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**BEFORE THE**  
**SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT**  
**OF THE**  
**HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION**

**SAN BERNARDINO, CALIFORNIA**  
**JULY 7, 1989**

Good morning, Mr. Chairman. I am pleased to be here today to discuss the efforts of my agency, the Research and Special Programs Administration (RSPA), to assure the safe operation of the Calnev pipeline in the wake of the accidents of May 12 and May 25, 1989. Acknowledging the risks of transportation and working to lessen them, is the mission of Federal transportation safety programs, including RSPA's. This mission is a daily challenge and one I take very seriously.

In order to assure the most thorough responses to your questions, I have with me today Dick Beam, Director of the Office of Pipeline Safety (OPS) and George Tenley, Chief Counsel of RSPA.

Before detailing the actions RSPA has taken and will take to address the Calnev pipeline rupture, I would like to express my deepest and heartfelt sympathy for the families of the victims of the accidents and the citizens of San Bernardino whose sense of security and well-being have been shaken by these tragedies.

Reciting the excellent overall safety record of pipeline transportation is of little consolation in the face of the loss and destruction that occurred here.

Protecting the public safety is a dynamic process. We are constantly seeking to improve our program. While the unusual circumstances of this accident will never be exactly repeated, the lessons we have learned in responding to it will help prevent future accidents. The information gathered at this hearing, and by RSPA's staff, the National Transportation Safety Board (NTSB), and the California State Fire Marshal's office (CSFM) will help assure safety in the future.

A pipeline accident like the one that occurred in San Bernardino invariably reveals aspects of our program which need to be reviewed, and where necessary, changed. To that end, I have directed OPS to:

1. Review the mechanisms by which we oversee the activities of our state partners.
2. More clearly define the accident situations in which an interstate agent may conduct investigations for OPS, and identify the actions the agent may take on its own and those which must be approved by OPS.

3. Clearly provide the procedures, including the extent of coordination with OPS, the interstate agent must follow in conducting investigations.
4. Develop a mechanism to enable concerned government officials to contribute factual information during an OPS or interstate agent investigation of a pipeline accident.
5. Evaluate the need for, and develop as necessary, criteria for determining to what extent a non-pipeline event, such as a train derailment, which may adversely affect pipeline operations, should be addressed through actions such as reduced operating pressure, excavation and visual examination, and hydrostatic testing of affected pipe.

The balance of my statement will describe how we have carried out our mission in response to the Calnev pipeline rupture, and our position on the policy and legal questions posed by this tragic accident.

Let me begin by briefly describing the key actions that we took after the May 12 train derailment and the subsequent pipeline accident.

On May 12, we learned that a Southern Pacific train had derailed. We then asked our interstate agent, the CSFM, and the California Public Utilities Commission to determine if a pipeline was involved. The CSFM advised OPS that a petroleum pipeline was adjacent to the railroad tracks and they were dispatching an inspector to the scene. Over the next several days, inspectors from the CSFM monitored the removal of the train and Calnev's inspection of the pipeline. From what we understand, these inspectors used standard engineering techniques and were satisfied that the pipeline could be safely operated. Because questions have been raised about CSFM's and our response to the derailment, we are working together to resolve any outstanding issues.

Shortly after the May 25 pipeline accident, OPS dispatched an engineer from our Western Regional Pipeline Office to the scene. The engineer arrived on the afternoon of the accident. From that point on, all of Calnev's actions were closely monitored by one or more engineers from OPS until the pipeline was returned to full operating pressure on June 9, 1989.

Late on Friday evening, May 26, OPS issued a Final Order finding the Calnev 14-inch pipeline in the immediate area of the derailment to be a hazardous facility. By issuing this Order,

OPS utilized one of its major tools in protecting the public safety. Essentially, OPS prevented Calnev from operating the pipeline. OPS issued this Order quickly for safety reasons although it was known that amendments would be necessary as more information was gathered. Under the Order, Calnev could not restart the pipeline until it could show, to the satisfaction of OPS, that the pipeline met rigorous safety measures.

These measures included excavation of the portion of pipeline in the area of the train derailment, inspection of that pipeline, and hydrostatic testing of an area to either side of the derailment area. Hydrostatic testing to determine the physical integrity of the pipeline involves placing water under extreme pressure in a pipe to detect any weaknesses.

Based upon the additional information developed over the Memorial Day weekend, OPS issued an Amended Final Order on Tuesday, May 30 to require complete replacement of the affected portion of pipe and to modify the testing requirements to better protect public safety. In addition, a new positive shutoff valve was required on the "uphill" side of the pipeline.

In addition to monitoring Calnev's compliance with the Order, OPS's on-site engineers assisted the NTSB in its investigation of the accident's cause. At this time we do not

know what caused the pipeline to rupture. The NTSB will make that determination upon completing its investigation -- an investigation to which we are continuing to contribute.

