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RPTS J. BROWN

HIF302.030

``THE NORTH AMERICAN ENERGY INFRASTRUCTURE ACT''

TUESDAY, OCTOBER 29, 2013

House of Representatives,

Subcommittee on Energy and Power,

Committee on Energy and Commerce,

Washington, D.C.

The Subcommittee met, pursuant to call, at 10:03 a.m., in Room 2123 of the Rayburn House Office Building, Hon. Ed Whitfield [Chairman of the Subcommittee] presiding.

Members present: Representatives Whitfield, Scalise, Shimkus, Pitts, Terry, Burgess, Latta, Cassidy, Olson, Gardner, Pompeo, Kinzinger, Griffith, Barton, Upton (ex officio), McNerney, Tonko, Yarmuth, Green, Barrow, Matsui,

Christensen, Castor, Dingell, and Waxman (ex officio).

Staff present: Nick Abraham, Legislative Clerk; Gary Andres, Staff Director; Charlotte Baker, Press Secretary; Mike Bloomquist, General Counsel; Sean Bonyun, Communications Director; Matt Bravo, Professional Staff Member; Allison Busbee, Policy Coordinator, Energy & Power; Patrick Currier, Counsel, Energy & Power; Tom Hassenboehler, Chief Counsel, Energy & Power; Jason Knox, Counsel, Energy & Power; Brandon Mooney, Professional Staff Member; Chris Sarley, Policy Coordinator, Environment & Economy; Jeff Baran, Democratic Senior Counsel; Phil Barnett, Democratic Staff Director; Greg Dotson, Democratic Staff Director, Energy and Environment; Caitlin Haberman, Democratic Policy Analyst; Elizabeth Letter, Democratic Press Secretary; and Alexandra Teitz, Democratic Senior Counsel, Environment and Energy.

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Mr. {Whitfield.} I would like to call this hearing to order this morning.

And today we are having a hearing on H.R. 3301, the ``North American Energy Infrastructure Act,'' which was introduced by the chairman of the full committee Fred Upton and Mr. Green of Texas.

Anyone that has read any newspaper recently or any international articles are certainly very much aware of the fact that there has been an energy transformation taking place in America. I read an article recently about the World Economic Forum in Davos, Switzerland, and it was talking about how business leaders throughout Europe, Asia, and South America were all very much concerned about this energy transformation taking place in America and what it meant for global competitiveness.

And many of you may have read recently where one of the Energy Information Agencies, not only the one in the U.S., but the international agency also indicated that the United States would be the world's top producer of petroleum and natural gas in 2013, surpassing both Russia and Saudi Arabia. And of course we continue to be one of the world's leading

producers and exporters of coal. As a matter of fact, the coal export market last year out of the United States, 45 percent of that market went to Europe.

So the energy boom is having a dramatic economic impact, creating thousands of new jobs and paving a path toward a brighter energy and fiscal future, but energy supply alone is not sufficient to achieve North American energy independence. We must also have in place the energy infrastructure necessary to deliver affordable and reliable energy across our northern and southern borders. This means being able to site and construct oil and gas pipelines and electric transmission lines to carry energy and electrons across the borders of the U.S., Canada, and Mexico.

Now, as many of you know, the Constitution very clearly states that the Congress has the authority to regulate commerce, that up until this time Congress has really not taken action, and so the regulation of obtaining permits and building transmission lines, oil and natural gas pipelines, have fallen upon the Executive Orders of the President of the United States. So this legislation before us today will modernize and reform the approval process for energy infrastructure projects across the borders of the United

States.

And, well, I had been asked to yield some time to Mr. Barton, but I see he is not here. Did Mr. Burgess want some time?

The {Chairman.} You know, I can go now, and if he comes back--is that all right?

Mr. {Whitfield.} Well, I tell you what, I will just finish my statement, Mr. Upton, and then I will go to McNerney and then give you your entire 5 minutes.

But I do want to thank Chairman Upton and Congressman Green for their work on this legislation. It is very important. I am proud to be an original cosponsor, and I think that we have broad bipartisan support to provide more transparency, a more efficient mechanism to permit transmission lines and gas pipelines between the U.S., Canada, and Mexico.

[The prepared statement of Mr. Whitfield follows:]

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Mr. {Whitfield.} At this time I would recognize the gentleman from California, Mr. McNerney, for 5 minutes.

Mr. {McNerney.} Thank you, Mr. Chairman. I appreciate you holding this hearing today and I appreciate the witnesses for their time and energy on this issue.

Our Nation is producing more oil and gas than it has in years, and I believe that the natural gas can have some real benefits in terms of our national security, our manufacturing, and our employment in general. But we must ensure that this production does not worsen global warming, result in groundwater contamination, or negatively impact public health. These projects must be done safely using the best technology possible because the well-being of the public and the environment must remain a priority. I believe that this can be accomplished with an efficient permitting process.

We often hear about business certainty, whether it is streamlining environmental reviews or the regulatory process. I have had to deal with these issues myself while working in the wind energy sector and know firsthand how a lack of clear direction can negatively affect businesses. H.R. 3301, the

North American Energy Infrastructure Act, aims to revise the current approval process for cross-border oil pipelines, natural gas pipelines, and electric transmission lines. I think there is an argument that Congress should act to set the rules of the road for these projects rather than have the processes determined primarily by Executive Orders.

But if we are going to have a discussion about revising permitting processes, we need to understand what the problems are and what we are going to do to save the public interest. Like my colleagues who have introduced 3301, I share a belief that a change in project ownership shouldn't necessarily be a major roadblock during the permit process. I also believe that projects should be reviewed in a timely yet thorough manner and that more consistent guidelines could be beneficial.

But I do have significant concerns about the bill. I don't think the case has been made for why projects that are not in the public interest should be approved. We should make sure that cross-border energy projects are in the broad public interest, receive a thorough environmental review, and provide adequate opportunities for public comment and participation. We shouldn't have a rushed process that isn't

going to provide meaningful review.

I hope today's hearing will give us a chance to examine some of these issues. We need to get to the facts and understand the consequences of the changes proposed in this legislation. I look forward to hearing from the witnesses on these issues, and I would now like to yield to my colleague from Texas, Mr. Green, one of the bill's co-authors.

[The prepared statement of Mr. McNerney follows:]

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Mr. {Green.} Thank you. And I would like to thank my California colleague and ranking member for allowing me to speak.

I appreciate the opportunity because after reading some of the testimony, there seems to be some confusion about the intent of this bill and what the bill actually does. H.R. 3301 would only impact the act of reviewing and granting a cross-border presidential permit. So what does that mean? The bill only addresses the permit that a company needs to import or export the commodity. It does not affect all the permitting required to site or construct the project. In fact, Section 3(f) specifically keeps in force without change all federal lands, environment, and wildlife statutes and requirements for projects in the U.S. such as the Clean Water Act, the Clean Air Act, the Endangered Species Act, the Mineral Leasing Act, the Rivers and Harbors Act, the Fish and Wildlife Coordination for Fish and Wildlife Service Consultation, the National Wildlife Refuge System Act, Administration Act, the Wilderness Act, the Federal Land Policy Act and Management Act, the National Environmental Policy Act for projects triggering a need for review based on

actions under the above statutes. All permitting requirements under these statutes remain in addition to any state laws that govern these projects as well.

H.R. 3301 simply excludes the active issuing a cross-border permit from triggering a NEPA review. Any of the environmental laws left in place could still trigger a NEPA review under the current criteria. I also think it is important to recognize that the current ad hoc Executive Order process that governs the presidential permitting process could change at any time.

So my colleagues that may have issues with the text, let's talk about it, but I personally would always rather have Congress develop a statute that reflects our diverse constituencies than have the President regulate by Executive Order. This bill would implement a fair and standardized approval process that everyone understands, and I look forward to testimony this morning and again thank the chairman for allowing me to be here and work on the bill. Thank you.

[The prepared statement of Mr. Green follows:]

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Mr. {Whitfield.} The gentleman yields back.

At this time I recognize the chairman of the full committee and one of the authors of the bill Mr. Upton of Michigan for 5 minutes.

The {Chairman.} Well, thank you, Mr. Chairman, and I hope your voice gets better. I am not sure who it is over there that is talking, but today, we are going to examine a critical component in the effort to construct the architecture of abundance to realize our Nation's newfound energy potential. This bipartisan North American Energy Infrastructure Act is a bill that fills in the gaps created by Executive Orders and attempts to add much-needed regulatory certainty to energy infrastructure projects that cross the Canadian or Mexican border.

And I would like to thank my friend and colleague Mr. Green for cosponsoring this bill and look forward to working across the aisle on this important measure.

The most significant energy storyline in recent years has been the unexpected increase in North American oil and natural gas production. Long-held assumptions of permanent declines in North American energy output have been turned

upside down by impressive production increases dating back to 2007. The Energy Information Administration and others expect the growth in oil and gas output to continue rising in the years ahead.

However, the federal regulatory regime has failed to keep up with this dynamic advancement. Many new infrastructure projects, including oil and gas pipelines and electric transmission lines, will certainly be needed to transport this growing energy abundance, including projects that cross our north and south borders. But these projects and the jobs and economic growth that they will generate can get delayed for years on end. The time has come for Congress to provide certainty and rightfully assert its role in deciding how these projects should be allowed to cross our Nation's borders.

We have all heard about the Keystone XL pipeline expansion project to bring more Canadian oil to the American market. We have also heard about this project's nearly 5-year regulatory delay, but Keystone is not--it is not--the issue today. There are many other upcoming cross-border projects, large and small, that may be subject to similar delays. We also have projects that have been in existence

for decades that are being left in regulatory limbo over minor issues such as change in ownership. This is only dissuading industry and investors, both here and abroad, from entering our market.

For those concerned about the environmental and safety standards applicable to these projects, the good news is that none of these standards are changed by the bill. This bill simply brings uniformity to current administration policy--that a cross-border decision does not in and of itself trigger a NEPA determination.

Under this bill, a 500-mile pipeline or a transmission line carrying new hydro from Canada or solar from Arizona that extends across the Canadian or Mexican border would be subject to the same regulatory scrutiny as a similar project that remained within the boundaries of the U.S., but it would no longer be subject to unlimited additional delays because of the border crossing.

Our energy policies should seek to safely and responsibly maximize our energy abundance and minimize pain to the people's pocketbooks when it comes to energy prices, and this bipartisan legislation is an important step forward as we work to develop the architecture of abundance to

achieve North America's energy future.

I yield the balance of my time to my friend Mr. Barton.

[The prepared statement of Mr. Upton follows:]

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Mr. {Barton.} Thank you, Chairman Upton, and my condolences to Chairman Whitfield on his cold or laryngitis.

We appreciate the hearing today on H.R. 3301, the North American Infrastructure Act. Everybody has already said basically what I was going to say. I think the important thing to realize is that this only deals with the permitting process across international borders. It does not change any existing permitting process on projects within the United States.

I think it is also important to point out that this is a very bipartisan bill. There are a number of Democrat cosponsors on the bill. I am proud to be one of the Republican cosponsors. So I think this is a commonsense approach to an issue and interestingly, we are moving it at a time when we are looking more at exporting American energy as opposed to importing American energy, and I think that is a good thing.

[The prepared statement of Mr. Barton follows:]

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Mr. {Barton.} With that, Mr. Chairman--

Mr. {Shimkus.} Mr. Barton?

Mr. {Barton.} I yield to Mr. Terry.

Mr. {Shimkus.} Oh, okay.

Mr. {Barton.} I am sorry.

Mr. {Terry.} Thank you. And I just want to say how pleased I am about this bill and it will allow for a more streamlined process for oil and natural gas pipelines to cross our northern and southern borders, as well as electric transmission lines. And I am no stranger to this issue about cross-border pipelines, and this is at least similar in theory to one of the bills that we have passed to move the jurisdiction to those agencies that actually have expertise in this area. And so can I yield the last 11 seconds to Mr. Shimkus?

[The prepared statement of Mr. Terry follows:]

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Mr. {Shimkus.} Thank you. And I am sorry to jump in, but I wanted to make an introduction in the back row in the committee room is Arbenita Mjekiqi, Senior Officer for Internal Market at Ministry of European Integration working for the Department of Economic Criteria, and she is from Kosovo. So she is following me today. I would like for us to give her a warm welcome. Thank you.

Mr. {Whitfield.} The gentleman yields back. The gentleman's time has expired, and we do welcome the lady from Kosovo. We appreciate your joining us today.

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

Mr. {Waxman.} Thank you very much, Mr. Chairman.

Climate change is the biggest energy challenge we face. Before approving a multibillion-dollar energy infrastructure project that will last for decades, we need to evaluate its climate impacts. That is the standard the President rightly set in June. What this tests is a significant obstacle for tar sands pipelines because they would carry the dirtiest fuel on the planet.

Over the last few years, House Republicans have

repeatedly tried to short-circuit the process and mandate approval of the Keystone XL tar sands pipeline. The bill we are considering today goes even further. It creates a new process to rubberstamp every pending and future tar sands pipeline. The premise of the Upton bill is that tar sands pipelines should be approved quickly with no federal environmental review, no public comment, and no consideration of important factors like climate change or even safety. Under this approach, legitimate concerns cannot even be raised. Mr. Chairman, not only is your voice strained and hard to come forward, everybody's voices will be restrained. That is the wrong approach for making decisions about controversial projects.

Keystone XL is a multibillion-dollar pipeline that will carry tar sands sludge. The oil industry financial analysts and Canadian Government officials say this pipeline is critical to realizing the oil industries plan to triple tar sands production. Well, environmental groups say the pipeline will lead to a massive increase in carbon pollution. Over one million Americans filed comments. One million Americans had their voices heard, Mr. Chairman. In a democracy, we need a permitting process that allows for

public input. This bill does exactly the opposite.

The July 2010 Enbridge pipeline spill in Marshall, Michigan, taught us that tar sands spills are much harder to clean up than regular oil spills. Almost $1 billion has been spent and they are still cleaning up the Kalamazoo River over 3 years later. Enbridge wants to expand another tar sands pipeline from Canada through North Dakota, Minnesota, and Wisconsin, but if this bill becomes law, the permitting agency couldn't even consider pipeline safety issues when deciding whether to approve that controversial pipeline.

And at the Northeast, another divisive pipeline project would carry tar sands oil from Canada through New Hampshire and Vermont to Portland, Maine, where it would be loaded onto tankers. The project wouldn't require any approval at all under this bill's new permitting process. This bill virtually guarantees that Keystone XL and the other controversial pipelines with pending applications are approved within 2 years. It should really be called the Zombie Pipeline Act. Under this bill, even if the Administration rejects KXL because it is not in the public interest, KXL could rise from the grave and reapply. It would then be rubberstamped under the new process.

The Upton bill is not limited to all pipelines. It also applies to cross-border natural gas pipelines and electric transmission lines. This bill would prevent permitting agencies from considering factors such as safety, electric reliability, engineering, and environmental impacts when deciding whether to approve these projects. Energy projects that are not in the public interest would be rubberstamped. And the bill would allow for unlimited export of liquefied natural gas through Canada and Mexico with absolutely no controls or conditions. That is why domestic manufacturers like Dow, Alcoa, and Nucor have criticized the bill.

Faced with the threat of dangerous climate change, we have a responsibility to think through the impacts of proposed energy infrastructure projects. That means thorough environmental reviews and meaningful public participation, but this bill prohibits consideration of climate change and other important impacts. Mr. Chairman, that is not a responsible approach.

[The prepared statement of Mr. Waxman follows:]

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Mr. {Whitfield.} Thank you, Mr. Waxman.

That concludes the opening statements, so we have with us on the first panel Mr. Jeff Wright, who is the director, Office of Energy Projects, over at the Federal Energy Regulatory Commission.

And, Mr. Wright, thanks for joining us today, and you are recognized for 5 minutes for an opening statement.

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^STATEMENT OF JEFF C. WRIGHT, DIRECTOR, OFFICE OF ENERGY PROJECTS, FEDERAL ENERGY REGULATORY COMMISSION

} Mr. {Wright.} Chairman Whitfield, members of the subcommittee, again, my name is Jeff Wright, and I am the director of the Office of Energy Projects at the Federal Energy Commission. The Commission is responsible under the Natural Gas Act for authorizing the construction and operation of interstate natural gas pipeline and storage projects and for the construction and operation of facilities necessary to permit either the import or export of natural gas. The Commission conducts both a non-environmental and an environmental review of the proposed facilities. The environmental review, pursuant to the National Environmental Policy Act of 1969, or NEPA, is carried out with the cooperation of numerous federal, state, and local agencies, and with the input of other interested parties.

