

COUNTY OF HUDSON
STATE OF NEW JERSEY

IN RE: APPLE VIEW
7009-7101 RIVER ROAD
NORTH BERGEN, NEW JERSEY 07047
CASE NO. 4-10

Applicant.

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Tuesday, August 28, 2012
Commencing 7:00 p.m.

B E F O R E:

THE NORTH BERGEN PLANNING BOARD

PRESENT:

HARRY MAYO, III, Chairman
GEORGE AHTO, JR., Vice Chairman
ROBERT BASELICE, Member
PATRICIA BARTOLI, Member
RICHARD LOCRIKCHIO, Member
SEBASTIAN ARNONE, Member
MANUEL FERNANDEZ, Alternate Member
REHAB AWADALLAH, Alternate Member

GITTLEMAN, MUHLSTOCK & CHEWCASKIE, ESQS.
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Geraldine Baker, Board Clerk
Jill Hartmann, P.P., Board Planner
Derek McGrath, P.E., Board Engineer

Reported By:

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W I T N E S S

DIRECT	CROSS	REDIRECT	RECROSS
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JEREMY RABEN	48		
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Mayor, Guttenberg			
68 Park Avenue			

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4402 Liberty Avenue			

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1 Jill Hartmann, P.P., Board Planner and
2 Derek McGrath, P.E., Board Engineer, having
3 been duly sworn, testifies as follows.

4 CHAIRMAN MAYO: All right. The meeting is
5 called to order.

6 Pursuant to the Open Public Meetings Act,
7 please be advised that notice of this special meeting
8 was faxed to the Journal Dispatch and Bergen Record on
9 August 6th, 2012 advising that the North Bergen
10 Planning Board would hold a meeting on August 28th,
11 2012 at 7:00 p.m. in the chambers of the Municipal
12 Building located at 4233 Kennedy Boulevard, North
13 Bergen, New Jersey, 07047.

14 Applicant's attorneys and Board members were
15 mailed notices on that date and a copy of this notice
16 was posted on the bulletin board in the lobby of the
17 Municipal Building for public inspection.

18 Gerry, please call the roll.

19 MS. BAKER: Commissioner Cabrera.

20 Mr. Arnone.

21 MR. ARNONE: Here.

22 MS. BAKER: Miss Bartoli.

23 MS. BARTOLI: Here.

24 MS. BAKER: Mr. Basalice.

25 MR. BASELICE: Here.

1 MS. BAKER: Mr. Locricchio. Mr. Somack.
2 Miss Awadallah.

3 MS. AWADALLAH: Here.

4 MS. BAKER: Mr. Fernandez.

5 MR. FERNANDEZ: Here.

6 MS. BAKER: Vice Chairman Ahto.

7 VICE CHAIRMAN AHTO: Here.

8 MS. BAKER: Chairman Mayo.

9 CHAIRMAN MAYO: Here.

10 Okay. Case Number 4-10 continuation. Apple
11 View LLC.

12 MR. FERNANDEZ: Mr. Chairman, I would just
13 like to put on the record that I read the transcript
14 of the previous meeting.

15 CHAIRMAN MAYO: All right. Thank you, Mr.
16 Fernandez.

17 Anyone else?

18 Okay. Let the record reflect that.

19 MR. ALAMPI: Thank you, Chairman.

20 And, for the record, Carmine Alampi, continuing
21 the hearing on the matter of Apple View, LLC. This,
22 again, Chairman, is a continuation, a special meeting.

23 When we left off, a number of things were
24 directed to myself, as the applicant, and to the
25 attorney for the objector by Mr. Muhlstock. And,

1 there was a request that we articulate our positions
2 in a written memorandum submitted to him and that we
3 would have an opportunity to review them.

4 What I'm speaking to is the issue of marking
5 into identification only a certain appraisal report
6 and whether or not the appraiser will testify.

7 I think there's been ample discourse, in
8 writing, amongst and between the parties and the
9 positions have been well-stated.

10 And, I received a letter last week, while I was
11 away for a few days, from Mr. Muhlstock, dated August
12 22nd, 2012 regarding that issue. And, I think he's
13 made a determination and recommendation, in writing,
14 to the Board that is, that we will not proceed with or
15 allow the appraisal testimony and such.

16 I think Mr. Lamb can speak for himself. But, he
17 raised his positions very articulately and objects to
18 the refusal of the Board to -- the Board's attorney to
19 allow that as evidence and within the scope of this
20 remand.

21 I don't need to beat a dead horse. We can all
22 read for ourselves. I think that was clearly stated.

23 There was a secondary issue that has developed
24 with regard to Mr. Helmstetter, the proported witness,
25 the appraiser. And, Mr. Muhlstock -- that issue is

1 also laid out in writing in several correspondences
2 back and forth.

3 I think there was a final ruling or
4 recommendation by the Board's attorney on that
5 position.

6 I would like to move on.

7 When we were here last in July, we had concluded
8 certain testimony. But, between the July 12th meeting
9 and the July 26th meeting, I believe on the morning of
10 the 26th, we received correspondence from Mr. Stevens'
11 office, the attorney for Transco, that they would like
12 to recall Mr. Schweitzer for additional supplementary
13 testimony.

14 That was a letter dated more than a month ago
15 and copied to all addressed parties, interested
16 parties and attorneys.

17 The issue has resurfaced. And, I saw a letter,
18 I didn't realize this letter from Mr. Chewcaskie dated
19 August 24th. I became aware of it when I read Mr.
20 Lamb's letter this morning referring to a letter of
21 August 24th.

22 And, John, I, somehow it was sent to me but I
23 didn't see it. I was away last Friday.

24 Again, Transco will be producing, once again,
25 Dan Schweitzer to complete his testimony tonight.

1 And, I would like to turn over to Transco's attorneys
2 and I would like them to present this witness.

3 I also noticed, of course, that Mr. Bertin is
4 not here tonight. He's actually in Italy, on
5 vacation. I was aware of that. But I did make a
6 mistake, however. I didn't think about his exhibit
7 boards that he's been bringing to every meeting. And,
8 when I looked at the wall, it dawned on me, I have not
9 produced them. But, we will produce them at future
10 meetings.

11 And, I did mention to Mr. Lamb that I, I may
12 have forgotten to produce these because I forgot that
13 Mr. Bertin wouldn't be here.

14 With that, I would like to go forward with
15 Transco. I do note Mr. Lamb has his first witness on
16 his case, his geotechnical consultant, who was here
17 last month. Hopefully, we can get to him as well.

18 MS. NABBIE: Mr. Alampi, Counsel, Mr.
19 Chairman, excuse me for a movement.

20 It's my understanding, at the last hearing, that
21 that valuation, that appraisal report by Mr.
22 Helmstetter was marked G-32.

23 Since then, a series of letters have been
24 exchanged between Counsel for the Board, Counsel for
25 the applicant and for the objector.

1 It is my recommendation, to this Board, that
2 they do not consider G-32 because I believe it goes
3 well-beyond the scope of Judge Farrington's limited
4 remand which is to address solely the issue of the
5 pipeline safety.

6 However, for purposes of preserving the record,
7 what I recommend to this Board is that we mark the
8 various communications into evidence -- well, we mark
9 them for identification.

10 MR. ALAMPI: Miss Nabbie, what we've been
11 doing, in order to save on the time, we have
12 acknowledged that these letters exist and that they
13 have gone back and forth at previous meetings. So, we
14 have not marked them by individual number but we have
15 referenced them to say that even the letters are
16 preserved in the record.

17 MS. NABBIE: I understand. And, I have
18 read the transcript. And, I know that that's been a
19 procedure here.

20 And, with all due respect, and both Counsel can
21 weigh in, speaking with Mr. Muhlstock and reviewing
22 everything, it's my recommendation to this Board that,
23 with respect to the communications that were
24 precipitated by virtue of G-32, that we specifically
25 identify, identify those communications.

1 MR. ALAMPI: Okay. I have no objection.

2 MS. NABBIE: It's my understanding, Mr.
3 Alampi, that you generated a letter dated August 6,
4 2012 which we've identified as RA-11.

5 MR. ALAMPI: You have organized the
6 various and you have assigned, you are assigning
7 numbers?

8 MS. NABBIE: Yes, I have.

9 MR. ALAMPI: Do you have extra copies of
10 that for us?

11 MS. NABBIE: I have one extra copy.

12 MR. ALAMPI: Well, you can circulate it
13 tomorrow, if you wish.

14 MS. NABBIE: Absolutely.

15 MR. ALAMPI: But, you are going read into
16 the record now a series of dated letters and who it's
17 attributed to?

18 MS. NABBIE: That is correct.

19 There is a letter dated, for purposes of the
20 record, August 6, 2012 from Mr. Alampi to Mr.
21 Muhlstock. I have marked that for identification as
22 RA-11.

23 There is a letter from Mr. Lamb to Mr. Muhlstock
24 dated August 16th, 2012 which I have marked for
25 identification as G-33.

1 There is another communication from Mr. Lamb to
2 Mr. Muhlstock dated August 17th, 2012 which I have
3 identified as G-34.

4 There is a communication of August 27th from Mr.
5 Lamb to Mr. Muhlstock which I have identified as G-35.

6 With respect to the communications from Mr.
7 Muhlstock to Mr. Lamb, there was one dated August
8 20th, 2012 which I have identified as PB-3.

9 And, there is one other communication addressed
10 to both Counsel, Mr. Alampi and Mr. Lamb, dated August
11 22nd, 2012 which I have identified as PB-4.

12 It is my recommendation to the Board that they
13 do not consider G-32 and I believe a motion would be
14 appropriate.

15 MR. LAMB: At the right time, Mr.
16 Chairman, before you vote, can I be heard since Mr.
17 Alampi made an opening statement and the Board's
18 Counsel made --

19 Sorry, Mr. Shaw.

20 Good evening. Just for purposes of clarifying
21 the record and although Counsel has identified
22 essentially the exhibits which were set forth in Mr.
23 Muhlstock's letter dated August 22nd, 2012, she's
24 actually added the most recent letter of, my letter
25 dated August 27, 2012 as G-35.

1 What is missing is my letter dated August 7th,
2 2012 which I would suggest, since we left off at G-35,
3 that that would be G-36.

4 With respect to the Board's Counsel's letters,
5 Mr. Muhlstock's or Mr. Chewcaskie's letters was a
6 reference to PB-3 and PB-4 which was also identified
7 in Mr. Muhlstock's letter of August 24th. However,
8 the July 27, 2012 letter from Mr. Muhlstock and his
9 August 8, 2012 letter were not marked and Mr.
10 Chewcaskie's letter dated August 24th, 2012.

11 And, so I would suggest, and we don't need to
12 decide this now, but I would suggest that they be
13 marked, since we left off at PB-4, that they be marked
14 PB-5, PB-6 and PB-7.

15 And, that, I think with those one, two, three,
16 four additional letters, I think we've got the
17 correspondence on file.

18 I will respond briefly to Mr. Alampi's one
19 comment. He, he referred to the alleged conflict of
20 Mr. Muhlstock and his firm as a secondary issue. I'm
21 not going to rehash my positions in the letter. We've
22 all, we've said, everyone has briefed it and said
23 whatever they wanted and the reasons for it.

24 But, I will say this, that Mr. Muhlstock's
25 decision to not have the appraisal is essentially

1 almost self-created, the elimination of the conflict.
2 And, so, we said, as a threshold issue, you first have
3 to decide whether you have a conflict with Mr.
4 Helmstetter, do you have one or not.

5 That's the first issue.

6 And, then you have to go on to the second issue.
7 The second issue is on the merits and the substantive
8 issues, is an appraisal permitted to be introduced
9 based upon the Judge's remand decision.

10 And, as Mr. Alampi said, we have already,
11 everybody has put in our reasons. Mr. Muhlstock has
12 made his recommendations. And, I'm not going to
13 rehash that.

14 MS. NABBIE: At this time I'm going to ask
15 the Board for --

16 MR. SHAW: On a point of order, Mr.
17 Chairman, I can't hear the lady. Please use the
18 public address system.

19 MR. LAMB: I should -- I'm sorry. And, I
20 should also make one other correction.

21 G-32 was not just the appraisal of Mr.
22 Helmstetter. It was my letter of July 26th, 2012.
23 The attached appraisal from Helmstetter dated July
24 17th and my letter dated September 21st, 2011.

25 So, I would suggest, just again to clarify the

1 documents, that they be marked G-32A, B and C.

2 MS. NABBIE: Counsel, we have them
3 collectively marked as G-32. I have no problems with
4 your suggestion.

5 MR. LAMB: Yes.

6 MR. AHTO: Mr. Chairman, I think the
7 appraisal, the bringing in has nothing to do with the
8 remand from Judge Farrington. And, it has nothing to
9 do with the safety of the pipeline during the
10 construction.

11 So, I'm going to make a motion that we not
12 accept G-35 and that we not accept it at all.

13 MS. NABBIE: Mr. Ahto, I'm sorry, is it
14 G-32 that you are referring to which is Counsel's
15 letter of July 26, 2012 and annexed to which there is
16 the appraisal report?

17 MR. AHTO: Yes. It's not G-35.

18 CHAIRMAN MAYO: G-32.

19 MR. AHTO: G-32. I'm sorry. I amend my
20 motion to G-32.

21 CHAIRMAN MAYO: All right. Do we have a
22 second?

23 MR. ARNONE: I second it.

24 CHAIRMAN MAYO: All right. Moved and
25 seconded.

1 MS. BAKER: Mr. Arnone.

2 MR. ARNONE: Yes.

3 MS. BAKER: Ms. Bartoli.

4 MS. BARTOLI: Yes.

5 MS. BAKER: Mr. Baselice.

6 MR. BASELICE: Yes.

7 MS. BAKER: Ms. Awadallah.

8 MS. AWADALLAH: Yes.

9 MS. BAKER: Mr. Fernandez.

10 MR. FERNANDEZ: Yes.

11 MS. BAKER: Mr. Ahto.

12 MR. AHTO: Yes.

13 MS. BAKER: Chairman Mayo.

14 CHAIRMAN MAYO: Yes.

15 It's unanimous, the appraisal will not be heard.

16 Let's move on.

17 MR. LAMB: And, for the record, Mr.

18 Helmstetter was here the entire last hearing but,

19 because of that letter, I did not bring him here.

20 I did confirm he was available if the Board

21 would have heard him but the Board was deciding not

22 to.

23 MR. ALAMPI: Chairman, we're turning the

24 meeting back to Transco's presentation, recall of a

25 Dan Schweitzer with Transco and their attorney.

1 I don't know. Richard, you're on.

2 MR. TUCKER: Good evening, Mr. Chairman,
3 ladies and gentlemen of the Board. My name is Richard
4 Tucker. I'm one of the attorneys for Transco.

5 And, as Mr. Alampi has stated, on reviewing the
6 transcripts, we felt that perhaps there is some loose
7 ends in Mr. Sweitzer's previous testimony.

8 So, I would like to bring him back this evening
9 and finish up, if we may.

10 CHAIRMAN MAYO: All right.

11 MR. TUCKER: Thank you. Mr. Schweitzer.

12 CONTINUED EXAMINATION BY MR. TUCKER:

13 Q Mr. Schweitzer, would you repeat, briefly,
14 your qualifications, please.

15 MR. TUCKER: Is he going to be sworn
16 first?

17 CHAIRMAN MAYO: Yes. I'm sorry.

18 MR. LAMB: We'll stipulate he was sworn.

19 Also, for the record, the Board Engineer and
20 Planner WAS also sworn although the meeting hadn't
21 started, just to put it on the record.

22 And, I don't think we need to repeat his
23 qualifications. He's just coming back to supplement
24 some additional issues.

25 CHAIRMAN MAYO: Thank you, Mr. Lamb.

1 And, I remind you that you are under oath.

2 THE WITNESS: Yes.

3 Q All right. And, your position at Transco,
4 please.

5 A I'm the Manager and Operations Technical
6 Support.

7 Q And, in that capacity, are you generally
8 familiar with the provisions of our Title 49, Part 192
9 of the Code of Federal Regulations?

10 A Yes, I am.

11 Q And, what is the subject matter of those
12 regulations?

13 A They're the safety regulations for
14 interstate Metro gas pipelines.

15 Q And, Transco operates an interstate
16 national gas pipeline system.

17 Is that correct?

18 A That is correct.

19 Q And, are you also familiar with Subpart O
20 of Part 192 of those regulations that deal with the
21 subject of integrity management programs?

22 A Yes, I am.

23 Q And, would it be fair to say that this
24 subpart addresses Federal safety standards and
25 requirements for national gas pipeline companies such

1 as Transco?

