideas and concerns we have raised today for ways to increase awareness and education. If you have any questions now or at anytime in the future, the Trust would be pleased to answer them and, of course, we stand ready to work with you and your colleagues on reauthorizing the pipeline safety laws that our so important to ensuring the well-being of millions of Americans and the environment that is their birthright.

NACo National Association of Counties
CountyNews
The Voice of America's Counties

Grant helps protect local pipelines and communities

By James Davenport
PROGRAM MANAGER, The National Association of Counties
http://www.naco.org/newsroom/countynews/Current%20Issue/July5,2010countynews/Pages/Granthelpsprotectlocalpipelinesandcommunities.aspx

The pipeline system is considered the most efficient and safest way to transport natural gas and petroleum products across the country.

Over the past several decades, most of the pipelines in the transmission system were placed in rural and isolated areas in order to better protect the pipeline and assure minimal impacts to local communities. That's no longer the case in many areas.

Increased development has brought people and pipelines much closer. Though this may pose some safety challenges, county governments have the resources and tools to help them reduce the risk of pipeline explosions or leaks while at the same time reducing the chance of damage to transmission pipelines.

Brookings County, S.D. was awarded a Technical Assistance Grant (TAG) through the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) to assist it in protecting existing natural gas and transmission pipelines in the county, and the residents who live near these pipelines.

PHMSA's TAG program provides grants to local communities and organizations for technical assistance related to pipeline safety issues. Technical assistance means engineering or other scientific analysis of pipeline safety issues. The funding can also be used to help promote public participation in official proceedings.

Through this opportunity, Brookings established two objectives:

- develop a Pipeline Risk Reduction Overlay District, and
- disseminate a safety brochure from Brookings County detailing the procedures to apply for a building permit and the applicable setback requirements from transmission pipelines.

Transmission Pipeline Risk Reduction Overlay District

The purpose of the Transmission Pipeline Risk Reduction Overlay District is to protect public health and safety by reducing the likelihood of pipeline damage and reducing the adverse impact of pipeline failures through risk-based land management decisions.

The overlay district consists of a consultation zone and planning zone designation as recommended by a pipeline technical assistance guidance document.

The purpose of the consultation zone is to identify the need for communication between property developers or owners within Brookings County and pipeline operators when new development is planned within 660+ feet of an existing transmission pipeline.

When a building permit is requested within the boundaries of the Transmission Pipeline Risk Reduction Overlay District, the person requesting a permit will be told that the building is being constructed near a transmission pipeline. A pipeline safety brochure will be provided along with the building permit. The permit office will notify the pipeline operator of the building permit request, the type and size of building. The property developer or owner must then initiate a consultation with the transmission pipeline operator as early as possible in the development planning process.

The purpose of the planning zone is to enforce specific requirements when new development is planned within the planning zone distance of an existing pipeline. This distance depends on certain characteristics (type, size, material) of the pipeline.

When an individual or organization requests a building permit and the location is within the planning zone, then the permit office staff will request a detailed site plan. The building permit requestor will be given a brochure with the contact information for the appropriate gas company's personnel and the recommended land management practices for new development near existing transmission pipelines.

The Transmission Pipeline Risk Reduction Overlay District will be incorporated into Brookings County's Geographic Information Systems mapping and used primarily when issuing zoning and building permits to facilitate discussions among developers, landowners and pipeline operators.

The county chose to develop the overlay zone instead of establishing set back standards designated for each land use classification including lake properties and parks, natural resource areas, commercial districts and agricultural sites. The overlay zone was developed similar to the aquifer protection district already in place in the county.

Safety Brochure

A safety brochure was developed and made available to the public. In addition, the brochure was distributed to specific landowners informing them that their property was near a transmission pipeline along with an invitation to attend a public meeting that discussed procedures to apply for a building permit and the applicable setback requirements.

The brochure was designed as a four-page handout and provides background information behind the requirements of the Pipeline Overlay Zone. It also provides contact information for the two companies that have or will have natural gas pipelines in the county.

Written Statement of Robert Kipp,
President of the Common Ground Alliance

Hearing on "Pipeline Safety Public Awareness & Education"

Before the
Subcommittee on Railroads, Pipelines, and Hazardous Materials
Committee on Transportation and Infrastructure
United States House of Representatives

July 19, 2010

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SUMMARY

Background:

The Common Ground Alliance is a nonprofit organization dedicated to shared responsibility in the damage prevention of underground facilities. The Common Ground Alliance was created on September 19, 2000, at the completion of the "Common Ground Study of One-Call Systems and Damage Prevention Best Practices." This landmark study, sponsored by the U.S. Department of Transportation Office of Pipeline Safety, was completed in 1999 by 161 experts from the damage prevention stakeholder community.

The "Common Ground Study" began with a public meeting in Arlington, VA in August 1998. The study was prepared in accordance with, and at the direction and authorization of the Transport Equity Act for the 21st Century signed into law June 9, 1998 that authorized the Department of Transportation to undertake a study of damage prevention practices associated with existing one-call notification systems. Participants in the study represented the following stakeholder groups: oil; gas; telecommunications; railroads; utilities; cable TV; one-call systems and centers; excavation; locators; equipment manufacturers; design engineers; regulators; federal, state, and local government. The Common Ground Study concluded on June 30, 1999 with the publication of the "Common Ground Study of One-Call Systems and Damage Prevention Best Practices."

At the conclusion of the study, the Damage Prevention Path Forward initiative led to the development of the nonprofit organization now recognized as the Common Ground Alliance (CGA). The CGA's first board of directors' meeting was held September 19, 2000. Building on the spirit of shared responsibility resulting from the Common Ground Study, the purpose of the CGA is to ensure public safety, environmental protection, and the integrity of services by promoting effective damage prevention practices.

The CGA now counts more than 1,400 individuals representing 16 stakeholder groups and nearly 200 member organizations. In addition, our 60 Regional Partners total some 2,000 members covering most states and 6 Canadian Provinces.

The CGA's nearly $1.7M in revenue for 2009 was derived from a PHMSA grant of $500,000.00 and membership and sponsorship dues totaling approximately $1.2M. In addition, members contribute approximately 10,000 hours of their time and pay for their expenses. The

funding and contribution of time enable the CGA to complete its programs and operate the organization. The CGA has three full time employees and one part time employee. Each of CGA's 16 participating stakeholder groups has one seat on the CGA Board of Directors, regardless of membership representation or financial participation.

CGA members populate the organization's six working committees: the Best Practices Committee, the Technology Committee, the Educational Programs & Marketing Committee, the Data Reporting & Evaluation Committee, the One Call Systems International Education Committee and the Regional Partners Committee.

Committee decisions are made by consensus of all 16 stakeholders. Every best practice, every educational initiative, every decision at the committee level comes with the support of every stakeholder group.

WORKING COMMITTEES

The CGA working committee guidelines include:

- All stakeholders are welcomed and encouraged to participate in the Committees' work efforts.
- Committee members represent the knowledge, concerns and interests of their constituents.
- A "primary" member is identified within each Committee for each particular stakeholder group as the spokesperson for consensus decisions.

The Common Ground Alliance is managed by the association's Board of Directors. Currently, each director on the Board represents one of the 16 CGA stakeholder categories. The Directors are elected by the CGA members within their respective stakeholder group, and represent the stakeholder group at approximately five meetings and to three to six teleconferences per year. Following are the names of the directors and the stakeholder group they represent:

Excavator...Jim Barron, Ronkin Construction
State Regulator...Massoud Tahamtani, Virginia State Corp. Commission
Insurance...John Komidar, Travelers Insurance
Railroad...Bob Fronczak, Association of American Railroads
Oil...Ron McClain, Kinder Morgan
Locators...Jamal Masumi, Utiliquest LLC

Public Works...Mark Macy, City of Nashville
One Call...JD Maniscalco, Utility Notification Center of Colorado
Equipment Mfg...Nate Clark, John Deere
Gas Distribution...Don Kopczynski, Avista Corporation
Gas Transmission...Randy Barnard, Williams
Engineering...Bill Johns, SPEC Services
Road Builder...Vic Weston, Tri-State Road Boring
Electric...Patti Lama, Portland General Electric
Telecomm...Diane McCarthy, Verizon
Emergency Services...Jerry Rosendahl, Minnesota State Fire Marshal)
At Large...Tim Felt, Colonial Pipeline
At Large...Corey Willson, 3M
At Large...Abigail Fulton, BC Construction Association
At Large...Paul Preketes, Retired Past Chair

The following includes an overview of each CGA working committee.