I will now turn to the proposed legislation. Section 3(b)(1) of the bill states that the Commission shall approve a project within 120 days of receipt of a request to construct and operate border facilities unless the project is

not in the national security interests of the United States, and that under proposed Section 3(b)(3), approval will not be a major federal action under NEPA. This would differ substantially from the Natural Gas Act in that the proposed Act does not make any provision for procedures such as public notice, public comment, issuance of an order supporting a Commission decision, rehearing, or judicial review in conjunction with the Commission's consideration of an application. A 120-day deadline would not permit construction of an adequate record, enable important agency consultation, or allow for meaningful public interaction in arriving at a decision. The proposed language could be read as giving the Commission no discretion in the issuance of an authorization unless there are national security concerns.

The Commission, by statute, is the lead agency in the approval of interstate pipeline facilities in the U.S. and at its borders. However, depending upon the location of the proposed facilities, there are other federal statutes that are administered by federal and state agencies that require authorizations prior to the Commission's approval. Even if the Commission issues conditional approval, construction cannot begin until the other federal authorizations are

issued.

Further, border facilities, when considered on their own, do not usually constitute a major project. Nevertheless, a finding of no significant environmental impact still requires the Commission staff to conduct a NEPA analysis to be able to make such a conclusion. In addition, many border facilities require Commission-jurisdictional upstream pipeline facilities to be constructed.

Typically, Greenfield pipeline construction requires an environmental impact statement since there will be significant environmental disturbance. Under NEPA, an agency is charged with reviewing the cumulative impacts of a project. The related upstream facilities cannot be considered apart from the related border facilities. Separate consideration would invite charges of project segmentation and could result in a court reversal of a Commission decision. Therefore, the proposed 120-day approval process would hinder the ability of the Commission to consider stakeholder concerns and prevent the Commission from conducting a thorough analysis of a project involving border facilities, resulting in a decision whose sustainability is questionable.

Also, the Commission is not equipped to make decisions on the national security interests of the U.S. Currently, the presidential permit process solicits the opinions of the Secretaries of State and Defense regarding the import of gas from or export of gas to Canada or Mexico. If there were national security concerns, they would be expressed by State and Defense as part of the process. However, Section 3 of the proposed legislation would eliminate the need for a permit. Even with the elimination of the presidential permit, the Commission would still need to consult with State and Defense. In addition, agency consultation may be necessary with, for example, the Department of Homeland Security to further determine the national security interests of the U.S. regarding a proposal to construct border facilities.

Section 5 of the proposed bill would repeal Section 202(e) of the Federal Power Act and make other conforming changes. Now, this is not within my area of expertise. However, I understand from discussions with others at the Commission that repeal could have a potentially adverse effect on the Commission's ability to ensure nondiscriminatory open access transmission service over the

U.S. transmission grid.

My prepared testimony suggests two remedies that if this bill were to become law should be considered to ensure that transmission service in foreign commerce continues to maintain its nondiscriminatory open access properties. I would suggest that inquiries on this topic could be adequately addressed by the submission of questions for the record.

In conclusion, the current siting process for natural gas facilities, including those facilities at the U.S. border with Canada and Mexico, have resulted in a significant increase on the natural gas infrastructure in the U.S. meeting the needs and answering the concerns of all stakeholders with decisions that are fair, thorough, and legally sustainable. The proposed legislation raises questions as to conflicting federal authorities and procedures that will be followed to authorize natural gas border facilities.

This concludes my remarks. I would be pleased to answer any questions you may have.

[The prepared statement of Mr. Wright follows:]

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Mr. {Whitfield.} Thank you very much, Mr. Wright. And I would like to just remind the Members, although all of you are always so responsive anyway, that each of us will be given 5 minutes for everybody. And the reason I want to ask you to just watch the clock today is that there is another hearing scheduled in this hearing room today at one o'clock. So we want to give everybody the opportunity to ask questions and so I would just ask you to keep that in mind.

And with that, I would like to recognize myself for 5 minutes for questions.

Now, Mr. Wright, how long has FERC had the authority to make these decisions about natural gas pipelines?

Mr. {Wright.} All natural gas pipelines or just border facilities?

Mr. {Whitfield.} The border facilities.

Mr. {Wright.} I believe since the inception of the Natural Gas Act in 1938. Siting authority came about in 1945.

Mr. {Whitfield.} Okay. 1938. And of course FERC has no jurisdiction over transmission lines or oil pipelines, is that correct?

Mr. {Wright.} Only for ratemaking purposes.

Mr. {Whitfield.} Only ratemaking. Now, in your testimony and also in the--you know, one of the things I do like about this legislation, though, is that the Constitution does grant Congress the authority to regulate foreign commerce. And I think many of us are concerned that, over time, the executive branch has become more and more and more powerful. So one of the exercises that I do appreciate with this legislation is it gives us the opportunity to visit that issue and the role of Congress in regulating foreign commerce.

But in the legislation it says approval is not a major federal action, and you touched on that in your testimony. Would you elaborate just a little bit on the concern that you have over that segment of the legislation?

Mr. {Wright.} Well, under the Natural Gas Act under Section 3 and Section 7, and also enhanced by the Energy Policy Act of 2005, FERC acts as the lead agency for the environmental review under NEPA. As such, my concern is, especially on those border facilities that involve upstream facilities that would be subject to Section 7, normally, we are looking at an environmental impact statement. So a

finding of not a major action leaves a question in my mind whether the NEPA requirements have been totally fulfilled.

Mr. {Whitfield.} And you think this legislation would affect that?

Mr. {Wright.} Well, it seems conclusory and the fact that it says the border facilities would not constitute a major federal action.

Mr. {Whitfield.} Yes. Now, I know you expressed concern about that 120-day period to approve. Is there another period of time that you would feel more comfortable with?

Mr. {Wright.} Well, I believe the Commission--and I only speak with regard to natural gas pipelines--has been fairly responsive with regard to facilities, whether they are within the country or at the border. There are some 31 border crossings with Canada, 18 with Mexico. We have 2 more pending with Mexico, a major increase in export volumes there. And I think we act fairly expeditiously but there are also concerns whether it is landowner concerns, other federal agency concerns, especially on the borders. So I would believe 92, 93 percent of our cases are issued within a year of filing and those are fairly well-reasoned decisions that

we come out with.

Mr. {Whitfield.} 92 percent within a year? Okay. Now, you indicate in your testimony that the current natural gas pipeline permitting process is working, and yet it has been brought to our attention massive price disparities in the U.S. despite the fact we have an abundance of natural gas. For example, in January of this year in New Hampshire, residential natural gas prices were 30 percent above the national average. Massachusetts was 43 percent and Maine was 67 percent above the national average. So do you feel like that because of those disparities that we should take action to deal with that or is that just a natural course of supply and demand?

Mr. {Wright.} I believe the way FERC approaches that, we don't plan infrastructure. We are very much a reactionary agency and that someone proposes and we dispose as quickly as we can. Disparity in the Northeast may be owing to the fact that pipeline companies are not proposing to build facilities, you know, for whatever market-based reasons they see. Currently, we only have one pipeline major project that is in our pre-filing process that would serve New England. It is a Spectra company corporation project. But, as such,

we don't dictate where the infrastructure is built. That is a market-based decision.

Mr. {Whitfield.} Okay. My time is about expired so, Mr. McNerney, I will recognize you for 5 minutes.

Mr. {McNerney.} Well, thank you, Mr. Chairman.

H.R. 3301 would replace the existing permitting process for cross-border oil pipelines, natural gas pipelines, and electric transmission lines with a totally new and untested process. And, Mr. Wright, according to your testimony, that means massive changes to the current process. Now, my understanding is that FERC has responsibility only for the natural gas permitting process and have there been major or long delays with the permitting of cross-border natural gas pipeline projects under the current process?

Mr. {Wright.} In my opinion, there have been no major delays. Always, sponsors of pipeline projects desire their projects to be approved as soon as possible. Sometimes there are other stakeholders that have questions, that ask us questions that become part of our NEPA analysis, and we have to answer all stakeholders.

Mr. {McNerney.} Thank you. Well, the NEPA language in the bill is a little unclear. The Department of Energy says

that the language appears to exempt new approvals from the NEPA review. FERC lawyers have also looked into the NEPA provisions in the bill. Did they think that this is an ambiguous language?

Mr. {Wright.} Well, it appears that you could construe the language in the filing dates, that you could actually delay projects, wait for the legislation to come into effect, and then operate under the new 120-day regime.

Mr. {McNerney.} So there is a significant degree of ambiguity according to FERC?

Mr. {Wright.} I don't know if it is ambiguity. It is the way the legislation reads. I mean there are time frames of when things would take effect and what certain projects would be subject to to this new act.

Mr. {McNerney.} Okay. Well, the bill would require a pipeline application to be approved within 120 days. Is that anywhere near long enough for FERC to prepare environmental impact statements?

Mr. {Wright.} No, I do not believe so.

Mr. {McNerney.} Is that long enough to ensure time to prepare less detailed environmental assessments?

Mr. {Wright.} No, I think we would need more time even

to do the lesser environmental assessment.

Mr. {McNerney.} Well, given the bill's what I am calling ambiguous language and deadline for approval, do you believe that these cross-border pipeline projects would receive adequate environmental review under the process established by the bill?

Mr. {Wright.} Given that my charge is under NEPA, I don't see it as adequate time to acquit myself of the NEPA responsibilities assigned to the Commission.

Mr. {McNerney.} Well, a full environmental analysis is just one of the steps taken before a project is approved under the current process. Would 120 days be enough time for adequate public comment or consultation with other agencies?

Mr. {Wright.} I do not believe so.

Mr. {McNerney.} One of the big changes in the bill in my opinion is the language from national interests to national security interests. How do you think that would affect the permitting process, that one change?

Mr. {Wright.} Well, it seems to remove the public interest determination that is charged not only to FERC in terms of evaluating facilities but also possibly to the Department of Energy, but I don't want to address the

Department of Energy. Those are their issues. So really the only interest or decision to be made is concerning national security with regard to the import or export facilities.

Mr. {McNerney.} Well, has FERC had the responsibility to look at national security interests prior in the current process?

Mr. {Wright.} No, we do not have that responsibility.

Mr. {McNerney.} So how would FERC go about determining national security interests if it has this obligation?

Mr. {Wright.} Well, as I said in my testimony, during the presidential permit process, we issued a letter to the Secretaries of State and Defense for their concurrence. If they had national security issues, they would display those concerns in their reply to us. Also, there are other agencies such as the Department of Homeland Security. In fact, we have a current case before us on the Arizona/Mexico border that involves concerns by the customs and the border patrol--

Mr. {McNerney.} So this one simple change going from national interest to national security interest approaches this process exactly the way that the bill's authors intended not to do by shoving it back into the Administration's

discretion as to whether something is national security or not?

Mr. {Wright.} Yes, I--

Mr. {McNerney.} In other words, it removes it from the legislative language and gives it back to the Administration, this one word?

Mr. {Wright.} Yes.

Mr. {McNerney.} Thank you. I yield back.

Mr. {Whitfield.} The gentleman yields back.

At this time I recognize the gentleman from Texas, Mr. Barton, for 5 minutes.

Mr. {Barton.} Thank you, Mr. Chairman.

I want to make sure that I understand the Administration's position. Are you testifying on behalf of the Obama Administration?

Mr. {Wright.} No, I am not.

Mr. {Barton.} Are you testifying on behalf of the Federal Energy Regulatory Commission's official position?

Mr. {Wright.} No, I am not. I am a representative of the Federal Energy Regulatory Commission, but my views don't represent any--

Mr. {Barton.} But your views basically represent your

views as an individual citizen? Is that correct?

Mr. {Wright.} As a citizen and as an official at the FERC.

Mr. {Barton.} Well, now, you can't have it both ways. You can testify as a citizen like anybody in the audience behind you or you can testify on behalf of the FERC. Which is it?

Mr. {Wright.} Well, if you put it that way, I guess I am testifying as a citizen who happens to work at the FERC. But I wouldn't have been invited here to speak in this position if I were not at the FERC.

Mr. {Barton.} Well, but I don't really speak for the Administration. I can accept that, I guess, but you have to--well, you don't have to, but if you are here because you work at FERC and you are a senior official at FERC, one would assume that you testify on behalf of FERC, and whatever you say is their position. I mean, isn't that logical?

Mr. {Wright.} That is a fair statement.

Mr. {Barton.} Well, my primary question is do you oppose this legislation because of its content or do you oppose the legislation because you feel it is better to do this by Executive Order as compared to congressional

legislation? Do you understand?

Mr. {Wright.} I understand. I am looking at the legislation from the viewpoint of my 34 years of experience FERC and in processing these types of applications and with the charges that have been given to us over the years, the various laws, and especially the NEPA responsibilities. That is a federal mandate under the Energy Policy Act of 2005.

Mr. {Barton.} Do you agree that the Congress has the right to legislate in this area?

Mr. {Wright.} Yes, I do.

Mr. {Barton.} Okay. So your opposition is based on the content of the legislation?

Mr. {Wright.} Yes, it is based on how I processed applications in the past, the acts, the laws, statutes that we operate under, and looking at it in that vein and looking at the new legislation. Obviously, if Congress wishes to change the regime, that is their prerogative.

Mr. {Barton.} Well, we appreciate you agreeing that it is our right to do it. You know, it is an esoteric issue but I think that there is value given the fact that we are about to engage in what could be an export boom to codify in legislation the way these permits are handled.

There is nothing intrinsically wrong with presidential Executive Orders, but the primary Executive Order was passed back in the 1950s under President Eisenhower. It has been amended several times, and of course, in natural gas there is growing interest interestingly in exporting natural gas from the Southwest into Mexico, and the dynamics of that are very positive for both countries. So if we could codify it in a bipartisan way both in a bicameral way in the House and the Senate, I think we would have a better system. We certainly would have a more open system and I would hope, as you pontificate in your office on your personal views, you might shed some light with your other friends at FERC what you would want to do to improve the legislation so that it could be officially supported by the FERC and officially supported by the Obama Administration. I think this is a serious intent, a serious effort to try to get ahead of the curve for a change in the Congress and hopefully it will bear fruit.

And with that, Mr. Chairman, I yield back.

Mr. {Whitfield.} The gentleman yields back. At this time I recognize the gentleman from Texas, Mr. Green, who is one of the authors of the legislation.

Mr. {Green.} Thank you, Mr. Chairman.

And, Director Wright, welcome. In your testimony you state that ``a 120-day approval deadline would not permit construction of an adequate record, enable the important agency consultation, or allow for meaningful public interaction in arriving at the decision.'' And that is a direct quote. The purpose of the 120-day deadline is only regarding the decision on whether the commodity in question in the case of FERC in natural gas is allowed to enter the country. Do you agree with that? I think it is important we establish that.

Mr. {Wright.} My reading is it would apply to the permitting process. That is the permitting process for facilities. If that is a misreading of it, then probably I shouldn't even be here.

Mr. {Green.} Well, you might want to read it again. Director Wright, setting aside the presidential permit issue, because my intent and our intent is it is only the 120 days on the presidential permit. And considering it only covers two countries, Mexico and Canada, because we have free trade agreements, and I can put a 100-car train coming from Alberta, Canada, without getting permission to cross because of the free trade agreement, but to get a presidential permit

for a pipeline and yet we can bring all the train cars and trucks we want, long-haul trucks.

But let me get to my question. Setting aside the presidential permit issue, do permits issued under Section 3 and Section 7 of the Natural Gas Act trigger NEPA reviews?

Mr. {Wright.} Yes. And I would like to clarify there are applications under Section 3 and Section 7 to construct facilities and there is also a presidential permit requirement.

Mr. {Green.} Okay. The construction of the facilities would still be under NEPA review under the Natural Gas Act under this legislation?

Mr. {Wright.} Is the question--

Mr. {Green.} Okay.

Mr. {Wright.} I think you are asking me that--

Mr. {Green.} I think your answer should be yes because if I have to go to the bill, I will show it to you. Your answer is yes, though? We don't touch the Natural Gas Act on triggering NEPA reviews.

