



# EPCRA, The Stafford Act, and OPA 90

How Large Oil Spills Differ from Other Incident Types

MTWY Spill Response COOP

# Today's Presenters

## Industry Representatives



Jake Hover – Environmental Engineer - CHS Pipelines and Terminals



Peter Killman - Manager of Hazardous Materials and Emergency Response - BNSF

# MTWY Spill COOP

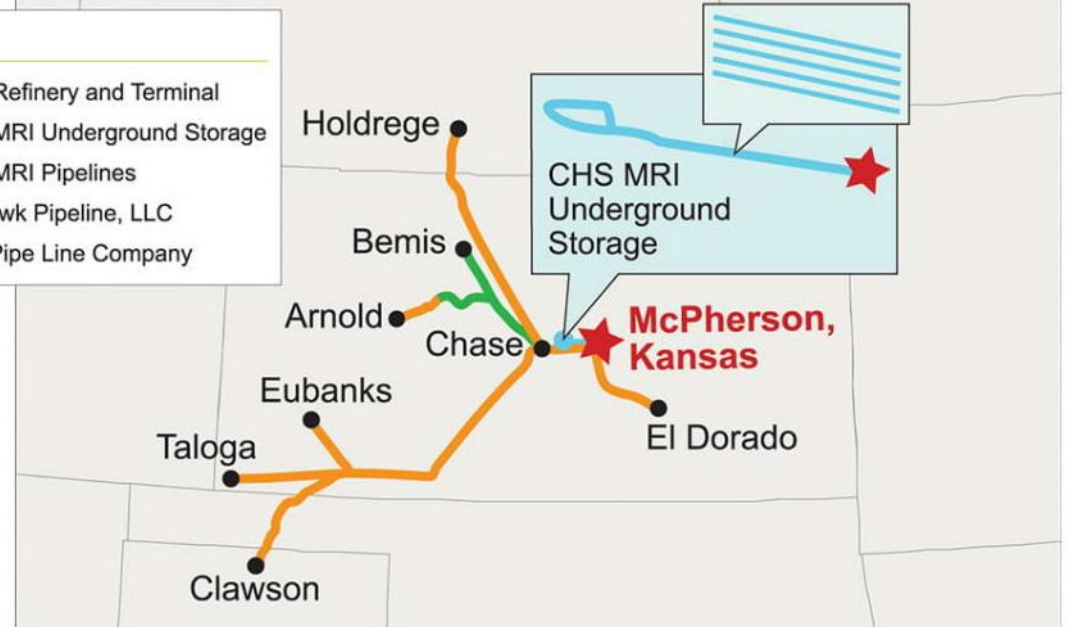




# Pipelines and Terminals

**KEY**

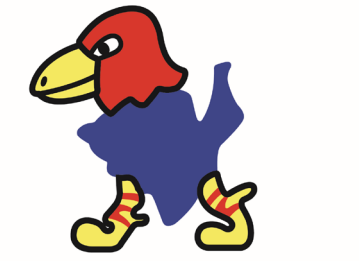
- ★ CHS Refinery and Terminal
- CHS MRI Underground Storage
- CHS MRI Pipelines
- Jayhawk Pipeline, LLC
- Kaw Pipe Line Company



Cenex Pipeline, LLC



Front Range Pipeline, LLC.

