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6 LEGISLATIVE SOLUTIONS TO MAKE OUR NATION'S

7 PIPELINES SAFER

8 WEDNESDAY, JUNE 19, 2019

9 House of Representatives

10 Subcommittee on Energy

11 Committee on Energy and Commerce

12 Washington, D.C.

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16 The subcommittee met, pursuant to call, at 10:30 a.m. in
17 Room 2322 Rayburn House Office Building, Hon. Bobby L. Rush
18 [chairman of the subcommittee] presiding.

19 Members present: Representatives Rush, Peters, Doyle,
20 McNerney, Tonko, Loeb sack, Butterfield, Schrader, Kennedy,
21 Veasey, Kuster, Barragan, O'Halleran, Blunt Rochester,
22 Pallone (ex officio), Upton, Latta, Rodgers, Olson,
23 Kinzinger, Griffith, Johnson, Bucshon, Flores, Walberg,
24 Duncan, and Walden (ex officio).

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25 Staff present: Jeff Carroll, Staff Director; Omar
26 Guzman-Toro, Policy Analyst; Rick Kessler, Senior Advisor and
27 Staff Director, Brendan Larkin, Policy Coordinator; Elysa
28 Montfort, Press Secretary; Lisa Olson, FERC Detailee; Alivia
29 Roberts, Press Assistant; Tuley Wright, Energy and
30 Environment Policy Advisor; Mike Bloomquist, Minority Staff
31 Director; Theresa Gambo, Minority Human Resources/Office
32 Administrator; Peter Kielty, Minority General Counsel; Ryan
33 Long, Minority Deputy Staff Director; Mary Martin, Minority
34 Chief Counsel, Energy & Environment & Climate Change; Brandon
35 Mooney, Minority Deputy Chief Counsel, Energy; Brannon Rains,
36 Legislative Clerk; Peter Spencer, Minority Senior
37 Professional Staff Member, Environment & Climate Change.

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38 Mr. Rush. Good morning to all.

39 I want to thank you all for attending today's important
40 hearing entitled "Legislative Solutions to Make Our Nation's
41 Pipelines Safer" and I want to welcome all of our witnesses
42 that will be testifying, including some who are returning
43 from our May oversight hearing.

44 This morning we will be examining the Safer Pipelines
45 Act of 2019, as well as H.R. 2139, the "Leonel Rondon
46 Pipeline Safety Act," introduced by our colleagues from
47 Massachusetts: Ms. Trahan, Mr. Kennedy, and Mr. Moulton.

48 Additionally, members may also inquire about provisions
49 of the Pipeline Safety Legislative Proposal introduced
50 earlier this month by PHMSA.

51 At the beginning, I want to be crystal clear. The
52 discussion draft introduced by the majority side represents
53 many provisions that Chairman Pallone, myself, and other
54 Democratic colleagues would, ideally, like to see included in
55 pipeline safety reauthorization.

56 However, as we have said time and time again, both
57 Chairman Pallone and I would like for this process to be
58 transparent, to be open, and we look forward to working with
59 members of the minority, PHMSA, and other important
60 stakeholders to ultimately draft legislation that will
61 receive wider bipartisan support.

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62 I hope that I am clear on this. We want to work with
63 all the stakeholders and also with the minority side.

64 With that said, I would like to highlight some of the
65 important provisions included in the discussion draft that I
66 believe would make our nation's pipeline infrastructure safer
67 and more secure.

68 And one of the major components of the draft is that it
69 would regulate many of the 435,000 miles of gathering lines,
70 including all onshore pipelines operating above a specified
71 pressure.

72 I believe this is a common sense measure that would help
73 to inform and protect communities surrounding these gathering
74 lines, which are completely unregulated in today's
75 environment.

76 The draft would also eliminate the, quote, "grandfather
77 clause," end of quote, so that pipelines built prior to July
78 1, 1970 would no longer be exempt from testing for their
79 maximum allowable operating pressure -- another common sense
80 provision.

81 The bill would eliminate the duplicative cost-benefit
82 requirements, which is currently only imposed on PHMSA and
83 which is at least partly responsible for the agency missing
84 so many of its deadlines for rulemakings, according to former
85 Administrator Quarterman.

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86 The legislation also mandates automatic leak detection
87 and shut-off valves for pipelines located in high-consequence
88 areas, a provision that should help to save vital time and
89 potentially loss of life and property in the event of an
90 accident.

91 I believe that each of these provisions, as well as
92 additional measures, would help bring additional resources
93 and critical operational information to communities and to
94 first responders, as both the subcommittee discussion draft
95 and H.R. 2139 does, and would help to strengthen our nation's
96 pipeline safety regime.

97 I look forward to engaging the witnesses and also the
98 members of the minority and working with all of you on -- to
99 enhance this legislation as we move through the committee
100 process.

101 With that I yield my time back and I recognize my good
102 friend from the great state of Michigan, Ranking Member
103 Upton, for five minutes.

104 Mr. Upton. Well, thank you, Mr. Chairman, for holding
105 this hearing to continue our work on pipeline safety
106 Reauthorization and I look forward to your statement "working
107 with all of us" because I am going to sound a little tough
108 probably in my opening statement.

109 But I know that we can do better than this discussion

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110 draft before us.

111 Pipeline safety has always been one of my highest
112 priorities in every Congress and I was encouraged and
113 optimistic that we could work on this bill together as we
114 have in the past.

115 In fact, if you look back at the history I believe that
116 when we passed previous reauthorizations they passed under
117 suspension almost always with more than 400 votes if not by
118 voice.

119 But up until now, we, on this side of the aisle, have
120 been pretty much left out of that drafting process. The
121 discussion draft before us reflects that.

122 In many respects, it appears that it will be more of a
123 messaging bill than one that can truly advance safety
124 practices and make it through the process and to the
125 president to be signed before the end of September.

126 And to be frank, this bill, I don't think, has a ghost
127 of a chance of going anywhere in the Senate, let alone
128 getting signed by the president in the way -- the shape and
129 form that it is now.

130 So I know -- I do know that we all share many of the
131 same priorities when it comes to pipeline safety and we have
132 worked together, and this is demonstrated by the strong
133 bipartisan work that the committee produced the last time we

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reauthorized PHMSA and enacted real pipeline safety reforms.

We need to continue on those bipartisan practices.

So I urge you today to hit the button reset. Let us open the process up. Let us work together across the aisle rather than rushing this draft through the subcommittee.

Let us give PHMSA an opportunity to testify on their reauthorization proposal and provide us with the technical assistance on the drafting. So far they have not done so.

We owe it to our constituents to have a more open and transparent process where all of the relevant stakeholders, particularly PHMSA, when they could have an opportunity to present their views on the reform proposals.

One, I believe that we got to make sure that PHMSA and the states have the resources and the tools that they need to perform their pipeline safety responsibilities.

Second, we need to hold PHMSA's feet to the fire accountable for completing the outstanding congressional mandates and finishing the pending rulemakings left over from prior reauthorizations, absolutely.

And third, we need to make sure that PHMSA, state regulators, and pipeline operators are incorporating lessons learned from prior accidents, integrating new technologies and continue to improve on safety.

I am afraid that this draft falls short in several

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critical areas. For one, it appears that the draft could slow the pace of PHMSA's rulemaking by encouraging frivolous lawsuits that result in sue and settle agreements, potentially diverting agency resources from developing important safety regulations.

It could also lengthen the interagency review process by having PHMSA and OMB in complete rulemakings that fail to consider the full range of costs and benefits.

This draft may also have the unintended effect of weakening pipeline safety -- not a good thing. Particularly concerned that the draft would arbitrarily mandate certain technologies such as automatic valves on liquid pipelines, which could lead to accidental pipeline ruptures when that liquid backs up.

This draft could also prohibit direct assessment of pipelines, which is a valuable method for evaluating and managing corrosion threats. The discussion draft may also divert PHMSA's limited resources by expanding its jurisdiction to include regulation of gathering lines, which are effectively managed at the state level today.

Finally, I am concerned that the draft does nothing to encourage innovation or the adoption of new pipeline safety technologies or safety processes.

It also fails to incentivize pipeline operators to

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182 voluntarily exceed minimum safety requirements. I don't
183 think that the draft goes far enough to prevent cyber-
184 attacks, something we have all been worried about, and
185 discourage bad actors from damaging pipeline facilities.

186 So as we move forward, I plan to keep an open mind,
187 especially given our history with pipeline safety and our
188 good working excellent relationship.

189 But if we hit recess and take -- excuse me, if we hit
190 reset and take our time on this rather than speeding ahead to
191 subcommittee markup next week, I think we will have a much
192 better bill than what's before us today.

193 And with that, I yield back.

194 Mr. Rush. I thought you were my friend.

195 [Laughter.]

196 Mr. Upton. My buddy.

197 Mr. Rush. The chair now recognizes the chairman of the
198 full committee, Mr. Pallone, for five minutes.

199 The Chairman. Thank you, Mr. Chairman.

200 Today's hearing focuses on two legislative proposals to
201 improve pipeline safety in America. In May, the subcommittee
202 held an oversight hearing to hear from stakeholders about
203 what changes are needed as we consider reauthorization of the
204 Pipeline Safety Act.

205 Since we last reauthorized this critical federal program

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206 -- three years ago this week -- several major pipeline
207 incidents have occurred, underscoring the need for additional
208 reforms to our federal pipeline safety programs.

209 Last year, a failure in Massachusetts' Merrimack Valley
210 killed one person, injured 21 others, and damaged more than
211 130 homes.

212 We have made progress on federal pipeline safety over
213 the last 20 years, since the Olympic gasoline pipeline
214 explosion in Bellingham, Washington, killed three young
215 people.

216 But preventable incidents still occur and we must do
217 everything in our power to ensure our national pipeline
218 network is as safe as possible.

219 The Safer Pipelines Act of 2019, a discussion draft the
220 subcommittee will review today, makes several critical
221 changes to the federal pipeline safety program.

222 A major overarching problem with the federal pipeline
223 safety program is that it takes the Pipeline and Hazardous
224 Materials Safety Administration -- PHMSA -- too long to
225 finalize congressional mandates.

226 There are still outstanding rulemakings that were
227 required in 2011 and 2016 reauthorizations that PHMSA has
228 failed to finish, and this is unacceptable.

229 At our oversight hearing in May, we heard that the

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230 biggest cause for delay is the prescriptive cost-benefit
231 analysis required by the 1996 reauthorization.

232 The discussion draft removes this duplicative
233 requirement while still ensuring PHMSA rules are subject to
234 the same economic analysis that every other major rule
235 receives.

236 The proposal also restores the mechanism for citizens to
237 pursue legal action to compel PHMSA to fulfill its statutory
238 duties, which was a major issue in the aftermath of the 2010
239 San Bruno pipeline explosion that killed eight people in
240 Northern California.

241 San Francisco sued the federal government for having
242 abjectly failed to enforce safety standards. But the suit
243 was dismissed because the court held that the law did not
244 permit mandamus-type citizen suits.

245 Another critical area addressed in the discussion draft
246 is the need for modifying the ridiculously high bar for
247 imposing criminal penalties in current law.

248 The proposal changes the standard to "knowingly or
249 recklessly," which would bring the pipeline criminal standard
250 in line with that of the Hazmat statute.

251 The government must be able to hold companies
252 accountable when they knowingly or recklessly ignore the law.

253 The Trump administration has submitted its own

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254 reauthorization proposal, which includes a provision to
255 criminalize pipeline construction protests.

256 I have no intention of allowing a pipeline safety bill
257 to be used as a vehicle for stifling legitimate dissent and
258 protest. That provision is dead on arrival as far as I am
259 concerned.

260 There are, however, a number of useful ideas within the
261 administration's proposal and I look forward to working with
262 my colleagues and the Department of Transportation to find
263 common ground on these issues.

264 The subcommittee will also review the Leonel Rondon
265 Pipeline Safety Act, introduced by Representatives Trahan,
266 Kennedy, and Moulton. This bill is a direct response to the
267 failures that occurred during the Merrimack Valley incident
268 in Massachusetts and it would improve the management of gas
269 pipeline distribution systems and fix gaps in safety
270 regulations that led to the tragedy in Massachusetts.

271 I commend the bill sponsors for their thoughtful effort
272 and I am hopeful we can include several ideas from their
273 proposal in a final pipeline safety reauthorization bill.

274 The ideas included in the Safer Pipelines Act are
275 important to me and to communities around the country. But
276 this is a draft and serves as a starting point for discussion
277 and collaboration, just as this hearing is a means to get all

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278 ideas for reauthorization out into the open and onto the
279 table.

280 So I look forward to hearing from my committee
281 colleagues on both sides of the aisle today on their ideas
282 for reauthorization because I hope and expect that the final
283 product the committee reports will be a strong bipartisan
284 bill and I am committed to working in a bipartisan manner to
285 update and improve this critical federal program so that we
286 can produce a final bill that we can all be proud of and,
287 obviously, gets passed in the Senate and signed by the
288 president.

289 So thank you, Mr. Chairman. I yield back.

290 Mr. Rush. The gentleman yields back.

291 The chair now recognizes Mr. Flores, who is going to
292 read the statement of the ranking member, Mr. Walden.

293 Mr. Flores, you're recognized for five minutes.

294 Mr. Flores. Thank you, Mr. Chairman.

295 The committee's work to reauthorize and modernize the
296 nation's pipeline safety program is important and deserves
297 close, careful, and bipartisan attention.

298 This is the hallmark of this committee's work,
299 especially when it comes to safety-related legislation.
300 While it looked like that we were on the right track a month
301 ago, we haven't made much progress since then.

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302 In part, I think this is because we have not been
303 adhering completely to our past bipartisan practices.
304 Judging by the discussion draft before us today, it appears
305 that the Democrats have chose to go along up until this
306 point, releasing a partisan draft, and that on our initial
307 read it requires a lot of work.

308 Mr. Chairman, members deserve the ability to gather the
309 views of all relevant stakeholders and to understand the full
310 impact of legislation before voting on it.

311 The discussion draft before us today was only released
312 last week and the process was so rushed that, as I understand
313 it, PHMSA didn't have time to prepare testimony.

314 While we were fortunate to have PHMSA testify back in
315 May, it has come to my attention that our members' questions
316 for the record still have not been submitted. This is over
317 six weeks later.

318 So here we are today with many unanswered questions for
319 PHMSA and facing the prospect of a subcommittee markup next
320 week.

321 Mr. Chairman, as you know, pipeline safety
322 reauthorization has, historically, been a fully bipartisan
323 process. Under the Republican majority, Democrats and
324 Republicans sat down together to work through the issues and
325 to draft a bill.

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326 I am disappointed that more than a month has gone by and
327 we still have nothing to show for it. As we move ahead, I
328 hope that we can get a commitment to slow down and work
329 together.

330 While we may not agree on everything, I believe that
331 there are many areas where we can strengthen the law to drive
332 innovation and to improve safety.

333 First and foremost, we should recognize that pipeline
334 safety is a shared responsibility between PHMSA, the states,
335 and pipeline operators.

336 There's a lot that Congress can do to encourage pipeline
337 operators to improve their performance. However, I have
338 serious concerns over the discussion draft's one-size-fits-
339 all approach and overly prescriptive mandates.

340 This administration inherited a number of missed
341 deadlines for pipeline safety rulemakings from the prior
342 administration. However, PHMSA officials have worked hard
343 and have made substantial progress in this regard.

344 Certain impacts from this discussion draft actually
345 could delay these important rulemakings to improve safety and
346 to bog down the process even further. This does not serve
347 the public interest.

348 While it can be tempting, we should not get too far
349 ahead of ourselves. Congress should recognize and account

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for the safety improvements that will be implemented through the outstanding congressional mandates in the pending rulemakings.

PHMSA is making progress on several important regulations addressing hazardous liquid pipelines, gas pipelines, valve and rupture protection, and plastic pipes, among other regulatory actions.

Together, these rules represent many years of work and we should not pull out the rug and disrupt the progress by injecting more regulatory uncertainty.

Our reauthorization bill should reflect this reality by continuing to encourage a cooperative flexible approach to pipeline safety.

We should make sure that PHMSA and the states have adequate resources to inspect and protect the nation's pipeline system. We should hold PHMSA accountable for completing overdue rulemakings. And finally, we should encourage pipeline operators to adopt new technologies and to continue to improve safety.

With this, Mr. Chairman, thank you for holding this hearing and I look forward to hearing the testimony of the witnesses.

