

May 28, 2015

*Via Email: pubcomment-ees.enrd@usdoj.gov &
Certified Mail*

John C. Druden
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P.O. Box 7611
Washington, D.C. 20044-7611

Re: United States v. ExxonMobil Pipeline Company
D.J. Reference Number 90-5-1-1-10862
Comments to Proposed Consent Decree

Dear Mr. Druden:

Central Arkansas Water (CAW), together with support of the City of Little Rock, the City of North Little Rock, the City of Sherwood, the City of Cabot, the City of Bryant, the City of Hot Springs, Pulaski County, Searcy Waterworks, Cabot WaterWorks, and Malvern Waterworks (collectively, the “Water Users”), as evidenced by the signatures of their duly authorized representatives below, by and through C. Tad Bohannon, Chief Legal Counsel for Central Arkansas Water, submit these comments to the proposed Consent Decree filed in the above referenced matter.

All of the Water Users obtain water from source at risk from contamination from the aging Pegasus pipeline. Collectively, the Pegasus pipeline jeopardizes the water supply for over 750,000 Arkansans. Approximately 400,000 of these individuals reside in the central Arkansas region and they are provided drinking water through CAW. CAW’s primary water source is Lake Maumelle, a 9,000 acre surface reservoir located several miles west of Little Rock. The watershed of Lake Maumelle is traversed by the Defendants’ Pegasus pipeline for approximately 13.6 miles. The Lake Maumelle watershed is an Unusually Sensitive Area drinking water resource within the meaning of 49 C.F.R. §195.6, because CAW’s alternative water supply, Lake Winona, can only supply approximately 38 percent of CAW’s average daily consumption of water. In summary, a rupture of the Pegasus pipeline in the Lake Maumelle watershed would have drastic implications to the health and welfare of the 400,000 individuals that rely on CAW for drinking water as well as the central Arkansas economy. The example of the sensitivity of CAW’s water supply to the Pegasus pipeline is but one of many examples of the risks that the presence and operation of the Pegasus pipeline poses to the citizens of the State of Arkansas.

The Water Users, for the record, state:

1. The injunctive relief contained within the proposed Consent Decree:
 - (a) does little, if anything, to assure the Defendants future compliance with the Clean Water Act and provisions of Arkansas law; and
 - (b) does not provide for adequate protection of the water supply sources for over 750,000 citizens of the United States of America and the State of Arkansas; and
2. The proposed Consent Decree should be withdrawn or renegotiated by the United States because it is inadequate.

I. Introduction

The Arkansas Department of Health believes that “the aging Pegasus [pipeline] . . . poses an unacceptable risk to the health and well-being of a large number of Arkansans.” *Letter from Arkansas Department of Health to ExxonMobil Pipeline Company and the Pipeline and Hazardous Materials Safety Administration (PHMSA)* dated June 3, 2013, attached hereto as **Exhibit A**. “Similar leaks to that which occurred at Mayflower could potentially impact as many as 18 drinking water sources in the state which provide a source of water to approximately 750,000 Arkansans.” *Id.*

The Arkansas Department of Environmental Quality (ADEQ) also noted “concern for the integrity of the pipeline and safety of its operation” that stems from

the age of the pipeline, the type of welding used . . . , the reversal of flow in the pipeline, the number of seam failures . . . during hydrostatic testing in 2005-2006 . . . , the recent failure . . . and the potential hazards to human health and the environment posed by any release [from the pipeline].

Letter from Arkansas Department of Environmental Quality to PHMSA dated May 17, 2013, attached hereto as **Exhibit B**. Furthermore, ADEQ requested

where the pipeline’s integrity and safety cannot be verified for any portion of the pipeline located in the vicinity of any population centers, ecologically sensitive areas, or drinking water supplies, then that portion of the pipeline should be removed and relocated using new pipe that meets all integrity and safety requirements. *Id.*

For reasons set forth in greater detail below, the Water Users contend that the injunctive relief outlined in the proposed Consent Decree does nothing to protect the vital water resources within the State of Arkansas from harm when the next segment of the Pegasus pipeline ruptures, whether from another longitudinal seam failure, operational error, or other cause. Moreover, despite what has been stated in many public announcements, the proposed Consent Decree does not require the Defendants to perform any corrective measures or take additional precautionary measures to prevent future spills from the Pegasus pipeline. The proposed Consent Decree merely requires two years of training for

the Defendants' personnel and provision of inadequate spill response materials in one Arkansas and two Texas locations.

The Water Users, therefore, request that the United States of America, the United States Department of Justice and the United States Environmental Protection Agency, withdraw or renegotiate the proposed Consent Decree as it is inadequate to protect the citizens of the United States of America and the State of Arkansas and is therefore not fair, reasonable or in the public interest.

II. Factual Background

1. Construction and changing operations of the Pegasus pipeline

The Pegasus pipeline was constructed in the late 1940's and runs from Patoka, Illinois to the Texas Gulf Coast (approximately 850 miles). The pipeline is an electrical resistance welded (ERW) oil pipeline with average thickness of .312 inches. A low frequency ERW process was used as a primary means of pipe manufacturing until it was superseded in the 1970's by a high frequency ERW process which produced a higher quality weld. The Pegasus pipeline, constructed in the 1940's, is a low frequency ERW pipeline (LF-ERW).

From the late 1940's to 2002 the Pegasus pipeline was used to transport light crude oil and refined petroleum products from the Texas Gulf Coast to locations within the mid-western United States. The Pegasus pipeline was purged and idled with nitrogen in December 2002. When the pipeline was restarted in 2006, the flow of the pipeline was reversed with an accompanying increase in pipeline pressure to at least 700 psig and the pipeline was used, for the first time, to transport diluted Wabasca heavy crude oil (also referred to as diluted-bitumen or dilbit) produced in Canada from the Midwestern United States to the Texas Gulf Coast. According to a Material Safety Data Sheet revised by the Defendants effective January 9, 2013, this Wabasca heavy crude is a "hazardous" substance based on its extreme flammability, human health risk and toxicity to aquatic organisms. The MSDS lists numerous potential medical disorders resulting from exposure.