1. **Best Practices Committee**: The purpose of the Best Practices Committee is to promote damage prevention, it is important that all stakeholders implement the CGA's damage prevention Best Practices Version 7.0, as applicable to each stakeholder group. The Best Practices Committee focuses on identifying Best Practices that are appropriate for each stakeholder group, gauging current levels of implementation and use of those Best Practices, and encouraging and promoting increased implementation of the Best Practices.
2. **Technology Committee**: The mission of the Common Ground Alliance Technology Committee is to seek, identify, and communicate technologies and practices that improve the utility damage prevention process.
3. **Educational Programs and Marketing Committee**: The Committee develops and communicates public stakeholder awareness and educational programs. These programs and products focus on the best practices and the theme of damage prevention. The Committee looks at existing damage prevention educational programs to identify opportunities where the CGA can have significant impact in furthering the reach and effectiveness of those programs and the Committee develops new educational messages and strategies.
4. **Data Reporting and Evaluation Committee**: The Data Reporting & Evaluation Committee looks at currently available damage data, the gaps where additional data reporting and evaluation is needed, and how such data for various underground

infrastructure components, can best be gathered and published. Reporting and evaluation of damage data is important to: measure effectiveness of damage prevention groups; develop programs and actions that can effectively address root causes of damages; assess the risks and benefits of different damage prevention practices being implemented by various stakeholders; and assess the need for and benefits of education and training programs.

5. **One Call Systems International Committee**: The purpose of One-Call Systems International (OCSI) is to promote facility damage prevention and infrastructure protection through education, guidance and assistance to one call centers internationally. OCSI was also responsible for coordination of the nationwide rollout of "811".

6. **Regional Partner Committee**: The CGA recognizes that existing regional damage prevention groups have invaluable knowledge and experience, and these groups continue to make great strides in preventing excavation damage to America's infrastructure. The CGA also recognizes that some areas of the country currently have no regional damage prevention programs and work to address these gaps. Through the CGA Regional Partner Program, the CGA partners with existing local, regional, and state damage prevention programs that have an objective of promoting communication among all stakeholders about damage prevention Best Practices.

PIPELINE SAFETY, PUBLIC AWARENESS AND EDUCATION

A. 811 – Nationwide Call Before You Dig Telephone Number

The Educational Programs & Marketing Committee has primary responsibility for "Pipeline Safety Public Awareness & Education". Most of the CGA's activities focus on all underground facilities, though some programs may be specific to one industry. The following summarizes CGA's major activities in Public Awareness and Education.

811: On December 17, 2002, President George W. Bush signed into law the "Pipeline Safety Improvement act of 2002". Included in this Act was the following provision: ***"Within 1 year after the date of the enactment of this Act, the Secretary of Transportation shall, in conjunction with the Federal Communications Commission, facility operators, excavators, and one-call notification system operators, provide for the establishment of a 3-digit***

nationwide toll-free telephone number system to be used by State one-call notification systems."

We congratulate and thank this committee and former congressman Chris John for introducing and sponsoring 3-digit-dialing as a provision to the "Pipeline Safety Improvement Act of 2002." We congratulate the FCC commissioners on their unanimous support of this endeavor.

The process to assign and implement this number "811" was completed in 2007. On May 1, 2007, "811" was put into service across the country. Much of the CGA focus for public awareness has been focused on educating the public and excavators to call 811 before digging. The CGA is unique in that we rely almost completely on our network of members to implement the 811 campaign.

Recent "811" initiatives include the following:

1. National Safe Digging Month: On March 26 (legislative day, March 25), 2010, IN THE SENATE OF THE UNITED STATES Mr. LAUTENBERG (for himself, Mr. THUNE, and Mr. ROCKEFELLER) *Resolved,* That the Senate supports the goals of National Safe Digging Month and encourages homeowners and all excavators throughout the country to call 811 before digging. Additionally, there were 40 State Proclamations supporting April as Safe Digging Month.
2. 3M and Shell NASCAR Events: In November 2009, the 811 logo and tagline were painted on the number "29" Shell race car in Homestead for the closing race of the 2009 NASCAR series. In April of this year, Shell once again painted the logo and tagline on their car for the Talladega race. They were joined by 3M who included the 811 logo and tagline on the #16 car. At no cost to the CGA, these messages generated more than half a million dollars worth of media coverage for the 811 message.
3. Professional Bass Boat: The Kentucky and Indiana one call centers, now known as "Kentucky 811" and "Indiana 811" painted the 811 logo and message on the boat and trailer of a professional bass fisherman fishing the Professional Anglers Association, PAA. This gentleman tours the country and is seen on television spreading the 811 message.

4. August 11 as 8/11 Day in New York City: More than 50 volunteers "worked" the rope lines at the TODAY Show and Early Show wearing 811 tee shirts on 8/11 day (August 11, 2009). One of the volunteers was interviewed, generating a message, which according to media experts would have cost some $50,000.00. CGA will be there again this year.
5. Ringing the closing bell on the New York Stock Exchange in partnership with John Deere: John Deere has arranged to ring the closing bell at the NYSE on August 20. The stage backdrop will showcase the 811 logo and will be aired on most major network's evening news broadcasts. The media equivalency value is substantial.
6. Atmos Energy Promotion: Atmos Energy, CGA Sponsor, incorporated the 811 logo on to all print correspondence which equates to 600 million pieces of literature annually.
7. Partnership with United Rentals: United Rentals has agreed to place decals on excavation equipment at the warehouse whereas it arrives on the rental dock already on the equipment. They will also place "811" decals on the 11,300 trackhoes and backhoes currently in their rental inventory.
8. Electronic Billboards: Member companies have promoted 811 using electronic billboards including during Chicago White Sox and Cincinnati Reds games.
9. Partnerships with Radio Disney: CGA members have worked with Radio Disney to promote 811 at the Pittsburgh Zoo and Chicago Zoo as well as multiple malls in Indiana.
10. 811 Public Service Announcements: The CGA has produced and provided Radio and television Public Service Announcements, PSA's for use by any company who wishes to download and distribute to the radio and television stations in their service area. Chevron funded the production and distribution of a radio PSA tailored to the 19 coastal parishes in Louisiana. This message was aired shortly after the start of the oil leak in the Gulf and asked those thinking of dredging to please call before dredging in the Gulf, to avoid further environmental damage and potential injury. Chevron subsequently paid for an advertising schedule to ensure the message would get airtime.
11. 811 Pirate Video Aimed at Next Generation of Diggers: Williams Pipeline provided funding for the CGA to create, produce and distribute a video for educating 8 to 11 year old children on the dangers of digging and the treasures that lie below the surface. This nearly eight minute video is being distributed throughout the country to various school organizations, public libraries and youth organizations.

