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Congress of the United States
House of Representatives
Washington, DC 20515

February 20, 2004

The Honorable Samuel G. Bonasso
Deputy Administrator
Research and Special Programs Administration
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

Dear Deputy Administrator Bonasso:

As you may know, I have a very strong and long-held interest in the effective and safe operation of our Nation's oil and gas pipeline system. I am writing today with regard to some troubling concerns raised by recent press accounts involving the collection of fines by the Office of Pipeline Safety (OPS).

In response to the tragic pipeline accidents in Bellingham, Washington, on June 10, 1999, and in Carlsbad, New Mexico, in August 2000 in which a total of 15 people were killed, the Office of Pipeline Safety proposed, with great fanfare, civil penalties in the amounts of \$3.05 million (June 2, 2000) in the Bellingham case and \$2.52 million (June 21, 2001) in the Carlsbad case. According to recent press accounts and letters from various pipeline safety organizations, neither fine has been collected.

A news article in the January 22, 2004, edition of the *Austin American-Statesman* quotes a Mr. James Mitchell, identified as a "spokesman for the pipeline office," as stating that the Carlsbad matter had been referred to the Department of Justice "because the department has a broader range of legal tools." The article goes on to say that with regard to the Bellingham accident that "the office reached a settlement last month under which Shell Oil Co., the current owner and operator of the Bellingham pipeline, agreed to pay \$250,000."

These assertions, if true, raise several questions that I would appreciate your assistance in answering:

- 1) What is the exact status of the Carlsbad case? Has the Office of Pipeline Safety indeed referred the matter to the Department of Justice? Please provide a summary of OPS efforts to date to collect the civil fine announced in June 2001.
- 2) Did OPS reach a "settlement" with the Shell Oil Company in the Bellingham

- 3) With regard to the Bellingham case, it is my understanding that the Olympic Pipe Line Co. is currently in bankruptcy proceedings. The U.S. Department of Justice filed a Proof of Claim (NO. 03-14059-SJS) on November 14, 2003, in U.S. Bankruptcy Court (Western District of Washington) in which it asserts the following:

" . . . OPS issued Notice of Probable Violation and Proposed Civil Penalty (Notice) to both Olympic and Equilon Pipeline Company LLC (Equilon) based on regulations issued pursuant to the Pipeline Safety Act in 49 C.F.R. Parts 195 and 199. The Notice proposed a civil penalty of \$3,050,000 to resolve OPS' administrative penalty claims. Both Olympic and Equilon contested the penalty determination and invoked an administrative procedure that still is pending. Debtor's liability and the award of penalty will be determined in the administrative proceeding."
(Page 3)

Is the administrative procedure referred to above still pending? If not, what was the result? If so, does OPS intend to pursue the full amount of the penalty announced on June 2, 2000. If not, why not? Did OPS consider referring collection of this penalty to the Department of Justice?

- 4) On March 19, 2002, then-Administrator Ellen Engleman testified before the Subcommittee on Energy and Air Quality at a hearing entitled "Reauthorization of the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act." In both her oral and written testimony, Ms. Engleman stated "We [RSPA] have proposed \$9 million in civil penalties in the last 18 months, and processed six times the number of cases in the year 2001 over the previous year."

This statement would appear to include the proposed penalty in the Carlsbad case. Please detail the fines that comprise the amount of the \$9 million figure cited by Ms. Engleman. I am very concerned with the possibility that OPS cited these figures in Congressional testimony as proof of its effectiveness and has since failed to collect the penalties that comprise this amount.

The Office of Pipeline Safety has a troubled history with regard to fulfilling its responsibilities, a tendency that Associate Administrator Stacy Gerard has worked to improve over the last few years. I would be disappointed to see these good efforts tarnished by incomplete enforcement of two of the most high-profile tragedies involving pipelines.

The Honorable Samuel G. Bonasso
Page 3

I would appreciate your response to these questions no later than Thursday, March 4, 2004. If you have any questions please contact me or have your staff contact Bruce Harris of the Committee on Energy and Commerce Democratic staff at 202-226-3400.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Dingell". The signature is fluid and cursive, with the first name "John" and last name "Dingell" clearly distinguishable.

JOHN D. DINGELL
RANKING MEMBER
COMMITTEE ON ENERGY AND COMMERCE

cc: The Honorable Stacey Gerard
Associate Administrator, Office of Pipeline Safety