



JULY 20, 2011

YELLOWSTONE RIVER OIL SPILL OVERSIGHT

U.S. SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, SUBCOMMITTEE ON
TRANSPORTATION AND INFRASTRUCTURE

ONE HUNDRED TWELFTH CONGRESS, FIRST SESSION

HEARING CONTENTS:

Archived Webcast [\[link to video\]](#)

Majority Statement

Max Baucus [\[view pdf\]](#)

Minority Statement

James M. Inhofe [\[view pdf\]](#)

Witnesses

Panel 1

The Honorable Robert Perciasepe [\[view pdf\]](#)

Deputy Administrator

Environmental Protection Agency

The Honorable Cynthia Quarterman [\[view pdf\]](#)

Administrator, Pipeline and Hazardous Materials Safety Administration

U.S. Department of Transportation

Panel 2

The Honorable Bill Kennedy [\[view pdf\]](#)
Commissioner, District 3
Yellowstone County, Montana

Mr. Gary W. Pruessing **(pdf not available)**
President, ExxonMobil Pipeline Company
Exxon Mobil Corporation

Mr. Scott McBurney [\[view pdf\]](#)
Montana Landowner

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- MAJORITY PAGE
- MINORITY PAGE
- MEMBERS
- SUBCOMMITTEES
- LEGISLATIVE CALENDAR
- COMMITTEE RESOURCES
- CONTACT
- NOMINATIONS
- HEARINGS



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SEARCH

[Home](#) | [Print](#) | [Site Map](#) | [Text Only](#) | [Text Size](#) [A](#) [A](#) [A](#)

Hearings

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- ▶ [109th Congress Archived broadcasts \(RealPlayer\)](#)
- ▶ [109th Published Hearings](#)
- ▶ [109th Congress Statements \(2005-2006\)](#)
- ▶ [108th Congress Statements \(2003-2004\)](#)
- ▶ [108th Congress Published hearings \(2003-2004\)](#)
- ▶ [108th Congress Archived broadcasts \(RealPlayer\)](#)
- ▶ [107th Congress Statements \(2001-2002\)](#)
- ▶ [107th Congress Published hearings \(2001-2002\)](#)
- ▶ [107th Congress Archived broadcasts \(RealPlayer\)](#)
- ▶ [106th Congress Statements \(1999-2000\)](#)
- ▶ [106th Congress Published hearings \(1999-2000\)](#)
- ▶ [105th Congress Statements \(1997-1998\)](#)
- ▶ [105th Congress Published hearings \(1997-98\)](#)
- ▶ [Back to Home](#)

Statement of Max Baucus

Hearing: Subcommittee on Transportation and Infrastructure hearing entitled, "Yellowstone River Oil Spill Oversight."

Wednesday, July 20, 2011

**Hearing Statement of U.S. Senator Max Baucus
Chairman Subcommittee on Transportation and Infrastructure
Environment and Public Works Committee
Yellowstone River Oil Spill Oversight**

I called this hearing today to shine a bright light on a dark event: the oil spill in the Yellowstone River on July 1st.

Montanans have suffered two disasters on the Yellowstone this year: devastating floods and spilled oil. The evidence shows they are related. But there is no excuse for what happened on July 1st.

As Montanans, we love our state because of its wonderful rivers. The Yellowstone is God's country, and it has the trout to prove it. I have seen people come visit Montana and be transformed the first time they cast a fly in the Yellowstone. We raise food and we raise families on this river.

But in Montana we also have good paying jobs, can plow our crops, and can drive to our favorite fishing holes because of the oil in our pipelines.

These are just the facts.

Water is our most sacred resource. And oil is our most basic fuel. Montana is rich in pristine waters and rich in energy. But we cannot let them mix.

Today, we will examine what happened before, and what happened after the spill—what went right, and what could be improved. Our first priority is getting the spill cleaned up and getting it cleaned up now. So, I want to make sure the

Yellowstone is being restored immediately for everyone who depends on it. Just as important is that Montana landowners be made whole. This means a fast and effective claims process. It also means a long-term commitment that Exxon will be there years down the road if the value of Montanans' land remains damaged by this spill. And that commitment must include a plan to compensate our farmers and ranchers for potential long-term impacts on the crops they depend on to earn a living.

Finally, we will look for potential lessons to be learned. We will ask tough questions about what happened and whether it could have been prevented.

Were the effects of flooding in the Yellowstone properly considered when the Silvertip Pipeline was designed? Is the pipeline operated with the specific characteristics of the Yellowstone in mind?

This was not the first flood in Montana. And it will not be the last. I also know that there are many other rivers crossed by pipelines in Montana. So I want to know: what can be done to make sure this never happens again?

It's also very important to me that Montanans have a voice in this process. I'm proud to have two Montanans here today to share their stories and their insights. And to folks who are watching back home: we want to hear from you as well.