I yield back the balance of my time.

Mr. Rush. The gentleman yields back.

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374 The chair would like to remind members that pursuant to
375 committee rules, all members' written opening statement shall
376 be made part of the record.

377 I would like to now introduce our panel of witnesses for
378 today's hearing.

379 On my left is Ms. Christina Sames, the vice president of
380 operations and engineering, of the American Gas Association.

381 Next to her is Mr. Chuck Lesniak, the principal of CL3
382 Consulting on behalf of the Pipeline Safety Trust.

383 Next to Mr. Lesniak is Mr. Andrew Black. Mr. Black is
384 the president and CEO of the Association of Oil Pipelines.
385 And last but not least is Mr. Christopher "C.J." Osman. He
386 is the director of operations, safety, and integrity of the -
387 - for the Interstate Natural Gas Association of America.

388 We want to thank all of our witnesses for joining us
389 today and we look forward to your testimony. At this time,
390 the chair would like -- will now recognize each witness for
391 five minutes to provide their opening statement.

392 But let me caution you before we begin. I want to
393 explain this lighting system. There is a system here, you
394 know. In front of you is a series of lights. The light will
395 initially be green at the start of your opening statement.

396 The light will turn yellow when you have one minute
397 remaining, and please begin to wrap up your statement at that

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398 point. The light will turn red when your time expires.

399 If you continue then we will put you over in the corner
400 with a dunce cap on.

401 [Laughter.]

402 Mr. Rush. Ms. Sames, you are now recognized for five
403 minutes for the purposes of an opening statement.

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404 STATEMENTS OF CHRISTINA SAMES, VICE PRESIDENT, OPERATIONS &
405 ENGINEERING, AMERICAN GAS ASSOCIATION; CHUCK LESNIAK,
406 PRINCIPAL, CL3 CONSULTING; ANDREW BLACK, PRESIDENT AND CEO,
407 ASSOCIATION OF OIL PIPELINES; CHRISTOPHER "C.J." OSMAN,
408 DIRECTOR OF OPERATIONS, SAFETY AND INTEGRITY, INTERSTATE
409 NATURAL GAS ASSOCIATION OF AMERICA

410
411 STATEMENT OF CHRISTINA SAMES

412
413 Ms. Sames. And I don't want to be put in the corner.

414 So, Chairman Rush, Ranking Member Upton, and members of
415 the subcommittee, I am Christina Sames, vice president of
416 operations and engineering at the American Gas Association.

417 Prior to AGA, I worked at Pipeline Research Council
418 International and spent 12 years at PHMSA where I worked to
419 advance pipeline safety initiatives.

420 AGA represents more than 200 local energy companies that
421 deliver natural gas to 74 million customers. The gas
422 utilities distribution pipelines are the final link in the
423 delivery chain that brings natural gas from the well head to
424 the burner tip.

425 AGA member employees live in the communities that they
426 serve, interact daily with the customers and state regulators
427 who oversee pipeline safety locally.

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428 Safety is at the very core of AGA and its members, and
429 we go well beyond regulations to improve pipeline safety. We
430 take pride in the overall safety performance but recent
431 incidents are a painful reminder we must continue to raise
432 the bar on safety. Any incident is one incident too many.

433 The industry is supportive of flexible, risk-based, and
434 practical improvements to pipeline safety that reflect
435 lessons learned from past pipeline incidents.

436 There's little in the House Energy and Commerce bill
437 that accomplishes that particular goal. For example, the
438 proposed legislation removes the requirement that regulations
439 be reasonable or cost effective.

440 The cost-benefit analysis was mandated to ensure that
441 regulations do not put an undue burden on customers that bear
442 the cost of mandates without a measurable improvement to the
443 safe delivery of natural gas. That's logical, and should
444 continue as the criteria for developing regulations.

445 There are other provisions in the Energy and Commerce
446 bill and the Markey-Trahan bill that do not appear to improve
447 pipeline safety. For example, eliminating the use of direct
448 assessment, a tool that not only determines that corrosion
449 has occurred but it is predictive and indicates where
450 corrosion could occur.

451 That should be allowed to be continued. Requiring

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operators to send integrity management plans, operation and
maintenance manuals, pipeline characteristics, and many other
documents to emergency responders.

In my discussions over the years with first responders,
their concerns have centered around getting way too much
information that sits on the shelf. They want condensed,
meaningful, and understandable information.

Increasing civil penalties, expanding criminal liability
to include recklessness, and adding a provision that
encourages litigation against PHMSA will do little to improve
pipeline safety.

Core to a strong safety culture is encouraging self-
disclosure within a company and with the regulators. A more
productive alternative would be to encourage voluntary
sharing of safety issues as proposed by the administration
bill.

AGA is supportive of actually many of the provisions in
the administration's bill, including the safety incentives
program that encourages companies to exceed regulations,
pipeline safety pilot programs for technology advances, and
criminal penalties for those that damage, destroy, vandalize,
or otherwise disrupt operation and create pipeline safety
issues.

During the pipeline safety reauthorization process, AGA

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asks the subcommittee to consider four high-level priorities.

One, preserve industry's engagement in pipeline safety rulemaking by upholding PHMSA's regulatory process.

Two, provide support, flexibility, and regulations by recognizing that gas distribution systems differ, and avoid one-size-fits-all prescriptive regulations.

Three, don't obstruct pipeline safety replacement programs at the state level via new mandates that delay replacements or require replacements faster than work can be accomplished safely, reliably, and without compromising quality.

And four, focus on provisions that improve pipeline safety by avoiding extraneous legal, regulatory, and administrative provisions that really hamper the regulatory process.

Our full statement covers a number of pipeline safety reauthorization topics. I would like to reiterate industry's commitment to safety. Public safety, worker safety, and pipeline safety are all core values that affect everything that we do and how we do it.

We know that without safety nothing else matters.

Thank you for the opportunity to participate in this hearing and I look forward to your questions.

[The prepared statement of Ms. Sames follows:]

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502 Mr. Rush. The chair now recognizes Mr. Lesniak for five
503 minutes.

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504 STATEMENT OF CHUCK LESNIAK

505
506 Mr. Lesniak. Thank you.

507 Good morning, Chairman Rush, Ranking Member Upton, and
508 members of the committee. Thank you for inviting me to speak
509 about pipeline safety today.

510 Before we get into various pipeline safety issues, let
511 me give you a brief overview of where we stand today
512 regarding the safety of pipelines in this country.

513 According to PHMSA data, over the past five years
514 there's been on average nearly two reportable pipeline
515 incidents every day that cause the death or hospitalization
516 of over seven people every month.

517 These incidents have caused nearly \$2.4 billion in
518 property damage and released over 18 million gallons of
519 hazardous liquids into the environment.

520 While progress has been made over the last 20 years and
521 pipelines are a critical part of our nation's energy
522 infrastructure, pipelines are near our homes, schools,
523 shopping centers, lakes, rivers, and coastlines and we simply
524 must do better to protect our communities and the
525 environment.

526 We thank the committee for releasing a strong bill for
527 discussion as part of this year's reauthorization process and

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we also thank and recognize the members from Massachusetts for their efforts to introduce good legislation to address the tragedy that occurred in the Merrimack Valley last year.

We support the vast majority of the provisions in these bills. We certainly support the parts of these bills that make it easier to pass needed regulations and to meaningfully enforce those regulations.

This would include Section 4 of this committee's bill to correct the unnecessary duplication of cost-benefit requirements in the statute; Sections 8 and 9, making both the civil and criminal penalties more meaningful; and Section 7 that helps to align these statutes with many others, allowing citizens to petition the courts when PHMSA fails in its duty to carry out congressional mandates.

It has long been understood that part of the pipeline safety problem in this country is that PHMSA and its state regulatory partners are often underfunded for the task at hand.

We thank Congress for their previous support to expand the number of PHMSA inspectors and we strongly support the level of appropriations in this committee's draft bill to support the needed increases to the reimbursement rates for state programs, allow PHMSA to better conduct data and risk analysis, their special program implementation, and for

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enforcement and regulatory efforts.

As the trust has pointed out for over a decade, according to PHMSA there are over 435,000 miles of unregulated natural gas gathering lines in this country, many of which are functionally the same as gas transmission pipelines and present similar hazards to the public and the environment.

We strongly support the change in definitions in Section 3 that would bring the higher pressure gathering lines under some sort of federal minimum standards.

We also believe that it's very important that the location of these lines be known to regulators, emergency responders, and surrounding communities. So we also hope you will amend Section 60132 of the statute to remove the harmful clause that exempts these pipelines from being included in the national pipeline mapping system.

We really appreciate the provision of this committee's bill in the Leonel Rondon Pipeline Safety Act that proposes to make clear in the statute what PHMSA has failed to make clear in the regulations.

For well over 20 years, the NTSB, Congress, and others have tried to get PHMSA to implement meaningful rules regarding leak detection and automated valves.

We support Section 5's effort to make this clear by

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576 adding it directly to the statute. We also suggest that it
577 be made clear that PHMSA must adopt a clear standard for
578 effectiveness for any new rules regarding leak detection.

579 We support Section 2, 3, 4, and 6 of the Leonel Rondon
580 Pipeline Safety Act which clarifies important lessons
581 unfortunately learned through the Merrimack Valley tragedy.

582 We continue to hear complaints from local emergency
583 responders about the difficulty in obtaining meaningful
584 information about the pipelines that run through their
585 communities.

586 We support Section 6 of this bill that will go a long
587 way to alleviating this problem and ask that you ensure it
588 includes the information that NTSB has recommended be
589 provided to emergency responders.

590 The administration has also recently released the
591 Protecting Our Infrastructure of Pipelines Enhancing Safety
592 Act of 2019.

593 While it's a substantially weaker bill than what this
594 committee has drafted, there are many good provisions in it
595 that we support, some of which are correctly aimed at fixing
596 issues learned in the Merrimack Valley tragedy.

597 There are also some troubling sections in the
598 administration's bill that we hope you will not adopt.
599 Please see our written testimony for specifics.

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I see my time is almost up and so thank you again for
inviting me to testify today. I am glad to answer any
questions.

[The prepared statement of Mr. Lesniak follows:]

*****INSERT 2*****

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605

Mr. Rush. The chair now recognizes Mr. Black for five

606

minutes for the purposes of an opening statement.

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STATEMENT OF ANDREW BLACK

Mr. Black. Thank you, Mr. Chairman, Ranking Member.

I am Andy Black, president and CEO of the Association of Oil Pipelines. AOPL represents owners and operators of pipelines transporting crude oil, refined petroleum products like gasoline, diesel, jet fuel, and home heating oil, and industrial products like propane and ethane.

Pipeline safety reauthorization legislation offers us an opportunity to continue improvements in pipeline safety. We all seek safer pipelines as the subcommittee's discussion draft title calls for.

Reauthorization should be a place where we can collaborate, work on proposals that bring stakeholders together, and protect each other from harm.

Unfortunately, the discussion draft misses some opportunities for a shared path of collaboration and eliminates other opportunities in the law today.

Instead, the liquid pipelines industry asks that we move forward with positive solutions to harness the benefits of innovation and technology to improve pipeline safety, bring stakeholders together to improve PHMSA programs and regulations, and protect the public environment from harm.

Technology and innovation offer opportunities to move

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631 pipeline safety forward. High-tech inspection tools can now
632 scan pipelines like an MRI or an ultrasound at the doctor's
633 office. And yet, crucial sessions of PHMSA's inspection and
634 maintenance regulations are nearly 20 years old and have gaps
635 that fail to address problems like cracking in pipelines.

636 AOPL recommends a pilot program to provide PHMSA the
637 data it needs to modernize and fill gaps in regulations.
638 Improving how PHMSA performs its pipeline safety mission is
639 important to liquid pipeline operators.

640 The industry joined with PHMSA, state regulators,
641 pipeline safety advocates, environmental advocates, and
642 representatives of organized labor to recommend creation of a
643 voluntary information sharing program.

644 This collaborative program, modelled after a successful
645 FAA program for the aviation industry and recommended by a
646 past Congress, would empower pipeline safety stakeholders to
647 jointly solve pipeline safety issues.

648 Unfortunately, authorization for this program is not in
649 the discussion draft. Instead, there are proposals that
650 drive stakeholders apart and make it hard for PHMSA to
651 improve pipeline safety.

652 The discussion draft eliminates requirements for PHMSA
653 to benefit from its technical advisory committees and takes
654 away seats at the table for safety advocacy groups,

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655 environmental groups and pipeline operators during the
656 rulemaking process.

657 The discussion would deprive the public of expert
658 discussion of the costs and benefits of proposals. The
659 discussion draft would even eliminate requirements that PHMSA
660 consider whether its regulations would be reasonable.

661 I can hardly imagine the subcommittee wants PHMSA to
662 consider only proposals that would be unreasonable.

663 The discussion draft proposal to add a criminal reckless
664 standard would chill a core component of pipeline safety.
665 Operators assess and rank the risks of their pipeline systems
666 and then perform preventative maintenance based on a
667 prioritization of risk.

668 Comprehensive risk management is at the heart of safety
669 management systems that have been encouraged by the NTSB and
670 PHMSA.

671 Changing the standard to reckless would lead to second
672 guessing, technical risk assessment decisions, with the
673 benefit of 20/20 hindsight to make a case that an operator
674 should have known that a risk would have caused an incident.

675 Pipeline operators also may be discouraged from openly
676 sharing information about incidents, a key component of our
677 programs to improve safety industry wide. Applying an
678 ambiguous legal standard of recklessness by criminalizing

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pipeline risk assessment will not advance pipeline safety.

The discussion draft provision to require automatic shut off valves on liquid pipelines would actually hurt pipeline safety by creating the risk of quickly forcing closed pipeline valves in an uncontrolled way, as the ranking member said, leading to a pressure surge and possible pipeline rupture.

GAO studied this at the request of Congress and confirmed several cases in the past where similar conditions led to ruptures and releases of gasoline and crude oil.

Finally, the pipeline industry believes it is important to protect the surrounding public and the environment from attacks on pipelines. There are loopholes to close in federal law that prevent enforcement against dangerous valve-turning activity condemned by pipeline safety advocates as well as the industry.

We commend PHMSA for putting forward a proposal to protect the public and the environment from attacks.

Yesterday organized labor, through the International Union of Organized Engineers, the Laborers' International Union of North America, North America's Building Trade Unions, and the United Association of Plumbers and Pipefitters added their support for this effort, writing, "For the safety of American families, the environment, and

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703 the skilled trade workers dedicated to safely building and
704 maintaining our infrastructure, Congress should prioritize
705 closing those loopholes in federal law."

706 We hope to work with subcommittee on tailored
707 legislation to address this safety priority. I hope we can
708 come together around these proposals for greater stakeholder
709 collaboration, greater use of new technologies and
710 innovation, and greater ways to improve PHMSA programs and
711 protect the public from harm.

712 Thank you.

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

714
715 *****INSERT 3*****

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716 Mr. Rush. The chair thanks the gentleman.

717 The chair now recognizes Mr. Osman -- Unman?

718 Mr. Osman. Osman.

719 Mr. Rush. Osman for five minutes for the purposes of an
720 opening statement.

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721 STATEMENT OF CHRISTOPHER "C.J." OSMAN

722
723 Mr. Osman. Chairman Rush, Ranking Member Walden,
724 Ranking Member Upton, members of the subcommittee, good
725 morning.

726 My name is C.J. Osman and I am the director of
727 operations, safety, and integrity at the Interstate Natural
728 Gas Association of American -- INGAA.

729 Thank you for the opportunity to testify today. INGAA
730 appreciates the important work that the subcommittee is
731 undertaking and we look forward to working with you on the
732 reauthorization bill that enhances pipeline safety in
733 America.

734 INGAA's members transport natural gas through a network
735 of transmission pipelines that are analogous to the
736 interstate highway system. These are large capacity critical
737 infrastructure systems that span multiple states or regions
738 to bring our nation's natural gas to market.

739 That natural gas is used to heat our homes, to cook our
740 food, to power our nation's industries, and to generate
741 electricity. Our industry is relentlessly committed to its
742 obligation to the communities we serve to operate safely,
743 reliably, and responsibly.

744 INGAA asks the subcommittee to consider four key points

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in its deliberations to reauthorize the Pipeline Safety Act.

First, INGAA strongly supports updating the act to reflect modern pipeline safety technologies and engineering practices. Many PHMSA regulations are outdated, which can create a barrier to implementing 21st century programs.

