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6 LEGISLATION ADDRESSING PIPELINE AND

7 HYDROPOWER INFRASTRUCTURE MODERNIZATION

8 WEDNESDAY, MAY 3, 2017

9 House of Representatives

10 Subcommittee on Energy

11 Committee on Energy and Commerce

12 Washington, D.C.

13

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16 The subcommittee met, pursuant to call, at 10:00 a.m., in  
17 Room 2123 Rayburn House Office Building, Hon. Pete Olson [vice  
18 chairman of the subcommittee] presiding.

19 Members present: Representatives Olson, Barton, Murphy,  
20 Latta, Harper, McKinley, Kinzinger, Griffith, Johnson, Long,  
21 Bucshon, Flores, Mullin, Hudson, Cramer, Walberg, Rush, McNerney,  
22 Peters, Green, Castor, Welch, Tonko, Loeb sack, Schrader, Kennedy,

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23 and Pallone (ex officio).

24 Staff present: Grace Appelbe, Legislative Clerk,  
25 Energy/Environment; Ray Baum, Staff Director; Mike Bloomquist,  
26 Deputy Staff Director; Zachary Dareshori, Staff Assistant; Wyatt  
27 Ellertson, Research Associate, Energy/Environment; Adam Fromm,  
28 Director of Outreach and Coalitions; Tom Hassenboehler, Chief  
29 Counsel, Energy/Environment; A.T. Johnston, Senior Policy  
30 Advisor, Energy; Ben Lieberman, Senior Counsel, Energy; Alex  
31 Miller, Video Production Aide and Press Assistant; Brandon  
32 Mooney, Deputy Chief Energy Advisor; Dan Schneider, Press  
33 Secretary; Sam Spector, Policy Coordinator, Oversight and  
34 Investigations; Madeline Vey, Policy Coordinator, Digital  
35 Commerce and Consumer Protection; Jeff Carroll, Minority Staff  
36 Director; David Cwiertny, Minority Energy/Environment Fellow;  
37 Jean Fruci, Minority Energy and Environment Policy Advisor;  
38 Caitlin Haberman, Minority Professional Staff Member; Rick  
39 Kessler, Minority Senior Advisor and Staff Director, Energy and  
40 Environment; Alexander Ratner, Minority Policy Analyst; Andrew  
41 Souvall, Minority Director of Communications, Outreach and Member  
42 Services; Tuley Wright, Minority Energy and Environment Policy  
43 Advisor; and C.J. Young, Minority Press Secretary.

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44 Mr. Olson. The Subcommittee on Energy will now come to order.  
45 The chair now recognizes itself for 5 minutes for an opening  
46 statement. Welcome, everyone. Today the subcommittee will  
47 begin to review bills to modernize pipeline and hydropower  
48 infrastructure. We have ten bills before us. Some have already  
49 been introduced while others are in discussion forum, but we  
50 already have an extensive record on these issues that these bills  
51 address.

52 We begin in this Congress by picking up where we left off  
53 last year with hearings on the challenges we face to expand hydro  
54 and pipeline infrastructure. We have heard from job creators,  
55 contractors, labor, tribal interests, consumers, and private  
56 citizens. Then we will hear from the Federal Energy Regulatory  
57 Commission, otherwise known as FERC, the lead agency for these  
58 reviews.

59 As we move forward, we will continue to work with the states  
60 and other federal agencies that have a role to ensure that we  
61 balance the need to modernize our infrastructure with the  
62 important safety, environmental, and consumer protections. We  
63 will also hear from stakeholders, both industry and citizen  
64 groups. I look forward to their input.

65 I suspect many of these witnesses will tell us what we have

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66 heard for a while now; getting these projects done has become an  
67 incredibly difficult process. These projects need to be reviewed  
68 and they need to be safe, but once we have done our due diligence  
69 foot dragging is malpractice. We need to fix this and get it  
70 right. Together these ten bills represent the beginning of an  
71 effort to modernize our energy infrastructure, improve access to  
72 affordable and reliable energy, and lower prices for consumers.  
73 I want to thank the witnesses for appearing today before us and  
74 look forward to their testimony.

75 I now yield to the Ranking Member Mr. Rush from Illinois.

76 Mr. Rush. Good morning. Thank you, Mr. Chairman.

77 Mr. Chairman, before I begin I just want to make a point.

78 I am really concerned about Chairman Upton and our friend  
79 Representative Long. I understand that he is over at the White  
80 House and I just wonder is he okay? Shall we have a moment of  
81 prayer for him or a moment of silence?

82 Mr. Olson. He is doing just fine. He is okay.

83 Mr. Rush. Well, I want to thank you, Mr. Chairman, for  
84 holding today's hearing on expediting the permitting process for  
85 natural gas pipelines and hydropower projects. Mr. Chairman, the  
86 legislation before us streamlining natural gas pipelines appears  
87 to suffer and to offer a solution in search of a problem. FERC

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88 data shows that between 2009 to 2015 over 100 million natural gas  
89 pipeline projects were approved spanning over 3,700 miles in 35  
90 states for a total capacity of over 45 billion cubic feet per day,  
91 and an overwhelming 91 percent, Mr. Chairman, of applications were  
92 decided within 12 months.

93 More importantly, Mr. Chairman, without a quorum at FERC no  
94 new projects will get approved, so rather than proposing changes  
95 to a process that already works we should be reaching out to the  
96 administration and urging them to submit candidates for the  
97 Commission as well as for the other departments that are under  
98 our jurisdiction that are still waiting to fill important  
99 vacancies.

100 Mr. Chairman, there may be some areas where we might be able  
101 to find bipartisan support and compromise such as streamlining  
102 the licensing process for hydropower infrastructure. However,  
103 Mr. Chairman, and as the April 27th letter submitted to you and  
104 Chairman Walden from myself, Ranking Member Pallone, and other  
105 colleagues indicated, it is critical for the subcommittee to hear  
106 from other important stakeholders who will be directly impacted  
107 by these changes including the states, resource agencies, and  
108 Native American tribes.

109 Mr. Chairman, I also have concerns with the cross-border bill

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110 which would shift the burden of proof to opponents of a project  
111 to show that the project is not in the public interest. This bill  
112 also limits the scope of review for large transnational pipelines  
113 to only a tiny section of a project that physically crosses the  
114 border no matter how many communities, states, and properties a  
115 pipeline might actually traverse.

116 Mr. Chairman, as the recent Oroville Dam failure  
117 demonstrated, expediency must not trump safety. Public comment  
118 and engagement must continue to play a vital part of any permitting  
119 process. So Mr. Chairman, before moving forward on these bills,  
120 many which would make it easier for private companies to take  
121 control of the use of waters belonging to the people of the United  
122 States, it is vital that we hear from witnesses who can provide  
123 expert testimony on how taking authority away from other agencies  
124 and consolidating power and decision making authority solely  
125 within the FERC might impact the public interest.

126 Mr. Chairman, I want to thank you and I yield back the balance  
127 of my time. Mr. McNerney, I want to --

128 Mr. McNerney. I thank the gentleman for yielding. While  
129 there are a number of bills under discussion today, I am going  
130 to focus my remarks on hydropower. We know that worldwide  
131 hydropower generates about six percent of electricity and about

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132 half of the renewable energy generation. Hydropower generation  
133 does not produce carbon emissions. As a nation we must move away  
134 from harmful fossil fuels and continue to bolster our renewable  
135 and clean energy generation sources if we are to combat and  
136 mitigate the effects of climate change.

137 We also know that FERC will manage approximately 500  
138 hydropower projects by 2030 that represent about 18,000 megawatts  
139 of generation. The current process clearly needs improvement,  
140 so what is it that needs to be done -- the accountability of all  
141 stakeholders, timely decisions and the sharing of information,  
142 protection of our nation's waterways, habitat, and environment.

143 Now the Federal Power Act has worked okay in many ways over  
144 the last 90 years, but I have heard from stakeholders over the  
145 entire spectrum that the process could be better. I have heard  
146 from FERC, from the resource agencies, from applicants, from  
147 tribes, from states, from NGOs and others. I believe that we can  
148 find common ground, but we need to work on a bipartisan basis to  
149 enact real solutions. If one side or the other imposes its will  
150 on the other, the solutions won't work. I yield back.

151 Mr. Olson. The gentleman yields back. The chair calls upon  
152 the gentleman from North Carolina, Mr. Hudson, for 3 minutes.

153 Mr. Hudson. Thank you, Mr. Olson. I would like to thank

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154 Chairman Upton and Ranking Member Rush for holding today's hearing  
155 on improving America's hydropower systems. This issue resonates  
156 strongly with me because North Carolina has a rich history of  
157 hydropower. Our Catawba River was among the first rivers to be  
158 developed for hydropower. In North Carolina alone it generates  
159 enough electricity to power 350,000 homes each year.

160 This low-risk, high-reward technology could provide  
161 significant benefits, yet the potential remains uncaptured in  
162 part because of a prohibitive permitting process. I am pleased  
163 to continue working with my colleagues, Congresswoman DeGette,  
164 on promoting the Small Conduit Hydropower Facilities Act to build  
165 on this committee's successful legislative efforts and reduce the  
166 total review process time for small scale hydropower by 75  
167 percent, from 60 days down to 15 days. Reducing regulatory  
168 burdens is a common sense way to increase our supply of clean and  
169 affordable electricity.

170 Thank you again, Mr. Chairman, for including our legislation  
171 on today's agenda. I look forward to working with you to advance  
172 this initiative through the committee, and I yield back.

173 Mr. Olson. The gentleman yields back. The chair now, in  
174 the spirit of bipartisanship, calls on anyone from the Democrat  
175 side for a 3-minute statement like Mr. Hudson.

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176 Oh, I didn't see Mr. Pallone. I am sorry. 5 minutes for  
177 the ranking member of the full committee, Mr. Pallone.

178 Mr. Pallone. Thank you. Thank you, Mr. Chairman, for  
179 holding the hearing on the ten bills addressing hydropower and  
180 pipeline infrastructure. Hydroelectric power is among the most  
181 mature generating technologies. It provides virtually  
182 carbon-free base load energy at low cost to our manufacturing  
183 sector and to residential and commercial consumers and  
184 hydroelectric power is an important asset we need to maintain.  
185 At the same time, it has major impacts on fish and wildlife  
186 populations, water quality, water supply management, and other  
187 important physical and cultural resources if poorly operated or  
188 cited.

189 While hydroelectric power licenses depend on rivers for free  
190 fuel, those rivers belong to all Americans not just those who sell  
191 or buy the power generated from it. Hydroelectric licenses have  
192 fixed conditions that generally remain unchanged during the 30  
193 to 50 years that they are in force. Licenses also benefit from  
194 unlimited automatic annual extensions after their license has  
195 expired if a new license has not been issued and as a result, the  
196 impacts of these hydropower dams often go unaddressed for more  
197 than half a century.

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198 For those facilities first licensed before enactment of the  
199 National Environmental Policy Act, the Clean Water Act, and the  
200 Endangered Species Act in the 1970s, the licensing process  
201 certainly can be quite rigorous. Sometimes the necessity of  
202 addressing these complex issues also makes the process time  
203 consuming and expensive as new license conditions will require  
204 significant upgrades to old facilities to bring them in line with  
205 modern environmental laws and regulations.

206 So Mr. Chairman, we want to work with you on hydroelectric  
207 licensing reform with the goal of expediting the process while  
208 maintaining the fundamental principles of balance in the process  
209 and this would allow us to maximize the benefits of hydroelectric  
210 power and expand it where it is most appropriate to do so.

211 Our hydro hearing in March was one of the most constructive  
212 we had and that was very encouraging. It was also incomplete  
213 because we did not hear from the other stakeholders who were  
214 central to relicensing. We didn't hear from federal resource  
215 agencies, states, and tribes, and this is something members on  
216 our side feel strongly about, which is why we wrote to you.

217 And you, Mr. Chairman and Chairman Walden, last week we wrote  
218 to you requesting a hearing because we understand more fully the  
219 challenges facing the hydropower industry and the rivers the

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220 industry relies upon before we update our policies, but we also  
221 gain a more thorough appreciation of the impacts of hydroelectric  
222 generation on others who use the rivers -- tribes, fishermen,  
223 farmers, boaters, and many more -- to ensure their interests are  
224 treated fairly in the process. So I just wanted to turn my  
225 attention to the two non-hydro bills before us today. First, we  
226 have a discussion draft that amends the Natural Gas Act and  
227 resembles similar legislation we saw last Congress as well as  
228 proposals in prior years. The purported goal of the draft is to  
229 enhance agency coordination and speed up FERC's review of natural  
230 gas pipelines.

231 While I think we could all support the idea of making  
232 permitting more efficient generally, this bill like its  
233 predecessors remains a solution in search of a problem. The fact  
234 is that in the last 3 years FERC has approved more pipelines each  
235 year than the one preceding it, with roughly 90 percent of pipeline  
236 projects being certificated within 1 year.

237 And I will admit that since President Trump took office, the  
238 number of approvals has taken a dive, but that has nothing to do  
239 with the permitting process. Instead, approvals are down because  
240 FERC has lacked a quorum for 3 months and the President has yet  
241 to nominate anyone to any of the three open slots. To make matters

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242 worse, FERC will soon have only one commissioner when Commissioner  
243 Honorable's term expires at the end of June. What that means in  
244 terms of natural gas projects is that FERC has not approved a gas  
245 pipeline project since February 3rd.

246 So if the goal of my colleagues on the other side of the aisle  
247 is truly to speed up the FERC approval of gas pipelines, perhaps  
248 they should pick up the phone and ask President Trump to nominate  
249 at least a couple of new FERC commissioners so they can begin to  
250 consider applications for these projects once again. Until then,  
251 I find any conversation about needing legislation to expedite  
252 pipeline approvals at FERC untimely.

253 The Cross-border Energy discussion draft also looks very  
254 similar to legislation we debated at length last Congress. This  
255 proposal eliminates the current presidential permitting process  
256 for energy projects that cross the U.S. border substituting it  
257 with a weaker environmental review process that in effect  
258 rubber-stamps applications.

259 With President Trump already approving the Keystone XL  
260 pipeline and signaling support for new pipelines and other energy  
261 projects around the country, it is unclear to me why Republicans  
262 feel it is necessary to strip the President of his approval  
263 authority. Do my colleagues on the other side of the aisle

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264 honestly not have confidence in President Trump to make rational  
265 decisions on major energy projects? While I certainly have many  
266 concerns and would certainly not fault my Republican friends for  
267 any trepidation on their part, I still believe that this authority  
268 should continue to rest with the President of the United States  
269 regardless of whether his name is Obama or Trump.

270 So I want to thank our witnesses for coming today,  
271 particularly Ms. Danis who is from New Jersey and is here  
272 representing, among others, the New Jersey Conservation  
273 Foundation. Thank you, Mr. Chairman.

274 Mr. Olson. The gentleman yields back. We now conclude with  
275 member opening statements. The chair would like to remind all  
276 members that pursuant to the committee rules, all members' opening  
277 statements will be made part of the record, and I want to thank  
278 our witnesses for being here today and taking your time to testify  
279 before the subcommittee.

280 Today's hearing will consist of two panels. Each panel of  
281 witnesses will have the opportunity to give an opening statement  
282 followed by a round of questions from the members. Once we  
283 conclude the first panel we will take a few minutes to set up the  
284 second panel.

285 Our first witness panel for today's hearing includes Mr.

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286 Terry Turpin. Mr. Turpin is director of Office of Energy Projects  
287 at FERC; and Mr. John Katz, Mr. Katz is a deputy associate general  
288 counsel for the Office of General Counsel at FERC as well. We  
289 appreciate you being here today. We will begin by recognizing  
290 you, Mr. Turpin, for 5 minutes to give an opening statement.

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291 STATEMENTS OF TERRY TURPIN, DIRECTOR, OFFICE OF ENERGY PROJECTS,  
292 FEDERAL ENERGY REGULATORY COMMISSION; AND, JOHN KATZ, DEPUTY  
293 ASSOCIATE GENERAL COUNSEL, OFFICE OF THE GENERAL COUNSEL, FEDERAL  
294 ENERGY REGULATORY COMMISSION

295

296 STATEMENT OF TERRY TURPIN

297 Mr. Turpin. Thank you. Good morning, Vice Chairman Olson,  
298 Ranking Member Rush, and members of the subcommittee. My name  
299 is Terry Turpin and I am director of the Office of Energy Projects  
300 at the Federal Energy Regulatory Commission. The Office is  
301 responsible for taking a lead role in carrying out the  
302 Commission's duties in siting infrastructure projects including  
303 non-federal hydropower projects, interstate natural gas  
304 facilities, and liquefied natural gas terminals. Thank you for  
305 the opportunity to appear before you to discuss drafts of the  
306 Promoting Interagency Coordination for Review of Natural Gas  
307 Pipelines Act and the Promoting Cross-Border Energy  
308 Infrastructure Act.

309 As a member of the Commission's staff, the views I express  
310 in my testimony are my own and not necessarily those of the  
311 Commission or any individual commissioner.

312 The Commission is responsible under Section 7 of the Natural

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313 Gas Act for authorizing the construction of interstate natural  
314 gas facilities, and under Section 3 of the Natural Gas Act for  
315 authorizing the construction of import/export facilities. The  
316 Commission acts as the lead agency for the purpose of coordinating  
317 all applicable federal authorizations and as the lead agency for  
318 complying with the National Environmental Policy Act.

319 The environmental review is carried out through a process  
320 that allows cooperation from numerous stakeholders including  
321 federal, state and local agencies, Native Americans, and the  
322 public. In order to maximize the engagement between the  
323 applicant and these various stakeholders, the Commission has  
324 developed its pre-filing review process.

325 The Commission's current approach allows for a systematic  
326 and collaborative process and has resulted in substantial  
327 additions to the nation's natural gas infrastructure. Since  
328 2000, the Commission has authorized nearly 18,000 miles of  
329 interstate natural gas pipeline totaling more than 159 billion  
330 cubic feet per day of transportation capacity, over one trillion  
331 cubic feet of interstate natural gas storage, and 23 facility  
332 sites for the import or export of LNG.

333 Over the past 10 years, the Commission has also issued 15  
334 authorizations related to natural gas border crossing facilities.

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335 These results have been facilitated through the environmental  
336 analysis under the National Environmental Policy Act, which I  
337 believe has been improved through the Commission's approach  
338 through the pre-filing review phase of the project.

339       Regarding the discussion drafts, I note that many of the  
340 comments of previous office directors have been incorporated on  
341 similar past proposals and have been incorporated into these  
342 versions. As I explain in my testimony, the discussion draft on  
343 interagency coordination would alter the Natural Gas Act to  
344 include many of the existing practices the Commission currently  
345 uses successfully in its review process.

346       The discussion draft addressing cross-border energy  
347 infrastructure would add oil pipeline border crossings to the  
348 Commission's jurisdiction and would remove requirements for  
349 presidential permits for both oil and natural gas border  
350 crossings. Staff already has substantial expertise in analyzing  
351 natural gas pipeline border crossings and this could be extended  
352 to oil crossings under the final rules the Commission would be  
353 required to issue.

354       This concludes my remarks on the discussion drafts  
355 addressing interagency coordination and cross-border  
356 infrastructure. Commission staff would be happy to provide

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357 technical assistance as you move forward with your consideration  
358 of this legislation. I would be pleased to answer any questions  
359 you may have. Thank you.

360 [The prepared statement of Mr. Turpin follows:]

361

362 \*\*\*\*\*INSERT 1\*\*\*\*\*

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363

Mr. Olson. Mr. Turpin, thank you very much.

364

The chair now calls upon Mr. Katz. You are recognized now

365

for 5 minutes for an opening statement.

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366 STATEMENT OF JOHN KATZ

367

368 Mr. Katz. Thank you Mr. Chairman, Ranking Member Rush,  
369 members of the committee, it is a pleasure to be here before you  
370 today, and thank you for the invitation to testify. My name is  
371 John Katz. I am a member of the staff of the Federal Energy  
372 Regulatory Commission, and as such my comments represent my own  
373 opinions and not necessarily those of the  
374 Commission or of any individual commissioner. I am going to focus  
375 on the bills that involve hydro aspects.

376 The Commission regulates over 1,600 hydro projects which  
377 involve more than 2,500 dams. The projection of these hydro  
378 projects is some 56 gigawatts which is over half of the hydro  
379 capacity of the United States. The United States does a little  
380 bit better than the figure Mr. McNerney quoted for the world, hydro  
381 is eight percent of U.S. capacity.

382 Hydro is a renewable resource. It affects many other  
383 resources including irrigation, flood control, water supply, fish  
384 and wildlife, and recreation, and these are matters that Congress  
385 has asked the Commission to balance when it issues licenses. The  
386 key thing in getting a hydro project licensed quickly is probably  
387 site selection. This is a matter within the control of the

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388 developers, so good development is what is going to carry the day  
389 not the government, not the other interested parties.

390 The community needs to be involved. Stakeholder  
391 involvement is very key. Issues need to be identified early and  
392 developers need to work with the community and the stakeholders  
393 to try and resolve matters so that things can be done in quick  
394 manner. A good example of this is the 400-megawatt Gordon Butte  
395 Project. It is a pumped storage project in Montana. That  
396 project was licensed in 14 months and the developer of the project  
397 recently appeared at a workshop at the Commission.

398 And while on the one hand he was very complimentary of the  
399 efforts of Commission staff, he said that the key to getting it  
400 done in time was that the Commission had essentially turned him  
401 loose to allow him to develop a process that worked for him and  
402 his stakeholders, and that is something that the Commission does  
403 on a regular basis.

404 The Commission does its best to be efficient and effective.  
405 Since 2003, the Commission has issued 82 original licenses, and  
406 of those about 25 percent have been licensed in 2 years or less  
407 with about a 1.4-year median processing time at the Commission.

408 Congress has done a lot to help the Commission in carrying  
409 out its job. In the 2013 Hydropower Regulatory Efficiency Act,

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410 Congress provided that certain qualifying conduit projects could  
411 be completely exempt from Commission regulation. The Commission  
412 has approved or signed off on 83 of those projects since then.