Our staff also worked closely with other involved Federal, state, and local agencies. This included coordination with the Department of Energy to monitor gasoline and other fuel supplies in the Las Vegas area which were normally delivered by the pipeline. Our interest was to calm fears concerning fuel shortages in Nevada, without allowing those fears to adversely affect our decision on the reopening of the pipeline.

Throughout the weeks following the rupture, my staff worked to keep local officials apprised of our actions. We held numerous discussions and informed them of actions we were contemplating or taking. Moreover, I personally met with Congressman George Brown, the Representative in whose district the accident occurred, and Congressman Jerry Lewis whose district is nearby. My staff has also worked with their staffs to keep them informed. It has also been my pleasure to make my staff available to you and your staff, Mr. Chairman.

Our actions in response to this accident have been taken in fulfillment of our statutory mission to conduct a thorough investigation of the accident to determine two things: (1) whether and under what conditions the pipeline could be safely returned to service; and (2) whether any violations of our pipeline safety regulations were committed by Calnev in its operation or maintenance of the pipeline. The first determination was made on June 9, 1989, and the pipeline returned to service. This occurred only after Calnev successfully completed the safety requirements imposed by OPS. The determination of whether Calnev violated any safety regulations must await the conclusion of our compliance investigation which we are expediting to the maximum extent practicable consistent with thoroughness and accuracy.

Given the catastrophic nature and consequence of the rupture, it is not surprising that San Bernardino sought to intervene to assure that its citizens will not face such a tragedy again. To achieve such an assurance, the City pursued a number of options, including litigation. Although understandable and perhaps unavoidable, the litigation made the City and OPS adversaries in a matter that demands cooperation and trust. That we are adversaries in litigation is a function of what the City views as the most critical safety aspect of the operation of the pipeline -- its location. As you know

Mr. Chairman, the pipeline is currently located in the right-of-way of the Southern Pacific Railroad, between the railroad tracks and the City. The City has argued that the portion of the pipeline most closely adjacent to the residential area should be moved to the other side of the railroad tracks, an area which is uninhabited.

To achieve this relocation, the City has sought the assistance of the Department -- first through our "good offices", then through our hazardous facility proceeding with Calnev, and ultimately through litigation. Yet, despite the City's position, the Hazardous Liquid Pipeline Safety Act of 1979 (HLPSA) specifically prohibits Federal interference in the routing or location of a pipeline. As we informed the City and Congressional staff, the issue of routing and location of pipelines is a matter traditionally left to state and local land use planning. The role of local governments in overseeing easements and rights-of-way is an important component of planning and controlling development. However, even without routing authority, the HLPSA establishes a sound regulatory framework, including enforcement, that strives for safe pipeline transportation. I would like to describe that scheme using the San Bernardino accident as a point of reference.

RSPA's hazardous liquids safety jurisdiction includes more than 200 operators and approximately 155,000 miles of pipeline transporting petroleum, petroleum products, and anhydrous ammonia. The Calnev pipeline at the time of the rupture was carrying unleaded gasoline. As provided in the HLPESA, our pipeline safety program has two distinct components: (1) Federal authority over interstate pipeline facilities; and (2) Federal authority over intrastate pipeline facilities, but with a mandate to allow state assumption of that authority upon a state's adoption of the Federal safety standards and a commitment to full enforcement. Consequently, the cornerstone of the Federal pipeline safety program is the partnership established with the states. To give that cornerstone strength, the HLPESA provides a grant-in-aid mechanism whereby RSPA may reimburse participating states up to 50 percent of a state's projected calendar year costs to run its pipeline safety program. California is one of our state partners.

This concept of shared jurisdiction includes a component whereby a partnership state may also receive funding for acting as our interstate agent in conducting inspections of interstate pipeline facilities. It was in this capacity that the California State Fire Marshal's Office conducted an on-scene inspection following the derailment on May 12, 1989. The Fire Marshal's Office determined that, at the time of the inspection, the pipeline could continue to operate safely.

The state programs are critical to pipeline safety. Existing Federal resources, and any reasonably likely expansion of those resources, are not sufficient to ensure the safe operation of pipeline facilities given the size of the regulated community, the extent of their facilities, and the complexity of their operations. Moreover, states have a strong interest in protecting their citizens. I believe the safety record that has been achieved would have been impossible without the Federal-State partnership.

The regulations we administer cover all aspects of pipeline transportation including design, construction, operation, maintenance and emergency planning. In discussing our regulatory program, it is important to note that although we do not have authority to prescribe the location or route of a pipeline, we do have regulations governing pipeline facilities in populated areas. For example, no pipeline may be constructed within 50 feet of populated areas unless an additional 12 inches of cover is added to the usual 36 inches required in non-populated areas.

A typical problem, however, and one which is uniquely suited to local land use control, is the encroachment of development on an existing pipeline. At the time Calnev constructed its 14-inch pipeline in San Bernardino in 1970, the population density in the area was much less than it is today.

