

COUNTY OF HUDSON
STATE OF NEW JERSEY

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

Applicant.

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July 12, 2012
7:05 p.m.

B E F O R E:

THE NORTH BERGEN PLANNING BOARD

PRESENT:

GEORGE AHTO, JR., Acting Chairman
ROBERT BASELICE, Member
SEBASTIAN ARNONE, Member
MANUEL FERNANDEZ, Alternate Member
REHAB AWADALLAH, Alternate Member

GITTLEMAN, MUHLSTOCK & CHEWCASKIE, ESQS.
Attorneys for the Planning Board
BY: Steven Muhlstock, Esq.

Geraldine Baker, Board Clerk
Jill Hartmann, Board Planner
Derek McGrath, Board Engineer

Reported by:
CELESTE A. GALBO, CCR, RPR, RMR

A P P E A R A N C E S:

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3 Paragon Way, Suite 300
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BY: MARK STEVENS, ESQ.
RICHARD TUCKER, ESQ.

1 MR. AHTO: We're going to call the
2 meeting to order.

3 Pursuant to the Open Public Meetings
4 Act, please be advised that notice of this
5 meeting was faxed to the *Journal Dispatch* and
6 *Bergen Record* on July 2, 2012 advising that the
7 North Bergen Planning Board will hold a special
8 meeting on July 12, 2012 at 7 p.m. in the
9 chambers of the municipal building located at
10 4233 Kennedy Boulevard, North Bergen, New Jersey
11 07047.

12 Board members, attorneys and
13 applicants were mailed notices on that day, and a
14 copy of this notice was posted on the bulletin
15 board in the lobby of the municipal building for
16 public inspection.

17 JILL HARTMANN, having been duly sworn by the
18 Notary Public, was examined and testified as
19 follows:

20 DEREK McGRATH, having been duly sworn by the
21 Notary Public, was examined and testified as
22 follows:

23 MR. AHTO: Gerry, call the roll.

24 (Whereupon roll call is taken and
25 Chairman Mayo and Members Steven Somick, Patricia

1 Bartoli and Richard Locricchio are absent.)

2 MR. AHTO: Okay, before we call the
3 case --

4 MR. MUHLSTOCK: Yes, Mr. Chairman.
5 We received a request from the North Bergen Board
6 of Education who is the long-term lessee of
7 certain property at the Robert Fulton Annex, 7111
8 Polk Street to use a temporary -- in the nature
9 of a temporary trailer type classroom unit for a
10 kindergarten class on that property. A drawing
11 has been submitted with a letter from the Board
12 of Education dated June 29, 2012. And I know
13 that Mr. Arnone knows something about this. Why
14 don't you indicate what you know.

15 MR. ARNONE: Well it's a trailer.
16 They put it on the property and they have to put
17 plumbing and it's just a 45 foot trailer on the
18 property for extra kids. They needed that room
19 for about 50 kids.

20 MS. HARTMANN: There used to be a
21 trailer there as well. They took it away, now
22 they're bringing it back.

23 MR. MUHLSTOCK: Are there any
24 possible planning problems that you can see?

25 MS. HARTMANN: Absolutely not, no.

1 MR. ARNONE: No.

2 MS. HARTMANN: They need this as
3 part of the submission to the state so that they
4 can get their approvals.

5 MR. MUHLSTOCK: Okay. So the
6 county, Hudson County Manager, Department of
7 Education would like or we are asked to forward a
8 letter to the Hudson County Manager indicating
9 that we take no exception to this proposal from
10 the Board of Education.

11 Motion?

12 MR. BASELICE: I make a motion.

13 MR. AHTO: Is there a second?

14 MR. ARNONE: I second it.

15 MR. MUHLSTOCK: Call the roll.

16 THE CLERK: Sure.

17 THE CLERK: Mr. Arnone.

18 MR. ARNONE: Yes.

19 THE CLERK: Mr. Baseline.

20 MR. BASELICE: Yes.

21 THE CLERK: Mr. Awadallah.

22 MS. AWADALLAH: Yes.

23 THE CLERK: Mr. Fernandez.

24 MR. FERNANDEZ: Yes.

25 THE CLERK: Vice Chairman Ahto.

1 MR. AHTO: Yes.

2 Okay. Let's call Case No. 4-10,
3 Appleview, 7009-7101 River Road in North Bergen.
4 Lots, 1, 2, 3 and 5.02, construction of a luxury
5 residential building.