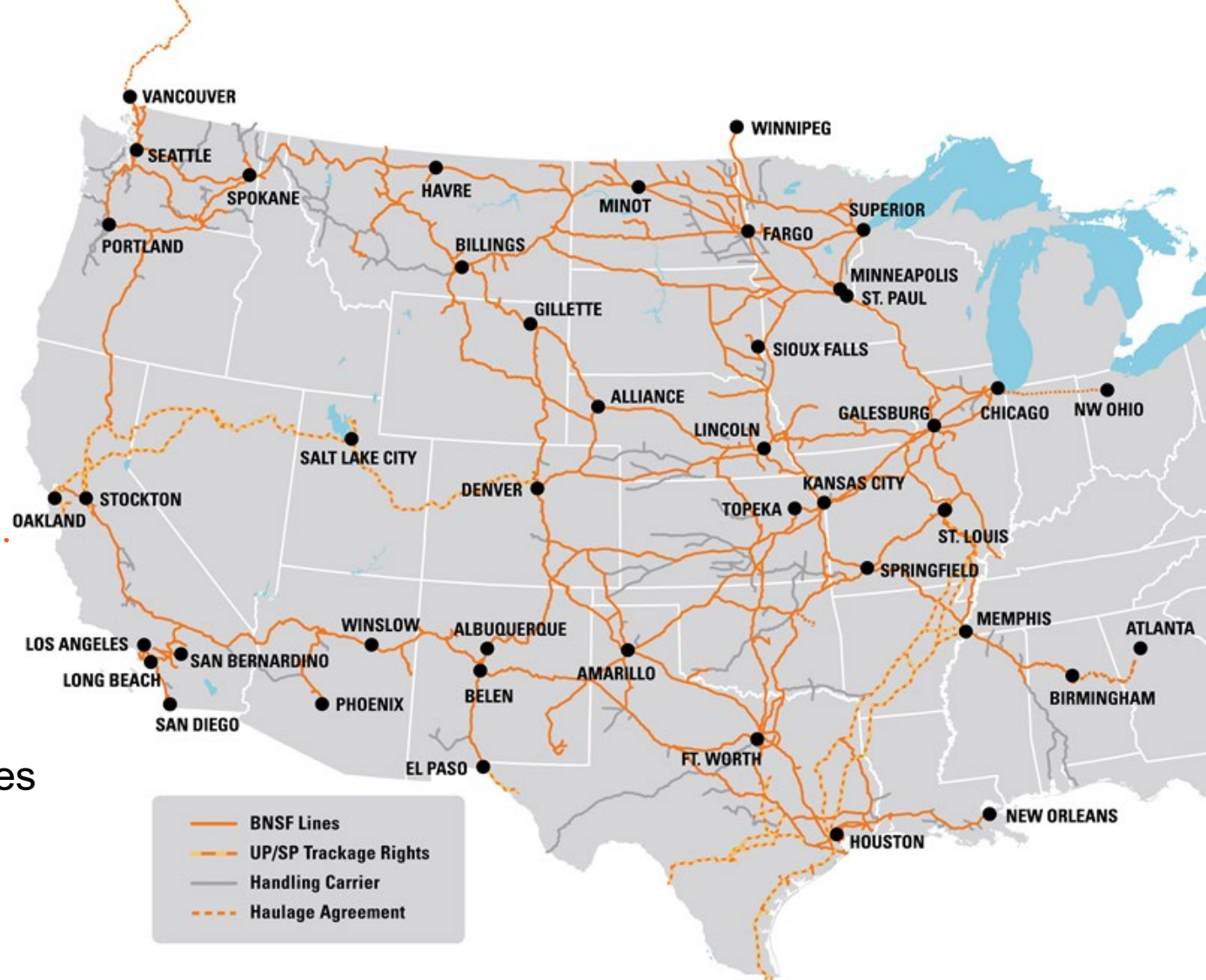


Jayhawk Pipeline, LLC

## Who and What We Are

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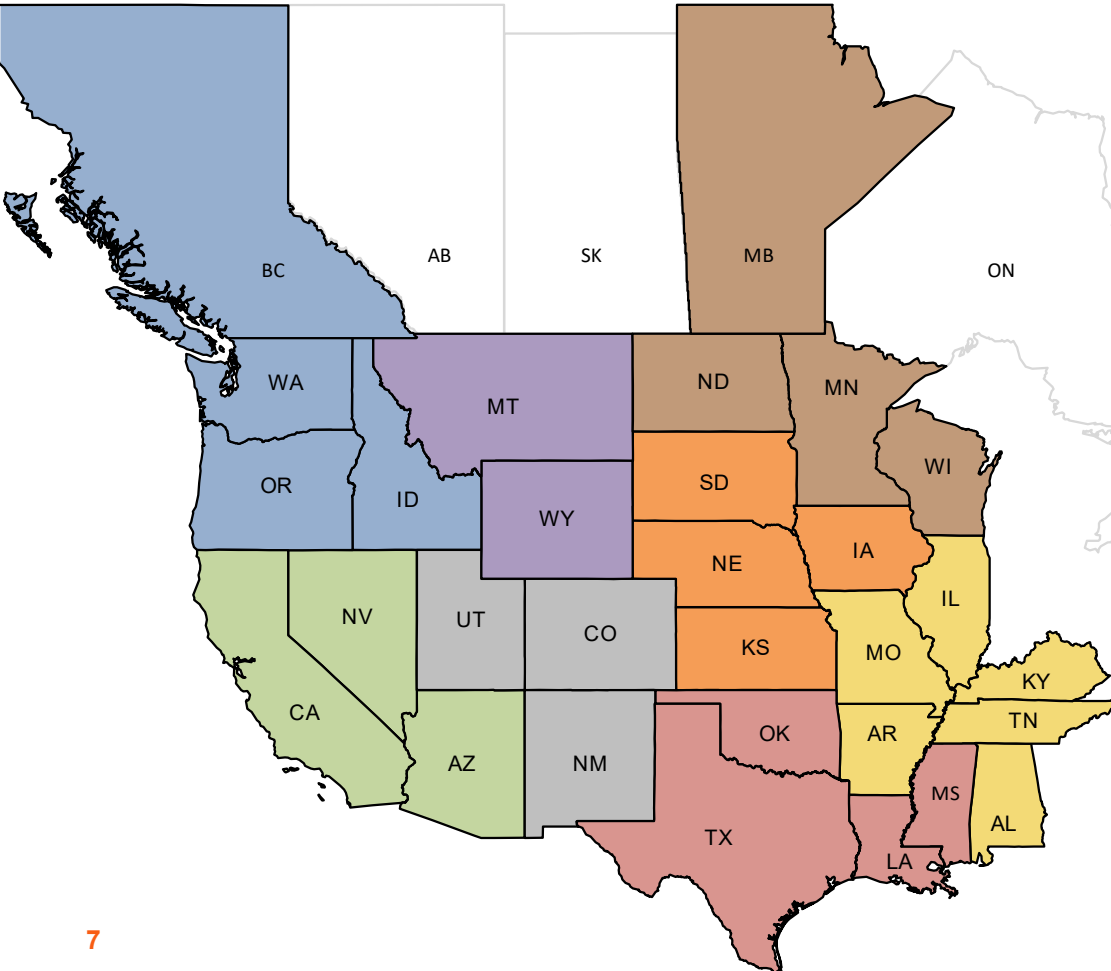
- 33,400 Miles of Track
- ~32,000 employees
- Operating in 28 States & 3 Canadian Provinces
- ~8,000 Locomotives
- Operating approximately 1,600 trains per day
- 1.2 Million Hazardous Material Shipments in 2023
- Capital Investment of \$4 Billion per year
- BNSF can move 1-ton of freight approximately 500 miles on 1-gallon of fuel



# Montana Top 25 Commodity Flow Chart YTD

Proper Shipping Name	Residue Car	Total Loaded
PETROLEUM CRUDE OIL	70972	68599
FAK-HAZARDOUS MATERIALS	0	26657
LPG/PROPAN/BUTANE	18861	15708
ALCOHOLS, N.O.S.	15301	15359