2 A Yes.

3 Q And, would it be fair to say that these
4 regulations impose only minimal safety standards?

5 A Yes, they are the minimum required
6 regulations for, for the interstate pipeline
7 companies.

8 Q And, is a gas transmission company, such
9 as Transco, free to exceed those requirements if it
10 sees fit to do so?

11 A Certainly.

12 Q Do these regulations require a pipeline
13 company, pipeline operator to have what's called an
14 Integrity Management Program?

15 A Yes. We have an Integrity Management
16 Program. And, if a plan is written, it's reviewed by
17 PHMSA, the Pipeline and Hazardous Material Safety
18 Administration and it's been approved by them.

19 MR. LAMB: Mr. Chairman, I'm going to
20 object to any questions on the Integrity Management
21 Program or plan.

22 I previously requested that they be provided.
23 They were refused to be provided.

24 We went through this with Mr. Rodriguez. We
25 requested them in a subpoena and we have not been

1 provided them.

2 So, if they want us now to ask questions about
3 something that they didn't give to us in advance, I'm
4 renewing the objection that I previously made.

5 CHAIRMAN MAYO: Sir.

6 MR. TUCKER: Yes, if I may. The
7 regulations do not favor, in fact expressly disfavors
8 public disclosure of these integrity management
9 programs.

10 The regulations go on to say that if someone,
11 member of the public is interested in obtaining them,
12 they can make a FOIA request. They can submit a
13 request to the regulator and the regulator will
14 determine whether or not to release any information.

15 But, this is a document that is not for public
16 release or dissemination. That is why we haven't
17 released it and we object to the release of it.

18 MR. LAMB: And, I'll renew my objection.

19 He can't testify about something that he doesn't
20 give me.

21 And, for the record, I did make the request of
22 PHMSA and it has not been responded to.

23 And, so, because a lot of the testimony of both
24 this witness and the prior witness all refer to the
25 Integrity Management Plan which has never been

1 provided, if, if Mr. Tucker wants to send a brief to
2 the Board as to why it's confidential and why it's
3 somehow protected under law -- respectfully, we have
4 reviewed the law and the law does not, in our opinion,
5 protect the disclosure of that.

6 This disclosure argument only came up after the
7 Board issued a subpoena. It did not come up before
8 the Board issued the subpoena.

9 MR. TUCKER: The simple answer is the
10 PHMSA website expressly states the position I just
11 advocated. So, that is a matter of public record.

12 Anyone researching the availability of this only
13 need to look at the PHMSA website in the frequently
14 asked questions section and there it is.

15 I might add that the subject of an Integrity
16 Management Program has been brought up in detail by
17 Mr. Lamb. This is something he's inquired about and,
18 short of disclosing it to him, which, as I say, we
19 cannot do, this has been the subject matter of these,
20 these hearings.

21 MR. LAMB: The subject matter in which all
22 the, my questions about providing a copy and letting
23 me see exactly the basis and foundation for the
24 testimony has never been provided.

25 We can save a lot of time. If they're not going

1 to produce it, I think the Board should rule they
2 could move on with their next point. But, they can't
3 ask questions about something I can't see and that
4 they don't produce to the Board.

5 MS. NABBIE: Mr. Alampi.

6 MR. ALAMPI: Well, Chairman, it is true
7 that the remand was to focus on the safety issues.
8 And, that's why we're all here.

9 And, this witness is eminently qualified to
10 discuss these issues, explain the regulatory
11 background, the agencies that review and whether they
12 are compliant.

13 Going into the sum and substance of each element
14 of that complex plan is unnecessary.

15 I think that the Board is charged with the duty
16 to make an informed decision.

17 We're not going to have a debate here and let
18 this thing drag on for 25 hearings and go line by line
19 over every regulation and such. We're here to provide
20 the Board with enough information to make an informed
21 decision. And, I think this witness can outline that
22 testimony and move along with it.

23 Mr. Lamb has made his point. I'm sure he'll
24 raise it at a later date. But, I think we should
25 proceed.

1 CHAIRMAN MAYO: I tend to agree, frankly.
2 We're not looking into the details of the plan but
3 rather is it safe. That's a famous movie once.

4 MR. ALAMPI: What was that, Mr. Chairman?
5 What movie was that?

6 CHAIRMAN MAYO: It goes back aways.

7 MS. HARTMANN: Don't go to the dentist.

8 CHAIRMAN MAYO: Yeah. I just dated
9 myself.

10 MS. HARTMANN: Me, too.

11 CHAIRMAN MAYO: Proceed.

12 MR. TUCKER: May we proceed?

13 Thank you, Mr. Chairman.

14 CONTINUED EXAMINATION BY MR. TUCKER:

15 Q All right. Mr. Schweitzer, just
16 generally, what is the purpose of the Integrity
17 Management Program?

18 A The Integrity Management Program was, was
19 passed by the Safety Administration. In 2002, it gave
20 us 10 years to assess our pipelines and in highly
21 populated areas. So, after that first 10 years, then
22 there's a seven year repeat on reassessing the
23 pipelines.

24 Q All right. And, does the plan or the
25 program identify any particular kinds of threats to

1 the, to the safety of the pipeline?

2 A Well, there is a, a threat analysis that's
3 done. And, it has to do with the pipe, the pressure
4 that the pipe operates at, the coating on the pipe,
5 the protection on the pipe, the soils that the pipe is
6 in, construction around the pipeline.

7 There is a number of factors that go into this
8 analysis.

9 Q And, is it one of your duties, in your
10 position at Transco, to help implement Transco's
11 Integrity Management Program?

12 A Yes, I am involved with the program.

13 Q And, does that program cover North Jersey
14 including the site of the Apple View development?

15 A Yes, it does.

16 Q Now, does the Integrity, Integrity
17 Management Program apply to all of Transco's
18 pipelines?

19 A All pipelines in high density areas,
20 population density areas.

21 Q And, is the Apple View site in a high
22 population density area?

23 A Yes, it is.

24 Q And, do the regulations require that
25 Transco formulate some sort of written Integrity

1 Management Plan or document for specific properties
2 located along the pipeline?

3 A No. The plan says that we identify
4 pipeline segments and identify that, the threats and
5 risks associated with the pipeline segments. It's not
6 the other way around, that we have to identify the
7 properties and, and determine what effect our pipeline
8 would have on the property, that that's more with what
9 Mr. Rodriguez does on a case by case basis.

10 When we get a development engineering drawings,
11 we do the analysis to make sure that the construction
12 activity will not effect the pipeline.

13 There are two wholly different evaluations.

14 Q All right. And, when Mr. Rodriguez is
15 performing those duties, is he acting under the
16 umbrella of the Integrity Management Program?

17 Is that an aspect of the Integrity Management
18 Program?

19 A I would say it's an aspect. It's
20 identification.

21 Q And, do the regulations or Industry's
22 practice require that Transco formulate a site risk
23 assessment per se for any particular property upon
24 which construction is proposed?

25 A We, we do not do a risk assessment for

1 properties.

2 Q Now, you do the assessment as to
3 particular pipeline segments.

4 Correct?

5 A That is correct.

6 Q And, when you do that assessment, what
7 factors do you look at?

8 A We look at the, like I said before, the,
9 the pipeline, the operating pressure, any corrosion
10 activity that has occurred, any construction activity
11 that has occurred over time, outside threats should it
12 be erosion or land movement, those type of things.

13 Q All right. So you also look at the site
14 itself.

15 Correct?

16 A Yes.

17 Q In addition to looking at --

18 A We look at the geographical area, the
19 environment in which the pipeline is in.

20 Q And, in the process of doing that, what
21 sort of factors do you look at?

22 You mentioned soil typing, one. Are there
23 others?

24 A Well, yes, it's rocky soil, streams,
25 creeks, rivers, those type of things.

1 Q Do you look at topography, for example?

2 A Sure.

3 Q Do you also consider the age of the pipe?

4 A That, that is a factor.

5 Q Now, do you also, in the context of either
6 assessing a pipe segment or a site, property site
7 along that segment, do you get involved in working
8 with construction and, and applicants for construction
9 along the pipeline route?

10 A Yes.

11 Q And, is that the kind of thing that Mr.
12 Rodriguez does?

13 A Yes, he does.

14 Q And, is that, is what he's done in this
15 case somewhat typical of the function that he serves
16 in looking at sites and safeguarding the pipeline from
17 the risks of development?

18 A Yes. His project is typical of his
19 analysis for a development project.

20 Q Okay. And, in this case, I believe that,
21 based on the work that Mr. Rodriguez is doing, Transco
22 initially opposed the initial plans and, I believe,
23 one subsequent plan of this development.

24 Is that correct?

25 A Previous applications, we, we had some

1 objections to.

2 Q And, those objections have been removed as
3 of this point.

4 Correct?

5 A That's correct.

6 Q And, why were they removed?

7 A Because the development plan was changed
8 and we have eliminated those concerns.

9 Q Now, does Transco have some means of
10 identifying and evaluating specific threats to
11 specific areas of this pipeline system?

12 A I'm not sure what you mean.

13 Q Other than what you testified to.

14 A I gave you the overview.

15 Q Okay. Now, when you speak of, of risk,
16 risks or threats, you referred to risks or threats of
17 one kind or another to the pipeline itself rather than
18 risks caused by the pipeline to persons or property in
19 the vicinity of the pipeline.

20 Is that correct?

21 A That is correct. The regulations are
22 written to keep the pipeline safe. So, everything we
23 do evaluates the pipelines and the risks to the
24 pipeline to make sure that the pipeline is safe.

25 Q And, if the pipeline is safe, is it fair

1 to say that safeguarding the integrity of the pipeline
2 also serves to protect the public?

3 A That's correct.

4 Q From the safety standpoint?

5 A Yes.

6 Q Now, once a risk or a threat to a pipeline
7 is identified, by either inspection or otherwise,
8 what, if anything, is Transco required to do by
9 regulations to address that threat?

10 A Well, first you have the threat. And,
11 then you analyze that threat to see if it is indeed a
12 risk. And, if it is a risk, then we're obligated to
13 mitigate that risk.

14 So, depending on the threat and the risk, there
15 are a number of mitigative measures that can be taken.
16 And, those mitigative measures can be preventative
17 like extra wall thickness on the pipe cathodic
18 protection systems. There's different things that can
19 be done.

20 And, then, on the, on the other side of that
21 which, which is after, should there be a, an incident,
22 are automatic valves. And, for this segment of pipe,
23 we have automatic valves upstream and downstream of
24 this location.

25 Q What do you mean by automatic valves?

1 A Well, let me rephrase that. Remote
2 control valve.

3 Q Okay.

4 A So, we have a Gas Control Department in
5 Houston, Texas and they monitor the pipeline, the
6 pipeline pressures. So, it would get an alarm if
7 something were to not be correct when the pressure
8 flows to the pipeline. And, then we would be able to
9 look it up and decide whether they should close a
10 valve remotely from Houston, Texas to this area.

11 Q And, are there also valves that are
12 controlled manually?

13 A Yes.

14 Q Are there any such valves in the vicinity
15 of the Apple View project?

16 A Immediately across River Road, there's a
17 valve setting and those valves are not only remote
18 control but any remote control valve our personnel can
19 operate manually.

20 Q Now, the people who operate valves
21 manually have to have a different kind of training?

22 A Yes, there is training and they have to
23 have, they have to be qualified.

24 Q Do you know what the qualification process
25 entails?

1 A No, I can't tell you specifically what it
2 entails.

3 Q So, this is not a task that's just
4 assigned to whoever might be in the vicinity of the
5 valve.

6 Is that correct?

7 A They, they have to be evaluated and
8 qualified for this particular task, yes.

9 Q And, that's required by the regulations as
10 well.

11 Is that correct?

12 A Yes, it is.

13 Q Now, do the regulations require that
14 Transco prepare a written threat identification or
15 risk assessment report of some kind?

16 A No, it does not.

17 Q Do the -- you have talked about the
18 subject of the risk mitigation, mitigative measures.

19 Is that something that is required also by these
20 regulations?

21 A Yes, mitigative measures are in the
22 regulations.

23 Q And, can you elaborate a little bit what
24 is meant by mitigative measures?

25 A Mitigative measures include belonging to a

1 one call service like the New Jersey One Call which,
2 which we are a member of. It can include the remote
3 control valves. It can include additional pipeline
4 wall thickness.

5 Q Now, there's also been some testimony in
6 this matter pertaining to remote rectifiers. Can you
7 explain to the Board what remote rectifiers are and
8 how they serve the interests of pipeline safety?

9 A Rectifiers are a piece of equipment
10 associated with our cathodic protection and that's to
11 protect the pipeline from corrosion. So, there's a
12 sacrificial bed. So, the rectifier reduces a current
13 to the anode. The anode current travels to the
14 pipeline and then, and then back.

15 So, all the electrons are flowing to the
16 pipeline as opposed to when you have corrosion the
17 electrons flow away from the pipeline. So, these
18 rectifiers are the electrical inputs for that circuit.

19 And, we're required, on a bi-monthly basis to
20 make sure that those rectifiers are working.

21 So, the remote monitor rectifiers are
22 continuously monitored.

23 So, if a lightening strike blows a fuse or if
24 something happens to that particular rectifier, we
25 will know immediately and be able to fix it. We won't

1 have to wait a month to have that rectifier out before
2 we fix it.

3 So, it's a more timely method of identifying a
4 failure to a rectifier and fixing it.

5 Q And, do the regulations require that
6 Transco have either, either prepare or implement any
7 kind of an incident response plan?

8 A Well, we do have emergency procedure
9 plans, yes.

10 Q And, what do they consist of?

11 A Well, it's, it's a document that we share
12 with emergency management personnel.

13 Q And, is that an on-going activity by
14 Transco by contacting the first responders and so on?

15 A Yes, Transco has a public awareness
16 program and there's annual mailings to each effected
17 group and then our local district personnel visit and
18 verify names and numbers that are on the contact
19 lists.

20 Q Is there some geographical limit which
21 determines which first responders you contact?

22 A If they're in the municipality in which we
23 operate, they will be contacted.

24 Q All right. And, have you reviewed company
25 records to determine which first responders are

1 contacted by Transco --

2 A Yes.

3 Q -- in connection with this effort?

4 I ask you if you recognize this particular
5 document.

6 We have given this to Mr. Lamb, by the way.
7 It's a three page list of public officials and first
8 responders that the company contacts in an effort to
9 alert first responders to the fact that Transco has a
10 facility, has a pipeline here, explains some of the
11 procedures that would be appropriate in the event of
12 an incident and how to respond to an incident.

13 A Let me just qualify that the one document
14 has about has about 15 names on it and, and those
15 groups were invited to a seminar that's given once a
16 year and that the pipeline companies sponsor that now.

17 If they were invited, it doesn't necessarily say
18 they attended or participated. But, we, we do invite
19 them.

20 Q And, does Transco actively pursue a policy
21 of attempting contact, to contact these first
22 responders?

23 A Yes. We, we, we contact them on an annual
24 basis and we even have some incentives for them to
25 take some on-line training and, and participate in

1 some firsthand knowledge.

2 Q And, what is the nature of that training
3 that's available on-line?

4 A Well, it's just an internet based course
5 where you have some information, a list of questions
6 and you answer the questions, you respond with your
7 name and location and then you are entered into a
8 raffle.

9 So, that's our incentive to get people to take
10 the training, respond and then we can document that
11 that training was received by those groups.

12 Q All right. And, can you state roughly
13 what is the activity level in that regard?

14 What is the frequency of these contacts?

15 A It's, it's annual.

16 Q And, does Transco also have a public
17 awareness program of any kind?

18 A Yes. And, this is part of the public
19 awareness program but we also have mailings to
20 residents. And, we have a third party do, do a search
21 of all our pipeline by zip code, by distance from the
22 pipeline and then we do our mass mailing.

23 Q What is the contents of that mailing?

24 A It's an informational brochure, says who
25 we are, what our business is, some of the properties

1 of natural gas and some emergency procedures.

2 MR. TUCKER: All right. I have nothing
3 further, Mr. Chairman.

4 CHAIRMAN MAYO: All right. I have a
5 question. I have a couple questions actually.

6 Did Transco identify any threats or risks in the
7 segment pipe that is the subject matter of this
8 application?

9 THE WITNESS: We did the assessment on
10 this and the assessment is done through the Smart Pig.
11 And, as I said previously, there's been a few Smart
12 Pig runs on this and the segment of pipe in this
13 application, there's nothing wrong with the pipe.

