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Answers to Witness Questions submitted by The Honorable Corrine Brown to Carl Weimer, Executive Director of the Pipeline Safety Trust

Thank you for the questions and the opportunity to clarify what I said at the May 20, 2014 hearing on the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011.

Question #1: There have been several legislative proposals that would, in effect, remove Federal authority over the siting of oil and/or natural gas pipelines (new and old) and place that responsibility with individual states. Your responses above seem to suggest that you would be supportive of such an approach. Is that accurate? Please clarify your above statements.

At the May hearing I was asked if the Pipeline Safety Trust supports letting States have jurisdiction over siting and review of new oil pipelines. I answered that we did support that state authority and then referenced the Washington Energy Facility Site Evaluation Council (<http://www.efsec.wa.gov/default.shtm>) which is one of the state siting agencies we have enough knowledge about to be able to say they do a good job of implementing this siting authority.

So while we certainly do support state authority for siting hazardous liquid pipelines, my answer was provided based on my understanding of the current system which provides no federal siting authority for the vast majority of interstate or intrastate hazardous liquid pipelines. If there was in place a federal siting agency my answer may have been different since an overarching federal system might allow for more consistency, as well as a better review of the actual public need for such pipelines. When a pipeline (or multiple pipelines) cross many states to deliver oil from point A to point B, but the permitting is broken down state-by-state, it creates a piecemeal siting process that makes it very difficult to consider the overall need for the project or the cumulative impacts the project might create. It also creates the possible situation where a state that does not benefit from any of the product carried by the proposed pipeline may create barriers because of their more limited view of the benefit.

I should also be clear that we only support state siting authority if it is implemented well. Currently less than half the states have any sort of pipeline siting agency to handle this important authority that has fallen on them, and many of those states do not include hazardous liquid pipelines in their efforts at all. Many of those same states also have systems for the siting of such pipelines that we think are not adequate to ensure a safe and fair public process. So while we support states that are doing pipeline siting well, the majority of states are not and allow this authority to trickle down to a patchwork of local governments who for the most part are woefully unprepared, in terms of resources, expertise and experience to deal with such projects. The current system of allowing states to take on siting authority with no requirement that they actually do so, and no standards or resources provided to ensure a well run process, does not lead to very reassuring outcomes.

Question #2: You mentioned that “there needs to be a new process” for siting and review of pipelines. Do you have suggestions for such a process?

There are currently multiple processes for the siting of interstate pipelines depending whether the pipeline crosses an international border (State Department for liquids), or whether the pipeline is for natural gas (FERC) or hazardous liquids (state-by-state). We do not believe any of these processes incorporates everything necessary to provide for an adequate review of safety and need, which is why I said there needs to be a new process.

One of the primary things that is missing in the siting of pipelines in this country is there is no governmental authority that considers our basic strategic national pipeline infrastructure needs. We currently allow each individual pipeline company to make proposals based on their own customer or financial needs, but that type of analysis leads to infrastructure development that may be good for an individual company but may not be good for the general public. Just because a pipeline company can develop customers in a different part of the country, or in a different country altogether, does not mean that such a pipeline benefits our country as a whole, yet that is the current basis for these individual pipeline siting decisions. This system of allowing private companies to decide our infrastructure needs leads to multiple pipeline proposals through the same areas with no combined review, and no thought of sharing rights-of-way or pipeline capacity. This leads to a terrible burden on local landowners where more property might be acquired or condemned than is needed, and on local and state governments trying to respond to multiple proposals for multiple pipelines where perhaps only one larger pipeline could adequately do the job. Multiple pipelines providing service to the same general area also multiply the environmental damage during construction, increase the long-term costs of operation (which is passed on to consumers), and increase the risk to citizens and the environment of pipeline failures. Since most all of these pipelines have the right of eminent domain we need to either ensure that the least amount of property possible is allowed to be taken by these private companies through an independent analysis of long term need, or we need to take eminent domain off the table and allow the free market to set the price for the route the company chooses.

Once a system of strategic pipeline infrastructure need analysis is in place to ensure we are only building the amount of pipeline that is needed, it is much easier for either a state or federal agency to implement a process for the siting of individual pipelines.

To be clear, the current FERC process does not occur within this overall strategic analysis we describe, and as it currently exists, lacks some of the elements we feel are necessary for an adequate siting process. In addition, since FERC considers only applications of pipelines going into service to transport natural gas, it provides no analysis of the risks presented by proposals to convert out-of-use natural gas pipelines to transport hazardous liquid, bringing new and different safety issues to the table that would not necessarily have been considered in the original FERC process for the gas line.

An adequate siting process, whether under state or federal control for both gas and liquid pipelines would be governed by a system-wide pipeline infrastructure analysis, and include:

- Early consultation with landowners and local governments along a proposed route or any potential alternative routes,

- A complete environmental review such as the NEPA process used by federal agencies including an open public process to have concerns reviewed.
- A process to provide communities that may be significantly impacted by the proposal financial resources to ensure their concerns are well developed and submitted for consideration (see the National Energy Board of Canada's Participant Funding Program - <http://www.neb-one.gc.ca/clf-nsi/rthnb/pblcprtctn/prtcpntfndngprgrm/prtcpntfndngprgrm-eng.html>)
- A review of the pipeline proposal and company's previous safety record to determine whether any special safety requirements or additional oversight beyond the minimum federal safety standards are warranted.
- A process to compensate landowners so they can consult with an attorney if eminent domain may be granted as part of the pipeline approval.
- An ongoing inspection process during construction to ensure that all environmental and pipeline safety regulations are being followed, and that landowner impacts are adequately resolved.
- A recognition of the need to provide adequate separation between pipeline systems, and occupied structures, critical infrastructure and sensitive environmental areas. In this regard PHMSA should be encouraged to reconvene the Pipelines and Informed Planning Alliance to come up with recommended practices for local government and siting agencies to consider when new pipelines are proposed through already developed communities.

I hope that helps clarify our answers from the May hearing. Feel free to contact me if you have further questions.

Sincerely,



Carl Weimer, Executive Director
Pipeline Safety Trust