In the intervening years development has occurred, presumably in accordance with local land use planning where issues such as use compatibility are considered. Because those issues involve important considerations, in addition to safety, which only state and local governments can effectively accommodate, I believe that Congress was correct in keeping the Department of Transportation out of the business of deciding where pipelines should be constructed in this country.

I would like to return to the issue of cause. Although the NTSB has not issued a final report on the cause of the May 25 rupture, one potential cause that agency is examining is "outside force damage." This category of causation includes any damage to a pipeline that is not within the control of the operator to prevent through its compliance with our regulations. The typical cause of outside force damage is the activity of an excavator in a right-of-way doing work unrelated to pipeline operations. Outside force damage is the largest single cause of pipeline accidents -- accounting for 40 percent of all pipeline incidents in 1988, including 28 percent of hazardous liquid incidents. We believe that outside force damage may have played a role in the rupture because we know that the derailment caused some metal debris to penetrate the earth in the area of the pipeline. In addition, there were extensive clean-up activities

in the general area of the pipeline, including removal of 8,000 tons of trona. Also, a few dents or gouges were discovered by the NTSB, including one apparently associated with the rupture. One additional small dent or gouge was discovered on the pipe subsequently removed by Calnev under the OPS Order.

The issue of outside force damage is one to which both RSPA and Congress are giving increasing attention. OPS is currently developing a rulemaking to strengthen the damage prevention programs of all pipeline operators. The key feature of the rulemaking is enhanced use of "one-call" programs. A typical one-call system is a communication system established by governments or operators of underground facilities (including pipeline operators) to provide one telephone number for excavators and the general public to call for notification and recording of their intent to excavate. This information is then relayed to the members of the one-call system so they can identify their facilities by communicating directly with excavators or placing temporary markers. In addition, it enables the pipeline operator to be present during excavation activities in the area of its facility. California has adopted a one-call system designated as the "Underground Service Alert" and geographically split between the northern and southern halves of the state.

If adopted, the rule we have proposed would require pipeline operators to participate in a one-call system if it exists. In the absence of a one-call system, the operator would be required to maintain a current list of known excavators in the area, adopt a public awareness program, provide a mechanism for receiving notification of intended excavations and then follow up with actual notice of the location of pipeline facilities, and inspect the pipeline during and after the excavation. In the case of the Calnev rupture, the Company claims to have provided damage protection by being on-site during all known periods of activity arising out of the derailment.

Of course, in order for the one-call system to serve as the most effective component of damage prevention, it must be in place throughout the nation. To this end, Congress made two important amendments to the pipeline safety acts as part of its three-year reauthorization bill passed last session. These amendments will enable RSPA to use grant fund carryovers from fiscal years 1986 and 1987 to provide additional reimbursements to those states which implement under state law a one-call system, while at the same time reduce the overall grant payment to those states which do not have a one-call system or are not seeking legislation to establish one. Also, Congress has required RSPA to issue regulations establishing minimum Federal

requirements for the establishment and operation of one-call systems by states. Finally, Congress has required RSPA to assess the feasibility of regulating persons conducting excavation activities that may damage pipeline facilities, and to report our findings and recommendations to Congress by October 31, 1989.

In addition, we are currently pursuing important rule-makings, both on our own initiative and at the direction of Congress, that address most of the more critical aspects of pipeline safety. Of particular relevance to the Committee's request, is a rulemaking to improve the quality and effectiveness of operations and maintenance plans and procedures. Because a great deal of latitude is given to operators in achieving the safety purposes of the regulations, thorough and effective plans and procedures are indispensable if those purposes are to be realized. I anticipate that a final rule will be published early next year.

But despite all of this, the Calnev pipeline did rupture and people lost their lives and their homes. Consequently, one asks should we do more:

- o Should the pipeline be moved to the other side of the railroad tracks?

Although I believe that, based on its compliance with the terms of the OPS Order and our pipeline safety regulations, Calnev can operate the pipeline with a confident level of safety, relocation of the pipeline is an issue to be resolved by the people of California and San Bernardino.

- o Should the Department of Transportation be given authority to dictate the location and routing of pipelines?

I believe the answer is no. Apart from the enormous administrative burden such a provision would place on federal resources, the federal program is not suited to addressing the land use issues inherent in the location of pipeline facilities.

- o Should the relationship of pipeline location to safety be studied?

I believe the answer is yes. And, I wholeheartedly agree with, and commend, Congressman Brown on his recommendation that the Federal Government examine the question in the context of the San Bernardino situation which involves the juxtaposition of several utilities and transportation facilities in a confined area adjacent to a population center.

In closing, let me pledge my commitment and that of my agency to work with all those, including the Congress, who have a stake in pipeline safety to assure that to the maximum extent practicable, RSPA is an agency that is proactive in assuring the public safety.

Thank you, Mr. Chairman. I would be glad to answer your questions.