The official Congressional record will stay open for two weeks. Please give my office a call or send us an email and we'll make sure your written comments are included in the record.

I look forward to hearing from all our witnesses. Thank you for coming today.

###

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- MAJORITY PAGE
- MINORITY PAGE
- MEMBERS
- SUBCOMMITTEES
- LEGISLATIVE CALENDAR
- COMMITTEE RESOURCES
- CONTACT
- NOMINATIONS
- HEARINGS



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- ▶ [107th Congress Published hearings \(2001-2002\)](#)
- ▶ [107th Congress Archived broadcasts \(RealPlayer\)](#)
- ▶ [106th Congress Statements \(1999-2000\)](#)
- ▶ [106th Congress Published hearings \(1999-2000\)](#)
- ▶ [105th Congress Statements \(1997-1998\)](#)
- ▶ [105th Congress Published hearings \(1997-98\)](#)
- ▶ [Back to Home](#)

Statement of James M. Inhofe

Hearing: Subcommittee on Transportation and Infrastructure hearing entitled, "Yellowstone River Oil Spill Oversight."

Wednesday, July 20, 2011

Chairman Baucus, thank you for holding today's hearing. The Yellowstone River is truly one of America's great treasures and we all share your concern with the recent spill. In addition, we all owe a debt of gratitude to the work crews from EPA, Coast Guard, U.S. Fish and Wildlife Service, Montana state and local agencies, and others who for the past two weeks have worked long hours to protect health and wildlife in the affected area.

As Congress examines this incident the most important order of business should focus on three priorities:

- Mitigate and contain the environmental impacts;
- Provide assistance to those affected; and
- Investigate the causes so we can prevent a mishap of this kind from happening again.

And I would add this: let's avoid overreacting. Now this incident is serious—perhaps 750 to 1,000 barrels of oil were spilled into the river. But, unfortunately, I'm afraid that this spill has occasioned some misguided calls against pipelines and oil development. Already, some politicians have leveraged this spill in opposition to the expansion of the Keystone pipeline which would double the amount of crude we receive from Canada, reducing our imports from overseas.

Instead, let's look to the common sense testimony of one of today's witnesses, Scott McBurney, a local landowner adjacent to the spill on the Yellowstone. He said, "I need oil, it's just a fact of life, there's no such thing as a plug-in tractor. This country needs oil. More than that, we need the jobs the oil industry brings to Eastern Montana. The Yellowstone Valley is a better place because the Exxon/Mobil refinery is here. I know a lot of people would take exception to this opinion, but I believe it."

Mr. Chairman, he's right. This country needs oil. It's important that our response to this tragedy be measured, and it be based on facts. Let's avoid getting sidetracked by other issues like the Keystone pipeline that will needlessly complicate efforts to address the current spill. I'm looking forward to hearing from all our witnesses today.

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**TESTIMONY OF
BOB PERCIASEPE
DEPUTY ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
July 20, 2011**

Chairman Baucus, Ranking Member Vitter, and Members of the Subcommittee, thank you for inviting me to discuss the role and activities of the U.S. Environmental Protection Agency (EPA) regarding the Exxon/Mobil pipeline break into the Yellowstone River and the resulting oil spill. EPA, in coordination with our federal, state, tribal, and local partners, is committed to protecting Yellowstone River communities from the adverse environmental effects of the Silvertip Pipeline oil spill.

BACKGROUND

EPA's Oil Spill Program focuses on activities to prevent, prepare for and respond to oil spills from a wide variety of non-transportation related facilities that handle, store, or use various types of oil. EPA regulates approximately 620,000 of these facilities, including oil production, bulk oil storage, and oil refinery facilities that store or use oil in above-ground and certain below-ground storage tanks.

EPA shares the responsibility of responding to oil spills with the U.S. Coast Guard (USCG). Further, we share the responsibility for prevention and preparedness with USCG and several other federal agencies. The USCG leads the response to spills that occur along the coast of the United States, or in the coastal zone, and EPA leads the response to spills that occur in the

internal United States, or the inland zones. The exact lines between the inland and coastal zones are determined by Regional Response Teams (RRTs) and established by Memoranda of Agreement (MOAs) between regional EPA and USCG offices.

EPA and USCG have a strong relationship and work closely on oil spill response activities regardless of where the spill occurs. As the principal federal response agency for oil spills in the inland zone, EPA assumes the role of Federal On-Scene Coordinator when oil spills occur in inland waters, such as the Yellowstone River. Inland zone oil spills stem from a variety of causal factors including oil pipeline ruptures, tank spills, mishandling, and other sources. The Pipeline and Hazardous Materials Safety Administration (PHMSA) of the U.S. Department of Transportation is responsible for regulation and oversight of pipeline safety and my counterpart from PHMSA will discuss that agency's role with respect to pipeline oil spill prevention and response.