413 Congress also allowed the Commission to consider small  
414 projects at an increased level. They used to be limited to five  
415 megawatts and Congress increased that to ten megawatts. There  
416 have been seven such projects filed since the passage of that act.  
417 Finally, Congress allowed the Commission to extend the time of  
418 preliminary permits which are what an applicant gets to study a  
419 project, and the Commission has approved 57 extensions or permits  
420 since that time. Commission staff supports the goals of the  
421 legislation before you to the extent that they improve efficiency,  
422 enable the development of new infrastructure, support balanced  
423 decision making, and reduce duplicative oversight. We are  
424 concerned only to the extent that additional bureaucracy would  
425 add to the process. Commission staff and other agencies are not  
426 in my experience looking to do additional processes or things that  
427 will slow down development, but rather want to pare back these  
428 processes to the extent we possibly can.

429 Finally, I want to note that there are several bills that  
430 provide extensions of the commencement of construction deadlines  
431 for certain projects and those bills are all consistent with

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432 Commission policy. Thank you very much and I would be happy to  
433 answer any questions you may have.

434 [The prepared statement of Mr. Katz follows:]

435 \*\*\*\*\*INSERT 2\*\*\*\*\*

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436 Mr. Olson. Thank you, Mr. Katz, for your testimony, and we  
437 will now move to the question and answer session of the hearing.  
438 I will begin the questioning by recognizing myself for 5 minutes.  
439 Again, welcome, Mr. Turpin and Mr. Katz from Texas 22.

440 I am very concerned about the lack of a quorum at FERC and  
441 the negative impact it could have on pending pipeline projects.  
442 The Administration and the Senate have to make this a priority.  
443 My question is how is the Commission handling the workload? What  
444 types of actions have been delegated to staff which requires  
445 sign-off from the Commissioners? Mr. Turpin?

446 Mr. Turpin. Thank you. The workload in a large part for  
447 the things that are delegated, such as the need for reviews and  
448 the processing of applications, continues unabated. Staff is  
449 working as hard as it ever has even when there was the quorum.  
450 Issues, there are issues related to gas projects where the offices  
451 don't have a lot of delegated authority and staff is preparing  
452 those drafts for consideration when there is a quorum.

453 And on the hydro side, there is a bit more delegated authority  
454 and there are more orders and decisions that can be made on  
455 uncontested cases.

456 Mr. Olson. Thank you, sir. Another question for you, sir,  
457 Mr. Turpin. A few years ago, GAO analyzed major pipeline

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458 projects. They found that you can take up to 2.5 years for a FERC  
459 certificate. It averaged 568 days. Actually that is about the  
460 study in the hearing last Congress.

461 So if you haven't read the study, the report, recently, I  
462 would like to know even if you haven't, what are the biggest  
463 sources of friction there are for pipeline approval, and number  
464 two, what have you all changed in recent years to make this process  
465 faster?

466 Mr. Turpin. I haven't read that study. In looking back at  
467 the data for all issuances for the Commission since 2009, on  
468 average it is 88 percent of the projects get issued within 1 year.  
469 Of course that encompasses a lot of the projects that are very  
470 small in scope and therefore move faster. The larger and more  
471 complex a project the more time it tends to take just as a function  
472 of the higher number of stakeholders that are engaged and the more  
473 complex issues that are raised.

474 In terms of what are the points of friction, in general really  
475 it is the development of the information. As Mr. Katz alluded  
476 to with hydro, a site selection on that is a major determining  
477 factor and it is the same for pipelines. The route selection is  
478 a very large factor and which is why the Commission developed the  
479 pre-filing process. It allows the applicants to come in and

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480 engage the stakeholders well before they have sort of finalized  
481 the route to get input on where the best route may be that addresses  
482 all the issues. And that allows them then, once they do file the  
483 application, to move forward.

484 But it is the development of that information along the route  
485 as well as the information related to the construction and design  
486 of the facilities that usually are the stumbling block for the  
487 regulating agencies.

488 Mr. Olson. Thank you. Mr. Katz, I am not going to leave  
489 you out of the questioning. What are the opportunities to expand  
490 the nation's hydropower capacities, specifically what is the  
491 greatest impediment to installing power generators on non-power  
492 dams?

493 Mr. Katz. I think there are significant opportunities and  
494 I think as you alluded to the greatest opportunities or at least  
495 the simplest opportunities are adding capacity to non-power dams  
496 including government dams, those operated by the Bureau of  
497 Reclamation and the Army Corps of Engineers. I think that the  
498 greatest impediment to that are failures to obtain consensus among  
499 the various stakeholders where people are comfortable.

500 And for example, we have recently licensed a project in  
501 Pennsylvania where everybody was very comfortable with the

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502 project, they felt it was good for the environment and good for  
503 the energy distribution in the area and that was able to go through  
504 very quickly. Where you have stakeholders who are not  
505 comfortable and raise issues, whether it is state agencies,  
506 federal agencies, or other entities, that can slow down the  
507 process radically.

508 Mr. Olson. Further question, what types of technologies are  
509 being developed to improve safety, efficiency, and lessen the  
510 environmental impact of hydropower and what can Congress do to  
511 help further innovation?

512 Mr. Katz. I am not an engineer so I am not expert in the  
513 types, but I know there are --

514 Mr. Olson. Me neither.

515 Mr. Katz. Mr. Turpin knows more about engineering generally  
516 than I do, but I think Mr. Leahey and perhaps some of the witnesses  
517 who come later may be able to give you more detail. But I know  
518 that there is development ongoing, some of which has been funded  
519 by the Department of Energy to help develop fish-friendly turbines  
520 and other types.

521 There is one new project that is using what is called the  
522 Archimedes' screw technology which is brand new. Folks have been  
523 looking into wave and tidal energy projects. These are all new,

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524 promising technologies that can continue to be explored.

525 Mr. Olson. Thank you. My time has expired and I now I call  
526 upon the ranking member of the subcommittee, Mr. Rush, for 5  
527 minutes.

528 Mr. Rush. I want to thank you, Mr. Chairman. To Mr. Turpin,  
529 a recurring theme in all of these bills is that the environmental  
530 protection concerns are given a backseat in order to expedite  
531 applications for both natural gas pipelines and hydropower  
532 licenses. In your opinion, does FERC staff have the necessary  
533 expertise to determine the scope of environmental review needed  
534 to satisfy NEPA obligations for natural gas permits?

535 Mr. Turpin. Thank you. Thank you, sir. I think for the  
536 purposes of determining the Commission's NEPA obligations, yes.  
537 Commission staff is well versed in that. We have a large staff  
538 in the Office of Energy Projects that are archeologists,  
539 engineers, biologists, environmental protection specialists, and  
540 with that staff we can very well do that job for the FERC's needs.

541 However, the NEPA, you know, even though NEPA applies to all  
542 federal agencies, being a process-based statute is the process  
543 we all have to comply with, but different agencies with other  
544 jurisdictions might have different obligations or jurisdictional  
545 coverage and FERC staff is not versed in those statutes for other

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546 agencies.

547 Mr. Rush. In regards to hydropower licensing does FERC have  
548 any statutory mandate to protect water quality, wildlife, or  
549 access to public lands as in the case for some of the other agencies  
550 that are made subordinate to FERC with this bill?

551 Mr. Katz. The Commission has the obligation under the Part  
552 1 of the Federal Power Act to consider all aspects of the public  
553 interest. Did I answer your question, sir?

554 Mr. Rush. No, you didn't.

555 Mr. Katz. I am sorry.

556 Mr. Rush. Do you have any statutory mandates?

557 Mr. Katz. Yes, we do. The Federal Power Act requires the  
558 Commission to consider all aspects of the public interest.

559 Mr. Rush. All right.

560 Mr. Turpin, in your opinion, does FERC currently work  
561 effectively with the other agencies throughout the natural gas  
562 application process and would altering FERC's role from one of  
563 collaboration with other agencies to, quote, policeman, end of  
564 quote, role of overseeing and monitoring other agencies'  
565 congressionally mandated duties to improve coordination and would  
566 this result in faster application decisions?

567 Mr. Turpin. As noted in my testimony, the FERC pre-filing

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568 process is collaborative. We engage a lot of agencies. It is  
569 the whole point of the approach and I think we are very effective  
570 at doing that. Most agencies are very willing to participate and  
571 to engage with staff, but they have their own resource  
572 constraints, they have their own statutes they have to meet, and  
573 it is those that drive their needs more so than the Commission's  
574 schedule that is put out.

575 Mr. Rush. Well, an extension of that question is are there  
576 ever instances of a natural gas permitting application being  
577 delayed because an applicant has not submitted all of the  
578 necessary information, and if so, how would this legislation help  
579 expedite the process in those cases where agencies are not  
580 provided with timely and complete information necessary to  
581 perform congressionally mandated project reviews? And if you  
582 have any recommendations I would like to hear them in order to  
583 address this issue.

584 Mr. Turpin. The best thing in terms of generating the  
585 information is the early engagement of all the stakeholders. The  
586 earlier agencies can get involved and define what information  
587 needs they might need for their mandates the better, because that  
588 gives the applicant enough time to go out and find that info,  
589 develop those studies.

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590           So, you know, the pre-filing process allows that. The  
591 legislation encourages that same early engagement and I think that  
592 is the best path forward for trying to address those issues.

593           Mr. Rush. Thank you, Mr. Chairman. I yield back.

594           Mr. Olson. The gentleman yields back. The chair now calls  
595 upon the gentleman from Ohio, Mr. Latta, for 5 minutes.

596           Mr. Latta. Well, thanks, Mr. Chairman, and thank you very  
597 much to our witnesses for appearing before us today. Mr.  
598 Katz, if I could ask maybe a follow-up from your earlier statement.  
599 You had mentioned that there was a project out in Montana, a hydro  
600 project, and there is also because of the area of where it was  
601 and with the selection of the site that I believe that you said  
602 that the individual said that they were turned loose to get this  
603 project done.           How often does that happen that folks out  
604 there can actually do something like that? And when they say get  
605 turned loose, how fast can that happen in the permitting and  
606 everything else to get a project done?

607           Mr. Katz. Sure. It is hard to give an exact time because  
608 it really depends on what information is provided and what the  
609 issues are. What I meant by that was the Commission has three  
610 licensing processes. Two of them, the integrated licensing  
611 process and the traditional license process, have fairly specific

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612 timeframes and details of things you have to do.

613           There is another process called the alternative licensing  
614 process which allows the stakeholders to essentially set up their  
615 own licensing process the way they want to do it, and the  
616 Commission is always open to allowing people to do that if that  
617 is something that they can agree upon it. In this instance, the  
618 developer was very forward-looking and positive and took the reins  
619 in his own hands and got a lot done very quickly.

620           Mr. Latta. So how often can somebody do that alternatively?  
621 Is that a very frequent, infrequent?

622           Mr. Katz. It is less frequent than the other two processes,  
623 but it is always available. I think it is a question of what the  
624 parties think will work best. For example, the traditional  
625 process tends to work best for smaller projects because it sets  
626 forth more exact deadlines but has less of the collaborative, sort  
627 of going out there and meeting and doing a lot of stakeholder  
628 involvement, so it can be less expensive and easier for smaller  
629 projects and those by developers with less funding.

630           The alternative process, however, can be shaped in any way  
631 that the stakeholders think is appropriate provided that they give  
632 the Commission a complete record at the end of the day. And in  
633 the Gordon Butte case that is exactly what they did.

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634 Mr. Latta. Okay. Let me follow up with you again, Mr. Katz.  
635 How did the permitting timelines for hydropower compare to other  
636 types of renewable energy developments such as wind and solar  
637 projects?

638 Mr. Katz. I think they are significantly longer.

639 Mr. Latta. Do you believe that the permitting process could  
640 be improved to level that playing field, and how?

641 Mr. Katz. Absolutely.

642 Mr. Latta. Okay. And how would that be permitted, how  
643 would we level that playing field?

644 Mr. Katz. I don't have exact prescriptions. I think some  
645 of the things in the legislation before us would go a ways towards  
646 doing that. Whatever we can do to reduce duplication to get  
647 everyone on the same page at the same time will help. What tends  
648 to slow things down are if one agency is not finished at the same  
649 time another agency is or if it feels it needs to do additional  
650 environmental work or other things so that then things are not  
651 sequential, or things are sequential -- I am sorry -- rather than  
652 being done at the same time to the extent that it can be one process  
653 that is run in an orderly and efficient manner that will cut down  
654 the time.

655 Mr. Latta. Would you say there is a lot of duplication in

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656 the federal process then between agencies who have that  
657 duplication?

658 Mr. Katz. There is some, yes.

659 Mr. Latta. Let me ask also, not to pick on you, Mr. Katz,  
660 when there are disputes about a potential condition, the licensing  
661 stakeholders are entitled to a trial-type hearings on the facts  
662 and the evidence. It is clear that the current process under the  
663 Federal Power Act has not worked as it has been intended. It  
664 requires so much time, money, and staff resources it is rarely  
665 used if ever. How many types of these trial-type hearings have  
666 been conducted to your knowledge?

667 Mr. Katz. Again Mr. Leahey may know exactly, I suspect he  
668 does. To my knowledge it is in the area of five or six. It is  
669 not a lot. Those are not conducted before the Commission. To  
670 this point they have been conducted before administrative law  
671 judges designated by the agencies that impose the mandatory  
672 conditions that are the subject of the hearing, so the Commission  
673 doesn't have detailed knowledge about them.

674 Mr. Latta. When you say five or six, is that five or six  
675 a year or five or six over time?

676 Mr. Katz. I think total. Again I hesitate to look over at  
677 Mr. Leahey. He will know the number, but it is not a large number.

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678 Mr. Latta. Okay. And then, the Commission is responsible  
679 for assessing whether it would be responsible include conditions  
680 in the project license. Shouldn't the Commission take the lead  
681 with these trial-type hearings?

682 Mr. Katz. It is possible. The bottom line though is that  
683 those conditions are mandatory and the Commission has no authority  
684 to not include them in the license. So the question whether the  
685 trial-type hearings do anything that the Commission can act upon  
686 at the end of the day, because as long as they are mandatory whether  
687 the trial is at the Commission or not it doesn't change the result.

688 Mr. Latta. Thank you very much. And Mr. Chairman, my time  
689 has expired and I yield back.

690 Mr. Olson. The gentleman yields back. The chair now calls  
691 upon the gentleman from California, Mr. McNerney, for 5 minutes.

692 Mr. McNerney. I thank the chairman. Mr. Katz, California  
693 and FERC entered into an Memorandum of Understanding regarding  
694 hydropower. Can you point to any significant benefits that have  
695 resulted from this MOU as it relates to hydropower licensing and  
696 relicensing?

697 Mr. Katz. I think that the efforts there were made to sort  
698 of process things in a sequential time. I know California has  
699 had budgetary difficulties so that the state agencies have not

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700 had the resources that they would like to be able to devote to  
701 all of the hydropower projects. And the sense, I think, of the  
702 MOU was to get things done in an orderly and sequential fashion.  
703 I think it has done some good in that regard.

704 Mr. McNerney. So it is mostly to benefit the state  
705 processes?

706 Mr. Katz. Yes, I think so. I mean, it also, I believe the  
707 MOU called upon to the extent possible for the environmental  
708 reviews of the state and the Commission to be sequential. I am  
709 sorry, I keep saying sequential -- to be done at the same time  
710 and California did not have to do extra work at the end of the  
711 day, but ultimately that is a call for the state to make.

712 Mr. McNerney. Okay. You did use the word sequential  
713 before, but you meant concurrent?

714 Mr. Katz. Exactly, in this instance, yes. Concurrent  
715 reviews are always more efficient than sequential reviews.

716 Mr. McNerney. So FERC currently attempts to complete  
717 studies on a concurrent basis. The Hydropower Modernization Act  
718 draft language more or less requires concurrent studies prior to,  
719 or concurrent with preparation of the FERC environmental  
720 requirements from the NEPA. Is this a good approach, or what is  
721 the best approach we can take to get concurrent studies?

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722 Mr. Katz. I think it is a reasonable approach. The bottom  
723 line is, however, that both as to state agencies and other federal  
724 agencies, they have their statutory mandates which they need to  
725 satisfy and there is nothing in the current Federal Power Act or  
726 in the draft legislation that would preclude those agencies from  
727 taking the time they need and from performing additional reviews  
728 if that is what they feel they need to satisfy their statutory  
729 mandates.

730 Mr. McNerney. So you feel that concurrent requirements  
731 aren't going to throw environmental protections aside or blunt  
732 them to some degree?

733 Mr. Katz. I did not see anything in the idea of concurrent  
734 reviews that would undercut environmental protection.

735 Mr. McNerney. Well, what are the areas of improvement under  
736 the integrated licensing process?

737 Mr. Katz. I am sorry. Could you ask the question again?

738 Mr. McNerney. What are areas of improvement under the ILP?

739 Mr. Katz. There is probably a variety of improvements. I  
740 think mainly they involve on the ground aspects rather than  
741 necessarily regulatory or statutory changes. I think getting  
742 people on the same page and getting them to reach agreement on  
743 what sort of studies need to be done and what the work is that

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744 is necessary to develop a full understanding of a hydro project  
745 is key. And in some instances folks reach that agreement and  
746 proceed very quickly and other instances they greatly disagree  
747 and I am not sure that there is really much that can be done by  
748 statute or regulation to force people who have different statutory  
749 authorities to agree.

750 Mr. McNerney. Okay. How often do the licensees have to  
751 utilize the FPA's authority for automatic year to year license  
752 extensions?

753 Mr. Katz. It is not a question of something that a licensee  
754 can use. What the statute provides is that if a license expires  
755 and the Commission has not yet been able to issue a new license  
756 then what is called an annual license is automatically issued,  
757 and I can't give you a percentage. I would be glad to get that  
758 information back if you want it, but it is not unusual.

759 Mr. McNerney. Moving on, I have heard from a lot of  
760 stakeholders who say that agencies can improve with information  
761 sharing. Could you describe the information sharing process as  
762 it relates to the study process?

763 Mr. Katz. Sure. I mean the Commission believes in a very  
764 transparent and an open process. There is no secret information  
765 on hydro projects. As studies are done they are filed with the

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766 Commission. They are available to all stakeholders. Often  
767 there are study review meetings under the ILP, for example, where  
768 everybody sits down and goes over the study, discusses its merits,  
769 its demerits, whether there is further information done. So  
770 transparency is an absolute key to the hydro licensing process.

771 Mr. McNerney. Well, could there be any value to having  
772 stakeholders support a person to person type manager dedicated  
773 to particular bases throughout the country to facilitate the  
774 processes?

775 Mr. Katz. I am not certain about that. I would have to know  
776 more about the proposal.

777 Mr. McNerney. Okay, all right. My time has expired, Mr.  
778 Chairman. I will yield back.

779 Mr. Olson. The gentleman yields back. The chair now calls  
780 upon the gentleman from Pennsylvania, Dr. Murphy, for 5 minutes.

781 Mr. Murphy. Thank you, Mr. Chairman.

782 Mr. Turpin, the Natural Gas Act requires a Commission review  
783 whether a proposed interstate pipeline is necessary or desirable  
784 in the public interest. It also requires the Commission to set  
785 rates charged for interstate pipeline service to be just and  
786 reasonable. So let me ask another area here, does the Commission  
787 take into account jobs and economic impact as it reviews the public

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788 interest?

789 Mr. Turpin. Well, the criteria that the Commission  
790 considers and it is a decision by the five, or when there is five  
791 sitting commissioners, are laid out in the 1999 certificate policy  
792 statement. My office is really focused on generating the  
793 environmental impacts associated with construction of a project  
794 and in gathering the data from the application that the applicants  
795 put forward on --

796 Mr. Murphy. Are jobs considered all at impact upon  
797 employment?

798 Mr. Turpin. I can't say what each individual commissioner  
799 considers.

800 Mr. Murphy. What about you?

801 Mr. Turpin. I don't have a say in that. I generate the  
802 information and I pass -- the NEPA document is not a decisional  
803 document.

804 Mr. Murphy. But in terms of the information generated you  
805 don't put down impact upon jobs, employment, those things?

806 Mr. Turpin. In the NEPA document there are socioeconomic  
807 analyses that looks at construction jobs, looks at impacts to the  
808 area for lodging, traffic, for those localized impacts.

809 Mr. Murphy. Okay, thank you. How often has the Commission

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810 used its authority under Section 5 of the Natural Gas Act to review  
811 the rates and require prospective changes when the rates are no  
812 longer just and reasonable?

813 Mr. Katz. The Commission does not often do that. The  
814 Commission has in recent years proposed to look at a couple of  
815 pipelines under Section 5, but it is not something that occurs  
816 very often.

817 Mr. Murphy. Why is that?

818 Mr. Katz. I think the Commission has not seen instances  
819 where pipelines appear to be charging excessive rates. Certainly  
820 if people complain about it and come before the Commission and  
821 say you need to look at this pipeline rate because it is excessive  
822 that is something Commission staff would look at. As I said that  
823 is not Terry and my area of expertise, but I am not aware that  
824 it occurs very often.

825 Mr. Murphy. Are you aware in your areas of expertise looking  
826 at any of the things of impact, economic impact and employment  
827 issues too?

828 Mr. Katz. If you are asking me, yes. Terry said yes, the  
829 Commission looks at all the information that is provided to it.  
830 In a case of if information is concerning increased employment,  
831 yes, the Commission would have that information before it to

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832 consider.

833 Mr. Murphy. If it is there, you are saying?

834 Mr. Katz. Yes. I mean the Commission is not in the best  
835 position to determine how many people a pipeline company is going  
836 to hire. The company is in the best position to know that and  
837 if it provides that type of information to the Commission then  
838 it is in the record for Commission consideration.

839 Mr. Murphy. But that is not something you necessarily  
840 request. If they provide it you have it, if they don't you don't?

841 Mr. Katz. I am not aware of the Commission's specifically  
842 requesting that.

843 Mr. Murphy. So what I am concerned about here is of course  
844 that these are jobs, they are good paying jobs where people are  
845 building pipelines whether they are the engineers, the operating  
846 engineers, the welders, whatever that might be, those are pretty  
847 valuable jobs that have initial impact upon employment longer  
848 term, I would say, than its maintenance of the pipeline, but the  
849 same thing for hydroelectric power too. I mean, we look at  
850 those things as important to make sure we are reviewing those.  
851 Well, it is something I believe we should be looking at as well  
852 and hope we can get to that future. Mr. Chairman, I will hold  
853 off on other questions for now and wait for the next panel. Thank

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854 you. I yield back.