6 MR. ALAMPI: Thank you, Chairman.
7 Again, for the record my name is Carmine Alampi,
8 A-L-A-M-P-I. But Chairman, this is a
9 continuation of the meeting on the remand from
10 the Superior Court with regard to the Appleview
11 project on River Road. I believe that we were at
12 or complete with the cross-examination initially
13 of Mr. Jose Rodriguez. There was some exhibits
14 that were marked for identification, and during
15 the course of the last few weeks an exchange of
16 correspondence amongst the attorneys dealt with
17 first and foremost how many more witnesses each
18 party wishes to call and what sequence, and then
19 with the identification of some of the reports.

20 Since the last public meeting I did
21 receive two reports coming from Boswell
22 Engineering. I believe the first one was dated
23 June 11th and this was a report issued by Mr.
24 McGrath reviewing the Slope Stability Report
25 dated June 1 that we submitted. So our

1 engineer's report has now been reviewed by the
2 board engineer and in due course you'll introduce
3 that exhibit.

4 In addition to --

5 MR. MUHLSTOCK: Why don't we while
6 you're talking about it, why don't you -- let's
7 give that exhibit --

8 MR. ALAMPI: How have you been
9 marking --

10 MR. MUHLSTOCK: -- a number.

11 MR. ALAMPI: How were we marking the
12 board's exhibits? We were doing applicant with
13 A, G for Galaxy and T for Transco.

14 MR. MUHLSTOCK: I don't think the
15 board actually had an exhibit --

16 MR. ALAMPI: On the remand.

17 MR. MUHLSTOCK: -- on the remand.
18 So let's just indicate that it would be PB-1.

19 MR. LAMB: We were doing RAs.

20 MR. MUHLSTOCK: RA was --

21 MR. ALAMPI: Who is the RA --

22 MR. MUHLSTOCK: -- is the applicant,
23 Mr. Lamb.

24 MR. LAMB: I don't see any board.
25 Right.

1 MR. MUHLSTOCK: There were none. So
2 we'll do it PB-1 will be the --

3 MR. ALAMPI: Report of McGrath, June
4 11, 2012. It's a two-page report dealing with
5 the review of Slope Stability Report.

6 (Planning Board Exhibit 1, report of
7 Derek McGrath dated June 11, 2012, was
8 received in evidence.)

9 MR. ALAMPI: We also received on
10 June 29th a one-page report from Mr. McGrath,
11 again, Boswell. We'll mark as PB-2. This is a
12 review of the Williams Pipe Stress Analysis
13 Program dealing with I believe stress or load
14 capacity. This followed a letter from your board
15 attorney who following the last public meeting on
16 June 7th, the next morning he issued a letter to
17 Mr. McGrath to see if he had yet had the
18 opportunity to review this load capacity. There
19 was a little confusion on my part and others
20 because the McGrath letter refers to a Williams
21 Pipe Stress Analysis. This was handed over to me
22 just now and to Mr. Lamb by counsel for Transco
23 but they have just advised me that this was part
24 of the subpoena package. The response to the
25 subpoena had maybe two inches of documents and

1 they tell us that at the very end of that package
2 of materials this document was in there. It's
3 called the Williams Pipe Stress Analysis Program.
4 And, Mr. Muhlstock, that's the predicate of the
5 PB-2 that do you want to identify this
6 separately? It was all part of the subpoena
7 documents.

8 MR. MUHLSTOCK: I think for ease of
9 the record I think you should --

10 MR. ALAMPI: Why don't we mark it as
11 T exhibit, Transco.

12 MR. AHTO: Is it a Transco -- John,
13 do you know where we left off on Transco's?

14 MR. LAMB: Yes. T --

15 MR. MUHLSTOCK: T-7.

16 MR. LAMB: T-7 it looks like, yeah.

17 MR. MUHLSTOCK: T-7 was the last.

18 MR. LAMB: T-7 was the last one in
19 May.

20 MR. ALAMPI: So this will be T-8 and
21 again with today's date.

22 MR. LAMB: And again. You're
23 marking separately the stress analysis?

24 MR. ALAMPI: Just so we don't lose
25 it. And as I indicated these are engineer

1 reports that the board had requested and in fact
2 all parties requested it. That's been exchanged.
3 I indicated there was correspondence. We have
4 indicated to Mr. Muhlstock that we intend to call
5 only Calisto Bertin at the appropriate time to
6 authenticate the photographs that were marked in
7 during the remand and to review briefly and
8 authenticate his Slope Stability Study and his
9 Risk Identification Report.