Flow reversals and pressure increases, particularly in LF-ERW pipe, are subjects of concern raised by PHMSA in its recent *"Pipeline Safety: Guidance for Pipeline Flow Reversals, Product Changes and Conversion to Service"* notice issued September 12, 2014, attached hereto as **Exhibit C**. As stated in the PHMSA Advisory (ADB-2014-04):

product changes or flow reversals [from original direction and product] may not be advisable for LF-ERW pipe Pipelines that have had a history of failures and leaks most especially those due to stress corrosion, cracking, internal/external corrosion, selective seam corrosion or manufacturing defects [which the Pegasus has] . . . and Pipelines that operate above 72% SMYS [specified minimum yield strength, or the overall strength of the pipeline].

2. Mayflower rupture and subsequent testing results

Following the March 29, 2013 rupture of the Pegasus pipeline in Mayflower, Arkansas (the Mayflower rupture), the Defendants retained Hurst Metallurgical Research Laboratory, Inc. (Hurst) to conduct metallurgical tests of the failed section of the Pegasus pipeline to determine the cause of the rupture. Hurst found a 22 foot long fracture along the weld seam, which traversed diagonally, approximately 3 inches in length, into the base metal. The Hurst report found that hook cracks had been present in the seam prior to the rupture since the pipe's manufacture. Hurst concluded that the rupture occurred because of a reduction of the wall thickness in the seam caused by the

presence of manufacturing defects, namely the upturned bands of brittle martensite, combined with localized stress concentrations at the tips of the hook cracks, low fracture toughness of the material in the upset/HAZ, excessive residual stresses in the pipe from the initial forming and seam and girth welding processes, and the internal pressure creating hoop stresses.

The report went on to state that

it is highly probable that some micro-cracking within the upset/heat-affected zones might have occurred immediately following the pipe manufacturing. The micro-cracks then likely would have merged by further cracking through the adjacent areas in the localized upset/HAZ zones during service, forming a continuous hook crack in each of the localized areas to the critical depths, at which point the remaining wall thickness, combined with the localized stress concentration and the residual stresses, could no longer support the internal hoop stresses and resulted in the final failure.

Following subsequent analysis by Hurst, the Defendants noted in their remedial work plan submission to PHMSA for the northern segment of the Pegasus pipeline (the section that runs from Corsicana, Texas, to Patoka, Illinois, as defined by the Defendants in their remedial work plan submission and summaries) that "atypical pipe properties when compared to pipe of similar vintage and manufacture" also played a contributing role in the rupture. The Defendants further claim in their remedial work plan summary for the northern segment of the Pegasus pipeline (attached hereto as **Exhibit D**) that "[i]nvestigation points to the atypical pipe properties as the most significant contributing factor that led to the original manufacturing defects to grow to rupture" and that "the combination of extreme metallurgical properties detected in the ruptured joint of pipe has not been detected anywhere else on the Pegasus pipeline or other ExxonMobil pipelines with similar manufacturing methods and specifications." This conclusion, however, was reached after 12 months of intensive testing on a single length of pipeline. Absence of detection does not mean absence of presence; it simply means absence of sufficient testing and analysis. We are doubtful that the Defendants have the capability of completing detailed metallurgical analyses of the approximately 650 miles of buried pipeline of the northern section of the Pegasus to determine if these properties are present when it took over 12 months of laboratory testing to determine that they were present in the failed pipe in Mayflower. In short, the Defendants' statement that these qualities "have not been

detected anywhere” is grossly misleading because sufficient testing has not been completed to determine their presence or absence. Accufacts addresses this issue directly in its July 16, 2014 letter to PHMSA, attached hereto as **Exhibit E**, noting:

the notion that the atypical properties of the ruptured section of the pipe in combination with ERW-related manufacturing defects were somehow unique to this one section cannot withstand scrutiny unless every section of the pipeline is analyzed. Further, even if this section of pipeline is shown to be one-of-a-kind, that does not mean that other sections of the pipeline are not at risk.

3. Susceptibility to longitudinal seam failure in this type of pipe in general

The welds of LF-ERW pipe have been found to be susceptible to selective seam corrosion, hook cracks, and inadequate bonding of the seams. As a result, LF-ERW is no longer used to manufacture pipe. In addition, the integrity of ERW pipe manufactured before 1970 has been called into question by PHMSA on numerous occasions. *See*, Pipeline Safety Alert Notices ALN-88-01 and ALN-89-01 issued by the U.S. Department of Transportation in January, 1988 and March, 1989. The 1988 Alert Notice stated that ERW seams had been involved in 145 service failures in both hazardous liquid and natural gas pipelines since 1970 and all but two of those failures occurred on pipe manufactured prior to 1970. The Alerts noted that 12 hazardous liquid pipeline failures during 1986 and 1987 involved ERW pipe seams manufactured prior to 1970 and that an additional 8 such failures had occurred between January 1988 and March 1989. As stated previously, PHMSA Advisory ADB-2014-04 identifies flow reversals and pressure increases as ongoing safety and integrity concerns for LF-ERW pipelines.

4. Indications of susceptibility to longitudinal seam failure in prior test results of the Pegasus pipeline

Prior to the Mayflower rupture, the Defendants conducted a hydrostatic pressure test of the Pegasus pipeline in 2006 (prior to the 2006 restart with accompanying flow reversal, pressure increase, and change to Wabasca heavy crude). Seam failures occurred in the Pegasus pipeline at two locations within the Lake Maumelle watershed, the drinking water supply for the 400,000 Arkansans served by CAW, during the 2006 hydrostatic test as well as at 9 other locations on the northern portion of the pipeline outside of the Lake Maumelle watershed. Neither the Defendants nor PHMSA reported these ruptures to CAW or any of the other Water Users.

In a November 6, 2013 Notice of Probable Violation (NOPV) to the Defendants, PHMSA stated that:

[The Defendants] experienced multiple hydrostatic test failures on the Pegasus Pipeline as a result of ERW long seam failures in 1991 hydrotesting and subsequent 2005-2006 hydrotesting. The pipe manufacturing information, fracture toughness, and hydrostatic testing failure history of the Youngstown pre-1970 low frequency ERW pipe . . . provided more than adequate

information for the pipe to be considered susceptible to seam failure

5. The Defendants' prior lack of compliance and acceptance of responsibility.

The Water Users have a complete lack of confidence in the Defendant's ability to thoroughly and correctly abide by both the letter and intent of the Consent Decree. The Defendants have demonstrated a clear record of non-compliance and disregard for regulatory compliance as well as integrity management best practices. For example, prior Exxon pipeline rupture that spewed tens of thousands of gallons of crude oil into the Yellowstone River, regulators had warned the Defendants of seven safety violations along the line. Two of the warnings noted the Defendants' lax emergency response training. Yet, the Defendants kept the line operating after deciding the risk was low.