855 Mr. Olson. The gentleman yields back. The chair now calls  
856 upon the gentleman from California, Mr. Peters, for 5 minutes.

857 Mr. Peters. Thank you, Mr. Chairman. Thank you very much  
858 for being here. You know, as someone who -- one of the reasons  
859 I ran for Congress was to deal with climate change, and I am excited  
860 to be on this committee. I am new to it.

861 I don't understand why more people on our side of the aisle aren't  
862 flipping out about how long it is taking to do hydro. It is one  
863 base load that is carbon-free and I just, I am interested in  
864 understanding kind of what the obstacles are. Let me say  
865 that one thing that I thought was interesting about your response  
866 to the chairman about what the obstacles are, Mr. Katz, is that  
867 you talked about stakeholders not environmental issues and that  
868 the obstacle was getting stakeholders to agree. In my mind as  
869 a former environmental attorney that is an extremely subjective  
870 kind of standard to try to reach. It is something that can vary  
871 greatly depending on the group of people you get in the room and  
872 it is also something that has got to scare the heck out of investors  
873 who are looking for some sort of certainty at the end of the day.

874 I am not going to be able to -- I am just really interested  
875 in working the problem, and again I am not going to be able to

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876 do that in my 3 minutes and 49 seconds with you. But I just would  
877 say that it seems to me that maybe we could identify some more  
878 objective criteria so that we protect rivers, we protect fish and  
879 wildlife, but in a way that is more objective and I think that  
880 would help us. Just instinctively it seems to me that that would  
881 help us save some time.

882 One thing you did say about in reaction to some of the  
883 materials before us is that you are concerned that some of it would  
884 add bureaucracy. And I would like to know now what in here would  
885 actually add to the bureaucracy? What is your concern that might  
886 actually slow us down?

887 Mr. Katz. Sure. And let me say in addition in response to  
888 your initial comments that I think it is difficult to have  
889 objective environmental criteria since every hydro site is  
890 different, but I agree with you that being as objective as you  
891 can is a good goal. And one of the things in the hydro area is  
892 that there is what we tend to call shared decision making. So  
893 this is not a matter where the Commission gets a hydro proposal,  
894 it reviews it, it approves it or doesn't approve it and it is done.

895 There are instances where other federal agencies have the  
896 right to impose mandatory conditions; the states have the right  
897 to impose mandatory conditions under the Clean Water Act, so those

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898 are the things when I talk about the stakeholders. The  
899 stakeholders include those agencies that have a right to  
900 participate in the proceeding and to affect the ultimate  
901 licensing, and it is really necessary to get them on the same page  
902 to be effective.

903 Now in terms of the specifics of the act, I would be glad  
904 to work with you and your staff on those in the future. Some of  
905 the things, for example one of the things that struck Commission  
906 staff in looking at these was for the provisions regarding  
907 amendments. And the provisions there seemed to require for all  
908 amendments that there be a schedule established and perhaps a  
909 Memorandum of Understanding undergone, and it has been Commission  
910 staff's experience that 87 percent of amendments are approved  
911 within 6 months because they are usually minor matters.

912 So while the provisions regarding the process might very well  
913 be very useful for larger what we call capacity amendments where  
914 someone is greatly increasing the capacity of a project, they  
915 would not necessarily be helpful in terms of the smaller work.  
916 So it is those sorts of things where everything is not  
917 one-size-fits-all, and we would want to be sure that whatever  
918 processes are created will be applied to those proceedings in  
919 which it makes them quicker, but would not be applied to those

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920 proceedings in which it would slow them down.

921 Mr. Peters. Let me just ask one other specific question.  
922 Is there a way we could speed up the relicensing of existing  
923 facilities that may be wearing out? Is there some reason why that  
924 takes as long as it does?

925 Mr. Katz. I honestly don't have a magic answer. I don't  
926 know that anyone else does or it would have been done long since.  
927 I know Congress -- all of the stakeholders have been concerned  
928 about this for years. I think part of the problem is just the  
929 statutory structure where you need to do a thorough environmental  
930 review and then there are a number of authorities that have the  
931 right to impose conditions.

932 It is very hard to do a set process. For example, under the  
933 Clean Water Act the Commission can't issue a license unless it  
934 has gotten either a waiver of certification or a certification  
935 from the states. And there are some instances where the  
936 Commission has been completely done its work on a project and has  
937 been sitting for more than a decade waiting for a state to act  
938 under the Clean Water Act and there is just flatly nothing the  
939 Commission can do about that.

940 Mr. Peters. Great. I understand.

941 Mr. Katz. Congress could change that if it wanted.

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942 Mr. Peters. I was going to say fortunately we are talking  
943 about statutory authority right here in this room, so you are  
944 probably talking to the right people. And I appreciate the  
945 constraints that the Commission has and your answers have been  
946 very helpful to me.

947 Mr. Chairman, thanks for the hearing and I yield back.

948 Mr. Olson. The gentleman yields back. The chair now calls  
949 upon the gentleman from Mississippi, Mr. Harper, for 5 minutes.

950 Mr. Harper. Thank you, Mr. Chairman, and thanks to you both  
951 being here and look forward to additional info on this very  
952 important issue. Mr. Katz, if I can ask you a couple of questions.  
953 You know the ownership and regulatory environment for hydro is  
954 very complex. Where do you see the greatest opportunities for  
955 streamlining the process to improve that transparency and  
956 efficiency?

957 Mr. Katz. Again, I think that the greatest opportunities  
958 are making all decision making as concurrent as possible. Any  
959 time you get into sequential decision making it slows things down,  
960 often radically slow.

961 Mr. Harper. Okay, can you identify a place or places where  
962 you see the greatest amount of duplicative or unnecessary work,  
963 something that comes to mind?

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964 Mr. Katz. I can't say as sort of an across the board matter,  
965 but some states and some agencies in some cases decide that they  
966 need to do their own environmental review in addition to what the  
967 Commission does and that can take time. Also some of those  
968 entities do not time their decision making so that it syncs up  
969 with when the Commission is ready to act and those matters can  
970 radically delay --

971 Mr. Harper. So would it help, Mr. Katz, to have FERC act  
972 as a lead agency to maybe issue a schedule and enforce deadlines?

973 Mr. Katz. The devil is in the details. I mean, the  
974 Commission always is the lead agency and the Commission's  
975 regulations and in giving cases specific orders do set schedules.  
976 It is the enforcing the schedules that is hard. And that is kind  
977 of a two-edged sword, because on the one hand the Commission might  
978 like to be able to say you will hand in your state authorization  
979 by date X; at the same time states have sovereignty and to the  
980 extent that they are told they need to do something by a certain  
981 time, if they feel not ready they could always deny certification  
982 or load up on very burdensome conditions because they felt they  
983 didn't have the time necessary to do their job. So it is a real  
984 difficult chicken and egg problem.

985 Mr. Harper. And do you wind up with a lot of conflict in

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986 those situations where that happens on a regular occasion?

987 Mr. Katz. I don't know if it is open conflict. It is more  
988 like the Cold War. I know again, I hate to keep referring to Mr.  
989 Leahey, but I think he will tell you that there are licensees that  
990 are very frustrated because they have done all that they can and  
991 in many instances are satisfied that the Commission has done all  
992 it can, but projects are not ready to go forward because other  
993 entities are not ready to act.

994 Mr. Harper. And those other entities would be state  
995 entities?

996 Mr. Katz. Some state entities, sometimes it is other  
997 federal agencies.

998 Mr. Harper. Okay, which if we were trying to decide between  
999 the two would it be primarily more responsibility on state  
1000 agencies or other federal agencies that you see just in  
1001 generalities?

1002 Mr. Katz. That is hard to say. I would suspect that Clean  
1003 Water Act certifications are the greatest incidents of delay, but  
1004 Endangered Species Act consultation also delays a number of  
1005 projects.

1006 Mr. Harper. You know, almost everybody would agree that you  
1007 know, hydropower, it is clean, renewable, abundant, and I believe

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1008 affordable. What many people don't realize is that it does also  
1009 improve the reliability of the electric grid. How does hydro help  
1010 integrate intermittent renewables like wind and solar?

1011 Mr. Katz. Hydro can play a very significant role in doing  
1012 that because hydro has what is called black start capacity, so  
1013 you can have the hydro sitting there and it turns on instantly  
1014 as soon as you let the water flow and turn the turbines. So when  
1015 you are pairing it with something like wind, which is  
1016 intermittent, it can play a major role in balancing the grid.

1017 Mr. Harper. Well, how about when there is an outage? Does  
1018 hydro do the same to bring the grid back on line?

1019 Mr. Katz. Yes, it can serve in that capacity as well.

1020 Mr. Harper. All right. And how does hydro compare to other  
1021 energy sources in terms of its environmental impact?

1022 Mr. Katz. That is a subjective matter. But as a general  
1023 matter it is carbon neutral so it does not have air quality  
1024 impacts. There are those who are concerned about the impacts on  
1025 aquatic resources, but with proper management and proper  
1026 conditioning hydro can be a very benign resource.

1027 Mr. Harper. So what would you say, Mr. Katz, what the  
1028 greatest impediment to attracting capital to invest in new  
1029 hydropower projects what would that be?

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1030 Mr. Katz. Again that is not my area of expertise so much  
1031 as it is the industry, but I would say uncertainty in the time  
1032 the licensing process takes.

1033 Mr. Harper. Okay, great. With that I will yield back, Mr.  
1034 Chairman.

1035 Mr. Olson. The gentleman yields back. The chair now calls  
1036 upon the gentleman from Texas, Mr. Green, for 5 minutes.

1037 Mr. Green. Thank you, Mr. Chairman and Ranking Member. I  
1038 want to thank our witnesses for being here.

1039 Mr. Turpin, it is clear from today's hearing that FERC has  
1040 a whole lot on your plate and currently, pipelines, LNG  
1041 permitting, hydropower, electric reliability all fall under FERC.  
1042 In addition, there are many in the House who would like to expand  
1043 FERC's permitting authorities to include oil pipelines. In your  
1044 position as the director of the Office of Energy Projects most  
1045 of these fall within your office.

1046 Mr. Turpin, if FERC receives a request for a natural gas  
1047 pipeline permit within the United States, could you please  
1048 describe the review process to receive a certificate of public  
1049 necessity?

1050 Mr. Turpin. Sure. For a line of any length, if it is  
1051 especially complex or a large scope, we would encourage the

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1052 applicant to follow the pre-filing process. It is voluntary for  
1053 pipelines. During that process, the Commission staff would try  
1054 to engage the other agencies and stakeholders.

1055 Mr. Green. What other agencies is it on the federal level?

1056 Mr. Turpin. Any agencies issuing a federal permit whether  
1057 that is a federal agency or a state agency, I think, on federally  
1058 delegated authority. We would also reach out to state and local  
1059 agencies to bring them into the process as well. The idea is to  
1060 get as many folks under the tent at the beginning of the process  
1061 when the applicant is still trying to design the route rather than  
1062 wait, and by that have the greatest influence on easy changes to  
1063 accommodate all the issues rather than wait until the applicant  
1064 spends a significant amount of time and money in coming up with  
1065 a project that then is harder to change.

1066 So that process at a minimum can take 6 months, but it really  
1067 is set by the applicant. As long as they want to stay in  
1068 pre-filing they can, and during that pre-filing process staff  
1069 would engage in its environmental scoping processes and would be  
1070 seeking comment from the public and any interested stakeholder  
1071 about what environmental issues need to be addressed in looking  
1072 at the project.

1073 Those issues are to be addressed by the applicant in 13

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1074 resource reports that must be filed with the Commission. Each  
1075 of the reports covers a different resource area such as water  
1076 quality or --

1077 Mr. Green. But FERC is responsible for doing the National  
1078 Environmental Policy Act enforcement; is that correct, NEPA?

1079 Mr. Turpin. We are the lead agency for constructing the NEPA  
1080 document. Yes, sir.

1081 Mr. Green. Okay. What about when it crosses a U.S. border  
1082 -- Mexico, Canada?

1083 Mr. Turpin. It is the same. Pre-filing likely would not  
1084 be used in those cases because they are usually smaller scope  
1085 projects.

1086 Mr. Green. Does FERC coordinate with the Department of  
1087 State or Department of Defense when issuing a cross-border natural  
1088 gas pipeline?

1089 Mr. Turpin. Currently, yes. The Commission reaches out to  
1090 both of those agencies to get their concurrence that there is not  
1091 a national security interest.

1092 Mr. Green. If FERC were granted the authority to permit oil  
1093 pipelines would the Commission follow similar procedures?

1094 Mr. Turpin. I think that would be determined by the  
1095 Commission. They will have to set the policies that my office

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1096 would follow. We do have the existing program that we do for  
1097 natural gas, so, you know, a good guess is that it would parallel  
1098 that but again that would be set by the Commission.

1099 Mr. Green. Does the Office of Energy Projects possess the  
1100 resources to handle that additional responsibility and activity,  
1101 and do you anticipate additional needs if you permitted oil  
1102 pipelines?

1103 Mr. Turpin. We do have the expertise. We do have the staff.  
1104 There haven't been a tremendous amount of those border crossings.  
1105 As I said in my testimony, I think over the last 10 years we have  
1106 done 15. I had staff look at potentially how many oil crossings  
1107 there might be. I think we found there is somewhere in the  
1108 neighborhood of 20 to 30 existing ones. So I don't think it is  
1109 a tremendous workload. I think we would have to have some  
1110 additional expertise for the unique aspects that are different  
1111 from natural gas lines.

1112 Mr. Green. Oftentimes that oil pipeline is in the same  
1113 easement that a natural gas pipeline or some other product.

1114 Mr. Katz, connected action has been legally defined as an  
1115 action that is interdependent parts of a larger action. Mr. Katz,  
1116 under NEPA regulations FERC is required to review connected  
1117 actions of a pipeline project; is that correct?

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1118 Mr. Katz. That is correct.

1119 Mr. Green. If a cross-border pipeline project cannot  
1120 proceed without a certificate of crossing as described in the  
1121 legislation would FERC consider this a connected action?

1122 Mr. Katz. Connected to what, sir?

1123 Mr. Green. If a cross-border pipeline project cannot  
1124 proceed without a certificate of crossing as described in this  
1125 legislation we are considering, would FERC consider this a  
1126 connected action?

1127 Mr. Katz. It could be a connected action to the remainder  
1128 of the oil pipeline, yes.

1129 Mr. Green. Is FERC required to consider the cumulative  
1130 impacts of a pipeline project?

1131 Mr. Katz. Yes, it is, of all projects it reviews.

1132 Mr. Green. Okay. I am out of time, and thank you, Mr.  
1133 Chairman. But obviously coming from Texas we are trying to sell  
1134 as much natural gas as we can to northern Mexico and I know there  
1135 are processes now that are in place, but again crossing the  
1136 international borders presents other issues and that is what this  
1137 legislation is about. Thank you, Mr. Chairman.

1138 Mr. Olson. The gentleman's time has expired. The chair now  
1139 calls upon the gentleman from West Virginia, Mr. McKinley, for

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1140 5 minutes.

1141 Mr. McKinley. Thank you very much, Mr. Chairman, for  
1142 scheduling this meeting.

1143 Mr. Katz, if I could go quickly with you because I want to  
1144 spend more time with Mr. Turpin, but do you think, in your opinion,  
1145 with the H.R. 446, 447, and 2122 that we are going to be talking  
1146 about today for the construction of hydroelectric projects in  
1147 Virginia and West Virginia, do you think the Commission has any  
1148 problem with getting additional flexibility so that it doesn't  
1149 take an act of Congress?

1150 Mr. Katz. No. One of the bills before you indeed would give  
1151 the Commission the authority to extend the commencement of  
1152 construction deadline and I think I indicated in my testimony that  
1153 Commission staff supports that concept.

1154 Mr. McKinley. Thank you.

1155 Mr. Turpin, I want to take a larger view, maybe perhaps take  
1156 it from 30,000 feet on this issue of permitting because I know  
1157 from the testimony and what we have read that FERC has a  
1158 responsibility to coordinate these projects in the timeline, but  
1159 the agencies often break from the mold and so it drags out.

1160 I am trying to understand if we are moving in the right  
1161 direction with this, because if we look back over it now, over

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1162 time we have developed now there are 15 different permits have  
1163 to be achieved to build a pipeline from ten different agencies  
1164 and the timeline for each of those agencies can be as long as 2  
1165 years or longer if they should so choose to do that.

1166 But we are talking just of those we have the FERC transporter,  
1167 the FERC certificate of public convenience, the Pipeline and  
1168 Hazardous Materials Safety Administration permit, NEPA, an EPA  
1169 permit, the Army Corps dredge permit, the Section 10 permit, the  
1170 right of way permit for the Army Corps, the federal levy right  
1171 of way permit, the Fish and Wildlife incidental take permit, the  
1172 Fish and Wildlife right of way, the Bureau of Land Management right  
1173 of way, the Bureau of Indian Affairs right of way, the U.S. Forest  
1174 Service public use permit, the U.S. Department of Agriculture  
1175 easement, the Bureau of Land Reclamation, all of these I guess  
1176 what I am wondering, are we really better off for having these  
1177 permits? Because we look back at the track record when they built  
1178 Hoover Dam, the permitting was less than 2 years to accomplish  
1179 and I wonder whether or not did we cause havoc to the people in  
1180 Colorado and along the Colorado River by building the Hoover Dam?

1181 The Alaska Pipeline now have been 9 years trying to get a  
1182 permit, because in addition to these 15 permits we have seen  
1183 politics come into play with this. The Trans-Alaska Pipeline as

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1184 controversial as that might be it took less than 1 year to get  
1185 the permit and now we have the advantages that occurred.

1186           So I am saying with all this progress or process of additional  
1187 paperwork, are we better off for it? Can you tell me from FERC  
1188 that this is -- we have improved the system by delaying projects  
1189 for 10, 15 years to do this? Think what I just said about the  
1190 Hoover Dam. The permit was less than 2 years, but for 10 years  
1191 we are trying to build a low-head dam in West Virginia and we can't  
1192 get the permit, after 10 years. Who is right? Were the people  
1193 back in the '40s and '50s and '60s and '70s, were they smarter  
1194 than we are? That is to you, Mr. Turpin.

1195           Mr. Turpin. Thanks. I think a lot of that depends on the  
1196 perspective. I mean all these agencies, all those permits, many  
1197 of which you read are actually crossing of federal lands and that  
1198 is the easement that the pipeline company must get, all have come  
1199 about through congressional action. I think it is whatever, you  
1200 know, Congress directs these agencies on what they need to execute  
1201 and we execute on what we are told to do.

1202           Mr. McKinley. So in your opinion, Mr. Turpin, are we moving  
1203 in the right -- I am sorry to keep -- are we moving in the right  
1204 direction by adding delays, because you know from construction  
1205 -- I spent 50 years in the private sector -- delays cost money.

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1206 The time value of money when you start something that maybe takes  
1207 \$10 million, even they are saying the licensing process for a new  
1208 hydropower development project can last over a decade and would  
1209 cost over tens of millions of dollars.

1210 Are we better off for doing it that way or should we rely  
1211 on the courts to see that they are upheld and let the construction  
1212 begin? Because if we are truly after construction and we are  
1213 trying to get jobs for people, wouldn't it be better to put them  
1214 to work or to use paperwork? Who is benefiting from this, the  
1215 unelected bureaucrats in Washington?

1216 Mr. Turpin. It sort of doesn't feel like a benefit to us.  
1217 I think the answer is that it depends on what Congress determines  
1218 is in the public interest. I mean the bureaucrats have to execute  
1219 the laws that are passed.

1220 Mr. McKinley. Thank you very much. I yield back my time.

1221 Mr. Olson. The gentleman yields back. The chair now calls  
1222 upon the star center fielder of the Congressional Women's Softball  
1223 Team, Ms. Castor, for 5 minutes.

1224 Ms. Castor. That is right, the third week in June, the  
1225 Congressional Women's Softball game against the evil women of the  
1226 Press Corps. Mark it down on your calendars.

1227 Thank you, Mr. Chairman, for calling the hearing today. One

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1228 of the bills before us today aims to expedite FERC review of  
1229 natural gas pipelines. Roughly 90 percent of FERC natural gas  
1230 pipeline projects receive their certificate within 1 year, but  
1231 nevertheless I do understand that it is important to promote  
1232 efficiency in all government review processes. But this is  
1233 why just a year and a half ago the Congress passed an important  
1234 part of the FAST Act, and I had to go back and remind myself of  
1235 all this and I encourage my colleagues to do the same. The FAST  
1236 Act set up a new entity, the Federal Permitting Improvement  
1237 Steering Council, FPISC, to bring federal agencies together  
1238 including many that have been mentioned today -- the Army Corps  
1239 of Engineers, the Bureau of Land Management, Fish and Wildlife  
1240 -- to improve timeliness, predictability, and transparency of  
1241 federal environmental review and authorization projects for major  
1242 infrastructure projects which includes interstate natural gas  
1243 pipelines. The Council spent 2016 getting off the ground and  
1244 is now overseeing permitting for 32 major infrastructure projects  
1245 including seven interstate natural gas pipeline projects. These  
1246 projects will benefit from enhanced coordination including  
1247 establishment of a lead agency for the project, the establishment  
1248 of recommended performance schedules and project review timelines  
1249 and greater transparency at all levels. In fact, the Business

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1250 Roundtable just wrote a letter recently to the White House to say  
1251 can we move forward with getting FPISC off and moving; I think  
1252 it is still waiting for another appointment.

1253 So it is a bit confounding why we are here discussing an  
1254 entirely new scheme for review of natural gas pipelines when we  
1255 recently sent up an entirely new entity to do just that. And at  
1256 a minimum we should have FPISC here to testify about their progress  
1257 and I would respectfully request that we do that in a future  
1258 hearing.

1259 So Mr. Turpin, in your testimony you state that FERC has  
1260 undertaken significant efforts to implement its responsibilities  
1261 under the FAST Act. Can you elaborate a bit on your efforts?