10 I indicated in the letter that I may
11 not even call witnesses because these were marked
12 into evidence and agreed to by all parties. I
13 understand from Mr. Lamb's response to that I
14 inadvertently forgot to copy him. I realized
15 that when I read his letter that he wasn't
16 commenting except to say that I hadn't responded
17 so I realized it was a mistake on our part. And
18 he wanted to reiterate that by no means did we
19 agree that we should be released of
20 authenticating it.

21 I think that the rules of evidence
22 are relaxed. I think that everybody agreed to
23 the entry of it as evidence but in any event, Mr.
24 Bertin is here and he'll briefly address those --

25 MR. MUHLSTOCK: Well, Mr. Lamb

1 certainly is going to have an opportunity to
2 cross-examine --

3 MR. ALAMPI: Yes.

4 MR. MUHLSTOCK: -- Mr. Bertin?

5 MR. ALAMPI: Bertin has been at
6 every meeting in the remand hearing and will
7 continue.

8 With that I think we back to the
9 Board with the conclusion I think of
10 Mr. Rodriguez. And I turn it over to you. I
11 think the second witness from Transco is also in
12 attendance and Mr. Bertin is in attendance.

13 (Transco Exhibit 8, document entitled
14 Williams Pipe Stress Analysis Program, was
15 marked for identification.)

16 MR. LAMB: Good evening, Mr.
17 Chairman and members of the board, John J. Lamb
18 from the law firm of Beattie Padavano. I just
19 want to clarify and I did, Mr. Alampi had not
20 intentionally forgotten, I wasn't on the e-mail
21 chain and that's why I never got his letter. But
22 in any case I did want to respond. I have no
23 objection to those reports being marked for
24 identification. I think Mr. Bertin's Risk
25 Identification Report was marked for

1 identification three months ago. I have no
2 problem with the Slope Stability Report as well.
3 But I expect that someone will come in and
4 testify that they prepared it, this is what they
5 did, this is the difference between when they did
6 one the last time before the board and this is
7 when they did this time. So I don't have any
8 problem with all of that, and I'm not going to
9 object to it coming into evidence as long as
10 based upon the assumptions there going to be some
11 foundation and testimony on it.

12 MR. ALAMPI: John, I think Mr. Lamb
13 is slightly incorrect. It was marked as
14 identification at an earlier meeting and then at
15 the June meeting it was ruled into evidence but
16 there is no gamesmanship here. Mr. Bertin is
17 here to authenticate and then preliminarily there
18 was identification in April and I think in June
19 it was moved. But we have Mr. Bertin here.

20 MR. MUHLSTOCK: All right. Let's
21 see if we can -- let's see if tonight we can
22 finish up the two Transco proposed witnesses.
23 Let's see if we can get on to Mr. Bertin at least
24 to authenticate and allow Mr. Lamb to start
25 cross-examination.

1 MR. LAMB: Mr. Muhlstock, and I'm
2 going to apologize but you sent me a letter that
3 only Transco's witnesses were on tonight, so I'm
4 not prepared to cross-examine Mr. Bertin.

5 MR. MUHLSTOCK: If we get to that
6 point, we may not get to that points.

7 MR. LAMB: I'm just telling you that
8 based upon your letter I prepared for the
9 witnesses that you advised me were going to be
10 here. I didn't prepare for witnesses that
11 weren't going -- I don't even know whether I have
12 Mr. Bertin's report.