Mr. {Wright.} Okay. It was not clear to me from the text of the bill that NEPA was--

Mr. {Green.} Okay. Well, we will work on that but we

will try and make it clear to FERC what it says.

Does H.R. 3301 waive compliance of the natural gas pipelines to comply with Section 3 or 7 of the Natural Gas Acts? Does anything in this bill waive compliance for natural gas pipelines to comply with Section 3 or Section 7 of the Natural Gas Act?

Mr. {Wright.} Only in the sense of not being able to conduct the proper NEPA review--

Mr. {Green.} Okay.

Mr. {Wright.} --that we have--

Mr. {Green.} Okay. Your proper NEPA review would still be under Section 3 and 7 though.

Mr. {Wright.} Okay.

Mr. {Green.} Because the Natural Gas Act triggers a NEPA review. And you are right. You say the only thing NEPA wouldn't involve is to bring that commodity across the border. There is no NEPA review right now on me to bring that 100 train cars full of Canadian crude to one of our refineries in Texas. We don't need any permits. We just bring them across the border. So that is the intent of the bill. Why would we need a NEPA review when there is not one for any other mode of transportation?

Mr. {Wright.} Well, it is a major federal action under the--

Mr. {Green.} Okay. Well, let me get going. Does H.R. 3301 waive compliance with any other federal, state, or local law beyond the limit that question on whether or not a project should be approved across the border of the United States? Is there any other waiver in this H.R. 3301 that waives any state or local law?

Mr. {Wright.} It does not waive. However, the 120-day period could compromise the other agencies--

Mr. {Green.} Okay. One hundred and twenty days again going back only affects the presidential permit issue. It doesn't affect state law, and frankly, I listed--and I am sure we will hear it again in a few minutes the number of federal acts it doesn't touch. There are NEPA acts under the Natural Gas Act. There are NEPA acts under many other federal laws that don't cover it.

Does FERC have the authority under the Natural Gas Act to include language to resend the permits it issues or put in requirements for reporting?

Mr. {Wright.} Yes, it does.

Mr. {Green.} Okay. You also state the proposed act

does not make explicit provision for public notice, public comment, et cetera, but when it comes to the actual siting and construction, wouldn't FERC have the ability to consider stakeholder concerns, conduct analysis, and solicit opinions during the pre-filing process and that which follows?

Mr. {Wright.} If the correct reading is this act only deals with the presidential permit, then under Section 3 and Section 7 of the NGA, we would still have the ability to do those public outreach, public contact--

Mr. {Green.} Okay. Mr. Chairman, I am almost out of time but I want to make sure we are only talking about the presidential permit to waive the NEPA reviews because I wouldn't support it if it changed all the others under federal law, including particularly the Natural Gas Act because right now we have--I don't know how many pipelines go from Texas to Mexico delivering natural gas, and I am hoping we are going to build some more because we would like to sell it to them.

And I yield back my time.

Mr. {Whitfield.} Certainly, that is an area we can work to clarify.

And at this time I recognize the gentleman from

Louisiana, Mr. Scalise, for 5 minutes.

Mr. {Scalise.} Thank you, Mr. Chairman. I appreciate you having the hearing on this important bill. I support the legislation by the chairman and by the gentleman from Texas. It is a good bipartisan bill that actually allows us to have more cooperation between our neighbors, both Canada and Mexico, and doing something we already do. And, Mr. Wright, I think one of the concerns you were expressing is what role FERC would play. It is my understanding that under this bill the Department of Commerce could still contract out with you or you would still have a role that you would be able to play under this bill. Is that correct?

Mr. {Wright.} I don't understand the reference to Commerce. We don't interact with the Department of Commerce.

Mr. {Scalise.} Well, the Department of Energy, I apologize, that there was nothing in this though that impedes the Department of Energy from delegating certain responsibilities to FERC. Is that--

Mr. {Wright.} No, they have delegation authority.

Mr. {Scalise.} Yes, so you could still play a role.

Mr. {Wright.} In terms of siting facilities.

Mr. {Scalise.} Yes. Now, you were talking about also

citing concerns with landowners. What in this bill would impede that because, you know, what we are talking about here is the actual permit to cross the border, not the full route of the pipeline. I mean ultimately you still would have to have the normal state involvement, so states would still have a say, in fact, in essence a veto authority over whether or not they would permit it within any state, not only where it crossed the border, but any other part of the route that pipeline will go, isn't that correct?

Mr. {Wright.} As is my new understanding of the bill, it only deals with the presidential permit, which I would point out has never been a problem at FERC or never been the--

Mr. {Scalise.} Right, but do you see anything that impedes that state role that currently exists and even with this bill would still exist?

Mr. {Wright.} No, it does not change the state's role in terms of--

Mr. {Scalise.} Right. So what would your--

Mr. {Wright.} --Section 7.

Mr. {Scalise.} Right. You were citing landowner concerns, so what would those landowner concerns be that

still there would be many opportunities to address both at the state and at the federal level even if this bill were to become law.

Mr. {Wright.} Well, given the understanding that this is dealing solely with the presidential permit, the rights of citizens under Section 3 and Section 7 of the Natural Gas Act to intervene, to file comments would be preserved.

Mr. {Scalise.} Right. In fact, there is a whole list of federal laws that would still apply, you know, and again depending on the route, you know, this is just to say whether you cross the border. Ultimately, you still would have to get permission, both federal and state, to determine the route, and then all those other federal laws would still apply.

You know, I think my colleague from Texas was talking about the number of crossings we already have. He was asking about natural gas. We have 21 crossings with Mexico just on natural gas pipelines, 29 with Canada, currently 19 crossings both with Canada and Mexico on oil, and as it relates to electricity transmission, there are 40 already happening. This isn't some new process. It is just talking about expediting a process that right now is not real structured

and frankly has become bogged down in bureaucracy.

And you look in the Northeast, I mean, they pay very high prices. I think 7 of the top 10 cities for electricity prices, if you exclude Hawaii and Alaska, are in the New England area. And, you know, what would be wrong with having an expedited process if there is an ability to generate more commerce with our friends in Canada, help lower electricity rates into the New England area? Why would that be something that FERC would have concerns with?

Mr. {Wright.} I only have concerns with the facilities that need to be constructed and making them environmentally--or mitigate any environmental damage or harm that may be. We do process--

Mr. {Scalise.} But environmental issues, I mean there is nothing here that gets rid of the NEPA process. Do you see anything in H.R. 3301 that waives NEPA compliance for an application across the border under Section 3 or 7?

Mr. {Wright.} Well, it wasn't only my interpretations. It was the interpretation of other senior staff at FERC that this would abrogate our responsibilities under Section 3 and Section 7.

Mr. {Scalise.} Yes, well, there are still--and I think

my colleague from Texas pointed this out, as others have-- there still is a role in NEPA and many other federal laws that don't just go away and there is still that state role, which is a very important role that would not be trumped by this legislation either. So, you know, maybe your folks need to go back and take a look or, you know, our folks can talk to you about the differences in interpretation you are having, but we sure don't see those concerns here.

And with that, I yield back the balance of my time.

Mr. {Whitfield.} The gentleman's time is expired.

And I would like to take just a moment of personal privilege to welcome John Yarmuth of Kentucky to the subcommittee. We now have three Kentuckians on the Energy and Commerce Committee, and I think this is your first meeting with Energy and Power, so I look forward to working with you, John, and thank you for joining the Energy and Commerce Committee.

Mr. {Yarmuth.} I appreciate it. Thank you, Mr. Chairman.

Mr. {Whitfield.} At this time, I would like to recognize the gentlelady from the Virgin Islands, Dr. Christensen, for 5 minutes.

You have no questions? Okay.

Mr. Tonko of New York for 5 minutes.

Mr. {Tonko.} Thank you. Thank you.

The Upton bill would replace the existing presidential permit process for cross-border natural gas pipelines with a completely new rubberstamp approval process. Currently, a project cannot get a presidential permit unless the applicant can show the project is in the broad public interest. But under this bill, FERC would be required to approve a project within 120 days unless it finds that the project is not in the national security interest of the United States. This is a much narrower standard.

Mr. Wright, under this new national security standard, would FERC be allowed to consider environmental impacts, pipeline safety, engineering issues, or economic effects when deciding whether to approve a pipeline?

Mr. {Wright.} Well, this leads to my confusion on the bill. If the presidential permit per se is not a siting procedure, then I am not quite sure then what the 120-day limit applies to. The assumption at FERC was it applied to authorizations under Section 3 for border facilities.

Mr. {Tonko.} Um-hum. And under the current

presidential permit process, the Defense Department and the State Department need to sign off on a pipeline, but that requirement disappears under this bill. Does FERC have much experience with national security determinations with respect to natural gas pipelines?

Mr. {Wright.} No, it does not.

Mr. {Tonko.} I would like to focus on the current permitting process for a minute. My understanding is that a company that wants to build a natural gas pipeline across the border with Canada or Mexico needs both a presidential permit and an approval under Section 3 of the Natural Gas Act. But an applicant submits one application package to FERC for both approvals, is that correct?

Mr. {Wright.} Correct.

Mr. {Tonko.} The Natural Gas Act permitting process requires an environmental review, which takes some time, but the presidential permit process is happening simultaneously. Does the presidential permit process slow things down or does the Natural Gas Act review basically determine how long the permitting process takes?

Mr. {Wright.} It is usually within the Natural Gas Act, the NEPA review is the critical time path. The presidential

permit, in fact the last two or the two current cases we had have taken less than 2 months to get concurrence from State and Defense.

Mr. {Tonko.} Thank you. And so the Natural Gas Act review really determines how long it takes to get a cross-border pipeline approved. FERC's lawyers have examined this instant bill. Does this bill have the many the requirements for a project to get an approval under Section 3 of the Natural Gas Act?

Mr. {Wright.} It doesn't appear to eliminate Section 3 or Section 7, but our interpretation is it gave us 120 days to complete the studies we needed to do.

Mr. {Tonko.} And, Mr. Wright, you are a career manager at FERC and you deal with natural gas pipeline applications every day. Do you think that this measure, this bill will speed up permitting for cross-border natural gas pipelines?

Mr. {Wright.} For gas pipelines, given the understanding that it only eliminates presidential permits, it would not speed up the process.

Mr. {Tonko.} Thank you, Mr. Wright. This bill eliminates important environmental and safety reviews without even speeding up the permitting process for natural gas

pipelines. It is really the worst possible outcome we could imagine. I think this bill is going in the wrong direction.

And with that, Mr. Chair, I yield back.

Mr. {Whitfield.} The gentleman yields back.

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

Mr. {Shimkus.} Thank you, Mr. Chairman.

I love my friend from New York but it is absolutely the opposite. This deals with the presidential permit. Mr. Wright, you said this numerous times and I just want to give you--this keeps in force for the review of the entire project the Clean Water Act, doesn't it?

Mr. {Wright.} Yes.

Mr. {Shimkus.} It keeps in force the Clean Air Act, correct?

Mr. {Wright.} Correct.

Mr. {Shimkus.} The Endangered Species Act?

Mr. {Wright.} Correct.

Mr. {Shimkus.} The Mineral Leasing Act?

Mr. {Wright.} Yes.

Mr. {Shimkus.} The Rivers and Harbors Act?

Mr. {Wright.} Yes.

Mr. {Shimkus.} The Fish and Wildlife Coordination for Fish and Wildlife Services' consultation?

Mr. {Wright.} Yes.

Mr. {Shimkus.} The National Wildlife Refuge System and Administration Act?

Mr. {Wright.} Yes.

Mr. {Shimkus.} The Wilderness Act?

Mr. {Wright.} Yes.

Mr. {Shimkus.} The Federal Land Policy and Management Act?

Mr. {Wright.} Yes.

Mr. {Shimkus.} The National Environment Policy Act?

Mr. {Shimkus.} Yes.

Mr. {Wright.} I would hope so.

Mr. {Shimkus.} I would say that, yes. So I mean this is just for the presidential permit; it is not for the construction. So, you know, my colleagues can say this is disrupting the entire world, but it is not. And to keep it short, I want to go to this debate on national security interests. Having served in the military and we are all concerned about national security, I think you have a different definition of what is generally accepted for

national security interests because national security interests is a well-understood term in the foreign affairs and national security arena. And this is an international affairs issue. It is not just solely a national concern.

According to the U.S. Army Combined Arms Center, national security interests includes ``preserving U.S. political identity, framework, and institutions, fostering economic well being and bolstering international order supporting the vital interest of the United States and its allies.'' It is a term found multiple times in federal law. During the 111th Congress, for example, there were eight bills signed into law by President Obama that contained the phrase ``national security interest.'' The term national security interest is a more appropriate and better-understood threshold for determining whether or not a project should cross the border of the U.S. than the current ``national interest,'' a determination which has broad and ill-defined interpretations that can change over time and is susceptible to political interference.

Now, my question, do you believe that national security interest is a more appropriate threshold for approving projects crossing the border of the United States than the

current ill-defined national interest standard that is in place through Executive Order?

Mr. {Wright.} We are charged under the Natural Gas Act with determining what is in the public interest. It is not in the Executive Order.

Mr. {Shimkus.} And that is why we have this law change because many things that deal internationally deal with the term ``national security interest.''

Mr. {Wright.} Um-hum.

Mr. {Shimkus.} And to weave a tale that this isn't all-encompassing in the national interest of both countries and our allies and our economy and our political systems is just wrong. So with that, I thank you for your time and I yield back.

Mr. {Whitfield.} The gentleman yields back.

At this time I recognize the gentlelady from Florida, Ms. Castor, for 5 minutes.

Ms. {Castor.} Well, thank you, Mr. Chairman. And welcome and thank you for your testimony.

I think we need to rename this bill the North American Environmental Trial Lawyer Full Employment Act because I think what will happen in the end is it will create greater

litigation due to uncertainty. The benefit of having a collaborative process where you have the public involved and you have this overriding review is that you work out the issues in advance. You work out the alternatives, the mitigation alternatives and conditions. And your testimony was that 92 percent plus of pipelines make it through the process, is that correct?

Mr. {Wright.} In one year.

Ms. {Castor.} You have said that you find the legislation problematic and it does not provide you with adequate time to carry out your duties and responsibilities. And what this will do is lead to greater conflict over time, and I think it will make it much more difficult to have these important pipelines across national borders approved.

I also see a greater risk of litigation based on the exchange you had with Representative Green where you already have different interpretations of what the language means. I think this in the end would be again ripe for litigation that would end up delaying these very important pipeline projects.

Tell me this based on your expertise. Right now, if a pipeline is simply within a state, that doesn't trigger your review, is that correct?

Mr. {Wright.} If it is a border facility and it is crossing the border, it always triggers our review under Section 3 of the Natural Gas Act.

Ms. {Castor.} Right. So if it is just an interstate pipeline, the presidential permit is not at issue, correct?

Mr. {Wright.} No, it is an issue under Section 3.

Ms. {Castor.} So for the presidential permit it has cross into Canada or into Mexico, is that correct?

Mr. {Wright.} Correct.

Ms. {Castor.} So if this legislation is passed and it removes the requirement for the presidential permit, what review process would be in place then for environmental considerations going forward?

Mr. {Wright.} Well, as I have been told today, Section 3 and Section 7 of the Natural Gas Act are not being affected. What I don't understand and I would say my colleagues at FERC don't understand is what does the 120-day review period apply to? It doesn't apply to presidential permits--

Ms. {Castor.} Um-hum.

Mr. {Wright.} --if they are removed. There is a 120-day permit period that truthfully I don't understand what

that applies to.

Ms. {Castor.} So it very well could lead to a gaping hole in oversight of what are sometimes very complex pipeline projects that cross international borders?

Mr. {Wright.} Correct.

Ms. {Castor.} Okay. Again, colleagues, I think this needs to go back for much greater work, and I think just some friendly advice. You need to rethink the overriding goal here. If the overriding goal is to expedite some of these complex projects, the last thing you want to do is create greater uncertainty and expand the litigation risk moving forward. These complex projects that cross international borders most often benefit from having the collaborative process where you get input from everyone, you consider the alternatives, and the ways to mitigate these projects.

So thank you and I yield back.

Mr. {Whitfield.} The gentlelady yields back.

At this time I recognize the gentleman from Texas, Dr. Burgess, for 5 minutes.