1262 Mr. Turpin. Sure. When the FAST Act, I think within 6  
1263 months of its passage all the subject agencies had to post existing  
1264 projects. For FERC I think we had the most significant number  
1265 of projects that went up on the dashboard. And most of the efforts  
1266 were at that point those projects had been through the FERC  
1267 pre-filing process, had already had a lot of the coordination and  
1268 FERC was the lead agency for those.

1269 So a lot of that effort was at going back to document the  
1270 things we had already done and put up coordinated project plans  
1271 not as sort of a prospective plan but as a historical, you know,

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1272 acknowledgment of the things that the agency has already been  
1273 through. We found that it did take a lot of time to coordinate  
1274 the various agencies' data, some agencies would be unwilling to  
1275 commit to schedules, and it does take quite a bit to kind of ride  
1276 herd on the data that has to get posted. So that is the bulk of  
1277 the work that we did in trying to set up.

1278 Ms. Castor. So do you think it will help now when you have  
1279 this interagency coordination when everyone is sitting at the  
1280 table and maybe some agencies can look at others and say why aren't  
1281 you adhering to the schedule and timeline?

1282 Mr. Turpin. And that is essentially what I think we have  
1283 tried to do through the pre-filing process as well. I mean, as  
1284 the lead agency we try to bring those folks to the table and try  
1285 to get them the information they need so that they can advise us  
1286 of the schedule they need.

1287 Ms. Castor. And you also state that some of the provisions  
1288 in the discussion draft would duplicate efforts. How so?

1289 Mr. Turpin. That is predominantly the tracking of  
1290 everyone's project schedules. I mean that is what happens on the  
1291 FPISC dashboard and then it would be a duplicate effort at the  
1292 Commission.

1293 Ms. Castor. Well, it is clear we need to hear more from FPISC

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1294 to understand what it has achieved in the year-plus that it has  
1295 been in operation already and I fear that we are simply setting  
1296 up a duplicative process with this proposal, so I have serious  
1297 concerns with the discussion draft today. I think we need to have  
1298 FPISC here. And remember, this is only a year and a half old and  
1299 it was the Congress' intention to promote greater efficiency by  
1300 bringing that interagency group together. I yield back my time.

1301 Mr. Olson. The gentlelady yields back. The chair calls  
1302 upon the gentleman from Virginia, Mr. Griffith, for 5 minutes.

1303 Mr. Griffith. Thank you very much, Mr. Chairman. I do  
1304 appreciate it and I appreciate the witnesses being here.

1305 Mr. Katz, I was pleased to read in your testimony and then  
1306 to hear in one of the earlier questions that you all are fine with  
1307 H.R. 446 related to the Gathright Dam and H.R. 447 related to the  
1308 Flannagan Dam and I appreciate that very much. Thank you. I am  
1309 also interested in, you know, not only electric generation but  
1310 making sure that we have jobs in my district. One of the great  
1311 concerns in the coalfields has been is that production has been  
1312 down and folks have said you all need to reinvent yourselves. We  
1313 think coal has a long future, but at the same time we want to make  
1314 sure that we are looking for new ways.

1315 A couple of my friends in the Virginia General Assembly got

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1316 a bill passed this last year. I had mentioned in a previous  
1317 hearing that there were some folks interested in doing some things  
1318 related to pump storage projects and what they are trying to  
1319 encourage with the Virginia language is to see if they can't entice  
1320 somebody into putting a pump storage facility inside an exhausted  
1321 or abandoned coal mine making it a closed loop system.

1322 And I appreciate your written testimony on those issues as  
1323 well. One of the questions that you raised and I would like for  
1324 you just to do some explaining for me, is you felt like there was  
1325 because of the add-ons or, and I am probably using the wrong  
1326 language, but the additional energy items like solar or wind to  
1327 help pump the water up that there was a problem in the draft  
1328 language that we have floating around, at least the way I  
1329 interpreted it, with municipals, maybe adding on non-municipals.  
1330 Could you explain that to me?

1331 Mr. Katz. Sure. It is kind of a historical artifact, but  
1332 years ago back in the '80s there were instances before the  
1333 Commission -- well, I should --

1334 Mr. Griffith. Way back in the '80s.

1335 Mr. Katz. Yeah, when I was a youngster. I guess I should  
1336 drop back five yards. I mean the Federal Power Act, in the Federal  
1337 Power Act Congress provided that a municipality would get a

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1338 preference over a private entity in obtaining a preliminary permit  
1339 or a license. So if they, all things being equal if a city applies  
1340 and a private company applies, the city wins.

1341 And at some point in the '80s, the Commission discovered that  
1342 municipalities were applying and saying I am a muni, give me  
1343 preference, but then as soon as they got the license or the permit  
1344 or even during the process they would turn around and sell it to  
1345 another private entity, not the one that was trying to compete  
1346 with them but somebody else. And so the Commission decided that  
1347 was not fair competition and it was not appropriate to put private  
1348 entities at a disadvantage.

1349 So the concern that I expressed with regard to that portion  
1350 of the bill was it would appear to allow a municipality to  
1351 outcompete a private entity in the first instance, and then do  
1352 what the Commission has hitherto precluded agencies from doing,  
1353 turn around and sell it to a different private entity so that the  
1354 private entity that was trying to develop the project, and indeed  
1355 it might have been the entity that was out there in the field first,  
1356 would be placed at a disadvantage. That is something for Congress  
1357 to consider.

1358 Mr. Griffith. Okay, and I appreciate that. And so it is  
1359 not really a concern over this closed loop pump storage, but a

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1360 concern that that and then perhaps the solar, the wind might be  
1361 transferred as you just described; is that correct?

1362 Mr. Katz. Yes. It is not specific to closed loop, it is  
1363 just that is, I believe, the only one of the bills in which that  
1364 language appears so that is why I raised it in the context. But  
1365 no, it is not something that is in the nature of closed loop pump  
1366 storage projects.

1367 Mr. Griffith. And otherwise in regard to the draft language  
1368 on closed loop hydro pump storage you all feel fairly comfortable  
1369 that we are headed in the right direction on that?

1370 Mr. Katz. I think it has a lot to commend it. Again we would  
1371 be happy to work with committee staff just to make sure that there  
1372 are no duplicative areas or things put into the statute that make  
1373 things take longer or are repetitive other agency actions.

1374 Mr. Griffith. Because as some of the other witnesses on both  
1375 sides of the aisle have pointed out, you know, when you are using  
1376 hydro that is a very clean source of energy. In the case of using  
1377 a captive water source inside of an abandoned mine, you really  
1378 don't have a whole lot of problems as long as initially it is  
1379 structurally sound of course. But we believe that we have a  
1380 number of those sites in southwest Virginia, maybe some in my  
1381 friend Mr. McKinley's district over in West Virginia as well.

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1382 But we believe that this is one way that we can continue our  
1383 region's longstanding history working in energy and at the same  
1384 times create jobs in a field and an area where jobs have  
1385 disappeared as a result of some downturns in the economy and some  
1386 regulations that we are going to try to work on.

1387 Mr. Katz. Yes, if I may, I will say --

1388 Mr. Griffith. Yes, please.

1389 Mr. Katz. -- the Commission approved a project of that type  
1390 in California, the Eagle Crest Pump Storage Project, of which is  
1391 using an abandoned mine and is currently under development, so  
1392 those kinds of things can indeed make sense.

1393 Mr. Griffith. All right, I appreciate it very much and I  
1394 see my time is gone. I yield back.

1395 Mr. Olson. The gentleman yields back. The chair calls upon  
1396 the gentleman from New York, Mr. Tonko, for 5 minutes.

1397 Mr. Tonko. Thank you, Mr. Chair. Mr. Turpin, welcome. I  
1398 have a few questions concerning the interagency coordination  
1399 discussion draft. Do you believe that aerial or remote surveys  
1400 have limitations?

1401 Mr. Turpin. At this time, I do. I think, you know, the  
1402 Commission and its staff has had a long history of accepting remote  
1403 data in terms of looking at the initial environmental impacts,

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1404 but then they need to be truthed up, you know, after an  
1405 authorization before construction can start. There just simply  
1406 are limitations. You can't always count on that to get the  
1407 species counts. There are certain kinds of wetlands that aren't  
1408 able to be delineated aerially.

1409 Mr. Tonko. Thank you. And can aerial survey data be  
1410 unreliable regarding the presence of endangered species, historic  
1411 properties such as archeological sites and characterization of  
1412 wetlands?

1413 Mr. Turpin. Yes.

1414 Mr. Tonko. Okay. Does the draft before us include any  
1415 standards or methodology requirements that must be met in order  
1416 for an agency to be required to consider data from remote surveys?

1417 Mr. Turpin. No. I did not see anything about minimum  
1418 standards.

1419 Mr. Tonko. Okay, thank you. And so there would be no  
1420 quality control requirements that might consider the degree of  
1421 accuracy, of scale, of elevation, of vegetation strata and  
1422 density, soil profiles, or many other factors that could vary  
1423 widely depending on the geographic region and methodology  
1424 deployed in that survey?

1425 Mr. Turpin. Again, I saw nothing of that in the bill and

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1426 I took that to mean that that would be left up to the individual  
1427 agencies.

1428 Mr. Tonko. Does this discussion draft require applicants  
1429 to attempt to conduct ground surveying before using remote  
1430 surveying?

1431 Mr. Turpin. Not that I read, sir.

1432 Mr. Tonko. And in which case applicants would not be  
1433 required to make a good faith attempt to gain access to perhaps  
1434 private property owners' land and in so doing help to make an  
1435 important stakeholder aware that this project is being developed  
1436 potentially through their property. There may be streamlining  
1437 we can consider in the application process, but I really do believe  
1438 that any attempts to skirt the rights of landowners especially  
1439 when the outcome is less than perfect data would be a step in the  
1440 wrong direction. Is that a concern that I should have?

1441 Mr. Turpin. I think the Commission's stance in the past has  
1442 been that the best course of action is to get the best available  
1443 data for the NEPA analysis. And the Commission has encouraged  
1444 the pipeline companies to go out and actually seek, you know,  
1445 pipeline right of way access to develop that data. But if it can't  
1446 be achieved, then Commission staff has relied on remote and aerial  
1447 data.

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1448 Mr. Tonko. I would also recommend that the committee  
1449 receive more feedback on this provision from other federal and  
1450 state agencies to understand how inadequate data might affect  
1451 their review process and the associated regulatory requirements.

1452 Mr. Turpin, in your testimony you state the Commission's  
1453 current review processes are thorough, efficient, and have  
1454 resulted in the timely approval of the facilities necessary for  
1455 natural gas pipelines. Generally speaking, how long does it  
1456 typically take for a pipeline permitting process or permitting  
1457 application to go through FERC's process?

1458 Mr. Turpin. It can vary pretty widely, so there is not a  
1459 really great typical time. As I mentioned earlier, for the full  
1460 spectrum of projects filed at the Commission for pipelines 88  
1461 percent of them are issued within 1 year and that does go from  
1462 very small projects. Usually, once you begin to increase the  
1463 length of the line and the complexity of the project, the time  
1464 does tend to stretch out because there are simply more  
1465 stakeholders engaged, more issues to consider, and more agencies  
1466 to have at the table.

1467 Mr. Tonko. But in general within a year?

1468 Mr. Turpin. Eighty eight percent within a year. Yes, sir.

1469 Mr. Tonko. Which seems to be, you know, given the importance

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1470 of the review seems to be a fairly expedited process done  
1471 thoroughly. So with that Mr. Chair, I will yield back.

1472 Mr. Olson. The gentleman yields back. The chair calls upon  
1473 the gentleman from Ohio, Mr. Johnson, for 5 minutes.

1474 Mr. Johnson. Thank you, Mr. Chairman. And gentlemen,  
1475 thank you for joining our panel this morning.

1476 Mr. Katz, this committee received testimony some time back  
1477 from a developer that had difficulty with a project on an existing  
1478 non-powered dam under the Army Corps of Engineers' jurisdiction.  
1479 Apparently, they had to perform two separate NEPA analyses, one  
1480 for the FERC license and a separate analysis triggered by the Clean  
1481 Water Act for the Army Corps. I understand that you have an MOU  
1482 with the Army Corps, but what could FERC do to prevent this type  
1483 of duplicative application of NEPA in the future?

1484 Mr. Katz. Well, sorry to give this answer, but ultimately  
1485 there is not anything we can do, we don't control the Corps. But  
1486 as you noted we have --

1487 Mr. Johnson. Your MOU doesn't address that, that kind of  
1488 collaboration?

1489 Mr. Katz. Yes, the MOU does. The MOU seeks to have the  
1490 Corps and the Commission act concurrently to the extent possible  
1491 and that is as far as we have gone. But as a legal matter we have

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1492 no authority over the Corps, so if the Corps decides it needs to  
1493 do more environmental work we can't prevent that.

1494 We also have a number of instances in which we have issued  
1495 licenses for projects at Corps dams and the Corps decides it needs  
1496 to take a certain amount of time whether it is to review the  
1497 physical characteristics of the dam or to issue permits such as  
1498 the ones that you refer to and the Commission does not have any  
1499 authority to do anything about that.

1500 Mr. Johnson. Do you have a personal opinion as to the waste  
1501 and the duplication of having both the Army Corps and FERC  
1502 requiring NEPA studies on the same project?

1503 Mr. Katz. My opinion is that agencies do need the studies  
1504 they need in order to carry out their statutory mandates, but I  
1505 don't think there should be duplicative studies and ideally they  
1506 would be done concurrently so that there is as little use of time  
1507 as possible.

1508 Mr. Johnson. Now you would think that if you did one you  
1509 could use the same application for both agencies and do it one  
1510 time. I mean, I am a plowboy so common sense kind of reigns --

1511 Mr. Katz. Yes. That would be hoped. And often the Corps  
1512 is a cooperating agency with the FERC when FERC does its NEPA  
1513 document and then the Commission can do its best to make sure that

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1514 everything is in the NEPA document that the Corps might need.

1515 Mr. Johnson. All right. I understand that one important  
1516 project parameter left unresolved until very late in the  
1517 permitting process is the water quality standard, which as you  
1518 know determines the amount of water that will ultimately be  
1519 available to pass through the turbines in a dam, a power dam.  
1520 Currently, the Corps may prescribe different water quality  
1521 standards from the FERC and the state standards, beginning in some  
1522 cases in the 6th or 7th year of the federal permitting process.  
1523 This can cause significant problems from both a commercial and  
1524 a planning perspective. Would you care to comment on this  
1525 issue? Is that part and parcel of the same kind of deal we are  
1526 dealing with, with the NEPA analyses?

1527 Mr. Katz. It may be to some extent. I think that those  
1528 issues only arise where a project is located at a Corps dam. The  
1529 Corps can't prescribe water quality standards if it is at a  
1530 non-Corps dam. But yeah, if a project is at a Corps dam, the Corps  
1531 essentially has the ability to require the licensee to do whatever  
1532 it is that the Corps sees fit to do.

1533 Mr. Johnson. Having the ability is one thing, but this is  
1534 another example of duplication and in my opinion it appears to  
1535 be government waste and wasting the time of the businesses and

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1536 those that are trying to get these projects done; would you agree?

1537 Mr. Katz. It can be. Our experience is that different  
1538 Corps districts behave different ways. Some Corps districts are  
1539 very welcoming to hydro and try and do everything they can to  
1540 promote hydro being built at Corps dam. Other districts don't  
1541 seem to favor hydro at their dams.

1542 Mr. Johnson. That is kind of -- I appreciate that comment.  
1543 Different Corps districts behave in different ways. Wouldn't it  
1544 be great if they all were kind of talking to one another and doing  
1545 things the same way?

1546 Mr. Katz. Yes, I think it would. I mean, one of the things  
1547 FERC is lucky about is that we are a small agency, so if the  
1548 chairman wants to know what I am up to she can walk down the hall  
1549 and look me in the eye as opposed to I am located out in, you know,  
1550 some far region of the country. And I think it is harder for folks  
1551 in Corps headquarters to control all their aspects.

1552 Mr. Johnson. Okay. Lastly, for how many licenses issued  
1553 or pending before the Commission has the FERC and the Army Corps  
1554 MOU been employed to unify the NEPA review process, and how many  
1555 of those instances has the Corps used a FERC generated NEPA review  
1556 when approving a project? So has there been any crossover that  
1557 you can recall where one agency used a NEPA from the other?

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1558 Mr. Katz. There certainly have been in the past prior to  
1559 the MOU. The MOU is fairly recent so I am not certain whether  
1560 it has come into play in any cases where we have actually issued  
1561 licenses.

1562 Mr. Johnson. Can you provide us with the language around  
1563 the NEPA analyses that is in the MOU? I would like to see that.  
1564 I would like to see how much discussion actually went into it.  
1565 Mr. Chairman, I yield back.

1566 Mr. Katz. Yes, I would be happy to do that and we also can  
1567 let you know if there are any instances in which the MOU has been  
1568 applied.

1569 Mr. Johnson. Thank you very much.

1570 Mr. Walberg. [Presiding.] Thank you. The gentleman's  
1571 time has expired. I now recognize the gentleman from Oregon, Mr.  
1572 Schrader.

1573 Mr. Schrader. Thank you very much, Mr. Chairman. I  
1574 appreciate that.

1575 I guess, Mr. Turpin, Mr. Katz and others have talked about  
1576 the concurrent review process. Do you have any, see any problems  
1577 particularly with accelerating a more concurrent review process  
1578 by all the different agencies?

1579 Mr. Turpin. No. Concurrent reviews are what is desired.

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1580 I think the rub becomes if the information needed by those other  
1581 agencies can be developed at the same time as we are doing our  
1582 review.

1583 Mr. Schrader. That would hopefully be established whatever  
1584 process would be set up to begin with. The states would be an  
1585 outlier though as I understand. They are not subject to any  
1586 federal regulatory authority in terms of when they get their act  
1587 together and decide to approve something?

1588 Mr. Turpin. The states that are acting under, it is their  
1589 own authority would be preempted by the federal permits, but the  
1590 state agencies acting on federally delegated authority for  
1591 federal permits carry the same weight as the feds.

1592 Mr. Schrader. So that is something we will have to figure  
1593 out going forward it looks like.

1594 Mr. Katz, do you agree that the bill dealing with  
1595 cross-border approvals, the new cross-border approval process  
1596 that is being suggested combines the permit process to just the  
1597 segment on the border and doesn't allow any discussion of the  
1598 entire project?

1599 Mr. Katz. I am not certain that it does that. The  
1600 Commission would have to do whatever NEPA review is appropriate,  
1601 and I don't think that the bill precludes the Commission from

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1602 looking at other impacts.

1603 Mr. Schrader. Okay, okay. That would be my read of the bill  
1604 actually, also. While the bill says there is no cross-border  
1605 review for modifications of an existing cross-border facility,  
1606 with regard to cross-border authority are there other agencies  
1607 or regulatory authorities and permitting processes that someone  
1608 trying to modify a facility would need to abide by?

1609 Mr. Katz. I am not aware of any. I defer to Mr. Turpin.  
1610 DOE, if there is a change in the commodity level DOE might have  
1611 to approve it, but again I defer to Mr. Turpin for a further  
1612 discussion.

1613 Mr. Turpin. It is going to depend on what equipment is  
1614 needed for that modification. If it is a compressor station for  
1615 the case of a natural gas pipeline it will have to comply with  
1616 the Clean Air Act. I don't know enough about pump stations for  
1617 liquid lines because we don't currently deal with those.

1618 Mr. Schrader. What about an expansion of the footprint of  
1619 the facility?

1620 Mr. Turpin. That again it would depend on what exactly the  
1621 equipment is being installed as to if there would be federal  
1622 oversight or not.

1623 Mr. Schrader. Okay, but not any additional land being taken

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1624 into the facility would not be an issue then. It is just the type  
1625 of equipment that would be there?

1626 Mr. Turpin. I mean current, it is usually the installation  
1627 of additional features and increasing the footprint that drive  
1628 most of the environmental issues.

1629 Mr. Schrader. Okay. Then there is a 30-day approval, you  
1630 know, deadline for export-import of natural gas cross-border. Do  
1631 you see that hampering public input or the ability to get the  
1632 permitting process done, the approval process?

1633 Mr. Turpin. As I read the bill the 30 days was applicable  
1634 to the DOE commodity determination and so I don't think that would  
1635 affect the FERC process.

1636 Mr. Schrader. All right, very good.

1637 Mr. Katz, in the legislation about promoting hydro  
1638 development in existing non-powered dams I am not that familiar  
1639 with some of the current regulatory framework. It is being  
1640 proposed to switch to that which is necessary to protect public  
1641 safety or reasonable economic feasibility and prevent damage to  
1642 fish and wildlife. How is that language different than what the  
1643 current regulatory authority is?

1644 Mr. Katz. The language is different to the extent that it  
1645 could be read to preclude the Commission's considering some other

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1646 resources that it now considers like flood control, irrigation,  
1647 recreation, historic preservation. The standard is also  
1648 different. The standard as I read the bill was that measures had  
1649 to be economic and essential for fish and wildlife and that is  
1650 a higher bar than currently exists.

1651 Mr. Schrader. Okay, very, very good. And with that I will  
1652 yield back, Mr. Chairman. Thank you.

1653 Mr. Walberg. I thank the gentleman and I recognize the  
1654 gentleman from Texas, Mr. Barton.

1655 Mr. Barton. Thank you. We have out in the audience, Mr.  
1656 Chairman, Andy Black. Andy Black is a former personal staffer  
1657 of mine and a former staffer of the committee and also former  
1658 senior official over at FERC, and he just lost his dad and I think  
1659 just got back from the funeral yesterday. So half of the  
1660 committee and me personally we are with you in your time of sorrow.  
1661 I never met your father, but I heard nothing but great things about  
1662 him. So, and we look forward to your testimony on the next panel.

1663 Mr. Chairman, I just have a couple of questions. Under  
1664 current law we handle permitting for oil pipelines domestically  
1665 and gas pipelines differently. Is there any real reason to do  
1666 that other than that is the way we have always done it?

1667 Mr. Katz. I am not sure if that was addressed to me, but

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1668 no, not particularly. I mean, the same thing is true with  
1669 electric power lines. Congress sets up whatever scheme of  
1670 regulation it sees fit to do.

1671 Mr. Barton. So it is just kind of the way it happened, but  
1672 if we are going to do a pipeline reform bill is there any reason  
1673 we couldn't use the same regulatory authority and permitting  
1674 process for oil and gas pipelines?