EPA either manages the oil spill response or oversees the response efforts of private parties at approximately 300 spills per year where state or local resources are unable to respond sufficiently. After an oil spill occurs, EPA frequently provides technical assistance which may include air and water monitoring support, waste management support, and mobilization of our On-Scene Coordinators (OSCs) and EPA's Special Teams including the Environmental Response Team and the National Decontamination Team to assist with the response. The Special Teams are comprised of highly-skilled environmental experts and utilize modern, sophisticated, and innovative technologies for oil spill response.

THE SILVERTIP PIPELINE INCIDENT AND RESPONSE

At approximately 10:45 PM MDT on Friday, July 1, 2011, a break occurred in a 12-inch pipeline owned by ExxonMobil that resulted in a spill of crude oil into the Yellowstone River approximately 20 miles upstream of Billings, Montana. The current estimate of the amount of oil released remains at 1,000 barrels based on information provided by ExxonMobil, but both PHMSA and the state of Montana are investigating all elements of this incident, including the amount of oil released.

EPA's primary concern is protecting people's health and the environment and EPA will remain on-site to ensure cleanup and removal efforts do just that. As part of this mission and out of an abundance of caution, we have been collecting air, surface water and drinking water samples and began taking soil and sediment samples as soon as these areas were accessible. I will describe these efforts in a moment.

Consistent with the protocols set forward by the National Contingency Plan, EPA is coordinating its response actions with the Department of the Interior, including the Fish and Wildlife Service, the Bureau of Land Management, the Bureau of Indian Affairs, as well as state and local agencies, and the Crow Tribe. We will take all steps necessary to ensure that ExxonMobil, addresses the potential impacts of this spill and is held accountable for relevant response costs, in accordance with the Oil Pollution Act of 1990 and other laws. I would like to point out that the State, and especially Governor Schweitzer, have been integrally involved in the coordinated response to this spill, and have been an important partner in this response. The Governor's leadership in the deployment of several agencies and the State's consultation with experts from other states are representative of the extraordinary effort toward keeping the people of Montana affected by this spill informed about what is happening on the ground.

EPA has been actively engaged in and overseeing the Shoreline Cleanup Assessment Technique (SCAT) activities. SCAT is a process of inspecting impacted areas for the degree of oiling and the types of soil and vegetation that need to be cleaned up in a particular area. There are basically three steps to the SCAT process – assessment, cleanup and evaluation. SCAT reports are developed to drive cleanup activities in the field. Once cleanup crews have completed their activities in previously assessed areas, a second SCAT team will be sent to validate the effectiveness and thoroughness of the cleanup process. The declining floodwaters continue to provide our SCAT teams and cleanup crews increased access to vegetation and shoreline that was previously unavailable to us. This access allows EPA and the state to systematically move down river as we assess and clean up the spill.

EPA continues to hold ExxonMobil accountable for assessment and cleanup. The Agency has issued an official Administrative Order to ExxonMobil, pursuant to section 311(c) of the Clean Water Act, directing the company to take a number of clean-up, removal, and near-term restoration efforts and we continue to carefully and thoroughly review their workplans, data and field activities.

EPA sample collection and oversight, as well as the samples taken or planned by our state, tribal and federal partners, all contribute to our understanding of where oil is present and what compounds remain in the environment. To date, water sampling conducted by EPA between Laurel and Miles City, MT indicates there are no petroleum hydrocarbons above drinking water standards in that region. In addition, our air monitoring continues to show no detections of contaminants associated with the spill in ambient air along the Yellowstone River at levels that would pose a threat to human health. Two compounds (naphthalene and methylene chloride) were detected at concentrations slightly above the levels used to evaluate potential human health

risks. However, naphthalene concentrations are similar to concentrations in the area prior to the spill and methylene chloride is not a compound associated with the oil spill. No other compounds were detected above levels which could pose a risk to human health. The soil and sediment sampling effort was initially complicated by flooding in the area, but as the flood waters have receded, the response team has been able to access the areas and proceed expeditiously. We have been actively developing sampling plans using state of Montana regulatory standards to ensure we are being protective of human health and the environment. These monitoring efforts will continue as we remain focused on taking all necessary steps to protect public health. As additional data are collected, we will have a more comprehensive picture of the potential impacts.

EPA's cleanup activities, which focus on removal of the oil, continue while these samples are being collected. The visual presence of oil in the system is a powerful tool and one used by our SCAT teams as they continue to assess impacts to the riverbank and floodplain. In addition to our collection of real time air samples, EPA also follows strict scientific and quality assurance protocols for the soil or sediment samples that are collected and sent to a certified local laboratory for analysis and validation. Once they receive them, the laboratory analyzes the samples and then does a quality check of the data. EPA then performs another quality check of the data and begins to interpret the data with state and federal partners. During emergency response situations, the agency works to expedite this process as much as possible. As soon as EPA has updated data, we post the information for the public on our website at: www.epa.gov/yellowstoneriverspill/. We have been providing daily updates to the public, and have held community meetings to keep the public informed.