12. Media Outreach/Interviews: CGA employees, members and various one call center employees have appeared on nationally syndicated programs such as ABC Radio, The Money Pit, WGN Chicago, as well as numerous local programs. The 811 message also appears throughout multiple internet sites, and the CGA and member organizations have incorporated Social Media into the 811 outreach plan.
13. Integrated Website at www.call811.com: The entire CGA Public Awareness Campaign is available for download by stakeholders at www.call811.com. The site includes state specific information and links to all One Call Centers. The site also includes frequently asked questions, "how 811 works," and opportunities for feedback and questions.
14. Print Campaign: CGA members have included the use of 811 and the "Call before you Dig" message in newsprint, bill stuffers, bumper stickers and door hangers. The logo and tagline can also be found in magazines, such as: Southern Living, Delta Sky Miles, US Airways Magazine and Popular Mechanics. Advertisements and articles have also appeared in a variety of newspapers including: USA Today, New York Times, Washington Post and the Chicago Sun Times.
15. Large Scale Placement of 811: Early in the campaign, Colonial Pipeline painted a 30 foot high "811" logo and the accompanying "Know what's Below, Call before you dig" message on a holding tank along Interstate 85 near Greensboro, NC, a highly travelled highway. Following their lead, Kinder Morgan, Sunoco, P.S.E. & G. of New Jersey, Williams, Shell, and others have all painted the "811" logo and message on highly travelled highways in various states nationwide.
16. Mark-it Madness: Ten one call centers calling themselves Mar-kit Madness have pooled advertising money and contracted Joey Logano, a NASCAR driver, who has recorded radio and television PSA's. Logano's photo also has been incorporated into a large scale print campaign where he appears on various billboards at Texas Motor Speedway, Daytona International Speedway, and Michigan International Speedway. The group focuses on leveraging pooled resources to promote a single consistent campaign.
17. Various Placements: Other placements of the 811 logo and message include banners on roadways, floor decals in Home Depot and fleet decals on various vehicles.CGA estimates that stakeholder support of the 811 campaign provides a value of $10 million in advertising equivalency value annually. Because of the unique marketing mix of traditional and non-

traditional mediums; this is an estimate. There are no proven advertising equivalency values for mediums such as placing the 811 logo on tanks, letterhead, fleet vehicles etc. However, advertising equivalency for advertising buys, NASCAR appearances, etc. have been validated.

B) CGA Best Practices

The CGA Best Practices are quickly becoming the standard on Damage Prevention practices. A number of States have adopted some or all of the CGA practices in their laws or "rules" governing excavation practices. The Best Practices Committee, a diverse 70 plus person committee of damage prevention professionals comprised of all stakeholder groups, is very cognizant of this evolution and give the utmost thought and care to every practice considered.

The CGA prints a new edition of Best Practices every year for general distribution beginning at our annual meeting in March of each year. We make every effort to ensure our distribution is as widespread as possible utilizing as many forms of media as possible.

Compliance & Enforcement:

In August 1999, the 161 experts who developed the original Common Ground Best Practices unanimously agreed that an effective Compliance and Enforcement program at state level was required to reduce the incidences of damage to the infrastructure.

These practices are contained in the Common Ground Alliance's Best Practices Version 7.0 and are as follows:

7-1: Public and Enforcement Education

A. Public Education

Practice Statement: Public education programs are used to promote compliance.

Practice Description: A single entity is charged to promote comprehensive and appropriate programs to educate all stakeholders about the existence and content of the damage prevention laws and regulations. This is not meant to discourage individual stakeholders from providing educational programs.

B. Enforcement Education

Practice Statement: Mandatory education is considered as an alternative or supplement to penalties for offenders of the damage prevention laws and regulations.

Practice Description: Once a violation of the damage prevention laws or regulations has occurred, mandatory education is an effective alternative or supplement to civil penalties. Mandatory education as an enforcement tool promotes compliance with damage prevention laws and regulations.

7-2: Incentives

Practice Statement: Damage prevention programs include incentives to promote compliance with laws and regulations.

Practice Description: Incentives can include, but are not limited to, ease of access to one call center, membership and participation considerations, representation on one call boards, reasonable enforcement of regulations, safety and liability protection, access to alternative dispute resolution (ADR), and public education.

7-3: Penalties

Practice Statement: Compliance programs include penalties for violations of the damage prevention laws or regulations.

Practice Description: Within the context of one call statutes, there exists specific provisions for penalties for failure to comply with the damage prevention laws and regulations. Performance and penalty incentives are equitably administered among stakeholders subject to one call provisions.

A penalty system includes education as an alternative or supplement to civil or other penalties.

7-4: Damage Recovery

Practice Statement: State damage prevention laws and regulations recognize the right to recover damages and costs resulting from noncompliance.

A. Right of Recovery

Practice Description: The statute recognizes an injured party's right to recovery when damages and/or costs are incurred as the direct result of an entity's failure to comply with the one call laws and regulations. For example, Arizona endorses an injured party's right to recover damages when the other party has failed to comply with the one call law.

B. Alternative Dispute Resolution

Practice Description: Avenues for settlement of disputes include alternative dispute resolution. Minnesota endorses ADR through the state court system, New Jersey endorses ADR in construction contract documents, and the federal government endorses ADR through the federal courts.

7-5: Enforcement

A. Authority

Practice Statement: An authority is specified through state statutes and given the resources to enforce the law.

Practice Description: The enforcement authority in each state has the resources to enforce the laws and regulations. Experience has demonstrated that enforcement of the one call laws and regulations that did not identify a specific authority other than the attorney general has not been effective.

Characteristics of such an authority include:

- a process for receiving reports of violations from any stakeholder;
- an operating budget source other than fine revenue, such as a line item in the state budget, excluding fines as a source of income for the authority;
- stakeholder involvement in periodic review and modification of enforcement processes;
- resources to respond to notifications of alleged violations in a timely manner;
- a method of investigating alleged violations prior to issuing a notice of probable violation;
- impartial authority adjudicating violations;
- an initial informal means of contesting a notice of violation; and
- a published violation review process and violation assessment considerations.

B. Structured Review Process

Practices Statement: A structured review process is used to impartially adjudicate alleged violations.

Practice Description: Two types of review processes currently used are outlined below. These type of processes differ in terms of 1) who receives reports of alleged violations, 2) who investigates the reports, 3) possible outcomes of the investigation, 4) who conducts 1st tier (informal) hearings, 5) possible outcomes of 1st tier hearings, and 6) appeal rights following a 2nd tier (formal) hearing. It is important that review processes are

constructed to avoid abuses of authority and prevent any individual, industry, stakeholder or agency from exercising undue power or influence over the process.

Type 1: Traditional Enforcement Authority - This system is currently used in Arizona, Connecticut, Massachusetts, Minnesota, New Hampshire, New Jersey, New York and Pennsylvania. Reports of alleged violations are sent to the State Agency. A state investigator investigates the reports. If the investigator decides not to issue a NOPV (Notice of Probable Violation), the matter is concluded. If not, the NOPV is issued, and the investigator conducts an informal hearing or review. If the investigator determines that no violation was committed the matter is concluded. If the investigator determines that a violation was committed, the NOV (Notice of Violation) is issued. If the alleged violator does not contest the NOV, the alleged violation is bound by the facts, findings, orders and penalties set forth in the NOV. If the alleged violator so requests, the State Agency conducts a formal hearing. The alleged violator may appeal the decision reached in the formal hearing to the state court system.

Type 2: Advisory Committee (made up of stakeholders) partnered with State Agency - This system is currently used in Virginia. Reports of alleged violations are sent to the State Enforcement Agency. The State Agency investigates the alleged violations and reports to an advisory committee. The Committee is made up of stakeholders representing the following statutorily mandated fields: excavators, facility owners/operators, notification centers, contract locators, local governments, State Department of Transportation, the Board of Contractors, and the State Enforcement Agency. If the advisory committee decides not to issue a NOPV (Notice of Probable Violation), the matter is concluded, possibly with a "letter of concern" containing one call information. If the advisory committee decides to issue an NOPV, it is issued by the State Agency. If the alleged violator does not request a hearing, the alleged violator is bound by the enforcement action set forth in the NOPV. If the alleged violator so requests, an informal hearing is held by the advisory committee. If the advisory committee decides that no violation was committed, the matter is concluded, subject to the right of the State Agency to contest that decision in an administrative proceeding conducted by the agency. If not, the NOV is issued. If the alleged violator then settles the matter with the advisory committee, the settlement is subject to approval by the State

Agency in an administrative proceeding. If there is no settlement, the State Agency conducts a formal administrative hearing. The alleged violator may appeal the decision reached in the formal hearing to the state court system.