13 MR. MUHLSTOCK: Well, you certainly
14 have his report it was marked for identification
15 and then in evidence.

16 MR. LAMB: I have 10 Redwell files,
17 I don't bring 10 Redwell files to the --

18 MR. MUHLSTOCK: Let's see how far we
19 go. If we get to that point, we'll decide then.
20 But I would, Mr. Lamb -- I read your letter, I
21 would have if I were you I would have whatever
22 witnesses you plan to call ready for the next
23 special meeting which --

24 MR. LAMB: Why don't we address that
25 at the end and see where we are, Mr. Muhlstock.

1 I don't want to fight with you. I put all my
2 position in my letter, that's why it's long.

3 MR. MUHLSTOCK: I understand that.

4 MR. LAMB: We disagree. I'm not
5 going to fight, that's my position. You can
6 disagree with me, you can throw me out, that's my
7 position.

8 MR. MUHLSTOCK: I'm not throwing you
9 out. No one is trying to take advantage. And I
10 wish you'd stop posturing for the record like
11 that, that's not the point. The point is that
12 we're going to move forward. You have plenty of
13 notice that you're going to have to start your
14 case if we get to that point at the next special
15 meeting.

16 MR. LAMB: And I'm prepared to start
17 my case at the next meeting.

18 MR. MUHLSTOCK: Okay good. Great.

19 MR. BASELICE: For the record, I'd
20 like to make you understand, Mr. Lamb, that we
21 are interested in the public safety. Even though
22 your letter alludes that the board is not
23 interested and the depth of the testimony, the
24 depth is not a problem, it's the redundancy of it
25 that concerns me sometimes.

1 MR. LAMB: I understand that the
2 board believes I'm asking too many questions and
3 irrelevant questions. I understand that. I have
4 to ask the questions that I think are reasonable.
5 If the board dis -- we have a disagreement on
6 this. And I appreciate that. I know the board
7 is trying to get through this. I don't think
8 that Transco has provided the appropriate
9 witness. Transco does. Mr. Alampi does. But
10 that's going to be an issue.

11 MR. BASELICE: But you stated in a
12 letter that -- to allude to in a letter that
13 we're not interested in public safety, I take
14 offense to.

15 MR. LAMB: First of all I would
16 never allude that to you.

17 MR. BASELICE: But you said the
18 board and I'm a board member.

19 MR. ARNONE: And me too. I'm a
20 board member.

21 MR. LAMB: Okay. But I'm getting
22 letters from Mr. Muhlstock that say you got to be
23 ready, you got to do this, you got to do that,
24 all it is show me the proffer. I feel, I feel
25 and my client's -- representatives of my client

1 come up and say -- they ask me these questions.
2 I feel that we're not being treated fairly
3 frankly.

4 MR. MUHLSTOCK: Well, listen, I
5 don't know why you're saying that honestly,
6 Mr. Lamb. I wrote a letter to you in the
7 beginning of June. I didn't get a response until
8 a month later as to your position. All the other
9 attorneys responded within five or seven days
10 which I requested. There is no -- no one is
11 trying to move this so quickly that you're not
12 given due process. But you do have to be ready
13 and we do want to move forward.

14 MR. LAMB: And you're right, I did
15 responded a long time but I was also waiting for
16 Mr. Alampi to respond to see what he was doing
17 and eventually I just sent it in because I didn't
18 get --

19 MR. MUHLSTOCK: Your position is not
20 tied in necessarily to his position. You know
21 what the evidence is. You've had the reports,
22 you've had the steep slope analysis from Mr.
23 Bertin for a month, you could have -- I'm sure
24 you did hand that over to an expert already.

25 MR. LAMB: I sent everything

1 immediately.

2 MR. MUHLSTOCK: Okay.

3 MR. LAMB: I lined up everybody for
4 July 26 the day after the meeting.

5 MR. MUHLSTOCK: Good. So why do you
6 think that the board is trying to railroad this?
7 We're just moving it along.

8 MR. LAMB: I'm saying that Mr.
9 Alampi thinks that there's two critical reports
10 in this and that somebody is just going to say
11 yes, I prepared them. That -- now we're saying
12 well, the slope stability study is just going to
13 be admitted into evidence. I never let a report
14 be introduced into evidence. I don't care, I'm
15 not going to object to it. I want that report in
16 but I want to cross-examine the person who
17 prepared it.

18 MR. MUHLSTOCK: I started off the
19 meeting by saying you're going to have the right
20 to cross-examine Mr. Bertin to your heart's
21 content. We're not going to move this forward
22 without giving your client absolute --

23 MR. ALAMPI: Excuse me, Mr.
24 Muhlstock --

25 MR. MUHLSTOCK: -- opportunity.

1 MR. ALAMPI: Mr. Bertin is here.
2 I've stated it on the record several times he's
3 been, here he will be available for
4 cross-examination. Let's go.