Therefore, INGAA supports PHMSA's legislative proposals to implement a new technology pilot program and to require timely incorporation of consensus technical standards by reference.

Additionally, Congress should direct PHMSA to complete its ongoing rulemaking to update the 50-year-old class location change regulations.

Second, Congress should embrace the recommendations of PHMSA's advisory committees when updating the Pipeline Safety Act. The Gas Pipeline Advisory Committee provides technical and policy input on PHMSA's natural gas rulemakings.

The advisory committee is comprised of equal representation from members of the public, federal and state agencies, and natural gas operators.

INGAA is concerned that the subcommittee's proposed changes to the maximum allowable operating pressure and direct assessment requirements contradict PHMSA's pending gas transmission safety rules and would overrule years of advisory committee discussions.

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For example, while spike testing is an important tool, it is an aggressive technique that is not relevant to confirming maximal allowable operating pressure. If enacted, the broad application of spike testing proposed in the subcommittee's discussion draft would risk damaging our nation's natural gas infrastructure and not make it safer.

Additionally, professional engineer licenses are not necessary for all pipeline engineers. Different tasks require different knowledge, training, and skills. Instead of restrictive licensure requirement, INGAA supports the comprehensive management of change requirement in PHMSA's pending gas transmission rules. This approach will more effectively ensure a competent technical review.

Furthermore, instead of issuing a self-executing mandate directing operators to make more information available to the public and to first responders, Congress should leverage the expertise of PHMSA and the diversity of the agency's advisory committees to evaluate this issue.

Third, INGAA urges the subcommittee to retain important aspects of the PHMSA rulemaking process. Congress should retain the cost-benefit analysis requirement in the Pipeline Safety Act.

This requirement ensures that PHMSA evaluates available alternatives to identify the best option when developing new

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793 regulations and it requires a transparent public review of
794 PHMSA's analysis.

795 No PHMSA regulation has ever been overturned on the
796 basis of the cost-benefit analysis requirement demonstrating
797 that the act currently provides a clear legally defensible
798 standard.

799 Additionally, adding a mandamus provision to allow
800 citizens to sue PHMSA would not enhance pipeline safety.
801 PHMSA's best position to make decisions regarding how to
802 regulate pipelines and Congress and sufficient oversight
803 tools to require the agency to meet its statutory
804 obligations.

805 INGAA shares the subcommittee's frustration over PHMSA's
806 delays in completing new rulemakings. But rather than
807 bypassing the rulemaking process through self-executing
808 mandates from mandamus, Congress should strengthen PHMSA's
809 rulemaking capabilities.

810 Therefore, we strongly support solutions such as the
811 subcommittee's direct hire proposal.

812 Fourth, several of the proposals would make unnecessary
813 or harmful changes to the enforcement provisions in the
814 Pipeline Safety Act. This would encourage litigation and
815 nondisclosure at the expense of collaboration and safety
816 culture.

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817 There is no need to modify the existing criminal
818 provision for operator violations. Federal prosecutors have
819 successfully brought criminal cases against pipeline
820 operators where appropriate and there is no evidence that the
821 current statutory language has created a bar to criminal
822 prosecution.

823 Furthermore, PHMSA's civil penalty authority is not
824 lacking. The current limits exceed those and many other
825 health, safety, and environmental protection statutes.

826 In addition to fines, PHMSA issues corrective action
827 orders which can produce immediate safety benefits.

828 Thank you again for the opportunity to testify. INGAA
829 stands ready support a timely reauthorization bill that
830 enhances the safety of our nation's pipeline infrastructure.

831 [The prepared statement of Mr. Osman follows:]

832
833 *****INSERT 4*****

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834 Mr. Rush. The chair thanks all of the witnesses for
835 their statements -- opening statements. We've now concluded
836 opening statements and we will now move toward member
837 questioning.

838 Members will have five minutes to ask questions about
839 witnesses and I will start this process by recognizing myself
840 for five minutes.

841 Mr. Lesniak, in your testimony you note that currently
842 Section 60132 exempts gathering lines from the National
843 Pipeline Mapping system, meaning that there is no way to know
844 exactly where these lines are actually located.

845 Can you discuss with us the main differences between
846 transmission lines, which are regulated, and gathering lines,
847 which are not?

848 Do gathering lines pose a similar public safety risk as
849 transmission lines and, if so, does the language in the
850 discussion draft help address this issue or is there
851 additional language needed to regulate these lines and make
852 them a part of the mapping system?

853 Mr. Lesniak. Thank you for that question.

854 I spent a good part of my career with the city of Austin
855 as emergency responder and these gathering lines, many of
856 them, are indistinguishable from gas transmission pipelines,
857 and they ought to be -- at least the location and basic

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858 information about these lines ought to be available to local
859 governments, local emergency responders, and the general
860 public.

861 To me, it makes no sense that I can go online using the
862 National Pipeline Mapping System and find out where gas
863 transmission lines are in my community and emergency
864 responders can do the exact same thing so that they can be
865 prepared to respond to those kinds of incidents on those
866 pipelines, but a gathering line with the exact same type of
867 characteristics that information is not available to local
868 emergency responders.

869 And so the answer is yes, I think that that's a critical
870 piece of the proposed bill and is critical to keeping our
871 community safe.

872 Mr. Rush. I want to go to the issue of working with
873 issues at PHMSA. Specifically, does PHMSA have the
874 sufficient number of professional staff with the right
875 expertise to handle all of the responsibility that falls
876 under the agency's jurisdiction including conducting pipeline
877 inspection and finalizing its rulemaking?

878 Again, does the discussion draft help address this issue
879 and are there other provisions that we should consider adding
880 to this bill?

881 Mr. Lesniak. You know, in my opinion, I think PHMSA is

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chronically underfunded and understaffed. They compete with
the industry, with -- for expertise and struggle with keeping
that expertise within the agency as they develop experts.

And so I think the direct hire provision in the
discussion draft is very helpful for that. I think that many
of the stakeholders, industry and pipeline safety advocates,
share that concern about PHMSA's staffing, and anything that
Congress can do to facilitate hiring and retention of
critical staff for PHMSA is a good thing and this bill goes
in that direction.

Mr. Rush. And then, Mr. Lesniak, Section 6 of the
discussion draft entitled "Community Right to Know in
Emergency Preparedness" is designed to make critical
operational information available to local communities and to
first responders.

Additionally, Mr. Lesniak, Section 6 of H.R. 2139
requires the production and maintenance of complete up-to-
date records of distribution systems and the requirement that
these records be available to the relevant regulators.

While these provisions would strengthen the engagement
of pipeline operators with local emergency planning
committees and local first responders while also providing
the public with frequently requested information, why are
these so critical to both safety reasons and building the

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public trust?

Mr. Lesniak. And, again, as based on my career as a first responder, you know, I was surprised when I got involved in pipeline issues how difficult it was to get really critical technical information about pipelines in our community.

It really is dependent on the operator of that pipeline and you have got operators that are much more open about sharing technical information about their pipelines and you have got operators that just refuse to provide essentially any information at all that they're not required to provide by statute.

And so anything that Congress can do to level that playing field so that local first responders can get that information about the pipelines in their communities is critical because of the things that I found, working with the Austin, Texas, fire department is they know very little about the pipelines in their community.

The pipeline operators historically in our community provide just the very basic awareness of information and if an incident were to happen in our community I think that our first responders would be woefully unprepared and that information ought to be provided to them on a routine basis.

Mr. Rush. Thank you.

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930 The chair now recognizes the ranking member, Mr. Upton,
931 for five minutes.

932 Mr. Upton. Thank you, Mr. Chairman, and I do have a lot
933 of questions and I am going to try to keep my questions brief
934 and, hopefully, your answers will be brief so I can go
935 through them.

936 But I am going to formally draft these up as a letter to
937 each of you for you to formally respond and if you can do
938 that as quickly as you can, knowing that we are on somewhat
939 of a timetable here that would be good.

940 Mr. Osman, you made a good point in your testimony about
941 the draft legislation's removal of the cost-benefit analysis
942 and inclusion of mandamus civil suits speeding up the pace of
943 PHMSA's rulemaking.

944 I appreciate that. Does -- in your opinion, does the
945 draft legislation encourage collaboration among pipeline
946 safety stakeholders and advisory committees during
947 consideration of any new regulations?

948 Mr. Osman. No, not as much as it could.

949 Mr. Upton. And Ms. Sames -- Ms. Sames, does the draft
950 legislation preserve effective state pipeline replacement and
951 upgrade programs?

952 I say that because we replaced a pipeline a number of
953 years ago in Michigan, which as a good thing, and the old

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954 pipeline was left in place. But how does this draft
955 legislation impact something like that?

956 Ms. Sames. It doesn't address it.

957 Mr. Upton. Mr. Black, does the draft legislation
958 authorize PHMSA to allow operators to incorporate new safety
959 technologies or best practices that may not be addressed in
960 the regulations?

961 Mr. Black. No.

962 Mr. Upton. And does the draft legislation address the
963 safety of inactive pipelines at all or not?

964 Mr. Black. No.

965 Mr. Upton. Does the draft legislation incentivize the
966 timely updating of regs to incorporate the latest industry
967 standards?

968 Mr. Black. No, and we wish it would.

969 Mr. Upton. And can you provide us maybe with some
970 constructive language? And does the draft legislation
971 discourage folks from attacking pipeline facilities,
972 something I think a lot of us are concerned about?

973 Mr. Black. No, and we wish it would.

974 Mr. Upton. And what does the draft do on cybersecurity?

975 Mr. Black. Doesn't have any provisions on
976 cybersecurity.

977 Mr. Upton. Does the draft legislation preserve and

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support the years of ongoing work to update both gas and liquid pipeline regulations?

Mr. Black. Not directly, no.

Mr. Upton. Mr. Osman, do you have a comment on that, too?

Mr. Osman. No, it contradicts it and undoes it.

Mr. Upton. So what does it do to encourage pipeline operators to share information about the lessons learned? I mean, that's one of the things that prompted us years ago to look at pipeline accidents -- what happened.

I've had some pipelines break not too far from my district but and some also -- we had a gas pipeline that broke -- a gas pipeline that broke in my district and, you know, careful effort was made to test forensically in fact what exactly happened so that improvements could be made so that we wouldn't have an issue later on in any community.

This particular incident in my home county was -- thank goodness it was in a potato farm so there was nobody around.

But they were able to get the evidence from that break and be able to make some recommendations.

But, to me, that's something that ought to be shared from experiences that were made or from happenings that occurred.

Mr. Osman. If the subcommittee were to authorize a

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1002 voluntary information sharing program it would encourage
1003 discussion of incident lessons, and if the subcommittee moves
1004 forward with our criminal reckless standard it discourages
1005 that open sharing across companies.

1006 Mr. Upton. Yes. Does the draft legislation incentivize
1007 operators to adopt best practices or exceed minimal federal
1008 safety standards?

1009 Mr. Osman. No, and we would encourage the
1010 administration provision that calls for timely incorporation
1011 for reference.

1012 Mr. Upton. Have any of you looked at -- I believe PHMSA
1013 actually had a proposal that we've not looked at formally --
1014 we've not had it and they're not here to testify today.

1015 Mr. Osman. Yes. We support the proposal administration
1016 bill calling for regular timely incorporation into
1017 regulations of best practices.

1018 Mr. Upton. So one of my questions will be that I
1019 provide in writing is could each of you and your
1020 organizations take a look at that PHMSA proposal and make
1021 recommendations as this is a good thing, this is a bad thing,
1022 this is how you might alter that? Is that okay?

1023 Mr. Osman. Yes.

1024 Mr. Upton. Mr. Lesniak, is that okay?

1025 Mr. Lesniak. Yes, we'd be happy to do so.

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1026 Mr. Upton. Great. Well, I look forward to working with
1027 all of you. This is a really important issue. We have
1028 millions of miles of pipelines and we can always do better
1029 and we need to learn from those mistakes and work together in
1030 a way to ensure that the operators and our communities in
1031 fact are safe.

1032 And with that, Mr. Chairman, I yield back and look
1033 forward to working with you as this issue moves forward.
1034 Thank you.

1035 Mr. Rush. The chair now recognizes Mr. Doyle for five
1036 minutes.

1037 Mr. Doyle. Thank you, Mr. Chairman, and welcome to our
1038 panellists today.

1039 I appreciate the opportunity to consider legislation
1040 related to pipeline safety. Pennsylvania is in the midst of
1041 a natural gas boom which is a tremendous resource but only if
1042 it's developed in a way that protects human health and the
1043 environment.

1044 In Pennsylvania, fracking is often very close to or
1045 within communities and pipelines run through neighborhoods
1046 and high-density areas. So I take this issue very seriously
1047 and I look forward to examining the ways to strengthen
1048 current regulations and protections.

1049 The natural gas industry has grown rapidly in

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1050 Pennsylvania in recent years while PHMSA funding for states
1051 have not kept pace.

1052 Ms. Sames, Mr. Lesniak, or Mr. Black, do you believe
1053 that the states have sufficient resources to support
1054 enforcement in oversight of pipelines under their
1055 jurisdiction such as intrastate pipelines and the siting of
1056 hazardous liquid pipelines? And maybe you could just do
1057 down, very quickly, and answer that.

1058 Ms. Sames. AGA has always been supportive of more
1059 resources for the states.

1060 Mr. Lesniak. Yes. Pipeline Safety Trust agrees that
1061 the states are underfunded.

1062 Mr. Black. States should have the resources they need.

1063 Mr. Doyle. So, Mr. Lesniak, you mention in your
1064 testimony the importance of additional funding for states to
1065 close the gap between the amount that PHMSA is allowed to
1066 fund state pipeline safety programs and the amount that they
1067 actually do. Can you elaborate on that?

1068 Mr. Lesniak. We've got more in our written testimony
1069 and we can -- be happy to get you more written -- more
1070 detailed information on that.

1071 I do think it's a critical issue, especially in states
1072 like Pennsylvania and Texas, other states that have seen
1073 rapid growth in oil and gas exploration and production and we

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1074 are seeing a huge boom in pipeline construction and it's
1075 clearly outpaced the abilities of states to keep up with it.

1076 Mr. Doyle. Pennsylvania's natural gas infrastructure
1077 dates back to the 19th century. So aging infrastructure is a
1078 concern for our region also.

1079 Ms. Sames, in your testimony you described the progress
1080 that's been made in replacing cast iron pipe with plastic
1081 piping for distribution, main, and service lines. How are --
1082 how are your members prioritizing the location for service
1083 upgrades and does this consider aspects such as terrain and
1084 the risk of mine subsidence as is the case in a lot of
1085 southwestern Pennsylvania?

1086 Ms. Sames. It covers all of that. So when you're doing
1087 replacement programs you're looking at a number of factors.
1088 You're looking at the materials, the age, the construction
1089 techniques, the environment that the pipeline is in, the
1090 environment around the pipeline and what you're learning
1091 through leak surveys.

1092 So for things like cast iron, you want to replace the
1093 smaller lines first because those historically are the ones
1094 that are more fragile to breaking. Where you're getting
1095 larger pipelines that you have had absolutely no issues,
1096 maybe you prioritize those a little bit later because they
1097 seem to be functioning really well.

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1098 But ground movement is something that will cause an
1099 additional risk on cast iron. So you want to get rid of cast
1100 iron where there are -- where there are ground movements like
1101 coal subsidence.

1102 So yes, it's all taken into account.

1103 Mr. Doyle. Thank you. I co-sponsored legislation with
1104 my colleague, Mr. Olson, to address the shortage of qualified
1105 staff at FERC.

1106 So I am glad to see language included in the Pallone
1107 bill to address the similar staffing issue at PHMSA. Can
1108 anyone please speak to the staffing needs at PHMSA and do you
1109 think that PHMSA would be able to adequately address this
1110 issue without additional authority and funding? Maybe, Mr.
1111 Lesniak, what do you think?

1112 Mr. Lesniak. We can certainly provide you more
1113 information on that. But as, I think, we've all mentioned,
1114 PHMSA is chronically understaffed and they have -- they
1115 struggle with targeting priority areas.

1116 Mr. Doyle. Let me ask you also, what are your views on
1117 the process of siting hazardous pipelines? Do you think
1118 PHMSA should have a role in this process?