Dr. {Burgess.} Thank you, Mr. Chairman.

And thank you, Mr. Wright, for being here. Going back to Mr. Shimkus' line of questioning from just a moment ago,

if I understood right, at the conclusion of his list that he posed in the form of question, the bill under consideration today would or would not waive the NEPA compliance for an application and a cross-border pipeline?

Mr. {Wright.} I do not see it as waving it. I see it as possibly compromising the NEPA review.

Dr. {Burgess.} Well, look, you know the problem that we have. A 120-day timeline may seem brief bureaucratically but I don't know how many 120-day intervals there have been since the State Department approved this. I believe it was in June or July of 2011 when they gave the first approval for the leg of the pipeline for TransCanada.

Now, during the campaign in 2012 the President came to Cushing, Oklahoma, and said the pipeline to the Gulf of Mexico should be built, so the southern half of the pipeline should be built. That is within the United States. That is within the purview of the company, property acquisition, maintaining consideration of property rights all can happen, did not need a presidential directive in order to happen.

But those people in the State of Texas and other states, Arkansas, that gave up of their property so that the easement for the pipeline could be accomplished down to the Gulf of

Mexico, I mean that was tendered with the understanding that this would improve the overall economy of Texas because there would be so much more product that would be refined in those refineries down in the southern part of Texas. And yet the northern half of the pipeline has yet to be built, so the product that was to come through the pipeline has not materialized. So it is almost as if these people had their property taken from them under false pretenses.

Here is a pipeline that is going to span the length or the breadth of the United States from Canada to the Gulf of Mexico, it is going to benefit the economy of Texas, it is going to benefit the consumer with lower costs, and none of that has come to pass. And it appears to me that the reason it hasn't come to pass is because the Administration has been immobilized by political concerns. It doesn't want to irritate the unions on one side, doesn't want to irritate the environmental left on the other side, and as a consequence, simply cannot make a decision.

And Chairman Upton is correct. There are other considerations. A lot of people talk about the Eagle Ford Shale in southern Texas and what a benefit that has been to the local economy. I am not a geologist but I don't think

the Eagle Ford Shale stops at the Rio Grande River. It likely continues on down into Mexico. At some point their state-run oil interest is likely to have an interest in developing that resource, and in all likelihood, they may need to come to a market that is in the United States. It seems logical that there should be a mechanism by which that could work not just from north to south but from south to north if that be in everyone's economic interest.

So it is just astounding to me as I have sat through hearing after hearing after hearing in this committee and the bottleneck is the Administration. The bottleneck is actually the President of the United States who refuses to grant the permit for that last little bit of pipeline to be laid between Canada and the United States. And as a consequence, we keep having to revisit and relitigate and introduce bills to try to overcome that Administration in transition that has essentially blocked a program that many people in my state thought that they were, you know, I don't like giving up my land but if it is to the greater glory and good of the United States, I will do it. But that has been blocked. And this is the same pipeline that the President came to Cushing, Oklahoma, and said I want this built. And yet they never

have delivered on the promise that the additional product that would be brought down from Canada--it really wasn't posed in the form of question, but if you have observations, I will be happy to hear them.

Mr. {Wright.} Well, first and foremost, I appreciate your view. The State Department's process regarding the presidential permit is seemingly different than FERC's process. The State Department does answer to the executive branch. FERC is an independent agency.

Dr. {Burgess.} And just for historical reference, the State Department approval, do you know when that occurred?

Mr. {Wright.} No, I--

Dr. {Burgess.} August 26 of 2011, over 2 years ago.

Mr. {Wright.} Pipelines aren't under FERC's purview other than making rates for them, so we don't site them, we don't keep up, we don't process presidential permits. That is the State Department's--

Dr. {Burgess.} But all of this legislative activity is necessary to try to overcome, again, the intransigence of the Administration, and that really is the shame here. It is holding back the economic recovery that we all know we want in this country and I for one just simply don't understand

why we haven't built it yet.

Thank you, Mr. Chairman, for your indulgence. I will yield back.

Mr. {Whitfield.} The gentleman yields back.

At this time I recognize the gentleman from Texas, Mr. Olson, for 5 minutes.

Mr. {Olson.} I thank the chair.

And good morning, Mr. Wright.

Mr. {Wright.} Good morning.

Mr. {Olson.} What a difference a few years make for the American energy economy. Imports are falling, exports are rising, and affordable fossil fuels are helping turn around our manufacturers in our petrochemical industry. It is not a surprise that Houston, Texas, my hometown, has become the largest port for exports from the United States of America. However, this North American energy renaissance will be cut short if we can't move those resources. We can build miles of pipe or transmission America, but somehow crossing the border becomes an invisible wall.

And that is why I support this bill before us today. It gives us a chance to move our economy forward creating thousands of American jobs from the wellhead to the

transportation of the pipeline to the refineries to the docks with the ships. And it will maybe give us a foreign trade surplus. That would be great.

I have one question, sir. Having said all that about pipelines and gas, exports of gas are one of my highest priorities. Today's bill very importantly touched on a few gas export issues. However, FERC really has work to do on a much broader set of gas export applications. My first question is what should I view as a reasonable length of time for FERC to view a current gas export application?

Mr. {Wright.} For LNG or for a pipeline?

Mr. {Olson.} For pipeline, just gas in general.

Mr. {Wright.} Pipelines I would consider--it is really dependent upon the upstream facilities that need to be built to get to the border, but reasonably speaking, probably a year.

Mr. {Olson.} Okay. One final question. Does the FERC staff give any consideration to the strategic importance of these projects as it works on these applications?

Mr. {Wright.} We can give consideration to all the stakeholders, the project proponent who is backing the export if you will of the gas down to the landowner, who is impacted

by the siting of pipelines or facilities necessary to affect that export.

Mr. {Olson.} Well, thank you, Mr. Wright.

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

Mr. {Whitfield.} The gentleman yields back.

At this time I recognize the gentleman from Kansas, Mr. Pompeo, for 5 minutes.

Mr. {Pompeo.} Thank you, Mr. Chairman.

Mr. Wright, I want to talk to you, you have a lot of skepticism about statutory deadlines, that is, you do personally, but I want to make sure and distinguish that from FERC. This is a follow-up really on both Mr. Whitfield and Mr. Barton's questions from earlier. So you are not testifying about what the FERC commissioner said. In your written testimony you confirm that, correct?

Mr. {Wright.} I am sorry. I didn't understand your question.

Mr. {Pompeo.} So you are not testifying on behalf of any of the FERC commissioners or on behalf of the institution of the Federal Energy Regulatory Commission?

Mr. {Wright.} I was requested in my role as a director of--

Mr. {Pompeo.} And it is a yes-or-no question. I mean it is pretty straightforward. Are you testifying on behalf of any of the FERC commissioners?

Mr. {Wright.} No.

Mr. {Pompeo.} All right. We will leave it at that.

Mr. Whitfield asked you about 120-day deadline. He asked you if there was any deadline that you would find acceptable, and you went into a long rambling discourse. Is there any deadline--how many days would you find acceptable as a period of time in which your work needed to be completed?

Mr. {Wright.} If we have a complete application before us, 12 months is probably a reasonable time as in H.R. 1900.

Mr. {Pompeo.} Great. And that is what I was going to get to because this is a similar issue that you were involved in in H.R. 1900 when we were working on a pipeline permitting bill that is my legislation that had a 12-month period of time. You didn't like that deadline either, but Commissioner Moeller came in to testify. You were here for that hearing. He testified he had some changes. We made all of those changes. And then you went out last week and called that legislation draconian. Do you think this legislation is

draconian as well?

Mr. {Wright.} Well, with regard to H.R. 1900, I did not characterize the portion that applies to FERC as draconian.

Mr. {Pompeo.} I will read it so everybody has got it. You were referring to the 90-day deadline for other agencies and you said it is still difficult. You said ``that is a rather draconian way to go about it.'' Do you think this legislation is draconian in setting a deadline for you to complete the task that sits before you?

Mr. {Wright.} As I said earlier, I am not quite sure what the 120-day deadline applies to anymore. It doesn't apply to presidential permits because they are being taken out of the equation. My assumption was that it applies to Section 3 and Section 7. If that is the assumption, I don't think that is long enough.

Mr. {Pompeo.} They are not, but one year would be? Twelve months would be so--

Mr. {Wright.} Twelve months from when we determined that all the information is there that we need.

Mr. {Pompeo.} Great. So with respect to H.R. 1900, you have taken a different position than Commissioner Moeller, is that correct, on the deadline statute or now you are telling

me you have the same position with respect to each of the statutory deadlines?

Mr. {Wright.} No. Commissioner Moeller at his testimony this past summer mentioned the same thing, that there needs to be some oversight because the idea of giving 90 days and then deeming those agency permits approved could give those agencies the opportunity to either dismiss their applications or put conditions on them that are so onerous the infrastructure wouldn't get built.

Mr. {Pompeo.} Right. That is not exactly what he said. He said he got the legislation, H.R. 1900, made good sense so long as we created the right starting point for the period of the clock beginning to run. That was his actual testimony.

Mr. {Wright.} Well, I read a portion that he said about the 90-day limit, that was an oversight to watch out for these agencies because this is something they might do.

Mr. {Pompeo.} Fair enough. You know, it is important. It is confusing, Mr. Wright, when you come here as a staff member to come testify. Politico this morning had a headline with respect to your testimony. It says ``FERC slams bill'' referring to H.R. 3301. You didn't write that headline, but I just think it is important that everybody understands that

FERC hasn't slams this bill, you did. It was your testimony that was characterized--

Mr. {Wright.} Well, I am trying--

Mr. {Pompeo.} --by Politico.

Mr. {Wright.} --to understand the bill.

Mr. {Pompeo.} I understand. I will yield back.

Mr. {Whitfield.} The gentleman yields back and that concludes the questions for Mr. Wright. Mr. Wright, we appreciate you being here and giving us your views on this legislation. And so you are dismissed at this time.

And I would like to call up the second panel. On the second panel today we have Mr. Mark Mills, who is a senior fellow with the Manhattan Institute. We have Mr. Paul Blackburn, who is an attorney, regulatory consultant to Blackcreek Environmental Consulting. We have Ms. Mary Hutzler, who is the distinguished senior fellow at the Institute for Energy Research. We have Mr. David Mears, who is a Commissioner with the Department of Environmental Conservation, the State of Vermont. We have Mr. Jim Burpee, who is president and CEO with Canadian Electricity Association.

And I would like to recognize Mr. Green for the purpose

of an introduction.

Mr. {Green.} Thank you, Mr. Chairman. One of our witnesses today is a personal friend and a former elected official. He was a district judge in Houston/Harris County, and John Kyles, senior attorney with Plains All American Pipeline. And John and his wife and our families go back for a few decades, and I just want to welcome him here. Like I said, he was state district judge, and at one time I think we even recommended him to be U.S. Attorney, but he had twins and decided he couldn't come to federal employment. He needed to stay in private practice.

But I want to welcome Judge Kyles. Thank you, John, for a lot of service to our community as a judge and I sure appreciate your friendship.

Thank you, Mr. Chairman.

Mr. {Scalise.} [Presiding] Thank you for the introduction and we will now go to our witnesses, starting with Mr. Mills. You each have 5 minutes for opening testimony.

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^STATEMENTS OF MARK MILLS, SENIOR FELLOW, MANHATTAN INSTITUTE; DAVID MEARS, COMMISSIONER, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, STATE OF VERMONT; PAUL C. BLACKBURN, ATTORNEY, REGULATORY CONSULTANT, BLACKCREEK ENVIRONMENTAL CONSULTING; JIM BURPEE, PRESIDENT AND CEO, CANADIAN ELECTRICITY ASSOCIATION; MARY J. HUTZLER, DISTINGUISHED SENIOR FELLOW, INSTITUTE FOR ENERGY RESEARCH; AND JOHN H. KYLES, SENIOR ATTORNEY, PLAINS ALL AMERICAN PIPELINE, L.P., ON BEHALF OF THE ASSOCIATION OF OIL PIPE LINES

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^STATEMENT OF MARK MILLS

} Mr. {Mills.} Good morning, Mr. Chairman. Thank you to the committee for the invitation to provide some remarks on this important legislation. I will take my 5 minutes to context for my work over the years in the energy field the importance of this particular Act, and specifically in the context of what I think is currently and still one of the most important things in the national interest, which is revitalizing the U.S. economy and ensuring that there is

robust growth in the jobs sector with high-paying jobs.

Let me just present first a thought experiment. Imagine what would have happened over the last 5 or 6 or 7 years but for the extraordinary expansion in the oil and gas sector that the many witnesses in past hearings and many members of this committee have pointed out. And just think in terms of what would have happened but for this extraordinary expansion. I think the United States would have faced not a recession but a depression in fact. If you consider the numbers just as, again, a context that the increased domestic production of hydrocarbons has contributed over $400 billion a year to the U.S. economy. It has attracted something like 200 billion plus and growing in foreign direct investment in the United States. It has driven down imports of oil by 45 percent, which has radically decreased the GDP-robbing trade deficit. We are, as others have noted, now a net exporter of hydrocarbon products for the first time since 1949 and on track, God willing and permit willing, to becoming a net exporter of significant amounts of natural gas, in our own EIA forecasts, about $2 trillion of additional private investment over the next decade in this sector.

And this is such a stunning reversal in the structure of

the global and U.S. energy markets that it is inconceivable that the framework of regulation and legislation that has been put in place over the last 50 years still makes fundamental sense in the context of these reversals. In fact, the reversals are physical reversals, as many folks know. Pipelines had physically reversed their flows literally flowing from heartland to the coasts. We have had reversals in refinery construction, retirements. We have had reversals in shipyard fortunes. We have had reversals in the manufacturing sector.

In fact, let me turn briefly to the manufacturing sector because I think that is at the center of what the opportunity is for this kind of legislation to lead to a revival in the broad manufacturing sector of the U.S. economy. It is already well recognized that the manufacturing sector directly related to oil/gas exploration, production, transport, and refinement has seen a growth and also has been recognized that the energy-intensive sector of the U.S. manufacturing economy is under a massive revival. In fact the American Chemical Council has pointed out that there is about $70 billion in investments underway now and about 100 projects in the United States that will come online in just

the next few years that will yield about a million jobs and add about $300 billion to the GDP. These are astounding changes but they are frankly only part of the story and not enough.

The revitalization of that ecosystem will spill over into the rest of the manufacturing ecosystem because of the proximity of high-quality, low-cost, high-reliability supplies and suppliers because of the proximity of a revitalized labor source and also, frankly, the proximity of reinvestment in the American educational entrepreneurship and venture community that arises from this wealth that occurs.

So the real question, I think, on the table is not what has been posed by a lot of analysts and pundits as to whether or not the United States could become energy independent. It is obviously clear the United States could become economically energy independent and will be doing so very quickly. What is more interesting is the question of whether North America, the United States in combination with its two allies, could be, and will become the single-largest supplier of hydrocarbons to the world. This is a profound change in geopolitics, but more importantly, from a domestic perspective it is a profound change in the fortunes of U.S.

companies across the entire industrial ecosystem and for high-paid permanent jobs in the middle markets and middle class.

This won't come about easily because there are so many forms of legislation and regulations that are locked into a historical way of thinking, the paradigm of shortages, the paradigms of disappearing resources that we all know has now evaporated and no longer is the ruling paradigm. And it is in fact a permanent secular shift in the structure of the U.S. energy economy and the world energy economy. We can now become suppliers to the world in combination with our allies, not consumers of the world's resources.

The central issue for me in looking at this legislation and legislation like this is it seems to me it is the first step towards what would be the equivalent of the North American Free Trade Act, a NAFTA-like legislation, which would allow free flow of capital, infrastructure development, and resources between Canada and the United States and Mexico. The Federal Government is not capable, no matter how well intentioned at any levels of bureaucracy or in Congress, of micromanaging this massive multitrillion dollar infrastructure. It could only be done fundamentally from the

marketplace and there is no reason why it could not be done effectively between Canada, the United States, and Mexico. This is really an important first step towards unleashing that potential.

Thank you.

[The prepared statement of Mr. Mills follows:]

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Mr. {Scalise.} Thanks for your testimony.

Next, Mr. Mears.

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^STATEMENT OF DAVID MEARS

} Mr. {Mears.} Thank you, Mr. Chairman. Members of the committee, I appreciate the chance to testify before you today on behalf of my department.