14 CHAIRMAN MAYO: So there's been no threats
15 or risks in this area?

16 THE WITNESS: That is correct.

17 CHAIRMAN MAYO: And, none that would be
18 effected either by this process or that would effect
19 the process.

20 Is that correct?

21 THE WITNESS: That is correct.

22 CHAIRMAN MAYO: All right. Thank you.

23 MR. TUCKER: I have nothing further.
24 Thank you, Mr. Chairman.

25 MR. ALAMPI: Mr. Chairman.

1 CHAIRMAN MAYO: Mr. Alampi.

2 MR. ALAMPI: Should we mark the exhibit,
3 Richard?

4 MR. TUCKER: We will offer this as three
5 pages. There has been testimony on it. I don't know
6 what exhibit it would be, T. -- we're not sure what --

7 MS. NABBIE: I have T8 is the last one.
8 But, I'm not sure whether that is --

9 MR. TUCKER: I would like to offer this
10 exhibit. I don't know the number but --

11 MR. LAMB: I think we're up to T8.

12 MR. TUCKER: T8.

13 MR. LAMB: I believe but this isn't, this
14 doesn't have last month's hearing.

15 However, they didn't have any T. exhibits.

16 MR. TUCKER: We weren't here.

17 MR. ALAMPI: They weren't here so, T8,
18 Chairman.

19 MS. NABBIE: I have T8 as the Williams
20 pipe stress analysis program.

21 MR. ALAMPI: T9.

22 MR. TUCKER: It would be T9.

23 CHAIRMAN MAYO: T9.

24 MS. NABBIE: Counsel, for purposes of
25 identification on the record, is there any date on

1 that or is there --

2 MR. TUCKER: I don't think so but I'll
3 check. This is just a list revised as of January
4 2012.

5 CHAIRMAN MAYO: Would you then give us a
6 brief description of the exhibit?

7 MR. TUCKER: All right. Page 1 which is
8 has a revised date of January 2012 is entitled
9 Coordination with Public Officials. It has a list of
10 public officials in various municipalities not only
11 North Bergen but Guttenberg, Union City, Weehawkin and
12 West New York.

13 The second page is a list of a number of
14 officials of North Bergen indicating them by name and
15 by title and address.

16 And, Page 3 is a list identifying other
17 officials in North Bergen and North Hudson, listing
18 their addresses and contact information.

19 CHAIRMAN MAYO: All right. Thank you.

20 MR. TUCKER: Three pages in all.

21 MR. FERNANDEZ: Who is the public official
22 in Guttenberg?

23 MR. TUCKER: Let me see if I can pronounce
24 the name right. It's Captain Magneheimer.

25 MR. McGRATH: Magneheimer.

1 MR. FERNANDEZ: Okay.

2 CHAIRMAN MAYO: Do you have anything?

3 MR. ALAMPI: No, no questions.

4 CHAIRMAN MAYO: Mr. Lamb.

5 CROSS-EXAMINATION BY MR. LAMB:

6 Q Good evening, Mr. Schweitzer.

7 A Good evening.

8 Q Mr. Schweitzer, were you in attendance --

9 CHAIRMAN MAYO: Hold it just a second.

10 Did we get a copy?

11 MR. TUCKER: I have --

12 (Document is marked T9 for

13 identification.)

14 CHAIRMAN MAYO: Okay.

15 Q Mr. Schweitzer, were you either asked the
16 question or in attendance when Mr. Rodriguez was asked
17 a question by a member of the public?

18 Apparently, that member of the public, to
19 refresh your memory, had contacted every first
20 responder in the area, contacted North Bergen,
21 Guttenberg, the County. He gave a list of eight fire
22 officials. Whoever it was, it was a list of, my
23 recollection, seven or eight people.

24 Was that with you or was that a question for Mr.
25 Rodriguez?

1 A I, I was present when, when that gentleman
2 went through his list.

3 Q Okay. And, is it fair to say that, based
4 upon your testimony, that none of those people have
5 been specifically contacted concerning this proposed
6 project?

7 MR. ALAMPI: I'll object to that.

8 We haven't identified the parties. It's
9 hearsay.

10 A member of the public claims that he did this
11 survey. I don't know see how a competent question
12 could be asked in that way.

13 MALE SPEAKER: He was under oath.

14 Q I'll ask the question again.

15 Has Transco contacted, irrespective of the
16 question of the member of the public, to the best of
17 your knowledge, any particular fire department
18 official, first responder, police department, anybody
19 whose involved with safety in North Bergen or any of
20 the surrounding towns, to the best of your knowledge,
21 specifically about this project?

22 A About this project?

23 Q Yes.

24 A I would say no, we did not discuss -- our
25 own personnel don't discuss property by property. We

1 discuss the, the pipeline.

2 Q Okay. So, is it also fair to say then
3 that all of those first responder officials, their
4 contact from Transco is an annual invitation to a
5 seminar?

6 A Some of it is an annual invitation to a
7 seminar. Some of it is information brochures that we
8 provide them and an invitation to meet with us and for
9 training.

10 Q Okay. And, what, what's your attendance
11 rate? A lot of people attend?

12 A Very low, actually.

13 Q Okay.

14 A And, what we find is, is when we do have a
15 facility, we get the surrounding groups for the
16 facility but the outlying pipeline, we get,
17 unfortunately, very little response.

18 Q Okay. And where, where was the last one
19 held?

20 Where was the last annual inspection held?

21 A I don't know what you mean.

22 Q I mean the last annual seminar that you
23 invited people, where was it held?

24 A I don't know where it's held.

25 MR. McGRATH: I can answer that. It's off

1 of 147 on the Parkway because I get an invitation to
2 it. I believe it was March or April of this year.

3 MR. LAMB: Thank you, Mr. McGrath.

4 Q So, essentially, your idea of getting
5 local officials involved is to invite them out of
6 county. There's no county seminar to the best, or
7 seminar or meeting to the best of your knowledge?

8 A There's a number of them throughout the
9 State.

10 Q Okay. Now, can you name for me the major
11 risks to a pipeline from a construction project?

12 A Excavation activity, trenching, heavy
13 equipment.

14 Q Any others, major?

15 A You said -- those are the major ones.

16 MALE SPEAKER: Blasting.

17 Q Now, you said that there's no written
18 requirement for an assessment risk that federal
19 regulations, Subsection O of Section 192 doesn't
20 require a written assessment.

21 Is that correct?

22 A There's, there's no written assessment
23 report.

24 Q Right. Okay. But, you are aware that the
25 judge in this case did not require a written

1 assessment but did require an assessment of this
2 particular project?

3 A The pipeline --

4 MR. ALAMPI: I'll object to the
5 characterization of that letter. That is an overly
6 broad assessment -- statement. I don't want to use
7 the word assessment. That's not --

8 The remand speaks for itself.

9 MR. LAMB: Okay.

10 MS. NABBIE: I agree with Mr. Alampi.

11 Q Do you know what the remand says?

12 A No. I have not read the remand.

13 CHAIRMAN MAYO: I'm sorry. I didn't hear
14 your question.

15 MR. LAMB: I said, do you know what the
16 remand states in the Judge's decision.

17 A Only what was said here.

18 Q Now you indicated that your assessment,
19 and I know you're not going to provide the Smart Pigs.
20 And, of course, I'm objecting to that but I'm not
21 renewing each objection for every answer.

22 But, you're not providing any data from the
23 Smart Pig tests.

24 But, you said that there was no Smart Pig
25 problems or issues?

1 Do you disagree with Mr. Rodriguez who said
2 there was an anomaly or an issue that was addressed in
3 that, this segment of the pipeline?

4 A No. We're talking this property or we're
5 talking this segment of the pipeline?

6 Q I'm talking both, both.

7 A Okay. So, this property, there's nothing.

8 Q Have you walked this property?

9 A Yes. So, for this segment of the
10 pipeline, yes. It was testified here that we had an
11 anomaly, we dug it up. We found something. We
12 replaced that piece of pipe.

13 Q Are you asking the Board to say that
14 because the regulations, because the regulations
15 require you to prepare an Integrity Management Plan
16 that, because of that requirement that you
17 automatically have prepared one that's 100 percent
18 correct and accurate and you have not overlooked
19 anything?

20 Is that your position to the Board?

21 A We have prepared the document. PHMSA has
22 reviewed the document.

23 Q And, when was the last time that that
24 document was, I know you're not going to give me a
25 copy of it, but when was the last time the document

1 was sent to PHMSA?

2 How old is the document?

3 A I can't give you a date for that.

4 Q And, you're right, my recollection is that
5 you had till 2012, the pipeline companies were given
6 10 years to, on high density areas to provide this
7 Integrity Management Plan.

8 A No. The Integrity Management Plan had to
9 be completed way before. I want to say 2004. I could
10 look it up. But, that's a general number.

11 We, we had until December 17, 2012 to complete
12 the pipeline assessment.

13 Q Okay.

14 A So we have to run the Smart Pig, do the
15 hydrostatic test, do the direct assessment to the
16 pipeline by the end of this year.

17 Q Has this Integrity Management Plan that I
18 know we can't get, has that been updated since 2004?

19 A Yes.

20 Q And, how often is it updated?

21 A I can't tell you that.

22 Q Because you don't know or you --

23 A I don't know.

24 Q -- it's confidential?

25 A That's right. I don't know.

1 Q You're not a geologist, are you?

2 A That is correct, I am not.

3 Q Geotechnical?

4 A No.

5 Q Civil engineer?

6 A Mechanical.

7 Q Mechanical.

8 A Mechanical by education.

9 Q Is there, in your Integrity Management --
10 well, there's no sense me asking any questions about a
11 document I can't see. So, I'm going to skip past
12 those questions.

13 Now you said that, when you do an assessment,
14 it's an assessment of the segment.

15 Is that correct?

16 A That's right.

17 Q You never do an assessment of a particular
18 piece of property?

19 A As it relates to the Code, to the Safety
20 Code, that is correct.

21 Q Have you been involved in any other
22 projects which propose an intrusion or excavation into
23 the Palisades Cliffs this close to the pipeline?

24 A No.

25 MR. LAMB: No further questions, Mr.

1 Chairman.

2 CHAIRMAN MAYO: All right. Thank you.

3 MR. LAMB: And I, just for the record, I
4 am going to reserve the right to recall him. I am
5 going to send his transcript to our expert and reserve
6 the right to recall him.

7 Thank you.

8 MR. FERNANDEZ: I got a couple, just two
9 questions.

10 CHAIRMAN MAYO: All right.

11 MR. FERNANDEZ: Do you know the time it
12 takes for any one of these automatic valves to go the
13 full closed position at any particular time when
14 there's loss of pressure? How many seconds, minutes,
15 two minutes?

16 THE WITNESS: I would say three minutes.
17 Once it gets to the signal to close, between one and
18 three minutes.

19 MR. FERNANDEZ: Okay. And, on this
20 particular property how many valves are there?

21 I know there's one by River Road.

22 Is there one up by Boulevard East?

23 THE WITNESS: River Road, there's two
24 valves and on the other side by, Route 1, we have, we
25 have a meter station and there's several valves at

1 that location.

2 MR. FERNANDEZ: So, there isn't a valve on
3 top of this project on Boulevard East --

4 THE WITNESS: That is correct.

5 MR. FERNANDEZ: -- this segment of pipe?

6 THE WITNESS: There's a valve by Route 1.
7 The next valve is by River Road.

8 MR. FERNANDEZ: Thank you.

9 CHAIRMAN MAYO: The public.

10 J E R E M Y R A B E N, 7004

11 Boulevard East, having been duly sworn, asks
12 questions and testifies as follows.

13 CROSS-EXAMINATION BY MR. RABEN:

14 Q Okay. You testified about the shutoff
15 valves. And, the question was, about the, from the
16 Board was about automatic shutoff valves. There,
17 there are no automatic shutoff valves in this section
18 of the pipe are there?

19 A That is correct. The valves are not
20 automatic. They are remote control.

21 Q Okay. And, is the main control in Texas?

22 A Yes, it is.

23 Q Okay. And, you also said it was a manual
24 control that would require somebody, I guess, to turn
25 knobs and, and wheels and stuff?

1 A Any of the automatic valves can also be
2 manually operated.

3 Q Okay. In the event of a rupture in, say
4 within a thousand feet of River Road, would it be
5 likely that a person could operate the manual valve on
6 River Road?

7 MR. TUCKER: Objection.

8 Mr. Chairman, this calls for such rampant
9 speculation that it would be impossible to answer that
10 question.

11 I don't even understand the question. I doubt
12 if Mr. Schweitzer does.

13 Q I guess you've been told not to understand
14 it.

15 A Well, maybe you can be a little more
16 specific as to your hypothetical scenario.

17 Q Okay. Part of the function of this valve
18 is that it can be operated manually on River Road.
19 And, it's on the river side of River Road.

20 I'm asking, would it be possible to operate that
21 valve manually in the event of a, an explosive
22 rupture, a burning rupture of this pipeline say within
23 a thousand feet of the valve?

24 A If something happened to the pipeline a
25 thousand feet away, it is my opinion that it could be

1 operated manually.

2 But, one of the reasons why we, it would be
3 difficult to do so is, one, because of traffic, the
4 time it takes somebody to get there and, and
5 accessibility. And, that's why we have the ability,
6 we spent the money to remote control the valve so that
7 we wouldn't have to put our operations personnel in
8 that position.

9 Q Okay. Do you -- are you familiar with any
10 studies as to what this, the tons and tons of gas
11 which are within the pipeline, what the heat would be
12 at say a thousand feet?

13 A Not at a particular thousand foot number
14 because there are a number of factors that go into
15 your question. So, it's not a simple answer to a
16 simple question. It's a, it's a, it should be a
17 complex question because there are calculations that
18 have to be done to, to come to an answer.

19 Q Okay. There are obviously things like
20 wind direction or whether the flame is coming out
21 sideways or straight up. There, there are a lot of
22 factors.

23 Are you, are you aware, for instance, of
24 incidents where metal and glass have been melted a
25 thousand feet from a ruptured pipeline of this size?

1 A No.

2 Q The, the remote controlled shutoff valves,
3 they require somebody to make a decision to shut them
4 off and then, in this case, somebody in Texas.

5 What would happen if, for instance, in San
6 Bruno, for about half an hour, they thought a plane
7 would crash there and there was a considerable delay
8 before they even figured out that it was the pipeline
9 that had ruptured, given that, you have somebody in
10 Texas who has to make this decision, how, how do you a
11 see a timely shutoff taking place in a remote
12 controlled pipe?

13 A I certainly --

14 MR. ALAMPI: Mr. Chairman, let me just
15 raise an objection.

16 CHAIRMAN MAYO: Speculation.

17 MR. ALAMPI: Well, first of all, I'm not
18 familiar with whether a plane crash that caused the --

19 MR. RABEN: No, they thought it was a
20 plane crash, it wasn't.

21 MR. ALAMPI: Right. Let me finish my
22 objection.

23 CHAIRMAN MAYO: Let him state his
24 objection.

25 MR. ALAMPI: So, the idea of a rambling

1 proposition to ask a witness is not an appropriate way
2 to ask questions. It's too far flung.

3 CHAIRMAN MAYO: It is getting far afield.

4 MR. RABEN: Okay. This, this is a serious
5 issue and there is complexity to it. I think this,
6 this Board is making these decisions should be
7 considering the complexity.

8 A Yes, I can -- I would like to -- we have a
9 meter station at Route 1. The meter station gives
10 flow and pressure to our gas control in Houston,
11 Texas. We also have pressure monitoring at River
12 Road.

13 So, with that information and, and intimately
14 knowing the pipeline flows and pressure, they would
15 make a decision as to whether there would be something
16 wrong. And, they would be able to react to that. So,
17 they have a good amount of information in what is a, a
18 relatively short piece of pipe.

19 Q Are there workers, at Route 1, monitoring
20 those devices 24 hours a day?

21 A The Route 1 facility is unmanned. There's
22 nobody there.

23 Q Okay. You also talked about assessing Mr.
24 Rodriguez's appraisal of Apple View and some of his
25 testimony.

1 I would like to ask your appraisal of some
2 specific things.

3 He had talked about this incident, this segment
4 of pipeline near Route 1, near Tonnelle where the pipe
5 had a rock that was stuck into the pipe, a diabase
6 diabase rock. I want to ask you a question about that
7 in light of what Mr. Rodriguez had said.

8 He said that the pipe was not punctured by the
9 rock because the rock was plugging the crack in the
10 hole and that it was only punctured once the rock was
11 removed.

12 Is that your assessment of the pipe?

13 A The pipe did not leak --

14 Q Right.

15 A -- until the pressure was taken off of the
16 area.

17 Q Right.

18 A Yes.

19 Q But, did you consider that the pipe was
20 punctured?

21 A It was a crack through the wall of the
22 pipe.

23 Q Okay. When the rock was removed from the
24 crack, there was a puncture?

25 A When the pipe was removed from the crack

1 there was leakage. As he testified, we shut down the
2 pipeline segment. We evacuated the pipe and then we
3 proceeded with the repair.