1675 Mr. Katz. No, Congress has the authority to do that if it  
1676 wishes.

1677 Mr. Barton. Good. In the Energy Policy Act back in 2005,  
1678 we tried to give your agency, the FERC, the authority to oversee  
1679 the various other agencies it had to do all the various pipelines  
1680 that Mr. McKinley was talking about earlier. That doesn't seem  
1681 to have worked too well, the delays have gone up not down. What  
1682 went wrong and what do we do to fix it? Do we need more incentives  
1683 or do we need more penalties or do we just need better people at  
1684 the FERC? What is going on? You don't think the latter is the  
1685 case.

1686 Mr. Katz. I would never want to say that our commissioners  
1687 -- the staff is less than perfect, but the commissioners are  
1688 perfect. I don't know that there is anything that Congress did  
1689 wrong in the bill. I think that what has happened since then,

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1690 and I will defer to Mr. Turpin if he wants to speak to it, is that  
1691 there has been an increasing emphasis on public interest in the  
1692 pipelines and opposition to pipelines, concerns about  
1693 environmental effects, you know, the type of production methods  
1694 that are used, so that back in the day pipeline regulation approval  
1695 was a fairly sleepy part of the Commission's business.

1696 Now it is something that a lot of people are interested in  
1697 and very vocal about and I think that is more what is taking more  
1698 time than anything that Congress is responsible for having done.

1699 Mr. Barton. Turpin?

1700 Mr. Turpin. I would agree. I would also say staff is pretty  
1701 good too. But I think that is a large part of it is the increased  
1702 public interest, I mean from a very wide audience in the U.S. And  
1703 as with the current approach, fundamentally the Commission can  
1704 engage these agencies. The Commission staff can do the work, but  
1705 all these agencies have to comply with their own congressionally  
1706 directed mandates and it is that sort of not that I think ends  
1707 up, we all end up tripping over.

1708 Mr. Barton. Well, I am not the chairman of the committee,  
1709 I am the vice chairman, but I think we are going to do a pipeline  
1710 permitting reform bill and we would really like your agency's  
1711 input. I think it is good to have more public input. I don't

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1712 think that is a bad thing, I think that is a good thing.

1713 But having said that you still need, once you get that input  
1714 you need to make a decision. You need to live within the  
1715 guidelines. You need to live within the deadlines. If our  
1716 deadlines are too strict maybe we need to expand them a little  
1717 bit.

1718 But we are going to need a lot more energy infrastructure  
1719 in the next 20 to 30 years and pipelines are going to be a big  
1720 part of that. And so if we didn't quite get it right 10 or 15  
1721 years ago in the Energy Policy Act of 2005, let's get it right  
1722 this time in the Energy Infrastructure Review Act of 2017 or 2018.  
1723 With that Mr. Chairman, I yield back.

1724 Mr. Walberg. I thank the gentleman and I recognize the  
1725 gentleman from Indiana, Mr. Bucshon.

1726 Mr. Bucshon. Thank you, Mr. Chairman.

1727 Mr. Katz, in my district and nearby there are multiple dams  
1728 that currently don't produce hydropower but potentially could,  
1729 as you are aware. In 2013, Congress directed FERC to investigate  
1730 the feasibility of a 2-year licensing process and develop criteria  
1731 for non-powered dams and closed loop pump storage.

1732 I guess you had a pretty good experience at the Kentucky Lock  
1733 and Dam project, and what elements of a 2-year pilot program should

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1734 Congress make permanent based on FERC's experience with the 2-year  
1735 pilot?

1736 Mr. Katz. I don't want to get ahead of the Commission staff  
1737 because we are right now compiling a report that Congress directed  
1738 us to do in the 2013 statute.

1739 Mr. Bucshon. Okay, so we have to wait for the report.

1740 Mr. Katz. Yes. As I said earlier though, even in the  
1741 absence of any kind of regulatory or statutory changes, some 25  
1742 percent of the original licenses that the Commission worked on  
1743 in the last 13 years or so have been permitted in 2 years or less,  
1744 so it can happen.

1745 Mr. Bucshon. Understood. And for these two type of  
1746 projects, would these type of projects raise the same  
1747 environmental and wildlife issues as traditional hydro or --

1748 Mr. Katz. The same issues get considered, but they are  
1749 generally considerably less in scope because the existing dam has  
1750 already had a certain impact.

1751 Mr. Bucshon. So it might have an impact on the timeline then  
1752 if it was easier because of that?

1753 Mr. Katz. Such projects tend to be easier, not as an  
1754 absolute rule but they tend to be easier.

1755 Mr. Bucshon. Would the draft legislation relating to

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1756 non-powered dams and pump storage in any way alter the FERC's  
1757 environmental analysis under NEPA?

1758 Mr. Katz. I believe I answered an earlier question.

1759 Mr. Bucshon. Probably did.

1760 Mr. Katz. It looks as though it would in that it only calls  
1761 out fish and wildlife resources and doesn't call out flood  
1762 control, irrigation --

1763 Mr. Bucshon. Okay, that is what --

1764 Mr. Katz. -- water supply and other things, and also it  
1765 seems to set a higher standard for the conditions that would be  
1766 imposed, a higher bar.

1767 Mr. Bucshon. How about the Clean Water Act or the Clean Air  
1768 Act, any differences there on these type of projects?

1769 Mr. Katz. Clean Air Act issues are almost never implicated  
1770 in hydro projects. The Clean Water Act, the legislation does call  
1771 --

1772 Mr. Bucshon. Does the draft legislation have any impact on  
1773 that?

1774 Mr. Katz. I don't think it would, but it is conceivable.  
1775 We would have to study that.

1776 Mr. Bucshon. Okay. I yield back, Mr. Chairman.

1777 Mr. Walberg. I thank the gentleman and I recognize the

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1778 gentleman from Texas, Mr. Flores.

1779 Mr. Flores. Thank you, Mr. Chairman. Mr. Chairman, thank  
1780 you for holding today's hearing. America's shale energy  
1781 revolution has dramatically improved our energy security here at  
1782 home. The U.S. is now one of the top producers of oil and gas  
1783 in the world, yet there are still existing infrastructure  
1784 challenges to deliver those resources to consumers. Modernizing  
1785 our infrastructure to efficiently and safely bring energy  
1786 resources to consumers helps to create jobs and brings lower  
1787 energy prices for hardworking American families.

1788 So with that I would like to get into my questions. Some  
1789 of these were partially asked by Mr. Rush, Mr. Green, and Ms.  
1790 Castor. Mr. Turpin, I understand that the Commission does what  
1791 it can to encourage the participation of other permitting agencies  
1792 today to identify issues and work to resolve them.

1793 Unfortunately, at times the other federal agencies have chosen  
1794 to not take the responsibility seriously. They may simply choose  
1795 to just not act on a permit. In your experience, why do some  
1796 agencies choose to go that route to not work with you?

1797 Mr. Turpin. I think it is from a global perspective of  
1798 agencies working with us it is fairly rare for somebody to refuse  
1799 to participate in the FERC pre-filing process or in coordination

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1800 with staff. Whether they choose to be, you know, a cooperating  
1801 agency under NEPA is a different question. They have their own  
1802 interests to protect in terms if they want to be an intervener  
1803 in the FERC process later. I think in large part the rubs come  
1804 down to them having different criteria for the data they need to  
1805 do their permit as well as their own resource constraints. We  
1806 are a sole purpose agency. We look at this infrastructure.  
1807 Other agencies have multiple mandates and they have to balance  
1808 their needs as best they can.

1809 Mr. Flores. When you look at the legislation that places  
1810 the mandate on the agencies to carry out their obligation  
1811 concurrently in accordance with the schedule established by the  
1812 Commission, do you think that legislation goes far enough or  
1813 should we try to go farther to compel coordination and timely  
1814 coordination?

1815 Mr. Turpin. I think that is a difficult question. Trying  
1816 to compel the timely coordination requires -- well, the language  
1817 always has in it the caveat of unless otherwise mandated in other  
1818 laws or unless an agency can't meet its other obligations, and  
1819 it has been in all the versions I have seen. And so that is sort  
1820 of the Gordian knot, and having the Commission in charge of all  
1821 of those mandates for these other agencies seems a bit inefficient

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1822 from our perspective.

1823 Mr. Flores. Are you aware of strategies by pipeline  
1824 opponents like the Sierra Club and others to block access through  
1825 land for route surveys?

1826 Mr. Turpin. I have heard of landowners blocking access, you  
1827 know, not granting survey access to pipeline companies, but not  
1828 NGOs or any kind of other organization.

1829 Mr. Flores. Okay. To the extent they do though I mean it  
1830 is pretty obvious, but can you tell the committee what impact that  
1831 has on you doing your job?

1832 Mr. Turpin. As I said earlier, the Commission staff prefers  
1833 to have the best information, you know, from the ground data in  
1834 the ground surveys in the application, but without it we can move  
1835 to desktop data, we can move to remote data, and we can move forward  
1836 with our analysis that does have to be truthed up later before  
1837 construction. And so sometimes there are potential implications  
1838 that certain protected features won't be discovered until after  
1839 the application and then the applicant has to do an expensive  
1840 re-route or some lengthy adjustment.

1841 Mr. Flores. Okay. The permitting dashboard in the draft  
1842 legislation would consolidate the information from your agency  
1843 as well as the coordinating agencies into a simple, easy to use

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1844 and easy to access website. You admit it would improve  
1845 transparency, but you also say in your testimony that it would  
1846 burden staff resources and time. How do we balance the need for  
1847 transparency with scarce government resources?

1848 Mr. Turpin. Good question. I am still trying to figure  
1849 that one out in my role here. I think that is always the rub.  
1850 We don't have a lot of excess staff sitting around with a lot of  
1851 excess capacity. You know, we are all technical specialists and  
1852 we try to use everybody to their full capacity. So adding on,  
1853 sort of riding herd on these other agencies just does dilute that  
1854 effort, so I mean we can do it.

1855 Mr. Flores. And with respect to this permitting dashboard,  
1856 again coming, stand out of the weeds, if the FERC didn't collect  
1857 this information who would or should or could? I mean, you are  
1858 the lead agency for permitting pipelines; aren't you the logical  
1859 owner for this project?

1860 Mr. Turpin. Yes, we are. And as the current process we have  
1861 it is the applicant that is going out and filing for these permits  
1862 and engaging those agencies that is responsible for collecting  
1863 that data and reporting it into the record.

1864 Mr. Flores. Okay. Mr. Chairman, I yield back.

1865 Mr. Walberg. I thank the gentleman. I now recognize the

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1866 gentleman from North Dakota, Mr. Cramer.

1867 Mr. Cramer. Thank you, Mr. Chairman. Thanks to the  
1868 witnesses. I want to hone in a little bit on some statements that  
1869 were made earlier and see if we can't find some common ground,  
1870 because I appreciate what Mr. McNerney said earlier about, you  
1871 know, we will never solve this if one side imposes its will on  
1872 the other. I agree.

1873 I think Ms. Castor makes a relevant point admonishing us to  
1874 see how the FPISC process works. We do have some pretty  
1875 successful pilots and I think they could be even more successful  
1876 if the interagency collaboration was more, I guess cooperated by  
1877 more agencies on federal lands where we have seen some permitting  
1878 activity actually create efficiencies by actually co-locating  
1879 some agencies even in field offices. But what I am wondering  
1880 about on the interagency issue here is can we find ways or even  
1881 substantiate that interagency collaboration and cooperation can  
1882 accomplish two goals. One, to streamline the permitting process  
1883 so that those of us who want to see the process shortened can be  
1884 satisfied as well as find synergies, not just efficiencies but  
1885 synergies among the agencies where there is even greater  
1886 environmental oversight and scrutiny in that short of timeframe  
1887 so that there doesn't have to be a loser but rather two winning

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1888 sides?

1889 Is that too much to hope for or can that be substantiated?  
1890 And I would ask either or both of you for your experiences.

1891 Mr. Katz. No, I would say that what you say makes a lot of  
1892 sense and indeed is a viable and very positive goal.

1893 Mr. Cramer. Do we have any experiences where that can be  
1894 demonstrated or --

1895 Mr. Katz. The Commission participated a kind of ex-officio  
1896 because it wasn't any of our projects in the interagency task force  
1897 that you talked about, which I think primarily related to getting  
1898 transmission lines on federal lands permitted. And our  
1899 impression watching it a little bit from afar was that the agencies  
1900 did a very good job of working together and doing things  
1901 concurrently and trying to solve everybody's problems at once.

1902 And in some projects that come before the Commission that  
1903 happens and things go very well. Other times it doesn't. I guess  
1904 the question of getting it to be consistent and to be the rule  
1905 rather than exception is perhaps the difficult thing.

1906 Mr. Cramer. And perhaps that is more a matter of the will  
1907 than it is policy. However, Mr. Turpin, I don't know if you have  
1908 anything to add to that but is there a way to incent that within  
1909 the agencies? In other words, I think the natural tendency is

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1910 to slow-walk things if you are just the bureaucracy doing your  
1911 things sequentially, right, and you have 90 days, generally it  
1912 takes 90 days. If you hadn't noticed, Congress usually extends  
1913 their deadlines so that we can take longer.

1914 So what I am wondering is, is there a way to properly incent  
1915 that behavior that we seek in an actual streamlining process  
1916 without violating the integrity of oversight and scrutiny?

1917 Mr. Turpin. I think it comes back to sort of setting the  
1918 priorities for the agencies. I mean they are given multiple  
1919 mandates. Again we are a single-focus agency so it is easy for  
1920 us to stay on the track. Other folks who have very widely  
1921 different missions to carry out have to do that balancing act and  
1922 so having that priority set for them would go a long way.

1923 Mr. Cramer. I do wonder sometimes if we couldn't harmonize  
1924 some of that again while maintaining the integrity, but that is  
1925 beyond obviously your agency's responsibility and scope.

1926 Since I have time, with regard to the presidential permits  
1927 in cross-border on the oil side, which is the difference maker,  
1928 right, from natural gas on international pipelines, this national  
1929 interest determination which is what the President ultimately has  
1930 to make on a, where a presidential permit is determined, if I  
1931 understood I think your answer to a previous question, you, while

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1932 consulting the national security in Homeland Security and other  
1933 agencies, State Department, you are in essence not neglecting the  
1934 national interest especially on the security side in your process  
1935 with gas pipelines; would that be accurate?

1936 And I don't know whether the determination or the standard  
1937 for the permit is the same, but it seems that the considerations  
1938 are the same. Is that fair?

1939 Mr. Turpin. Yeah. I mean with a natural gas process, you  
1940 know, under NGA Section 3 we do the environmental review, we look  
1941 at the facility's installation, and under the executive orders  
1942 for the presidential process we reach out to State and Defense  
1943 to get their concurrence on impacts that areas that they oversee.

1944 Mr. Cramer. Thank you for your work and for your testimony.  
1945 I yield back.

1946 Mr. Walberg. I thank the gentleman. I recognize myself now  
1947 for 5 minutes of questioning. Mr. Katz and Mr. Turpin, thank you  
1948 for being here. Mr. Katz, the discussion draft would designate  
1949 hydropower as renewable energy under the Energy Policy Act of  
1950 2005. How has hydropower development been adversely affected by  
1951 the fact that it is not always considered renewable?

1952 Mr. Katz. That is one, again, that I would more have to defer  
1953 to the second panel who deal with it on a day-to-day basis. But

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1954 certainly there are government programs, tax credits, other  
1955 things that have not been available to the hydro industry when  
1956 it is not considered to be a renewable resource.

1957 Mr. Walberg. Seems to make sense, so I guess we will wait  
1958 for that second panel. Let me ask you, as you know the small  
1959 conduit hydropower plays an important role in our nation's energy  
1960 mix. It is a great option to add renewable generation to existing  
1961 infrastructure, it is installed almost anywhere even in remote  
1962 places. The Hydropower Regulatory Efficiency Act of 2013 created  
1963 a streamlined process for qualifying conduit facilities. What  
1964 has been your experience since then?

1965 Mr. Katz. Our experience has been that that process has gone  
1966 very smoothly. We have almost never had any comments when someone  
1967 proposed to have a qualifying project, so it has gone very quickly.  
1968 In terms of the new legislation which would cut the comment period  
1969 back to 15 days, Commission staff supports that.

1970 Indeed, we are not certain why it might be limited to projects  
1971 of two megawatts as opposed to the five megawatt projects that  
1972 are already covered by the act, and indeed I will go further to  
1973 say the Commission staff has previously testified to Congress that  
1974 it very well would be appropriate to exempt all conduit projects  
1975 from Commission regulation given that the conduits themselves are

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1976 subject to whatever appropriate environmental regulation goes on  
1977 when a conduit is built and that they very rarely, if ever, have  
1978 additional environmental impact.

1979 Mr. Walberg. So you would be supportive of Congress  
1980 shortening the time period at the very least?

1981 Mr. Katz. We see no downside to that.

1982 Mr. Walberg. Okay, okay. Let me ask this question and both  
1983 could respond. How does the current FERC process hinder  
1984 hydropower projects upgrades such as those that would increase  
1985 deficiency capacity and output of existing plans?

1986 Mr. Katz. I think it can vary from project to project.  
1987 Again if you have a fairly simple project that stakeholders are  
1988 comfortable with and doesn't have significant environmental  
1989 impacts it can go forward very quickly. If it is a major project  
1990 that brings into play the Endangered Species Act, the Clean Water  
1991 Act and other regulations that can significantly delay  
1992 consideration of that amendment.

1993 Mr. Walberg. Okay, thank you. I yield back my time and now  
1994 recognize the gentleman from Oklahoma, Mr. Mullin.

1995 Mr. Mullin. Thank you, Mr. Chairman. And first of all, I  
1996 want to thank my colleague across the aisle, Gene Green, for  
1997 working with me on this issue and working together with us on so

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1998 many different issues. We have worked together in the past and  
1999 I look forward to doing it again.

2000 Mr. Turpin, as you know the process for reviewing  
2001 cross-border infrastructure is established through a series of  
2002 executive orders, and I think you know where I am going with my  
2003 questioning here. In fact, Congress has never weighed in and  
2004 there are no current laws on the books. The draft legislation  
2005 before us today would be the first to establish a uniform and  
2006 transparent process in authorizing cross-border energy  
2007 infrastructure. Would the draft legislation change the  
2008 Commission's existing process for reviewing cross-border gas  
2009 pipelines?

2010 Mr. Turpin. I do not believe it would.

2011 Mr. Mullin. Would you have any concerns with that? When  
2012 I say you don't believe it would I just want to clarify that.

2013 Mr. Turpin. Well, let me add to that. I don't believe it  
2014 would change the review of the facilities, you know, the  
2015 environmental review that we do, the current reviews that we do  
2016 under the Natural Gas Act. Under the bill of course we would not  
2017 be reaching out and coordinating with State and Defense.

2018 Mr. Mullin. So it would basically be you would follow the  
2019 same process kind of like what Mr. Cramer was saying?

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2020 Mr. Turpin. Right.

2021 Mr. Mullin. Does the Commission have the technical capacity  
2022 to take on the new responsibility?

2023 Mr. Turpin. In terms of adding oil pipelines, I mean  
2024 pipelines to a large extent are pipelines.

2025 Mr. Mullin. Agreed.

2026 Mr. Turpin. There will be some uniqueness to the product  
2027 in it that we haven't had to deal with before, but we can get that  
2028 expertise.

2029 Mr. Mullin. Uniqueness by?

2030 Mr. Turpin. Natural gas, I mean as a siting matter transport  
2031 of oil is something we have not had to look at. So there will  
2032 be considerations for spills, considerations for that sort of  
2033 thing.

2034 Mr. Mullin. Would FERC treat oil pipelines like gas  
2035 pipelines with respect to identification for the jurisdiction  
2036 purposes?

2037 Mr. Turpin. I don't know. That would have to be set, the  
2038 policy for that would have to be set by the Commission, which is  
2039 I think what would be done in that year-long rulemaking, and then  
2040 Commission staff would act on whatever policy the Commission comes  
2041 up with.

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2042 Mr. Mullin. Do you have a problem with the timeframe to  
2043 which we put forth with approving the permit?

2044 Mr. Turpin. As I read it, it is 120 days after the final  
2045 NEPA document and that is not an issue.

2046 Mr. Mullin. Not an issue. Would the draft legislation have  
2047 any effect on the NEPA or a shortcut to the Commission's  
2048 environmental review in any way?

2049 Mr. Turpin. I do not believe so.

2050 Mr. Mullin. Okay, real quick that was all I had. I just  
2051 wanted to clarify some concerns that we have heard about this.  
2052 So Mr. Turpin, appreciate it and Mr. Chairman, I yield back.

2053 Mr. Walberg. I thank the gentleman and I recognize the  
2054 gentleman from Missouri. Welcome back, Mr. Long.

2055 Mr. Long. Thank you, Mr. Chairman. And Mr. Turpin, the  
2056 Promoting Interagency Coordination for Review of Natural Gas  
2057 Pipelines discussion draft requires early outreach to permitting  
2058 agencies. How does this help FERC and other agencies coordinate  
2059 to make sure their input and concerns are addressed?

2060 Mr. Turpin. I think it allows the applicant to get out to  
2061 those agencies at the earliest possible time before they have  
2062 developed the routes, before they develop the projects so that  
2063 the agencies can identify what data needs they have, can influence

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2064 what the applicant does in the design to mitigate any impacts,  
2065 and give the applicant the most notice on what sort of studies  
2066 might be needed for when the applications are filed.

2067 Mr. Long. Okay. Can you discuss the ways that we could  
2068 reduce the uncertainty in the review schedule to make sure the  
2069 reviews are completed in a timely manner?

2070 Mr. Turpin. I think the largest, single most crucial factor  
2071 in doing that is developing the data needed by all the different  
2072 agencies for their mandates.

2073 Mr. Long. Okay.

2074 Mr. Katz, you mentioned in the next 15 years almost half of  
2075 licensed projects will begin the relicensing process. How can  
2076 we make sure that the relicensing projects are completed in a  
2077 timely manner?

2078 Mr. Katz. It is a difficult ask given that there are  
2079 statutory mandates that allow other agencies to in effect set the  
2080 timeframe. I think that some of the efficiencies that are being  
2081 proposed in the current act will help.