CAW identified numerous deficiencies regarding the Defendants' operation of the pipeline and integrity management efforts in a July 2010 letter to PHMSA. *See*, July 19, 2010 letter from CAW to PHMSA attached hereto as **Exhibit F**. CAW received no response from PHMSA with respect to these items and little to no follow-up actions were completed by the Defendants after they were brought to their attention.

Furthermore, CAW identified an additional 6 violations of the Pipeline Safety Act and notified the Defendants and PHMSA of these items in its September 19, 2013 Notice of Intent to File Citizen Suit Pursuant to the Pipeline Safety Act, attached hereto as **Exhibit G**. To our knowledge, these violations have yet to be addressed and the Defendants refuse to acknowledge responsibility for these violations.

PHMSA identified a number of areas of non-compliance with federal safety and integrity management standards and cited these in the November 6, 2013, NOPV to the Defendants. In the NOPV, PHMSA stated that:

The integrity assessment schedule established by the operator did not include consideration of certain manufacturing information in their determination of risk factors as required. Specifically, the operator failed to include the susceptibility of its . . . pipe seam to failures as a risk factor for the Pegasus pipeline system

The operator failed to establish a five-year re-assessment interval for the [northern] Patoka to Corsicana segment of the Pegasus Pipeline after the hydrostatic test of 2005 and 2006 identified a susceptibility to seam failures. The operator failed to consider all risk factors for establishing an assessment schedule for continual integrity assessments when they did not consider the pipeline's manufacture and results of the previous integrity assessments to conclude that the pipeline was susceptible to seam failure

The baseline assessments (hydrostatic tests) were performed in 2005 and 2006. Therefore, this re-assessment was more than

68 months after the baseline assessments were performed, and exceeded the maximum re-assessment intervals required by 195.452(j)(3)

The operator failed to follow its procedure 5.1 (4) (Continual Evaluation and Assessment Process)

The operator extended the inspection timing . . . without providing notice to PHMSA

The operator failed to prioritize the Corsicana to Conway segment higher than the Patoka to Conway segment The Corsicana to Conway segment [including the Lake Maumelle Watershed] had more hydrotest failures in 2006 than the Conway to Patoka segment, including the test failures that were at lower pressures than previous test levels.

6. Experience with other water contamination from pipeline failures in or near water supply sources

It is estimated that over 210,000 gallons of diluted bitumen spilled into Lake Conway as a result of the Mayflower rupture. Lake Conway is not used as a public drinking water supply and, therefore, no public drinking water supplies were directly affected by the March 29, 2013 spill. However, the type and vintage of pipeline, the pipeline's susceptibility to seam failure, and the Defendants' lack of compliance with integrity management requirements present a clear and continuing risk to any and all watersheds through which the Pegasus pipeline traverses. The Pegasus pipeline traverses the watersheds of 18 public water suppliers that collectively serve over 750,000 individuals within the State of Arkansas. See, the Pegasus pipeline route map attached hereto as **Exhibit H**.

On July 25, 2010, Line 6B of Enbridge Energy Partners ruptured near Marshall, Michigan, causing one of the largest oil spills in recent history. The complex cleanup is still ongoing. Approximately one million gallons of diluted-bitumen spilled into a wetland that feeds Talmadge Creek, and from there into the Kalamazoo River. The spill affected wetlands, farmlands, residential areas, and businesses, raising health concerns and leading to evacuations and warnings about swimming, fishing and drinking water. Eventually the spill contaminated thirty (30) miles of the Kalamazoo River. The impacts of the pipeline rupture continue to be felt.

The Tesoro High Plains Pipeline rupture on or about September 29, 2013, leaked an estimated 20,000 barrels of crude oil in a North Dakota field. Similar pipeline accidents have occurred in Salt Lake City, Utah; Allentown, Pennsylvania; and the Yellowstone River near Billings, Montana.

In 2011, an ExxonMobil pipeline ruptured, pouring 42,000 gallons of oil into the Yellowstone River in Montana. Then, on January 17, 2015, another pipeline burst, sending as much as 50,400 gallons of Bakken crude oil gushing into the Yellowstone River, prompting the governor to declare a state of emergency and requiring area residents to

drink bottled water after cancer-causing components of the free flowing oil were detected in the local drinking water supply systems.

A report prepared by the Pipeline Safety Trust in July 2012, entitled “*Pipeline Safety in the Salt Lake Valley*,” notes that 35.8% of all pipeline failures in the country are caused by material, weld or equipment failure. This is the largest cause of pipeline failures. “At least 1,984 pipeline incidents from 2002 to early this year — or about a quarter of all reported incidents — involved failed parts installed before 1970, according to a POLITICO analysis of federal data.” <http://www.politico.com/story/2015/04/the-little-pipeline-agency-that-couldnt-117147.html>. “Incidents caused by equipment failure, including the welds on aging pipelines that the safety board has warned about for decades, have risen by more than 60 percent since their low point in 2007.” *Id.*

On May 19, 2015, an estimated 21,000 gallons of crude oil was dumped into the Pacific Ocean from a broken pipeline in central California. The spill was detected due to a “foul smell”; not any sophisticated leak detection equipment. By the time oil was smelled by the public and then the leak found by county firefighters (not pipeline personnel), the pipeline had been leaking for several hours and the escaped oil had already found its way to a drainage ravine and reached the coast. According to news reports, it took an additional three hours for the pipeline company to shut down the ruptured pipeline. It was reported Thursday morning, May 21, 2015, that the oil slick was over 9 miles long (almost the entire length of Lake Maumelle). Fishing and shellfish harvesting have been halted. The company that operates the ruptured pipeline has accumulated 175 safety and maintenance infractions since 2006.

Under the terms of the currently proposed Consent Decree, the existence and operation of the Pegasus pipeline poses a significant and ongoing threat to the safety and welfare of the citizens of Arkansas and the United States. **The Consent Decree should do more; the Consent Decree should eliminate, or at least lessen, the ongoing threat posed by the Pegasus pipeline.** PHMSA’s primary role is to establish minimum safety standards for pipeline operations. Yet, the United States of America can require so much more than minimum compliance in the face of the Defendants’ frequent and flamboyant disregard of pipeline safety standards and sound integrity management principles.

III. Additional Powers Available

Unfortunately, the remedies available under Arkansas law are limited. Likewise, the protections available under Arkansas law are reactive (post spill), rather than proactive to prevent spills. Based on our limited research, the monetary fines to be paid by the Defendants to the State of Arkansas under the proposed Consent Decree are the largest ever recovered by the State for a hazardous spill of this type.