4 Q If I stick a pin in my finger and I take
5 it out and it bleeds, was my finger punctured only
6 after I removed the pin?

7 CHAIRMAN MAYO: I think we're getting
8 overly technical with the word puncture.

9 MR. TUCKER: Far away.

10 MR. RABEN: It's a very simple word. We
11 can look it up in the dictionary.

12 CHAIRMAN MAYO: He described the process.
13 When they removed the rock, something leaked.

14 MR. RABEN: Yes.

15 CHAIRMAN MAYO: When the rock was in
16 there, it didn't. Now, was it punctured before or
17 after, it doesn't matter. When they pulled the rock
18 out, it leaked.

19 MR. RABEN: We're, we're talking about a
20 pipe that could have killed hundreds of people if it
21 had exploded. So, whether or not that pipe was
22 punctured is, is relevant. I think many people think
23 it is relevant. I'm surprised the Board doesn't think
24 it's relevant.

25 If that pipe was punctured, it may, may still

1 have been safe. There was no leak. But, we should at
2 least assess that it was punctured. I think it's
3 obvious that it was. But, the witness won't say one
4 way or the other.

5 MR. TUCKER: Mr. Chairman.

6 MR. ALAMPI: I'll object to this
7 characterization that the witness won't say or not.
8 This interrogator wants to make a point and now has
9 become argumentative both with the Board and then say
10 what the witness will not say.

11 It's not appropriate.

12 CHAIRMAN MAYO: I totally agree with you.

13 MR. TUCKER: My objection is noted.

14 MR. RABEN: I'll move on then.

15 Q The, the pipe in question with the crack
16 that was plugged by the rock, we, the previous pig run
17 has given evidence that there were no anomalies with
18 this section of pipe. This includes the Apple View
19 section all the way to the section with the crack.

20 And, then the subsequent pig run, a small
21 anomaly was detected, it was investigated and this
22 rock was found to have cracked the pipe.

23 Is that accurate?

24 A Yes, it is.

25 Q Okay. Later Mr. Rodriguez said that when

1 he had previously said there were no anomalies, it
2 actually meant there were no anomalies worth
3 investigating but, in fact, there are always some
4 anomalies with the pipe, especially one this old?

5 A That is correct. That's what he said.

6 Q So when you testified, as you just did and
7 Mr. Rodriguez did previously, on Apple View, there are
8 no anomalies or that there are no risks or threats.

9 What you're saying by this language is that
10 there are none that are worth, that you feel are worth
11 investigating at this moment that you need an
12 investigation.

13 MR. ALAMPI: Mr. Chairman, I'll object to
14 what Mr. Raben means to say.

15 Are you saying there were no anomalies worth
16 investigating?

17 MR. RABEN: Yes.

18 Q Are you saying that?

19 A Yes.

20 CHAIRMAN MAYO: Counselor, you also had
21 something?

22 MR. TUCKER: Yes, if I may.

23 First of all, the reference to the transcript
24 would indicate that Mr. Raben's memory of Mr.
25 Rodriguez's testimony is somewhat faulty.

1 I think the testimony was that there are always
2 anomalies. Nothing is perfect. There's always going
3 to be anomalies.

4 That doesn't mean that an anomaly is a
5 deficiency or something that needs attention or repair
6 right now.

7 I believe his testimony further was that this
8 anomaly was detected in Smart Pig runs some while
9 back. It was followed for a number of years, got to
10 the point where Transco determined, in its judgment
11 that it needed to be addressed. It addressed it, it
12 repaired it and it fixed it.

13 So, I don't think it serves any purpose to stand
14 here and recite, either accurately or inaccurately,
15 the testimony of some other witness when we're here to
16 ask questions of Mr. Schweitzer about his testimony.

17 Thank you.

18 MR. RABEN: Well, this witness said he had
19 assessed Mr. Rodriguez's testimony. So, I think that
20 makes it relevant.

21 CHAIRMAN MAYO: Let's keep it --

22 MR. RABEN: Yes.

23 CHAIRMAN MAYO: -- to this witness's
24 testimony.

25 MR. RABEN: Yes.

1 Q So, given that there was a pig run done
2 and probably 12 years ago, if I understand your time
3 line correctly, and then, five years later, there was
4 another pig run that was done and a small anomaly, in
5 the first pig run, that was small enough that nothing
6 about it was said to the public or to the Board.

7 Then the pig run that was done after that, after
8 five years, found this anomaly went and investigated
9 it and found the cracked pipe.

10 So, sometime between the no anomaly which, which
11 was worth mentioning and the anomaly that was a
12 cracked pipe, there was a crack, somewhere in that
13 period.

14 A We started smart pigging pipelines around
15 1986. The first Smart Pigs were difficult to read.
16 It was like seeing an EKG when you get your heart
17 checked. Very difficult.

18 The Smart Pigs get better. Technology gets
19 better. The technicians get better.

20 Our understanding of the signatures that are
21 produced from the logs, from the Smart Pig, get
22 better. So, time after time, between '98, seven years
23 later, 2005 until 2012, the Smart Pigs get better.
24 Our interpretation of those Smart Pig logs
25 professionals that do that get better.

1 And, I would guess that, in seven more years,
2 when we do another analysis, assessment to this
3 pipeline, the tools will even be better and our
4 understanding of the information that they're giving
5 us will be better.

6 But, I will tell you that, that the pipeline is
7 in excellent shape.

8 Q Okay. When, when a pipeline is deficient
9 and, again, my understanding is that Sam Bruno had
10 deficient welds, maybe other people heard otherwise.
11 But, when a pipeline is deficient in some way, isn't
12 it more potential risk to a pipeline that's, that's in
13 pristine condition?

14 A I'm not sure I know what you mean by
15 deficient. And, your referencing San Bruno.

16 Q Yes.

17 A That's, that's somebody else. I read the
18 reports on San Bruno. I understand what happened
19 there.

20 CHAIRMAN MAYO: Again --

21 A That's not our --

22 CHAIRMAN MAYO: Let's stick to his
23 testimony.

24 MR. RABEN: I tried to put it in a context
25 that it was relevant.

1 Q If you, if you found out, reviewing your
2 records and you found out that the pipeline, if this
3 segment of your pipeline had insufficient welds, say
4 it was supposed to be welded on both sides and it had
5 only been welded on one, would you consider then that
6 that was something that probably should be replaced
7 right away?

8 A Yes.

9 Q And, is that because that pipe would be at
10 greater risk, let's say, if there was a surgery in
11 pressure or a natural event or construction or
12 something?

13 A If, if the pipe and/or the weld did not
14 meet specifications for being in-service, it would be
15 replaced.

16 Q Okay. So, a pipe that has a crack in it,
17 which may or may not be classified as a puncture, a, a
18 pipe with a crack would also be a deficient pipe?

19 MR. ALAMPI: Mr. Chairman.

20 A It is replaced.

21 Q Yes?

22 MR. ALAMPI: Mr. Chairman, let me object.

23 So now Mr. Raben is going to establish a
24 criteria. He has no qualifications to establish a
25 criteria of deficiency or not.

1 He's made his point concerned about a crack in
2 that segment of the pipe.

3 Q Okay. Well the, the crux of these
4 questions is that for a period of some time between
5 the previous pig run and five years later when you did
6 the next pig run, this crack developed.

7 It's a snapshot taken at intervals of time?

8 How do you determine -- and, normally, that pig
9 run would have been done every seven years, you did it
10 early that time.

11 How with, with seven year increments can you
12 determine whether a crack is slowly developing over
13 seven years or maybe the pipe had shifted and the
14 crack had, had been developing rapidly in say just a
15 few days?

16 A seven year snapshot is, is, it's not like a
17 moving picture.

18 How, how do you determine the speed of the
19 rupture, the speed of the damage with a seven year
20 snapshot?

21 A There's no way to tell the speed of what
22 you're referring to.

23 Seven years is the increment that the pipeline,
24 the Hazardous Material Safety Administration dictated
25 to the pipeline companies. They felt that it was a

1 conservative time frame given the progress of
2 corrosion. And, there's many studies that, that give
3 you corrosion rates and that that's part of the
4 analysis that goes into reading the Smart Pig.

5 And, a seven year Smart Pig interval has been
6 dictated to us. And, and it was Smart Pigged in 2005.

7 There was two tools that have to be run, a
8 magnetic flux tool and a geometry tool. So, one was
9 done in 2011. The other tool was done 2012.

10 And, both, the information from both of those
11 tools is used to examine the pipeline.

12 Q Okay. I know that many members of the
13 public have come up to me and, and have remarked that
14 they were, they assumed that pig runs like, would have
15 been done every year, every six months because you
16 would want to know what is happening with these vital
17 pipelines.

18 MR. ALAMPI: Objection.

19 MR. TUCKER: Objection. We're getting
20 into argument here and alleged conversations with
21 unknown people. We're getting way off the track.

22 MR. RABEN: I'll speak for myself then.

23 Q I'm certainly concerned. I would
24 certainly have assumed, before I started learning
25 about pipelines, that that that sort of thing was done

1 on at least a yearly basis.

2 And, the question I was asking was, given that
3 this is a, you know, a seven year snapshot, you can't
4 really assess, I mean, I guess yes or no, can you
5 assess the speed at which the damage is taking place?

6 MR. ALAMPI: Objection. Standards are set
7 by the government, by advisory boards from the
8 industry and --

9 CHAIRMAN MAYO: That's true.

10 MR. RABEN: I'm not asking about
11 standards.

12 CHAIRMAN MAYO: Compliance.

13 MR. RABEN: I'm not asking about
14 standards. I'm asking if they could assess the speed
15 at which it has taken place.

16 CHAIRMAN MAYO: I think he has already
17 answered that as well.

18 Q Okay. Well, one would clarify that.

19 This was a -- this pig run was done in five
20 years and we found, it was found as a cracked pipe.

21 If Transco had waited the usual seven years,
22 which is what had been recommended with the previous
23 pig run --

24 MR. ALAMPI: I'm going to object even
25 before he finishes.

1 If Transco waited even seven years, what are we
2 talking about here?

3 MR. RABEN: The usual time for a pig run.

4 MR. ALAMPI: That was a rhetorical
5 objection.

6 MR. RABEN: Okay.

7 MR. ALAMPI: In other words -- you're
8 going to speculate now.

9 CHAIRMAN MAYO: That's sustained.

10 MR. RABEN: That's -- the standard
11 interval is in seven years. In this case they did a
12 run two years early and they found a cracked pipe.

13 CHAIRMAN MAYO: We understand that and we
14 also understand what you're trying to imply from that.
15 You can't get there from here.

16 Objection is sustained.

17 MR. RABEN: Well, okay.

18 Q Was there a decision made by Transco to do
19 that run two years early because of concern about the
20 pipe?

21 A The previous Smart Pig was done in 2005.
22 The MFL tool was run in 2011. So, that's six years.
23 Okay.

24 We had a problem with the geometry tool and
25 couldn't complete that in, in 2011 also. So, we had

1 an extra year and we ran the geometry tool the
2 following year, in 2012, to keep us at the seven year
3 interval.

4 So, no, this pipeline was not assessed sooner,
5 as you're implying, because we've had problems with
6 the line. That's not so.

7 Q Okay. And, to wrap this up, the, Mr.
8 Rodriguez had said that the problem with this pipe was
9 that it was sitting on a rock and that the road was on
10 top of it and I guess the pressure of the road, with
11 this diabase rock that was underneath is what
12 eventually caused this crack.

13 Is that your understanding?

14 A That was his opinion.

15 MR. ALAMPI: I'll object -- excuse me.

16 THE WITNESS: Okay.

17 MR. ALAMPI: I don't recall that being his
18 testimony.

19 CHAIRMAN MAYO: I don't either to tell you
20 the truth.

21 MR. ALAMPI: And, that's my objection:

22 MS. NABBIE: Mr. Chairman, just for
23 purposes of moving this along, for the record, I
24 believe any questions that are asked of the witnesses
25 tonight should be related to the direct testimony on

1 the record here this evening and not testimony that
2 occurred at different hearings.

3 MR. SHAW: What did she say? I don't know
4 what she said.

5 MALE SPEAKER: He has to keep his
6 questions --

7 CHAIRMAN MAYO: It's got to be related to
8 the testimony tonight.

9 MR. RABEN: Well, the witness did say he
10 had assessed Mr. Rodriguez's testimony.

11 CHAIRMAN MAYO: You're asking him to
12 comment on somebody else's testimony.

13 MR. RABEN: It's something he addressed
14 right now.

15 Q Well, I believe, before the objection, you
16 said that, that was his opinion. So, I, I take that
17 as affirmative.

18 The, in your opinion, are, are there any
19 situations in or around this property where a road is
20 passing over the pipeline with diabase rock in the
21 vicinity?

22 MR. TUCKER: Objection. That's a matter
23 of opinion.

24 A River Road, River Road.

25 MR. TUCKER: It's either a fact or it

1 isn't.

2 Q Is River Road passing over the pipeline at
3 the edge of this property?

4 A The pipeline runs through a casing across
5 River Road. So, there's a pipe outside of the natural
6 gas pipeline. So, the pipeline across River Road
7 doesn't touch any rocks.

8 Q Okay. And, there are diabase rocks in the
9 vicinity because there's -- obviously, the Palisades
10 is made out of diabase rock?

11 MR. ALAMPI: I think the witness just
12 answered the question, in the negative.

13 Q Is that true?

14 Am I correct in this assumption, not necessarily
15 in contact with the pipe but just in the vicinity?

16 A Yes, the Palisades are made of rocks and
17 we are in the vicinity of the Palisades. So --

18 Q Okay.

19 A So, yes, there's rocks in the area.

20 Q And, where this segment of the pipe is
21 under Tonnelle Avenue, does it have the same type of
22 protection there that it has where it goes under River
23 Road?

24 A Under Tonnelle Avenue, yes.

25 Q Okay. So the area, and in the area where

1 this crack took place, does it have the same
2 protection that it has going under River Road?

3 A No. The immediate vicinity of, of the
4 crack there was no casing, secondary pipe around the
5 pipeline.

6 Q Was there a reason that there was no
7 protection around the pipe in that area?

8 Is that area in some way less at risk?

9 A It, it's not necessary. The, the casing
10 is not always for additional protection of the
11 pipeline. It's there for us, if there happens to be a
12 problem with the pipe, that he can remove the pipe
13 without disturbing traffic, so we can cut the pipeline
14 at each end, pull it out of the casing, never disturb
15 the traffic and put it back in service.

16 So that is one of the main reasons we used to
17 use casings in situations like that.

18 Q Well, you said the casing wasn't necessary
19 but I think the fact that the pipe was cracked
20 suggests that maybe it was necessary.

21 But, I'll --

22 CHAIRMAN MAYO: You're starting to argue
23 with the witness.

24 MR. RABEN: That, that was my closing
25 there.

1 CHAIRMAN MAYO: Yes, sir.

2 S T E V E N R O S E N, 7004

3 Boulevard East, Guttenberg, having been duly
4 sworn ask questions and testifies as follows.

5 CROSS-EXAMINATION BY MR. ROSEN:

6 Q I was going to ask two questions. But
7 thanks to the testimony, now I have a third.

8 If the rock had come out of the pipeline itself
9 and there was a small leak through the crack, would
10 you have detected it and how long would it have taken
11 you?

12 A I think what you're asking is if the
13 pipeline leaked, how long would it have taken us.

14 Q Um-hum.

15 A So, there's two ways to determine a leak.
16 One is gas so it smells. So, somebody would have
17 called us for the smell. That's one.

18 Now if, if such a minute amount of gas were
19 leaking from the pipe that you couldn't smell, on an
20 annual basis we walk the pipeline with a very, very
21 sensitive gas detector. So, we do that on an annual
22 basis. So, we would have found it within a year.

23 Q Okay. Now, I've seen Public Service
24 trucks run very slowly and they have those little
25 cones down in the front bumper.

1 Is that for that purpose?

2 A Yes.

3 Q Okay. Now my questions. If you were
4 enjoying yourself from, if you and Mr. Rodriguez were
5 enjoying yourselves on a nice summer afternoon at the
6 new park that Jerry is having built and you were
7 listening to the band and suddenly, across the street,
8 in River Road the pipe developed a leak, the friction
9 of the gas coming out caused it to ignite, would the
10 two of you be able to and let's assume physically you
11 could get to that, the valves, right there by the
12 water, and you have the knowledge and you close those
13 valves, would that stop the gas flowing out that leak?