In addition to the SCAT process of assessment, cleanup and evaluation, the cleanup methods being used focus on removal, and vary depending on the media impacted and how much oil is present at a particular location. SCAT teams work to ensure a proper balance between cleanup and minimizing further impacts to ecosystems.

As of July 18, 2011, there are 755 personnel on site and 610 currently in the field engaged in cleanup or sampling activities. Cleanup crews have used 41,338 linear feet of materials such as absorbent booms and 9,000 square feet of materials such as absorbent pads. Crews have recovered 942 barrels of oily liquids and 505 cubic yards of oily solids. Liquid waste is being processed through a permitted refinery wastewater treatment plant and solid waste is being shipped to Bennett, CO. During the pipeline evacuation last weekend, 370 barrels of oily liquid and about 80 barrels of oil were recovered.

NEXT STEPS

In coordination with our federal, state, and local partners, EPA is committed to protecting the community from any adverse environmental effects of the oil spill. In the coming weeks, we will be transitioning from emergency response activities to a SCAT-driven process toward State-determined cleanup standards. EPA will continue monitoring, identifying, and responding to potential public health and environmental concerns.

At this time, I welcome any questions you may have.



**UNITED STATES DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION**

**Hearing on
Yellowstone River Oil Spill Oversight
Yellowstone County, Montana**

**Before the
Committee on Environment and Public Works
Subcommittee on Transportation and Infrastructure
United States Senate**

**Written Statement of Cynthia L. Quarterman
Administrator
Pipeline and Hazardous Materials Safety Administration
U.S. Department Of Transportation**

**Expected Delivery 10:00 a.m.
July 20, 2011**

**WRITTEN STATEMENT
OF
CYNTHIA L. QUARTERMAN
ADMINISTRATOR
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
BEFORE THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
UNITED STATES SENATE
July 20, 2011**

Chairman Baucus, Ranking Member Vitter, and distinguished Members of the subcommittee, thank you for the opportunity to discuss the Pipeline and Hazardous Materials Safety Administration (PHMSA)'s response to the July 1, 2011 ExxonMobil Pipeline Company (ExxonMobil) oil spill in Laurel, Montana.

Safety is the number one priority of Secretary Ray LaHood, myself, and the employees of PHMSA. We are all strongly committed to reducing safety risks to the public and environment. More than 2.5 million miles of pipelines deliver energy to homes and businesses across America, and our job at PHMSA is to ensure that every mile is safe. Of these 2.5 million miles, PHMSA oversees 174,000 miles of hazardous liquid pipelines. Over the past 20 years, the traditional measures of risk exposure such as population growth and development have been rising. However, at the same time, the number of significant incidents involving onshore hazardous liquid pipelines has declined 28%, with a corresponding decrease of 57% of gross barrels spilled.

Despite those recent improvements in performance, I am certainly troubled by this recent oil spill. Secretary LaHood, myself, and the employees of PHMSA are always mindful of the substantial effects these incidents can have on a community where a spill occurs. As identified during PHMSA's preliminary failure investigation, ExxonMobil personnel reported to the National Response Center that the spill occurred on the Silvertip pipeline on Friday, July 1, at approximately 10:40 p.m. MDT. An estimated 1,000 barrels of oil were released. That initial estimate was also reported by ExxonMobil and is subject to further review once more information becomes available. At 10:47 p.m. MDT, ExxonMobil shut down the pumps at Silvertip station. At approximately 10:57 p.m., the company closed the Laurel block valve

located downstream of the failure site. Thereafter, ExxonMobil reopened the block valve at 11:07 p.m. and closed it at 11:28 p.m. MDT. ExxonMobil closed the block valve located upstream of the failure site at approximately 11:36 p.m. MDT. This valve shut down the flow of product into the Yellowstone River. These valve operations will be examined in detail during the PHMSA investigation of the incident. ExxonMobil reported the failure to the National Response Center on July 2, at approximately 12:19 a.m. MDT.