Mr. {Scalise.} Is your microphone on? Can you check?

Mr. {Mears.} Sorry. My apologies. Thank you, Mr. Chairman. I appreciate the opportunity to testify before you today.

Our state supports the underlying goals of this legislation as I understand it. Vermont is a state that has particularly benefited from a transmission projects that cross boundaries from Québec into Vermont. We have experienced lowered electricity prices and have a strong relationship with our counterparts in Québec and with Hydro-Québec and the associated owners of the infrastructure.

We do have concerns, however, about this legislation which takes a piece of the approval process for international transboundary projects and breaks it out of the traditional process that we have had and removes the environmental review under the National Environmental Policy Act. Our concerns

are specific to this specific project that is under consideration and Vermont but also more broadly with the concept in general.

The specific project and Vermont to that we are concerned about is a pipeline that currently runs from Portland, Maine, to Montréal transporting light sweet crude for the most part. And the proposal that is actively under consideration is if it ends up being that Montréal becomes the Locust point for the transmission of tar sands oil, that that oil will in turn be transmitted through the pipeline, the pipeline would be reversed and transmitted from Montréal through Vermont to Portland. The pipeline is decades old. It has not experienced this type of crude oil in the past, which presents greater risks to the environment. The pipeline flows through an area of pristine and natural beauty in the area. It flows past drinking water supplies, over water supplies, wetlands, state parks, et cetera. Vermont is a state that is critically dependent upon its tourism, recreation-based economy for its economic livelihood. And so our concerns are that if this project is exempted from review, that those kinds of considerations, whether or not the pipeline needs to be upgraded or additional

1614 considerations around how to ensure safety will not be given
1615 proper consideration.
1616 Also, our concern relates to the exemption of this
1617 project from the NEPA environmental impact statement
1618 requirements, which provide for the opportunity for public
1619 involvement and participate in. That is a critical aspect
1620 for Vermonters. We have a strong tradition of participatory
1621 democracy. It is critical to us that our citizens and
1622 communities have the chance to fully understand what the
1623 risks and impacts are both to their communities in terms of
1624 the direct impacts of the pipeline but also the broader
1625 impacts of an international transboundary pipeline such as
1626 this one that has implications in terms of climate change and
1627 the broader energy markets.
1628 So our concern is not that this pipeline reverse will
1629 not happen but that the process of approving it be given full
1630 consideration of all the environmental issues and that we
1631 have the chance to participate in the discussion.
1632 We acknowledge and I agree with many of the concerns
1633 raised today with the existing process for transmission
1634 projects particularly in the oil pipeline context, but simply
1635 exempting them from the environmental review and placing a

time constraint on to the federal agencies that are involved in limiting the scope of their review will not achieve the purposes of achieving, as Mr. Mills has suggested we all would like to see, a more robust, efficient North American energy system. I think we all share that goal. I think we can do it in our current system of environmental laws without exempting transboundary projects such as this one, the pipeline reversal that I was referring earlier, from an environment to review.

Thank you for your time.

[The prepared statement of Mr. Mears follows:]

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Mr. {Scalise.} All right. Thank you.

Mr. Blackburn.

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^STATEMENT OF PAUL C. BLACKBURN

} Mr. {Blackburn.} Mr. Chairman, Ranking Member, and members of the subcommittee, thank you very much for this hearing on H.R. 3301. My name is Paul Blackburn and I have represented landowners threatened with condemnation by TransCanada and citizens concerned about oil spills and climate change resulting from proposed Keystone XL pipeline. I also plan to represent citizens of Minnesota on the Alberta Clipper pipeline expansion, which would probably be directly affected by this legislation. Various citizens of Minnesota might think about this.

I would say that the citizens have a stake here and their rights and freedoms must be respected. One hundred and twenty days is simply not long enough, simply not long enough to allow citizens to be involved in these particular decisions, and this needs to be looked at in a broader context.

The government offers pipelines a really sweet deal. First off, they get to condemn thousands of parcels of private property and property owners like the farmers and

ranchers that I represent in South Dakota take this very personally. Also, once the pipeline is built, FERC guarantees the pipeline company profits forever as long as that pipeline operates, regardless of how much or how little it is used. And I will talk about that in a second.

In contrast, landowners and citizens get a raw deal because they receive little benefit and shoulder many adverse financial and economic impacts. Environmental review here isn't really a problem and so the underlying problem is the crude oil pipeline regulatory process underlying. The one that underlies the NEPA process is deeply flawed. To protect the landowners, the subcommittee should consider reform not just of this particular presidential permit process but of a broader set of issues that are really important.

As I noted, the Alberta Clipper pipeline is currently pending and it is critically important to recognize that the crude oil pipeline regulation process is radically different from the process for natural gas pipelines and for electric transmission lines. You know, applying this law to all three of them the same way doesn't make a lot of sense. FERC does an extensive amount of review in natural gas pipelines, as the prior witness talked about, and the Department of Energy

1692 does a great deal, as well as all the regional transmission
1693 system coordinators do a lot of work for the transmission
1694 line planning. In contrast, the crude oil pipeline
1695 regulatory process is kind of the Wild West.
1696 I am going to talk about economics here for little bit.
1697 And the reason that is important is because these issues--it
1698 is not just national security but it is also the whole entire
1699 national interest, and part of that is the economic issue. I
1700 am going to talk about some economic things because those
1701 kinds of issues should be discussed as part of that process
1702 and 120 days is not enough time to consider these kinds of
1703 economic issues.
1704 First, Congress should not allow crude oil pipelines to
1705 be built until a need for those pipelines is proven. Most
1706 regulative utilities have to do this before they get their
1707 tariffs guaranteed. This is a real problem, as shown by 2010
1708 FERC petition filed by Suncor, one of the largest tar sands
1709 producers. Suncor argued that Enbridge should not have
1710 started construction of the Alberta Clipper pipeline because
1711 it was not needed and may never be needed, something that the
1712 public doesn't know. Suncor stated--and I will cut to the
1713 quote--by the time the Alberta Clipper is finished, Suncor

argued ``shippers will have paid Enbridge hundreds of millions of dollars before they reach the point, if ever, where the operational benefits the Alberta Clipper justify their cost.''

[Chart]

Mr. {Blackburn.} The FERC data in Chart 1--and I would ask Nick to bring up some of my data here--the dark area down there is the imports on the Alberta Clipper pipeline system from Canada. This is FERC data, nothing sophisticated, no statistical analysis. The thinner line above is the pipe capacity. Enbridge built their pipeline in 2010. That is where the line jumps up. Since 2010, they haven't really had any increased imports on that pipeline.

So at the same time Figures 2 and 3--we will move to Figures 2 and 3--show that Enbridge's FERC-approved tariffs have approximately doubled and their revenues have skyrocketed, so that is the tariffs going up and this is--Figure 3, please. That is the revenues going up. The reason the Alberta Clipper pipeline was built prematurely was only partially due to the economic recession. Another reason is the fact that the Alberta Clipper pipeline and the first Keystone pipeline were brought online at almost exactly the

same time resulting in too much capacity relative to market needs.

As shown by Figures 4 and 5, new supply development in Canada is steady. That is the black line. It is a pretty straight line, little black line. The rest of those are all the CAPP forecasts, the Canadian Associated Petroleum Producers, forecasts show they tend to overestimate what they need. And then Figure 5, the light blue area of the top there is the imports on the first Keystone pipeline. So the dark blue is Enbridge and all the new oil that came out of Canada went on TransCanada's first pipeline. So that is why there isn't any more new oil flowing on Enbridge's system.

Now, if the proposed Keystone XL pipeline is brought online in 2012, the likely result would be that even greater losses for Enbridge's shippers and ultimately consumers. Looking at the future, if Keystone XL comes online at about the same time that Enbridge completes its similarly sized expansions to the Gulf Coast, together totaling 1.7 million barrels per day of new capacity, then it is likely that consumers will unnecessarily pay billions of dollars at the pump.

The media frames this as a conflict over Keystone XL as

relating only to Administration delay to appease environmentalists, but this delay also--

Mr. {Scalise.} If you could start wrapping up.

Mr. {Blackburn.} --provides great benefit to TransCanada's chief competitor Enbridge.

I would just say that these kinds of economic issues are the kinds of things that the Federal Government should look at, and yet in 120 days it is something not possible to look at this economic analysis. The kind of analysis done in Canada by the National Energy Board and the kind of analysis done at states for need is critically important to determine if citizens are really protected. One hundred and twenty days is not enough. I would say that the Congress should really try to amend this entire system and make it rational for citizens so that we aren't just simply building pipelines without a clear understanding of why and whether they are really in the citizens' economic interests.

Thank you.

[The statement of Mr. Blackburn follows:]

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Mr. {Scalise.} All right. Thank you.

Mr. Burpee, you are up next.

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^STATEMENT OF JIM BURPEE

} Mr. {Burpee.} Mr. Chairman, ranking member, and members of the subcommittee, thank you for the privilege of being here today.

The Canadian Electricity Association is the authoritative voice of the Canadian electricity sector representing generators, transmitters, distributors, and marketers of many ownership classes. With one limited exception, CEA members do not hold presidential permits issued by DOE for U.S. segments of international power lines, but they are impacted by considerations related to the issuance of these permits. Also, many of our marketing members are authorized by DOE to export electricity to Canada.

The draft bill offers the opportunity for a dialogue on how well the permitting processes in Canada and the U.S. are working and on the prospects for greater synergies. In that spirit, my remarks will focus on the following: the strength and benefits of electric integration, the value of new international power lines, recent modernization of Canadian

legislation governing infrastructure development and the robustness of environmental reviews thereunder, and aligning the respective regulatory processes to enhance infrastructure development and cross-border trade.

The integration of the North American electric grid offers numerous advantages to consumers in both countries, including operational efficiencies and greater access to low-carbon resources. Such access is critical to many U.S. states along and beyond the border as electricity exports from Canada have historically played a key role in their supply nexus, thereby assuring adequate supplies of electricity.

Physical and market linkages between Canada and the U.S. are further enhanced by common operational and commercial rules such as the mandatory reliability standards developed by the North American Electric Reliability Corporation that assure both a reliable and secure supply of power across the North American grid.

New cross-border linkages will further enhance our trading relationship by supporting growth in low-carbon resources assuring reliability and offering benefits tailored to the economic needs and public interests of local

jurisdictions involved. More broadly, these benefits are just some of the factors driving a need for hundreds of millions of dollars of investment in new electricity infrastructure in North America over the next 20 years.

Understanding the importance of enhanced infrastructure in Canada and at the same time recognizing the need to modernize regulatory requirements to facilitate such development, the Government of Canada recently updated permitting and review processes for major infrastructure projects with a focus on establishing clear timelines, reducing duplication and regulatory burdens, strengthening environmental protections, and enhancing consultation with aboriginal peoples.

I would stress these reforms have not come at the expense of Canada's robust environmental review process. Under the modernized regime, there will be continuity in the performance of the same high-quality reviews but with more flexibility and efficiency built in. Moreover, these updates have included the adoption of more stringent enforcement measures. CEA believes that greater efficiencies in review processes can and must be compatible with support for comprehensive environmental protection and stakeholder

consultation requirements.

Turning to the draft bill, CEA views it as an opportunity for dialogue and whether the permitting processes in Canada and the U.S. stands to benefit from closer alignment. CEA understands that experience with the DOE's processes is one of general satisfaction. However, we respectfully suggest that there are benefits to be gained for modernizing these processes. For example, DOE states that it requires 6 to 18 months to issue a presidential permit. However, the record reveals a trend of lengthy delays. Likewise, DOE export authorization requirements would also benefit from modernization. Indeed, it is unclear if there was anything governed under current DOE export authorizations that is not addressed through separate market or regulatory mechanisms.

Accordingly, modernizing these processes would not only present benefits in terms of enabling DOE to better meet its own time commitments but would also align more closely with the recent establishment of fixed deadline for completion of corresponding reviews in Canada. To their credit, both DOE and its counterpart in Canada, the National Energy Board, have recognized the need for reform and are beginning to take

action. In view of this, CEA recently recommended to the Canada/U.S. Regulatory Cooperation Council that DOE and the National Energy Board cooperate on modernizing the respective processes under the auspices of a formal bilateral initiative to align our two countries' regulatory systems.

Based on all of these themes, CEA wishes to acknowledge and applaud the specific principles underlying the draft bill which proposes the following: establishment of fixed timelines for permitting processes, modernization of procedures to avoid duplication of existing market and regulatory measures, and greater efficiencies in project reviews.

To conclude, CEA supports efforts to address the cross-border piece of the larger energy infrastructure and trade puzzle in North America and to ensure development of a 21st-century grid that is facilitated by 21st-century regulatory regime. CEA looks forward to continuing engagement with the subcommittee on this important topic.

Thank you again for this opportunity and I would be happy to answer any questions.

[The prepared statement of Mr. Burpee follows:]

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Mr. {Scalise.} All right. Thank you.

Ms. Hutzler.

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^STATEMENT OF MARY J. HUTZLER

} Ms. {Hutzler.} Mr. Chairman, ranking member, and members of the subcommittee, thank you for the opportunity to testify today.

Forty years ago, the United States faced the 1973 Arab oil embargo setting off a series of policy initiatives in Washington designed to reduce our dependence on foreign oil. Despite them, domestic production of oil had declined and oil imports had increased until recently. Thanks to American innovation, new drilling technologies have allowed us to tap our vast shale resources and make the United States the largest liquid fuels and natural gas producer in the world. And with Canada's vast proven oil reserves, the prospect of North American energy independence is no longer political rhetoric but a promising reality.

The Institute for Energy Research has monitored closely the energy boom that is occurring primarily on private and state lands. Today, we welcome the Committee's review of new ideas to strengthen our Nation's energy infrastructure and facilitate access to North America's vast stable supply of

oil and natural gas.

According to the government's own numbers, North America has enough resources to provide reliable and affordable energy for centuries to come, which IER highlighted in a recent inventory of North America's energy resources. To fully benefit from this energy renaissance, however, we need the infrastructure to get the energy where it is needed and the energy security that this infrastructure would provide.

Pipelines have been used for 3/4 of a century providing the safest, most-efficient, and least-cost transport of oil and natural gas, but due to existing pipelines reaching near full capacity, oil transport by rail has increased dramatically. Last year, oil carried on trains from Canada to the United States increased 46 percent. EIA estimates that 1.37 million barrels of oil and petroleum products per day were moved by train during the first 6 months of 2013, up 40 percent in just one year.

Total Canadian oil imports to the United States have also been rising steadily. Between 1993 and 2012, imports of oil from Canada increased by 150 percent. Most of the oil comes be a pipeline. Their failure to construct the Keystone XL pipeline has precipitated greater use of trains for oil

transport both from Canada and within the United States from the Bakken field to North Dakota.

The United States imported almost 3 trillion cubic feet of natural gas from Canada in 2012, 12 percent of our consumption that year. The United States gets 94 percent of its natural gas imports from Canada. The rest comes from Mexico and from overseas as liquefied natural gas. Canadian natural gas imports to the Northeast and Midwest, areas that also benefit from increased domestic production of the Marcellus Shale, are slightly declining, while Canadian natural gas imports into the Northwest are increasing. Four U.S. States, Minnesota, Montana, Idaho, and North Dakota, account for 75 percent of all the natural gas brought into the United States via pipeline. The border states serve as critical links for gas-dependent states like California where over 55 percent of electric generation comes from natural gas.

On the East Coast, Vermont, the first state to ban hydraulic fracturing, is entirely dependent on natural gas from Canada. On our southern border, the United States is a net exporter of natural gas to Mexico where exports have been on an upward trend since 2000 and have more than doubled

since 2007. Mexico is also our third-largest supplier of oil and petroleum products supplying almost 400 million barrels in 2012, though this is down from its peak in 2006.

By maintaining a well-working energy infrastructure between the United States and our closest allies in North America, we can reduce our reliance on overseas oil. The other oil imports are now just 35 percent of oil consumption, but because Canada and Mexico are supplying over 60 percent of our oil imports, our net energy dependence on North American oil is just 14 percent. This number will drop due to increased production here and in Canada but we must ensure that North American energy commerce is free from impediments and permitting delays.