14 Or, is it because the gas is coming from the
15 other end that that wouldn't have much of an effect?

16 A You are correct, the gas is coming from
17 the other end. So, we would initiate our emergency
18 response procedures, we would call our gas control
19 department in Houston and they would remotely close
20 the valves on the other end.

21 Q How long would it take them to close those
22 valves remotely?

23 A Once the decision is made, it's a very
24 short period of time, one to three minutes.

25 Q Once the valves are closed, how long

1 before all the gases escape and the fire goes out?

2 A Okay. So now you have a certain amount of
3 gas in the pipe.

4 Q Right.

5 A You have a certain defect in the pipe.
6 So, depending on the size of the defect that would
7 determine how long it would take for the pipe to vent.

8 Q Have you statistics on how large a hole
9 has to be in the pipe for enough gas to get out for it
10 to ignite, to go at a high enough velocity with
11 friction to create heat?

12 A No, I do not know that.

13 MR. ROSEN: Okay. Thank you.

14 CHAIRMAN MAYO: Yes, ma'am.

15 S I N T N G, 7004 Boulevard East,
16 having been duly sworn, asks questions and
17 testifies as follows.

18 CROSS-EXAMINATION BY MS. NG:

19 Q I have questions to clarify.

20 So you talked about the valve that's across the
21 site along River Road. That's, that what you call the
22 down stream valve.

23 Correct?

24 It actually controls the gas that goes into
25 Manhattan?

1 A Yes.

2 Q Okay. And, where is the upstream valve
3 for this if there is a suspicion of a leak or rupture
4 on the Apple View site?

5 A At our facility by Route 1.

6 Q Is that the metering station?

7 A Yes, it is.

8 Q Okay. And, what is the facility at the
9 Meadowlands?

10 Is there a facility at Meadowlands which is at
11 the cross section of Ridgefield and West Side Avenue?

12 A Yes, there is.

13 Q And, what is the difference between the
14 two?

15 A That is further upstream.

16 Q Okay. The metering station, does that
17 actually control the valve?

18 Did you actually shut down the gas from the
19 metering station or the Meadowlands station?

20 A We have the ability to shut off the gas at
21 the metering station at Route 1.

22 Q Okay. I actually would like to, since Mr.
23 Rodriguez is here, I would like for him to come up, if
24 that's possible because I've been given conflicting
25 information.

1 When I did talk to him, the information is that
2 the only way to shut down the gas is to the valve
3 station at Meadowlands upstream and that's said to be
4 manually shut off. There is an automatic mechanism
5 but that's not set to work. So, the only way to shut
6 it down is for a crew to travel from a station that's
7 outside, you know, spend maybe half an hour to get to
8 the station to shut it down.

9 So, I want to have that clarified if that's
10 possible.

11 CHAIRMAN MAYO: Can the witness answer it?

12 A What I said is true. Now what, what Jose
13 said was also true.

14 We, we did have an automatic control valve but,
15 a few years ago, the automatic control valve had a
16 malfunction and shut the gas going into New York City
17 off. And, that was unacceptable by our customers.

18 So, we deactivated the automatic valve. And,
19 when the process, in redesigning that facility, and
20 that facility will then have remote control valves
21 such as the facility by Route 1, such as the facility
22 on the other side of River Road.

23 CHAIRMAN MAYO: Thank you.

24 Q Okay. So you are, you are maintaining the
25 position that, that there is automatic shut off

1 capability at the Route 1 and the other stations to
2 turn it down in case of rupture?

3 A Remote control, yes.

4 Q What's the difference between remote
5 control and automatic shutoff?

6 A Automatic happens at the location.
7 There's a device there that will sense something and
8 when it senses that, it will trip the valve and the
9 valve will close. That's automatic.

10 Remote control is that the information, the
11 alarms go to our Houston, Texas gas control
12 department. They see the, the pressures and flow
13 rates and those individuals that make a decision to
14 push a button and then remotely close the valves.

15 So, it doesn't happen automatically. There is
16 intervention.

17 Q Okay. Thank you for your clarification.

18 Is it an emergency response procedure that every
19 time the pressure drops, there's an automatic response
20 from the remote office to just turn it off or does it
21 require them to make several calls and send a crew
22 down to investigate before they determine to shut
23 down?

24 A Depending on the alarm and the severity of
25 the readings that they get, they will make decisions.

1 And, those decisions may be to send somebody out there
2 or, if they feel it's, it's severe, they would close
3 the valves.

4 So, it's a human decision that is made.

5 Q Can you name one example that's listed
6 that require them or give them the authority to shut
7 it off immediately without further investigation?

8 Is there a circumstance where, you know, some
9 alarms went off and immediate response, they would be
10 authorized to shut it down?

11 A If, if you're looking for an example, if
12 one of our personnel called them and what you just
13 said, Mr. Rodriguez and I were in the park across the
14 street, and we called our gas control department and
15 said please shut down the Central Manhattan Meter
16 Station at Route 1, I believe that emergency procedure
17 process would be initiated and, and they would do it
18 as we asked.

19 Q Okay. I, I think all of this, this
20 discussion about how there is remote monitoring and
21 automatic shutoff and so on, so forth, it sounds good
22 on paper but, in all of the incidents that have taken
23 place, time and time again, it shows that there's, it
24 doesn't work. It requires you to manual intervention
25 and it takes way too long to realize there's an issue.

1 Okay.

2 And, so all of this ties in not to speculation
3 or hypothetical scenarios but to the fact that we have
4 a project here that is, you know, that is very
5 dangerous, in our opinion. And, I don't think there's
6 enough thought that's put into the emergency response,
7 you know, event that there is even at the, you know,
8 minor suspicion that there's a gas leak.

9 What is the emergency response for that?

10 MR. TUCKER: I would object to these kind
11 of rambling statements. I would ask Miss Ng to ask
12 those questions of Mr. Schweitzer based on his
13 testimony tonight and not make speeches.

14 MS. NG: I just asked a bunch of questions
15 based on what he said.

16 CHAIRMAN MAYO: And you made a speech.

17 MS. NG: I did. I'm going to try to stop
18 to do that. But, that, I'm trying to tie the
19 relevance to it.

20 Q The other question, again back to in the
21 context of emergency response, I know you described
22 millions of brochures that we receive, that we live in
23 that area. We receive at least one a year we get that
24 mailing. But, it is a nice glossy brochure that says,
25 you know, look out for us, if there's any suspicious

1 activity and call.

2 In the context of emergency response, do you
3 have any outreach to the public or to the first
4 responders as far as what we should be doing, what
5 should a hospital do if there is a, you know, there's
6 a rupture, how should they evacuate, where do they
7 evacuate to.

8 The only access to, to save the lives is really
9 through Hudson River. Because, this is, the hospital
10 is facing the site. There's really no, no way of
11 escaping.

12 CHAIRMAN MAYO: Ask the question. Let him
13 answer.

14 Q Is there such a resolution -- I'm sorry.

15 A I, I understand your concerns, most of
16 your questions are on a reaction to an event.

17 But, you have to understand that, that all our
18 policies, procedures are, all of our evaluations, our
19 assessments of risk events on that is to prevent,
20 according to the regulations, to prevent any
21 occurrence of, of such as that.

22 So, that's on that side.

23 So, the emergency procedures is, is, yes, we
24 have emergency procedures, that we try and contact and
25 work with as many emergency management personnel that,

1 that will meet with us.

2 . And, I know most emergency management routes
3 have those evacuation plans. They have shelters.
4 They know where their limited mobility people are.

5 So, yes, we rely on the township personnel and
6 their knowledge of, of their citizens to assist should
7 anything go awry.

8 MS. NG: Mr. Chairman, he's relying on the
9 township to help out with this. I would request that
10 perhaps the township should, you know, request an
11 emergency response plan to this project or at least
12 someone to come up with a discussion, an honest
13 discussion about what would happen. Because, this is
14 a, very, you know, it's a high consequence area. It's
15 one of a kind in the country.

16 It sounds like I'm making a statement again. It
17 sounds like we're kicking a big fuss.

18 This is more than a Class 4. It has high-rise
19 buildings, hospitals all within 200 to a thousand feet
20 of this site.

21 If nobody in this room can answer us as to what
22 is the emergency response plan, that there is
23 something very wrong with this discussion.

24 I'm going to go onto a couple other questions.

25 Q Have you read Mr. Cooper's, Richard

1 Cooper, witness who is the gas pipeline safety expert?

2 A I have read his report, yes.

3 Q Have you read his report and his
4 discussion about heat flux and, from his experience of
5 him dealt with rupture and aftermath of rupture and
6 the studies and analysis of the risks and the
7 consequences of the impact of a thousand feet roughly
8 and the heat flux and how, how, how frequently it is
9 too hot for emergency responders to be in the site,
10 the only way the rescue anyone is for the fire to burn
11 out which is typically a couple of hours?

12 A I read his report and it made a lot of
13 statements and a lot of innuendos. And, unless you
14 show me the exact paragraph or phrase of what he said,
15 I, I can't remember and I can't give any validity to,
16 to what he said.

17 Q Okay. That, obviously is your opinion.

18 CHAIRMAN MAYO: So is yours.

19 MS. NG: Yeah. That is fine.

20 His -- well --

21 Q Okay. Do your pig runs determine the rate
22 of corrosion?

23 A A single pig run would not determine the
24 rate of corrosion, no.

25 Q Do you run any pig runs to determine the

1 rate of corrosion?

2 A The only way you would be able to
3 determine the rate of corrosion is if you had two pig
4 runs, say you just had one seven years ago and one
5 today, you would look at the same spot on the pipeline
6 and, and see if, if there was any change in that
7 particular feature.

8 Q So you, apparently, you have done a
9 couple, at least a couple of pig runs on this site.

10 Correct?

11 A That's correct.

12 Q Okay. So you have a basis of comparison
13 to determine the rate of corrosion.

14 May I ask you what is the predicted time of
15 replacement of these pipelines in this Apple View
16 site?

17 A There is no predicted time of replacement.

18 Q Because you don't do that study because
19 pig runs have the capability of predicting the rate of
20 replacement?

21 A Our goal is to eliminate corrosion and the
22 pipe will last a very, very longtime.

23 Q My goal is to lose 20 pounds but it
24 doesn't happen. So, in all seriousness, that may be
25 your goal but what is --

1 Okay. Let me phrase it another way.

2 In the event that you need to replace the
3 pipeline in this segment, how would you do that?

4 A We, we typically hire a contractor to do
5 that. The contractor has the men and the equipment
6 and, and we have the expertise to replace the
7 pipeline.

8 We, as you've heard since you were here, we have
9 a corridor to allow our maintenance to the pipeline.
10 So, that corridor is adequate for us to do the
11 construction activity we need to perform if we ever
12 need to perform any maintenance or replacement on this
13 pipeline.

14 Q The Cliffs supports the pipeline. In
15 other words, the pipeline is, as you bury it, a few
16 feet beneath the Cliff.

17 Right?

18 MR. ALAMPI: I'm going to object to, that
19 the Cliff supports the pipeline.

20 There is no testimony to support that kind of
21 statement.

22 Q The, the pipeline runs up the Cliff.

23 Is that speculative?

24 Is that a true statement that the pipeline runs
25 up the Cliff, the Palisades cliff?

1 A Well, we all know that we've seen the
2 drawings and we know that the route of the pipe so,
3 yes, the pipe comes down from the road up above,
4 diagonally across the property and down across this
5 property, across River Road into the Hudson River.

6 Q So, could you just help me understand, if
7 you do need to replace the pipeline, how would you do
8 that?

9 Do you just yank it out from the Cliff?

10 Do you -- what, what do you need to do to remove
11 the pipeline and, and find a space to put in equipment
12 and a new pipeline once Apple View is built?

13 A There would be men and materials on, on
14 the side of the hill and there would be excavation
15 equipment and pipe lifting equipment and personnel and
16 it would be replaced.

17 We have the ability to replace the pipe if it
18 ever must be replaced in the area provided.

19 Q I don't think we can end this in this
20 session. It's very vague to me.

21 But, what I'm specifically asking is, with 20
22 feet of easement, how would you bring in a truck and
23 equipment, heavy equipment to excavate the, the site,
24 right, where the pipeline is buried under, remove the
25 pipeline, especially the part on the Cliff, remove

1 that and, and where do you back out into River Road?

2 At which point do you, do you bring in the
3 pipes?

4 20 feet sounds like a very, very narrow area for
5 any of that kind of replacement, particularly in the
6 area that has congested northwest corner, which runs
7 something into the Cliff?

8 A We have an easement for the pipeline on
9 the sewer property. And, we have an access easement
10 on the Apple View property. So, we have a lot more
11 than just 25 -- 20 feet, a longer, perpendicular to
12 River Road to get up to the hill area.

13 Now, nothing is being built on the hill area.
14 The proposed Apple View project goes back to the hill
15 but it doesn't go up the hill.

16 So, although we only have 20 feet for the
17 pipeline, there's other space that we would rent for
18 temporary work space to perform our construction
19 activities.

20 Q Okay. I'm very familiar with the site. I
21 have the site plans in my mind also.

22 There really is just 20 feet access that you
23 have.

24 MR. ALAMPI: This is argumentative.

25 Q Okay. Let me just --

1 MR. ALAMPI: We all have the plan.

2 No. Let me raise my objection.

3 MS. NG: Okay.

4 MR. ALAMPI: It's grossly argumentative.

5 We all know that there is an easement and an
6 additional 20 foot access way.

7 Q How is the easement to the south of the
8 pipeline?

9 A I don't remember that specific dimension.

10 Q Does four and a half feet sound familiar
11 to you?

12 A It, it could be. Our --

13 CHAIRMAN MAYO: He's already testified he
14 doesn't remember.

15 A -- is on the sewer property. Our easement
16 for the pipeline and the lower half is on the sewer
17 property. Any additional area on the Apple View
18 property for that section is access area.

19 Q Okay. If there are drawings, I could have
20 pointed it out and asked you a question more
21 efficiently.

22 But, to the north there is the water, the sewage
23 tanks.

24 Right?

25 A That is correct.

1 Q Okay. Is there anyway that any vehicles
2 could go through those two, three, four sewage tanks
3 to get to your pipeline?

4 A We wouldn't need to go through any sewage
5 tanks.

6 Q So, you have no access on the north.
7 Is that correct?

8 A There's no way that you could get through?

9 A We have a corridor between the easement on
10 the sewer property and the access easement on the
11 proposed Apple View property. That combined area is
12 enough for us to perform our activities.

13 A So, I don't know any other way to say it.

14 Q Okay. All right. I'm going to leave this
15 because you could maybe come back next time to correct
16 me if I'm wrong.

17 A But, you really just have access from the south
18 which is on the Apple View site and there is 20 feet
19 of easement, the access easement and four and a half
20 easement that you have.

21 A And, on the Cliff, it is a very steep slope.

22 CHAIRMAN MAYO: All right.

23 MR. TUCKER: Objection. This not a
24 question. This is another speech.

25 MS. NG: I am done. Thank you.

1 MR. FERNANDEZ: Can I ask you a question?

2 MS. NG: For me?

3 MR. FERNANDEZ: What do you really want?

4 Do you want them to change the gas pipe in
5 that --

6 MS. NG: No, there is no way they could
7 change the pipeline. The pipeline was there. The
8 Galaxy was there. Everything else was there.

9 We have an opportunity now to make sure that
10 this community is safe.

11 This Apple View application is run before you.
12 It's not a regular application. It is asking for
13 multiple variances. And, because of that, it's
14 pushing this building right to the brink. And,
15 because of that, it's causing a lot of concerns among
16 the public.

17 MR. FERNANDEZ: No. But, I thought you
18 were leading that the pipeline needed, that section of
19 pipe needed to be changed after so many years.

20 MS. NG: Okay. That's a good question and
21 I will tie that in.

22 MR. FERNANDEZ: And, you wouldn't have any
23 problems if the Building Department asked all three
24 towers to change all their gas lines.

25 MS. NG: That could be one way that the

1 pipeline be changed now before Apple View gets in or
2 leave enough space for future maintenance.

3 MR. FERNANDEZ: Did you hear what I said?

4 MS. NG: Can you say that again?

5 MR. FERNANDEZ: You wouldn't have a
6 problem or your association wouldn't have a problem if
7 the Building Department ordered all your gas lines
8 changed, in all three towers, because they're over 30
9 years old.

10 MS. NG: Okay. I'm not responding to that
11 because I don't know the relevance of that.

12 MR. FERNANDEZ: Okay. Thank you.

13 MS. NG: The pipeline in our building
14 would not blow a thousand people up. Okay. The
15 pipeline in this -- this supplies 50 percent of
16 Manhattan's gas. It is a high pressure pipeline.