1119 Mr. Lesniak. Absolutely they should have a role.
1120 Safety is not addressed during the siting process. The
1121 agencies will tell you that are involved in siting that it's

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1122 not referenced in the regulations and that PHMSA today
1123 voluntarily participates in the siting process for many
1124 pipelines. But I think it should be clearly addressed in the
1125 statute so that it's a clear responsibility for PHMSA.

1126 Mr. Doyle. What about you, Mr. Black? What do you
1127 think?

1128 Mr. Black. PHMSA has a comprehensive series of
1129 construction codes that affect pipeline regulation --
1130 pipeline construction, excuse me.

1131 They're there watching pipeline construction. Any
1132 pipeline that is going to go into service must pass a
1133 hydrostatic pressure test before it begins operation and
1134 PHMSA always has the authority to shut a pipeline down if it
1135 believes it's safe.

1136 We believe there's no gap here. PHMSA has a clear role
1137 in safe operations of pipelines including construction.

1138 Mr. Doyle. I see my time is up, Mr. Chairman. Thank
1139 you. I yield back.

1140 Mr. Rush. Mr. Walden, the ranking member, is recognized
1141 for five minutes.

1142 Mr. Walden. Good morning, Mr. Chairman.

1143 Mr. Rush. Good morning.

1144 Mr. Walden. Thanks for having this hearing. Thanks to
1145 our witnesses for your testimony, which informs our work.

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1146 I have to confess I am a little disappointed we are
1147 moving ahead with a legislative hearing when we don't have
1148 PHMSA here today. I think we will benefit from their
1149 response to our QFRs from the prior hearing and when they can
1150 actually be here.

1151 And so I hope we are not going to rush into a markup
1152 without thoroughly vetting to making significant improvements
1153 to this draft and I think you all have weighed in in areas
1154 you think it can be improved upon.

1155 And so we want to get this right. We believe in
1156 pipeline safety and it needs to be a bipartisan effort as it
1157 always has been. So I want to focus on a couple of things
1158 the draft legislation deals with. And so to each of you I've
1159 got a couple of questions.

1160 What are we doing to encourage pipeline operators to
1161 continue innovating and incorporating the most cost -- the
1162 most cutting-edge technologies and best practices? Are our
1163 regulations keeping pace?

1164 A pretty broad question, but Mr. Black?

1165 Mr. Black. I will take it. The regulations are not
1166 keeping pace with innovation. PHMSA is slow. We've
1167 encouraged the committee to authorize a pilot program
1168 modelled after that they have for motor carrier.

1169 The administration supported this. This would let them

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1170 road test new technologies and approaches and update their
1171 regulations more frequently. It's very important.

1172 Mr. Walden. Do each of you agree with that statement?

1173 Ms. Sames. I definitely agree. The process now, when
1174 new technology comes out, there's typically a pretty long
1175 delay where it has to be pilot tested. States need to weigh
1176 in. It all hampers technology enhancements quickly.

1177 So anything that can be done to advance that. I think
1178 the administration bill does have information on a pilot on
1179 new technology. I know I am supportive of it. We want to
1180 get technology out faster.

1181 Mr. Walden. All right.

1182 Mr. Lesniak?

1183 Mr. Lesniak. We do have some questions about a
1184 potential pilot program. We are in favor of bringing in
1185 technology that makes pipelines safer. But if we are going
1186 to put stuff in the ground we want to make sure that it's
1187 safe before it gets put in the ground.

1188 Mr. Walden. Yes. Sure.

1189 Mr. Osman?

1190 Mr. Osman. Absolutely. You know, we agree with PHMSA's
1191 proposal for the pilot program. I think we need Congress's
1192 help to fill in a gap in the process right now to test those
1193 technologies that look like they're ready but we don't know

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1194 for sure --

1195 Mr. Walden. Right.

1196 Mr. Osman. -- until we can implement them in the real
1197 world. So we are very supportive of that particular --

1198 Mr. Walden. For everybody's benefit.

1199 I also believe we should consider the voluntary program
1200 to promote sharing of information and lessons learned across
1201 the industry, and I know some of you have referenced that.

1202 Do you all agree that that's a good way to go here on
1203 lessons learned, a voluntary program?

1204 Ms. Sames. AGA definitely does. We do a lot of sharing
1205 behind the scenes among operators. We want to be able to
1206 share more with the regulators but we need a safe harbor in
1207 order to do that. We see most of it in some of the
1208 provisions. It's still lacking in a few areas.

1209 Mr. Walden. Okay.

1210 Mr. Lesniak?

1211 Mr. Lesniak. We do think that the VIS program has
1212 potential. We want to make sure that it's not a substitute
1213 for withholding specific information about specific pipelines
1214 and incidents.

1215 Mr. Walden. Got it.

1216 Mr. Black?

1217 Mr. Black. Months have been spent on this -- on it with

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1218 a group convened by PHMSA of a broad collection of
1219 stakeholders. They've come up with a report from that
1220 committee on a proposal for Congress on a way to get
1221 operators to participate in that. We urge the committee to
1222 adopt that.

1223 Mr. Walden. All right.

1224 Mr. Osman?

1225 Mr. Osman. I will just disagree with one point that Mr.
1226 Black made. That committee has worked for years --

1227 Mr. Black. Yes.

1228 Mr. Walden. Oh, not once. Got it.

1229 Mr. Osman. -- to recommendations for how to do this
1230 the right way. So --

1231 Mr. Walden. Yes. So you think we ought to get on with
1232 it? Is that what you're saying?

1233 Mr. Osman. Yes. Both the need -- we need the work from
1234 Congress. We need the protections in the statute to make
1235 that.

1236 Mr. Walden. Got it. All right.

1237 Let me ask you about cybersecurity. There are,
1238 obviously, threats to the pipeline system as there are to the
1239 electric grid, as there are to you name it. There are
1240 hackers out there.

1241 What tools do you need from us when it comes to

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1242 cybersecurity that are lacking in this bill that you can talk
1243 about here?

1244 Ms. Sames. Do you want to go first?

1245 Mr. Black. We take cybersecurity very seriously. I
1246 think Congress has acted on this in the FAA reauthorization
1247 last year to elevate the role of cyber within TSA, bring more
1248 resources there.

1249 We encourage Congress to appropriate more funds for TSA
1250 to do its work on cyber. Attention on this issue from
1251 government agencies and Congress can only help.

1252 Mr. Walden. Yes. I am not -- I am not -- I don't know
1253 about the ranking member, Mr. Upton, but TSA has been less
1254 than cooperative with this committee as we delve into these
1255 issues and, you know, I am not overly impressed.

1256 So I don't know that they're going to get more money.
1257 Mr. Upton, I don't know if you want to weigh in here.

1258 Mr. Upton. They're going to be checking you at the Pre-
1259 Check.

1260 Mr. Walden. I know. I know. I know.

1261 Mr. Upton. I've been randomly selected, like, the last
1262 five weeks in a row.

1263 Mr. Walden. Yes, that's right. That's right.

1264 [Laughter.]

1265 Mr. Upton. Just have a smile on your face.

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1266 Mr. Walden. That's right. My time has expired on that
1267 note and -- yes. Thank you all for what you're doing. We
1268 want to get this right.

1269 Thank you, Mr. Chairman, for the hearing.

1270 Mr. Rush. The chair now recognizes Mr. McNerney for
1271 five minutes.

1272 Mr. McNerney. From the great state of California. You
1273 forgot.

1274 [Laughter.]

1275 Mr. Rush. From the great state of southern California?

1276 Mr. McNerney. Northern Cal. Oh my gosh.

1277 Mr. Rush. Northern California.

1278 Mr. McNerney. Thank you, Mr. Chairman.

1279 Mr. Lesniak, you referenced the 2010 San Bruno explosion
1280 that killed eight people. It took over an hour for crews to
1281 shut off the gas line after that explosion. You pointed out
1282 that 19 years ago Congress first started debating automatic
1283 spill detection and shut off valves, both which would have
1284 assisted in that process.

1285 Can you speak to the importance of leak and rupture
1286 detection and the automatic or remote control shut off
1287 valves?

1288 Mr. Lesniak. Yes. Thank you for that question.

1289 I think it's critical. Most new pipelines have both

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1290 automatic and remote controlled valves in them. We ought to
1291 be retrofitting all pipelines with those.

1292 There may be very specific unique instances where it's
1293 not appropriate. But I think that those are very rare and
1294 that I think this ought to be standard of practice.

1295 It's commonly used in the industry. It ought to be --
1296 it ought to be included in the statute.

1297 Mr. McNerney. Well, the ranking member mentioned his
1298 concern about automatic shut off valves and so did one of the
1299 witnesses in liquid pipelines. Is that an issue?

1300 Mr. Lesniak. If a valve is improperly closed, it can
1301 cause problems, can cause a release on a pipeline.
1302 Absolutely.

1303 But automatic valves are used routinely in the industry.
1304 So they've, apparently, addressed that problem.

1305 Mr. McNerney. Thank you.

1306 Mr. Osman, a major component of the bills that we
1307 discussed was the technology. What additional technologies
1308 do you view as being essential to modernizing pipeline
1309 safety?

1310 Mr. Osman. Thank you for the question.

1311 We have tremendous amount of opportunities today that we
1312 didn't have even five, 10, 15 years ago to enhance the safety
1313 of our pipeline system with today's technologies.

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1314 In particular, the ones you will hear us talking about
1315 the most is the new internal inspection devices and new
1316 methods of analyzing the data that those devices produce.
1317 These are tools that are based on the same technology as an
1318 ultrasound machine or an MRI at the doctor's office and they
1319 can detect problems inside the pipeline years before that
1320 problem actually results in the pipeline.

1321 Mr. McNerney. That's amazing.

1322 Mr. Osman. It is amazing.

1323 Mr. McNerney. What's one of the barriers to adopting
1324 that?

1325 Mr. Osman. First, PHMSA needs to complete the pending
1326 rulemaking that they've been working on in which everyone at
1327 this table is supportive of.

1328 But going forward, beyond that, as we've talked about,
1329 we need opportunities to pilot these technologies moving
1330 forward so it does not take so many years to update the
1331 regulation, and one of the -- one of the barriers to updating
1332 those regulations is not having that field-tested data and
1333 that pilot program that PHMSA proposed would help us go a
1334 long way.

1335 Mr. McNerney. But we heard a lot about complaining
1336 about how PHMSA is so slow in their rule making. What,
1337 besides additional resources, would help in that process?

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1338 Briefly, for all the panellist, starting with Ms. Sames.

1339 Ms. Sames. I would love to see a process that is done
1340 with in DOT to move things faster. What I am seeing is that
1341 the technical folks within PHMSA do a really good job with
1342 moving things quickly once the advisory committees have
1343 finished their deliberations.

1344 But there seems to be a delay from PHMSA to the Office
1345 of Management and Budget. I don't know where the delay is
1346 occurring. But, to me, that's an area that could be
1347 investigated.

1348 Mr. McNerney. Thank you.

1349 Mr. Lesniak. Yes, I would agree. PHMSA is doing their
1350 work. Often it seems to be -- get caught in the secretary's
1351 office or in OMB and, as we mentioned earlier, we think this
1352 duplicative cost-benefit analysis that's required in the
1353 current statute also slows things down.

1354 Mr. McNerney. Thank you.

1355 Mr. Black?

1356 Mr. Black. I think a legislative analogy, rifle shot
1357 bills are often easier to move than Christmas tree bills or
1358 omnibus. We believe that PHMSA made strategic mistakes on
1359 gas and liquid regulations in the last Congress to lump a
1360 bunch of many complex diverse issues into large mega rules
1361 that just overwhelm the development process and the review

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1362 process, and that's the primary reason that we are waiting
1363 for them today.

1364 Mr. McNerney. Okay. Thank you.

1365 Mr. Osman?

1366 Mr. Osman. PHMSA has two advisory committees with 30
1367 people on them total, have a tremendous diversity of
1368 background and extent of experience in the pipeline industry,
1369 in the public space, in the regulator space.

1370 PHMSA should use those advisory committees earlier on to
1371 take input into development of rulemakings to make the
1372 rulemakings stronger from the get-got. So less of that work
1373 needs to be done at the back end when the advisory committees
1374 see the rulemaking proposal.

1375 Mr. McNerney. Thank you.

1376 Mr. Lesniak, you indicated that there are 435 miles of
1377 unregulated pipeline. What are the barriers to regulating
1378 those pipelines?

1379 Mr. Lesniak. Thank you. It's 435,000 miles of
1380 pipelines.

1381 Mr. McNerney. What did I say?

1382 Mr. Lesniak. The barriers is that it's not provided for
1383 in statute at all.

1384 Mr. McNerney. Right. All right.

1385 Mr. Chairman, I will yield back. Thank you for your

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1386 responses.

1387 Mr. Rush. The chair now recognizes Mr. Latta for five
1388 minutes.

1389 Mr. Latta. Well, thanks very much, Mr. Chairman, and
1390 thank you very much for holding today's hearing and I would
1391 also like to begin by just echoing the ranking member of the
1392 full committee and also the subcommittee's disappointment the
1393 majority took a partisan approach to a historically
1394 bipartisan topic by drafting this legislation for us in a
1395 vacuum.

1396 My hope is that because it is a discussion draft that
1397 the majority intends to work with us to move a bipartisan
1398 package forward that I am very interested in working with my
1399 colleagues, especially on using the best practices in
1400 technology to find the solutions leading to increased safety.

1401 Mr. Black, if I could begin with you. In your written
1402 testimony you proposed a pilot program for a new pipeline
1403 safety technologies and best practices.

1404 PHMSA also submitted a proposal for a pipeline safety
1405 pilot program to give them some regulatory flexibility to
1406 allow new technology and safety methods.

1407 What's the problem you're trying to solve with this
1408 pilot program and is this a situation where the regulations
1409 haven't kept pace with the innovation out there?

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1410 Mr. Black. The integrity management regulations for
1411 liquid pipelines are about 20 years old now and they have not
1412 kept pace. They have gaps, including cracking in pipelines.
1413 PHMSA has been slow, despite their efforts.

1414 A pilot program that motor carrier has that the
1415 administration has now proposed would let PHMSA test on
1416 operators of their choosing methods, approaches, technologies
1417 that they believe would have an equivalent level of safety
1418 and gather data.

1419 We believe that data, when they gather it on operators
1420 they choose, would help inform their regulations and speed up
1421 their rule making process so then they could apply those
1422 lessons to all in industry.

1423 We are supportive of the proposal. We think there
1424 should be a few more provisions requiring reporting to
1425 Congress about the lessons from pilot programs and a trigger
1426 that requires them to then take those lessons that are
1427 positive and incorporate them in regulations.

1428 Mr. Latta. Let me follow up, because you said that
1429 you're looking at something that's 20 years old and two
1430 things. One, why is it taking PHMSA this long to catch up
1431 with something that's over 20 years?

1432 And at the same time, would you describe some of the
1433 cost cut -- or the cutting-edge technologies and best

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1434 practices that your member companies would like to implement?

1435 Mr. Black. Well, the technology is growing leaps and
1436 bounds in terms of pipeline inspection. Not just the tools
1437 that can run through a pipeline but then also the analytics
1438 that can happen once the inline inspection device we call a
1439 smart pig comes out of the pike.

1440 So we are learning more. The regulations are old.
1441 There's a floor. Pipeline operators are going well above
1442 them because of your best practices that we incorporate and
1443 we suggest PHMSA often incorporate in the regulation.

1444 They can update these. I spoke a moment ago about my
1445 personal thought and our organization's thought about the
1446 delay by PHMSA. It's taking too many issues and putting them
1447 in the large rule making processes that are just slowing
1448 down.

1449 It shouldn't be 20 years. Hopefully, it won't be 20
1450 years again.

1451 Mr. Latta. Well, let me ask, does the draft legislation
1452 that's before us include anything like this encourage the
1453 operators to adopt these new technologies on a voluntary
1454 basis?

1455 Mr. Black. In the administration draft, yes. In the
1456 discussion draft from the subcommittee, no.

1457 Mr. Latta. Okay. Thank you very much.

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1458 To Ms. Sames and Mr. Osman and Mr. Black, if I could
1459 kind of ask some quick questions here.

1460 As you know, the states are overseeing more than 80
1461 percent of the nation's pipeline infrastructure, especially
1462 the gas distribution pipelines that connect our homes and
1463 businesses to the main transmission system.

1464 Could you talk a little bit about the state programs and
1465 the relationship your member companies have with the states
1466 and the local pipeline safety regulators?