More pipelines will mean greater energy security, safer transport, and the ability to move resources to where they are needed most. The recent politicization of pipelines in the U.S. will not accomplish any goal of those who oppose them. Rather, oil and natural gas producers will simply use more costly modes of transport that pose greater risks to the environment. They will export North American energy investments and jobs to countries with far fewer commitments to environmental protection. Affordable energy is essential

to economic growth. Efficient and low-cost transport of energy provides the arteries of commerce that nourish an economic recovery.

Thank you and I look forward to your questions.

[The prepared statement of Ms. Hutzler follows:]

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Mr. {Scalise.} All right. And thank you.

And Mr. Kyles.

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^STATEMENT OF JOHN H. KYLES

} Mr. {Kyles.} Thank you, Mr. Chairman, and distinguished members of the committee. Thank you for inviting me here to testify today on the need for reform of the presidential permit program for cross-border energy infrastructure.

I am John Kyles, senior attorney for Plains All American. We are based in Houston but have pipeline infrastructure across the country, including several pipelines across the U.S.-Canadian border.

Today, I will testify on the need for reform of the State Department presidential permit process for liquid pipeline projects. Despite widespread public attention to Keystone XL, there are many other presidential permit applications stuck at the State Department also facing multiyear delays. Many of these projects are simple changes of ownership filings with no impact on the pipeline's operations or border-crossing status. And yet they face lengthy delays at the State Department. We support the goals of Chairman Upton and Congressman Green to streamline the permit process and exempt these projects with minimal policy

or practical impact on society.

Every day, Plains All American handles over 3.5 million barrels of crude oil and natural gas liquids such as butane, propane, and ethane. We have approximately 16,500 miles of active crude oil and natural gas liquid pipelines and gathering systems.

The pipelines I will highlight first today run from Canada to Michigan crossing the U.S.-Canadian border under the Detroit River near Detroit, Michigan, and under the St. Clair River at Port Huron, Michigan. These pipelines deliver liquefied petroleum gases such as propane and butane for industrial uses in manufacturing, chemicals, plastics, and similar products, as well as gasoline refining.

Simply put, these pipelines deliver the raw materials that support good-paying manufacturing jobs in Michigan and beyond. These are blue-collar jobs with pay and benefits to support a family, provide healthcare, or send a child to college. So it is doubly frustrating when something as important as this is caught up in years of bureaucratic delay under the current presidential permit in process.

Plains All American currently has two presidential permit applications pending for seven pipelines crossing the

U.S.-Canadian border into Michigan. Our need to apply for a presidential permit was triggered when Plains bought these pipelines in 2012. Under current State Department guidelines, a change in ownership of the pipeline triggers the need to apply for a new presidential permit.

These pipelines already had pending name change permit applications from their previous change of ownership in 2007. So for as long as 5 years the State Department has been considering whether to issue a presidential permit for something almost as simple as a name change at the top of the permit. There have been no operational changes of the pipelines, no change in materials or physical or environmental impacts, just many years of review but still no decision.

We are allowed to continue operating the pipeline consistent with the terms of the existing presidential permit, but we face the uncertainty of not knowing when or if we will ever get the presidential permit we are supposed to have for these pipelines or under what terms.

Another area of uncertainty is our Poplar-Wascana pipeline crossing the U S.-Canadian border near Raymond, Montana; and Saskatchewan. This, too, involves an even more

benign change of ownership presidential permit at the State Department. The Poplar-Wascana pipeline change is only required pursuant to an internal corporate reorganization that affects two wholly owned Plains subsidiaries. However, the application has been delayed by State considering whether to review the interconnection of a new Bakken North pipeline into Poplar-Wascana for movement of crude into Canada. This interconnection will have no impact on the border crossing or the environment.

Now, we imagine that the State Department officials working on these applications are dedicated public servants. Part of the problem, though, is there appears to be little guidance to these folks or to us about the appropriate process for processing presidential permit applications.

As this committee knows, there is no authorizing statute. Congress has the right to provide requirements for this program. There are no laws about what criterion is required for calculating presidential permit compliance, what to examine, or any timelines for completion of the Department's review. The unfortunate result of the lack of guidance is uncertainty and delay.

Mr. {Scalise.} If you could begin to wrap it up.

Mr. {Kyles.} Our 5-year delay for simple paperwork is an example of why this program needs reform and your bill would be welcome.

That concludes my testimony. I would be happy to answer any questions. Thank you.

[The prepared statement of Mr. Kyles follows:]

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Mr. {Scalise.} I want to thank all of the panelists for their testimony and we will now go to member questions. I will start with myself.

I want to ask Mr. Mills, in your testimony, you talk about some of the things that a lot of us on this committee have advocated for a long time, and that is North American energy independence. Of course we advocate an all-of-the-above energy strategy and of course we have seen a revolution, especially as it relates to natural gas, oil, other technologies that have allowed us to access so much more natural resource here in America that allows us to be energy independent. We also talked about the amount of investment that is sitting on the sidelines. I think you referenced over a trillion dollars and the abilities that we would have if we have a more streamlined process as this bill envisioned. Can you expand a little bit on what you have seen in terms of the investment that can come in the job creation here in America that would also come with a more streamlined process for permitting to access that energy?

Mr. {Mills.} Well, thank you, Mr. Vice Chairman. The issues that we have done, it is utterly fascinating because I

am basically a tech guy and I spent most of my life in microprocessors and in fact missile systems, as well as energy side, and I am very bullish about what the tech community will do and is going to do for America's economy.

The fascinating thing is that the oil and gas sector dominantly--and to some extent the coal sector but mostly oil and gas--has done more for the U.S. economy in the last 5, 6 years in terms of GDP generation, job creation, and the general expense to the economy than any other single sector of the economy. It is stunning what oil and gas has done. A reversal of foreign direct investment is what is utterly fascinating. Instead of dollars leaving America to invest in Africa, which is productive and a good thing, but from the viewpoint of the United States, the monies are from Africa and from the Middle East and from Russia included and from China and from India and Malaysia are flowing to the United States to invest in manufacturing operations, which I would include. But the numbers are in the hundreds of billions of dollars collectively.

This has extraordinary ripple effect through the economy in terms of job creation because these are sticky jobs as the economist at U Cal Berkeley calls them. You can't really

easily outsource the jobs that this creates. And it is not just jobs in the oil field. For every job in oil and gas, coal fields, there are 5 or 6 collateral jobs that are geographically located not just in California or Texas, God bless them both, but in dozens of states, which is magnificent.

Mr. {Scalise.} And we see that in Louisiana with the spinoff jobs that are tied to energy production and what can come to that and also the value of the more we do, the more we displace, as you talk about, the oil that we are getting from some of the countries that don't like us. And clearly we have got a friend in Canada and in Mexico, and the more we can trade with those friends, it is less that we have to get from some of these countries that don't like us and take that money in essence and use it against our own national interests. And I know you talked about that.

Mr. Kyles, I wanted to ask you, you talked about the experiences in Michigan specifically with the delays that you are experiencing and even of something as basic as a change of ownership. And obviously this legislation addresses that problem and streamlines the process as well. Can you talk about the job impact that a bill like this would have if you

don't have to go through bureaucratic red tape, nothing to do with environmental laws. Those have already been done. If you are making changes as basic as ownership where you have already cleared so many of the other hurdles and then in essence you have to start all over again with another red tape process, how does it hurt jobs and in essence how would this bill help streamline that process?

Mr. {Kyles.} Well, fortunately, under the current structure, a pipeline operator is able to continue the operations of an existing pipeline as long as the pipeline is operated in the same manner it has before. The problem, however, is the chilling effect there is on investment because you don't know what the change of ownership process will entail.

Mr. {Scalise.} Any kind of example of job impact it is having into the two Michigan examples you used?

Mr. {Kyles.} Well, at this point there has been no negative impact with respect to the jobs. However, there possibly could be in the future in another circumstance where there may not be a willingness to invest in a pipeline because there is a question about the delays and completion of the ownership change.

Mr. {Scalise.} Yes. And obviously that can hurt not only investment--

Mr. {Kyles.} Absolutely.

Mr. {Scalise.} --but also job opportunities.

Mr. {Kyles.} Absolutely.

Mr. {Scalise.} I want to ask you, Mr. Burpee, you talked about the experiences in Canada and they have gone through a process similar to this. They have streamlined their process. Can we learn from some of the things that they did that are smart reforms they made that we can then implement here as well?

Mr. {Burpee.} Yes, there are few and they did require legislative change. The fundamental issue was one of a variety of pieces of legislation. Regulations were put in piecemeal and didn't work together to foster an economic environmental review. Right now, that is being streamlined as well as working with the provinces to harmonize the opportunity for equivalency. Probably the most enlightening part that happened is about 5 years ago they created a major project management office recognizing how many different departments in the Federal Government different projects had to go through. And just by coordinating that review, they

2186 got review time down an average of 4 years to 22 months.
2187 They realized that you couldn't get past 22 months without
2188 looking at legislatively get the acts and bring them up into
2189 the 21st century, which is the key part. A lot of things,
2190 especially electricity, have changed, mandatory reliability
2191 standards that are North American-wide, that there are a lot
2192 of elements there that were just outdated and not protecting
2193 the environment.
2194 Mr. {Scalise.} All right. Thank you very much.
2195 Mr. McNerney.
2196 Mr. {McNerney.} Thank you. Our cross-border tar sands
2197 pipelines such as the Keystone XL and Alberta Clipper are
2198 significant projects and they take billions of dollars and
2199 last decades and decades. They cross many states and take
2200 land from hundreds of landowners. These projects have
2201 environmental impacts, economic impacts, and impacts on
2202 communities and natural resources. I would like to start my
2203 question with Mr. Mills. I couldn't help but get caught up
2204 in your enthusiasm and your optimism, but I would like to
2205 know if the Institute has a position on global warming and
2206 its impact on our national infrastructure?
2207 Mr. {Mills.} The Institute does not take an

institutional position, the Manhattan Institute, on issues like global warming or any other issue. The Institute is structured as a quasi-academic research organization, so individual fellows, senior fellows may have positions, absolutely.

Mr. {McNerney.} Well, it is certainly a significant part of our energy question and our energy challenge.

Commissioner Mears, what is your view of the federal review process required by NEPA and does the NEPA process drive better projects with less environmental harm than projects would under the proposed legislation?

Mr. {Mears.} Absolutely. NEPA is one of those keystone environmental laws in the United States. On one--

Mr. {McNerney.} Well, keystone is an unfortunate use of terms.

Mr. {Mears.} Sorry. It is a foundational law and environmental law in the United States and it is an integrating law. And, for instance, the way that it was described earlier, the way that FERC can in its role review natural gas projects where it will look at a whole host of economic and environmental issues and will also serve as a convener of the other state and federal agencies that

participate in the process. When they do the environmental impact statement review, that in turn feeds the determinations made under the Clean Water Act or Clean Air Act or under state land use laws. All of those laws and the implementation of those by other agencies, whether federal or state, benefit from having a comprehensive environmental impact statement analysis, as well as an evaluation of alternatives, alternative project paths or locations that might have less environmental impact.

Mr. {McNerney.} Thank you. Mr. Blackburn, tell us why you believe that the NEPA actually produces better outcomes for citizens, communities, and even for industry?

Mr. {Blackburn.} Thank you, Representative McNerney.

Well, having worked with a lot of landowners in South Dakota and Nebraska, it is clear that without the NEPA process there, without the National Environmental Policy review process in those states, the citizens really would have had no information and no opportunity to learn about how the impacts of the Keystone XL pipeline could be limited on them. Without that kind of review, citizens would have had even more problems and been more opposed to the pipeline there. You know, having a clear, understandable, robust

review process means that citizens can be involved. When citizens aren't involved effectively in these decisions, they tend to get their backs up. They tend to become resistant to them, and then their actions become unpredictable.

With the Keystone XL pipeline, the most unpredictable part of that was the legislative action in Nebraska. If there had been an existing permitting process in Nebraska, then probably there wouldn't have been a legislative effort and then the process there would have moved ahead more predictably. But at least NEPA gave those citizens, those ranchers and farmers and other folks that are concerned about the pipeline, an opportunity to participate, to learn about the pipeline, and to learn how to protect their interests.

Mr. {McNerney.} Well, certainly, if the citizen input is a part of the process, there is going to be a better chance of acceptance by the local communities and less chance of lengthy, costly legal battles.

Mr. {Blackburn.} Absolutely. You know, with Americans, if they have a fair fight, most people will go through the process of a regulatory review and they will be okay with the outcome one way or the other. If they are frozen out of the process, Americans will fight to protect their interests, and

that can become very unpredictable what happens.

Mr. {McNerney.} I think a current example is the Yucca Mountain nuclear repository in Nevada.

Commissioner Mears, how did the citizens of Vermont feel about this project and how many local government jurisdictions have weighed in?

Mr. {Mears.} Well, the only jurisdiction that I recall weighing in formally, although there may have been several, but the one I know weighed in was Irasburg because their drinking water is affected, but I know that there was some consideration at a town meeting day last year by a number of communities, but I don't recall exactly how many formally weighed in. But I can say that regardless of how Vermonters may feel about the ultimate pipeline reversal in this instance, I can speak with assurance that almost all of them would feel strongly about wanting to have a voice in a decision like this one.

Mr. {McNerney.} Thank you. I yield back.

Mr. {Scalise.} All right, thank you.

The gentleman from Illinois, Mr. Shimkus.

Mr. {Shimkus.} Thank you, Mr. Chairman. I just want to remind everybody that we do have the Keystone pipeline. We

talk a lot about Keystone XL, and I guess I am just wondering why we didn't have a 5-to 10-year delay on Keystone and we have had a 5-year plus delay on Keystone XL? I think the answer is pretty simple. We had a change in administration that doesn't want to move heavy crude via pipeline.

And the Keystone pipeline produces crude oil directly to my district to my refinery and then it goes to Chicago and then it gets moved to Ohio and Indiana. It is very critical. The heavy crude from the oil sands equates to the Venezuelan crude or the Saudi heavy crude, and if anything it is displacing our reliance on heavy crude oil it is the oil sands. That is why I go back to my initial comments about national security interests. If you want to see anything that is a national security interest, it is the Keystone pipeline and it is the Keystone XL pipeline. And that is why the definition is so critical in what we are talking about.

Pipelines are the safest, cheapest way to move heavy crude liquid products bar none. It is really not debatable. It is the safest, cheapest way to move bulk crude versus trains, as we have heard, versus barges, as we have heard, versus trucks. And for the individual consumer, you can't even calculate how much more beneficial it is to the

individual citizen on the receiving of that product and then the refinement of that product.

The question I have is I would have liked for the Department of Energy to have come. We invited them. They decided not to show. And I would have asked them about this whole free trade agreement provision on bulk commodity products. I am from southern Illinois. Corn and beans moves across the international border. Crude oil is a bulk commodity product so I would have asked them that terminology of ``shall be granted without modification or delay'' where it took DOE 4 months. The law says ``shall be granted without modification or delay'' for natural gas. And that is an important aspect because natural gas is a commodity product.

I want to ask Ms. Hutzler, Mr. Mills, and Mr. Kyles, why is it important to reduce obstacles to importing or exporting natural gas to or from Canada and Mexico? So, Ms. Hutzler? And if you can quickly because I have about 3 more other questions.

Ms. {Hutzler.} Oh, okay. Well, mainly so that we have flexibility in where our supplies are coming from. Natural gas is going to be the fuel of choice. We are going to see

it grow in the United States both in terms of houses switching from heating oil to natural gas, in terms of electric generation. It backs up renewable technologies that are intermittent technologies, and you need to be able to get that from different sources of supply.

Mr. {Shimkus.} Mr. Mills?

Mr. {Mills.} The central issue is a philosophical issue, which properly belongs to the purview of Congress is to your point, that these commodities are essential to the function of the North American economy. We already have established the bipartisan philosophical principle of NAFTA with respect to the free move and free trade of goods and manufactured products. In my book the problem is definitional. We manufacture oil and gas in North America now. This is a manufactured product. You don't just dig it out of the ground. It looks like a manufacturing operation. There should be no constraints in North America politically, economically, or philosophically. It should be done within each country's purview of environmental regulation and that is it.

Mr. {Shimkus.} Mr. Kyles?

Mr. {Kyles.} I would agree with the previous comments.

Primarily, however, Plains All American is involved in crude oil and liquid fluids, natural gas liquids transportation, so if you are talking about other forms of natural gas, then that is not within our operations.