17 You are comparing, you know, apples, I don't
18 know what is the giant food there.

19 MR. FERNANDEZ: Okay.

20 CHAIRMAN MAYO: Okay. Last public
21 comment.

22 Yes, sir.

23 G E R A R D D R A S H E F F, Mayor
24 of Guttenberg, 68 Park Avenue, Guttenberg, New
25 Jersey, having been duly sworn, asks questions

1 and testifies as follows.

2 Maria Gesualdi is representing the town in this
3 matter. She had an emergency. She not able to be
4 here tonight.

5 I would like to just ask two or three questions
6 of this witness if the Board is okay with that.

7 CROSS-EXAMINATION BY MAYOR DRESHEFF:

8 Q Going to the question of the valve, I
9 think I understand, the valve on Route 1 is the valve
10 that would shut off the supply of gas to this section
11 of pipe.

12 Is that correct?

13 A Yes, sir.

14 Q Okay. And, that has the ability to be
15 shut down remotely by a decision made in Houston?

16 A That is correct.

17 Q Okay. And, can you tell -- what are the
18 factors that would go into making that decision.

19 Is it primarily the pressure in the pipeline?

20 A Well, we have the opportunity at that
21 facility at Route 1 not only to see pressure but flow.
22 And, and this area is monitored 24/7 by our gas
23 control department. It's going to major customers and
24 they, they are intimately familiar with the flows and
25 pressures in that pipeline. So, they would know that

1 something was wrong.

2 Q Okay. What they're monitoring is that,
3 you said an important factor is going to be the time
4 from the time the incident actually happens to the
5 time they learn of it.

6 Are those monitors -- is that information
7 communicated real time from that site or is there a
8 delay?

9 A I can't give you the delay but I'd say
10 it's seconds not minutes.

11 Q Okay. You, you know, there are a couple
12 of things that came to mind as you were testifying
13 before.

14 The emergency plans that exist with North Hudson
15 Regional Fire, North Bergen Police Department,
16 Guttenberg Police Department.

17 Do you know if those plans include a direct
18 line, a direct telephone line to your control center
19 in Houston?

20 Do I have the town right? Is it in Houston?

21 A Yes, it's in Houston.

22 And, all of our literature has that telephone
23 number on it. All of our pipeline markers have that
24 telephone number on it.

25 Q Okay. So, it's not a question of going

1 through your office or Mr. Rodriguez's. We can get
2 directly to that line?

3 A You have those numbers.

4 Q Okay. The last question, I think I
5 understood your testimony, what your function is to
6 evaluate threats and risks to the pipeline and take
7 steps to protect the pipeline.

8 Am I correct?

9 A Yes. The evaluation Mr. Rodriguez did is
10 for developments that come in and we evaluate them for
11 threats and risks to the pipeline, yes.

12 Q Okay. When you're making that evaluation,
13 do you look at the proposed uses of the, whatever
14 project is going to be adjacent to the pipeline, do we
15 factor that in?

16 A Yes.

17 Q Okay. So if someone was proposing to
18 build a fertilizer factory next to a pipeline you
19 would consider that, you would take that into account?

20 A Certainly.

21 Q And, can you tell me what would be some,
22 in that hypothetical case, what would be some of the
23 things you would be looking at to protect the
24 pipeline?

25 A Well, we would probably object to the

1 fertilizer plant being within a thousand feet of a
2 pipeline because of the danger of the fertilizer plant
3 would impose on the pipeline.

4 MAYOR DRESHEFF: Okay. Thank you.

5 CHAIRMAN MAYO: I have a question.

6 With respect to the monitors, for both flow and,
7 and pressure, how were they transmitting to Houston?

8 Is that wireless? Is it a land line? Is it
9 both?

10 THE WITNESS: Both. We have wireless
11 radio that goes to one of our locations. There's land
12 lines, their's fiberoptics and there's usually a
13 primary and a backup.

14 CHAIRMAN MAYO: Okay. All right. Thank
15 you.

16 MR. LAMB: Mr. Chairman, I have a few
17 more, when the public is ready.

18 CHAIRMAN MAYO: Yeah. Herb. Come on up.
19 Then, after him, Mr. Lamb.

20 H E R B S H A W, 4402 Liberty
21 Avenue, North Bergen, New Jersey, having been duly
22 sworn, ask questions and gives testimony as follows.
23 CROSS-EXAMINATION BY MR. SHAW:

24 Q In the event the pipeline signal to shut
25 the valve, what sort of power provides that valve to

1 operate?

2 A They're powered by natural gas.

3 Q By the pressure?

4 A Yes.

5 Q And, if that fails and someone is called,
6 it takes them sometime to get there, how do they close
7 the valve manually, with a crank?

8 A Yes.

9 Q And, how much time does that take?

10 A The crank or the, the hand wheel on the
11 valve, the amount of time it takes depends on the size
12 of the valve.

13 Q Well, what -- we are speaking about the
14 valve, that's one pipe and has one valve. I presume
15 it's one large valve.

16 What is that, 36 or 24?

17 A It's a 36 inch pipeline but at River Road
18 it splits into two 24 inch pipelines.

19 Q To go across the river?

20 A To go across the river, that is correct.

21 So, in that case, since we have two pipelines
22 across the river, that valve section has two supplies
23 of pipeline power gas.

24 So, the probability of not having gas pressure
25 there is, is improbable.

1 And then, at the Route 1 facility, you have a,
2 you'll have gas supply upstream of the valve and down
3 stream of the valve.

4 So, there's, there's multiple power gas supply
5 at that location also.

6 Q That would be provided that the pipeline
7 is in operation, that it has the gas -- I mean, if
8 someone shuts it off previous to this, a valve
9 anywhere between here and Texas would deprive the gas
10 to operate the valve?

11 A If, yes, if we don't have gas to operate
12 the valve, then we don't have a lot of gas escaping
13 the pipeline.

14 Q That's true also.

15 How much pressure do you need to operate the
16 valve?

17 That's about 400 pounds.

18 Is that correct?

19 A The gas pressure in this segment is a
20 maximum of 350 pounds.

21 Q 350?

22 A That's correct.

23 Q And, the safety factor, is it good for
24 600.

25 Is that, what I remember, is that true?

1 I got that figure from --

2 A The pipeline in this area could operate at
3 a maximum of 638 pounds.

4 Q 638?

5 A Yes.

6 Q Okay. Now, the rock that penetrated the
7 pipeline, you didn't object to it being called diabase
8 rock which is hard rock, how did that happen?

9 The engineer, I presume that it was inspected,
10 everybody watched the backfill operation and all that,
11 how does that diabase get up there and the pipeline or
12 the diabase rock.

13 MR. TUCKER: Objection. Mr. Chairman, I
14 think Mr. Schweitzer has answered his question two or
15 three times tonight already.

16 CHAIRMAN MAYO: I'm not sure if he did,
17 not as to how it got there.

18 MR. TUCKER: Okay.

19 CHAIRMAN MAYO: Do you know?

20 A I could only speculate. It would be my
21 opinion as to what happened.

22 Q Please give us your speculation.

23 A Okay. Purely speculation.

24 Q An opinion as an engineer, that's what I
25 asked for.

1 A Okay. The pipeline was laid way back
2 when. Okay. And, it was put in close proximity to
3 that specific rock. So, it was backfilled.

4 Then we hydrostatically test the pipe. So, we
5 fill it with water. So, filling the pipeline with
6 water makes the pipe extremely heavy. And, if the
7 pipe settled -- the rock doesn't settle but, but the
8 other backfill base settled a little bit, they could
9 have, at that time, put a dent in the pipeline.

10 That's my opinion.

11 Q Oh. Thank you.

12 And, the backfill is usually crushed stone and
13 then sand right next to the pipe?

14 A The backfill is usually the earth that's
15 taken out and any rocks are removed from it and then
16 clean backfill is put in.

17 Q Clean meaning it has no projectiles,
18 potential projectiles?

19 A That is correct.

20 Q In that area there appears, from my
21 information from the book Geology of New York City and
22 Environs by Christopher Schubert in 1968 that there is
23 an earthquake fault in that area. It has to do with
24 the Palisades and coming up from the diabase rock, all
25 kinds of complicated things that happened 200 billion

1 years ago.

2 I'm going to ask you to do a favor. I'm not
3 going to give testimony on this because I don't know
4 anything about it. I'm going to give you this
5 information here and ask you to check into it for the
6 public, for reasons of public safety.

7 1 and 9 runs around there. And, this is what
8 the International Building Code says about checking.

9 A I'll certainly look into it.

10 Q Okay. Thank you very much?

11 CHAIRMAN MAYO: All right. Thank you.

12 Mr. Lamb.

13 MR. LAMB: I just have a couple.

14 RECROSS-EXAMINATION BY MR. LAMB:

15 Q Mr. Schweitzer, you said that, I think you
16 used, the words you used was the current, the current
17 pipe is in excellent shape.

18 Is it fair to say that part of the basis of that
19 opinion is the pig tests that have been run?

20 A Yes.

21 Q And, are you going to, the pig test,
22 provide the testimony?

23 A No. I did not review that.

24 Q Okay. So is it a substantial part of your
25 opinion, based upon those, those internal tests that

1 have been run by Transco?

2 A It's my opinion of the smart pig runs that
3 were done and the technical staff, my conversations
4 with the technical staff who evaluated those results.

5 Q And, who were the technical staff that
6 evaluated the results?

7 A Kevin Lie. He is in our office. He was
8 one of the individuals that reviewed them as a
9 Williams employee. There is also the pig vendor that
10 reviews the information.

11 Q Okay. You're not, based upon the advice
12 of your Counsel, you're not providing those pig tests
13 to us?

14 A That is correct.

15 Q Now, we've had lots of hearings and I
16 probably missed this very simple concept but, now the
17 fact that there is a valve station right across the
18 street from the subject property, across River Road,
19 because it's down gradient, shutting off any valve on
20 that particular, across the street towards Hudson
21 River valve station, really doesn't do anything to
22 stop or the pipeline gas from coming through. It
23 really doesn't do anything.

24 A That's not correct.

25 Q Okay. Then can you explain to me what,

1 how that helps control the situation if there is a
2 problem?

3 A There's gas, down stream of that valve.
4 So, if you can close the valve and prevent that gas
5 that is down stream of the valve from coming backward,
6 you would be doing yourself some benefit.

7 Q So there's a benefit of, you, you at least
8 stop the problem at the valve station.

9 Is that it? Is that what you're saying?

10 A You would isolate the section.

11 Q Right.

12 A Valves on both sides, and allow it to
13 evacuate.

14 Q Okay. But, but really, what I didn't
15 understand, the source of controlling this is really
16 the upstream not the down stream valve station in
17 Route 1.

18 Is that correct?

19 A In the hypothetical scenario --

20 Q Hypothetical scenario.

21 A -- that I was talking about, it's both.

22 Q Now, Sint asked you a couple questions
23 about the two pig runs. You can determine the rate of
24 corrosion by taking two different runs and comparing
25 the reading at a particular point.

1 Is that what I understand your testimony is?

2 A Depending on the accuracy of those pig
3 runs and a whole lot of factors I'm sure somebody
4 could make a guess to that, yes.

5 Q I'm sorry. Somebody could make?

6 A A guess. It's not precise.

7 This is a magnetic flux tool. It has,
8 implements, it departs magnetism on to the point and
9 there's sensors that read that magnetism and there's
10 technicians that, that evaluate the signatures that
11 come from that, from that magnetism. It's good but
12 I'm not going to say it's perfect.

13 Q Okay. And, was that comparison ever done
14 historically on this segment of the pipe, that
15 comparison of the two readings on the different time
16 periods of the pig run?

17 A I can't testify to that. I don't know.

18 Q Okay. Now there was some questions, I
19 know, about the time for replacement of the pipe. I
20 believe Mr. Rodriguez testified this particular
21 segment of the pipe is one of the oldest sections in
22 the area.

23 Do you know anything about that?

24 A I believe it was testified that this pipe
25 was installed in 1959.

1 Q Yeah, in that range. That's --

2 A Okay.

3 Q -- that's my recollection?

4 A Okay. This pipe was installed in 1959.

5 Q Is there a time period where no matter
6 what happens after 50, 60, 70 years, Transco says, all
7 right, now I'm just going to put in a new pipe?

8 A As long as the pipeline is good and meets
9 the specifications, it will not be changed.

10 Q So as long as these tests come up
11 acceptable, the pig run tests, as long as they show
12 there are no anomalies or defects or issues, this pipe
13 stays, will not be replaced?

14 A That is correct.

15 Q Is there any information that Transco has
16 that older pipes have a higher degree of problems or
17 incidents than newer pipes?

18 Is there any of those types of statistics?

19 A I don't have any of those statistics.

20 Q Now you indicated specifically, and I'll
21 quote, you said this particular project doesn't go, I
22 believe you said doesn't go uphill. That's what you,
23 I believe that's the language you used. You said the
24 project doesn't go uphill.

25 You are aware that the proposed project causes

1 excavation into the Cliffs and above the toe of the
2 Cliffs?

3 A We've established that I'm not the
4 geologist.

5 Q Right.

6 A I don't know where the Cliffs start or
7 where the Cliffs -- I don't know where the Cliffs are
8 specifically. But, I will tell you that the footprint
9 of this building, there was some excavation at the
10 back of the building.

11 But, our review of the drawings do not show any
12 rock in that excavated area.

13 Q Okay.

14 A Whether that rock under the proposed
15 building is part of the Palisades Cliff or not, I
16 don't know.

17 Q Okay. And, are you aware that the
18 developer has now proposed in, by way of
19 recommendation from its geotechnical expert, to make a
20 change to the plan and add a 10 foot area behind the
21 building and construct a temporary, either a temporary
22 or permanent retaining wall depending.

23 Are you aware of that?

24 A No, I am not.

25 Q And, so, when your office reviewed this,

1 you did not review it with the knowledge that, in
2 addition to the building footprint, there would be
3 another 10 feet of excavation and a retaining wall
4 beyond that farther to the west?

5 A Without seeing those plans, I, I cannot
6 comment on it. But, from, from my review of the
7 project, I don't envision the wall that you are
8 discussing coming into the pipeline right-of-way area.

9 Q Now you indicated that -- Sint was asking
10 you questions about what happens if you have to do
11 something in the 20 foot area. She was talking about
12 the four and a half foot area. You said you would pay
13 rent for temporary work space.

14 Are you saying that, at the current time, you do
15 not have sufficient area to do what you might have to
16 do so that you may have to rent additional space?

17 A We have an easement area for the pipeline
18 and that easement area of the pipeline is not always
19 large enough to perform any pipeline activity
20 replacement for instance, for excavation, for piles,
21 for additional equipment. So, typically, not only at
22 this location but all across the country, we, we would
23 rent additional work space from the property owner
24 temporarily, yes.

25 Q Okay. And, is it fair to say -- does that

1 mean that you would like another 10 feet if you could
2 get it, you would like another 10 feet of access
3 easement or area so that you could do all your
4 maintenance and activities, whatever you needed?

5 A It's not necessary.

6 Q Okay. Now you said that there was an
7 access easement.

8 Is there an access easement executed at the
9 current time, right now?

10 A We all know there is not.

11 Q You said that there was an access
12 easement. So, in other words, there's discussions of
13 an access easement but it's fair to say that no access
14 easement has yet been executed between the parties?

15 A There is a proposed access easement.

16 Q Is it also fair to say that the developer
17 has not agreed, as of this date, to comply with the
18 construction requirements that Transco has, typically
19 imposes on a project?

20 A All --

21 MR. ALAMPI: Excuse me. There's nothing
22 in any transcript, there is no statement that would
23 lay any foundation that the developer would not agree
24 to the construction protocol. That is an unfounded
25 statement or question.

1 It's been very clear that no easement would be
2 executed until there's final unappealable approval on
3 this.

4 But, I don't know what else to say.

5 CHAIRMAN MAYO: Do you want to rephrase?

6 MR. LAMB: No. I think Mr. Alampi is
7 fairly stating what was in the record.

8 But, as of this date, the developer has not
9 executed that and the site plan still has a note that
10 requires the developer to agree to that.

11 MS. NABBIE: Mr. Alampi, is it, is it your
12 representation.

13 MR. ALAMPI: We're not going to go
14 anywhere on this. It will not be signed until there
15 is an unappealable final approval.

16 MS. NABBIE: Said another way, there is a
17 representation, that once all approvals not
18 appealable, this agreement will be executed.

19 MR. ALAMPI: We have made that
20 representation numerous times, at all levels.

21 MR. LAMB: For the record, the agreement,
22 the access easement proffered by Mr. Alampi is in
23 agreement that has the names of the parties, that has
24 the Township of North Bergen, the Township of
25 Guttenberg and has no substance or paragraphs or

1 provisions in it.