1467 Ms. Sames?

1468 Ms. Sames. Yes. So if you -- at the state level,
1469 especially if you're a larger operator, you're probably
1470 having multiple state inspectors in your office every day.
1471 They're in the field.

1472 They're with the operator. They're looking at various
1473 things, which is why the state program is so important and
1474 why AGA has always been supportive of additional funding for
1475 the states.

1476 They're the ones regulating and if -- they need the
1477 proper training, the proper resources to do that. Unlike the
1478 PHMSA regulations, the PHMSA regulators, the auditors -- I
1479 think the interstates and the liquid industry see them a
1480 little less often than they do than we see the state
1481 operators at the state level.

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1482 PHMSA has a responsibility to provide oversights of the
1483 states, the state inspectors. They're relying on the state
1484 regulators to go out and do their job, which also gets back
1485 to why PHMSA needs additional resources.

1486 Mr. Latta. Okay. And I know, Mr. Chairman, my time is
1487 expiring but I will submit my questions in writing to the
1488 witnesses.

1489 Thank you very much. I yield back.

1490 Mr. Rush. The chair now recognizes the chairman of the
1491 full committee, Mr. Pallone, for five minutes.

1492 The Chairman. Thank you, Chairman Rush.

1493 In his testimony, Mr. Black of the oil pipeline industry
1494 states that, and I quote, "Applying an ambiguous legal
1495 standard of recklessness will not advance pipeline safety."

1496 Mr. Black would also have you believe, in my opinion,
1497 that requiring a prosecutor to prove that someone is both
1498 knowing and willful is standard whereas in reality most
1499 statutes require proof that someone is either knowing or
1500 willful so rather than and/or.

1501 So I wanted to ask Mr. Lesniak, is reckless and
1502 ambiguous legal standard or is there a precedent in statute
1503 for holding someone accountable for reckless behavior?

1504 Mr. Lesniak. Thank you. It's far from ambiguous or
1505 unusual. It's commonly used in other federal statute and in

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1506 fact in most states it's included in the motor vehicle code
1507 and other criminal statutes.

1508 The Chairman. And then doesn't the current hazardous
1509 material safety statute contain criminal penalties of someone
1510 who willfully or recklessly violates a requirement of the
1511 Federal Hazardous Material Transportation law?

1512 Mr. Lesniak. Yes. In fact it does.

1513 The Chairman. So I think this is neither novel nor
1514 ambiguous and, in my view, it will certainly improve
1515 accountability and safety.

1516 Mr. Lesniak, let me ask you another question. What do
1517 you think has been the hold up on the mandates from the 2011
1518 and 2016 acts? Do you think that this is due to the
1519 duplicative and prescript or cost-benefit required in current
1520 law?

1521 Mr. Lesniak. Yes, it does. Yes, I think it is a big
1522 part of it. It's not the only reason but it is one of the
1523 key reasons and we need to get that addressed.

1524 The Chairman. I mean, I think the statutory cost-
1525 benefit analysis, clearly, ties the secretary's hands. So my
1526 question is would eliminating it help prevent the extreme
1527 delays we have seen from occurring again?

1528 Mr. Lesniak. Yes, we think it would.

1529 The Chairman. All right. Thank you.

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speaker. A link to the final, official transcript will be
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1530 Let me go to Mr. Lesniak again about this mandamus
1531 issue. In the aftermath of the San Bruno incident, the city
1532 of San Francisco was blocked, quote, "from forcing PHMSA to
1533 uphold its statutory responsibilities" and this happened
1534 because the court held that the law did not allow for
1535 mandamus type citizen suits to be brought against the federal
1536 government.

1537 So, Mr. Lesniak, do we need the ability for citizens,
1538 states, and local governments to be able to compel PHMSA to
1539 do its job?

1540 Mr. Lesniak. I think there's -- I think there's no
1541 question. You know, if you think the delays that we are
1542 seeing, the Congress gets frustrated with these delays, with
1543 implementing the regulations, how do you think a community
1544 like San Francisco, San Bruno, Edison, Bellingham feel when
1545 they have incidents and or they have pipelines in their
1546 communities that they have concerns about and they can't get
1547 PHMSA to act?

1548 Congress can hold these agencies accountable but it may
1549 take years, if at all, and the public needs to have the
1550 ability to go to court to get these agencies to implement
1551 these regulations. Congress is a representative of the
1552 people. The people ought to have the ability to enforce the
1553 laws Congress passes.

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1554 The Chairman. Thank you.

1555 I wanted to ask you, you know, the industry -- from
1556 their testimony the Interstate Natural Gas Associations
1557 seems, in my opinion -- I mean, I am putting words in their
1558 mouth but from what I can see from their testimony is
1559 perfectly fine -- they're perfectly fine with the status quo
1560 of rule makings that take a decade or more.

1561 They seem to suggest we don't need to use modern
1562 technology like automatic or remote valves or smart pigs and
1563 that we shouldn't review the integrity of pipelines that are
1564 half a century old or older.

1565 According to the testimony, a rule making process that
1566 never ends seems to be fine and anything Congress might do to
1567 ensure faster results or improve pipeline safety and hold
1568 operators more accountable, and I quote, would overrule years
1569 of work in developing new pipeline safety regulations for gas
1570 transmission pipelines.

1571 But, of course, what good -- I mean, in my opinion, what
1572 good does it do the public to have a rulemaking process that
1573 goes on and on and never produces a rule? I mean, that's my
1574 problem.

1575 So let me ask you, do you think that the industry's
1576 opposition to new safety requirements is contributing to the
1577 growing opposition of landowners to having a pipeline run

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1578 through their states, towns, and back yards? Because this is
1579 what I hear all the time.

1580 Is that -- is this opposition to these new safety
1581 requirements contributing to that?

1582 Mr. Lesniak. I think it is. I think that the industry
1583 does throw comments and engage in the rulemaking process
1584 sometimes in a way that's counterproductive and slows down
1585 the process, and for some in the industry I think it works in
1586 their favor -- that they would prefer to preserve the status
1587 quo.

1588 The Chairman. But then at the same time you have this
1589 growing opposition from the landowners, and I think, you
1590 know, this only contributes to that. So I don't know that
1591 it's in their interest, but whatever.

1592 Thank you. Thanks so much.

1593 Mr. Rush. The chair now recognizes the gentleman from
1594 Texas, Mr. Olson.

1595 Mr. Olson. I thank the chair, and welcome to our four
1596 expert witnesses.

1597 My first question is a simple yes or no. Are pipelines
1598 safer than trucks, trains, ships for transporting liquid and
1599 gas products?

1600 Ms. Sames, yes or no?

1601 Ms. Sames. Yes, based on DOT's statistics.

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1602 Mr. Olson. Mr. Lesniak, yes or no? Pipelines safer?

1603 Mr. Lesniak. Yes, but it's an apples and oranges
1604 comparison.

1605 Mr. Olson. Mr. Black?

1606 Mr. Black. Yes.

1607 Mr. Osman. Yes.

1608 Mr. Black. Mr. Osman agrees. So we all agree that
1609 pipelines are as close as we get to perfection transporting
1610 products -- liquid products -- right now with what we have in
1611 our world.

1612 Another simple yes or no question for all of you. As
1613 Mr. Doyle mentioned, we have a bill that allows FERC to
1614 exceed the federal pay limits for the expert employees that
1615 are getting taken by the private sector basically because
1616 they don't have the money to pay them.

1617 Would you all support -- your organizations -- something
1618 like that for PHMSA? Because we've heard over and over
1619 manpower is a problem. How about allowing PHMSA to pay more
1620 than the federal minimum?

1621 Ms. Sames?

1622 Ms. Sames. Yes. Yes.

1623 Mr. Lesniak. Yes.

1624 Mr. Black. We support the federal government for PHMSA
1625 inspectors being able to pay more to attract and retain

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1626 inspectors.

1627 Mr. Olson. Mr. Osman?

1628 Mr. Osman. Yes.

1629 Mr. Olson. There we go. Okay.

1630 Let's talk about PHMSA. Right now, they're in the
1631 middle of a careful effort to set new rules for gathering
1632 lines. Moving to the suburbs of Houston, Texas, the energy
1633 capital of the world, I know how important these lines are to
1634 production of mostly oil and natural gas.

1635 They're important for the safety they provide and also
1636 the ability to expand the system, and while gathering lines
1637 may look like other pipelines, they're very, very different
1638 because they have very low pressures compared to pipelines
1639 that transport the product from Texas up there to New
1640 England.

1641 And it would seem to me that our draft legislation is
1642 abetting PHMSA's work with their efforts for new rules for
1643 gathering lines.

1644 And this is for you, Mr. Black, and you, Mr. Osman. Can
1645 you talk about how these lines are regulated today and what
1646 PHMSA is doing -- we think they're going when they update
1647 these regulations and what are the costs of Congress stepping
1648 in and expanding PHMSA's jurisdiction while they're still
1649 trying to get a handle on new rules?

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1650 Mr. Osman. Thank you for the question.

1651 Of course we agree that it's important that all
1652 pipelines are safe. Our members, INGAA, represent the
1653 interstate and natural gas transmission pipelines. We don't
1654 represent gathering pipelines so I can't get into the
1655 specifics there.

1656 I will say from a process perspective PHMSA's advisory
1657 committee is meeting next week to try to advance that
1658 gathering rule making forward and if recent history is any
1659 indication, they're going to be successful in doing so.

1660 Mr. Olson. Mr. Black?

1661 Mr. Black. This new effort has been about gas
1662 gathering. Liquids often is already regulated by PHMSA above
1663 certain -- below certain -- above certain diameters and
1664 thresholds.

1665 It's been primarily a gas-gathering push.

1666 Mr. Olson. My final question is for you, Ms. Sames and
1667 Mr. Black and Mr. Osman one more time. I've heard over and
1668 over today in this hearing and out back home about how long
1669 it takes PHMSA to set new rules to -- for these pipeline
1670 systems and that's why I have concern we are going to
1671 actually slow that process down with these new writs of
1672 mandamus.

1673 This new law will encourage more lawsuits from special

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1674 interest groups with no standing and also leave the back door
1675 rules settled through sue and settle and going through a back
1676 door is never safe as opposed to going through a front door.

1677 So my question for all of you all is do you think this
1678 discussion draft's mandamus provision would impact the
1679 quality and pace of PHMSA's rule makings? Would it hurt it?

1680 Ms. Sames. Yes.

1681 Mr. Black. Yes. If we think PHMSA is overwhelmed by
1682 congressional mandates, think about how they'd be overwhelmed
1683 with litigation from groups that can choose what to sue on.

1684 We think court-forced action would usurp the role of
1685 Congress and setting priorities would divert them from
1686 whatever they think their highest priority is and it would
1687 create the risk of sue and settle rulemaking outside of the
1688 process where all stakeholders have an opportunity to
1689 participate. I think it hurts.

1690 Mr. Olson. Mr. Osman?

1691 Mr. Osman. I agree with my colleagues. We are all
1692 frustrated about the pace of rule makings and we are not
1693 happy with the status quo. But we do not think the mandamus
1694 provision is going to speed things up.

1695 We think we need more focussed decision making from the
1696 agency and we need to do what we can to help them get the
1697 resources that they need to move these important rule makings

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1698 forward.

1699 Mr. Olson. Thank you. I am out of time.

1700 Mr. Lesniak, one compliment for you being from Austin,
1701 Texas. The bowl game we had with the Longhorns against the
1702 Georgia Bulldogs. Bevo, our Longhorn mascot, tore into that
1703 little bulldog. So, thank you. Made Texas proud.

1704 Mr. Lesniak. Hook 'em.

1705 [Laughter.]

1706 Mr. Olson. There you go. Hook 'em. Yield back.

1707 Mr. Rush. The chair now recognizes Mr. Loeb sack for
1708 five minutes.

1709 Mr. Loeb sack. Thank you, Chairman Rush, Ranking Member
1710 Upton, and thank you to the witnesses for being here today as
1711 well. I am pleased that the committee is holding this
1712 hearing on this incredibly important issue -- pipeline safety
1713 in America.

1714 And before I go any further I should mention too that I
1715 think that what we are talking about today while we are
1716 talking a lot of about regulation and all the rest, I think
1717 it also points up how important a new infrastructure bill
1718 would be because we have such an aging system of pipelines
1719 out there.

1720 We are going to have to make replacements. We are going
1721 to have to make repairs. We are going to have to do all

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1722 these things to make sure that we can continue to transport
1723 the energy that gets transported.

1724 That's got to be a part of a larger infrastructure bill,
1725 I believe, and I think that's actually something maybe we can
1726 all agree on on a bipartisan basis here as well.

1727 I don't want to make too many assumptions, however,
1728 about the nature of politics in this body at the moment. But
1729 I do think we can agree on that.

1730 Our nation's pipeline system does help deliver reliable
1731 and low-cost energy to consumers across the country.
1732 Ensuring that our pipelines operate safely, reliably, and
1733 efficiently is absolutely critical. I think that's a no-
1734 brainer.

1735 We must also ensure that we are taking proactive
1736 measures to protect our pipelines from both physical and
1737 cyber threats -- that's been mentioned, cyber threats -- that
1738 would put our nation's energy supply at great risk -- those
1739 threats out there.

1740 We know that cyber-attacks are near constant and
1741 increasingly dangerous threat to our energy infrastructure as
1742 well as to the surrounding communities. Federal pipeline
1743 safety regulations must keep pace with the capabilities of
1744 those who seek to attack our energy supply and undermine our
1745 national security, and to that end I am happy I've been

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1746 working with Ranking Member Upton on the piece of legislation
1747 that would improve the coordination and information sharing
1748 among the federal entities tasked with overseeing the
1749 cybersecurity of our nation's pipeline system, the Pipeline
1750 and LNG Facilities Cybersecurity Preparedness Act.

1751 I look forward to continuing to work on this important
1752 issue as this committee moves forward on comprehensive
1753 pipeline safety legislation.

1754 Concerning the legislation that's before us today, the
1755 Safer Pipelines Act does include a provision that I think is
1756 critically important in ensuring our communities are better
1757 protected from the potential impacts of a pipeline incident.

1758 This provision would require that the owners or
1759 operators of a gas or hazardous liquid pipeline engage and
1760 share information, and it's been mentioned with local
1761 emergency planning committees and other local first
1762 responders.

1763 This will ensure that those individuals who are first to
1764 the scene in the event of an accident are able to respond as
1765 effectively as possible to protect the surrounding community.

1766 Those first responders, we all know, are absolutely
1767 critical. We've had a lot of floods in Iowa over the past 10
1768 years since I've been in office -- 10 or 12 years. This kind
1769 of an incident would be absolutely -- it would be absolutely

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1770 essential for those first responders to have as much
1771 information as possible as well.

1772 And I know we talked about this already a little bit,
1773 Mr. Lesniak. In your testimony you highlighted this effort
1774 to engage with the emergency planning committees and first
1775 responders and improve communication and education efforts
1776 within the communities.

1777 Can you elaborate again, if you would, on how you think
1778 information sharing with state and local emergency responders
1779 can help ensure the safety of our communities and improve
1780 outcomes in the event of an incident?

1781 Just elaborate on what you have already been talking
1782 about earlier, if you would.

1783 Mr. Lesniak. Thank you.

1784 You know, local emergency responders have a hard time
1785 getting information about pipelines and, as I said, it's a
1786 voluntary process. Some operators are really good about it.

1787 Some operators are not very good about it.

1788 But it's the local emergency responders that have to be
1789 able to act quickly to protect their communities.

1790 And so anything that Congress can do to make sure that
1791 critical information is shared with local LEPCs, local fire
1792 departments, and other first responders I think is critical.

1793 Mr. Loeb sack. So in terms of what these local

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1794 communities can do themselves to take steps to protect
1795 themselves from the impacts of an incident, do you have any
1796 specific ideas about that?

1797 Mr. Lesniak. I do. I worked with -- personally worked
1798 with a local pipeline operator to develop an emergency spill
1799 response plan for Austin, Texas to protect Barton Springs,
1800 one of our critical natural resources there, and they worked
1801 well with us and that process worked really well.

1802 Other communities could do that. Other pipeline
1803 operators that we reached out to in our community weren't
1804 interested in working with us.

1805 And I just might say -- you know, I am near the end here
1806 -- I do worry about not just cybersecurity attacks but I
1807 worry about physical attacks and I go on the mapping website
1808 that you mentioned earlier. There's a lot of information
1809 that the public does need.