2082 Mr. Long. Say that again, you think that what?

2083 Mr. Katz. I think that some of the measures provided in the  
2084 acts before us will introduce efficiency and help the Commission  
2085 move ahead to do things in as timely a manner as possible. And

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2086 I think the Commission staff and the Commission itself will be  
2087 committed to getting those licenses done as quickly as possible,  
2088 but we don't have complete control given the exercise of authority  
2089 under federal law by state and other federal agencies.

2090 Mr. Long. All right. Currently FERC can grant an extension  
2091 of just 2 years from the commencement of the project construction.  
2092 Could you expand on how the discussion draft gives FERC  
2093 flexibility on cases that require additional time to begin  
2094 construction?

2095 Mr. Katz. Yes, the discussion draft would allow the  
2096 Commission to extend the commencement of construction deadline  
2097 for several additional years and that might help certain projects  
2098 that are having trouble sort of dotting there is and crossing their  
2099 Ts before they get started. So it would be a help to some  
2100 projects.

2101 Mr. Long. Okay. And Mr. Chairman, that is all I have and  
2102 I yield back.

2103 Mr. Olson. [Presiding.] The gentleman yields back.

2104 Seeing there are no further members wishing to ask questions  
2105 for the first panel, I would like to thank both you Mr. Turpin  
2106 and you Mr. Katz for being our witnesses today. This will  
2107 conclude our first panel and we will now take a few minutes to

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2108 set up for the second panel.

2109 [Whereupon, at 12:04 p.m., the subcommittee recessed, to  
2110 reconvene at 12:06 p.m., the same day.]

2111 Mr. Olson. Welcome back and thank you for your patience and  
2112 for taking your time to be here today. We now move into our second  
2113 panel for today's hearing. We will follow the same format as the  
2114 first panel. Each witness will be given 5 minutes for an opening  
2115 statement followed by a round of questions from our members.

2116 For the second panel we have the following witnesses: Mr.  
2117 Jeffrey Soth, he is a legislative director and political director  
2118 at the International Union of Operating Engineers; Mr. Jeffrey  
2119 Leahey, the deputy executive director of the National Hydropower  
2120 Association; Mr. William Robert Irvin, president and CEO of  
2121 American Rivers; Ms. Jennifer Danis, the senior staff attorney  
2122 at the Eastern Environmental Law Center; Mr. Donald Santa,  
2123 president and CEO of the Interstate Natural Gas Association of  
2124 America; and Mr. Andrew Black, president and CEO of Association  
2125 of Oil Pipe Lines.

2126 We appreciate you all being here today. We will begin this  
2127 panel with Mr. Soth, and you are now recognized for 5 minutes to  
2128 give an opening statement.

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2129 STATEMENTS OF JEFFREY SOTH, LEGISLATIVE AND POLITICAL DIRECTOR,  
2130 INTERNATIONAL UNION OF OPERATING ENGINEERS; JEFFREY LEAHEY,  
2131 DEPUTY EXECUTIVE DIRECTOR, NATIONAL HYDROPOWER ASSOCIATION; BOB  
2132 IRVIN, PRESIDENT AND CEO, AMERICAN RIVERS; JENNIFER DANIS, SENIOR  
2133 STAFF ATTORNEY, EASTERN ENVIRONMENTAL LAW CENTER; DONALD SANTA,  
2134 PRESIDENT AND CEO, INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA;  
2135 AND, ANDY BLACK, PRESIDENT AND CEO, ASSOCIATION OF OIL PIPE LINES.

2136

2137 STATEMENT OF JEFFREY SOTH

2138 Mr. Soth. Thank you, Vice Chairman Olson, Ranking Member  
2139 Rush, members of the subcommittee, it is an honor to join you at  
2140 your first legislative hearing to the 115th Congress. My name  
2141 is Jeffrey Soth. I am legislative and political director of the  
2142 International Union of Operating Engineers. The Union  
2143 represents almost 400,000 men and women in the United States and  
2144 Canada. In short, we build and maintain the cranes, bulldozers,  
2145 and backhoes that build North America.

2146 Members of the Operating Engineers are some of the most  
2147 highly skilled, highly trained construction craft workers in the  
2148 world. We deliver training at over 86 facilities in the United  
2149 States where we employ 550 instructors. The IUOE and its  
2150 employers invest over \$128 million annually in local

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2151 apprenticeship and training programs, and I want to point out  
2152 here, at no cost to the public. That is exclusively, privately  
2153 financed.

2154 In addition to the training of local unions, the IUOE  
2155 conducts specialized national training in coordination with the  
2156 Pipe Line Contractors Association in the pipeline sector. We  
2157 invest over 5 million annually in that work to ensure the safe  
2158 installation and construction techniques in the pipeline industry  
2159 making it the safest in the world. The pipeline training program  
2160 has historically been delivered at locations around the country  
2161 where there is a large project or regional demand for pipeline  
2162 training.

2163 What I am pleased to share with the committee that the IUOE  
2164 is building a new home for its pipeline training in Crosby, Texas.  
2165 In spring 2018, the IUOE will open our international training and  
2166 education center, \$150 million training center in the heart of  
2167 the Gulf Coast. I have attached a rendering of the facility and  
2168 a site plan of the project where you can see just how much of that  
2169 property is dedicated to pipeline training. And again this  
2170 facility is being built at no cost to the public. There are no  
2171 public resources, no taxpayer dollars whatsoever associated with  
2172 the \$150 million investment.

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2173           Let me turn now to employment and wages in the construction  
2174 sector and in the pipeline industry in particular. The  
2175 construction industry has the highest unemployment rate of any  
2176 industry sector at 8.4 percent. Employment in the oil and gas  
2177 pipeline sector of the construction industry is near a 5-year low.  
2178 Please see the chart attached to my testimony.

2179           As you can tell from it, we are down about 20 percent of total  
2180 jobs in the sector since the summer of 2015. I should point out  
2181 that these are good, family sustaining jobs. Production and  
2182 nonsupervisory workers make over \$30 an hour in the pipeline  
2183 industry, and compare that to \$21.90 in all private sector  
2184 payrolls.

2185           After that description and background of the IUOE's role in  
2186 training and our look at labor market information, let me turn  
2187 to the legislation before the committee and two pieces of  
2188 legislation in particular related to pipelines. Regulatory  
2189 uncertainty and procedural delays during environmental review are  
2190 hindering the growth of these good jobs and the other benefits  
2191 that go along with this domestic energy production. Congress  
2192 needs to update and streamline the permitting and regulatory  
2193 framework to ensure that the domestic oil and gas industry  
2194 flourishes in a safe and predictable way. To put it simply, it

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2195 is time to modernize the federal code for energy infrastructure.

2196 That is why they IUOE supports the Cross-border Energy  
2197 Infrastructure Act and the Promoting Interagency Coordination for  
2198 Review of Natural Gas Pipelines Act. The cross-border  
2199 legislation in particular takes the important step of codifying  
2200 the process to permit a project that crosses the border. Now that  
2201 there is not a controversial project under consideration it is  
2202 the right time to make this move away from the ambiguity of an  
2203 executive order.

2204 Frankly, it is time to legislate regarding cross-border  
2205 permits. The State Department's inspector general described the  
2206 problem in a special report in February of 2012 when it reviewed  
2207 the Keystone XL permit process. It determined that the limited  
2208 expertise and experience of State Department officials with  
2209 respect to NEPA and environmental reviews frustrated and delayed  
2210 the permitting process for KXL, perhaps even leading to a need  
2211 for a whole supplemental EIS and adding 11 months to that process.

2212 It is time to place responsibility for cross-border permits  
2213 in an experienced environmental agency like FERC. The  
2214 interagency coordination bill makes important reforms to natural  
2215 gas pipeline permitting. The bill will give FERC additional  
2216 tools to identify potential issues that can hinder state and

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2217 federal agencies from conducting timely reviews. It is  
2218 an important evolution from the simple 12-month limit legislation  
2219 that has been considered in past Congresses and it is time to more  
2220 closely address, that this legislation more closely addresses the  
2221 real problems associated with permitting delays. The IUOE  
2222 encourages you to pass these two pieces of legislation and we look  
2223 forward to working with the committee to enact them in this 115th  
2224 Congress. And thank you, Vice Chairman Olson, for the  
2225 opportunity. It was a pleasure to join you today.

2226 [The prepared statement of Mr. Soth follows:]

2227

2228 \*\*\*\*\*INSERT 3\*\*\*\*\*

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2229

Mr. Olson. Thank you, Mr. Soth.

2230

The chair now calls upon Mr. Leahey for 5 minutes for an

2231

opening statement.

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2232 STATEMENT OF JEFFREY LEAHEY

2233

2234 Mr. Leahey. Vice Chairman Olson, Ranking Member Rush, and  
2235 members of the subcommittee, thank you. I am pleased to be here  
2236 to discuss the importance of hydro to the electric system, its  
2237 untapped growth potential, the challenges that impede growth, and  
2238 bills before the subcommittee today. Hydro provides six to  
2239 seven percent of all electricity generation and nearly half of  
2240 all renewable generation, making hydro the largest provider of  
2241 renewable electricity. Another 42 pump storage plants make up  
2242 almost all, 97 percent, of energy storage. This system  
2243 contributes to cleaner air and provides other benefits, including  
2244 river management for fish and habitat protection, flood control,  
2245 drought management, water supply, irrigation and more.

2246 Hydro also provides many grid benefits: base load power,  
2247 peaking generation, load following, reliability. With the  
2248 growing need for these services, hydro has increased capacity by  
2249 nearly two gigawatts since 2005.

2250 Hydro infrastructure also brings many economic benefits.  
2251 The industry employs a work force of almost 150,000 and access  
2252 to low-cost, clean, reliable power attracts many high tech firms  
2253 and manufacturers. But hydro can do even more. The myth is that

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2254 hydro is tapped out. But that is not the case and I direct the  
2255 subcommittee to the 2016 Department of Energy Hydropower Vision  
2256 Report. This report with input from industry, environmental  
2257 groups, and state and federal agencies outlines 50 gigawatts of  
2258 growth potential by 2050. Let me highlight two prime  
2259 examples, pump storage and building on existing infrastructure  
2260 non-powered dams and conduits, the focus of three of the bills  
2261 today. Pump storage can rapidly shift, store, and reuse energy  
2262 until there is corresponding system demand while facilitating the  
2263 integration of variable generation. As more intermittent and  
2264 renewable generation is added to the grid and other base load  
2265 generation is lost, the need for pump storage is increasing  
2266 particularly in the West.

2267 Of the 80,000 U.S. dams, only three percent generate  
2268 electricity highlighting the potential in the non-powered dam  
2269 sector. Many of these opportunities are located in regions some  
2270 may considered unexpected such as the Southeast and Rust Belt  
2271 states. Conduit opportunities are also available across the  
2272 country where power generating equipment can be added to tunnels,  
2273 canals, and pipes. However, projects are not being deployed due  
2274 to the uncertain, duplicative, and lengthy overall regulatory  
2275 process.

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2276 NHA member company, Missouri River Energy Services, reports  
2277 that their new project at a Corps of Engineers dam in Iowa will  
2278 come on line in 2018, having started the development process in  
2279 2005, 13 years ago. I cannot overstate how crucial it is to enact  
2280 process reforms immediately. The nation could access huge  
2281 amounts of reliable low-cost power without sacrificing other  
2282 values. Existing project owners are also expressing concerns.  
2283 With well over 400 projects up for relicensing by 2030, NHA is  
2284 already hearing from owners particularly in the Northeast that  
2285 the time and cost for licensing may render projects uneconomic  
2286 and result in license surrenders. Congress must address the  
2287 challenges both asset owners and developers face. Over  
2288 the last 5 years, this subcommittee has developed an extensive  
2289 record on the problems experienced by industry. The message has  
2290 been clear and consistent. Licensing takes years to complete,  
2291 requires substantial up-front costs, and contains too much  
2292 uncertainty and risk, all of which for a developer creates a  
2293 significant barrier to securing financing or capital and for a  
2294 utility makes it difficult to justify project economics.

2295 Turning to the bills before the subcommittee today, NHA  
2296 strongly supports policies to address inefficiencies and improve  
2297 the coordination in the project approval process which we believe

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2298 will promote the hydropower resource while also protecting  
2299 environmental values. I have included specific comments on all  
2300 of the bills in my written statement and ask permission to include  
2301 for the record additional letters of support that are submitted  
2302 following this hearing. Focusing on the Hydropower  
2303 Regulatory Modernization Act, it incorporates bipartisan  
2304 proposals that NHA supports and which were included in legislation  
2305 in last Congress. It is a crucial first step to address the  
2306 barriers to developing hydropower's untapped potential and the  
2307 problems experienced in relicensing.

2308 Empowering FERC as the lead agency to coordinate the  
2309 schedule, requiring FERC and agencies to coordinate, facilitating  
2310 concurrent decision making, early identification of issues, and  
2311 elevating disputes to leadership are improvements that should  
2312 increase transparency and accountability and eliminate delays.  
2313 However, NHA also believes improvements to the bill are needed  
2314 as the language appears to rescind important provisions under  
2315 current law. This includes the requirement for agencies to give  
2316 equal consideration to developmental and nondevelopmental values  
2317 when crafting mandatory conditions, and the opportunity for  
2318 discovery and cross examination as part of the trial-type hearings  
2319 process. These received bipartisan support when adopted and were

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2320 backed by industry and stakeholders alike. Finally, NHA  
2321 believes continued work through last year on some of these  
2322 provisions resulted in new language that provides further clarity  
2323 and direction and should be adopted. And we believe this hearing  
2324 creates an opportunity for further dialogue on issues documented  
2325 in the record but for which solutions were not advanced. And with  
2326 that I will conclude my testimony and I look forward to answering  
2327 your questions.

2328 [The prepared statement of Mr. Leahey follows:]

2329

2330 \*\*\*\*\*INSERT 4\*\*\*\*\*

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2331

Mr. Olson. Thank you, Mr. Leahey.

2332

The chair now calls upon Mr. Irvin for a 5-minute opening

2333

statement.

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2334 STATEMENT OF BOB IRVIN

2335

2336 Mr. Irvin. Vice Chairman Olson, Ranking Member Rush,  
2337 members of the subcommittee, thank you for the opportunity to  
2338 testify today on the hydropower bills being considered by this  
2339 committee. My name is William Robert Irvin. I am president and  
2340 CEO of American Rivers, a national conservation organization that  
2341 works to protect wild rivers, restore damaged rivers, and conserve  
2342 clean water for people and nature. I also served as a member of  
2343 the senior peer review group for the Department of Energy's Hydro  
2344 Vision Report which was issued last year.

2345 Let me begin by stating very clearly that while we are  
2346 pro-rivers, American Rivers is not anti-hydropower. Hydropower  
2347 is and will remain a key part of our nation's energy portfolio.  
2348 Our staff has participated in hundreds of FERC proceedings  
2349 resulting in the generation of thousands of megawatts of  
2350 electricity and improved environmental performance at those  
2351 generating facilities. In addition, we have supported  
2352 legislation to incentivize sustainable hydropower projects.

2353 American Rivers also recognizes that when cited and operated  
2354 responsibly, hydropower can be beneficial as a low-carbon,  
2355 renewable energy source. It is certainly better for the climate

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2356 than burning fossil fuels, but it is not carbon-free due to the  
2357 methane emissions from reservoirs. Nevertheless, when sited and  
2358 operated irresponsibly, hydropower can do great harm to rivers  
2359 and the wildlife and communities that depend on them.

2360 By changing the flow of rivers, hydropower dams have harmed  
2361 fish, mussels, and other aquatic species, and pushed some to the  
2362 brink of extinction. Hydropower can have toxic effects on water  
2363 quality. Hydropower dams can de-water stretches of river and  
2364 have in the past been built with callous disregard of Native  
2365 American sacred sites and ancestral lands. To prevent these  
2366 harmful impacts, we have laws in place to protect endangered  
2367 species and clean water and to give states, tribes, and federal  
2368 resource agencies a meaningful seat at the hydropower licensing  
2369 table.

2370 Accordingly, in evaluating any proposed changes to the  
2371 hydropower licensing process, American Rivers, and indeed the  
2372 larger environmental community, will vigorously oppose any effort  
2373 to limit the application of the Endangered Species Act or the Clean  
2374 Water Act to hydropower dams to infringe upon state water law and  
2375 state authority to manage water rights, to limit the protections  
2376 afforded to Native Americans and the Native American tribes in  
2377 hydropower licensing, to limit the ability of the United States

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2378 to protect federally managed fisheries and taxpayer-owned public  
2379 lands, or to limit the authority of state agencies to protect fish,  
2380 wildlife, and other natural resources within their state.

2381           Regrettably, as I have described in my written testimony,  
2382 the draft bills before the subcommittee fail these tests. At the  
2383 heart of each of these bills is the flawed principle that FERC  
2384 should be elevated above other federal, state, and tribal agencies  
2385 in the licensing process and be able to limit federal, state, and  
2386 tribal authorities over rivers.

2387           Giving FERC the power to decide questions of fisheries  
2388 biology makes as much sense as giving the National Marine  
2389 Fisheries Service the authority to decide interstate electricity  
2390 tariff cases. Giving FERC the authority to decide questions of  
2391 Native American treaty rights makes as much sense as giving the  
2392 Bureau of Indian Affairs the final say over reliability standards  
2393 for interstate, high voltage transmission. And giving FERC the  
2394 final say over matters of state water law upends the prior  
2395 appropriation doctrine in the West and challenges riparian water  
2396 law that goes back to colonial times in the East.

2397           The draft bills before you will not improve licensing or  
2398 promote environmental protection. Instead, these bills will  
2399 lead to legal gridlock and environmental degradation. I hope

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2400 that rather than rushing these bills forward, the committee will  
2401 instead work with stakeholders, including American Rivers, to  
2402 develop legislation to facilitate responsible hydropower  
2403 development while protecting healthy rivers, wildlife, and  
2404 communities.

2405 In my written testimony I provided some common sense  
2406 approaches to improving the licensing process without harming the  
2407 environment. If the committee chooses to convene a stakeholder  
2408 process to develop licensing reform that maintains protection of  
2409 rivers, I can assure you that American Rivers will roll up our  
2410 sleeves and get to work with all the interested parties.

2411 Thank you for the opportunity to testify today and I look  
2412 forward to answering any questions you may have.

2413 [The prepared statement of Mr. Irvin follows:]

2414

2415 \*\*\*\*\*INSERT 5\*\*\*\*\*

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2416

Mr. Olson. Thank you, Mr. Irvin.

2417

And the chair now recognizes for 5 minutes Ms. Danis for an

2418

opening statement.

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2419 STATEMENT OF JENNIFER DANIS

2420

2421 Ms. Danis. I want to thank the committee for the opportunity  
2422 to testify. My name is Jennifer Danis and I am a senior staff  
2423 attorney with the Eastern Environmental Law Center representing  
2424 New Jersey Conservation Foundation and Stony Brook-Millstone  
2425 Watershed Association.

2426 The proposed changes contained in the Interagency  
2427 Coordination Act are unnecessary and would upset the careful  
2428 balance of cooperative federalism that exists under the Clean  
2429 Water Act, the Clean Air Act, and the Coastal Zone Management Act.  
2430 The changes would inappropriately expand FERC's natural gas  
2431 authority, attempt to undermine states' rights, and undermine the  
2432 important role that other federal and state agencies play in  
2433 protecting natural resources for the public. As we have  
2434 already heard this morning, the proposed changes are a solution  
2435 in search of a problem because FERC approves over 90 percent of  
2436 projects within 1 year. FERC administers applications for both  
2437 Section 3 and Section 7 approvals on a case by case basis subject  
2438 to the statutory standards of the Natural Gas Act, operating under  
2439 no larger federal energy program. These approvals are major  
2440 federal actions under NEPA and as such FERC is required to consider

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2441 their environmental impacts.

2442           Yet FERC uses an extraordinarily narrow approach of its  
2443 regulatory role under NEPA. For example, FERC has expressed its  
2444 view that it is not FERC's duty to assess project purpose and need  
2445 beyond accepting the applicant's stated project goal. This  
2446 approach limits FERC's need for review excluding real analysis  
2447 of alternatives. FERC will only consider alternatives to natural  
2448 gas transmission pipelines that are other natural gas  
2449 transmission pipelines.

2450           Similarly, FERC takes an extremely narrow approach to  
2451 environmental impact assessments. FERC's assessment of  
2452 environmental impacts routinely finds that a project's  
2453 environmental impacts will not be significant so long as other  
2454 federal agencies or state agencies acting pursuant to federal law  
2455 separately assess the project's environmental harm under  
2456 substantive statutes such as the Clean Water Act, the Clean Air  
2457 Act, and the Coastal Zone Management Act.

2458           FERC considers authorizations on a case by case basis not  
2459 subject to any federal energy program or regional planning. As  
2460 such, FERC's ad hoc authorizations demand robust, ancillary  
2461 federal authorizations by agencies operating subject to  
2462 comprehensive plans to protect our water and air for future

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2463 generations. For FERC projects, the comprehensive environmental  
2464 impacts analyses required by NEPA are consistently performed by  
2465 those other federal and state agencies in their independent review  
2466 under substantive environmental laws.

2467 Although the proposed bill is entitled Promoting Agency  
2468 Coordination for Review of Natural Gas Pipelines, the essence of  
2469 the proposed changes would generate not resolve conflict between  
2470 and among federal and state agencies currently responsible for  
2471 evaluating the actual impacts of Section 3 and Section 7 projects.  
2472 In fact, the proposed amendments threaten to abrogate state and  
2473 federal powers and duties under those laws.

2474 Congress carefully allocated cooperative and specific roles  
2475 for the states and for the relevant federal agencies when enacting  
2476 those substantive laws. They all explicitly recognize the  
2477 critical role that the states play in protecting water and air  
2478 quality. In fact, a key legislative purpose of the Clean Water  
2479 Act was to uphold the primary responsibility for controlling water  
2480 pollution that rests with the states.

2481 From its inception, the 401 Certification requirement was  
2482 a mechanism to explicitly protect states' ability to regulate  
2483 water quality standards and pollution control ensuring their  
2484 ability to enforce more stringent standards than federal ones.