5 MR. MUHLSTOCK: Let's go on with Mr.
6 Rodriguez, see how far we go.

7 MR. LAMB: Thank you. And also
8 since we're creating the record, we should put in
9 your letters to me, my responses and my letter
10 dated July 3rd, my letter dated July 10th, your
11 letter dated July 9th, your letter in June and
12 Transco's responses.

13 MR. ALAMPI: I think we've agreed
14 that we're not going to mark them separately but
15 that we'll acknowledge all the correspondence.
16 Every attorney in the room acknowledges --

17 MR. MUHLSTOCK: Absolutely.
18 Absolutely. You want to put them in later for
19 the court, that's fine. I'm not going to mark
20 them as exhibits here.

21 MR. LAMB: Okay.
22 JOSE RODRIGUEZ, having been duly sworn by the
23 Notary Public, was examined and testified as
24 follows:
25

1 CROSS-EXAMINATION:

2 BY MR. LAMB:

3 Q. Good evening, Mr. Rodriguez.

4 A. Hello.

5 Q. Mr. Rodriguez, between the last
6 hearing which is a little more than 30 days ago
7 and this hearing, has there been an agreement
8 executed with respect to the access easement
9 agreement, the developer's willingness to comply
10 with the construction requirements that are
11 Transco's 2009 form or any agreement between the
12 parties?

13 A. Nothing has transpired between the
14 two parties that I'm aware of.

15 Q. Okay. With respect to the soil
16 erosion area, the depressed area, has there been
17 any repair to that at all or any remedial --

18 A. No.

19 Q. -- efforts on that? Okay.

20 Have you ever reviewed the New
21 Jersey geological i-Map for this property in the
22 area and surrounding area?

23 A. No.

24 Q. Did you ever ask the developer or
25 did Transco ever look at the Summit House I guess

1 is extended over the subject property with
2 support columns, did anybody ever review that at
3 all?

4 A. You'll have to clarify what you mean
5 by --

6 Q. There were I guess support columns
7 that hold up the portion of the Summit House that
8 extends over the property.

9 A. I don't know that it extends over
10 the property.

11 Q. Part of the parking garage?

12 A. Over the property?

13 Q. Correct.

14 A. Over the Summit --

15 MR. ALAMPI: I'll object. You have
16 to identify the property. You mean the
17 applicant's property?

18 MR. LAMB: I asked if the Summit
19 House encroaches or extends over the subject
20 property, the Appleview property.

21 MR. ALAMPI: I'll object to the
22 same. We've gone through the title work, the
23 easements and such. We know of no easement or
24 encroachment to our knowledge. I don't know --

25 MR. MUHLSTOCK: Well, the witness

1 can certainly answer whether he knows or not.

2 THE WITNESS: I do not.

3 MR. MUHLSTOCK: Okay. He doesn't
4 know.

5 Q. Okay. Are the support columns on
6 the Applevue property? I thought that's what
7 you testified. I might have misunderstood.

8 A. I did not testify to that.

9 Q. Okay.

10 MR. McGRATH: Mr. Chairman, for the
11 record I have the Applevue boundaries and
12 topographic survey for the Applevue property
13 prepared by Bertin Engineering Associates. It's
14 a drawing dated March 20, 2006 revised through
15 November 14, 2006. It shows on the west side of
16 the property in what I would describe as the
17 southeast corner of the Summit House property
18 which is tax Block 41, Lot 1 that there is a
19 three foot by three foot concrete footing that
20 encroaches six-tenths of one foot over the
21 property line. It appears to lie beyond the
22 limits of the Transco pipeline easement and
23 beyond the limits of the 10 foot wide Guttenberg
24 sewer easement in that area. But the survey
25 clearly shows a slight encroachment of one

Rodriguez - cross

1 concrete footing into this property.

