

Testimony of

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Before the

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Subcommittee on Railroads, Pipelines,
and Hazardous Materials**

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Chairman Shuster, Ranking Member Brown, members of the Subcommittee, thank you for the opportunity to be here today.

National Wildlife Federation is a non-partisan, non-profit organization. Our mission is to inspire Americans to protect wildlife for our children's future. National Wildlife Federation is supported by 47 state and territorial affiliates and 4 million members and supporters across the nation. Our members include hunters, anglers, backyard gardeners, birdwatchers and outdoor enthusiasts from throughout the nation.

I appreciate the opportunity to testify today in lieu of Ms. Alexis Bonogofsky, to whom the invitation was originally extended. Ms. Bonogofsky is the Senior Coordinator of the National Wildlife Federation's Tribal Lands Program. Ms. Bonogofsky's family farm lies along the banks of the Yellowstone River near the site of the July 1, 2011 spill of 1,000 barrels of crude oil from ExxonMobil's Silvertip Pipeline. Ms. Bonogofsky intended to testify today about the damage to her family farm. Unfortunately, she has fallen ill from exposure to hydrocarbon fumes from the spill and is unable to travel at this time.

I am a certified wildlife biologist and have been involved in the conservation of wildlife throughout my career. For the last 14 months I have been deeply engaged in the National Wildlife Federation's response to the Gulf of Mexico oil spill disaster, including authoring the report "The Long Road to Recovery: Wetlands and Wildlife One Year Into the Gulf Oil Disaster."

The Yellowstone River – A Source of Life

The longest undammed river in the United States, the Yellowstone River sustains a rich diversity and abundance of fish and wildlife in an otherwise arid landscape along most of its 692 miles. It is the primary source of drinking water for Billings, Montana and other rural communities. It also provides essential irrigation water for crops that otherwise could not grow in this region of high summer temperatures and low annual precipitation.

The Yellowstone River comprises the riverbed itself, as well as a broad floodplain that floods annually with fresh water from melting snow in the mountains of the Yellowstone River watershed. This annual flooding sustains an extensive riparian zone with a diversity of plant and animal life...cottonwoods, willows, abundant wildflowers, songbirds, bald eagles, muskrat, beaver and osprey. The river channel itself sustains native fish populations of sauger, channel catfish and other species that support recreational fishing.

The ExxonMobil Silvertip Pipeline Spill

As we consider ExxonMobil's Silvertip Pipeline spill, it is important to keep these facts in mind:

- 1) Along with the Gulf oil disaster and Michigan's Kalamazoo River tar sands oil spill, the Yellowstone River oil spill is America's third major oil disaster in just 15 months.
- 2) In large spills at sea, at best only 10 to 15 percent of the total oil spilled is ever recovered.¹ The fast moving current of the Yellowstone River makes oil recovery difficult due to likely rapid entrainment of oil into the water column.

- 3) Oil degrades through various processes, but the heavier oil molecules especially can persist in the environment for years, with long-lasting impacts.
 - a) One study demonstrated an impact to the benthic (bottom dwelling) community persisting at least 18 months (after which the study terminated).ⁱⁱ
 - b) Recovery of fish assemblages in the Reedy River in South Carolina following a major diesel oil pipeline spill took up to 52 months.ⁱⁱⁱ
 - c) Persistent components of fuel oil spilled in 1969 in West Falmouth, Massachusetts can still be found and smelled^{iv} in marsh soil, and may remain indefinitely.^v Fiddler crabs took nearly a decade to return to the area, and still exhibit aberrant behavior making them more susceptible to predation.^{vi}

The July 1, 2011 spill of 1,000 barrels of crude oil from ExxonMobil's Silvertip Pipeline has contaminated the Yellowstone River ecosystem. Oil has been reported at least 80 miles downstream.^{vii} High water has carried crude oil out of the river banks into the riparian zone. As the water has ebbed and flowed, it has left behind vegetation, soil and backwaters contaminated with a slimy layer of crude oil.

The Yellowstone River ecosystem and the many benefits it provides are threatened by this spill. Drinking and irrigation water are at risk of contamination. Relatively immobile wildlife such as frogs and salamanders (permeable skin makes them very susceptible to contamination), turtles, beavers, muskrats and otters are in harm's way. Of greatest concern is the aquatic food chain, including the many fish that have no place to seek refuge. The endangered pallid sturgeon lives downstream from the spill.

The spill has directly impacted the health and livelihoods of landowners along the river. People have become sick due to exposure to the oil fumes. My colleague Ms. Bonogofsky had to be taken to the emergency room and was diagnosed with acute hydrocarbon exposure. She has reported that summer pastures critical for her livestock are ruined by oil-contamination. She has observed birds unable to fly because of oil on their wings.