GASOLINE	14718	14299
DIESEL FUEL/HEATING OIL, LIGHT	13526	12309
ELEVATED TEMPERATURE LIQUID, N.O.S.	10298	9136
WASTE FLAMMABLE LIQUIDS, N.O.S./FUEL OIL/DIESEL	9307	9131
ETHANOL AND GASOLINE MIXTURE	6206	6175
HAZARDOUS WASTE, LIQUID, N.O.S.	703	1551
SULFUR, MOLTEN	1331	1274
METHANOL	1303	1251
AMMONIUM NITRATE, LIQUID	794	857
AMMONIUM NITRATE	795	719
CORROSIVE LIQUIDS, TOXIC, N.O.S.	609	529
SODIUM HYDROXIDE SOLUTION	571	481
AMMONIA, ANHYDROUS	508	460
HYDROCHLORIC ACID	275	274
FUEL, AVIATION, TURBINE ENGINE	323	246
HAZARDOUS WASTE, SOLID, N.O.S.	213	229
PHOSPHORIC ACID SOLUTION	229	221
PHENOL, MOLTEN	191	196
SULFURIC ACID	425	149
POTASSIUM HYDROXIDE, SOLUTION	114	96
CORROSIVE LIQUID, BASIC, INORGANIC, N.O.S.	38	67