1810 But that information is available to the bad guys, too,
1811 and we have to be thinking about how to balance, you know,
1812 those kinds of interests that we have as a public but also
1813 making sure that we secure these pipelines from the bad guys
1814 who want to do terrible damage to us and can inflict
1815 terroristic kinds of actions on us and we have to be careful
1816 on that front.

1817 So thank you very much. I appreciate the time, and I

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1818 yield back. Thank you.

1819 Mr. Rush. Mr. Griffith is recognized for five minutes.

1820 Mr. Griffith. Thank you very much, Mr. Chairman.

1821 Picking up on that, talking about bad guys physically
1822 attacking the pipeline, that's a concern of mine too and I
1823 visited with some folks, and I know there's other folks doing
1824 this too, but Corning has a product where they can actually
1825 put a fiber down on the pipeline as it's being laid and you
1826 can see if somebody walks up to it, drives up to the
1827 pipeline, starts digging -- I mean, any of those things that
1828 would tip you off that one of the bad guys might be out
1829 there.

1830 Also has the advantage of because the temperature being
1831 colder with the gas in the pipeline than the soil around it
1832 that if there is a leak it picks up that temperature changing
1833 and identify a leak fairly quickly.

1834 So along those lines, I know that that's out there and I
1835 know there's probably some other technologies as well that
1836 are emerging.

1837 I am just wondering what you all think the federal
1838 government might be able to do to encourage more new
1839 technologies like this and then, of course, I know it's not
1840 your bailiwick. But then we got to convince FERC that it
1841 probably ought to be there.

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1842 Yes, ma'am?

1843 Ms. Sames. And I apologize. I am a little passionate
1844 about technology. I helped revamp the PHMSA R&D program. I
1845 then went from there to a research consortium.

1846 So, for me, it's additional funding for technology. We
1847 have it within PHMSA. We have a little bit within Department
1848 of Energy. But more technology funding to get us the
1849 products that we need. The industry is contributing a good
1850 bit also.

1851 We've already mentioned piloting these technologies so
1852 we can get them into the market faster. All of that will
1853 help move things forward.

1854 Mr. Griffith. And talking about the proposed -- I know
1855 the administration has proposed a technology pilot program.
1856 You know, how do you think that would work? Obviously,
1857 you're favorable, but how do you think their program would
1858 work in moving some of this technology forward?

1859 Ms. Sames. I would hope that it moves things faster --
1860 that if they have an official program that Congress has
1861 approved that it allows them to move faster, because right
1862 now they're doing it but it's at a pretty slow pace.

1863 And I certainly would support putting more funding
1864 towards the research. I am big on research and I think it's
1865 important, and I do think the question that Mr. Pallone asked

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1866 earlier of Mr. Lesniak was that is some of the concerns about
1867 pipelines causing some of the resistance to new pipelines.

1868 I think the answer to that is, clearly, yes. There's a
1869 pipeline going through my district, and some folks are going
1870 to be against it no matter what and there are other reasons
1871 to be against it.

1872 But some folks are just worried because of some of the
1873 safety issues that they've heard about, and the more we can
1874 do to reassure them I think the better of we are.

1875 Mr. Black, do you want to make a quick comment on this?

1876 Mr. Black. Yes. The technology you described is
1877 interesting and I think it needs to be reviewed regularly by
1878 the advisory committee groups.

1879 Mr. Lesniak is on one of them. Pipeline operators are.
1880 Congress told PHMSA that it needs to put its regulations and
1881 its cost-benefit and risk assessments before the advisory
1882 committees.

1883 I think Congress could also tell them to review research
1884 and development. Have PHMSA put forward its proposals and
1885 hear from other organizations that collaboration right now
1886 occurs but it's not frequent enough. If you all put that in
1887 the statute that should increase it.

1888 Mr. Griffith. All right. I appreciate that.

1889 Now, I am going to go to an area that hasn't been

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1890 touched on yet and just ask if anybody has any ideas. I met
1891 with, I don't know, a few months back some folks at Virginia
1892 Tech, and they are doing research related to water and sewer
1893 pipes.

1894 And one of the things that they found was is that the
1895 age of the pipe was not dispositive nor the material -- that
1896 one of the things that was interesting was the type of soil
1897 and what environment the pipe was in.

1898 So I noticed in the bill there are several mentions of
1899 the age of the pipe and what material it is and the cast iron
1900 pipes. But at least for water and sewer, they talked about
1901 if it was in the right type of soil cast iron might last 100
1902 years.

1903 In a different type of soil it may not make it to 50
1904 years, and you want to make sure you know what kind of soil
1905 you're in and whether or not, interestingly enough,
1906 apparently degradation in and around railroads was higher,
1907 and I thought that was fascinating.

1908 Is there any research going on in this regard with gas
1909 pipelines as well to make sure that we're -- I mean, we can
1910 go out there and say you check them every 50 years and that's
1911 great.

1912 But if you have got a pipe that's in a soil type or in
1913 an environment where it would last a hundred why would we

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1914 spend money on that and let's focus on the areas where it's
1915 most important.

1916 Ms. Sames. Yes. I mean, on the gas distribution side,
1917 we are doing a lot on replacement and so you're looking at a
1918 number of factors and the environment is one of those
1919 factors. So and the pipe tells you a good bit.

1920 So if you're going out doing leak surveys which we are
1921 required to do and checking very particular areas and doing
1922 more, especially for cast iron and bare steel, when
1923 temperatures change and that frost level in certain areas of
1924 the country -- I know that down south you don't have it but
1925 we do up north -- that frost level changes, the soil moves.

1926 So that causes extra strain on the pipe. It's all
1927 things that have to be taken into account and it's -- we've
1928 done a lot of research in this area.

1929 Mr. Griffith. Well, and I would hope that any bill that
1930 we would pass would take into account some of the new
1931 technology and take into account the fact that not every pipe
1932 is the same as the pipe in the same -- in a different soil
1933 type or different area.

1934 Thank you very much. I yield back.

1935 Mr. Rush. The chair now recognizes Mr. Kennedy for five
1936 minutes.

1937 Mr. Kennedy. I thank the chairman for having this

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1938 important hearing to address pipeline safety and thank you to
1939 our witnesses for being here.

1940 We all recall the devastating events that happened last
1941 year when a distribution line exploded on September 13th,
1942 wreaking havoc in three communities in the Merrimack Valley
1943 of Massachusetts.

1944 Local residents and first responders were gravely
1945 injured, homes destroyed, families displaced for months on
1946 end. And a young man named Leonel Rondon lost his life.

1947 Ten months later, these communities are still recovering
1948 from the devastation. I am grateful to my colleague,
1949 Representative Lori Trahan, for introducing H.R. 2139, the
1950 Leonel Rondon Pipeline Safety Act to address the issues
1951 leading to this tragic event. I am proud to be a co-sponsor
1952 of this legislation. I would also like to thank Senator
1953 Markey for introducing the Senate version.

1954 Now, Mr. Lesniak, in your testimony you speak to the
1955 importance of pipeline companies developing and implementing
1956 a continuous improvement to the safety and management system,
1957 or SMS.

1958 You know that the Merrimack Valley tragedy eliminated
1959 the fact that voluntary systems of SMS weren't Incentivizing
1960 all companies.

1961 So, sir, I appreciate the idea of an annual fine on the

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1962 PHMSA as a level of accountability without making SMS
1963 mandatory. Those who fully embrace SMS should have no
1964 problem. But do you believe that will be enough of an
1965 incentive for those that are lagging behind?

1966 Mr. Lesniak. Thank you.

1967 You know, there ought to be a regulatory floor and for
1968 critical safety processes. And so I think those types of
1969 safety processes should be required and not voluntary.

1970 Good operators implement them. Bad operators don't.

1971 Mr. Kennedy. Thank you, sir.

1972 As you are well aware, there's a \$2 million cap on
1973 PHMSA's penalty authority for civil penalties. Do you
1974 believe that the fines currently assessed provide sufficient
1975 deterrent for companies that commit a violation?

1976 Mr. Lesniak. No, I don't. If you look at it, some of
1977 these pipelines -- for example, there's a pipeline that's
1978 being proposed in the state of Texas right now. It's a \$2
1979 billion project. It's going to transport millions of cubic
1980 feet of natural gas per day. A million dollar or \$2 million
1981 fine is a drop in the bucket for companies like that.

1982 Mr. Kennedy. And, sir, I've heard said by some skeptics
1983 that you, quote, "can't create a culture of safety." But it
1984 seems to me that Congress has, in fact, forced change where
1985 industry has failed to take adequate safety steps.

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1986 Do you have any response to those who think that this is
1987 a fool's errand?

1988 Mr. Lesniak. I think that you can't regulate
1989 necessarily a culture of safety. But, again, you can set a
1990 floor that makes sure that every company meets minimum safety
1991 standards and that -- and make it more ubiquitous across the
1992 industry.

1993 Mr. Kennedy. And a final question for you, sir. Across
1994 the country and particularly at the state level we are seeing
1995 concerning efforts to curb the rights of Americans including
1996 particularly, Native communities to raise their voices in
1997 defense of pipeline safety.

1998 Often those communities stand to be the most impacted by
1999 proposed projects such as the Dakota Access projects across
2000 drinking water and burial grounds for the Standing Rock
2001 Sioux.

2002 The administration's proposal to reauthorize PHMSA goes
2003 even further than current law in proposing to criminalize
2004 rightful peaceful protests in the name of pipeline safety.

2005 I would imagine we can all agree that an effort to
2006 sabotage or physically damage a pipeline is one thing -- gun
2007 or explosives or, again, some other way to damage the
2008 integrity of the actual infrastructure -- but a very
2009 different exercise to use one's free speech rights to

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2010 peacefully protest a proposed construction project under
2011 construction.

2012 So, Mr. Lesniak, how can we ensure that balance between
2013 First Amendment community voices and meaningful dissent are
2014 protected in our pipeline safety efforts and how can we
2015 better account for tribal indigenous rights?

2016 Mr. Lesniak. I think the Pipeline Safety Trust has
2017 spoken clearly about if anyone takes action to damage or
2018 disrupt the operation of a pipeline that's wrong and it's not
2019 safe and it threatens the public safety and threatens the
2020 environment, and that ought to be addressed.

2021 However, legitimate dissent and protests by the public
2022 should be clearly protected. In the state of Texas, the
2023 state legislature recently has criminalized legitimate
2024 dissent and it's wrong and that should not happen.

2025 But as long as we are protecting the pipelines and those
2026 operations that's what we should do if it creates a public
2027 safety threat. Otherwise, Congress should stay out of it.

2028 Mr. Kennedy. All right. Any additional comments from
2029 anybody else?

2030 Mr. Black?

2031 Mr. Black. AOPL would like to deter attacks on
2032 pipelines that could harm the environment or the public or
2033 the assailants themselves.

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2034 We are not trying to deter peaceful nonviolent protests.

2035 Mr. Kennedy. Appreciate that.

2036 I yield back. Thank you.

2037 Mr. Rush. The chair recognizes Mr. Kinzinger for five
2038 minutes.

2039 Mr. Kinzinger. Well, thank you, Mr. Chairman. Again,
2040 thank you all for being here today. We appreciate it.

2041 I would like to start with cybersecurity and some of the
2042 questions I am going to ask -- I know we've already touched
2043 on these topics -- but I do have different questions on them.

2044 I don't believe we can separate pipeline safety from
2045 pipeline security. Multiple federal agencies have a role to
2046 play when it comes to pipeline cybersecurity.

2047 Given that the DOE is already the lead sector-specific
2048 agency for energy and given the fact that they already have
2049 tremendous experience and resources dedicated to pipeline
2050 cybersecurity, especially through the National Labs, I think
2051 we need to address this in the pipeline safety bill.

2052 So for Mr. Black, Ms. Sames, and Mr. Osman, each of you
2053 have supported H.R. 370, the Pipeline and LNG Facility
2054 Cybersecurity Preparedness Act.

2055 Would any of you have any objection to including it in
2056 the Pipeline Safety Reauthorization and specifically if you
2057 do, why? We'll start with you.

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2058 Ms. Sames. We are supportive of the coordination role,
2059 which is in that bill. So I think there is -- I would have
2060 to see -- I am an engineer.

2061 Mr. Kinzinger. I understand.

2062 Ms. Sames. That means I need the details.

2063 Mr. Kinzinger. Yes.

2064 Ms. Sames. But, in theory, yes, we could probably
2065 support.

2066 Mr. Kinzinger. I am a politician. We need details,
2067 too, before we commit to anything.

2068 [Laughter.]

2069 Mr. Kinzinger. Because it always come back to get us.

2070 Mr. Black. The public-private collaboration in
2071 cybersecurity has been good and, as you say, multiple
2072 agencies should have roles.

2073 We were proud to support the bill through the committee
2074 process. We encourage on cyber a holistic approach so that
2075 you don't have duplication of government agencies,
2076 conflicting guidance to all of us.

2077 So we think that means involving intelligence
2078 committees, transportation committees. I would discourage
2079 you from linking the two on legislation. We want
2080 reauthorization legislation to pass.

2081 I think if you do both of them together, it slows

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2082 reauthorization. That's your prerogative.

2083 But if you're trying to achieve both, I would recommend
2084 you do them separately.

2085 Mr. Kinzinger. Okay.

2086 Ms. Sames. And I agree with Mr. Black on that.

2087 Mr. Kinzinger. All right.

2088 Mr. Osman. I agree with my colleagues. You know, we
2089 advocate for a comprehensive government wide approach to
2090 pipeline cybersecurity, collaboration and coordination
2091 between the different agencies that have different important
2092 roles.

2093 I am sure Mr. Black's concerned that, you know, bringing
2094 it into the reauthorization bill could slow down a timely
2095 reauthorization. But other than that, it's certainly your
2096 prerogative.

2097 Mr. Kinzinger. Understood.

2098 In December of 2012 -- in the December 2018 report GAO
2099 significantly raised concerns about TSA's pipeline security
2100 program. I am concerned that the TSA is not prioritizing
2101 pipeline security as they should.

2102 For example, it's already been mentioned that they have
2103 over 50,000 employees but only six were assigned to pipeline
2104 security as of last year.

2105 Mr. Osman, are you concerned about TSA staffing issues

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2106 and have you made any recommendations to improve that
2107 situation?

2108 Mr. Osman. Thank you for the question. Oh, I am on.

2109 Thank you for the question. Certainly it's important
2110 that TSA is the lead safety regulator, has the resources that
2111 they need.

2112 Our association, INGAA, along with the other
2113 associations represented at the table, have made
2114 appropriations recommendations do increase the funding that
2115 TSA has to increase the resources that they can bring to the
2116 table.

2117 We have seen over the last year, certainly due to the
2118 pressure from this committee and others, a concerted effort
2119 at TSA to adopt the recommendations that the GAO gave them to
2120 improve their performance.

2121 They've rolled out a new pipeline cybersecurity
2122 assessment initiative, which we are participating in actively
2123 and it's helped a lot.

2124 Mr. Kinzinger. Okay. Great.

2125 And are you concerned -- well, I will say this. TSA
2126 conducts interviews with operators, known as the corporate
2127 security reviews. But TSA doesn't track the information or
2128 use it to measure risk.

2129 Are you concerned about the way these corporate security

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2130 reviews are being conducted or and do you have any
2131 recommendations on that level either?

2132 Mr. Osman. As I mentioned, that program has evolved to
2133 this newer pipeline cybersecurity initiative. We know that
2134 they're implementing their recommendations to the GAO, which
2135 included some of the tracking and data collection that you're
2136 talking about. So we'll need to keep watching that and see
2137 how it --

2138 Mr. Kinzinger. But you feel like we are on a
2139 comfortable track with that? A good start at it?

2140 Mr. Osman. Yes. A good start.

2141 Mr. Kinzinger. Okay.

2142 Mr. Osman. That's the way we'd put it.

2143 Mr. Kinzinger. Hopefully, a good ending, too.

2144 Mr. Black, are attacks on pipelines an ongoing problem
2145 and how are the attacks on pipeline facilities a threat to
2146 safety and public -- of the public and the environment?

2147 I am sure you have answered this in numerous ways but --

2148 Mr. Black. In 2016, there was a coordinated series of
2149 attacks where people broke chains, opened perimeter fencing,
2150 and tried to turn valves on pipelines, covering about 15
2151 percent of our daily crude oil use.

2152 Thankfully, they did not result in a rupture but they
2153 could have by improperly forcing closed a valve. 2017 there

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2154 was an attack. 2019 there was an attack.