2 MR. MUHLSTOCK: Okay.

3 MR. AHTO: Okay.

4 MR. ALAMPI: I guess I'm going to
5 have to make them move it. You're saying one of
6 the footings, Mr. Lamb?

7 MR. LAMB: I just remember somebody,
8 I don't know what the extent is. I take Mr.
9 McGrath's at his word.

10 MR. McGRATH: Six-tenths of a foot
11 according to the survey.

12 Q. Mr. Rodriguez, I'm going to show you
13 what's been marked as G-19, dated 7/12/12. If I
14 can pass this around.

15 (Galaxy Exhibit 19, e-mail from
16 Calisto Bertin to Rick Tucker dated March
17 18, 2011, was marked for identification.)

18 MR. ALAMPI: This is G-18?

19 MR. LAMB: 19.

20 MR. MUHLSTOCK: G-19.

21 Q. Mr. Rodriguez, have you had a chance
22 to review that?

23 A. Yes.

24 Q. Is that an e-mail that was sent to
25 you by Mr. Bertin?

1 A. Yes.

2 Q. Did you ever have any discussion
3 with Mr. Bertin about his lack of qualifications
4 to prepare a risk assessment report or calling
5 his report a Risk Identification Report instead?

6 A. By the way, I would like to just say
7 that --

8 MR. MUHLSTOCK: Well, wait a second.
9 Wait a second. That's a yes or no. Did you have
10 conversations --

11 A. Ask me the question again
12 specifically.

13 Q. Did you ever have a conversation
14 with Mr. Bertin as to his lack of qualifications
15 to prepare a risk assessment report and instead
16 for him to prepare a Risk Identification Report?

17 A. No.

18 Q. Did you have a discussion with him
19 concerning whether his Risk Identification Report
20 needed to provide mitigation measures?

21 A. We talked about the report in
22 various ways. I can't recall whether we
23 specifically used that term, whether we should
24 have mitigation measures in that regard. We
25 talked about the report. We talked about the

Rodriguez - cross

1 importance of the report. We talked about trying
2 to cover everything that we could identify as a
3 potential issue.

4 Q. Do you know whether he submitted
5 that report to either the Township of North
6 Bergen or the Hudson County Planning Board?

7 A. No.

8 Q. And you were one of the ones, Mr.
9 Rodriguez, that went through the files of Transco
10 Williams in connection with the subpoena request?

11 A. Yes.

12 MR. LAMB: Okay, I'm going to mark
13 as G-20, I'll put the date on it, 7/12/12. It's
14 a letter from Mr. Stevens to Mr. Oury. I'll give
15 the original to Celeste.

16 (Galaxy Exhibit 20, letter from Mark
17 Stevens to Dennis J. Oury, Esq. dated
18 October 2, 2007, was marked for
19 identification.)

20 MR. ALAMPI: Chairman, if I may, I
21 continue to raise a strenuous objection although
22 I will not raise my voice to these exhibits
23 emanating from five years ago dealing with a
24 different application for a different type of
25 building, configuration before a different

1 agency, that is, the Board of Adjustment. Of
2 course Mr. Lamb did issue a far ranging subpoena
3 through the board, and of course there are
4 correspondence and in some of these
5 correspondence provided by myself in the spirit
6 of full disclosure under a subpoena. But the
7 relevancy, the materiality, the bearing on this
8 application doesn't exist.

9 Those are my objections. I'm not
10 going to attempt to restrict the witness from
11 testifying, it's a record, Mr. Lamb will ask him
12 questions but again keep in mind, this was a
13 larger building, larger in parameters and none of
14 this is relevant.

15 MR. STEVENS: Transco will join in
16 that objection.

17 MR. MUHLSTOCK: Well, we understand,
18 he hasn't asked any questions yet so we don't
19 know for what purpose he's going to use the
20 documents.

21 MR. ALAMPI: Giving it out to the
22 members before we address it but that's my
23 position.

24 MR. MUHLSTOCK: Okay. Go ahead,
25 Mr. Lamb.

1 MR. LAMB: And Mr. Alampi beat me to
2 the podium but this is in connection with a prior
3 project like I identified several of the other
4 exhibits.

5 Q. You're aware that Transco's position
6 with that other project was that there should not
7 be any obstructions in that 20 foot right-of-way,
8 that was the prior project, that was their
9 position; is that correct?