These impacts have been confounded by Exxon's lack of preparedness to deal with them. For example, Ms. Bonogofsky learned about the spill when she discovered oil on her property and read about the pipeline rupture in the local paper. Although some people living upriver from her were eventually evacuated, she was never formally notified.

When Ms. Bonogofsky sought information about the cleanup, she called the Montana Department of Environmental Quality and the Department of Emergency Services, and she was told repeatedly to call an ExxonMobil hotline. However, when she called the hotline, the people who answered did not have any information for her and were just there to take her information. When she called the County Health Department, she was told that the oil was just an irritant. In marked contrast, the Utah Department of Health's description of the dangers of acute exposure to crude oil was far more alarming when a Chevron pipeline spilled 33,000 gallons into Red Butte Creek near Salt Lake City, Utah. They issued a public statement that crude oil is not only an irritant, but that acute exposure has resulted in reports of "difficulty breathing, headaches, dizziness, nausea, confusion and other central nervous system (CNS) effects." They went on to say that chronic exposure should be avoided if at all possible due to the possibility of serious effects including "lung, liver and kidney damage, infertility, immune system suppression,

disruption of hormone levels, blood disorders, gene mutations and cancer,” and that “exposure to crude oil can cause abnormal growth and infertility in children.”^{viii}

When she finally spoke with a public relations person from Exxon, he would not tell her what chemicals were in the oil or if any had been added. He told her to stay away from it and that she should not document the effects on her property just to be safe. Furthermore, no health warning has gone out to the public. Because the impacts of toxic oil can take months or even years to reveal themselves, it is clear that we won’t know the full impacts of this oil spill for years to come. We must not rush to draw premature conclusions about the impacts of this spill on the Yellowstone River, the people living nearby, the communities that depend on the water, or the surrounding ecosystems.

Petroleum Industry Response

Unfortunately, I am a veteran of previous oil spills, including the Deepwater Horizon oil spill disaster in the Gulf of Mexico (2010). Sadly, industry is using the same playbook to respond to the Yellowstone River spill that it did in the Gulf oil disaster.

- 1) *Industry assures everyone that operations were safe.* Four days after the spill Gary Pruessing, President, ExxonMobil Pipeline Company stated: "From a risk assessment standpoint, we were confident we had a safe line."^{ix}
- 2) *Industry responds slowly to the spill.* Holidays are no excuse for an inadequate clean-up response to the spill.
- 3) *Industry understates the size of the spill.* In the Gulf of Mexico oil spill disaster industry and government claimed the spill was only about 1/10th of the actual size later demonstrated by an independent investigation. ExxonMobil declared the Yellowstone River spill to be half the size they later admitted to, and there is still no independent assessment of spill size.
- 4) *Industry keeps the public in the dark.* When Governor Brian Schweitzer pulled Montana out of the incident command center he said it was because “ExxonMobil was refusing to be transparent with the public, and telling the Montana Department of Environmental Quality officials that the documents they we’re sharing were not public documents.”^x
- 5) *Industry keeps the press out.* Montana Governor Schweitzer stated “They have security guards that don’t let the press in.”^{xi}

Petroleum Industry Accident Record

National Wildlife Federation’s 2010 report, “Assault on America: A Decade of Petroleum Company Disaster, Pollution, and Profit,” documents that oil and gas disasters are tragically all too common. From 2000 – 2009, pipeline accidents onshore accounted for 2,554 significant incidents, 161 fatalities, and 576 injuries in the United States.^{xii}

Since 2009, the accidents have continued, including the largest oil spill in U.S. history with the tragic explosion of the Deepwater Horizon on April 20, 2010. Pipeline safety has not fared any better. According to data from the Pipeline and Hazardous Materials Safety Administration (PHMSA), since January 2010, pipelines have spilled 2.3 million gallons of oil and caused \$46 million dollars in damage to private property and the environment.

Among those was one of the largest pipeline spills in U.S. history. On July 25, 2010, an estimated 840,000 gallons of raw tar sands crude, also called diluted bitumen, spilled from an Enbridge pipeline into Michigan's Kalamazoo River watershed. Over 30 miles of waterway were contaminated before it was contained. Because Enbridge misread its leak detection system, the spill went undetected and unreported for over 15 hours. It was not until mid-morning on the following day when Enbridge was told by a local utility that they had a major oil spill, that the line was shut down. As in the Exxon spill, Enbridge greatly underestimated the size of the spill initially and failed to notify affected communities, and people had to visit the hospital due to exposure to oil fumes.

Also in July 2010, a Chevron pipeline spilled 33,000 gallons into Red Butte Creek near Salt Lake City, Utah. Just 6 months later the same pipeline spilled another 21,000 gallons. TransCanada's Keystone tar sands pipeline has had twelve spills in its first twelve months of operation and became the newest pipeline on record to have been deemed a "threat to life, property and the environment" by PHMSA.