Yet, the United States of America could do more. Federal law has declared “that it is the policy of the United States that there should be no discharges of oil or hazardous substances into or upon navigable waters of the United States” Section 311(b)(1) of the Clean Water Act. This is a zero tolerance pronouncement, but PHMSA has not adopted zero tolerance standards for pipeline operations.

As discussed further in Sections IV and V below, the Water Users do not believe the proposed Consent Decree represents an efficient use by the United States of America of the power available to it for the protection of the public interest. Previous Consent Decrees have required “Statements of Work to be Performed” which include pipeline relocation, closure, monitoring after restart (not during a period the pipeline remains shut down), and additional pipeline integrity management. *See, e.g., United States of America v. Pacific Pipeline Systems, LLC*, CV08-5768 DFS, Consent Decree. Numerous other Consent Decrees have required court-enforced environmental management systems; system-wide operational changes; injunctive relief well-beyond compliance with existing regulatory controls; and increased operating standards. *See, e.g.,*

- *ASARCO, Inc. Mining Corporation Multimedia Settlement*, Consent Decree dated April 15, 1999 (environmental management systems);
- *Alpha Natural Resources, Inc. Settlement*, Consent Decree dated March 5, 2014 (system-wide upgrades);
- *BP North Slope Clean Water Act Settlement*, Consent Decree dated May 3, 2011 (system-wide pipeline integrity management program);
- *Home Builders Clean Water Settlement*, Consent Decree dated June 11, 2008 (implement company-wide compliance programs that go beyond current regulatory requirements);
- *Magellan Clean Water Settlement*, Consent Decree dated June 16, 2008 (must take steps to minimize potential spills);
- *Patriot Coal Corporation Clean Water Act Settlement*, Consent Decree dated February 5, 2009 (heightened operating standards which should serve as a model);
- *Sterling Suffolk Racecourse LLC Clean Water Act Settlement*, Consent Decree dated August 22, 2012 (additional protection effort for more than 123 square miles of watershed); and
- *Transocean Settlement*, Consent Decree dated January 3, 2013 (substantial injunctive relief).

IV. Objections to Proposed Consent Decree

1. Susceptible to longitudinal seam failure (§ 17)

Paragraph 17 of the proposed Consent Decree states:

Defendants will henceforth treat the northern segment of the Pegasus Pipeline (Patoka, Illinois to Corsicana, Texas) as “susceptible to longitudinal seam failure,” within the meaning of PHMSA regulations, for all risk assessment and operational purposes. This paragraph does not address whether Defendants were required to make such a determination prior to the Mayflower oil spill under existing regulations applicable to the Pegasus Pipeline.

As stated in Section II, Paragraph 4, the Defendants knew the Pegasus pipeline was subject to seam failures no later than 2006, and likely as early as 1991. In 2006, the Pegasus pipeline suffered multiple seam failures during testing, and the Defendants did nothing to prevent future seam failures – as evidenced by the Mayflower spill. PHMSA has clearly stated that the longitudinal seams failures that occurred during testing “*provided more than adequate information for the pipe to be considered susceptible to seam failure.*” The Defendants, knowing the Pegasus pipeline was subject to seam failures, put the pipeline back into operation, and refused to treat the pipeline as “susceptible to longitudinal seam failure” thereby putting the water supply sources for three-quarters of a million people in Arkansas in serious jeopardy.

As a result of the Mayflower spill, PHMSA has already required the Defendants to treat the Pegasus pipeline as “susceptible to longitudinal seam failure,” within the meaning of PHMSA regulations. Therefore, paragraph 17 of the proposed Consent Decree accomplishes nothing; it is a throw away, mere fluff. The Consent Decree should require the Defendants to acknowledge that they knew the Pegasus pipeline was “susceptible to longitudinal seam failure” no later than 2006, and possibly earlier – PHMSA cites “long seam failures” in 1991 hydrostatic testing that indicated the presence of susceptibility to seam failure. In addition, the Defendants should agree that their failure to treat the pipeline as “susceptible to longitudinal seam failure,” and failure to modify their pipeline integrity management efforts accordingly in 2006 constitutes gross negligence under 33 U.S.C. § 1321(b)(7).

2. Supplemental spill response training (§ 18)

Paragraph 18 of the proposed Consent Decree states:

By the end of 2015, and continuing at least every other year thereafter through 2017, Defendants will provide supplemental spill response training for all of Defendants’ designated Pegasus Pipeline first responders or their replacements. This supplemental training of designated first responders will include at least one employee at or responsible for each pump station along the Pegasus Pipeline. This supplemental

training will be in addition to other, regularly scheduled training under existing protocols or requirements. The supplemental training will include participation in hands-on spill response field activities and strategies. From 2016 through 2018, Defendants will submit to EPA by January 31st of each year a summary letter report documenting the supplemental spill response training described in the Paragraph for the year prior, including the number of attendees, the dates and locations of the training, and a summary of the training session.

The proposed Consent Decree requires the Defendants to train the Defendants' employees, who will not be the first responders, in expectation of a spill from a pipeline that will most likely not be in use during the period of required training. The Pegasus pipeline is empty. The Defendants are not planning to restart the pipeline anytime soon. So, the proposed Consent Decree requires the Defendants to provide supplemental training in the event of a spill from an empty pipeline.

Assuming the pipeline is not relocated, the proposed Consent Decree should require additional training for all first responders, including local, county and state emergency responders, and affected water suppliers whose water supply the Pegasus pipeline traverses. Local first responders were first on the scene for the Mayflower spill and are expected to be first responders for any future spill along the Pegasus pipeline. The additional training should be coordinated through the Arkansas Department of Emergency Management (ADEM), and it should include both table top and field exercises. The Defendants should be required to guarantee that all work will conform to the ADEM requirements and the 2014 Report 14 from PHMSA titled "Guide for Communicating Emergency Response Information for Natural Gas and Hazardous Liquid Pipelines." In addition, the additional training should continue annually at minimum so long as any pipe "susceptible to longitudinal seam failure" remains in the ground and is utilized for the transportation of hazardous materials.