2 MR. ALAMPI: It's not finished.

3 MR. LAMB: Thank you, Mr. Alampi.

4 MR. ALAMPI: What more can we do?

5 MR. LAMB: Thank you. It's not finished.

6 Thank you.

7 Q There was all these discussions, and I'm
8 not going to rehash what happened but, that, that
9 other incident, but is it fair to say that pipe
10 settlement is one of the things that can create an
11 anomaly or problem which is your speculation as to
12 what happened with the incident that all the questions
13 were asked about?

14 A Yes.

15 Q Pipe settlement?

16 A Yes.

17 MR. LAMB: Thank you. No further
18 questions.

19 CHAIRMAN MAYO: Okay. The witness is
20 excused.

21 Mr. Lamb, I think we're up to your case.

22 Why don't we take a five minute recess?

23 (A recess is taken)

24 CHAIRMAN MAYO: Okay. Let the record
25 reflect that all the Board members who were present

1 before the break are again present.

2 Mr. Lamb.

3 MR. LAMB: Thank you, Mr. Chairman.

4 I have another witness that I would have
5 testify.

6 Due to the Board's previous decision that they
7 will not allow any appraisal testimony, I think the
8 Board has decided on this, I have, I would like to
9 proffer the testimony of the Board member, Mr. Miller.
10 And, I understand that the Board will not, in
11 consistent with its prior decision, not permit the
12 testimony.

13 I do have Mr. Miller here. But since -- I
14 wanted to get through that. And, so what I'd like to
15 do is mark his proposed testimony for identification
16 as G-37. Obviously, it will not be introduced. It's
17 just a proffer as to what he would testify to if he
18 was allowed to testify.

19 MR. ALAMPI: I would strenuously object to
20 the same. Before that's handed out, John.

21 MR. LAMB: I'm marking it for
22 identification. You can object to anything else with
23 it but, go ahead.

24 MR. ALAMPI: I think, I think that it
25 contravenes the ruling of the Board and the decision

1 of the Board. It's going to infiltrate its way into
2 the process. I think it's totally improper.

3 Mr. Miller, who is a member of the Board, I
4 think has testified. In fact, he did testify at the
5 underlying original presentation over a year ago.

6 So, we have that transcript.

7 And, he also testified at the County Planning
8 Board. There's really no need for this. And, I think
9 it's overwhelmingly prejudicial.

10 MR. LAMB: And, again, Mr. Miller did
11 testify but now his testimony -- the reason why it set
12 it forth in detail, it's almost what they do in the
13 Board of Public Utilities. They have the pre, they
14 have the testimony submitted.

15 And, I understand that you're not going to allow
16 Mr. Miller to testify in the appraisal but we did not
17 have the particular appraisal Helmstetter, Mason
18 Helmstetter at the time that he last testified.

19 So, the proffer is that Mr. Miller, as a Board
20 member, would basically agree that the Board has
21 authorized the acquisition of the property at fair
22 market value pursuant to the appraisal.

23 MR. ALAMPI: There you go.

24 CHAIRMAN MAYO: It has no bearing on the
25 safety issue.

1 MR. LAMB: Mr. Chairman, I understand the
2 ruling. I put, I put, what, what -- respectfully,
3 I've put this in. And, when the applicant can come
4 back and we can submit three pages of exhibits and all
5 his testimony, we get another shot at essentially
6 rebutting that and addressing it. This is how we do
7 it.

8 The Board has ruled against me. I understand
9 that.

10 CHAIRMAN MAYO: I'll tell you what we'll
11 do. We'll mark it, take it to the judge.

12 But, in terms of these deliberations, it's not
13 part of it.

14 MR. LAMB: All it is is marked for
15 identification and not into evidence.

16 So, with that I'm not going to recall, Mr.
17 Chairman, I'm not going to recall Mr. Miller at
18 subsequent hearings unless he wishes to attend because
19 there's no need.

20 MR. ALAMPI: I'll just continue my
21 objection. We understand each other.

22 MR. LAMB: Mr. Alampi.

23 (Document is marked G-37 for
24 identification.)

25 MR. LAMB: Should I have give copies -- do

1 you want to see copies or you don't want to see
2 copies?

3 CHAIRMAN MAYO: No.

4 MR. LAMB: Okay. With that, I would like
5 to call Robert Cunniff.

6 R O B E R T C U N N I F F, Hatch
7 Mott MacDonald, 27 Bleeker Street, Millburn,
8 New Jersey, 07041, having been duly sworn,
9 testifies as follows.

10 MR. LAMB: Mr. Chairman, I would like to
11 mark for identification the Curriculum Vitae of Mr.
12 Cunniff. He has previously submitted one that was
13 marked in the, I believe in the initial hearings.
14 This is an updated resume and the Curriculum Vitae
15 which I would like to have marked as G-38 and dated
16 today's date.

17 And, I have copies for the Board which I'll pass
18 around.

19 (Document is marked G-38 for
20 identification.)

21 DIRECT EXAMINATION BY MR. LAMB:

22 Q Mr. Cunniff, I have shown you what's been
23 marked G-38 for identification.

24 Can you identify that?

25 I'll actually give you a copy of your own -- do

1 you have one more copy?

2 MS. HARTMANN: Sure.

3 MR. LAMB: Thank you.

4 A This is my corporate resume from Hatch
5 Mott MacDonald.

6 Q Okay. Is that your current resume updated
7 from the previous Curriculum Vitae?

8 A Yes.

9 Q Can you briefly describe for the Board,
10 we're not going go through the whole thing but briefly
11 describe for the Board, since you last testified, what
12 you have been doing as far as your employer.

13 A Since my last testimony in 2011, I've been
14 working almost exclusively on a single project for the
15 New York City Department of Environmental Protection.
16 It's a geotechnical tunnel project. It has to do with
17 a replacement of one of their leaking water tunnel
18 segments.

19 I've been doing an extensive amount of drilling,
20 rock coring and geotechnical testing in Newburgh, New
21 York.

22 Q Okay. And, you are, again without going
23 into all the details, you are a geologist?

24 A Yes.

25 Q Okay. Can you describe where you're

1 licensed as a geologist?

2 A Yes. I, I typically utilize my
3 Pennsylvania Professional Geologist license because
4 New Jersey and New York do not have professional
5 geology licenses.

6 Q Okay.

7 A A lot of states don't. Pennsylvania has.

8 Q How long have you been a geologist in
9 Pennsylvania, with your license?

10 A Probably 15 years.

11 Q Okay. How long have you been practicing
12 geology in the State of New Jersey irrespective of the
13 fact that they don't have a separate licensure?

14 A 23 years.

15 Q Okay. You've been employ with Hatch Mott
16 MacDonald for how many years?

17 A About 16.

18 Q Okay. Now you are not a licensed engineer
19 in the State of New Jersey.

20 Is that correct?

21 A Correct.

22 Q Okay. Do you have any designations as or
23 qualifications as a safety expert?

24 A Yes. By virtue of the work that I do, I
25 have extensive training in various OSHA required

1 courses, hazardous waste operations, person in
2 excavation.

3 The work that I'm currently doing for the New
4 York City DEP requires that every construction project
5 have a designated Site Safety Representative dedicated
6 to that project site.

7 I have been qualified by them as a Site Safety
8 Representative so I have, on different sites related
9 to that project, I have served as the Site Safety
10 Representative.

11 Q Okay. When you're not -- so, on the
12 current project, you have served as a site safety
13 expert?

14 What did you call it? I'm sorry.

15 A Site Safety Representative to monitor
16 activities that are on-going at each site.

17 Q And, at the current time, do you supervise
18 anyone in your current employment?

19 A Yes.

20 Q Who do you supervise?

21 A Well, the project itself I was supervising
22 numerous geologists and geotechnical inspectors who
23 were stationed at each of the drill rigs collecting
24 geotechnical data as well as, at one point, we had
25 three Site Safety Representatives as we were drilling

1 that many separate sites.

2 I'm supervising them as well.

3 Q Okay. Your requirement is that there be a
4 site safety person representative at each site that
5 you work on in New York State?

6 A The requirement -- it's a New York City
7 DEP requirement and it is a per site requirement,
8 dedicated site safety person.

9 Q And, you are currently the supervisor of
10 the Site Safety Representatives when you're not acting
11 in one, as one yourself?

12 A Correct.

13 MR. LAMB: Okay. Mr. Chairman, I would
14 move that he be qualified as an expert in geology and
15 as a Site Safety Representative but not an engineer as
16 he's testified to.

17 CHAIRMAN MAYO: One second.

18 MR. ALAMPI: I just have a few questions.

19 CHAIRMAN MAYO: Yes.

20 CROSS-EXAMINATION BY MR. ALAMPI:

21 Q So, Robert, you attended and secured your
22 undergraduate degree at Colgate, in New York State?

23 A Yes.

24 Q In geology?

25 A Yes.

1 Q But, New York State does not license and
2 recognize geologists as a licensed profession?

3 A The State does not have a licensing
4 program for geologists. Correct.

5 Q And, with regard to the Site Safety
6 Certification, what exactly, is your, is your
7 certification?

8 What licenses do you hold as a safety official
9 or safety officer?

10 A It's more training certifications. It's
11 not a license. It's a requirement that the DEP has
12 instituted to improve their safety practices on all of
13 their construction projects.

14 Q You're talking about the New Jersey State
15 Department of Environmental Protection or New York
16 City?

17 A New York City Department of Environmental
18 Protection.

19 Q And, it's a requirement on certain jobs,
20 where the DEP has jurisdiction, that there be a safety
21 officer assigned to the site?

22 Is that what you're saying?

23 A Yeah. It's really the jobs that they own.
24 It's their construction projects. It's construction
25 projects paid for by the DEP, the New York City DEP.

1 Q So they kind of tracked out to third
2 parties but they require a Safety Compliance Officer.

3 Is that it?

4 A Yes.

5 Q Any of these positions that you've held
6 have to deal with the natural gas or high pressure gas
7 line safety issues?

8 A Nothing to do with gas line safety issues.

9 We did encounter some natural gas coming out of
10 the rocks but not a pipeline.

11 Q In New York State, there's a lot of
12 natural gas?

13 A That is right.

14 Q Isn't that where they deal with the
15 fracking process?

16 A It's very involved with our project
17 because we are going deep and the regulators worry
18 about natural gas.

19 Q Are you one of the people that promotes
20 the fracking process for your employers?

21 A I have never been asked to give an opinion
22 on that.

23 Q Well, do you supervise jobs where there's
24 fracking?

25 A No. Well, let me qualify that.

1 Q Okay.

2 A The borings that we, the deep borings
3 which are on the order of a thousand feet that we're
4 collecting geotechnical data for this replacement
5 tunnel, this bypass tunnel, after the boring is
6 completed, we called in a subcontractor who
7 hydraulically stress tested. Some might call that
8 fracking --

9 Q Fracking.

10 A -- or fracturing, not on the scale that is
11 typically talked about, not the massive amount of
12 pressure that is typically talked about when they do
13 oil and gas fracturing. But, we did it to
14 hydraulically test the rocks to get the rock strength.

15 Q But, there is a good amount of controversy
16 surrounding --

17 A Very much.

18 Q -- fracking.

19 With regard to the project you're presently
20 working on, you're supervising the canal or the
21 underground channel that brings the reservoir water
22 into New York?

23 A Yeah. We're collecting data so that that
24 can be designed and then built. They call it an
25 aqueduct, tunnel or aqueduct.

1 Q Underground aqueduct to tap the
2 underground water?

3 A The tunnel is minus 600 feet below sea
4 level, the existing tunnel and the replacement tunnel
5 will also be that deep.

6 MR. ALAMPI: Mr. Chairman, I have no
7 objection to this man's fine credentials and in
8 engineering. As far as a Safety Officer with the
9 proviso that there is no licensing or certification
10 specifically for high pressure and natural gas lines,
11 with that caveat, I have no objection.

12 CHAIRMAN MAYO: All right. I have one
13 small question.

14 You mentioned you've been doing this for 23
15 years.

16 THE WITNESS: I've been a practicing
17 geologist for about 23 years, yes.

18 CHAIRMAN MAYO: And your resume says years
19 in practice 22. Was this prepared a year ago?

20 THE WITNESS: They probably haven't
21 updated -- I got that off the server today.

22 The resume that I handed in last year, in March,
23 also said 22 years.

24 So, that's why I'm saying there must be a year
25 missing from that, the current resume.

1 CHAIRMAN MAYO: Fair enough. We'll accept
2 him.

3 MR. LAMB: Thank you.

4 DIRECT EXAMINATION BY MR. LAMB:

5 Q Now, Mr. Cunniff, you attended the last
6 hearing, July 26th.

7 Is that correct?

8 A Yes.

9 Q You've heard the testimony at that hearing
10 that you attended?

11 A Yes.

12 Q Did you review, in connection -- you
13 testified in the initial hearing before the matter was
14 appealed and remanded.

15 Is that correct?

16 A Yes.

17 Q Okay. And, have you reviewed the
18 transcripts in the remand proceedings?

19 A Yes.

20 Q Okay. When you didn't attend, you
21 reviewed the transcripts.

22 You reviewed the slopes stability study prepared
23 by Johnson Soils Engineering dated, I believe, March
24 of 2012?

25 A Yes.

1 Q What else have you reviewed in connection
2 with the preparation for your testimony this evening?

3 A The County Slopes Stability Study which I
4 brought up a copy so I could tell you the date,
5 September 3rd, 2008, revised September 3rd, 2009.

6 MR. LAMB: Mr. Chairman, I'm going to mark
7 that because we're going to have some testimony on it.

8 In the initial hearings there was an abbreviated
9 version, only the portions of the pages. But, since
10 the testimony will be beyond that, now Mr. Alampi, I
11 believe Mr. Alampi was concerned about having the full
12 appendix. And, I don't think this has every page
13 attached to it.

14 So, this is all subject to --

15 MR. ALAMPI: How do you know what I'm
16 thinking?

17 MR. LAMB: I'm just trying to save us the
18 trouble.

19 If something is missing, we'll bring it back.
20 And, that we will mark as G --

21 MR. ALAMPI: Mr. Chairman, before you mark
22 it, this is more or less the text of what we have been
23 given in the past?

24 MR. LAMB: Yeah. Yeah. The last one I
25 only had three pages. The previous exhibit was only

1 the cover page and just the paragraph on the subject
2 property.

3 MR. ALAMPI: I thought we had the report.

4 MR. LAMB: You added something else to it
5 as your exhibit, I believe.

6 MR. ALAMPI: There is a little confusion
7 on my part only in that I thought that we had both, at
8 this Board level last year and at the County Planning
9 Board also last year the Palisades Slope Stability
10 Study and it was more than just three pages.

11 I thought we had all the exhibits. They went to
12 identify all the different sites. So, I'm not in a
13 position to take this and completely compare it with
14 the earlier exhibit.

15 But, I'll accept what Mr. Lamb is saying more or
16 less. I just need to review this.

17 MR. LAMB: And, if Mr. Alampi wants to
18 review it.

19 CHAIRMAN MAYO: You'll reserve.

20 MR. ALAMPI: I'll have to reserve. Thank
21 you.

22 What did you mark it?

23 MS. NABBIE: G-39.

24 (Document is marked G-39 for
25 identification.)

1 Q Mr. Cunniff, as part of your testimony,
2 you reviewed that Palisades, the Palisades Slope
3 Stability Study last revised February 3rd, 2009?

4 A Yes.

5 Q Now, you have inspected the site.
6 Is that correct?

7 A Yes.

8 Q Can you briefly describe when was the last
9 time you inspected the property?

10 A I was on the property the morning of the
11 last hearing which was the 26th of July.

12 Q Okay. And, when you inspected the
13 property on July 26th, were there any particular
14 weather conditions that, weather conditions that you
15 want to bring to the Board's attention.

16 A There were thunderstorms in the morning.
17 By the time I got to the site it was rather hot, humid
18 but it was no longer raining.

19 Q Okay. How long did you spend on the
20 property?

21 Can just describe what you did on the property?

22 A I probably spent 45 minutes to an hour. I
23 walked on with a representative.

24 Q Of the developer?

25 MALE SPEAKER: Right here.

1 Q Mr. Spilletti's son?

2 A Yes, the younger Mr. Spilletti.

3 And, we, he walked with me back across the flat
4 part from River Road. We entered from River Road. We
5 parked over by the valves on the other side of River
6 Road, across the street, went through the gate, walked
7 across the flat portion of the site up to the slope.

8 He pointed out some spots where he thought that
9 the test pits and borings had been done. Walked,
10 climbed up, partway up the slope.