Mr. Chairman, Members of the subcommittee, I assure you that PHMSA is vigorously investigating this incident and will continue to do so. PHMSA personnel were on the scene and directly engaged in the response efforts within 12 hours of notification of the spill. As part of the on-scene Unified Command Center, PHMSA assisted various State and Federal agencies in assessing the failure's devastating affects to the Yellowstone River and its surrounding communities and overseeing clean-up activities. The Environmental Protection Agency is coordinating its response actions with the Department of the Interior, Fish and Wildlife Service and state and local agencies and will take whatever steps are necessary to ensure ExxonMobil, as the responsible party, addresses all potential impacts of this spill. In addition, PHMSA is responsible for determining the cause of the pipeline failure and has confirmed the shutdown of the Silvertip pipeline, verified the isolation of the other major water crossings, gathered information from ExxonMobil's control center in Houston, Texas, and initiated an onsite failure investigation. On July 3, PHMSA contacted all pipeline operators with pipeline crossings in the Yellowstone River to verify the condition and operational status of their crossings. We advised them to take appropriate preventive measures by patrolling their pipeline crossings, more frequently monitoring them, and coordinating their efforts with other nearby operators. On July 5, the first business day after the incident, PHMSA issued a Corrective Action Order requiring ExxonMobil to directionally drill the Yellowstone River crossing and assess the risk of other major Silvertip pipeline water crossings. We continue to have staff on scene participating in the incident command, assisting state and local agencies, and carrying out our investigation. Unfortunately, due to the high river flows, the ruptured pipe is currently inaccessible for further examination at this time. Therefore, PHMSA has been unable to complete its failure investigation. However, I can assure this subcommittee that once the failed pipe becomes accessible, PHMSA will complete this investigation as soon as possible.

Before the incident occurred, PHMSA was actively monitoring the Silvertip pipeline and the recent flooding conditions brought about by the rising river flows. In October 2010, PHMSA and the City of Laurel Public Works Department jointly reviewed rising river flow and erosion near the south bank of the Yellowstone River crossing. Both PHMSA and the City of Laurel were concerned with the risks to the Silvertip pipeline due to high runoff and possible river bottom scour and erosion of the river bank. In response to these risks, ExxonMobil performed a depth-of-cover survey that was completed on December 1, 2010. That depth-of-cover survey confirmed at least five feet of cover over the pipeline for the riverbed, which was within the 4 feet depth-of-cover requirement in the pipeline safety regulations. Due to the onset of heavy flooding, starting in May 2011, PHMSA inspectors began monitoring the flow rates in the Yellowstone River on a daily basis and visually observing the conditions of the pipeline crossing on a biweekly basis. On June 1, PHMSA requested that ExxonMobil again confirm the current depth-of-cover for the south bank. ExxonMobil reported that there was at least 12 feet of cover for the south bank. In June 2011, PHMSA also alerted pipeline operators in the vicinity of the upper Missouri River and its tributaries of the risk of high flood waters and advised those operators to take appropriate preventive measures.

Historically, PHMSA has conducted routine inspections on the Silvertip pipeline for many years. In July 2009, the agency conducted a standard inspection of the Silvertip line. PHMSA issued three enforcement actions as a result of this inspection. However, none of these alleged violations involved the Yellowstone River crossing. Two of the cases were closed after ExxonMobil completed all required actions. The third case is still open, but ExxonMobil took appropriate compliance action after the inspection occurred and before the Notice was issued. As recently as June 6-10, 2011, PHMSA personnel performed an integrity management field inspection on the Silvertip pipeline. As a part of that inspection, PHMSA reviewed ExxonMobil's 2009 internal inspection (ILI) raw data for this particular pipeline. No regulatory violations were found at that time. The ILI data did show one pipeline anomaly at the river crossing, however, that anomaly was below the required repair conditions under the pipeline safety regulations. Mr. Chairman, I assure you that PHMSA will remain vigilant in ensuring the safety, reliability and the integrity of all pipelines under its jurisdiction. We will also ensure that the Silvertip pipeline is free of safety and environmental risks before ExxonMobil is granted permission to restart the line. PHMSA will investigate this incident fully to ensure that the line

is operated safely, that the public is protected, and that any potential violations of the federal pipeline safety regulations are swiftly addressed.

Thank you and I am happy to respond to your questions.

###

Testimony of William Kennedy
County Commissioner
Yellowstone County, Montana
Before the Environment and Public Works Committee
Hearing on “Yellowstone River Oil Spill Oversight”
July 20, 2011

Thank you Madam Chairman Boxer, Vice-Chair Inhofe, and Members of the Committee. Thank you, Senator Max Baucus, for inviting me to give the committee insight on the Exxon oil spill in the Yellowstone River near Laurel, Montana, located in Yellowstone County.

I am Bill Kennedy, a Yellowstone County Commissioner, and the pipeline crosses the Yellowstone River located in my county. We are located about 140 miles from Yellowstone Park and about 300 miles to the confluence of the Yellowstone River into the Missouri River.

Since May we have had flooding and in June we received a Presidential Emergency Declaration on our county and statewide. The amount of snowpack is way above normal and the Yellowstone River has been higher since May. This gives you the background setting up the stage for the July 1st oil break of the ExxonMobil pipeline. I have been monitoring the flooding on the Yellowstone River almost daily since the river hit floodstage.