This accident record makes it clear that the industry's safety claims cannot be trusted and our existing pipeline safety regulations are failing to protect public health and the environment. It is ironic that despite this, the industry is now promoting its riskiest project yet. The Keystone XL tar sands pipeline would carry diluted bitumen across the U.S. from Canada to the Gulf of Mexico, crossing the Yellowstone and many other important rivers, and running through some of the most ecologically sensitive regions of one of our nation's most important aquifers.

There are several indications that diluted bitumen poses increased risks for pipeline safety compared with conventional crude oil, and the Keystone XL pipeline would have 20 times the capacity of the Silvertip Pipeline, making a potential spill much more disastrous. Yet, according to a recent testimony before Congress by PHMSA Administrator Cynthia Quarterman, no study has been done nor regulations developed for diluted bitumen, and PHMSA has not been involved in the environmental review for the Keystone XL pipeline. National Wildlife Federation is opposed to this pipeline for many reasons, some of which are not germane to this hearing. But, we also believe that solely on the basis of pipeline safety, the project's review should not proceed until the safety of diluted bitumen pipelines has been adequately addressed.

We appreciate the efforts of members of this Committee and the Energy and Commerce Committee for introducing a discussion draft of the Pipeline Infrastructure and Community Protection Act of 2011. We are pleased that draft legislation calls for a study of diluted bitumen pipeline safety, however we believe that permitting the Keystone XL tar sands pipeline without the study would likely perpetuate our failing pipeline safety policies. The time to get pipeline safety right is before a pipeline is built.

Recommendations

Montana's people, fish, and wildlife didn't deserve this oil spill in the Yellowstone River, but they do deserve a better response from ExxonMobil and the federal government. Oil disasters are preventable. But despite the Enbridge disaster in Michigan and numerous other pipeline spills over the last year, Congress has still failed to enact legislation to improve pipeline safety.

We urge Congress and the Administration to focus on enacting legislation to improve our nation's pipeline safety policies to better safeguard people, wildlife and the environment, and to set aside any legislation to fast-track the permitting of the Keystone XL tar sands pipeline.

National Wildlife Federation supports the recommendations of the Pipeline Safety Trust, which we understand will have a representative testifying in tomorrow's Energy and Commerce Committee hearing on pipeline safety. Based on the lessons of the recent Yellowstone River crude oil spill, National Wildlife Federation also recommends that pipeline safety reforms, through this or other committees with jurisdiction, should:

- 1) Require incidents to be reported immediately to federal and state agencies
- 2) Require accurate, independent assessments of spill size
- 3) Require long-term monitoring of contaminants downriver and in riparian zones, and impacts to fish and wildlife populations in the event of a spill
- 4) Require federal oversight of spill clean-up and restoration, with the responsible companies held completely liable
- 5) Require an assessment of the health impacts of exposure to spilled crude oil and require emergency response plans to address such impacts
- 6) Strengthen federal standards for monitoring and repairing pipelines, and require public disclosure of the data
- 7) Require that PHMSA update the ecological resource maps used in the identification of "high consequence areas," which require additional protections from pipeline spills

Thank you again for this opportunity to testify.

ⁱ The International Tanker Owners Pollution Federation. www.itopf.com/spill-response/clean-up-and-response/containment-and-recovery/

ⁱⁱ Poulton, B. C., S. E. Finger, S. A. Humphrey. 1997. Effects of a Crude Oil Spill on the Benthic Invertebrate Community in the Gasconade River, Missouri. *Archives of Environmental Contamination Toxicology*. (33) 268–276.

ⁱⁱⁱ shoal.in/2010/10/25/recovery-of-a-temperate-riverine-fish-assembly-from-a-major-diesel-oil-spill/

^{iv} www.wbur.org/2010/07/19/west-falmouth-oil-spill

^v pubs.acs.org/doi/abs/10.1021/es020656n

^{vi} www.mvgazette.com/article.php?25597

^{vii} cnsnews.com/news/article/exxon-s-ruptured-pipeline-sends-oil-80-m

^{viii} www.deq.utah.gov/Issues/redbuttespill/docs/EffectsFromCrudeOil.pdf

^{ix} www.upstreamonline.com/live/article265308.ece?service=print July 5, 2011

^x www.usatoday.com/news/nation/2011-07-07-montana-oil-spill-yellowstone_n.htm

^{xi} www.usatoday.com/news/nation/2011-07-07-montana-oil-spill-yellowstone_n.htm

^{xii} U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration. primis.phmsa.dot.gov/comm/States.htm?nocache=8428