2155 There was an attack on a pipeline just before it started
2156 in operation. If it had started operation without that
2157 damage being addressed, it would have caused a problem. We
2158 believe there are loopholes in federal law on operating -- on
2159 construction and on actions that don't damage or destroy but
2160 that could that need to be closed by Congress so that we
2161 deter these attacks.

2162 Mr. Kinzinger. Thank you, and as a guy that lives on
2163 top of a bunch of pipelines and near them, they're really
2164 important. But this is a very important issue as well. So I
2165 thank you and I yield back.

2166 Mr. Rush. The chair now recognizes Mr. Veasey for five
2167 minutes.

2168 Mr. Veasey. Thank you, Mr. Chairman, for holding this
2169 hearing to talk about pipeline safety. I think that all of
2170 us can agree that we do not want to lose another life and
2171 that we do not want to incur any further damage because these
2172 pipeline explosions can be absolutely devastating, including
2173 death.

2174 And I would also like to thank Chairman Pallone and
2175 Congresswoman Lori Trahan for their efforts to prevent deadly
2176 pipeline explosions like the one that happened in the
2177 district that I represent in Dallas where we lost 12-year-old

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2178 Linda "Michellita" Rogers last year in the city of Dallas.

2179 We have to do everything that we can to, obviously, prevent
2180 us having another incident like that. I don't know if that's
2181 something that all of you sitting at the table would agree
2182 with.

2183 One powerful tool we have as lawmakers is the imposition
2184 of civil penalties to make sure that people are doing
2185 everything they can to prevent another incident like what
2186 happened in Massachusetts, like what happened in Dallas, from
2187 ever occurring again, to make sure that people aren't putting
2188 profits ahead of people. I think that everyone would also
2189 agree that you don't want to put profits ahead of people.

2190 In the state legislature in Texas this year, my former
2191 colleague, State Representative Rafael Anchia from Dallas, he
2192 was able to get a pipeline safety bill passed but as a
2193 companion piece on the federal end.

2194 Representative Trahan's Pipeline Safety Act bill would
2195 increase penalties for companies that violate the law up to
2196 \$200 million for the most egregious violations.

2197 And I wanted to ask Mr. Lesniak while the civil
2198 penalties alone cannot prevent tragedies like the ones I just
2199 mentioned from happening again, in your opinion how would the
2200 increases in penalties included in the Congresswoman Trahan's
2201 bill impact the decisions that are made by these pipeline

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2202 operators?

2203 Mr. Lesniak. I think anytime that we make substantive
2204 substantial penalties for bad actors it's a good thing. They
2205 will be more likely to take it account.

2206 You know, I work with pipeline operators all the time in
2207 my role on the technical advisory committee and working with
2208 the Pipeline Safety Trust in PHMSA and those companies that
2209 engage in those processes on a regular basis those are
2210 generally the good operators.

2211 We write regulations and create penalties for the bad
2212 actors and you need to make it so that they think twice
2213 before they don't do things that they know they ought to be
2214 doing.

2215 Mr. Veasey. Pipeline industry associations develop
2216 operating best practices based on the recommendation of their
2217 engineers and experts. Where appropriate where do you think
2218 PHMSA can take advantage of these best practices that improve
2219 pipeline safety?

2220 Anyone can answer that.

2221 Mr. Osman. Thank you for the question. What's
2222 important is that PHMSA continues to embrace the latest
2223 technologies and engineering practices that those -- that
2224 those consensus technical standards represent.

2225 In PHMSA's bill, they draft legislation. They have

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2226 proposed some language along those lines to require the
2227 agency to continue to be focused on ensuring the latest
2228 engineering technical standards and incorporated into its
2229 regulations, and that's important because we have a lot of
2230 standards in there right now that are many decades old, for
2231 example, the fundamental gas transmission pipeline standards,
2232 ASME -- American Society of Mechanical Engineers -- B31.8S.

2233 The version that's incorporated in the regulations today
2234 was written in 2004. There's been five versions published
2235 since then, each one better than the last.

2236 So, you know, this is an opportunity to by simply
2237 changing some references, doing a quick review of the new
2238 documents to demonstrably improve pipeline safety with
2239 relatively little effort.

2240 Mr. Veasey. I know that on the first -- at a pipeline
2241 safety oversight hearing that there was concern about rule
2242 making taking too long to complete. What do you think that
2243 we can do to help speed that up and help make that situation
2244 better?

2245 Mr. Osman. Thank you for the question. Now, part of
2246 it, as my colleague, Mr. Black, mentioned earlier, is doing
2247 what you all are doing to encourage PHMSA about what the
2248 priorities really are to get those mandates done.

2249 We do think that PHMSA made a mistake in years past by

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2250 trying to lump just to many different unrelated initiatives
2251 together and that slowed down every step in the process from
2252 A to Z.

2253 I think also opportunities to look at resource levels in
2254 PHMSA with provisions like the subcommittee's draft direct
2255 hire proposal could go a long way to help as well.

2256 Mr. Black. With your interest in best practices of
2257 mechanical engineers and other technical experts, you have
2258 got an opportunity. We've discussed here about best
2259 practices that have been updated.

2260 But those updates have not been incorporated in the
2261 federal regulations. Those updates require all operators to
2262 comply. So you have got the opportunity and the
2263 administration's recommendation to require PHMSA to regularly
2264 review updates and to decide to incorporate.

2265 That's Congress setting a priority for PHMSA of
2266 harnessing new technology. Just as Mr. Osman said for
2267 natural gas, the same is true on liquids.

2268 We've got a recommended practice 1160 on integrity
2269 management inspection and maintenance. Let's get those
2270 updates rolled into regulations.

2271 Mr. Veasey. Thank you, Mr. Chair. Yield back the
2272 balance.

2273 Mr. Rush. The chair now recognizes Mr. Johnson for five

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2274 minutes.

2275 Mr. Johnson. Thank you, Mr. Chairman, and thanks for
2276 conducting this hearing today. Really important topic, and I
2277 hope that as we move forward our Energy and Commerce majority
2278 will seek to make this historically bipartisan process just
2279 that -- bipartisan.

2280 We should not be playing politics with pipeline safety
2281 but instead, we should be working on a bill that has received
2282 proper and necessary technical feedback from PHMSA and all
2283 members of this committee.

2284 We all want to produce a bill that can help address the
2285 current challenges and opportunities of our pipeline system.

2286 We all want a bill that promotes safety, allows for
2287 technological innovation and correctly addresses emerging
2288 physical and cyber threats.

2289 That's the bill we should all be working on and I hope
2290 we can eventually work together on those issues.

2291 Ms. Sames, we obviously need to do everything we can to
2292 minimize events within our pipeline infrastructure. I think
2293 everyone shares that goal.

2294 Everyone would also agree that it is incumbent on this
2295 committee and industry to ensure that we are doing everything
2296 we can to correctly respond to those incidents when they,
2297 unfortunately, occur.

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2298 So when pipeline incidents do occur, how do gas
2299 utilities communicate with first responders and how can we
2300 here in Congress help improve that communication?

2301 Ms. Sames. Because our companies -- the distribution
2302 companies are in the communities that they serve it's a much
2303 closer relationship. We are doing immediate outreach.

2304 We are doing outreach in advance to make sure that the
2305 emergency responders in that area know where the pipelines
2306 are and what's in those particular lines -- the distribution
2307 lines.

2308 Because we have so many excavation damages --
2309 individuals hitting our lines because they're not either
2310 calling before they dig or they're not abiding the lines --
2311 we have a lot of opportunities to do emergency response on
2312 the distribution side.

2313 So they know us. They know us well. They're
2314 coordinating with us. We do incident command structure
2315 similar to the fire departments so that when we are on the
2316 scene they know that their job is to keep things safe until
2317 we get there. Our job is to make sure that the pipeline
2318 stays safe.

2319 So it's a nice tag team between the two. On the
2320 information that they need, it's that close coordination in
2321 advance and good coordination and communication once on site.

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2322 Mr. Johnson. Okay. Can you talk briefly about the
2323 importance of allowing operators to make -- to successfully
2324 perform an initial assessment after an incident? I mean,
2325 what arises if someone makes a wrong assessment?

2326 So tell me -- tell me what you think about operators
2327 doing the initial assessment.

2328 Ms. Sames. So what could happen if somebody makes a
2329 wrong assessment and one of our concerns has always been some
2330 emergency responders are very gung ho. They see a fire.
2331 They want to make sure that things are taken care of and we
2332 try our best to make sure that they're not turning valves
2333 because as was heard earlier, you turn the wrong the valve
2334 and many bad things can happen.

2335 So on the assessment after an incident, after we get
2336 onsite it's what occurred, how did it occur, who was
2337 involved. We are trying to gather as much information as
2338 possible so that we can make the right decisions.

2339 Mr. Johnson. And no one better than the operators are
2340 poised to do that assessment. Wouldn't you agree?

2341 Ms. Sames. We are the technical experts.

2342 Mr. Johnson. Yes.

2343 Ms. Sames. So we should know our lines. We should be
2344 familiar with our lines. We should know everything about
2345 them.

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2346 Mr. Johnson. Okay. All right.

2347 Mr. Black, a bipartisan concern expressed at the May 1st
2348 pipeline safety oversight hearing was PHMSA taking too long
2349 to complete their mandated rulemakings.

2350 What can we do to help that situation?

2351 Mr. Black. First, to encourage PHMSA to not lump too
2352 many complex issues into large rulemakings that overwhelm the
2353 process.

2354 Second, help them gain information. We've got a
2355 recommendation from AOPL that the administration made to
2356 follow something with some of the motor carrier statute that
2357 allows a pilot program. PHMSA, at its discretion, can choose
2358 certain operators to test new technologies and approaches
2359 that I believe should have an equivalent level of safety.
2360 Then they can gather information from that.

2361 Mr. Johnson. Some have expressed concerns that the
2362 requirement for PHMSA to do a cost-benefit analysis of their
2363 rule is partially to blame. Do you -- do you see that?

2364 Mr. Black. No, sir. Not at all. It's going to be
2365 required ultimately because of executive order. It should be
2366 done early. It should be done and vetted with a stakeholder
2367 group as it is today with the advisory committees.

2368 Mr. Johnson. Okay. Thank you. I yield back.

2369 Mr. Rush. The chair now recognizes the gentleman from

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2370 Arizona, Mr. O'Halleran, for five minutes.

2371 Mr. O'Halleran. Thank you, Mr. Chairman, Ranking Member
2372 Upton, and our witnesses here today to discuss the
2373 legislative proposals before us to reauthorize the national
2374 pipeline and safety framework.

2375 While I know there are various perspectives being
2376 represented on our witnesses' panel today, I would like to
2377 echo the chairman's remarks and that this is simply the
2378 continuation of our conversation on pipeline safety and this
2379 bill will evolve from where it is today.

2380 I look forward to working with my colleagues on both
2381 sides of the aisle on a bipartisan framework which truly
2382 provides public safety and oversight of our pipeline
2383 infrastructure.

2384 Ms. Sames, you mentioned during part of the discussion
2385 on pipeline safety -- you used the word proper resources. Do
2386 we have the proper resources?

2387 Is there the proper funding out there in the field from
2388 both the federal government, the state government, and others
2389 that -- in the industry to be able to address the safety
2390 issues for our citizens?

2391 Ms. Sames. I think PHMSA could use some additional
2392 funding. I also think that they've done a really good job
2393 revamping their training program for both federal and state

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2394 regulators.

2395 I think it can -- I think additional funding there can
2396 also help. I've heard concerns that it can take a little
2397 while for the inspectors to get through that training.

2398 So additional resources would help with that training
2399 portion. Also, research -- you have already heard me say I
2400 think they need additional money for research and development
2401 so that they can implement pilots, move technology forward,
2402 implement pilots, and get the technology out in the field
2403 faster than it is currently.

2404 On the state side, the states need more funding. They
2405 need the ability to pay their inspectors more. They need the
2406 proper training. So I am a fan of both.

2407 Mr. O'Halleran. Thank you.

2408 Mr. Lesniak, I think it was you that mentioned bad
2409 actors. How do you define bad actors and what is the
2410 industry doing within itself to identify who these are and to
2411 address those issues?

2412 Mr. Lesniak. You know, over the last 20 years that I've
2413 been involved in pipeline issues, you know, I've dealt with
2414 operators that are really good. They're very proactive.

2415 They go well above and beyond the minimum standards in
2416 the regulations and I've also dealt with pipeline operators
2417 that do the bare minimum and sometimes not even that, and

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2418 that's how I would define a bad actor is an operators that's
2419 just doing the bare minimum or less.

2420 Mr. O'Halleran. And what is the industry, to your
2421 knowledge, doing to address that and call out those bad
2422 actors?

2423 Mr. Lesniak. You know, I think my colleagues here on
2424 the panel, you know, their industry is doing training.
2425 They're doing outreach. But, you know, I suspect that they
2426 would tell you that you can lead a horse to water but you
2427 can't always make them drink.

2428 Mr. O'Halleran. Well, I will go down that road another
2429 time.

2430 [Laughter.]

2431 Mr. O'Halleran. Mr. Osman, I just wanted to point out
2432 that you also mentioned the concern with some of the
2433 financial issues as it relates to getting regulatory issues
2434 taken care of, and I just wanted to identify the overall
2435 issues out here.

2436 Mr. Black, in PHMSA's recent legislative proposal to
2437 Congress for the reauthorization of the Pipeline Safety Act
2438 it includes the authority for PHMSA to evaluate and implement
2439 a safety incentives program for operators who voluntarily
2440 exceed minimum federal standards for pipeline safety.

2441 It also proposes a pipeline safety technology program to

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2442 test the latest technologies in controlled real-world
2443 settings.

2444 Do you believe these proposals deserve more
2445 consideration as we move beyond today's proposed discussion
2446 drafts? Why or why not?

2447 Mr. Black. Thank you, Congressman. The second one you
2448 mentioned, the pilot program, we particularly encourage. We
2449 think it's going to lead to quicker rule makings and better
2450 use of technology.

2451 We suggest two additions to what the administration
2452 suggested: one, reporting to Congress and the public about
2453 the lessons from them; two, a requirement that they roll
2454 those positive lessons into future regulations.

2455 The first one that you mentioned is interesting on -- in
2456 safety incentives. It may be more gas focused. I would be
2457 interested to learn more about that. And on your question
2458 about resources, the problems that we have heard is PHMSA's
2459 difficulty through the federal hiring process and the
2460 salaries that it can pay to hire quality inspectors and then
2461 to retain them when they have lucrative options, including in
2462 the private sector.

2463 So we recommended Schedule A hiring authority, if that
2464 helps. The direct hire authority from the subcommittee's
2465 discussion draft, that could be the way to go. We've

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2466 supported that as well.

2467 We want PHMSA to be able to attract and retain quality
2468 inspectors.

2469 Mr. O'Halleran. Well, given the time, I have some more
2470 questions. I will put those in writing. But I just -- my
2471 background in law enforcement tells me that you have to have
2472 consistency.

2473 You have to have enough personnel to identify the issues
2474 and to address them in a timely manner and you have to be
2475 proactive about these issues.

2476 And it is apparent, now that all four of you have
2477 identified funding as a crucial issue and retention now also,
2478 that we need to find a way to address those issues.

2479 And I yield.

2480 Mr. Tonko. [Presiding.] The gentleman yields back.

2481 The chair now recognizes Representative Flores for five
2482 minutes.

2483 Mr. Flores. Thank you, Chairman, and Leader Upton, I
2484 appreciate you all holding today's hearing. I share many of
2485 the concerns that have been expressed on this side of the
2486 aisle today at the dais regarding the -- this discussion
2487 draft and the process by which it has come in front of us
2488 today.

2489 In particular, I am still waiting on information from

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2490 the May hearing with PHMSA, and I understand the majority has
2491 not submitted our written request yet to the witnesses from
2492 that hearing, and those requests included my own so I am
2493 hoping that the majority will hurry up and get that to the
2494 witnesses.

2495 It seems reasonable to me that before we start working
2496 on legislation we'd at least have a complete record from the
2497 prior hearing before we move forward in the legislative
2498 process.

2499 I would first like to talk about pipeline vandalism.
2500 PHMSA has proposed strengthening the existing criminal
2501 measures for attacking a pipeline facility. We've also
2502 received a letter that Mr. Black spoke of earlier in his
2503 opening statements in support of this provision from some of
2504 the unions that are involved in the construction operation of
2505 pipelines.