# BNSF Hazmat Manager Region Map



## HazMat - System Wide

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### Open Position

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# Local Agency Response Authority

Incident regulations where local agencies have response authority

## EPCRA

Gives Fire Depts and DES primary planning & ER responsibility

Requires responsible parties to notify authorities of spills above RQ

Local agencies have operational control of responses

## CERCLA

Covers releases of hazardous substances

Prioritizes private and/or local response,

Allows for federal participation if release rises to national emergency

## Clean Water Act

Responsible parties, if able, must take immediate action

Local responders often handle initial containment/protection

Is often monitored by federal OSCs, but not controlled

## Other Authorities

Facility Regulations (RCRA, SPCC)

UST regulations

State Authorization

# Stafford Act

Creates official authority for Federal disaster response to ensure continued and orderly federal assistance to state and local agencies

Used for large-scale incidents where Federal assistance is needed

FEMA becomes primary coordinating agency at the federal level

Requires presidential disaster or emergency declaration to activate

Support is requested by local agencies, command does not transfer



# OPA 90/49 CFR 130

OPA 90/49 CFR 130 is LIABILITY DRIVEN regulation, not for general emergency response

Primary Functions of OPA 90:

- Identify a Responsible Party (RP)
- Ensure ability of RPs to respond immediately to spills (FRP Rule)
- Assign clear federal authority for response oversight
- Facilitate protection of environmental and other trustee interests
- Establish cost recovery program

Covers oil spills to navigable waters of the US, adjoining shorelines, or exclusive economic zone

# Preparation Requirements for Industry

## National Preparedness for Response Exercise Program

- Federally regulated entities are required to plan, train, and be prepared for a response to a spill from their system
- The NPREP Guideline is an industry best-practice that was developed to provide a framework for that requirement
- NPREP Requires:
  - Regular IMT tabletop exercises
  - Regular equipment deployment exercises
  - QI notification exercises
  - Emergency Procedures exercises

2016 NATIONAL PREPAREDNESS

FOR

RESPONSE EXERCISE PROGRAM

(PREP)

GUIDELINES

DEPARTMENT OF HOMELAND SECURITY  
U.S. Coast Guard



ENVIRONMENTAL PROTECTION AGENCY



DEPARTMENT OF TRANSPORTATION  
Pipeline and Hazardous Materials Safety Administration



DEPARTMENT OF THE INTERIOR  
Bureau of Safety and Environmental Enforcement



# Command Authority Flow Path

How command authority flows

## Stafford Act

Local Governments  
Statutory command authority



FEMA  
Supports local agencies, no IC authority

## OPA 90/49 CFR 130

Federal Government  
Regulatory command authority (States co-command)



Responsible Party  
Required to execute response



State & Local Government  
Provide tactical resources, safety, access control

# Command Structure

How OPA 90 affects roles & responsibilities for local agencies

## Phase 1:

### Incipient Stages of a Response

Local agencies have operational control of initial response

- Life safety operations
- Scene control
- Evacuations
- Fire suppression
- Hazard isolation

RP will initiate their own ICS structure once they are made aware of incident

## Phase 2:

### Federal Oil Spill Determination

Control begins transitioning away from local authority after:

- Substantial threat identified
- NRC notification made
- USCG or EPA deploys
- OPA 90/NCP activated

Local Commander moves to local coordination role. RP, SOSG & FOSC establish unified command

## Phase 3:

### Spill Response

Focus of the incident shifts to:

- Containment
- Cleanup
- Environmental Protection

Local agencies focus on:

- Traffic Control
- Site Access Control
- Logistics Assistance
- Public Messaging

# RP Response Requirements

Resources being brought in to respond

## Resources

RP's Will be mobilizing a significant amount of specialized resources:

- Incident Management Team operating under ICS
- Trained responders (OSROs)
- Atmospheric monitoring equipment
- Jet Boats, Air Boats, etc.
- Containment boom
- Product Recovery equipment
- Storage solutions
- Safety Personnel/Resources
- Absorbents
- Decontamination equipment
- Transportation
- Wreckers/Work Crews



# Key Ideas

## Why Local Responders Play a Smaller Role

- Local agencies are not cut out of the response – they don't have statutory authority over oil pollution
- Keeps local agencies from assuming liability by being involved with command decisions
- Local agencies will be included in briefings & operations
- First responders are NOT exempt from HAZWOPER requirements
- RPs will bring in OSROs and HAZMAT specialists to respond to incidents when needed/required
- 1980 Fire Brigades Standard potentially replaced this year by OSHA Emergency Response Standard

# Resources Available to Agencies

How Your Local Industry Partners Can Help You Prepare

There are many resources industry partners can provide to response agencies

- Facility Tours/Walkthroughs
- Emergency Response Plans
- Training
  - Site-specific training
  - Industry training scholarships
- Exercises
  - Joint equipment deployment exercises (EDX)
  - Tabletops (TTX)
- Communications Programs
- Direct Engagement
- Financial Support

**BNSF**  
**HAZMAT TRAINING TANK CAR**

EXTERIOR PAINT  
VALSTAR WKA 0073  
04/2013 PRAT

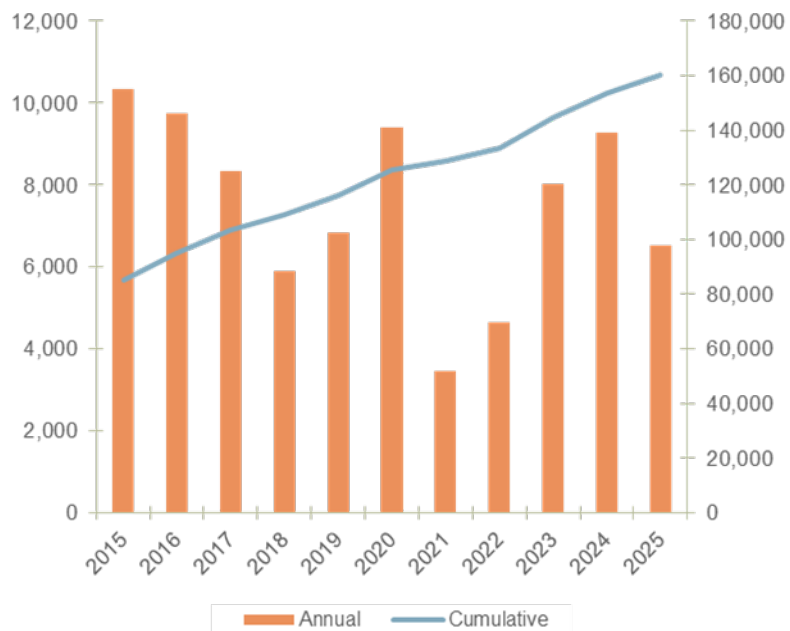
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Community focus is on training responders and providing interpretative information for a safe response

# Training - Community

- Over 160,000 First Responders Trained since 1996
- In person training with or w/out Training Rail cars
- Web Based Training via BNSFHAZMAT.com
- Webinars

Number of Responders Trained



# Resources Available to Agencies

How Your Local Industry Partners Can Help You Prepare

If your state/county/municipality needs:

- Training
- Site tours
- Response equipment
- Information
- Contact information
- Questions answered
- Or anything else

Reach out to your local industry partners! We can usually help!