3. Caches of spill response supplies and equipment at strategic locations (§ 19).

Paragraph 19 of the proposed Consent Decree states:

By the end of 2015, Defendants will assemble and place three caches of spill response supplies and equipment at three strategic locations for their use in the event of future oil spill response needs along the Pegasus Pipeline. The caches will be placed at the flowing locations (1) Cedar Creek reservoir near Dallas, Texas, (2) Richland Chambers Reserve near Corsicana, Texas, and (3) in Mayflower, Arkansas. The equipment and supplies in the caches will be similar in quantity and type to the equipment and supplies currently maintained at other existing locations along the Pegasus Pipeline. Attachment 1 to this Consent Decree provides a list of minimum equipment and supplies that will be included in each cache. Defendants will coordinate this activity with state and local government

emergency response agencies. For two years thereafter, Defendants annually will check the inventory of each cache and confirm each cache is in place and complete. From 2016 through 2018, Defendants will submit to EPA by January 31st of each year a summary letter report documenting the performance of the measures required by this Paragraph.

The requirements of paragraph 19 of the proposed Consent Decree are not acceptable for at least three reasons: (1) the locations of the caches are of no benefit to the 750,000 potentially affected citizens in the State of Arkansas served by the Water Users; (2) the materials in the caches are insufficient to assist with containment or removal of oil products and hazardous materials that were most recently transported through Pegasus pipeline; and (3) an obligation to maintain the caches for two-year period when the pipeline will most likely be empty is absurd.

The proposed Consent Decree requires the Defendants to put caches of equipment near the Cedar Creek Reservoir, and the Richland Chambers Reserve (both in Texas), and in Mayflower, Arkansas. None of the caches place equipment at or near any drinking water supply in Arkansas. The one location in Arkansas is located near a water body where hopefully all pipe susceptible to longitudinal seam failure has been removed during the clean-up and repair following the Mayflower spill.¹ The 18 public water supplies in Arkansas whose watershed the Pegasus traverses, however, remain at risk to another rupture of the decrepit pipeline without the benefit of any additional equipment, training or support to combat the flow of diluted-bitumen and other hazardous materials.

Moreover, the equipment to be included in the caches is totally inadequate to protect any water supplies from the hazardous materials the Defendants have transported through the Pegasus pipeline. Not only did the Mayflower rupture clearly demonstrate the inadequacy of the Defendants' integrity management efforts, that the integrity of the pipeline is flawed, and that the pipeline is susceptible to longitudinal seam failure without any warning, but it also proved that the materials transported through the pipeline sink upon escape from the pipeline and entry into water bodies.

Undiluted Wabasca heavy crude is reported to have the consistency of peanut butter and must be diluted with chemicals, including the human carcinogen benzene, so that the crude oil will flow through a pipeline. According to the Defendants' MSDS as revised January 9, 2013, the relative density of Wabasca heavy crude ranges from 0.661 to 1.013 at 15 degrees Celsius (a relative density greater than 1.0 indicates that a substance will sink in water). When diluted Wabasca heavy crude (also called diluted-bitumen) spills into the environment, it may sink due to evaporation or separation of the dilutant from the Wabasca heavy crude as well as from the mixing of the crude oil with sediment and organic matter which would increase its relative density. Again, this tendency to sink was proven by the

¹ We have no evidence that the Defendants have done more than replace the single section of ruptured defective pipe, but trust that PHMSA, the United States Department of Justice and the Arkansas Attorney General's office would have required the Defendants to replace all of the pipe segments susceptible to longitudinal seam failure within the Lake Conway watershed as part of the clean-up operations.

Mayflower spill as well as the Enbridge diluted-bitumen pipeline spill into the Kalamazoo River at Marshall, Michigan in 2010.

Yet, the materials specified for the caches only work to contain hazardous materials that remain on the surface of the water. In other words, the materials required by the Consent Decree are ineffective. It appears that there was not much thought put into determining what materials should be required in the caches. Even if the hazardous materials floated, rather than sank, there is no boat available to deploy the booms.

The proposed Consent Decree's requirement that the Defendants check and confirm the inventory and location of the caches is equally illogical. As discussed in Section IV, Paragraph 2, the proposed Consent Decree requires the Defendants to make sure the caches are in place and improperly equipped to handle a rupture when there will not be any hazardous materials within the pipeline; the cache requirement is window dressing.

V. Matters That Should Be Included In The Proposed Consent Decree

1. The Pegasus pipeline should be removed from critical watersheds where it is clear that any leak from or rupture of the pipeline would reach the water supply body

Given PHMSA's concerns about reversed flow through this type of pipe, the extremely vulnerable nature of the Lake Maumelle watershed, and the proximity of the pipeline to Lake Maumelle (*see*, Exhibit 1 to **Exhibit G**), the Pegasus pipeline should be removed from the Lake Maumelle watershed. Moreover, the pipeline should also be removed from other watersheds within Arkansas when it can be shown that the Defendants could not prevent the released hazardous materials from reaching the intakes or any rupture would put the source of any water system at risk, and relocation of the pipeline is physically possible.

The Water Users acknowledge that the northern segment of the pipeline will have to cross some creeks, streams and rivers at various locations during its 650 miles journey from Corsicana, Texas, to Patoka, Illinois, but the pipeline does not have to parallel the entire 13.6 miles of the northern shore of Lake Maumelle, which is the primary source of drinking water for approximately fifteen percent (15%) of the state's population. In many areas the Pegasus pipeline is within several hundred feet of the critical water supply lake, and any materials leaked from the pipeline will quickly flow, without any interruptions, into the lake – thereby shutting down this important water supply source. Removal of the pipeline from Lake Maumelle's watershed is possible and the Consent Decree should require the Pegasus pipeline to be moved outside of the Lake Maumelle watershed.

In those instances where the pipeline cannot be relocated, such as river and stream crossings, the Defendants should be required to provide additional protection such as replacement of all pipes susceptible to longitudinal seam failure with safer pipe and additional redundancy or reinforcement at these critical sites. In addition, additional leak detection equipment and valves should be installed to greatly reduce the amount of hazardous materials that could escape from a future rupture or leak.

2. The United States, with the assistance of CAW and other Water Users, should develop a "work plan" that the Defendants must follow before the Defendants are permitted to put any type of hazardous material into the pipeline and operate it.

Other protection elements outlined in Accufacts June 17, 2014, letter attached hereto as **Exhibit I**, should be required as part of the Consent Decree. This includes remotely operated valves, as well as shutdown and isolation procedure updates. PHMSA advisory ADB-2014-04 also recommends that sectionalizing valves and leak detection systems are important facility components to reduce the consequences of failure. Special precautions should be taken with regard to the above ground stream crossing sections of the pipeline.