Mr. {Shimkus.} The same three, what would be the impact if Canada started restricting their exporting of natural gas based upon an argument that they wanted to keep natural gas cheap in Canada? Let's go Mr. Mills first.

Mr. {Mills.} Well, I confess I am a Canadian and I have lived in Washington, D.C., for 30 years. There was a debate along those lines. In fact in Canada for years, as my colleague here will attest, in that Canada came to the conclusion that the idea of being an isolationist in economic terms was counterproductive to driving down not just low cost for Canadians, which is symmetrically the same for Americans, but for boosting the economy.

Mr. {Shimkus.} My time is expired. And, Chairman, I will just yield back. Thank you very much.

Mr. {Scalise.} Thank you.

The gentleman from California, ranking member of the full committee, Mr. Waxman.

Mr. {Waxman.} Thank you very much, Mr. Chairman.

Major fossil fuel energy projects have climate impacts that we can't just ignore. These projects also affect commodity prices, landowners, safety, jobs, natural resources, economic competitiveness, pollution, and many other legitimate concerns. The Federal Government is the only entity that can ensure that all of these concerns are taken into account. For cross-border pipelines, this is done by applying a public interest test before issuing the presidential permit. Do any of the witnesses here think that we should approve a cross-border pipeline that is not in the interest of the American public? If any of you believe that, just hold up your hand.

No one seems to be holding up his or her hand.

None of us should support approving projects that are contrary to the public interest. But that is precisely what this bill would allow. It eliminates federal environmental review and consideration of the public interest, and then it requires approval of cross-border pipelines unless the pipeline would affirmatively harm national security. It is even more extreme than that. This bill could actually force approval of a pipeline that the State Department finds is contrary to the public interest. And I called this earlier

in my opening statement the Keystone XL zombie clause. Perhaps it is appropriate we are considering this bill 2 days before Halloween.

The bill preserves the existing permitting process for pending projects but only until the application is denied or until July 1, 2016, if there is no decision before then. So under this bill if the Administration finds that the Keystone XL tar sands pipeline is contrary to the public interest, that is not the end of the matter. TransCanada could simply reapply when the new permitting provisions become effective on July 1, 2015. And the Department of Commerce would then be required to rubberstamp the pipeline by October 29, 2015, absent harm to the national security.

Well, let's be clear. The Administration could determine that the Keystone XL pipeline is simply too dangerous to the climate. It is too risky to important aquifers of the Midwest. And overall, it just isn't in the interest of the American public. But none of this will matter. This bill virtually guarantees that Keystone XL pipeline would be approved within 2 years. And some controversial cross-border projects such as the project that would bring tar sands crude from Montréal to Portland, Maine,

would need no federal approval or review under this new process.

Commissioner Mears, does this make any sense? How would the citizens of your state view the idea that Congress would require approval of a pipeline that was contrary to the public interest?

Mr. {Mears.} Thank you for the question. Clearly, in the State of Vermont the citizens would be frustrated with the process that they had no opportunity to have input into and in which the Federal Government wasn't playing its obligation to look at the international and national implications of a project that runs across a national border and multiple state boundaries. Our state doesn't have the resources or capacity to consider the full range of effects, and yet we suffer the implications of these kinds of decisions. Vermont is for instance particularly vulnerable to the effects of climate change as we experienced after Tropical Storm Irene and the dramatic flooding that happened there.

Mr. {Waxman.} So you wouldn't like that?

Mr. {Mears.} Would not like it.

Mr. {Waxman.} Okay. Mr. Blackburn, you have explained

that the process is already heavily tilted toward the oil industry and that it provides minimal opportunity to address citizens' concerns. How do you think the Keystone XL zombie clause would be received by the landowners and others affected by that pipeline?

Mr. {Blackburn.} I think the landowners and the citizens in Minnesota who would be affected by the Alberta Clipper pipeline expansions would be incredibly frustrated that there would be no meaningful national review of whether that was truly in the country's national interest. After all, it is not just the individual impacts on the ground. It is also the question about whether it is appropriate or not to import this very dirty fuel. And that itself is the question for the Federal Government and not necessarily for each individual state. At the same time, we are very clear that Minnesota does have limited authority, you know, over interstate pipelines, and that is really something the Federal Government should look at.

Mr. {Waxman.} Thank you.

This bill eliminates all comprehensive federal environmental review and all opportunities for public participation. It makes sure that Keystone XL and other

controversial pipeline projects are rubberstamped under this new process even if they are denied under the existing process, and I think, Mr. Chairman, that is not a defensible approach.

I yield back my time.

Mr. {Scalise.} The gentleman yields back.

Now, the gentleman from Texas, Dr. Burgess.

Dr. {Burgess.} Thank you, Mr. Chairman.

I just would like to follow up a little bit on Mr. Shimkus' last questions and I think he had asked you, Mr. Mills, about was it in Canada's best interest to simply isolate themselves and not sell their products in the form of natural gas outside their borders. And, Mr. Burpee, I couldn't help but notice that you were having to contain yourself during that discussion. Could you share with the Committee what was on your mind?

Mr. {Burpee.} The debate that was referred to goes back to early '80s and the creation of a national energy program that looked to protect Canadian energy users, give them cheap relative to world prices. We have moved on from then. I think the perspective now where we live in a global market and getting back to electricity, it is a North American

market that we fully participate in and North Americans have benefited from that. Enhanced transmission interconnection is just going to make it better for everyone in North America.

Dr. {Burgess.} You know, in Texas we have been going through the Public Utilities Commission, which is a statewide effort, the competitive renewable energy zones and the siting of power lines. I know this because they have come west to east through the 26th Congressional District and had to deal with the people who were affected by the siting of those lines. But it is extremely important to be able to get the energy from where it is produced to where the people want it. And in Texas, people don't live in West Texas because it is so windy. It makes it a good place to produce wind energy, but the people actually live further to the east and the transmission lines were necessary to do that.

Ms. Hutzler, did you have an opinion about the Canadian efforts to restrict their markets?

Ms. {Hutzler.} Well, obviously, it would not help their economy to do that, but it would also be a problem to us. I mean we have states that get 100 percent of the natural gas from Canada such as Vermont. Other Northeastern states also

get quite a bit of natural gas.

Dr. {Burgess.} Can you relay to the good people of Vermont that the people of Texas will be happy to sell their natural gas to the people of Vermont?

Ms. {Hutzler.} Well--

Dr. {Burgess.} We will sell it at a very good price, very competitive price.

Ms. {Hutzler.} Well, I think some of the New England states would like to even capitalize on natural gas from Pennsylvania but they don't have the infrastructure to do so, so that is a problem. You would have to make sure you get the infrastructure there and they would probably be happy to buy it.

Dr. {Burgess.} So the existing infrastructure from Canada to Vermont actually facilitates that sale?

Ms. {Hutzler.} Exactly.

Dr. {Burgess.} And therein would be the difficult with trying to shut it in to Canada, keep the price low for their consumers. In fact, it would be a commodity that was not delivered to the market and would have a negative impact on their overall economy?

Ms. {Hutzler.} Right.

Dr. {Burgess.} The two terms that I sat on the Joint Economic Committee and we would perceive the unemployment numbers every month, on the first Friday of every month, and the manufacturing sector was always one of the brief bright spots in an otherwise dreary report through 2009, 2010, 2011, 2012. And of course I couldn't help but note that my home State of Texas was a leader in those manufacturing jobs. And, Mr. Mills, as you point out, those manufacturing jobs in fact were in the energy sector, so much so that North Texas, which has the Barnett Shale, which is natural gas producing geologic formation, almost didn't even notice the recession for the first year because the economy was still so robust as a consequence of developing and marketing our existing energy resources.

Mr. Kyles, let me ask you a question. It seems almost like there is a religious belief that if you somehow kill the Keystone XL pipeline, that will prevent any of the oil being sold out of the oil sands from Canada. But that is not really correct, is it?

Mr. {Kyles.} No, it is not. The applications that Plains has pending, for example, are existing pipelines. And so at this point there is always the possibility that an

asset, not to suggest that Plains' assets would be dedicated for that purpose because that is not our intention. But there is always the possibility that other assets owned by other operators could be bought and sold, cobbled together so that they could be utilized for the purpose of transporting tar sands. So of course there would be a regulatory process and review that would be associated with it, but it does not categorically prevent--

Dr. {Burgess.} Well, and there are other methods of transport besides pipelines. There are rail cars and trucks--

Mr. {Kyles.} Well, there are trucks and there is significant rail.

Dr. {Burgess.} Yes, and then of course as we saw in Montréal there are some hazards from real transport of crude oil--

Mr. {Kyles.} That is correct.

Dr. {Burgess.} --when a train broke loose and hit the town.

Thank you, Mr. Chairman. You are very indulgent. I will yield back my time.

Mr. {Scalise.} The gentleman from Texas yields back.

Now, we will go to the chairman emeritus of the full committee, the gentleman from Michigan, Mr. Dingell.

Mr. {Dingell.} Thank you, Mr. Chairman. And I appreciate you holding this hearing. I also want to express my affection for the two authors, my dear friend Mr. Upton and Mr. Green. And I want to observe that I hope that we will be able to perfect this legislation which appears to have some modest problems.

I want to make clear I am a supporter of the Keystone XL pipeline and I recognize that there have been extraordinarily long delays in the system we currently have. Meddling by the Congress, I would note, has also muddied the water. I believe that the reforms needed to be made can be made and I hope they can be done so in a bipartisan manner.

However, I have concerns about the bill as written and I hope that the changes can be made to ensure proper diligence is given to protect the public interests and our tremendous natural resources and that we can do this by using the review processes that are now in the law wisely and not by eliminating the NEPA environmental review process from the cross-boundary permit or from other things which appear to be important because what may be necessary for the situation on

the Keystone pipeline may be quite different in other matters and may lead to some very significant regrets if we go the wrong direction. So I would like to see that we preserve an intelligent and reasonably expeditious review process.

Now, this question to Mr. Blackburn. And, Mr. Blackburn, I think it will be a yes or a no. In your testimony you said if this bill were in effect for the Keystone XL pipeline project that only the State of Montana has an environmental review process. Would the Montana environmental review have been required to examine the pipeline siting over aquifers, wetlands, rivers, and other sensitive areas in other states?

Mr. {Blackburn.} No, Representative.

Mr. {Dingell.} Thank you. I happen to have the privilege to live in the Great Lakes region, home for some 20 percent of the world's freshwater supply, as well as a tremendous resource for hunting, fishing, recreational use, for industrial and transportation. Now, not too long ago we had a serious problem with an oil pipeline leaking approximately a million gallons into the Kalamazoo River. My concern is what would have happened had this pipeline been crossing the Detroit River, the St. Clair River, or some of

the waters in the Great Lakes? If a pipeline were to leak oil into one of these rivers, it would flow into St. Clair down the Detroit River, past my district into Lake Erie. All the way the spill would affect vast private areas and state and federal lands of Michigan, possibly Ohio, Canada, and the rest of the Great Lakes basin.

Now, Mr. Kyles, this question to you. Your company operates pipelines across the St. Clair and Detroit Rivers. If you were to build a new liquefied petroleum gas pipeline under either of these rivers and this bill were in effect, would a federal NEPA review for that pipeline be required? Please answer yes or no.

Mr. {Kyles.} Yes, it would be required but--

Mr. {Dingell.} NEPA would be required if this bill were in effect?

Mr. {Kyles.} --not under this bill.

Mr. {Dingell.} I am sorry?

Mr. {Kyles.} Not according to this bill.

Mr. {Dingell.} Okay. If this bill--

Mr. {Kyles.} And let me--

Mr. {Dingell.} Please.

Mr. {Kyles.} Sure.

Mr. {Dingell.} I would be very grateful if you would respond to my questions. All right. The question is if this bill were in effect and you were to build a new pipeline under the St. Clair or the Detroit Rivers, would a NEPA review for that pipeline be required? The answer to that question--

Mr. {Kyles.} Yes.

Mr. {Dingell.} --is no, is it not?

Mr. {Kyles.} Yes, it would be required.

Mr. {Dingell.} It would be?

Mr. {Kyles.} Yes.

Mr. {Dingell.} You seem to have an interesting reading process because I read it quite differently. My point here is that we never know what is going to happen when an oil pipeline leaks or a natural gas pipeline explodes. We don't know what rivers, lakes, or aquifers it might affect. We tried letting each individual state deal with these issues before and it never worked. That is why I wrote the National Environmental Policy Act, which simply requires that people proposing these types of projects look before they leap. We want them to know where they are going to come down and where we are going to come down. And we want them to tell us what

the project will do in an open, transparent process in which the people are brought into it. And I hope that my colleagues will take the time that is necessary to consider what this bill might do to sensitive areas like the Great Lakes.

There is tremendous opposition to drilling in the Great Lakes but we are going to allow pipelines without any review or protection to move under them, and I find this to be a source of great concern and danger. And I am worried that we are ignoring important values in eliminating the review process. I am fully well prepared to support the pipeline. I am also fully well prepared to support modifications where necessary to make it possible to build the pipeline or to see to it that the review processes are adequate, but I am sure not going to throw the baby out with the bathwater and leave us in a situation where we have jeopardized the Great Lakes and the precious resources that they are to this country.

Thank you, Mr. Chairman.

Mr. {Barton.} [Presiding] The gentleman's time is expired.

The chair now recognizes the gentleman from Texas, Mr. Green, 5 minutes for your questions, please.

Mr. {Green.} Thank you, Mr. Chairman.

And following our chairman emeritus, I would hope if there was a pipeline under any river, that we are not waiving the Clean Water Act in this legislation and whether it is under the rivers in Michigan or the lakes. But let me get to my questions.

Mr. Kyles, when it comes to actually siting and constructing a project, what impact would this legislation have on the environmental permitting at the state and federal level?

Mr. {Kyles.} It would have no impact with respect to the states or other existing federal agencies that are involved in environmental review. The only issue that is the focus of our attention today is the cross-border aspect and it does not eliminate regulatory review for environmental purposes beyond that.

Mr. {Green.} Okay. I know, for example, and I am not familiar with the Northeast or Northwest, but I know we have Rio Grande River between Texas and Mexico and we have those same concerns about, you know, pipelines going across them. And they have environment reviews based on both federal law, but I know we have the Texas Railroad Commission regulates

our pipelines.

Mr. {Kyles.} That is correct.

Mr. {Green.} And that is a state agency that has regulation. It is not just Montana. In fact, I would hope that every state agency, including my state, would have regulation over pipeline permitting in their states, including Vermont.

Mr. Burpee, FERC and the National Energy Board of Canada signed a memorandum of understanding for increased efficiency, expedition, and action on cross-border energy issues. In your opinion, how would this legislation build on that foundation?

Mr. {Burpee.} I would say the direction here is to reduce redundancy, have a common view, and just move forward quickly. The Canadian process is a lot faster than all the U.S. processes right now and they are still robust.

Mr. {Green.} Okay. You mentioned that the expansion of international power lines would support the development of clean non-emitting energy sources, including projects located in the United States. Can you elaborate further on how U.S. renewable projects benefit from the construction of transmission connections with Canada and why is cross-border

infrastructure essential in maximizing North American clean energy potential?

Mr. {Burpee.} Within Canada, there is a large amount of large hydro storage. There is a lot of wind being developed in both Canada and the U.S. The marriage of large hydro for storage and wind is ideal. Anything that is non-dispatchable or intermittent needs some form of storage. The cheapest, most efficient form of storage is large storage hydro, so they fit. As the systems evolve and we move away from carbon, they work together very well. And you look at what Manitoba Hydro and Minnesota Power I believe it is are looking at now in terms of longer-term deals and how the systems work together, we also have great river energy and Minnesota announced seasonal diversity deal with Manitoba Hydro taking into account the different seasonal requirements of the grid and how they work together. So it promotes economic efficiency considerably. And on the Northeast side, the availability of more hydro development actually offers fuel diversity off of gas into the Northeast U.S.

Mr. {Green.} Okay. And I know in Texas we do things other than just natural gas and oil. We are probably the leading state for wind power. Now, all the wind power

generation we are going to use obviously on our metropolitan areas, but somewhere along the way we may need to expand that and sell electricity in New Mexico, particularly northern New Mexico. So this would benefit the same situation was the Canadian border and the Mexican border.