Importance of Effective Compliance/Enforcement:

The practices outlined in CGA's Best Practices still hold true today. The Best Practices have remained the same on this issue since they were first written more than 10 years ago. There are a number of states with effective enforcement programs including Minnesota, Virginia, New Hampshire, Maine, Georgia and others.

The CGA believes that consistent, fair and balanced State Enforcement of one call laws in states where no enforcement exists today, has the greatest potential for helping reduce damages. There are states that enforce their laws without impacting their already tight state expense budgets.

We believe the second most important consideration is the elimination of state exemptions to one call laws. These two issues, if implemented, will help us continue this yearly trend of reduced excavation damages in this country.

C) Damage Information Reporting Tool (DIRT)

The primary purpose in collecting underground facility damage data is to analyze data, learn why events occur, and how actions by industry can prevent them in the future; thereby, ensuring the safety and protection of people and the infrastructure. Data collection allows the CGA to identify root causes and perform trend analysis, and in turn, CGA's stakeholders are better able to focus educational efforts and improve practices and procedures.

The CGA's purpose is to reduce underground facility damage, which threatens public and worker safety, and costs billions of dollars each year. In order to better understand where, how and why these damages are occurring, we request accurate and comprehensive data from all stakeholders.

In August, the CGA will publish its sixth report on damage data. The following is a brief summary of highlights that will be published in this report:

- More than 100,000 reports were voluntarily input into our system for the year 2009, marking the fourth consecutive year of more than 100,000 records being included as part of the analysis;
- It is estimated that total damages to the underground infrastructure (including gas, petroleum, telecommunications, electric, water, etc.), have gone from an estimated 450,000 in 2004 to 170,000 in 2009. This reduction has followed a relatively straight line with no major changes in any one year. With the many variables involved in determining these numbers, it is felt that though the absolute number may vary, there is a great degree of confidence in the downward slope identified over the years. The downward trend in the total estimate of damages is due, in part, to the recession and resulting decrease in overall construction activity. However, we believe that the remarkable 60% reduction in excavation damages from 2004-2009 is also the result of the successes of the "811" implementation and public awareness campaign, widespread implementation of our Best Practices as well as various corporate and government initiatives.
- CGA estimates that the percentage of damages where no call was made to the one call center prior to excavation decreased from approximately 45% in 2004 to approximately 35% in 2009. In terms of damages the difference is immense. It is estimated that no call was made to the one call centers in more than 200,000 damages in 2004, while that number was estimated to be approximately 60,000 in 2009. We believe that the advent of 811 and the Public Awareness programs of CGA stakeholders have had a major impact on this aspect of damage prevention.
- We still have a great deal of work to do. In a separate survey done earlier this year 50% of homeowners planning to work on a back yard project, and who knew to call the one call center did not plan on calling. Consistent and meaningful education and outreach is still needed as we work to change the behavior of homeowners.

CLOSING

The Common Ground Alliance is a true member-driven organization. Members from the 16 stakeholder groups work together to determine direction and problem-solve, making the CGA a truly unique forum. The 300 or so committee members check egos at the door and work together to develop consensus decisions. Their efforts and the financial support of their companies are what make the CGA the success it has become.

Though I have said very little of PHMSA to this point, I can state with great pride and immense gratitude that the CGA would not exist without the financial and logistical support of PHMSA and their great staff led by Cynthia Quarterman, Jeff Wiese, and Steve Fischer. It seems they can never do enough for the CGA. Representatives of PHMSA participate at every committee meeting and provide us with the necessary support to advance the cause of Damage Prevention.

Lastly, thank you to our sponsors. The 43 companies that sponsor the CGA as well as our additional 122 member organizations provide the financial support that CGA needs to sustain and grow our programs. There are many other companies reaping substantial benefits from the efforts of the CGA and our wonderful sponsors and active members. To those companies who are not involved, it's time to get on board. To our sponsors and members – THANK YOU, THANK YOU, THANK YOU.

Thank you for the opportunity to provide you with this testimony.

Statement

of the

National Association of State Fire Marshals

House Committee on Transportation and Infrastructure's Subcommittee on Railroads, Pipelines and Hazardous Materials

Chairwoman Corrine Brown and Ranking Member Bill Shuster

Hearing on:

"Pipeline Safety Public Awareness and Education"

Presented by

Peter O'Rourke, Director of Energy Programs

July 21, 2010

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Chairwoman Brown and Ranking Member Shuster, thank you for allowing the National Association of State Fire Marshals to testify today before your Subcommittee. My name is Peter O'Rourke. I serve as the Director of Energy Programs for the National Association of State Fire Marshals and have worked with the Association for the past 15 years.

The National Association of State Fire Marshals represents the most senior fire officials in each State. Our membership is unique in that many State Fire Marshals are sworn law enforcement personnel, giving our organization a blended fire and law enforcement perspective. Most of our State Fire Marshals, however, began their careers in the fire house, working their way up the ranks, eventually achieving the highest state-level fire service position. Among the many duties of a state fire marshal, one of the most important is fire prevention. As such, incident prevention is a central focus in all our programs, including pipeline safety.

The National Association of State Fire Marshals has been actively involved in pipeline education and safety since 2002, when we entered into a Partnership for Excellence in Pipeline Safety with the US Department of Transportation's (DOT) now-Pipeline and Hazardous Materials Safety Administration. The State Fire Marshals' Partnership with US DOT also focused on liquefied natural gas (or LNG) safety, pipeline High Consequence Areas, and hazardous materials safety. But the foundation of the Partnership is a training program called *Pipeline Emergencies*.

The *Pipeline Emergencies* program offers a comprehensive training curriculum that covers liquid and gas, transmission and distribution pipelines from both operations and emergency response perspectives. It was developed in cooperation with subject matter experts in emergency response, pipeline operations, underground safety (like the Common Ground Alliance), citizen safety and fire training. We brought all the players together in order to addresses the multitude of concerns about pipeline safety – but at its core, the program remains an emergency response training curriculum.

The unambiguous priority for State Fire Marshals is to ensure that all fire fighters, in particular volunteers, receive comprehensive fire prevention and suppression training. Through this important training, fire fighters will respond safely and appropriately to accidents and incidents. A recent pipeline accident just this month, in McDuffie County, Georgia offers a real-life example. On July 5th, a propane pipeline was ruptured, killing one person and injuring others. Having never responded to an actual pipeline incident, but having trained regularly, the fire department knew what to do and how to respond. According to Fire Chief Bruce Tanner: pipeline safety training "was a tremendous help… [the incident] was a tragedy as it is, but it could have been a lot worse".

The *Pipeline Emergencies* training program was developed in 2004, and we have shipped almost 45,000 training packages to both public safety agencies and the pipeline industry. The U.S. Department of Transportation has paid the cost of shipping *Pipeline Emergencies* to public safety officials, and there is no purchase fee for any public safety organization that requests copies of the curriculum. In addition, we have trained more than 1,000 certified fire instructors in all 50 states.

The timing of today's hearing is opportune. One of the limitations of our current *Pipeline Emergencies* training program has been that it is available only in hard copy and disseminated through a broad network of emergency response organizations. This has helped to ensure that the public safety community is saturated with the training program, but it has limited our ability to measure and tailor the program to meet individual needs.

Several months ago, however, the State Fire Marshals and US DOT agreed to update the training curriculum and, most important, make it available in an electronic format. We currently are reviewing the program scope and exploring funding opportunities for the comprehensive online Pipeline Safety Portal.

Fortunately, we are not facing any limitations related to technological capabilities. Well established platforms exist to deliver education programs electronically. These platforms are fully capable of measuring data relative to program reach, test results, geographic penetration and other important data points. Some of these platforms allow for integrated and multi-modal notification capabilities. With these capabilities, the State Fire Marshals and the pipeline industry could engage in measurable communications with public safety and other public officials regarding safety training, pipeline maintenance, high consequence area updates, and myriad other public awareness subjects. In addition to the "best in class" pipeline emergency training program, the Portal would include a measurable ability to enhance public awareness and notification efforts.