10 A. Which 20 foot?

11 Q. The 20 foot access to the northerly
12 portion of the subject property owned by
13 Appleview.

14 A. I am only nominally familiar with
15 the previous application and I would rather not
16 speak as an expert to it.

17 Q. You were aware at that time that
18 that prior application is when the discussions
19 occurred which are still I assume ongoing about
20 Transco receiving a 20-foot access right-of-way,
21 Transco receiving an easement for the maintenance
22 area and various other arrangements. You're
23 aware that those arrangements that are currently
24 in discussion with this project emanated from the
25 previous proposed projects?

Rodriguez - cross

1 A. I don't know where -- I don't know
2 that.

3 Q. Is it Transco's position currently
4 that it requires a permanent 20-foot easement for
5 the access and it requires that the township
6 grant an access easement on the adjacent sewer
7 treatment plant?

8 A. Our only requirement is that we have
9 a 20-foot access agreement. We do not speak for
10 any other parties.

11 Q. But is it Transco's position that
12 they want the Township of North Bergen like they
13 did in the previous project in connection with
14 this project to give them an access easement over
15 the sewerage property?

16 A. I cannot speak to the other project.
17 It is not -- it has never been my position of
18 what was to occur between this project and the
19 township.

20 Q. Okay. And is it currently Transco's
21 position that in addition to the 20-foot easement
22 Transco would also like an easement for its
23 existing -- the existing pipe which is I guess on
24 a right-of-way about 12 foot, 10 to 12 feet?
25 There's been different testimony. Is it

1 Transco's position not only does it want the 20
2 feet but it wants the 12 feet?

3 A. We do not have a written
4 right-of-way across that property. We would like
5 the right-of-way to be in writing and, yes, you
6 are correct.

7 MR. LAMB: I've marked G-21 as a
8 letter from Williams to the Board of Public
9 Utilities dated April 20, 2007. I'd like to show
10 you a copy of that while I pass it out.

11 (Galaxy Exhibit 21, letter from
12 Williams to the Board of Public Utilities
13 dated April 20, 2007, was marked for
14 identification.)

15 MR. LAMB: Can I proceed, Mr.
16 Chairman?

17 MR. MUHLSTOCK: Yes.

18 Q. Mr. Rodriguez, are you aware of this
19 previous One Call violation on the very Applevue
20 property that's the subject of this application?

21 A. I am aware of this letter. I am the
22 one who put together the response to the
23 subpoena. I am not -- I was not involved in the
24 event. I cannot speak to the event. I am only
25 aware of the letter to produce the letter for the

1 subpoena.

2 Q. Thank you.

3 I'm going to show what I've marked
4 as G-22 dated 7/12/12. It is a letter from
5 Williams to Calisto Bertin and Mr. Oury dated May
6 14, 2007.

7 (Galaxy Exhibit 22, letter from
8 Williams to Calisto Bertin and Mr. Oury
9 dated May 14, 2007, was marked for
10 identification.)

11 MR. LAMB: I only have eight of
12 them.

13 MR. MUHLSTOCK: Okay. Yep.

14 Q. Mr. Rodriguez, have you had a chance
15 to review that?

16 A. Yes, sir.

17 Q. Okay. Now, this again, I caution,
18 this is in connection with the previous project
19 that was proposed on the property. Is it fair to
20 say that in that previous project there was also
21 a desire to have this 20-foot access easement to
22 the northerly portion of the Applevue property?

23 MR. MUHLSTOCK: Why don't you first
24 ask the witness is he aware -- was he aware of
25 this letter when it was written and what part if

Rodriguez - cross

1 any he played in the preparation of the letter.

2 THE WITNESS: Let me --

3 MR. LAMB: You -- ask -- that's
4 fine.

5 MR. MUHLSTOCK: Go ahead.

6 A. For everything that you give me from
7 2007 I will give you the same response; I am
8 aware of the letter because I produced the
9 letters for the subpoena request.

10 Q. Okay.

11 A. I was not involved. I do not know
12 any of the specifics other than what I read from
13 the letter.

14 Q. Okay. But that came from Transco's
15 files?

16 A. Yes. And I will repeat that for
17 every item you give.

18 Q. Okay. And you are -- in connection
19 with that project this letter indicates that
20 there is a desire to have heavy vehicle access.
21 Is there currently a desire in connection with
22 the 20-foot access to use this for heavy vehicle
23 access like the previous project?