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2485 Under the Clean Air Act and Coastal Zone Management Act, the state  
2486 may also designate standards more protective but not less than  
2487 federal ones. These NGA amendments would create overt clashes  
2488 with existing federal statutes designed to protect water and air  
2489 and to preserve the states' role in that process. For example,  
2490 the proposed amendments attempting to allow FERC to define the  
2491 scope of environmental review for the states or agencies acting  
2492 pursuant to Clean Water Act authority would clearly run afoul of  
2493 the Clean Water Act's goals.

2494 The Clean Water Act is a model of cooperative federalism.  
2495 There is no need for Congress to disturb this careful balance.  
2496 Of the hundreds of energy infrastructure projects authorized by  
2497 FERC, there have been only three. A tiny percentage that states  
2498 have determined cannot be constructed in accordance with  
2499 controlling water quality standards. Industry cries of abusing  
2500 reserved and primary powers by the states to protect water quality  
2501 must stem from a mistaken belief that any certification denials  
2502 constitute an abuse of authority.

2503 I see my time is coming to a close. I am happy to answer  
2504 any questions. Thank you for the opportunity to testify.

2505 [The prepared statement of Ms. Danis follows:]

2506

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2507

\*\*\*\*\*INSERT 6\*\*\*\*\*

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2508

Mr. Olson. Thank you, Ms. Danis.

2509

The chair now calls upon Mr. Santa for 5 minutes to give an

2510

opening statement.

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2511 STATEMENT OF DONALD SANTA

2512

2513 Mr. Santa. Good afternoon, Vice Chairman Olson, Ranking  
2514 Member Rush, and the members of the subcommittee. My name is  
2515 Donald Santa and I am the president and CEO of the Interstate  
2516 Natural Gas Association of America, or INGAA. Our members  
2517 transport the vast majority of the natural gas consumed in the  
2518 United States through a network of approximately 200,000 miles  
2519 of interstate transmission pipelines.

2520 These transmission pipelines are analogous to the interstate  
2521 highway system. In other words, they are large capacity  
2522 transportation systems spanning multiple states or regions.  
2523 Thank you for the opportunity to share INGAA's perspective on the  
2524 discussion draft of legislation to improve agency coordination  
2525 during the review of federally regulated natural gas pipeline  
2526 projects.

2527 While the Federal Energy Regulatory Commission has exclusive  
2528 authority to grant the certificate required to construct an  
2529 interstate natural gas pipeline, various federal and state  
2530 agencies are responsible for granting other environmental and  
2531 land use permits and approvals that must be obtained before a  
2532 pipeline company may commence construction. This is not the

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2533 first time that INGAA has testified before this subcommittee on  
2534 the need to improve the natural gas pipeline permitting process.

2535 The need for action is even greater today because the  
2536 pipeline review and permitting process has only become more  
2537 protracted and more challenging. Federal permitting agencies  
2538 are taking longer and in some cases are electing not to initiate  
2539 reviews until FERC has completed its review of a proposed pipeline  
2540 project. These disjointed, sequential reviews cause delay and  
2541 in some cases create the need for supplemental environmental  
2542 analysis. This is unnecessary and avoidable.

2543 Regulations implementing the National Environmental Policy  
2544 Act provide for designating a lead agency to coordinate the review  
2545 of a proposed major federal action. The lead agency in turn  
2546 identifies and works with cooperating agencies to develop a single  
2547 environmental document for the project. Congress, as part of the  
2548 Energy Policy Act of 2005, designated FERC as the lead agency for  
2549 natural gas pipeline projects subject to the Commission's  
2550 jurisdiction.

2551 EAct 2005 also provided a framework for FERC to coordinate  
2552 the various permitting reviews connected with a natural gas  
2553 pipeline project and to set a deadline for other agencies to  
2554 complete their work. Notwithstanding the congressional intent

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2555 expressed in EAct 2005, it has been a challenge to get federal  
2556 and state agencies to work cooperatively and constructively  
2557 within this framework. The recent experience of an INGAA member  
2558 company illustrates the point.

2559 The company has proposed a pipeline that would intersect the  
2560 Blue Ridge Parkway and the Appalachian National Scenic Trail in  
2561 Virginia. The company proposed a nearly one-mile, horizontal  
2562 drill under a mountain so that the pipeline would cause no surface  
2563 disturbances, no tree clearing, and no interference with public  
2564 access to the Parkway or Trail. The Park Service responded with  
2565 indifference to the pipeline operator's efforts to minimize the  
2566 impact of its project. The Park Service took 14 months to review  
2567 a 22-page application to survey the area. Once permission was  
2568 granted, the survey work was completed in a single afternoon.

2569 The survey, however, is only an initial step. The Park  
2570 Service has yet to complete its extensive review of the pipeline  
2571 operator's application for a permit to drill beneath the Parkway  
2572 and Trail. We clearly need better agency engagement and decision  
2573 making than that demonstrated by the Park Service in this example.

2574 These kinds of permitting delays are becoming much more  
2575 frequent and are not confined to the Park Service. Because there  
2576 is no direct accountability for this lack of engagement, agencies

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2577 with limited resources are free to either ignore or to delay their  
2578 response to requests to participate in the review of a proposed  
2579 pipeline project. Let me be clear that INGAA is not seeking  
2580 diminution of the substantive requirements connected with permits  
2581 that must be obtained to construct interstate natural gas  
2582 pipeline. INGAA simply seeks greater certainty regarding the  
2583 schedule for reviewing and acting upon applications for such  
2584 permits and better coordination among the agencies responsible  
2585 for issuing permits.

2586 We appreciate the committee's leadership in drafting  
2587 legislation to address this need. INGAA encourages the committee  
2588 to provide even greater structure in detailed guidance so that  
2589 there is no misunderstanding about congressional intent for the  
2590 pipeline permitting process. Legislation to achieve this result  
2591 is not unprecedented or outside the mainstream. The process  
2592 created by Congress in highway authorization legislation offers  
2593 a model. INGAA encourages you to be bold.

2594 INGAA's written testimony includes specific recommendations  
2595 for strengthening and refining the language of the draft bill to  
2596 achieve its stated goals. We want to work with you in  
2597 strengthening this bill and make it more effective in coordinating  
2598 the necessary permitting reviews. Thank you for the opportunity

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2599 to testify today.

2600 [The prepared statement of Mr. Santa follows:]

2601

2602 \*\*\*\*\*INSERT 7\*\*\*\*\*



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2603

Mr. Olson. Thank you, Mr. Santa.

2604

The chair now calls upon Mr. Black for a 5-minute opening

2605

statement.

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2606 STATEMENT OF ANDY BLACK

2607

2608 Mr. Black. Thank you, Mr. Chairman. And if you will  
2609 permit, I would like to thank Mr. Barton for his nice comments  
2610 on the sudden passing of my dad Bill Black in Houston last week.  
2611 Dad admired what he did on committee and the floor. Dad would  
2612 laugh and have me thank the Congress for entertainment over the  
2613 years, and then he would tell me to get back to work, so I will.

2614 I am Andy Black with the Association of Oil Pipe Lines. AOPL  
2615 represents owners and operators of liquid pipelines transporting  
2616 crude oil, refined products like gasoline and diesel, and natural  
2617 gas liquids such as propane and ethane to American workers and  
2618 consumers. The presidential permit process for cross-border  
2619 energy pipelines needs reform. The poster child for presidential  
2620 permit cross-border abuse is well known. The Keystone XL delay  
2621 from 2008 to 2015 under the previous administration was  
2622 inexcusable. No permit review process of any kind should take  
2623 that long.

2624 While delay of the Keystone XL pipeline project garnered  
2625 widespread public attention, there were many other applications  
2626 stuck at the State Department also facing multiyear delays. Many  
2627 of those projects were simple changes of ownership filings with

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2628 no impact on the pipelines' operations or border crossing status.  
2629 Ironically, the Keystone XL NEPA environmental impact statement  
2630 conducted by the previous administration found that building the  
2631 pipeline would do more to protect the environment and avoid  
2632 greenhouse gas emissions than any alternative including rejecting  
2633 the pipeline.

2634 According to U.S. government statistics, more than 99.999  
2635 percent of petroleum products shipped by pipeline reach their  
2636 destination safely. The State Department review found the  
2637 alternatives to not building KXL and forcing that crude oil onto  
2638 other modes of transportation would result in 2.6 times more crude  
2639 oil released and 832 times more releases per year. The State  
2640 Department study also found the project would provide tens of  
2641 thousands of U.S. jobs in construction, manufacturing, trade,  
2642 finance, insurance, professional services, health services, food  
2643 accommodations, and more, with more than \$2 billion in worker  
2644 payroll.

2645 Good paying jobs are the benefit of every pipeline project.  
2646 Whenever a major project is proposed across our international  
2647 borders or just within the U.S., thousands of jobs with millions  
2648 of dollars in worker payroll can follow and increase tax revenues  
2649 to governments. And consumers across the country also benefit

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2650 from the downward pressure on gasoline and diesel prices that new  
2651 crude oil supplies bring. As pipeline operators, we know the  
2652 ultimate reasons for delay and rejection of the Keystone XL  
2653 pipeline had little to do with the superior safety, minimal  
2654 environmental impact, new jobs or consumer benefits of pipelines.  
2655 Larger forces were at work highjacking this project for their own  
2656 political gain. Unfortunately, Keystone XL wasn't the only  
2657 victim of a dysfunctional process.

2658 Under the last administration we saw review of the simplest  
2659 pipeline permits with the least amount of environmental impact  
2660 grind to a halt. A prime example are the several pipelines that  
2661 run from Canada to Michigan delivering liquid petroleum gases such  
2662 as propane and butane for industrial uses in manufacturing  
2663 chemicals, plastics, and similar products, supporting good paying  
2664 jobs in Michigan and beyond.

2665 For years, a liquid pipeline operator had presidential  
2666 permit applications pending for pipelines crossing that border.  
2667 Under current State Department guidelines, even a change in  
2668 ownership of the pipeline triggered a need to apply for a new  
2669 permit. For more than 5 years, the State Department considered  
2670 whether to issue a permit for something almost as simple as a name  
2671 change.

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2672           There were no operational changes of the pipeline, no change  
2673 in materials or any physical or environmental impacts, just many  
2674 years of review, document requests, and delays. We believe the  
2675 career staff at the State Department faithfully executed their  
2676 duties under executive authority. However, the current system  
2677 with no statutory standards or limits still left the process  
2678 vulnerable to manipulation by senior political officials.

2679           With no obligations under federal law to reach a timely  
2680 decision, limit the scope of review to the border crossing, or  
2681 avoid wasteful reviews of projects with little or no environmental  
2682 impact, the current process is ripe for abuse. The current  
2683 administration has returned to the original intent of the  
2684 presidential permit process, but without reform a future  
2685 administration could return to the abuses of the past.

2686           Liquid pipeline operators support reforming the  
2687 cross-border approval process and look forward to working with  
2688 the committee. Keys to meaningful reforms are the discussion  
2689 drafts provisions to, 1) provide a statutory time limit for permit  
2690 reviews after any applicable environmental reviews are complete;  
2691 2) presume approval unless the pipeline is found not in the public  
2692 interest, reflecting the benefit of reducing dependence on  
2693 overseas energy suppliers; 3) limit the border crossing permit

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2694 scope of review to border crossing issues and impacts, and 4)  
2695 exempt modifications to existing cross-border facilities because  
2696 they have no impact on the environment at the border crossing.  
2697 A reformed border crossing approval process will ensure that  
2698 American workers and consumers who want access to lower costing  
2699 energy supplies are not penalized by political manipulation.  
2700 Thank you.

2701 [The prepared statement of Mr. Black follows:]

2702

2703 \*\*\*\*\*INSERT 8\*\*\*\*\*

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2704 Mr. Olson. Thank you, Mr. Black, and thank you to all of  
2705 you for your testimony. We will begin the question and answer  
2706 portion of this hearing, and I will begin my questioning with the  
2707 5-minute rounds of questions.

2708 The first question is for you, Mr. Black. And also before  
2709 questions I want to echo the concerns and prayers from Vice  
2710 Chairman Barton about losing your father, Bill, this past week.  
2711 As the voice of over 850,000 fellow Texans, your family has our  
2712 thoughts and prayers in their hearts.

2713 Mr. Black, those 850,000 Texans I work for, my bosses called  
2714 constituents, get why oil pipelines are important. But if I am  
2715 the average American, why should I care about whether cross-border  
2716 pipelines are approved in a timely way? What would you say to  
2717 those people?

2718 Mr. Black. Most Americans want lower energy prices and  
2719 available supplies of gasoline, diesel fuel, propane. We have  
2720 got great supplies in Canada to take advantage of and Keystone  
2721 XL and all of the state approvals along the process, they just  
2722 needed Washington to approve that small border crossing. If that  
2723 border crossing had been approved on a timely basis, today  
2724 Americans in your district and elsewhere would be reaping those  
2725 benefits, but they are not.

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2726 Mr. Olson. Now is 850,000 barrels correct per day,  
2727 somewhere in that ballpark, being refined there in South Texas,  
2728 Port of Houston, Port of Beaumont, Port Arthur; is that correct?

2729 Mr. Black. Absolutely, supporting thousands of refinery  
2730 worker jobs.

2731 Mr. Olson. Thank you.

2732 The next questions are for you, Mr. Soth and Mr. Santa.  
2733 First to Mr. Soth, Crosby, Texas is not my district, but as a Texan  
2734 I say welcome, howdy. But as you know, pipelines are delayed,  
2735 companies large and small face uncertainty. Not just the  
2736 pipeline owners but the suppliers too. There are the shippers  
2737 trying to move their products as well. These delays hurt those  
2738 in the construction industry by looking for some predictable work.  
2739 Can you talk about how red tape and uncertainty hurts your members  
2740 and the ripple effect beyond the pipe?

2741 Mr. Soth. Yeah, as Mr. Black mentioned those are jobs  
2742 related to Keystone XL that just simply did not occur. Operating  
2743 Engineers probably have the most labor intensity of any union on  
2744 a pipeline job, and my written testimony mentioned those other  
2745 unions engaged in the process whether that is the Laborers'  
2746 International Union of North America, the Plumbers and  
2747 Pipefitters Union, as well as the Teamsters, and those are good

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2748 jobs that just won't occur. On Keystone XL, the remaining segment  
2749 of it on both sides of the border close to 3,000 operating engineer  
2750 jobs alone associated with that. And again those are great jobs.

2751 For us in right-to-work communities like South Dakota that  
2752 have comparatively low wages where our members would earn over  
2753 \$35 an hour on the check, that is before the extensive investments  
2754 in pensions, health care for workers' families, as well as  
2755 training investments that are made there. That is the way we  
2756 finance the Pipeline Training Fund in association with the Pipe  
2757 Line Contractors Association. That is 75 cents an hour out of  
2758 every hour worked on a pipeline job that an operating engineer  
2759 would contribute into that fund for the future of the work force  
2760 and to ensure that the workers have the skill necessary to make  
2761 that industry and that specific pipeline as safe as can be.

2762 Mr. Olson. Thank you. Mr. Santa, how does red tape and  
2763 uncertainty hurt your members?

2764 Mr. Santa. Mr. Olson, it leads to capital investment being  
2765 parked on the sidelines. For example, we took a look at the  
2766 projects that are being held up by the lack of a quorum at the  
2767 FERC and our back-of-the-envelope calculation was that there were  
2768 about \$14 billion worth of pipeline projects that had been  
2769 sidelined because of that.

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2770           The delays also have a multiplier effect because, for  
2771 example, in some cases certain activities can occur only in  
2772 certain months of the year due to environmental considerations,  
2773 like tree clearing. So if one misses that window for tree  
2774 clearing, maybe the certificate comes 2 months late, but tree  
2775 clearing can't occur for another 6 months. It also affects, as  
2776 Mr. Soth said, all of those pipeline contractors and workers who  
2777 are on the sideline.       And finally, there is an effect on  
2778 consumers in terms of more gas pipeline projects bring  
2779 competitively priced gas that brings down home heating bills,  
2780 electricity bills because gas is being used so much for electric  
2781 generation, and also all of the inputs that natural gas is used  
2782 within manufacturing processes that provide jobs and make the  
2783 United States competitive.

2784           Mr. Olson. One quick question out of curiosity. You  
2785 mentioned a pipeline in Virginia that is going to be put a thousand  
2786 feet under the ground, is that correct, or a mile underground?

2787           Mr. Santa. The horizontal length of the drilling that will  
2788 go beneath the mountain is going to be approximately one mile.

2789           Mr. Olson. One mile. Keystone is 50 feet, correct? How  
2790 much does that cost going down one mile as opposed going 50 feet  
2791 down which is very safe?

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2792 Mr. Santa. I do not have that figure, but I do know that  
2793 it adds considerably to the cost of the project. But the intent  
2794 there was to minimize the environmental impact of it and create  
2795 a path that would enable the project to get built.

2796 Mr. Olson. In Texas we say that is a whole lot of money.  
2797 And my time has expired. I yield to the Ranking Member Mr. Rush  
2798 for 5 minutes.

2799 Mr. Rush. I want to thank you, Mr. Chairman.

2800 Mr. Black, I want to also join and extend my condolences to  
2801 you and your family on behalf of your father. I know that it is  
2802 -- I admire your courage to come here in the midst of your mourning  
2803 and your grieving to appear before this committee. I have a  
2804 recently departed wife and so I know what it means and I know how  
2805 you feel. So thank you.

2806 I have a question, Mr. Chairman, for both Ms. Danis and Mr.  
2807 Irvin. In your professional opinion, do you believe that  
2808 requiring other agencies to defer to FERC on the scope of  
2809 environmental review would help expedite the natural gas  
2810 permitting and hydropower licensing process leading to fewer or  
2811 more licenses; and the second part of the question is, are FERC  
2812 staff equipped to determine the scope of environmental review over  
2813 and above the experts in other agencies with jurisdiction over

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2814 these same issues?

2815 Ms. Danis. We heard testimony earlier this morning from  
2816 FERC itself that FERC is not versed in other agencies' review  
2817 obligations under their substantive environmental statutes. So  
2818 allowing a non-environmental agency or requiring a  
2819 non-environmental agency to define the scope of review for other  
2820 sister federal agencies or states' agencies acting under  
2821 delegated federal authority would inevitably generate more  
2822 conflict, more litigation, and end up in really a morass of  
2823 permitting difficulties as the agencies' responsible for  
2824 implementing comprehensive environmental review programs, such  
2825 as the Clean Water Act or the Clean Air Act, are required to report  
2826 to FERC or to explain to FERC why they must require in-depth  
2827 inquiries of their own that exceed those that FERC would require  
2828 or look at under the Natural Gas Act.

2829 Mr. Irvin. As I said in my statement, Mr. Rush, giving FERC  
2830 primacy over other federal resource agencies, over state  
2831 agencies, and over tribes in these issues would only lead to  
2832 additional litigation and environmental degradation. The  
2833 federal resource agencies have the expertise on things like the  
2834 Endangered Species Act, tribes' certainly very important concerns  
2835 that they want to uphold whether it be with regard to fish and

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2836 wildlife resources or things like sacred and ancestral sites, and  
2837 the states have great expertise and authority in evaluating water  
2838 quality certification under the Clean Water Act.

2839           There is also a well-established body of law under the  
2840 Federal Power Act that deals with this interaction among the  
2841 various agencies. And the courts have been very clear that the  
2842 resource agencies, the federal resource agencies and the states  
2843 have the authority to enforce the Clean Water Act and the  
2844 Endangered Species Act and that FERC needs to defer to those  
2845 agencies in doing that. If as these bills would do, you upset  
2846 that well established body of law you have got to figure out how  
2847 is it going to work going forward which invariably will lead to  
2848 additional litigation.

2849           Mr. Rush. I want to ask Mr. Soth. I come from a district  
2850 that has very high unemployment, and notwithstanding these  
2851 matters that we are discussing now in terms of the pipeline, how  
2852 do you foresee in your training programs, how do you deal with  
2853 the question of diversity in your training programs, because my  
2854 experience as a member of the city council in Chicago is that we  
2855 have always had problems diversifying so many unions, trade  
2856 unions, in Chicago. So how do you see this going forward, the  
2857 issue of diversity in your training and your employees?

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2858 Mr. Soth. Apprenticeship, Congressman, is really one of the  
2859 key methods by which we bring new entrants into the industry, and  
2860 it is a key method to increase the diversity of the union. Within  
2861 our apprenticeship programs at the IUOE, 23 percent of apprentices  
2862 are people of color. We have eight percent of women in our  
2863 construction. Eight percent of apprentices are women in our  
2864 construction programs.

2865 And that is an objective for our leadership to pursue  
2866 diversity and, really, apprenticeship is that primary method and  
2867 tool by which we increase our numbers of people of color and women  
2868 in the trade.

2869 Mr. Olson. The gentleman's time has expired. The chair  
2870 calls upon the gentleman from Virginia, Mr. Griffith, for 5  
2871 minutes.

2872 Mr. Griffith. Thank you very much, Mr. Chairman, I do  
2873 appreciate it.

2874 And Mr. Santa, you may be aware of this, but I am going to  
2875 use you for a minute as an example. I am always talking about  
2876 my district which is the 9th congressional district of Virginia  
2877 and that sometimes the policies of the previous administration  
2878 related to coal didn't take into account that every mountain is  
2879 different.

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2880           In relation to the pipeline that you are referencing, it is  
2881 a perfect example of why you have to look at every mountain a little  
2882 bit differently, because not only does it affect the Appalachian  
2883 Trail and the Blue Ridge Parkway as you mentioned, and you  
2884 mentioned it reduced the environmental risk, for those who don't  
2885 know and I am sure you do know, but that was all about a salamander  
2886 that lives on one mountain in Virginia. And the mountains in  
2887 Virginia, the Appalachians in Virginia have lots of those kinds  
2888 of things that happen, a salamander that might only live in one  
2889 or two mountain areas. The same is true for our mineral  
2890 deposits, and sometimes one mountain will have lots of gas in the  
2891 coal mine and the next mountain won't have any gas at all and they  
2892 can be very close together. So you gave me a perfect example to  
2893 explain to folks what I have been talking about for years. You  
2894 have got to look at every mountain a little bit differently, which  
2895 is why we ought to leave the Clean Water Act and allow the states  
2896 to make a lot of these determinations because every mountain is  
2897 different, every river is different.