Most fire fighters receive training through their state and municipal fire academies, which are increasingly utilizing electronic media to deliver training. The State Fire Marshals are working closely with these academies to ensure that the method we select for an electronic pipeline training portal will fit well within their expanding capabilities. This is important because training emergency responders today requires flexibility of delivery in order to fit busy schedules, to be a training priority and to provide training to every emergency responder at no cost. Many fire fighters, particularly volunteers and those in rural areas are not able to travel regularly or even occasionally to fire academies. Instead, these fire fighters often rely on a limited number of trainers in a particular region. A flexible, web-based training and communications portal would reach many first responders, including fire, law enforcement and EMTs, and provide them with a level of training and information they do not regularly receive about specialized emergency risks such as pipelines. For those emergency responders without regular access to the Internet, the State Fire Marshals will offer the training program via CD, or it can be provided through print-on-demand capabilities.

We currently are reviewing the feasibility of this Portal approach. Sustained funding for a curriculum of this type is always a concern, as training cannot be switched on and off depending on availability of resources. It is imperative to continue the progress that the National Association of State Fire Marshals and DOT has made through the Pipeline Emergencies training program so that the country is prepared for future emergencies. In order to adequately maintain the public safety, the training necessary for new emergency responders entering the industry and to update the training curricula for new procedures and hazardous materials, we respectfully request that your Subcommittee authorize funding for Pipeline Emergencies training for a multi-year period.

The National Association of State Fire Marshals remains committed to providing pipeline safety training and awareness to the nation's emergency responders. Hearings like this are essential to sharpening the country's focus on these so often preventable accidents. Public awareness and education, as well as emergency responder training, are vital components of a pipeline safety program. Our association and our membership stand ready to provide greater assistance to this Subcommittee, the Executive Branch, and our state and local partners. Again, I thank you personally and on behalf of the National Association of State Fire Marshals for this opportunity and am pleased to answer any questions.

BEFORE THE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE
SUBCOMMITTEE ON RAILROADS, PIPELINES AND HAZARDOUS MATERIALS
U.S. HOUSE OF REPRESENTATIVES

NATIONAL ASSOCIATION OF PIPELINE SAFETY REPRESENTATIVES

TESTIMONY OF MASSOUD TAHAMTANI

DIRECTOR, DIVISION OF UTILITY AND RAILROAD SAFETY
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July 21, 2010

NATIONAL ASSOCIATION OF PIPELINE SAFETY REPRESENTATIVES

TESTIMONY OF MASSOUD TAHAMTANI

BEFORE THE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE SUBCOMMITTEE ON RAILROADS, PIPELINES AND HAZARDOUS MATERIALS U.S. HOUSE OF REPRESENTATIVES

JULY 21, 2010

Introduction

Chairwoman Brown, Ranking Member Shuster, members of the Committee, thank you for the opportunity to discuss our role in support of education and public awareness as related to reauthorization of the pipeline safety law. This law contains necessary protections that our nation depends on to maintain safety in its energy pipeline network. I am pleased to testify on behalf of the National Association of Pipeline Safety Representatives (NAPSR) and in support of our member states' efforts, as well as in support of the partnership with the Secretary of Transportation to fulfill the mandates of the Pipeline Safety Act.

The States and Pipeline Safety

States act as certified agents for implementing, ensuring and enforcing federal safety regulations, working in partnership with the Secretary.

State pipeline safety personnel represent more than 80 percent of the state/federal inspection workforce. State inspectors are the "first line of defense" at the community level to promote pipeline safety, underground utility damage prevention, education and public awareness regarding gaseous and liquid fuel pipelines.

Enhancing Pipeline Safety

Ever since the Pipeline Safety Act was signed into law in 1968 and now, since the passage of the last reauthorization via the PIPES Act in 2006, states have been working with in partnership with the Secretary in fulfilling the mandates of the resulting law. This is being accomplished in a two-pronged approach: (1) on mandates that are simple to carry out,

processes are put in place that can yield immediate safety benefits (e.g., increased levels of enforcement); and (2) on multi-faceted mandates (e.g. public education and awareness), states work with the federal government, and where appropriate, with private stakeholders, to concentrate on developing practical, effective and affordable solutions to implement the various aspects of such mandates. Although such efforts take more time, the result is a carefully crafted, sensible approach that is more likely to achieve the intent of the legislative mandate.

Essential to the federal-state partnership in this area are the pipeline safety program managers in each of 52 state agencies which are members of NAPSR. In addition to their intensive inspection oversight work schedules, many take extra time to address areas of concern in meeting the existing challenges of new initiatives and proposals for recommended improvements to pipeline safety. NAPSR currently has members on 29 task groups, with representatives from 33 states working with the DOT's Pipeline and Hazardous Materials Safety Administration (PHMSA) on key safety elements of the pipeline safety program. One of these task groups is the PHMSA-sponsored Public Awareness Programs (PAP) Ad Hoc Task Group made up of government personnel only. With their knowledge and experience about conditions in their states, NAPSR members provide unique and valuable expertise to this task group. The group is charged with the duty to develop documents for use by state inspectors in verifying the operators' compliance with the PAP requirements in the pipeline safety code in USC 49, Part 192 which was amended following passage of the PIPES Act in 2006. The focus is to develop consistent inspection requirements that will be understood by all affected stakeholders and to be able to develop a way to assess the effectiveness of the PAP rule on a nationwide basis.

The perspective of NAPSR in the remainder of this testimony mainly addresses pipeline systems and operators under state jurisdiction. The responsibility for state pipeline safety programs is carried out by approximately 325 qualified engineers and inspectors in the lower 48 states, District of Columbia and Puerto Rico. Recent statistics indicate that states are responsible for pipeline safety covering over 92% of 1.9 million miles of gas distribution piping in the nation, 29% of 300,000 miles of gas transmission and 32% of 166,000 miles of hazardous liquid pipelines. State personnel in 11 states also act as "interstate agents", inspecting interstate gas and liquids pipelines that would otherwise be inspected by PHMSA. In their role as inspectors, state pipeline safety personnel interact with a variety of population densities

and population segments which make up the target audiences that are potentially affected by the pipelines of an estimated 3,000 operators subject to the requirements of the PAP regulation.

What Has Been Done to Date

To date states have been engaged in two distinct efforts: (1) Education of the public about gas and hazardous liquids pipelines and how to prevent excavation damage, and (2) Inspection of operators' PAP plans and results, as well as continuing to work with PHMSA in developing inspection protocols for in-depth review of operator education and public awareness programs, so that overall an assessment can be made of the effectiveness of such programs.

With the first effort, given that excavation damage is the number-one cause of pipeline incidents, states have been very active in educating those who excavate near buried facilities in their state. This has been made possible by the federal One-Call Grant Program and by the State Damage Prevention Program Grant which are awarded yearly to qualifying states. With the aid of such grants, state pipeline safety programs have also been in the forefront of promoting the 811 nationwide number to be called before any excavation. For example, during April 2010, designated as National Safe Digging Month, 40 states took actions to highlight the need to call 811 before beginning an excavation. Such action included proclamations by State governors, press releases or public service announcements.

In my own State of Virginia, we routinely sponsor public service announcements about excavation damage prevention and offer a mandatory educational program as an alternative for certain violators of the State's excavation damage prevention statute. In addition, we annually distribute hundreds of thousands of educational materials ranging from coloring books for young Virginians, to safe digging manuals for professional excavators.

Many states have regional damage prevention councils where state pipeline safety personnel participate in promoting damage prevention education and awareness.

Regarding inspections of PAP programs and results, thus far, states have primarily concentrated on determining the adequacy of these programs. In order to evaluate the effectiveness of these programs, added work by the States and PHMSA is under way.

What Remains to Be Done

NAPSR is working with PHMSA by way of the PAP Ad Hoc Task Group to develop an inspection form and associated guidance for use by inspectors to verify if a pipeline operator's PAP is effective in conveying the appropriate messages to the target audiences. Given the subject matter, with abstract concepts and subjective features, one of the challenges facing the group is the ability to stiffen or freeze the subjective features and qualifiers into a set of clear requirements understood by everyone affected by them, without ambiguity.