Late Friday night on July 1st, our Disaster and Emergency Services Director, Duane Winslow, opened the Emergency Operations Center. The Laurel Volunteer Fire Department, along with Yellowstone County Sheriff's deputies, evacuated approximately 125 people from their homes along the Yellowstone River.

The air was heavy with the smell of crude oil. The immediate danger to the public was not known at the time, but all emergency personnel were notified. Approximately 42,000 gallons of oil had leaked into the Yellowstone River. Emergency personnel and Exxon employees responded immediately and within the next hour pipeline valves had been closed, shutting down the flow of oil. This quick response allowed us to prevent more oil flowing into the Yellowstone River.

We live in the West and water is very important to us for safe drinking water, irrigating our crops, watering livestock and tourism on our Montana rivers. Public safety and cleanup were our top priorities. This is a big deal and all parties hit the ground running.

At 6:30 am Saturday morning we called a press conference to inform the public and immediately let the public know our drinking water was safe and our drinking water intakes were shutdown.

Exxon was already on board, in addition to our local Disaster and Emergency personnel. EPA and State DEQ were enroute. The response was immediate and the July 4th weekend became a real life disaster response in our county.

The cleanup process was underway, but at this time it was very evident that the local government was informed but not involved in decisions involving the next steps.

EPA took charge, but samples and results were slow to come, taking from 4 to 7 days. We were told we could tell the public there is no imminent danger but that verifying results would take days. The public, especially the landowners, were upset over the unknown. By Day 3, I asked to be at the table on decisions and the plan for cleanup. It was agreed the county would be on board and we were briefed but sampling and cleanup were still left to the EPA and DEQ.

Exxon did take our suggestions – we provided mapping and landowners' names and they contacted our residents. I asked every agency to have a live person on the phone and face to face meetings with the public. Exxon had briefings daily, then EPA had daily briefings. The state set up a local office and took their own samples. We need to all work together.

We need to have a strategy to keep local government officials on board and in decision-making positions. We know the residents, the geography and the companies in our community. This spill opened our eyes to what a leak can do and how our emergency planning works. We also know now that we need to work on being included in decisions on cleanup and future safety planning for our residents.

The pipelines are safer than trucking and rail and keep good paying jobs in our community. We have 3 refineries and have always had expectations that DOT checked and assured everything was good. This was a wakeup call for the county to be more involved.

The positive outcomes are:

- We are now invited to participate in daily briefings on the status of the cleanup
- Local landowners have face to face meetings with Exxon and agencies
- Local elected officials are included in briefings
- Exxon and EPA have held public meetings
- Local workforce is being trained for hazardous cleanup
- The public now knows what to expect from the public response system

- We have assurances from Exxon that the property will be cleaned up and put back to the way it was before the leak
- We have independent water, air and soil monitoring and sampling through the State and EPA to confirm these assurances

What we can do better:

- Publicity will take a while to explain to agriculture producers and tourists that the Yellowstone River is safe to irrigate their crops, water livestock and that tourists can still float and fish
- Communication between all parties took a few days to be seamless
- Local government officials are still not openly included in decisions

I will say that all parties seem to be working together for our community. We do need rules that state the first priority should be working with local officials for the public health and safety of Montana's counties.

I am open to any questions.

**Testimony of Scott McBurney before the United States Senate
Committee on Environment and Public Works
Subcommittee on Transportation and Infrastructure
Yellowstone River Oil Spill Oversight
Wednesday July 20, 2011
10:00 a.m.**

About Us

My name is Scott McBurney and I live at 651 N River Rd, Laurel MT 59044. Since 2005 I have lived near the Yellowstone River between Billings and Laurel with my wife Sue and two sons, ages 12 and 15. Sue and I are self-employed and both work at home. I build gadgets that measure radiation in a machine shop on our place. Sue does business management while finishing up her accounting degree at MSU Billings. Our family is pretty much the average Montana family; we are active in sports, Boy Scouting, camping, river rafting, fishing and hunting. We own 4 horses which we keep at home and try to find some time to ride when the weather is good. We put up grass hay, most of which we sell except for what we keep for our horses. Our hay is high quality, at least when I can get it put up without a lot of rain falling on it. We usually cut our hay field (15 acres) by mid-June, water it, and by the end of summer our horses are pastured in the hay field until spring.

Our place is 20 acres, we have no river frontage but I tell people our house is a pitching wedge from the river. For you non-golfers that's less than about 140 yards. We share an irrigation pump with some of our neighbors and pump water out of the river into small ditches on either side of our property. To irrigate, ditches are plugged with moveable dams to force the water out onto the graded pasture where it runs into a low area in the middle. This valley or low area in the middle of the pasture is where the water pools up when we irrigate, normally this water is only a foot or so deep, covers only a couple acres at most and is gone the next day.