2898           And that brings me to rivers, Mr. Irvin. You indicated, and  
2899 I am not going to ask you to give me a dissertation today. But  
2900 if you could send me the information on how you think that the  
2901 bill or one of the bills that we are talking about today impacts

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2902 riparian rights in the East I would greatly appreciate it.  
2903 Because it is of interest to me because we were talking earlier  
2904 today and a couple of us got together down here and they were  
2905 talking about how the rivers belong to everybody except there are  
2906 exceptions.

2907           Because in my district there is a part of the river that the  
2908 king gave the entire river not just a piece of it, not just the  
2909 water, the whole river, and as a result of that there are people  
2910 who can actually keep other folks from floating down the river  
2911 because they own that surface right there, so it is very  
2912 interesting. But if you could forward that to me I would greatly  
2913 appreciate it.

2914           Mr. Irvin. We will be happy to do that, Congressman. And  
2915 each state has the responsibility for water rights and water law  
2916 in their states and it varies from state to state with a big  
2917 difference between the West and the East.

2918           Mr. Griffith. Yes, sir.

2919           Mr. Irvin. That is why changing the law to give FERC  
2920 authority or primacy over states when they are seeking to protect  
2921 their rivers and waters is so problematic.

2922           Mr. Griffith. And not only do we have kings' grants in  
2923 Virginia, but obviously the eastern law is based on the English

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2924 common law and the western law is based on the European continental  
2925 methods or models.

2926 Mr. Griffith. Mr. Leahey, now with the subject I was really  
2927 supposed to talk about in my questions, but I do find that your  
2928 testimony, and sometimes when you get late in a hearing you think  
2929 maybe it is not making any difference. We are paying attention.  
2930 But the closed loop hydropower, my region is very interested in  
2931 this because we believe it is a way that we can bring life back  
2932 to some, obviously you aren't going to have hundreds or thousands,  
2933 but a couple of abandoned coal mines in our area. So I would ask  
2934 you to discuss what you believe might be some of the possibilities  
2935 for using that kind of technology or that kind of a system in our  
2936 abandoned mines.

2937 Mr. Leahey. Sure, absolutely. And as FERC testified  
2938 earlier today, they have already approved one project that has  
2939 a very similar configuration, a different type of mine than a coal  
2940 mine. We have seen a growing list of proposed projects across  
2941 the United States for both open loop and closed loop pump storage  
2942 in the type of arrangement that you are talking about, so we see  
2943 that there is great potential for these types of projects.

2944 One thing that I would like to say with regards to the  
2945 modernization bill is that we do not read that bill to repeal any

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2946 of the authorities of the states, the tribes, or the agencies.  
2947 They still have those responsibilities and NHA believes those are  
2948 appropriate responsibilities under those laws. What we believe  
2949 the bill tries to do is get FERC in charge of putting together  
2950 the coordination of the schedule. And as others have  
2951 talked about on this panel and as I said in my testimony, when  
2952 you have projects that are going not just 2 years, 4 years, 6 years,  
2953 but 8, 10, 12, or 14 years from concept to construction and  
2954 operation that is almost a death knell for those projects.

2955 Mr. Griffith. And I appreciate that. And I will take a look  
2956 at that language very carefully after having reviewed Mr. Irvin's  
2957 information, because I am very interested in property rights and  
2958 the historical rights of the various states. Likewise on the  
2959 SHORE Act, which you all have not taken a position on.

2960 One of the reasons that I really like that act it was  
2961 introduced previously by my colleague Robert Hurt. He decided  
2962 to retire, and since I am affected by it too I picked up the  
2963 language that has previously been approved by the House. But one  
2964 of the reasons I am so interested in it is I did some property  
2965 right cases on the lake one time and they don't have all the power  
2966 that -- they didn't acquire as much as they thought they acquired  
2967 when they did the deeds back in the 1950s and they are, I think,

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2968 stepping on some property rights, so I will be looking at that  
2969 too.

2970 Mr. Leahey. Well, and Congressman, we would be happy to work  
2971 with you on that bill going forward. Like I said in my testimony,  
2972 we just want to be sure that the safe operation of the project  
2973 is, and our members are able to continue to do that.

2974 Mr. Griffith. And I think we can have both interests secured  
2975 in the end, but I appreciate it very much. And with that Mr.  
2976 Chairman, I yield back.

2977 Mr. Olson. The gentleman yields back. The chair now calls  
2978 upon the gentleman from California, Mr. Peters, for 5 minutes.

2979 Mr. Peters. Thank you, Mr. Chairman. First, I want to  
2980 start by acknowledging my Duke classmate. It is traditional for  
2981 you to talk about Duke Basketball with Mr. Santa. We skipped over  
2982 that part, but I think we will leave it to another time.

2983 I have some questions about hydro. I want to ask Mr. Leahey,  
2984 you know, there has been concern about whether there is a patchwork  
2985 of state regulations that talk about whether hydropower counts  
2986 as renewable. The draft legislation that we are considering  
2987 today attempts to take that on. Are you satisfied that this draft  
2988 clarifies that so that all hydro is considered renewable?

2989 Mr. Leahey. I believe there is a sense of Congress in the

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2990 provision that would say that all hydro is renewable and then it  
2991 would go back and amend the EPCAct of 2005 definition to include  
2992 all hydro as renewable. I think that is very important. And to  
2993 the extent that other statutes and regulations parry off of that  
2994 definition, then I think that will create, it will do what it is  
2995 intended to do which is to make hydro renewable. If there are  
2996 other statutes or regulations which have their own definitions  
2997 then I am not sure, we may have to do some more.

2998 Mr. Peters. And you just mentioned that there is in your  
2999 written testimony there is discussion of the avoided greenhouse  
3000 gas emissions from hydro. Mr. Irvin made a comment about methane.  
3001 Have you tried to quantify exactly how much greenhouse gas we avoid  
3002 by using hydro?

3003 Mr. Leahey. There is research that is being done by the  
3004 Department of Energy and internationally. I would note that the  
3005 International Panel on Climate Change has not regulated in this  
3006 area or made recommendations in this area because of the fact that  
3007 the science is not there yet. In addition, there is this issue  
3008 with regards to net emissions of reservoirs. There is some of  
3009 this degassing that happens naturally, and we would also point  
3010 out that reservoirs are multi-use, right, so a project is not --  
3011 any emissions, if there are any, should not be ascribed to the

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3012 hydro generation when it is also potentially being used for water  
3013 supply for cities or for irrigation for farms.

3014 Mr. Peters. Okay, and any research that you had on that if  
3015 you could forward it to us would be great. It is my understanding  
3016 that about 40 percent of the U.S. Army Corps' hydropower fleet  
3017 is 50 years old or older and increasingly that the Army Corps is  
3018 engaging in public-private partnerships to finance many of its  
3019 projects. Do you see an opportunity for that in the hydropower  
3020 realm?

3021 Mr. Leahey. It is probably the largest opportunity, near  
3022 term opportunity that we have. Of the projects that have been  
3023 identified by the Department of Energy, 80 of the top 100 projects  
3024 are on Army Corps of Engineers' dams.

3025 Mr. Peters. Do you see that the law authorizes today those  
3026 partnerships, public-private partnerships, to finance those  
3027 improvements?

3028 Mr. Leahey. Most of the financing, in my understanding most  
3029 of the financing that is being done is being done by the private  
3030 entity and then coming on to the Corps facility. There might be  
3031 some opportunities for additional public-private partnerships  
3032 with the Corps directly.

3033 Mr. Peters. Yeah, I just want to make sure. Does the law

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3034 authorize this for the hydro facilities? Do you think it does?

3035 Mr. Leahey. I would have to get back to you on that one.  
3036 I know that there are some differences between what the Corps can  
3037 do with --

3038 Mr. Peters. Apparently there is some concern within the  
3039 Army Corps that it doesn't, and if you think it needs to be changed  
3040 we would appreciate knowing that.

3041 Mr. Leahey. I think there are some changes that are needed.  
3042 I would just need to get back to you on what those specifics are.

3043 Mr. Peters. Thank you.

3044 And then I ask Mr. Irvin. I just think we argue a lot about  
3045 process. And I don't want to give an misimpression about my  
3046 interest in hydro, I want resources to be protected, but I see  
3047 a concern in the amount of time it takes. So with my minute left,  
3048 do you have ideas about how we could reduce the time it takes to  
3049 get these permits and these hydro facilities operating and still  
3050 protect resources? Is there a way we can reduce the amount of  
3051 time?

3052 Mr. Irvin. Certainly. We have laid out several of these  
3053 in my written testimony, Mr. Peters. They include things like  
3054 presumptive inclusion in the FERC study of plans of studies  
3055 requested by federal, state, and tribal agencies, do that up

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3056 front. Promoting memoranda of understanding between FERC, the  
3057 tribes, and the states to improve the coordination, again do that  
3058 up front.

3059 There is a need to increase appropriations to the agencies.  
3060 I know that that isn't always a popular topic, but the fact is  
3061 that they need more money and staff in order to do a better job.  
3062 And we also can have improved coordination between FERC and the  
3063 Army Corps of Engineers on these various projects.

3064 Mr. Peters. Yeah. And I would just say I would hope we can  
3065 have more conversation about this. A lot of this is not really  
3066 changing the process. I think it is adding more to the process  
3067 and it provides -- I think it is still difficult for me to  
3068 understand in an objective way what improving coordination means  
3069 and how we force that from this room.

3070 So I will look forward to more conversation about it and hope  
3071 that we can come up with a way that advances this interest that  
3072 I have in reducing greenhouse gases, but also protecting rivers  
3073 which is what we all want. And Mr. Chairman, thank you for the  
3074 time.

3075 Mr. Olson. The gentleman's time has expired. The chair  
3076 would like to inform the gentleman and Mr. Santa that my wife is  
3077 a 1985 Duke graduate, so the NCAA basketball tournament was a very,

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3078 dark, dark time in the Olson house.

3079 The chair now calls upon the gentleman from Missouri, Mr.  
3080 Long, for 5 minutes.

3081 Mr. Long. Thank you, Mr. Chairman. I am glad I came to this  
3082 hearing today because I didn't even know they played basketball  
3083 at Duke.

3084 [Laughter.]

3085 Mr. Long. Mr. Santa, you mentioned in your testimony that  
3086 the pipeline review process is disjointed. I didn't know if that  
3087 was meant as a pun or not, but that being said could you discuss  
3088 why the process is disjointed and do you believe that the  
3089 discussion draft adequately addresses this issue to encourage a  
3090 more coordinated review process?

3091 Mr. Santa. Thank you for the question, Mr. Long. As Vice  
3092 Chairman Barton observed earlier, I mean the discussion draft is  
3093 trying to get at what the Congress and this committee was very  
3094 influential and it did in the Energy Policy Act of 2005, in finding  
3095 a way to affect that congressional intent.

3096 I think that the process is somewhat disjointed because as  
3097 was noted by Mr. Turpin earlier there are other federal and state  
3098 agencies that have got multiple mandates, and for them at times  
3099 issuing these permits that are essential to construct pipeline

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3100 infrastructure may not be a high priority. They may not have the  
3101 resources to do it. And as I noted in my testimony, there are  
3102 times when there is quite a bit of unreasonable delay that affects  
3103 the ability to construct these projects on a timely basis.

3104 I do think that the discussion draft would improve the  
3105 process. In our testimony we offer some examples for ways that  
3106 it can be strengthened, so we think the committee is headed in  
3107 the right direction with the discussion draft and look forward  
3108 to working with the committee on perfecting it.

3109 Mr. Long. And the current regulations provide for  
3110 establishing deadlines for final permitting determinations.  
3111 Could you discuss how effective this current process is?

3112 Mr. Santa. It unfortunately has not been very effective.  
3113 One of the problems is that notwithstanding that being part of  
3114 the 2005 law, there wasn't really anything put in there for  
3115 effective enforcement in it. The only recourse was for the  
3116 pipeline applicant to take that permitting agency to court. That  
3117 is awfully difficult because effectively you are suing the agency  
3118 from whom you are trying to get the permit, and also the standard  
3119 of review applied by federal courts of appeal tends to be pretty  
3120 permissive and highly deferential to the agencies. And so in the  
3121 limited instances where pipelines have chosen to litigate under

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3122 that provision it has not been very satisfying.

3123 Mr. Long. Do you believe the discussion draft that it  
3124 provides accountability for failure to meet the deadlines?

3125 Mr. Santa. I believe that it does to the extent that it  
3126 requires those agencies that have not met the deadlines to report  
3127 to the Congress. It provides a process for attempting to resolve  
3128 it within the administration and also requires them to specify  
3129 a plan for what they can do to complete their work.

3130 It is a challenge, because as has been noted by the witnesses  
3131 on the committee those other agencies are acting pursuant to their  
3132 particular legal mandates. We respect that but we are also  
3133 looking for a process that will give us more predictability and  
3134 more timeliness in terms of obtaining permits that are needed.

3135 Mr. Long. Okay, thank you. And with that Mr. Chairman, I  
3136 yield back.

3137 Mr. Olson. The gentleman yields back and the chair reminds  
3138 the gentleman the last time Duke played Missouri in the tournament  
3139 was March 17th of 2001 in the East Regional Final, Duke 94 Missouri  
3140 81.

3141 Mr. Long. I didn't know they played basketball in Missouri.

3142 [Laughter.]

3143 Mr. Olson. Seeing that there are no further members wishing

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3144 to ask questions for the second panel -- oh, I am sorry. I am  
3145 sorry, Paul. I apologize. The chair now calls upon the  
3146 gentleman from New York, Mr. Paul Tonko, for as much time as he  
3147 wants.

3148 Mr. Tonko. Rescued by the buzzer. Thank you, Mr. Chairman.

3149 Ms. Danis, as you know, the Interagency Coordination  
3150 discussion draft would allow remote surveying data to be  
3151 considered by agencies. Can you explain how aerial data may be  
3152 insufficient?

3153 Ms. Danis. Aerial data, as we heard testimony earlier this  
3154 morning, provides an extremely limited view of what is on the  
3155 ground. It cannot be accurate with respect to wetlands  
3156 delineation. It cannot be accurate with respect to endangered  
3157 species, vernal ponds, seeps, vegetation, other things that  
3158 require detailed onsite surveys.

3159 In the provision in the amendments for aerial survey data,  
3160 requiring ancillary federal authorizations to consider those data  
3161 simply decreases efficiency because it in essence asks, for  
3162 example, states under 401 Certification to consider an  
3163 application based on guesswork the first time, and then to go back  
3164 and to reconsider that same application once they can make a true  
3165 determination of what the onsite environmental impacts would be.

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3166 It is a very inefficient way of approaching it.

3167 And one way to increase efficiency and reduce delay in the  
3168 permitting processes would be to require the applicants to come  
3169 to the table with completed applications. First, when they  
3170 approach FERC and to not put FERC in the position of routinely  
3171 asking for deficiency, submitting deficiency notices, asking for  
3172 additional environmental data, but to come to the table from the  
3173 outset with a well-conceived plan supported by data.

3174 Mr. Tonko. Thank you. And in addition to perhaps not  
3175 providing the sort of accuracy we need, do you also see that  
3176 requiring agencies would be ultimately caused to spend more time  
3177 perhaps and more resources in reviewing applications because of  
3178 the concerns you just mentioned?

3179 Ms. Danis. It would, because each agency under their  
3180 enabling statutes retains the authority to determine when they  
3181 have sufficient and verified data to make that assessment. This  
3182 would inevitably increase those agencies' resource expenditure  
3183 to consider applications that are substantially incomplete from  
3184 an environmental groundtruthing perspective.

3185 Mr. Tonko. Thank you.

3186 And Mr. Irvin, in the licensing study improvement section,  
3187 I believe it is page 19 of the Hydropower Policy Modernization

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3188 discussion draft, we would place the onus on agencies rather than  
3189 applicants to prove that a study is not duplicative. How might  
3190 that undermine an agency's ability to get the information that  
3191 agency needs especially when dealing with a potentially short  
3192 timetable?

3193 Mr. Irvin. Well, agencies are of course stretched thin for  
3194 all of the work that they have to do and anytime you put the burden  
3195 of proof on the agency to basically to disprove something you are  
3196 adding to that burden and you are making it much more difficult  
3197 for them to carry out their responsibilities. And what we are  
3198 talking about here is a licensing process where a private entity  
3199 wants to do something to make money at it and it seems fair to  
3200 require that going through that licensing process they bear the  
3201 burden of making the case for why they are entitled to a license.

3202 Mr. Tonko. Would there be any reason that the burden of  
3203 proof should not fall on the applicant when asked to meet study  
3204 requests by agencies?

3205 Mr. Irvin. Not that I can think of.

3206 Mr. Tonko. Okay, thank you. And Mr. Irvin, again, at least  
3207 in some cases delays in hydropower application and evaluation seem  
3208 to be primarily caused by failure to provide all of information  
3209 necessary for federal and state agencies to do their jobs. How

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3210 important is it to get this information and include all interested  
3211 stakeholders early on in the process?

3212 Mr. Irvin. It is absolutely crucial. If you pick the right  
3213 site and you get the information lined up, the statistics show  
3214 that the process through FERC is actually fairly expeditious, a  
3215 couple of years to get a license. What often happens is that an  
3216 applicant will choose to go through the traditional licensing  
3217 process which takes longer. And also it sometimes is actually  
3218 in the interest, particularly in a license renewal situation, for  
3219 the applicant to have the process take longer, because what  
3220 happens then is that each year they get a 1-year extension of their  
3221 existing license they don't have to undertake any of the  
3222 environmental mitigation that would be required once they get a  
3223 new license, and so continuing the process for a long time actually  
3224 may be in the interest of the applicant.

3225 That is obviously not a preferred outcome. We want to get  
3226 through these processes. We want to get the new requirements in  
3227 place. We want the applicant to get their license expeditiously.  
3228 We can do that through the existing processes. We don't have to  
3229 weaken existing environmental law in order to achieve that.

3230 Mr. Tonko. Thank you.

3231 Mr. Chair, is there an opportunity for one more, quick

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3232 question?

3233 Mr. Olson. Yes, sir, absolutely.

3234 Mr. Tonko. Thank you.

3235 Mr. Irvin and Ms. Danis, though you provided testimony on  
3236 completely different subjects, your statements were remarkably  
3237 similar in that they both focused much of their time on the  
3238 relationship between the legislation before us and the Clean Water  
3239 Act and how that legislation would undermine it. Specifically,  
3240 you both focused on how the bills would harm states' rights under  
3241 Section 401 of the Clean Water Act as well as water rights  
3242 generally.

3243 So my question to each of you is it seems to me that these  
3244 bills are in a large measure attempts to make significant changes  
3245 to Section 401 of the Clean Water Act and to a somewhat lesser  
3246 degree in Section 7 of the Endangered Species Act. Would you  
3247 agree with that assessment?

3248 Mr. Irvin. Absolutely. That is one of the primary problems  
3249 of these bills is that it undermines both the Endangered Species  
3250 Act and the Clean Water Act, and in particular for the Clean Water  
3251 Act the state authority to decide what qualifies for a water  
3252 quality certification.

3253 Mr. Tonko. Thank you, and Ms. Danis?

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3254 Ms. Danis. I agree with what Mr. Irvin just said, and  
3255 additionally it is really important that those comprehensive and  
3256 well thought out national policies that are embodied in the Clean  
3257 Water Act and the Clean Air Act are not scuttled for the purposes  
3258 of consideration of private applicants' projects on a case by case  
3259 basis, but really affect the Natural Gas Act goals of balancing  
3260 those interests.

3261 Mr. Tonko. Thank you very much.

3262 With that Mr. Chair, I yield back.

3263 Mr. Olson. Thank you, Mr. Tonko. We saved the best for  
3264 last. Now seeing there are no further members wishing to ask  
3265 questions for the second panel, I would like to thank our  
3266 witnesses, Mr. Soth, Mr. Leahey, Mr. Irvin, Ms. Danis, Mr. Santa,  
3267 and Mr. Black for being here today.

3268 As we conclude I would like to remind everybody here --

3269 Mr. Rush. Mr. Chairman?

3270 Mr. Olson. Yes, sir.

3271 Mr. Rush. Mr. Chairman, I began this hearing with some very  
3272 serious concerns about the status of our chairman, Fred Upton.  
3273 Have you heard, is he all right?

3274 Mr. Olson. Chairman Fred Upton is fine. He is doing well.  
3275 He has been working on the healthcare bill. God bless Fred Upton.

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3276 As we conclude I would like to remind everybody here that  
3277 my Houston Rockets are looking to go two games to zero up against  
3278 the San Antonio Spurs. Tipoff is at 9:30 p.m., so take a nap.

3279 I would also like to ask unanimous consent to submit the  
3280 following documents for the record: a letter from the Edison  
3281 Electric Institute; a letter from the Modesto Irrigation District  
3282 and Turlock Irrigation District of California; a letter from the  
3283 Southern California Public Power Authority; a letter from the  
3284 Public Utility District No. 1 of Chelan County, Washington -- I  
3285 hope I pronounced that right; a letter from the Jordan  
3286 Hydroelectric Limited Partnership; a letter from the County of  
3287 Pulaski, Virginia; a letter from the NECA, the National Electrical  
3288 Contractors Association; a letter from Public Utility District  
3289 No. 1 of Okanogan County, Washington; a letter from the American  
3290 Public Power Association; a letter from the National Electrical  
3291 Contractors Association; testimony of Kevin Colburn on behalf of  
3292 the American Whitewater; a series of letters collected by the  
3293 Hydropower Reform Coalition; a letter from the Western Governors'  
3294 Association; a letter from Mayor Linda Dahlmeier of Oroville,  
3295 California; a letter from the Hydropower Reform Coalition; and  
3296 finally, the FAST-41 Federal Permitting Improvement Steering  
3297 Council Fiscal Year 2016 Annual Report to Congress.

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3298           That is it. I would ask unanimous consent they be submitted  
3299 for the record. Without objection, so ordered. All members,  
3300 that they have 10 business days to submit additional questions  
3301 for the record. I ask witnesses to submit their response in 10  
3302 business days of receipt of those questions. Without objection,  
3303 this committee is adjourned.

3304           [Whereupon, at 1:15 p.m., the subcommittee was adjourned.]