2506 And, Mr. Chairman, I would like to ask for unanimous
2507 consent that this support letter from these four unions be
2508 entered into the record.

2509 Mr. Tonko. Without objection.

2510 [The information follows:]

2511

2512 *****COMMITTEE INSERT*****

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2513 Mr. Flores. Thank you, Mr. Chairman.

2514 I support this proposal from PHMSA, especially in light
2515 of several high profile attacks on pipelines involving so-
2516 called valve turners.

2517 These dangerous stunts not only endanger lives; they
2518 damage property. They damage the environment and can have
2519 significant economic consequences.

2520 To all our witnesses, do you agree that this activity is
2521 dangerous?

2522 Ms. Sames?

2523 Ms. Sames. Yes.

2524 Mr. Flores. Okay. Mr. Lesniak?

2525 Mr. Lesniak. Yes.

2526 Mr. Flores. Okay. Mr. Black?

2527 Mr. Black. Yes.

2528 Mr. Flores. Mr. Osman?

2529 Mr. Osman. Absolutely.

2530 Mr. Flores. Would each of you support strengthening
2531 criminal standards to discourage people from damaging
2532 pipeline facilities?

2533 Ms. Sames?

2534 Ms. Sames. Yes.

2535 Mr. Flores. Mr. Lesniak?

2536 Mr. Lesniak. We'd need to look at the proposal.

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2537 Mr. Flores. Okay. Mr. Black?

2538 Mr. Black. Yes.

2539 Mr. Flores. Mr. Osman?

2540 Mr. Osman. Yes.

2541 Mr. Flores. Okay. Great. Thanks.

2542 Mr. Black, Ms. Sames and Mr. Osman, pipelines are among
2543 -- we all know this -- pipelines are among the safest and
2544 most efficient way to deliver natural gas and petroleum
2545 products to the consumer.

2546 What are some of the significant trends across the
2547 industry to improve pipeline safety? If you can spend about
2548 20 seconds each on what some of the significant trends are to
2549 improve safety today?

2550 Ms. Sames. When I look at the distribution incidents,
2551 the ones that cause death and injury, the leading two causes
2552 are excavation damage and vehicles hitting above-ground
2553 pipelines.

2554 Those are the top two. So there's a lot of effort to
2555 promote 811 -- Call Before You Dig. It's a free service. We
2556 need more people calling before they dig.

2557 On individuals hitting our lines with vehicles, we are
2558 trying to figure out how do you stop people from going
2559 through a field and hitting a pipeline. I am still
2560 struggling with that one.

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2561 Mr. Flores. No, I understand.

2562 Mr. Black?

2563 Mr. Black. So we are the safest method of transporting
2564 fuels but we are not at the goal of zero incidents that we
2565 want to be. Those trends are reviewed every year in our
2566 strategic plan.

2567 Currently, we are very excited about two things: one,
2568 increased technology through in-line inspection devices, and
2569 two, improve safety culture through industry wide
2570 implementation of safety management systems.

2571 Mr. Flores. Mr. Osman?

2572 Mr. Osman. In the early 2000s, Congress directed PHMSA
2573 to implement an integrity management program. Since that
2574 time, we've seen great improvement in the areas that that
2575 program was designed to address -- threats like corrosion,
2576 threats like cracking on pipelines -- and PHMSA is very close
2577 to completing the rulemaking to expand that to a much wider
2578 degree of pipelines and also to implement newer technologies.
2579 So we are excited to see that happen.

2580 Mr. Flores. In the last minute that I have left, Ms.
2581 Sames, as you know, 43 states and the District of Columbia
2582 have pipeline replacement programs as part of their statutes.

2583 In Texas, we have a risk-based program that requires
2584 operators to survey their pipelines for the greatest

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2585 potential threats for failure and to make replacements.

2586 Our pipeline company is required to develop a
2587 prioritized schedule for replacement and in some ways our
2588 Texas regulations are more -- Texas regulations are more
2589 stringent than PHMSA's.

2590 Generally speaking, how are these pipeline replacement
2591 programs funded and what are some of the constraints to
2592 further accelerate the replacement of aging pipelines?

2593 Ms. Sames. So each operator is working closely with our
2594 state commission on replacement programs. They're proposing
2595 here's what we want to replace.

2596 Here's the time line for replacement. It's all risk-
2597 based. So that -- and try to be done in a way at the least
2598 cost to the customers.

2599 On faster, that's a bit of a challenge because you need
2600 qualified individuals in order to do the work. You do it too
2601 fast, you get -- I don't want that. So there's a good
2602 balance. There needs to be a balance between how quickly you
2603 replace with a qualified workforce so you have your quality.

2604 And going back to your last question, I apologize; none
2605 of us mentioned that the other thing that we are doing to
2606 advance is sharing of information. We do it through
2607 conferences, workshops, technical papers. So something else.

2608 Mr. Flores. Best practices you're talking about?

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2609 Ms. Sames. That is correct.

2610 Mr. Flores. Okay. Thank you for -- all the witnesses
2611 for being here today and I yield back the balance of my time.

2612 Mr. Tonko. The gentleman yields back.

2613 The chair recognizes himself for five minutes.

2614 My understanding is that the 2011 Pipeline Safety bill
2615 included a number of required rule makings for PHMSA, many of
2616 which are not completed eight years later, and I know that
2617 Representative McNerney had asked the panel about the reasons
2618 for those delays.

2619 But, Mr. Lesniak, I want to come back to you and ask you
2620 to more fully develop, if you would, PHMSA's cost-benefit
2621 requirements. Are they a hindrance to getting required rule
2622 makings completed in a timely manner and can you give us some
2623 more information in that regard?

2624 Mr. Lesniak. You know, as I said before, the Pipeline
2625 Safety Trust does think that that is one of the significant
2626 hindrances. There are other issues as well.

2627 But it's a duplicative process and unreasonably slows
2628 the process, and I think if that part of it was eliminated it
2629 would help move things along.

2630 Mr. Tonko. And what areas of duplication are the most
2631 concerned?

2632 Mr. Lesniak. There's an OMB -- there's a similar cost-

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2633 benefit analysis that's required by the OMB, and so why are
2634 we doing it two times. You know, we are not clear on that.

2635 Mr. Tonko. Okay. I thank you for that.

2636 And what about NTSB itself? What about recommendations
2637 there? Are there still outstanding recommendations that
2638 haven't been implemented?

2639 Mr. Lesniak. There are. There are recommendations from
2640 NTSB that go way back, many that are supported by the
2641 industry and that -- I think that NTSB recommendations,
2642 because they're an independent organization from the industry
2643 -- from PHMSA itself, I think those recommendations ought to
2644 be taken seriously and prioritized for implementation.

2645 Mr. Tonko. And does the bill that we address here today
2646 with these hearings help improve that in any way?

2647 Mr. Lesniak. It does, but it could go further. There
2648 are specific recommendations for providing information to
2649 emergency responders that NTSB has recommended that are not
2650 included and we think that those should be included.

2651 Mr. Tonko. Okay, and is leak detection technology an
2652 effective method to protect communities?

2653 Mr. Lesniak. It is, and it ought to be required with an
2654 effectiveness -- with a standard for the effectiveness of
2655 that leak detection technology.

2656 Mr. Tonko. And so stronger requirements --

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2657 Mr. Lesniak. Yes.

2658 Mr. Tonko. -- for that detection system would be an
2659 improvement for --

2660 Mr. Lesniak. Yes.

2661 Mr. Tonko. Do any of our other witnesses have
2662 recommendations on NTSBs? Recommendations?

2663 Yes, Mr. Osman.

2664 Mr. Osman. Thank you for the question.

2665 We agree. NTSB recommendations are important and should
2666 be given great consideration by PHMSA, by the industry, by
2667 all of us. As we've said a few times, the pending rule
2668 makings that we believe PHMSA will complete this year will
2669 close out many outstanding NTSB recommendations and we think
2670 that's critical.

2671 Mr. Tonko. Mr. Black, you had some comments you wanted
2672 to share?

2673 Mr. Black. The primary discussion we are having with
2674 the NTSB right now is they're encouraging operators of all
2675 different pipeline segments to implement safety management
2676 systems.

2677 We are doing a lot of workshops. We are encouraging
2678 pipeline operators to do that. The NTSB said the response by
2679 the industry exceeded expectations and we are learning from
2680 them.

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2681 Mr. Tonko. Okay. Thank you very much.

2682 And Ms. Sames?

2683 Ms. Sames. Yes, and the only thing that I would add is
2684 with the NTSB recommendations there -- we are typically
2685 looking at what's the intent behind that particular
2686 recommendation.

2687 There is some recommendations that may not be practical
2688 in the real world and those -- in the conversations with them
2689 they'll say, you know, we are looking further out; where
2690 could technology be in 10 years, 15 years, 20 years. Whereas
2691 the industry is looking at what can we do right now to meet
2692 the intent of what you want.

2693 So I am always looking at how can I meet what you will
2694 want but maybe in a more practical way.

2695 Mr. Tonko. Okay. Is there an example that you could
2696 share?

2697 Ms. Sames. Sure. For example, the NTSB had a
2698 recommendation to make all pipelines piggable and when I
2699 looked at it I said, well, there's two options.

2700 You can either dig up a lot of pipelines and replace
2701 them or you can create a new technology that will get through
2702 all the pipelines, because right now not all pipelines are
2703 piggable.

2704 You cannot run an inline inspection in all pipelines

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2705 because it's not -- because of lack of pressure, because of
2706 turns, because of valves. There's a lot of different
2707 criteria that don't make a certain pipeline piggable. But if
2708 we advance technology we can get there.

2709 Mr. Tonko. Thank you. Thank you very much.

2710 The chair now recognizes Mr. -- Representative Walberg
2711 for five minutes.

2712 Mr. Walberg. Thank you, Mr. Chairman. And today's
2713 hearing is very important. I think we all agree with that,
2714 and while I share some of the concerns of my colleagues about
2715 process and policy in the -- in the discussion draft, I am
2716 hopeful that we can find bipartisan consensus as we move
2717 forward and we thank the panel for being here to help us in
2718 that process.

2719 Mr. Osman, in your testimony you emphasize the
2720 importance of direct assessment. It seems like we should be
2721 adding tools to PHMSA's toolbox, not taking them away.

2722 Can you describe what they are, these tools, and when
2723 they are most appropriate for use?

2724 Mr. Osman. Sure. Thank you.

2725 Direct assessment is an important safety technology in
2726 our toolbox. It involves looking for the precursors that
2727 might predict potential corrosion on a pipeline and going out
2728 and making excavations and actually looking at the pipe to

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2729 understand if it's actually occurring.

2730 It's a tool that we use when other types of assessment
2731 methods are not possible or not available. My colleague, Ms.
2732 Sames, just mentioned certain pipelines that can't
2733 accommodate internal inspection devices. That's one example
2734 of when we might use that technology and, you know, there's
2735 just always going to be certain areas of the pipe they can't
2736 use those internal inspection devices.

2737 Also, sometimes there's a pipeline that cannot be shut
2738 down without having significant impacts to the folks who rely
2739 on that natural gas. So you wouldn't want to use an
2740 assessment method like hydrostatic pressure testing that
2741 requires a pipeline shutdown. It's another example of a good
2742 opportunity to use a direct assessment.

2743 Mr. Walberg. Mr. Black, how does direct assessment
2744 compare to other assessment methods in terms of preventing
2745 future pipeline integrity issues as opposed to finding
2746 existing problems?

2747 Mr. Black. Well, for liquids it's also an important
2748 tool in areas that cannot be pigged. Example is facility
2749 piping where you still want to do that type of inspection but
2750 you can't get an inline inspection device there.

2751 So we would not support a provision to eliminate that
2752 important tool. It wouldn't help safety.

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2753 Mr. Walberg. Okay.

2754 Ms. Sames, are there situations where direct assessment
2755 of pipelines is more appropriate than other methods when
2756 conducting pipeline integrity assessments?

2757 Ms. Sames. Direct assessment is a predictive model.
2758 It's predicting where corrosion should be and where you have
2759 the potential for corrosion to occur in the future, whereas
2760 for inline inspection it's what's already occurred.

2761 So if you're an operator that wants to predict where
2762 corrosion could be occurring you want direct assessment
2763 because it's helping you with those predictions and you're
2764 also digging up the line when you're doing direct assessment
2765 to confirm what you're finding.

2766 Mr. Walberg. Okay.

2767 Moving on and switching gears here a little bit, Mr.
2768 Osman, in PHMSA's draft proposal there was a placeholder for
2769 a voluntary information sharing program.

2770 This is something I am very interested in and would like
2771 to get stakeholder feedback on. So do you think Congress
2772 should authorize such a program in our pipeline safety
2773 reauthorization this Congress?

2774 Mr. Osman. Yes, absolutely. That would go a long way
2775 to helping us share the information we need to prove our
2776 safety performance.

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2777 Mr. Walberg. Mr. Black?

2778 Mr. Black. Yes, we'd agree. We'd encourage Congress to
2779 look at the report issued by a multi-stakeholder group that
2780 took years to work on this. Not everything in the
2781 administration proposal included what the report includes.

2782 Mr. Walberg. Okay. Ms. Sames?

2783 Ms. Sames. Yes, and the administration bill, as Mr.
2784 Black indicated, doesn't quite go far enough. In my opinion,
2785 for example, it doesn't include distribution systems.

2786 And so representing the distribution industry, we've
2787 been pushing for that sharing of information to go throughout
2788 the entire network.

2789 Also, make sure the protections are there so that
2790 individuals sharing the information know they're protected
2791 from voluntarily providing safety concerns, safety issues.

2792 They are findings very similar to the FAA, making sure
2793 that's in place, and then finally, incentives. If I am an
2794 operator and I am concerned that not all the protections are
2795 there, I am probably going to be hesitant to share
2796 information.

2797 So anything that can encourage the sharing of
2798 information, even if it's as simple as PHMSA saying we are
2799 getting information from this particular operator, that would
2800 be good.

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2801 Mr. Walberg. Other areas, Mr. Black and Mr. Osman, on
2802 this liability protection that you would suggest?

2803 Mr. Black. Well, we would encourage PHMSA and Congress
2804 to encourage PHMSA to encourage voluntary self-reporting so
2805 that pipeline operators will identify, disclose, correct.

2806 Right now they have that discretion but they use it very
2807 infrequently and it's not providing the incentive that it
2808 needs. That's an option to improve safety.

2809 Mr. Walberg. Well, my time has expired so I yield back.

2810 Mr. Rush. [Presiding.] I want to thank the gentleman
2811 for yielding back.

2812 That concludes our panel and I want to thank each and
2813 every one of you for joining us today and for sharing your
2814 time and your thoughts, your insights with us, and we will
2815 continue to work with you as we proceed in the future.

2816 Thank you so very much.

2817 There's a request for unanimous consent to enter into
2818 the record the following letters and other documents from
2819 associated entities, including a letter from the National
2820 Society of Professional Engineers, a letter from Aclara
2821 Technologies, LLC, a letter from the American Petroleum
2822 Institute, a letter from the GPA Midstream Association, a
2823 letter from the International Union of Operating Engineers,
2824 Laborers' International Union of North America, the North

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2825 American Building Trade Unions and United Association of
2826 Plumbers and Pipefitters, an analysis and draft proposal of
2827 the Protecting Our Infrastructure of Pipelines and Enhancing
2828 Safety Act of 2019 from the Pipeline and Hazardous Material
2829 Safety Administration, technical drafting assistance of the
2830 Safer Pipeline Act of 2019 from the Pipeline and Hazardous
2831 Materials Safety Administration, and finally, a letter from
2832 the National Association of Corrosion Engineering.

2833 And without objection, these -- this is so ordered.

2834 [The information follows:]

2835

2836 *****COMMITTEE INSERT*****

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within may be inaccurate, incomplete, or misattributed to the
speaker. A link to the final, official transcript will be
posted on the Committee's website as soon as it is available.

2837 Mr. Rush. I want to thank again the witnesses and I
2838 will remind the members the pursuant to committee rules they
2839 have 10 business days to submit additional questions for the
2840 record to be answered by the witnesses who have appeared, and
2841 I ask each witness to respond promptly to any such questions
2842 that you may receive.

2843 Seeing a consent from the witnesses, at this time the
2844 subcommittee stands adjourned.

2845 [Whereupon, at 12:49 p.m., the subcommittee was
2846 adjourned.]