Further, the inspection process cannot be so complex or so protracted that it will impose an inordinate burden on the inspector to arrive at his/her findings. This aspect must be considered, since normally an inspection process of a pipeline system operator entails verifying numerous components of pipeline safety, of which the PAP is just one component. In other words, the practical aspects of an inspection must be considered when crafting an inspection protocol for state programs to carry out with the resources they have at hand.

The challenging issues to be resolved include but are not limited to verification of execution of plan elements while eliminating inconsistencies among inspectors, and avoidance of areas of contention between the inspector and the pipeline operator. This has taken time and it is not for lack of effort by us or by our federal partner.

In short, we are looking for effective PAP plans by the operators within limits of what is practical and affordable. For example, although there have been recommendations that 100 percent of the members in a target audience be reached as part of the education or public awareness effort, we question whether this is achievable in all situations within practical and affordable bounds. A "statistically valid" percentage would be more realistic in some cases, while in others, specific members of a target audience must be sought and educated.

Considering affordability of these plans is also very important. Our State pipeline safety program offices are typically integrated into State commissions, which are responsible for ensuring reliable delivery of the product at reasonable rates. Obviously, highly elaborate PAP plans will place unreasonable burden on rate payers.

With these efforts under way, we need additional time to verify if the existing legislative mandate and its regulatory offspring addressing education and public awareness is working to enhance safety. We believe that this is a good mandate that has already shown positive results by those operators that have been proactive. We have mapped out a plan and a path forward with our federal partner, PHMSA, to ensure such verification within a reasonable amount of time. At this point, added legislative amendments in this area are not warranted and could create additional obstacles in helping operators to implement effective public awareness programs.

Conclusions

Programs mandated by the last three pipeline safety reauthorizations have required and continue to require extensive additional state efforts to address safety in areas that include but are not limited to operator qualification requirements, gas transmission and liquids pipeline integrity, excess flow valve installation, pipeline control room management, distribution system integrity, excavation damage prevention, and education and public awareness communications. These mandates still need a number of years to show their intended results. A hiatus in added legislative mandates would be beneficial by allowing the regulators to focus on the effectiveness of existing mandates without detriment to safety.

Like you, we understand the importance of our mission to the safety of our citizens, energy reliability and continued economic growth of our Nation.

Thank you.

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TESTIMONY OF SAM DAVIS,

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BEFORE THE HOUSE TRANSPORTATION AND INFRASTRUCTURE

SUBCOMMITTEE ON RAILROADS, PIPELINES AND HAZARDOUS MATERIALS

HEARING ON PIPELINE SAFETY PUBLIC EDUCATION AND AWARENESS

JULY 21ST, 2010

Chairwoman Brown, Ranking member Shuster and members of the Committee, I appreciate this opportunity to testify before you today and I thank the Committee for calling this hearing on the important subject of pipeline safety public awareness and education. I also want to commend the Committee for all the work it has done over the years to ensure that America has the safest, most reliable pipeline system in the world. My name is Sam Davis and I am the General Manager & CEO of the Lake Apopka Natural Gas District in Winter Garden, Florida.

The Lake Apopka Natural Gas District was established pursuant to the provisions of Chapter 59-556, Laws of Florida, Acts of 1959, which became law on June 20, 1959, to provide natural gas within its defined area of service. The District currently operates a municipal natural gas distribution utility with over 600 miles of pipe infrastructure and 4 city gate stations, which serve a 500 square mile area within Lake and Orange Counties, in Central Florida. The District has

approximately 15,000 customers, and purchases approximately 550,000 Dekatherms (Dth) of natural gas annually from two suppliers, including its current asset manager. The District also ships approximately 450,000 Dth to transportation customers behind its gate with firm transportation capacity on Florida Gas Transmission Company's interstate pipeline.

I testify today on behalf of the American Pubic Gas Association (APGA). APGA is the national association for publicly-owned natural gas distribution systems. There are currently approximately 1,000 public gas systems located in 36 states. Publicly-owned gas systems are not-for-profit, retail distribution entities owned by, and accountable to, the citizens they serve. They include municipal gas distribution systems, public utility districts, county districts, and other public agencies that have natural gas distribution facilities. Public gas systems range in size from the Philadelphia Gas Works which serves approximately 500,000 customers to the city of Freedom, Oklahoma which serves 12 customers.

Public gas systems are an important part of their community. Our members' employees live in the community they serve and are accountable to local officials (and their friends and neighbors). Public gas systems are generally regulated by their consumer-owners through locally elected governing boards or appointed officials. However, when it comes to pipeline safety, all of our members must comply in the same manner as investor- and privately-owned utilities with pipeline safety regulations issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA). For most of our members these pipeline safety regulations are enforced by an individual state's pipeline safety agency.

While the manner of safety regulation may be the same, one major difference between the average investor-owned utility and the average public gas system is size: in the number of both customers served and employees. Approximately half of the 1,000 public gas systems have five (5) employees or less. As a result, regulations and rules have a significantly different impact upon a small public gas system than they do upon a larger system serving hundreds of thousands or millions of customers with several hundred or even thousands of employees and an in-house engineering staff.

Safety is the number one issue for public gas systems. No other issue rises to the level of safety for the local distribution company (LDC) that provides natural gas service to its consumers. Gas utilities are the final step in taking natural gas from the production field to the homeowner or business. As such, our members' commitment to safety is second to none and they keep focused on providing safe and reliable service to their customers. A key part of safety is education and public awareness.

Public Awareness

In the Pipeline Safety Improvement Act of 2002, Congress encouraged DOT to issue standards prescribing the elements of an effective public education program. APGA participated in and supported the development of American Petroleum Institute Recommended Practice 1162 which specifies requirements for an effective pipeline public awareness program. In 2006, APGA supported the adoption of RP 1162 by PHMSA as mandatory public awareness regulations and has developed programs to assist member utilities to comply with the rule and gauge the

effectiveness of gas safety educational efforts. APGA continues to participate in the revision of RP 1162, which is nearing completion.

Even before there were federal pipeline safety regulations public gas systems conducted public awareness programs. Utilities add odorant to the gas to give it its distinctive smell so that people can smell it at one fifth of its lower flammable limit. Educating the public so that the public recognizes a gas odor and to call the utility if they smell gas is a critical component of each utility's safety program. Another critical component is educating the public about the existence of buried gas lines in our community and the importance of calling the one-call center to have lines marked before digging.

A public gas utility's public awareness issues are different than those of interstate liquid or natural gas pipeline operators. Unlike some liquid pipelines, natural gas utilities transport just a single product, natural gas, so our messages about recognizing and reacting to a possible leak are more straightforward. In addition, our pipelines bring natural gas directly into the homes and businesses in the communities we serve, so our product is something that many in the public encounter in their daily lives. People may not expect there to be oil pipelines or gas transmission pipelines in their neighborhood, but they do know that there are buried gas lines, especially if they have gas service in their home. In 2007 APGA polled nearly 200 thousand randomly selected people in towns and cities served by public gas systems. Over 85 percent were aware that buried gas lines ran through their community and that they should call before digging. And nearly 97 percent believed that they have adequate information about natural gas safety like how to recognize a leak and what they should do if they smell gas in the home. This is even more

impressive because nearly half of the people polled were not even gas customers. Even before the new regulations took effect, these results show that public gas utilities were doing a good job communicating gas safety messages.

APGA also assisted its members to comply with the new requirements. In 2006, APGA developed a model public awareness plan that it made available free to members. The APGA website contains samples of public awareness materials that members can download and modify for their own use. APGA also conducts public awareness surveys for participating members. It is called the APGA Gas Overall Awareness Level (GOAL) program and it calls a random sample of customers and non-customers in the service territory of participating utilities. We are conducting our 4th year of surveys, even though the regulations did not require surveys to be completed until this year. The statistics that I cited earlier come from the first year of APGA GOAL surveys. 158 utilities currently use GOAL to measure the effectiveness of their public awareness programs. These utilities are able to compare their numbers with national averages and identify areas for improvement.