When we bought our house we thought long and hard about the risk of the river flooding. We knew that living near the river would be a great joy for the most part; the wildlife viewing, the beauty, the water and decided to accept the risks as long as we had flood insurance.

This spring it became clear that 2011 would be the year that tested the wisdom of that decision. The snowpack by May was up to about 200% of normal and the river flooded after a big rainstorm, and this was before the snowmelt had really started in earnest. It was spooky to see most of our hay pasture, half the corrals and the lawn behind the house underwater. On May 25, 2011, the water crested at 13.8 feet on the Billings gauging station the third highest crest ever recorded at that point in time. It was pretty clear that there was more to come so I bought a dump truck load of sand, Sue bought 200 sand bags from Yellowstone County and we and our neighbors started filling sandbags.

1 July 2011

Friday, July 1 was a hectic day even by our standards. The river was in full flood mode for at least the third time this season. I have to say I think the USGS does a really good job with their river forecasts as far as snowmelt is concerned; we use their website a lot. The USGS forecast was for it to top out at about 14 feet, at this level the water is just inches from getting into my shop and barn and less than a vertical foot from getting into the lower level of my home. There were some pretty nervous people at my house.

My older son had earned his Eagle Scout award and his Court of Honor was scheduled for Saturday. My Mother and Stepfather had come from California for the ceremony and a McBurney family reunion, and were staying with us. Sue was busy helping Mom bake and decorate a huge, wedding-type Eagle Scout cake. Both of my brothers were coming to stay with us on Saturday.

My son had taken a custom hay cutting job with his boss in Laurel and I was helping him with that. We baled hay until well after dark getting home about 10:30 pm. After we had been home a short while Sue started accusing us of smelling like diesel fuel, even after showering she was walking around muttering about how bad we smelled.

Everyone except me had gone to bed and I was getting ready to do the same when the Laurel Volunteer Fire Department showed up at one of my neighbors' house with their lights flashing. When they came to our house next, I met them in driveway, when I walked out the door the odor was powerful. They informed us we were under a mandatory evacuation. "You got to go, and bring a change of clothes," they said. I've got to tip my cap to those firefighters driving around in dark looking for houses next to a flooding river, those guys were great. As we were walking out the door, I remember somebody asking, "Should we bring the cake?" We found rooms in a hotel in Billings on our fourth try at about 1:30 a.m. Saturday morning, Sue called the Laurel police/fire people and we found we could get back in to the house. When we got home I walked out in the pasture, I found out we had a problem.

The middle of the hay field, the valley or bottom area, had not been cut because it was too muddy after the May flood and after getting my swather (hay cutting machine) stuck a couple times I gave up on it for the time being, thinking I would cut it as soon as it dried out.

Oil had come over the ditch next to the river about halfway down the pasture. Big patches of oil were lying on the short grass where I had cut hay. As you went further down the property away from the house the amount of oil increased. Oily water stood in the ditches and the pasture. The tall uncut hay had acted like a big brush and stopped a lot of the heavy oil, a thick line of oil showed on the edge of the uncut hay. Water was still coming over the ditch down at the end of our property so I couldn't go all the way down there. A simple fact seemed to be in play, where there had been more moving water Friday night, there was more oil. There was also something else that was troubling to me, the water standing in the valley of the pasture, which during the

two previous floods had been pretty clear, had an ugly brown color. As I write this on July 16 the last of that brown water is drying up.

The Response

When we got home on Saturday Sue went on the internet and found an article about the oil spill, which included a phone number to contact Exxon/Mobil. We called they took our information and we were called later in the day by Crawford Co. who are acting as Exxon/Mobil's Insurance Company. Crawford has done a good job keeping in touch with us since the spill, when we need something we call and they have come through every time, so far.

We have had several meetings with agents from Crawford and Exxon/Mobil they have always been helpful and more than fair. On July 13, Crawford cut us a check for the hay we couldn't cut yet, and for this year's loss of use of the pasture. The thinking is that once the ground dries out, Exxon/Mobil will remove all the grass in the affected area. We made the decision to wait for the pasture to dry out without any pressure from Exxon or Crawford. I have talked with some of the crews working on adjacent properties. One question that remains about Exxon's initial remediation is exactly how they are going to do it. The crews have been using string trimmers (weed whackers) and I am not sure I want to have my grass cut that short as it could be damaged. A guy I talked to said they were thinking about using a swather to cut it, but I am not sure about that either, I had cut some of that field only a couple weeks before the spill with my swather and think that a lot of oil could be left on the field, as it leaves about 2-3 inches of grass when cutting. I am hoping the County Extension Agent can help. In short I want to get all the oil I can off of my pasture, but not do any more damage to the grass than necessary.

On July 14, Crawford brought us a check for the hotel expenses we incurred on July 1, when we were evacuated. They also agreed to pay for us to buy an electric fence and water tank so we can put our horses out on the undamaged portion of the pasture with a temporary fence. It's now, July 17 and today we have put up the electric fence and the horses are out there getting fat.