**BNSF**  
**HAZMAT TRAINING TANK CAR**

ABD	LUB
ABDW	NO
511-04-81	

EXTERIOR PAINT  
VALSTAR WKA 0073  
04/2013 PRAT



# Resources Available to Agencies

## Buxus App

**Buxus is a FREE app designed to improve communication between pipeline operators and key stakeholders. This app provides critical, on-demand information and offers training on emergency preparedness and pipeline response. Buxus is a valuable tool for everyone from emergency responders and public officials to the affected public, landowners, and excavators.**



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**PIPELINE OPERATOR**



**GENERAL PUBLIC**



**FIRST-TIME VISITOR**

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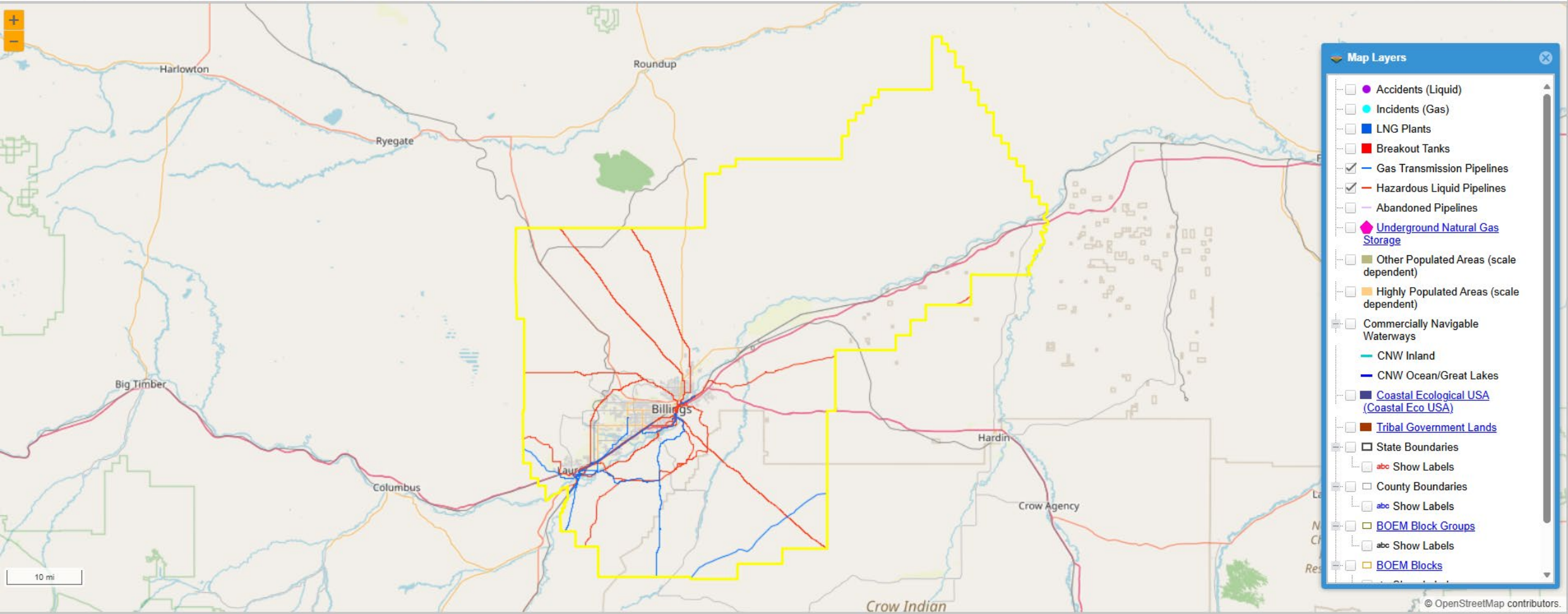
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**PUBLIC MAP VIEWER**  
PIPELINE MAPS FOR THE GENERAL PUBLIC – NO NPMS ACCOUNT REQUIRED

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**Map Layers**

- Accidents (Liquid)
- Incidents (Gas)
- LNG Plants
- Breakout Tanks
- Gas Transmission Pipelines
- Hazardous Liquid Pipelines
- Abandoned Pipelines
- [Underground Natural Gas Storage](#)
- Other Populated Areas (scale dependent)
- Highly Populated Areas (scale dependent)
- Commercially Navigable Waterways
- CNW Inland
- CNW Ocean/Great Lakes
- [Coastal Ecological USA \(Coastal Eco USA\)](#)
- [Tribal Government Lands](#)
- State Boundaries
- abc Show Labels
- County Boundaries
- abc Show Labels
- [BOEM Block Groups](#)
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# Response Resources

