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February 23, 2016

Mr. Norman C. Bay
Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Dear Chairman Bay:

I write to you regarding the May 19, 2015, failure of Plains Pipeline, LP's (Plains) Line 901 pipeline and the subsequent crude oil spill along the Gaviota Coast in the 24th Congressional District of California, which I represent. This spill was devastating to the local environment and economy, and many questions have been raised regarding oversight and the integrity of the pipeline.

The Plains spill resulted in the release of over 100,000 gallons of heavy crude oil. While the long term consequences of this spill are yet to be determined, the released oil had immediate impacts on the environment and the local economy. The spill interrupted local recreation and forced the closure of both commercial and recreational fisheries in the area. Furthermore, this spill directly impacted the Gaviota Coast, which is one of the most diverse and unique wildlife habitats in North America and has been largely protected from development precisely for this reason.

I write today to gain a better understanding of the Federal Energy Regulatory Commission's (FERC's) process to establish federal tariffs on pipelines. Many questions have surfaced in the aftermath of the Plains Spill regarding both the underlying causes of the spill and the regulatory framework in place that governs the pipeline involved in the incident. It has come to my attention that these tariff designations may be a key factor in determining the appropriate pipeline safety regulator.

The roles of both FERC and the Pipeline and Hazardous Materials Safety Administration (PHMSA) in regulating the Plains Pipeline have come into question. As you know, the ruptured pipeline was operating under a current tariff issued by FERC (F.E.R.C. No. 114.2.0, effective January 1, 2015) as one of two pipelines included within the tariff. This interstate tariff designation, rather than an intrastate designation, is linked to federal—not state—oversight and regulation. However, this past week Plains Pipeline submitted an update to this tariff (F.E.R.C. 114.3.0, submitted February 12, 2016), which would cancel the existing interstate tariff for the pipeline that ruptured, and it is my understanding that a subsequent tariff update will also cancel the tariff for the second line in the near future. Additionally, it has come to my attention that

Plains All American Pipeline sold a significant portion of the original pipeline around the year 2000, which may have affected their ability to transport crude at an interstate scale. This could have broader implications on safety as well as appropriate oversight of the pipeline. To better understand the process to date, I would appreciate answers to the following questions:

- 1) In general, does FERC or a provider initiate jurisdiction designation for a pipeline and what factors are considered in that determination? Who initiated the Plains pipeline 901 designation and when was this pipeline first subject to a tariff issued by FERC?
- 2) Can a pipeline have both an interstate and intrastate designation? What rules are in place to ensure that all pipelines in use are covered by at least one of these tariffs? What mechanisms does FERC have to ensure that companies acquire and are operating accurate tariff certifications?
- 3) How is the determination of a pipeline's interstate designation made? Is it determined by the physical location of the pipeline or by the final destination of the crude product and does FERC have a process for monitoring if this changes?
- 4) Are updates to FERC tariffs required to be filed and if so what triggers this requirement? Specifically, does this occur at regular intervals or only upon a change in status to the pipeline? In the time since the Plains pipeline in my district was first subject to a FERC tariff and designated as interstate, have any updates been filed by the provider and if so when did this happen and what were these updates in response to?
- 5) If regular tariff designation updates are not required, how does FERC ensure that pipeline designations are current and accurate over time?
- 6) Does FERC have a mechanism to be informed when either whole pipelines or pipeline sections are sold or transferred between providers? Regarding the Plains All American Pipeline, when did FERC discover that a portion of the original pipeline that stretched from California to Texas was sold? Regarding FERC's jurisdiction, what impact did this sale have on the interstate nature of the section of pipeline that remained in California?
- 7) Does FERC have the authority to investigate pipelines with interstate tariffs to ensure that they are actually participating in interstate commerce? If so, what initiates this investigation, and does FERC have sufficient personnel to investigate these designations? Has the Plains pipeline in my district been subject to any such investigations?
- 8) Regarding the Plains pipeline, given the update filed for the tariff (F.E.R.C. 114.3.0), what is the timeline for the removal of both pipelines covered by this tariff from interstate commerce and federal oversight? Once an interstate tariff is cancelled, does FERC maintain any jurisdiction over a pipeline? Post interstate tariff cancellation, does oversight of a pipeline automatically transfer to a state or local entity? If so, which one?

- 9) Does FERC work with other federal, state, or local agencies to ensure accurate tariff designations or tariff compliance? Does FERC coordinate or communicate with other federal or state regulatory bodies, such as the Pipeline and Hazardous Materials Safety Administration or the California Public Utilities Commission?
- 10) Is there an opportunity for stakeholder input during the original tariff designation or updating process?

As more information regarding the underlying regulatory structure surrounding this pipeline becomes available, I urge you to make available to my office and the public any and all information surrounding these concerns.

Thank you for your assistance with this matter. I look forward to working closely with you to ensure that this incident is thoroughly examined and that federal safeguards are as strong as possible and enforced moving forward. Thank you for your attention to this issue, and I look forward to your responses.

Sincerely,



LOIS CAPPS
Member of Congress
California 24th District