We have been talking with Crawford about independent soil testing; they have given tentative approval for this. They would like an estimate from the company doing the work and we are now trying to find someone to do it. I feel that soil testing is important for us and I will write more about that later.

As mentioned before we had a McBurney family reunion at Fairmont Hot Springs, we left on Wednesday, July 6 and returned on Sunday, July 10. We were the host family. Sue had organized the whole thing so we really couldn't miss it. Because we were gone, we missed some meetings. I think the EPA had one and I know the Governor had one. We did attend the Wednesday, July 13 meeting at Laurel High School; I think for the most part EPA was running that meeting. The meeting had some good information and some questionable information. The information on air quality was good news, it was presented in a way I could understand and it was definitive. The air is fine, it smelled really bad for a couple days but that's all. The answers to questions about

soil testing were not quite as clear. At this meeting, I got the impression the EPA was going to do more soil testing, but a comprehensive plan was not put forward as far as I could tell. The information or advice on agricultural matters was incorrect or non-existent.

On the whole I think EPA is doing a good job, they have a lot of work to do and it's probably too early on in the process for them to think about what concerns me the most, long-term effects on soil and water. They're still cleaning up oil right now, as they should be.

On Tuesday, July 12, EPA came to my house and took a soil sample, one sample on 10 acres of effected pasture. It ended up seeming more like a public relations move than a quest for information about my pasture. They brought a television crew, Sue was interviewed in the lead story on Channel 8 News that night, so it was exciting but I couldn't help feeling disappointed.

On July 13 an EPA contractor came to our house and took water samples, this was good news. I felt like the water testing was a little overdue but I think the water is good and was not that worried. The results are not due until 7-27. That's almost a month after the pipeline broke.

As I said I haven't been to any of Governor Schweitzer's meetings, so I don't think I can say much about the State's response. He was quoted in the paper saying everyone should get a lawyer, which I'm not sure is advice worth taking at this point.

Montana DEQ (Department of Environmental Quality) called today (Sunday, July 17) and they are coming out to do some soil samples on Monday, July 18. It sounds like we are going to get about 3 soil samples. Sue and I had talked to some people from the Governor's office at the Wednesday meeting in Laurel and gave them our contact information, expressing our concerns about soil testing, in a scientific manner. I think the Governor is looking for litigation vs. Exxon more than soil remediation for my pasture, but we will see.

Montana FWP (Fish Wildlife and Parks) was in our area on Thursday, July 14. There must have been 5 trucks with 8 or 10 wardens on N River Road. I have no idea why all those game wardens were here. The funny thing is Sue had just seen a Black Bear a few moments before and we were out looking for it. FWP was unaware of the Bear, and we shared some laughs with a game warden about the Bears black color being because of oil.

I haven't had a lot of interaction with the county government; I know they were doing a lot of traffic control in the spill area before Exxon got all their crews in place. Sheriff Mike Linder and his crew had to evacuate my neighbors on July 2. They were still in their house, even though the river was 3 or 4 feet deep and running in their yard.

What The Landowners Need

As a landowner, I feel I need information. I've asked some questions that were not answered. How much oil on my property is too much for the hay to tolerate? What is the long term effect of

oil on Brome grass? Will the grass be fit to use next year if it comes back? Why is some of my grass dying and some doing fine?

There seems to me to be a gap in knowledge; the EPA guys don't know much about farming and the farm agent doesn't know much about oil spills.

I think the biggest worry the landowners have is property values. The reason I want private soil testing is I want to have a report in my file cabinet that I could show anyone who might be considering buying my place. A clean bill of health, if you will, for my property. I feel like Exxon/Mobil owes me this. The same with my well water, maybe 3 years of testing. I don't think my water is bad; I just worry that someone else will.

We will face questions from our hay customers as well, and we need solid science behind our answers.

My 2 Cents

I need oil, it's just a fact of life, there's no such thing as a plug-in tractor. This country needs oil. More than that, we need the jobs the oil industry brings to Eastern Montana. The Yellowstone Valley is a better place because the Exxon/Mobil refinery is here. I know a lot of people would take exception to this opinion, but I believe it.

The Yellowstone River is a powerful force and anything in or near its banks is at risk. That should always be a consideration when anything, whether a home or a pipeline is positioned near the river. I hope the Silvertip Pipeline accident is something we can learn from and move on.



Photo 1 shows part of the property at 651 N. River Road, and its proximity to the Yellowstone River

Photo 1



Photo 2

Photo's 2 and 3 show the line of tar/oil deposited at the base of the uncut hay in the low area of the pasture.



Photo 3



Photo 4 shows standing, brown water with sheen of oil on top.

Photo 4