Mr. Kyles, how long has the State Department taken to approve your presidential permit to reflect the change in ownership of the pipeline?

Mr. {Kyles.} We are still waiting for approvals--

Mr. {Green.} How long has it been?

Mr. {Kyles.} --with respect to the name change but we have had applications under consideration for 2 years.

Mr. {Green.} Okay. If that was just a U.S. pipeline, I would assume you would just go to FERC for a change in ownership.

Mr. {Kyles.} Yes, that is correct.

Mr. {Green.} Okay. What is the time limit for FERC?

Mr. {Kyles.} Well, just a moment. These are crude oil pipelines so--

Mr. {Green.} Okay. Okay. So it is not the FERC. Okay. But if it was natural gas permitting, okay.

Mr. {Kyles.} Right.

Mr. {Green.} Is this type of delay for a project that has already been built unique only to the Plains All American Pipeline?

Mr. {Kyles.} No, we have researched and there are other operators of pipelines who are in the same circumstance.

Mr. {Green.} You previously stated that FERC is not equipped to make certain decisions. Do you believe those in the State Department are properly equipped to make timely decisions on issues related to this bill?

Mr. {Kyles.} No. And that is because there is an unnecessary level of review and there is no transparency. There is no predictability. There is no timelines. There is a public notice that provides the opportunity to file an application for a name change permit for an existing pipeline that may already be operating, but nonetheless, no one knows exactly what completion of the name change is going to entail.

Mr. {Green.} Thank you. Mr. Chairman, I know I am out of time. I appreciate your patience. I thank our witnesses, all our witnesses.

Mr. {Gardner.} [Presiding] The gentleman from Texas yields back. The chair recognizes himself for 5 minutes.

And I just wanted to talk about what is happening in my state as a result of the possibility that we have transnational, international pipeline activity construction taking place. It was a year ago when I toured a company my district that actually makes bird strike detectors. They make bird strike detectors. They detect wind shear, those kinds of things. In a conversation that we had, we were talking about who their number one customer was. And they asked if I could guess who their number one customer was. And I said, well, is it the Department of Defense? Is it the Denver International Airport? And they said, no, it is actually in Alberta with the oil sands because of the equipment that we make that they use in Canada. And they talked about the number of jobs that we have created in Colorado because of that one specific project. A report that we had from one of the universities talked about the thousands of jobs that could be created in Colorado because of pipelines that came in from Canada into the United States.

And that kind of opportunity is something that we can't take lightly. In a time of high unemployment when people are looking to put food on their table, when people are looking to try to make ends meet, create good quality jobs, that is

an incredible opportunity for this country. And so any process that takes too long, is too cumbersome to develop, to construct, to make these kinds of jobs, I think we have an obligation as Congress to figure out how to make it work better. And that is why I commend Chairman Upton and Chairman Whitfield for holding this hearing to talk about ways that we can move forward on job creation and job creation activities in this country.

And so the legislation that we have today is again highlighting what we have done to break down barriers to job growth and to energy production. It is a bill that would clarify and modernize the approval process for construction, as you have talked about throughout the state.

In late summer this year the independent U.S. Energy Information Administration released a statistic that for straight months our production in the United States has actually exceeded the production in Saudi Arabia. And we need more bills, more policies like this today to ensure that the United States continues down this path of economic growth. And so if we talk about agencies, entities, groups like the Environmental Appeals Board, they are infamous for sitting on several permit applications and creating problems

within the Administration leading to uncertainty, leading to permit uncertainty. And in your testimony, Mr. Burpee, you talk about the uncertainty for projects under the current process specifically with presidential permits. Could you again talk a little bit more about how we can streamline this process?

Mr. {Burpee.} The observation I have is that what we are getting done with full environmental review, public stakeholder involvement on the Canadian side can be done in a year, 12 to 15 months. We wait for presidential permit for an average of 2-1/2 or more years. We have a similar example of basically an ownership change, which was a name change between two crown corporations in B.C. that took 2-1/2 years to get a new presidential permit for a 7-1/2 mile section of transmission line underwater that crosses U.S. territory waters going from south of Vancouver to Vancouver Island. And the Canadian equivalent was 7 months, 3 pages application on the Canadian side, 62 pages on the American side.

Mr. {Gardner.} And perhaps you addressed this in prior comments but what markets would open up to the U.S. that we don't currently serve?

Mr. {Burpee.} Well, from an electricity perspective

there are right now proposals increased interconnection, transmission interconnection in the U.S. Northeast into Québec and eventually into the rest of the Maritimes as well, Midwest into the Ontario markets, basically all the existing markets including B.C. There are a number of proposals to increase--there are significant low-carbon supplies of electricity within Canada and there is a lot more waiting to be built and operated and lower the carbon intensity of the entire North American economy actually.

Mr. {Gardner.} I thank you. And I thank the witnesses for your testimony today. And with that the chair recognizes the gentlelady from Florida, Ms. Castor, for 5 minutes.

Ms. {Castor.} Thank you very much, and thank you to the panel for being here today.

You all I believe were all in attendance during Jeff Wright's testimony. He is the director of energy projects for the Federal Energy Regulatory Commission. He was on the first panel. He provided important testimony regarding FERC's area of responsibility. For interstate natural gas pipelines the Natural Gas Act governs the permitting process. Under existing law there is a federal environmental review and public comment for any interstate natural gas pipeline,

even the ones that don't cross the border with Canada or Mexico. But this highlights what Mr. Blackburn opened his testimony with. We are dealing with different things. This bill is dealing with natural gas pipelines, oil pipelines, and electric transmission lines. And that is problematic.

Mr. Blackburn, is there a comprehensive federal permitting law for oil pipelines like there is for natural gas pipelines?

Mr. {Blackburn.} No, there is not. And I would also add that Canada does have one and it is amazing what they do in terms of their statistical analysis and their--

Ms. {Castor.} So that is one of the reasons this bill is problematic. So the presidential permit requirement is the only federal requirement that guarantees an environmental review for cross-border oil pipelines, is that correct?

Mr. {Blackburn.} That is correct. There are other laws but most of them actually may make no difference to a particular pipeline.

Ms. {Castor.} And this bill eliminates the presidential permit requirement in the federal environment review for the cross-border oil pipelines, is that correct?

Mr. {Blackburn.} In many circumstances it would.

Ms. {Castor.} So, Mr. Blackburn, then could you respond to the claim that other federal environmental laws besides NEPA will ensure that environmental concerns are taken into consideration before the pipelines are approved and constructed?

Mr. {Blackburn.} Sure. Thank you. For example, for the Alberta Clipper pipeline, it is an expansion of an existing pipeline which includes just pump station additions. The steel is already in the ground. Because of the limited actual footprint change for the pipeline itself, it is not clear what federal laws--they are in existence but it is not clear that they will necessarily apply to this particular project. The only law that I am aware of, the only requirement that I am aware of that would absolutely require an environmental impact statement is the presidential permit process at this point.

Ms. {Castor.} Okay. And, Mr. Mears, you deal with these issues coming from Vermont. As a state regulator, as a practical matter, without the presidential permit for the cross-border oil pipelines, will states be able to evaluate all of the concerns that are currently considered as part of the public interest determination of a presidential permit?

Mr. {Mears.} No, they absolutely would not be able to. And there is a particular challenge with long linear projects whether electricity generation or a long oil pipeline or natural gas pipeline. They may touch upon a variety of different jurisdictions and authorities, clean water, clean air, wetlands, and so forth, as Mr. Green from Texas pointed out, but none of those laws would get at the fundamental issue of whether that pipeline is necessary, whether there are less impactful alternatives. There is a whole variety of things that will not be assessed in the absence of the current system.

Ms. {Castor.} And you are speaking as a state regulator for the information the state would need, and I imagine that is the same for citizens in the area or other businesses in the area, is that correct?

Mr. {Mears.} That is correct.

Ms. {Castor.} So, Mr. Blackburn, what is your view of the ability of states to substitute for the federal review?

Mr. {Blackburn.} States' power really is limited because for interstate pipelines, which most of these are, they, for example, in a new pipeline can't determine route to affect another state. They can't affect the route in another

state even if it would be beneficial to theirs to have the border crossing with another state in a different location. And in general the states are not in a position to determine national interest much less national security interests, and because of that limitation that states have limited geographic jurisdictions, they simply are not in a position to fully assess the environmental impacts or the national interest impacts.

Ms. {Castor.} So if this bill were to pass and the ability of the public to participate, the ability of states to understand all of the consequences, the lack of consideration of alternatives and mitigation, do you think there is a greater risk for litigation and could this lead to greater delays than we have under the current law?

Mr. {Blackburn.} I believe that there is a greater risk of litigation but I also believe there is a greater risk, for example, of citizen action of the legislature and other kinds of citizen actions that could delay the project. That clearer a process is and the fairer it is the more citizens respect the outcome.

Ms. {Castor.} Thank you very much.

Mr. {Gardner.} The gentlelady's time is expired.

At this point the chair would enter into the record several letters for the record of support for the legislation.

[The information follows:]

********** COMMITTEE INSERT **********

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Mr. {Olson.} Mr. Chairman, I would like to ask unanimous consent to introduce three letters into the record.

Mr. {Gardner.} The gentleman's request is recognized and entered into the record.

[The information follows:]

********** COMMITTEE INSERT **********

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Mr. {Gardner.} The gentleman from Texas, Mr. Olson, is recognized for 5 minutes.

Mr. {Olson.} I thank the chair. And welcome to our second panel. And while I enjoyed all of your comments, your opening statements, I would like then a Texas amen to the competency of Mr. Mills, you, Ms. Hutzler, and you my fellow Texan, Mr. Kyles. We are at a unique time for North American oil production. Few would have guessed that North Dakota or Alberta would be at the heart of American energy policy, but the energy of the world is changing. Heck, 10 years ago in my home State of Texas if you had said Eagle Ford, most people of Texas would have thought that Ford has built a new F-150 pickup truck with some patriotic theme, the Eagle Ford. But as we all know, that is a big new shale play in America today. This is great news for America, great for Texas, but it means that we are in need of new transportation infrastructure across our continent.

And my first question is for my fellow Texan, you, Mr. Kyles. When I watch approvals of energy imports and exports for the United States, I am frustrated. The timeline is slow and it seems that some groups always find a way to make it

slower. I know no country has this perfect. However, I understand that Canada is updating their review process as we speak. That is welcome news but we need to act, too. And does lack of certainty for the energy industry make it harder to justify projects coming into the United States of America?

Mr. {Kyles.} Absolutely because unfortunately under this current regulatory scheme, there are no clear procedures, checklists, timelines, and there is no transparency. An operator of a pipeline does not know what their timeline horizons will be in order to complete the application process or exactly what factors would be considered. And currently, there is a duplication of review also with respect to the states, the various federal agencies, and then on top of it with respect to cross-border transportation pipelines, there is Secretary of State.

Mr. {Olson.} Yes, sir. And this bill would fix most of those problems, is that correct?

Mr. {Kyles.} That is correct.

Mr. {Olson.} Without new pipelines, we are likely to rely heavily on rail, truck, and ships for transport of our petroleum products. What is the data on the safety of rail, trucks, and ships compared to pipelines moving crude oil?

Any idea?

Mr. {Kyles.} Pipeline safety is premier with respect to transportation of crude oil and liquids. It does not compare with respect to when compared to rail and trucks.

Mr. {Olson.} In general is a fair to say that a modern well-maintained pipeline is very unlikely to have a spill because it fails as opposed to some at the surface not doing the research and tapping the pipeline? Normally, it is human errors, is that correct?

Mr. {Kyles.} That is correct.

Mr. {Olson.} And I know back in Houston, Texas, the corrosion industry is working very hard to make these pipelines last for longer and longer and longer to prevent some of the corrosion problems we are seeing across this country.

I have got a little bit of time here and my question is for you, Ms. Hutzler. At its core, this bill is about integrating North America. Our neighbors to the north and to the south are some of our best trading partners and our closest allies. Half of our southern border is on my home State of Texas. Our economies are heavily intertwined, perhaps now more than ever. With so much integration between

us and with a new president in Mexico who seems very, very focused on getting Mexico in the 21st century, how are we hurting ourselves by building roadblocks to international energy trade with Mexico and Canada?

Ms. {Hutzler.} As you mentioned, they are allies and it is very important for us to be able to be able to trade freely between the countries and also to have the infrastructure to do so, meaning we rely on natural gas coming from Canada to a great extent and it is very important for us to have the trade and the infrastructure to do so.

Mr. {Olson.} Thank you to the witnesses.

Mr. {Gardner.} The gentleman yields back.

The gentleman from New York is recognized for 5 minutes, Mr. Tonko.

Mr. {Tonko.} Thank you, Mr. Chair.

My first questions are to Mr. Mears and Mr. Blackburn. It has been pointed out that oil and gas can move across the border today by rail and by truck without any permits or decisions about whether oil and gas should go across the border and without a NEPA analysis. However, for new cross-border highway or rail line were proposed, would permits and NEPA review be required?

Mr. {Mears.} Yes.

Mr. {Blackburn.} Yes.

Mr. {Tonko.} How about construction of a new port facility?

Mr. {Mears.} In all likelihood, yes.

Mr. {Blackburn.} Yes.

Mr. {Tonko.} So do you view this legislation as addressing only the question of whether oil and gas can cross the border or is it about the construction of infrastructure to enable that transport?

Mr. {Blackburn.} Could you repeat the question, please? I want to make sure I understand.

Mr. {Tonko.} Sure. Do you view this legislation as addressing only the question of whether oil and gas can cross the border or is it about the construction of infrastructure to enable that transport?

Mr. {Blackburn.} I believe it is about both. The permits themselves allow construction but the question of national interest is about whether it is appropriate to bring the oil into the country for other kind of reasons.

Mr. {Tonko.} And Mr. Mears, is--

Mr. {Mears.} I agree.

Mr. {Tonko.} Okay. Thank you.

Environmental impact studies are viewed as primarily environmental reviews but they address a wide range of issues beyond potential impacts to natural resources. Do projects in communities benefit from the information gathered during the preparation of these documents or are we simply wasting time?

Mr. {Mears.} It is certainly possible to waste time in an environmental review, but over time my sense is that the federal agencies are getting much better in terms of how to do environmental impact statements, and I can tell you that in my department we rely very heavily on the environmental impact assessment work done by federal agencies that informs our own decisions and help communities make their decisions as well.

Mr. {Tonko.} Thank you.

Mr. {Blackburn.} Yes, the environmental review process is critically important to landowners and other citizens throughout the pipeline routes. It, for example, allows them to understand something about economics for pipelines, which are critical to the national interest and allows them to understand the impacts to their own particular properties and

the ways that those impacts can be limited. If we are going to ask landowners to take a bullet for the country, they should at least know that the pipeline is needed and what can be done to limit the harm.

Mr. {Tonko.} Thank you very much.

And, Mr. Burpee, a transmission project coming through New York State is currently under consideration to obtain a presidential permit. It is the Champlain Hudson Power Express bringing hydropower from Québec to New York City. New York State conducted its own analysis and review of this project prior to its consideration by the Federal Government. The process isn't fast but seems to have avoided much of the rancor of other larger transmission projects. Do we need an overhaul of this system?

Mr. {Burpee.} I am sorry. You tailed off at the end. I didn't hear the end of the question.

Mr. {Tonko.} Do we need an overhaul of the system that guides the transmission project coming into states?

Mr. {Burpee.} Yes, I think it is clear that there are opportunities to do things more quickly than they are currently happening and more efficiently at lower costs, so I think there is still a need for an overhaul, yes.

Mr. {Tonko.} So the system is not working as reasonably well as it could?

Mr. {Burpee.} We believe it could be working much better. We can't really comment specifically on this bill because I don't understand all the nuances of U.S. legislation. But just to give you the observation we have, we can do a proper review with public consultation involvement and get things done faster in the Canadian system.

Mr. {Tonko.} Thank you. Thank you very much.

And with that, Mr. Chair, I will yield back.

Mr. {Gardner.} Thank you. The gentleman yields back.

And with that, this concludes our hearing for today. I want to thank all of the witnesses for their time and then just remind people to clear the conversations from the room. We do have another committee meeting beginning in this room in just 10 minutes. So thank you so much to the witnesses for being here.

With that, the Committee is adjourned.

[Whereupon, at 12:48 p.m., the Subcommittee was adjourned.]