As noted by Accufacts in the June 2014 letter:

A new SCADA remotely operated block valve should be installed at approximate milepost 295.8, south of the Maumelle River, along with the check valve that [the Defendants have] proposed at this site. Given the extreme elevation profile, the potential spill volume drainage associated with this segment, and the very high potential to reach Lake Maumelle if a rupture occurs in this area, I see a remotely operated block valve at this location as a "safety critical" device, given my extensive experience in valve installation on liquid pipelines in highly sensitive areas.

CAW also raised the possibility of installing either a remotely operated block valve or a check valve in the vicinity of the inside eastern boundary of the watershed. Given the steep terrain in this area, a remotely operated block valve or a check valve may be appropriate but further information regarding potential release flow is needed from [the Defendants].

A requirement to timely install specific remotely operated valves should be made a condition of startup. I place little merit in [the Defendants'] statement that it is having trouble timely acquiring remotely operated mainline valves and, therefore, will not be able to install such critical valves prior to restart.

In addition, the United States , with the assistance of CAW and other Water Users, should develop an integrity management plan that would be incorporated into the Consent Decree. The Defendants' strict compliance with the integrity management plan should be required. The integrity management plan should require additional aerial inspections, in-line inspections, and on-the-ground inspections. The integrity assessment should also include a review of the adequacy of the number, location and time for closure of existing valves and its leak detection capability.

3. The Pegasus pipeline and its rupture should be made a standing annex for the emergency response plan of the ADEM, similar to other manmade or natural disasters.

The Arkansas Department of Emergency Management's current Arkansas Comprehensive Emergency Management Plan (<http://www.adem.arkansas.gov/aem/wp->

<content/uploads/2015/01/2014-ARCEMP-Final.pdf>) lays out the responsibilities for state assistance from the various Emergency Support Functions (ESF's). Under the current plan, there are a number of annexes which outline actions for more specific types of emergencies, including:

- Radiological Support Annex;
- Biological Incident Support Annex;
- Catastrophic Incident Annex;
- Food and Agricultural Incident Annex;
- Mass Evacuation Incident Annex; and
- Terrorism Incident Law Enforcement and Investigation Annex.

If the Pegasus pipeline should rupture again, ADEM will have to be involved in the cleanup, a huge effort judging from the Mayflower rupture and other crude oil spills across the United States; particularly if it is in a location that would contaminate one of the 18 Arkansas drinking water sources. At a minimum, ADEM will have to assist in mobilizing a significant response to provide advanced water treatment systems and emergency water supplies to the affected communities. Responsibilities and ESF functions for a Pegasus pipeline spill should be a separate annex to the Comprehensive Emergency Management Plan or, at a minimum, a subsection of the Catastrophic Incident Annex.

4. Compliance with PHMSA's Corrective Action Order should be required by the Consent Decree.

Contrary to the press announcements about the proposed Consent Decree that say the Defendants are required to take additional precautionary measures to prevent future spills, the proposed Consent Decree does no such thing. The Defendants "represent" in the proposed Consent Decree that they will perform an assessment and any follow-up work on the pipeline required by the Corrective Action Order, but failure to do so does not constitute breach of the Consent Decree. These representations should be made an enforceable condition of the Consent Decree in the injunctive relief section.

5. The Defendants should be required to perform real, sustainable, beneficial, effective, and creditable hydrotests, monitored and reviewed by independent third parties and the Water Users.

The Defendants "represent" in the proposed Consent Decree that they will "conduct a 'spike' hydrotest as part of an 8-hour 'sustained-pressure' test and complete an analysis of the 2010 and 2013 in-line inspection results with a process that can help detect anomalies related to long-seam failure (e.g., 'KMAP' analysis)." Again, failure to follow through with the representations does not constitute a breach of the Consent Decree.

In addition, the parameters of the spike hydrotest referred to in the Consent Decree and submitted by the Defendants to PHMSA as part of its proposed remedial work plan are inadequate. *See*, March 28, 2104 letter from the Defendants to PHMSA and the Defendants' summary of the remedial work plan attached hereto as **Exhibits J and D**.

As noted in Accufacts June 2014, letter to PHMSA regarding the proposed hydrostatic test:

[The Defendants'] proposed hydrotest approach is still inadequate as it relates to vintage ERW seam-weld manufacturing risks. . . .

[The Defendants'] proposed approach to limit hydrotest pressures to a maximum of 100 percent SMYS is neither technically sound nor appropriate given the seam risks present in the pipeline segments within the watershed The purpose of a higher percentage SMYS hydrotest is to remove various larger risk ERW seam-related anomalies that can grow to rupture/failure from operation over a reasonable period of time following restart, or to identify pipe segments, through numerous higher-pressure hydrotest failures, as not fit for hydrocarbon service. Quite simply, [the Defendants'] proposal to go to all the trouble and expense of a new hydrotest and leave an important segment tested to insufficient percent of SMYS instills little confidence in [the Defendants'] integrity or risk management approach.

A pipeline is no better than its weakest link. Therefore, PHMSA should require [the Defendants] to perform minimum 90 percent SMYS spike hydrotests (or higher), compelling [the Defendants] to either:

- (1) further segment the test sections to reduce elevation changes within the test segment to yield higher percentage of SMYS if an upper limit of 100 percent SMYS is imposed; or
- (2) test above 100 percent SMYS using special testing protocols well known in the industry and by PHMSA to increase the minimum percent SMYS realized on a segment undergoing significant elevation changes.

In short, the proposed spike hydrotest does not achieve a sufficiently high pressure to adequately test the integrity of the pipeline at numerous sections. Particularly, under the proposed parameters, one section in the Lake Maumelle watershed will only be tested to 83% of SMYS. The spike hydrotest should be performed at minimum pressures equal to or exceeding 90% SMYS at all locations in the watersheds of public drinking water supplies. The pipeline ruptured at 54% SMYS and it had been hydrotested at approximately 83% SMYS in 2006, demonstrating that prior pressure tests and subsequent integrity management efforts were insufficient to prevent a rupture. The Water Users fail to see the purpose of allowing the Defendants to once again perform hydrotests at lower pressures than recommended when recent history shows that such testing is inadequate and results in pipeline failures. As the old adage says "the definition of insanity is doing the same thing over again and expecting a different result." Allowing the Defendants to complete an insufficient hydrotest and expecting safe operation of the pipeline without another rupture

is insane. PHMSA Pipeline Safety: Guidance for Pipeline Flow Reversals, Product Changes and Conversion to Service (ADB–2014–04) also recommends “[a] spike test 30 minutes in duration at 100 to 110 percent specified minimum yield strength . . . as it is the best method for evaluating cracking threats at this time.”