Public gas systems had effective public awareness programs before these new rules took effect, they have effective public awareness programs now and APGA believes the current programs are adequate to ensure public awareness of natural gas safety into the future.

Reauthorization

As the Committee considers legislation to reauthorize the Pipeline Safety Act, I want to communicate our support for reasonable regulations to ensure that individuals who control the nation's network of distribution pipelines are provided the training and tools necessary to safely operate those systems. In this regard, over the past several years the industry has had numerous additional requirements placed on it, e.g. Distribution Integrity Management Programs (DIMP), excess flow valves, control room management, operator qualification, public awareness and more. Many APGA members are in the process of working to comply with the administrative burdens of these additional regulations. Given that public gas systems are non-profit systems and in many cases have limited resources, these additional regulations, while important, do impose an additional operational burden upon them. For this reason, APGA strongly supports a clean reauthorization of the Act.

Should the Committee consider revisions to the Act, there are a number of issues APGA would ask the Committee to consider. We urge the Committee to give great consideration before imposing any additional regulatory burdens upon LDC's through this reauthorization effort. In terms of reauthorization, APGA is specifically concerned about an expansion in the requirements for excess flow valves and potential changes in the funding mechanism for PHMSA.

Excess Flow Valves (EFV's)

The PIPES Act included a provision requiring operators to install excess flow valves on new and replaced single residential service that operate year around at or above 10 pound-force per square inch gauge. Exceptions are provided if EFVs are not available, if it is known there are contaminants in the system that would cause the EFV to fail or if it is known there are liquids in

the system. Prior to this installation requirement, there was a customer notification rule in place that required gas systems to make their customers aware of the availability of EFVs and install an EFV if the customer was willing to pay installation costs. It was limited to new and renewed services because EFVs are installed underground where the "service line" to a residence connects to the gas main. If the ground or pavement over the main is already open and a new connection to the main is being installed, adding an EFV at that time costs just a fraction of what it would cost to install or replace an EFV when no other work is planned at the main-service connection.

Each EFV has a preset closure flow rate. Once installed on a service line it will prevent gas from flowing at any flow rate higher than its preset closure flow rate. There is no way short of replacing the EFV to change its closure flow rate. This is typically not an issue with EFVs on residential service lines since the gas demand to a residence does not typically change drastically. A residence will have a relatively constant and predictable gas demand over its lifetime so the EFV can be sized accordingly.

However, APGA is greatly concerned about an expansion of the EFV requirements to commercial and industrial businesses and multifamily residences. A commercial building, unlike a residential unit, may see huge changes in gas demand as tenants in the space move in and out. For example, a space in a strip mall that today is occupied by a shoe store could be converted to a restaurant or bakery tomorrow. The gas demand could double or triple. That could require replacing the meter, regulator and EFV. Since the first two items are above ground, replacement is relatively inexpensive. However, the EFV is buried and replacing it

would be very costly, often hundreds of times the initial cost of the EFV. To address this problem, an operator could install a grossly oversized EFV with closure flow at or near the free flow limits of the service line. However, a valve so oversized would probably not close even if the line were ruptured, defeating the purpose of having an EFV on the line in the first place.

The same and additional issues apply to installing EFVs on service lines to industrial customers. The flow rates and operating pressures to many industrial customers exceed the capacity of commercially available EFVs.

The potential costs of a false closure of the EFV can be significantly greater for a commercial or industrial customer than a residence. Both would suffer business losses in addition to the inconvenience of no heat or hot water. An evening's loss of business to a restaurant could run into the thousands of dollars, however some industries such as microprocessor chip manufacturers could see millions of dollars of product ruined by the loss of temperature control required by their processes.

The industry has experience with EFVs designed for typical flow rates to single-family residences, but has little or no experience with EFVs designed for the higher flow rates that would exist at multi-family residences. The time and resources to restore service after a false closure of an EFV to a multi-family residence would be many times more than if the same problem occurred at a single residence.

PHMSA has established a working group of government, industry and public experts to study the issues related to installing large volume EFVs on other than single residential services. We encourage Congress to allow this stakeholder working group to proceed towards making specific recommendations on this issue.

Funding of User Fees

Under the current formula, user fees for funding PHMSA are collected by natural gas transmission operators from their downstream customers. User fees are mandatory costs a natural gas transmission operator can pass through to customers in its cost-of-service. This allowable pass-through treatment is similar to other mandatory safety program costs. As a result, it is natural gas distribution operators that pay the user fees to transportation operators in their transportation rates, and it is the natural gas transmission operators that, after collecting the user fees from its customers, pass those fees to PHMSA in the annual pipeline safety user fee assessment.

APGA supports this current formula and we believe it has worked well over the years. APGA is strongly opposed to any changes in the current formula that would shift the user fees to the LDC's. The pipelines currently build these fees into their costs and if they believe they are not recovering the costs, they have an option provided to them under Section 4 of the Natural Gas Act to file for a rate increase with the Federal Energy Regulatory Commission. Since the Federal Energy Regulatory Commission has never turned down a request to include pipeline safety user fees in transportation rates charged by interstate pipelines, the decision whether or not to pass through all or a portion of the user fees to its customers is completely within the pipeline's discretion. If

for business reasons a natural gas transmission operator makes a business decision not to pass this safety cost through to one or more of its customers (e.g., it wishes to discount rates to certain customers, avoid filing a rate case, etc.), any consequence arising from that decision should be borne by that natural gas transmission operator.

Shifting fees to distribution would mean that LDC customers would pay both the user fees assessed to the LDC AND the fees passed on in transportation rates charged by their pipeline supplier. Gas customers served directly from a transmission line would pay a lesser amount of user fees per unit of gas than if the same customer were served through the LDC. The current user fee system also greatly simplifies fee collection as there are fewer transmission pipeline operators than there are LDCs. The current system of user fee collection has worked well for over 20 years.

Integrity Management of Low Stress Transmission Lines

Currently, low stress transmission lines (a line operating below 30 % of the specified minimum yield stress) operated by distribution systems are regulated under the Transmission Integrity Management Program (TIMP). It is APGA's position that those pipelines should be regulated under the Distribution Integrity Management Program (DIMP). The benefit of handling this under DIMP is that TIMP focuses on finding mainly corrosion and mechanical damage problems. The DIMP rule addresses these threats but also requires distribution operators to consider other threats to integrity including excavation, natural forces, incorrect operations and more. When a high stress line corrodes it can suddenly rupture, whereas a low stress line would

just start leaking, and the leak would get progressively worse over time. The utility has time to find it through ongoing leak surveys and patrols and fix it before it threatens public safety. Since the big issue with distribution is 3rd party damage, and PHMSA's data show that corrosion is the least likely of the 8 threats addressed by DIMP, the costly corrosion inspections required by TIMP on low stress transmission lines are of questionable benefit.

Conclusion

Natural gas is critical to our economy, and millions of consumers depend on natural gas every day to meet their daily needs. It is critical that they receive their natural gas through safe, affordable and reliable delivery by their LDC. Public gas systems are proud of their safety record and safety has been, and will continue to be, their top priority. Approximately 1,000 villages, towns, cities, counties and utility districts across the US are served by locally-owned, non-profit, public gas utilities. Like most local governments, the current economic conditions have resulted in lower tax revenues and higher costs to provide services to their citizens. Unlike investor owned pipelines and utilities, costs imposed on public gas systems cut into other services provided by the local government including fire, police and other public safety programs. Additional costs imposed on these local governments by additional regulation of their natural gas utilities needs to strike a careful balance between costs and benefits from any new mandates. We look forward to working with the Committee towards reauthorization of the Pipeline Safety Act.

Statement of

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on behalf of API and AOPL

at the

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Introduction:
Good afternoon Madam Chair, Ranking Member Shuster, and members of the Subcommittee. Thank you for inviting me to testify on pipeline public awareness programs. I am Peter Lidiak the Pipeline Director for the American Petroleum Institute. My comments today are being presented on behalf of API—the American Petroleum Institute and AOPL— the Association of Oil Pipe Lines.