11 At that point and it was July, it was rather
12 overgrown.

13 Q Now, were you aware of the, in the Johnson
14 Soils report that was testified to by Miss Molly Greco
15 at last July 26th hearing, are you aware of the
16 attachments and the cross-sections for Cross-sections
17 A, B and C that she attached to that report?

18 A Yes. I believe they're in the copy that I
19 reviewed.

20 Q Okay. And, are you aware of her testimony
21 and showing in the report various boring tests and
22 test pits marked as B and TP to identify various
23 geological conditions on the property?

24 A Yes.

25 Q Okay. Do you have any comment with

1 respect to the positioning of those test pits and
2 borings?

3 A Yes.

4 Two borings were down near River Road and the
5 balance of the borings were clustered, if you will, a
6 portion of the way up the slope probably, definitely
7 beyond the toe of the slope, up on the hill. After
8 having been on the site and reviewed the report, I
9 would say they were probably clustered up there
10 because that was the first break in the slope where it
11 actually got level and it was probably easier to erect
12 the drill rig to perform the borings there.

13 Certainly you reach a point on that slope where
14 you cannot, you cannot get a vehicle mounted drill rig
15 up on the slope to do, to do borings up higher.

16 Q And, if you wanted to do borings up
17 higher, is there something you can do to do borings up
18 higher even though you can't get the actual machine
19 up?

20 A In terms of a boring, you could do a hand
21 augering which is sort of a T-shape tool that you
22 rotate into the ground and pull out, all done
23 manually. Or, you could hand, hand dig test pits.

24 Q Okay. And, do you -- you heard my
25 questions to her about the location of the pit, the,

1 the borings and test pits not being in a somewhat
2 direct line?

3 A Right.

4 Q Do you recall I asked her some of the,
5 some of the test pits or borings seemed closer to
6 another cross-section even though they were analyzed
7 in terms of a different cross-section?

8 A I recall that, yes.

9 Q Do you have any comments with respect to
10 that particular location of the test pits, test pits
11 and borings?

12 A Yes. If I was going to, if I was going to
13 prepare a report with three specific cross-sections,
14 north, central and southern, I probably would have
15 made more of an effort to, to align my borings or test
16 pits along my proposed cross-sections. I thought
17 maybe it could have been done, the hand digging
18 further up on the slopes, since the cross-section goes
19 up further on the slope. They could have hand dug,
20 hand augered test borings higher up and there were
21 only two done down on the lower end, down near River
22 Road.

23 Q Is it fair to say that the location of
24 those test pits and borings for each cross-section
25 were haphazard?

1 A Haphazard? The cross-sections do not
2 appear to align with the placement of the borings.

3 Q Okay. From your review of the location of
4 all the test pits and borings on the subject property,
5 did you see any grid system or any kind of standard
6 method of locating those test pits or borings?

7 A I don't know as I would see that in the
8 field but, from the, from the plot on the map, I would
9 say that, no, it doesn't appear that there was a grid
10 system used. It -- having been on the site, I think
11 that perhaps they were clustered, those borings were
12 clustered partway up the hill in those locations
13 because topographically it was maybe convenient or
14 easier to put the borings in at that location as
15 opposed to 30 feet in that direction, 20 feet in that
16 direction.

17 Q As your, as part of your engineering
18 company that you're employed with, would you normally
19 utilize a grid system to have somewhat consistent test
20 pits and borings at various cross-sections?

21 A Yes.

22 In this particular case, they might have had to
23 have done some leveling or maybe vegetation clearing
24 to, to get to a specific point that you want to take a
25 sample at.

1 Q That. You're aware of my questions
2 concerning it was a B1, a Boring 1 and a B3, a B2 and
3 a B4 but there was no B3. And, you heard Miss Molly
4 Grieco's testimony concerning, I guess, they hit, I
5 forget exactly what?

6 A They hit a refusal, very shallow.

7 Q Okay. What is the procedure of you, as a
8 geologist, when doing test pits and getting a refusal,
9 what would be your normal procedure in addressing a
10 refusal?

11 A Well, first you look at the area and make
12 sure you're not on some kind of structure or conduit
13 or some man-made obstruction. And, then we would
14 probably move the drill rig just, it's a judgment
15 call, you could move it one foot, two foot, five feet
16 off to the side. And, you could attempt, in the new
17 location, to complete your boring.

18 If I were doing that, I would probably label my
19 first attempt as B3A and then subsequent attempts as
20 B3B or C or D, depending on how many times it took.

21 Q Okay. Is that your usual practice or the
22 practice of your company that that's what you would do
23 when you reach a refusal, to try to get another test
24 fairly close to the refusal test?

25 A Yes, especially if you're in a situation

1 where you want a boring from a specific spot.

2 Q Okay. Now, if you don't do that, you
3 don't go fairly close to the refusal area, can that
4 leave a gap in the measurements that, that we're
5 looking at the geological conditions, does that leave
6 a gap in the measurements where you don't do something
7 close to a refusal area?

8 A Yes. I would refer to it as a, you know,
9 a dated gap, especially if there was an intent to put
10 a boring in a particular area and you have no data
11 from that area that could be significant.

12 I'm not sure where B3 was proposed or why it was
13 proposed there. So, I can't estimate how important
14 the, that data gap is.

15 Q You can't tell how important it was from
16 looking at her report, her Johnson Soil report. It's
17 not indicated, the importance of it?

18 A I would say no, it isn't.

19 Q Okay. Now, is it fair -- you've heard
20 testimony concerning the need to remove the retaining
21 wall on the southerly portion of the property, close
22 to the Galaxy?

23 A Yes.

24 Q Okay. Does that -- what does that work do
25 to the steepness of the slopes at that location?

1 A In the Johnson report, the removal of a
2 wall or the excavation --

3 Q Look at Board members.

4 A -- or an excavation of the toe of the
5 slope would steepen the existing slope.

6 Q Okay. And, steepening the slope, what
7 kind of geological impacts can that have when you make
8 a slope steeper in that particular southerly portion
9 of the property?

10 A It causes it to erode or potentially fail
11 or, or causes a slide.

12 Q Now, you -- when you walked the property,
13 can you tell the Board what you observed on the
14 property as far as trees, rocks and materials on the
15 surface?

16 A Yes. There was, appear to be a couple
17 piles of construction debris down in the flat area
18 but, when I got back up on to the slope that's towards
19 the rear of the property further from River Road,
20 there were a couple flat spots that look like an old
21 trail or an old road which was referenced in the
22 Johnson Soils report. They actually found some
23 asphalt that appears to have been some kind of former
24 road that went at least partway up the slope.

25 I had to -- there were several large trees that

1 were down and fallen. I had to climb over them as
2 well as the regular low vegetation.

3 Q Anything unusual about the trees that you
4 saw that, noticed that were down?

5 A They appeared to have either been uprooted
6 or fallen over. Several of them still had leaves
7 attached which, to me, indicates they fell over either
8 because the soil couldn't hold them up anymore or soil
9 creep could have forced the roots out and they toppled
10 over. Essentially they were still alive when they
11 fell over. They were not diseased trees because they
12 had leaves on them.

13 Q You just used the term soil creep. Could
14 you define that or describe that for the Board?

15 A Soil creep is, when you have a slope with
16 soil, as we do on the, on this portion of the
17 property, erosion is the, the physical transfer of
18 particles of soil and rock from higher up to lower.

19 Soil creep is really where the soil moves almost
20 as a body, like a sheet, if you will, very, very
21 little. It's seasonal. It could move a couple
22 millimeters a year. It's basically a sheet of soil
23 that's acting under the force of gravity that's being
24 dragged down the incline.

25 Q For purposes of the Board reviewing this

1 project, is it important to review the susceptibility
2 of the property in the slopes to soil creep or erosion
3 based upon the location of the pipeline and the
4 project?

5 A Very much so.

6 Q Now, having inspected the property, did
7 you form any opinion as to the, the erosion or lack of
8 erosion on the property?

9 A Yes. It's an actively eroding hillside,
10 an actively eroding cliff.

11 Q Okay. And, you reviewed Miss Greco's
12 report dated March 2012?

13 A Yes.

14 Q You also heard her testifying?

15 A Yes.

16 Q And, in that report there were a number of
17 instances where she specifically indicates that there
18 was no erosion on the property?

19 A She does indicate that.

20 Q Okay. Do you have those references handy?

21 A Yes.

22 Q Okay. Could you --

23 A Do I have to give page number and
24 paragraph?

25 Q Yes. Yes. And, just read what she says?

1 A On Page 5 of 10, there's a section labeled
2 Section 2. She says Section 2 currently contains
3 fallen trees, loose rocks, miscellaneous debris. Most
4 of the fallen rocks settle on the flat path and do not
5 appear to travel beyond.

6 She's describing erosion in deposition. I mean,
7 you know, loose rocks that have fallen from above,
8 that's erosion. That's one instance.

9 Q Okay. That's from a geological
10 standpoint?

11 A Yes.

12 Q Any other instances? I'm not going to go
13 through all of them. Any other instances where she
14 makes a point that there's no erosion on the subject
15 property?

16 A Well, she makes that, that statement
17 several times. The biggest one I would say is on Page
18 8 under section, the heading Subsurface Condition.
19 There was two paragraphs.

20 Q Okay. Can you read them, please?

21 A Under soil.

22 Well, the statement is the last sentence.

23 Q Just read the last sentence.

24 A The stability is evident by the lack of
25 erosion and movement in the soil over the past 30

1 years.

2 Q Okay. And, based upon what you see as a
3 geologist, is that statement accurate?

4 A No.

5 MR. ARNONE: Is that your opinion?

6 How do you know?

7 THE WITNESS: Well, there's been testimony
8 about big erosion that took place on the site in
9 1990s.

10 There's instances in her own report where she's
11 saying there's, they uncovered, when they got to depth
12 in some of their borings, at a certain depth, they hit
13 asphalt. Well, that means there was dirt on top of
14 the asphalt. That dirt was deposited on the flat
15 asphalt because it eroded from further up the hill.

16 The picture that she put of the geo web membrane
17 on Page 6, to me looks like the classic erosion of
18 this attempted stabilization. You should not be able
19 to see the geo web. It should be buried under soil
20 and then vegetation rooted on top of that soil.

21 Q And, you heard Mr. Bertin testify that
22 that picture was taken in the winter and when the
23 shrubbery or bushes weren't green.

24 A Yes, I did.

25 Q Does that effect your opinion?

1 A My opinion is, I, I can see that
2 vegetation in the picture. But, I can also see the
3 geo web membrane material -- I don't have a scale.
4 I'm just estimating. But, there's, there's places
5 where an inch of this material is sticking out above
6 the surface.

7 That's not the way it's intended to be used.

8 Q Okay. And, from a geological standpoint,
9 does that signify that erosion is present?

10 A Yes.

11 Q Okay. That's one of the other factors
12 that shows erosion?

13 A Yes.

14 Q Now, did you observe any ponding or water
15 accumulated on the subject property?

16 A I did. On one of the relatively flat
17 spots up above the toe of the slope, there was -- it
18 was very wet which I kind of had expected because it
19 had been thunderstorming earlier that day and we --
20 you know, it rained quite heavily. But, when I got
21 there, I found a ponding of water that clearly had
22 been there for an extended period of time because
23 there was a lot of algae growth in the puddle.

24 Q And, what does algae growth in a puddle
25 signify to you as a geologist?

1 A That it's been there for probably weeks as
2 a pond of water, as a free-standing puddle of water.

3 Q Okay. How is that relevant to the Board
4 that there's a ponding with algae on it?

5 A To me, a ponding like that indicates the
6 site is, the soil, I'll say the soil, not the site,
7 the soil is poorly drained. And, by that I mean
8 vertical drainage through the soil.

9 In other words, the soil is saturated with
10 water. It's not draining through the soil downwards
11 into the underlying bedrock and away. If the soil was
12 well-drained, it would be, it wouldn't be a pond
13 there. It might be damp because of the rain that
14 morning but it wouldn't be a pond with algae.

15 So, to me, that indicates a high probability to
16 me that there would be a perched water table there or
17 at least the soil there is saturated with water, the
18 soil that sits on top of the bedrock.

19 Q Okay. And what, can you describe to the
20 Board what a perched water table is and how that's
21 relative to this?

22 A A perched water table is a layer of water
23 in the subsurface that is underlain by drier material
24 and then deeper still another, another layer of water.

25 So, it's perched up above the normal water

1 table.

2 In, in terms of, geologically what that means is
3 that soil is wet. It's, and water acts as a lubricant
4 and it, wet soil like that is less stable than dry
5 soil.

6 Q Okay. So, is it fair to say that, based
7 upon your inspection and what you have seen, including
8 her, and Miss Molly Greco's report that there are
9 indications that the soil is soft in some areas of the
10 subject property?

11 A Very much so.

12 Q And, what does that do to the potential or
13 risks of land slides or soil movement?

14 A It increases the risk.

15 Q Okay. Substantially?

16 A Yes.

17 MR. ALAMPI: Chairman, may I interrupt?

18 Is it possible we could end the proceedings this
19 evening?

20 I'm in a little discomfort and I'd like to not
21 interrupt you too much, John but end at this time.

22 MR. LAMB: That's fine.

23 CHAIRMAN MAYO: Can we?

24 MR. LAMB: Yes, please. Mr. Alampi
25 advised me.

1 CHAIRMAN MAYO: As he did me.

2 MR. LAMB: As a person with a bad back.

3 MR. ALAMPI: We commiserate.

4 MR. LAMB: I commiserate.

5 CHAIRMAN MAYO: All right. We didn't set
6 another date, did we?

7 MS. BAKER: Yes, September 20th.

8 MR. LAMB: September 20th, Thursday.

9 CHAIRMAN MAYO: Ladies and gentlemen,
10 we're going to call the hearing at this point. We'll
11 be continued on Thursday, September 20th, 7:00 p.m. in
12 these chambers. You will not receive new notice.
13 This is your notice I'm giving you now.

14 Please inform those that are here if they want
15 to come, again it's to be Thursday, September 20th,
16 7:00 p.m.

17 MR. ALAMPI: Mr. Chairman for Mr. Lamb, do
18 you believe you'll conclude your witness's testimony
19 at the next special meeting?

20 MR. LAMB: The, the issue for us is
21 whether -- I, I didn't expect Transco's witnesses to
22 go that far, I expected to finish with Mr. Cunniff and
23 I expected to determine, after I sent our expert the
24 transcript, Mr. Cooperwitz (sic) whether we would have
25 Mr. Cooperwitz on September 20th.

1 MR. ALAMPI: What I'm thinking is do you
2 think we'll take most of the meeting with this witness
3 and cross and bring Cooperwitz in October?

4 MR. LAMB: I think that's the way to do
5 it.

6 CHAIRMAN MAYO: Okay.

7 MR. ALAMPI: We understand that this
8 expert is coming from the west coast so it would be
9 silly to have him come here.

10 MR. LAMB: And, I want to tell you that
11 we're not certain that he's definitely going to come
12 here because I have to send him the transcripts.

13 MR. ALAMPI: That's why I'm suggesting
14 now --

15 CHAIRMAN MAYO: All right.

16 MR. ALAMPI: -- we have a September
17 meeting, that we would anticipate this witness for
18 October.

19 MR. LAMB: By each meeting I will have a
20 schedule for the following one.

21 CHAIRMAN MAYO: All right. So we're
22 anticipating two more meetings.

23 Correct? Maybe three?

24 MR. LAMB: No. No. I'm anticipating two.

25 CHAIRMAN MAYO: Just two?

1 MR. LAMB: I'm anticipating two.

2 CHAIRMAN MAYO: Good.

3 MR. LAMB: And, that's famous last words.

4 CHAIRMAN MAYO: Yeah. I have heard those
5 kind of promises.

6 MR. ALAMPI: I just wanted to hear it.
7 That's all.

8 MR. LAMB: But, we have cross-examination
9 of my witness. So now --

10 MR. ALAMPI: It will be very brief.
11 You don't believe me.

12 CHAIRMAN MAYO: I'm not even going to
13 touch that.

14 Motion to close the meeting.

15 MR. BASELICE: So move.

16 CHAIRMAN MAYO: Do we have a second?

17 MR. BARTOLI: Second.

18 (The hearing concludes at 10:04 p.m..)
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C E R T I F I C A T E

I, Donna Lynn J. Arnold, a Certified Court Reporter and Notary Public with and for the State of New Jersey do hereby certify:

That all the witnesses whose testimony is herein before set forth, was duly sworn by me and that such is a true record of the testimony given by such witnesses.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

In witness where of, I have here unto set my hand this 8th day of August 2012.

DONNA LYNN J. ARNOLD, C.C.R.
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