Furthermore, in the work plan proposal submitted to PHMSA outlining the “represented” spike hydrotest parameters, the Defendants state that “If a significant number of pressure-reversal failures occur [during the spike hydrotest], [the Defendants] may decide to reduce the target test pressures [in the remaining test segments] in order to complete the testing in [a] more efficient manner.” As noted by Accufacts in its July 2014 letter:

This statement indicates [the Defendants’] disregard or lack of understanding of the purpose of a hydrotest, i.e. to remove various larger risk ERW seam-related cracks that can grow to rupture from operation over a reasonable period of time following restart or to identify pipe sections that are not fit for hydrocarbon service. By reducing the pressure to make the tests “more efficient,” the Defendants are willfully sacrificing adequate integrity testing/evaluation in the name of “efficiency.” The result of reducing the pressure will be that the at-risk cracks will not be eliminated and the pipe segments not fit for service will not be identified.

Further, a 2013 Battelle report on ERW longitudinal seam failures states the following regarding pressure-reversals associated with hydrotests:

In some instances, defects may grow during the test itself leading to a phenomenon referred to as a ‘pressure reversal’. Experience and analysis indicate that the possibility of a pressure reversal causing a failure in service [after a pipeline returns to operation] is so remote that it need not be considered a seam integrity threat as long as the test-pressure-to-operating-pressure ratio is equal to or greater than 1.25. ‘Spike’ testing where the pressure level is raised above the code-required hydrostatic test level of 1.25 times the [Maximum Operating Pressure] for a few minutes contributes to increased confidence that no pressure reversal could threaten seam integrity, and it increases the minimum time to failure for any defect that might grow by fatigue in service after the test.

Battelle Memorial Institute, *Final Summary Report and Recommendations for the Comprehensive Study to Understand Longitudinal ERW Seam Failures – Phase One* (Final Report – Task 4.5) (October 23, 2013) page 17.

In short, the Defendants’ non-binding “representation” contained within the Consent Decree is meaningless. There is no benefit to the citizens of Arkansas and the United States from the Defendants’ “representation” that they will perform a hydrotest with insufficient parameters to adequately test the safety and integrity of the Pegasus pipeline. The “representation” is even more flawed because, as part of the parameters for the testing

proposed to PHMSA, the Defendants reserved the right to reduce the already inadequate parameters in the name of “efficiency”; a practice that is not supported by integrity management literature and best practice. The “represented” spike hydrotest, therefore, flies in the face of sound integrity management principles and prioritizes “efficiencies” (which we assume refers to both cost and time) over rigorous safety and integrity testing. The preference for “efficiency” over rigorous testing demonstrates not only the Defendants’ lack of understanding regarding integrity management principles but also their flagrant disregard for the integrity of the pipeline and its safe operation.

6. The results of the 2010 and 2013 in-line inspection analysis “represented” in the Consent Decree (pg. 2) should be made available to Central Arkansas Water and the other Water Users for review and transparency as well as additional third-party review.

As evidenced by the discovery disputes surrounding the existing civil cases brought by property owners following the Mayflower rupture and Central Arkansas Water’s own difficulties in obtaining information from the Defendants, the lack of transparency demonstrated by the Defendants is well documented. Transparency is critical to the safety of future operations.

7. The Defendants should consent to third-party enforcement of injunctive provisions by any of the Water Users, and payment of the third-party’s costs and expenses, including attorneys’ fee, if successful.

The Water Users have little to no confidence in the ability of PHMSA to independently and thoroughly enforce the requirements of the Corrective Action Order or the remedial work plan. Furthermore, the Water Users have no confidence in the Defendants’ ability or intent to comply with the letter or intent of the Consent Decree given the Defendants’ history of non-compliance as discussed in Section II, Paragraph 7.

According to information available from the United States Department of Transportation, the Defendants have had 87 “incidents” involving the escape of hazardous liquids from their pipelines since 2006. Of the 87 incidents, 25 of them (28.7%) were seam related with “manufacturing defect” or “unspecified” other causes. In total, more than 12,656 barrels (506,240 gallons) of hazardous materials were poured from the Defendants’ leaking pipelines into the environment, resulting in at least \$234,742,148 in property damage.

PHMSA is clearly not up to the task of enforcing the Consent Decree or any restart parameters it might establish for the Pegasus pipeline, or enforcement of existing regulations for the safe operation of pipelines. For example,

Congress also gave PHMSA 18 months to write a regulation that would require pipeline operators to notify the National Response Center of an accident within an hour More than three years later, PHMSA’s rules only refer to notification at ‘the earliest practicable moment Congress also sought to eliminate the so-called grandfather clause, which exempts lines built before federal safety regulations first took effect from current rules for record-keeping and pressure tests Lawmakers gave PHMSA 18 months to close that loophole by requiring that previously untested larger gas

lines in sensitive areas undergo strength testing. But the agency has not even proposed a rule. <http://www.politico.com/story/2015/04/the-little-pipeline-agency-that-couldnt-117147.html>.

Former [National Transportation Safety Board] Chairman Jim Hall...said [PHMSA] officials are “underfunded and understaffed and do not really have the political culture to be effective at what they’re doing They’re understaffed to provide adequate oversight of the industry, but I don’t believe they’re understaffed to move a regulatory framework,” he added. “They’ve just lacked the will to do so.” *Id.*

PHMSA’s lax oversight on integrity management efforts led to the violations of the Pipeline Safety Act cited in the 2014 NOPV. In addition, PHMSA’s Director, Jeffrey Wiese, stated that the regulatory process that his agency oversees is “kind of dying” and that it has “very few tools to work with” and that, in response, the agency will create a YouTube channel to persuade pipeline operators to voluntarily improve their safety and integrity management efforts by “trying to socialize these concepts long before we get to regulation.” See, <http://insideclimatenews.org/news/20130911/exclusive-pipeline-safety-chief-says-his-regulatory-process-kind-dying>. Others have not been so kind in their comments about PHMSA’s regulatory inability to improve safety and integrity management of the nation’s pipelines. Inspired by an April 21 *Politico* piece outlining extensive concerns over PHMSA’s oversight and objectivity, Rep. Jackie Speier of California recently “doubled down on her criticisms of the agency” in a House floor speech, stating: “It was wrong to call PHMSA a toothless tiger. PHMSA is actually a toothless kitten — a fluffy industry pet that frightens absolutely no one.” See, <https://www.sn1.com/InteractiveX/Article.aspx?cdid=A-32324299-11313>. Agency records show that “PHMSA started fewer civil penalty cases in 2014 than it had in almost a decade and proposed 73 percent fewer fines than a year earlier, even as the number of total pipeline incidents increased.” <http://www.politico.com/story/2015/04/the-little-pipeline-agency-that-couldnt-117147.html>.