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

Public Awareness Programs
Public awareness programs are not just a regulatory requirement but are important tools used by pipeline operators to communicate key safety information to the people that live and work along the pipeline right-of-way. Informational materials tell the public, excavators, public officials, and first responders, among others, about what they need to know about pipelines, activities that are and are not appropriate around pipelines, and who to call and what to do in case of an emergency. For instance, the public can be one of our members' best assets because they can tell the operators when someone is

doing something they should not be doing around a pipeline, like digging without calling 811 or engaging in vandalism.

Pipeline operators have been conducting some type of public awareness or education programs for at least the last twenty years. Over time, operators have developed and shared practices to improve their programs. In 2003, a consensus standard, API Recommended Practice (RP) 1162, provided industry a programmatic framework as well as practices for developing, implementing and measuring public awareness programs. And in May 2005, the Department of Transportation's Office of Pipeline Safety (OPS) incorporated RP 1162 by reference into its regulations, following the requirements of the National Technology Transfer Act, and thereby requiring liquid and natural gas operators to follow these practices. OPS is preparing to review and inspect this new approach to public awareness for the first time to assure regulatory compliance and to determine if it is effective in raising awareness of pipelines in communities and helping the public and other key stakeholders understand how to recognize and respond to a pipeline emergency.

When the first edition of API's Recommended Practice 1162 was being drafted, the goal was to craft a public awareness framework for all operators to use and provide practices that were clear, reasonable and practical so that pipeline safety was enhanced. That meant clarifying what public awareness actually means, determining the techniques and logistics for achieving it, and then measuring for effectiveness. And it meant taking on this task for the hundreds of pipeline operators and many millions of people who live or work along the hundreds of thousands of miles of pipeline that run across our nation.

Many stakeholders were involved in developing our public awareness recommended practice, including industry, members of the public, state regulators and the Office of Pipeline Safety. We gathered input and received feedback on drafts. API is an accredited standards development organization, operating under American National Standards Institute (ANSI) approved standards development procedures and undergoing regular audits of its processes. We publish an annual plan of our upcoming

standards activities every year in the Federal Register through the National Institute of Standards and Technology, as well as posting the same information on our website.

Communicating safety awareness about anything to hundreds of thousands of people is extremely hard: Not using a cell phone while driving; wearing a seatbelt; the dangers of exceeding the speed limit. Each and every day people are barraged with messages and information. Sometimes people do not want to take the time to listen. Or don't want to listen since they believe they already know what to do. Or don't have enough interest even though we think they should. Communicating about pipelines in our communities will constantly be a challenge. If one has experienced a pipeline incident in his or her community or if a large transmission pipeline is proposed for construction near one's home, then pipeline safety messages resonate. But, in a world of several hundred television and radio channels, Facebook, Twitter, thousands of messages telling us to do this or buy that, and the demands of our own family members, it is little wonder that pipeline operators struggle to relay their very important safety messages.

Much has been done to enhance public awareness since the first edition of RP 1162 came out in 2003---and much has been learned. We are continually finding new and more effective ways to reach out to key stakeholder audiences to talk about pipeline safety and, at the same time, establish channels for those key stakeholders to talk to us about their pipeline safety concerns. Our pipeline public awareness programs are more effective when we can engage our neighbors, local officials, emergency responders, excavators, and others in two-way communication.

Ten years ago, pipeline safety education was mostly limited to the occasional advertisement in local newspapers near a pipeline system. Today, under RP 1162, operators execute extensive baseline pipeline awareness programs and often enhance those communications with multiple supplemental activities that include first responder pipeline emergency training, excavator Dig Safely meetings, special communications with farmers before they begin spring plowing, direct communications with schools located near pipelines, and more.

As part of our efforts, we will make RP 1162 better as we are now doing with a new edition that we expect to come out later this year. The first edition was a monumental achievement, and all who participated in producing it should be proud. Creating something from nothing is tough. Building something from the ground up is hardest. That first edition was a first cut at a very difficult problem. It was not perfect. Putting it into practice revealed some shortcomings. It was not as clear, practical and straightforward as everyone had hoped. And as we continue to learn more in implementing public awareness programs, further changes may be required.

The proposed revisions in the second edition of RP 1162 are expected to address some of the challenges that operators and the public face in effectively communicating with each other about pipeline safety. Provisions such as aligning the key safety messages and delivery frequency between pipeline sectors, more flexibility on delivery methods and increased guidance will help an operator better determine how to more effectively distribute public awareness materials to the affected public and other key stakeholder groups. One notable change is the elimination of impractical provisions, such as "Measure 3—Desired Behaviors by the Intended Stakeholder Audience" as a gauge of program effectiveness. We certainly agree that public awareness programs should be evaluated for their effectiveness. We believe that "awareness", not "desired behavior", is the right thing to measure, and is much more measurable. While changing behavior is desirable, the focus of the RP and the direction we received from Congress and OPS is to increase pipeline safety *awareness* among the affected public and our other key stakeholders. With all the external factors that may potentially influence a stakeholder, it is impractical for an operator to make a determination that its public awareness program prompted behavior changes by the public through any quantifiable measure. We can, however, reasonably measure, over time, changes in awareness about pipeline safety.

We are also addressing a recommendation from the National Transportation Safety Board (NTSB) to identify 911 Call Centers explicitly as part of the target audience for

public awareness programs in the revised edition of API RP 1162. We have communicated this to NTSB and they have marked the status of the recommendation as “Open; Acceptable Response”.

As operators have worked their way through the first four year implementation period for their new programs, they have encountered several challenges. Evaluating the effectiveness of their programs was something that most operators had never done before and this was perhaps the biggest challenge. How many people actually read and understand these messages and retain the information? Are people becoming more aware about damage prevention and emergency response?

API, AOPL and the Interstate Natural Gas Association of America sponsored a program effectiveness survey tool (PAPERS) that is available to operators for the evaluation of their programs. It gives operators the ability to look at many different locations and methods of their programs. This evaluation tool allows operators the ability to modify their programs based upon their individual results and each participating operator can compare its results to aggregate results, which makes them more meaningful.

Triggers for supplemental programs are another industry challenge. The regulations properly give discretion to operators to design programs to achieve the desired public outreach and awareness goals and decide whether and what supplemental elements should be added to their basic programs. Flexibility and discretion are critical because one-size-fits-all solutions don't make sense with such a diverse industry operating in so many different environments.

Excavation Damage Prevention

Another key element of our public education programs is excavation damage prevention. We want excavators to mark where they plan to dig, call their One-Call Center 48-hours before digging and communicate with underground facility owners that may be impacted. We want to be notified if unauthorized excavation is happening near our pipelines. While excavation-related accidents are not frequent for hazardous liquid

pipelines, at about 7 percent of all accidents over the past 10 years, they make up around 30 percent of the accidents that resulted in serious outcomes like fires, explosions, evacuations, injuries and deaths. That's why the industry has strongly funded and participated in the Common Ground Alliance since its inception to promote best practices in excavation and marking around underground facilities and why we supported the rollout of the national 811 Call Before You Dig Campaign. We also support strong state damage prevention laws and call for states to eliminate exemptions from those laws for local government and commercial excavators. This would remove a significant safety gap, because excavation damage is a problem regardless of who the excavator is. OPS began a rulemaking last year that will encourage stronger state programs and allow federal enforcement of damage prevention requirements if a state program is found to be inadequate. We call for OPS to complete that rulemaking expeditiously.

Conclusion

Public awareness programs will need to continually evolve to meet the challenges of communicating with the public, excavators and officials; however our objective should remain the same – preventing damage and promoting safety awareness.

Revisions to the statute regarding public awareness programs are unnecessary. Rather we see the need to allow operators the flexibility to build and innovatively shape their current programs to meet our mutual goal of promoting safety awareness.

In order to provide maximum protection to the public from excavation damage, we strongly urge that all exemptions from state one-call requirements be eliminated.

We strongly encourage OPS, under the current public awareness statute, to adopt the upcoming revisions to API RP 1162 into its regulations as a needed update to the pipeline public awareness requirements.