VI. Conclusion

The proposed Consent Decree is inadequate because it requires short term measures when the pipeline is a long term hazard and the risk of harm increases each year the pipeline ages. Therefore, we believe the United States of America should require injunctive relief in the Consent Decree that includes real and meaningful measures to protect the citizens and water supplies from further damage cause by rupture in the Pegasus pipeline. Without replacement of every section of defective pipe susceptible to longitudinal seam failure, the pipeline will rupture again. The United States of America should require the Defendants to take all necessary steps and precautions the prevent the contamination of critical sources of water supply for over three-quarters of a million Arkansas residents.

Relief Sought

At a minimum, the injunctive relief contained in the Consent Decree should require that the Defendants shall:

1. Remove of the Pegasus pipeline from the Lake Maumelle watershed;

2. Replace all pipe sections at all river, stream or creek crossing up-stream from a potable water supply system's in-take sites with additional redundancy and reinforcement and install automatic valves on both sides of the water body that close upon detection of a leak;
3. Complete a spike hydrotest of the Pegasus pipeline at minimum pressures equal to or exceeding 90% SMYS at all locations in the watersheds of public drinking water supplies and allow the test and results to be monitored and reviewed by independent third parties and the Water Users;
4. Acknowledge that they should have treated the pipeline as susceptible to longitudinal seam failure since no later than 2006 and that their failure to modify their pipeline integrity management efforts accordingly in 2006 constitutes gross negligence under 33 U.S.C. § 1321(b)(7);
5. Place additional caches of equipment in meaningful locations, including, but not limited to, the Lake Maumelle watershed, and include equipment applicable to the clean-up of the materials to be transported in the pipeline prior to restart;
6. Inspect all additional caches of spill response equipment located within drinking water supply areas on an annual basis for as long as the pipeline in operation contains any segments of pipe susceptible to longitudinal seam failure;
7. Provide spill response training for all first responders, including local, county and state emergency responders, and affected water suppliers whose water supply the Pegasus pipeline traverses on an annual basis for as long as the pipeline in operation contains any segments of pipe susceptible to longitudinal seam failure;
8. Maintain any additional enhanced training, inspection and operational improvements for as long as the pipeline in operation contains any segments of pipe susceptible to longitudinal seam failure;
9. Agree to abide by a "work plan" approved by the Water Users that includes the installation of remotely operated valves, shutdown and isolation procedure updates, and installation of leak detection systems as recommended in PHMSA advisory ADB-2014-04 as well as all improvements identified in prior Accufacts correspondence to the Defendants and PHMSA (included as **Exhibits E and I**);
10. Agree to abide by an integrity management plan approved by the Water Users that includes additional aerial inspections, in-line inspections, and on-the-ground inspections, and a review of the adequacy of the number, location and time for closure of existing valves and its leak detection capability;

11. Agree to and support the inclusion of the emergency response plan for the Pegasus pipeline as a standing annex in the ADEM Comprehensive Emergency Management Plan;
12. Agree that a violation of the PHSMA's Corrective Action Order constitutes violation of the Consent Decree;
13. Make the results of the 2010 and 2013 in-line inspection analysis "represented" in the Consent Decree available to any Water User, or their agents, who request it;
14. Agree to third-party monitoring of compliance with and enforcement of the Consent Decree by the Water Users, and the Defendants should be responsible for payment of all Water Users' attorneys' fees and costs in any action brought to enforce the Consent Decree; and
15. Make annual payments to the Water Users of a sufficient amount to be used for third-party monitoring of compliance with the Consent Decree.

Thank you for the opportunity to comment on the proposed Consent Decree.

Respectfully submitted by Central Arkansas
Water on its own behalf and on behalf of each of
the Water Users whose signature appears below:

CENTRAL ARKANSAS WATER

By _____
C. Tad Bohannon
Chief Legal Counsel
for Central Arkansas Water

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

Central Arkansas Water

Graham W. Rich, CEO

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

City of Little Rock

Mark Stodola, Mayor

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

City of North Little Rock

Joe Smith, Mayor

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

City of Sherwood

Virginia Hillman-Young, Mayor

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

City of Cabot

Bill Cypert, Mayor

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

City of Jacksonville

Gary Fletcher, Mayor

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

City of Bryant

Jill Dabbs, Mayor

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

City of Hot Springs

David Watkins, City Manager

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

Pulaski County, Arkansas

Barry Hyde, County Judge

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

Saline County, Arkansas

Jeff Arey, County Judge

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

Searcy Waterworks

Daniel Dawson, General Manager

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

Amity Waterworks

Don Hinkle, Manager

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

Hot Springs Village Waterworks

HSU Board of Directors

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

Hot Springs Utilities

Scott Bundy, Manager

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

Kimzey Regional Water District

Keith Daniell, Manager

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

Nashville Waterworks

Larry Dunaway, Manager

Date: _____, 2015

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Texarkana Water Utilities

William King Jr., Manager

Date: _____, 2015

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Pocahontas Waterworks

John Jackson, Manager

Date: _____, 2015

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Arkansas Health Center

David Burks, Manager

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

Little Rock County Rural Development Authority

Karla Settlmoir, Manager

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

Benton Waterworks

Steve Diccio, Manager

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

Malvern Waterworks

David Coston, Manager

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

Northeast Arkansas Public Water Authority

Joseph Janson, Manager

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

Cabot WaterWorks

Tim Joyner, Manager

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

Cabot WaterWorks

Gary Walker, Chairman

Date: _____, 2015

By my signature below, I hereby affirm that the below named city, county or water provider is in support of and in agreement with the comments contained in this **Comments to Proposed Consent Decree**. Moreover, I affirm that a rupture of the Pegasus pipeline in the watershed of our water supply source would be devastating to the public health, welfare and safety of the citizens we represent and serve.

Jacksonville Waterworks

Jake Short, Manager

Date: _____, 2015