24 A. I can't make a comparison to "like
25 the previous project."

1 Q. Just stick with this project. Do
2 you require heavy vehicle access for that 20-foot
3 access road?

4 A. Do I require it?

5 Q. Does Transco.

6 A. Do I require that Transco have the
7 ability to put heavy vehicles on it?

8 Q. Yes.

9 A. Yes.

10 MR. MUHLSTOCK: No, no, that's not
11 the question.

12 MR. ALAMPI: Then I'm confused
13 because I thought that was the question.

14 MR. MUHLSTOCK: Does Transco
15 presently intend to have heavy vehicle access --

16 THE WITNESS: On the 20-foot strip?

17 MR. MUHLSTOCK: That's correct.

18 THE WITNESS: We may, yes.

19 MR. TUCKER: Can we get some
20 clarification of what's meant by heavy? There's
21 all different --

22 MR. MUHLSTOCK: That's the question.
23 That's the question.

24 THE WITNESS: There is no pipeline
25 there. There is no pipeline in that 20-foot

Rodriguez - cross

1 strip. We may want to bring in as heavy vehicles
2 as exist.

3 MR. MUHLSTOCK: Okay. Okay.

4 Q. And what is the -- is there a weight
5 of the heaviest vehicle that Transco would like
6 to --

7 A. I couldn't say.

8 Q. Do you know what the heaviest
9 vehicle that the Township of North Bergen who is
10 also proposed to be a recipient of this easement
11 might want to bring in? Have you done any
12 research in that?

13 A. I certainly can't say what the
14 township might bring in.

15 Q. As you know there's a proposal to
16 have the North Bergen Municipal Utilities
17 Authority also to use the easement. Do you know
18 what the weight limit -- the highest weight
19 expectation of a vehicle that they might want to
20 put on the property?

21 A. I couldn't possibly know.

22 Q. Okay. Again, I understand this is
23 the 2011 letter. Let's talk about -- I'm getting
24 my questions from what happened last time this
25 time.

1 Is there a project account set up
2 currently on this project with this developer to
3 pay Transco to reimburse it for his costs or
4 expenses for attorneys, engineers, et cetera?

5 A. No.

6 Q. And there has been no payment by the
7 developer to do that even though that was
8 suggested in the previous project?

9 A. That is correct.

10 Q. I'm going to show you -- give the
11 original to Celeste -- what I've marked as G-23.

12 A. 27?

13 Q. No, January 30th, 2008. And January
14 25th, 2008, e-mails.

15 (Galaxy Exhibit 23, e-mails dated
16 January 25th, 2008 and January 30th, 2008
17 were marked for identification.)

18 (Pause in the proceedings.)

19 Q. Have you had a chance to review
20 that?

21 A. Yes.

22 Q. And is this also something that you
23 provided in the subpoena from the records of
24 Transco that you helped in compile?

25 A. I either provided this document or I

1 have read this document in our file.

2 Q. And are you aware that in connection
3 with that project the categorization of the type
4 of soil, whether it was A, B or C was something
5 relevant when reviewing that project? That is in
6 particular in the top of the exhibit in the
7 January 30th, 2008 e-mail in paragraph 3.

8 A. That is what's written in paragraph
9 3.

10 Q. Do you believe that with respect to
11 this project, not -- forget about the past
12 project, that with respect to this project it is
13 relevant to review the type of soils on the
14 Appleview project?

15 A. It is nominally relevant in that we
16 have a very minor impact of the slope.

17 Q. So the type of soil is relevant in
18 your review of this project when identifying any
19 potential effect on the pipeline or Transco's
20 operations?

21 A. It could be relevant. In this
22 situation what we did was we assumed the worst
23 case scenario, type C soil which requires a
24 sloping of one and a half to one. And a we took
25 that into account, the worst case scenario, in

1 our review of the plans and determined that the
2 plans were acceptable.

3 Q. And what type soil did you rely on
4 in determining that the soils were satisfactory
5 to you?

6 A. We assumed the worst case scenario
7 of a class C soil.

8 MR. LAMB: I'm going to mark G-24
9 dated 7/12/12. It's a letter from Mr. Bertin to
10 Mr. Rodriguez dated June 10, 2010.

11 (Galaxy Exhibit 24, letter from Mr.
12 Bertin to Mr. Rodriguez dated June 10,
13 2010, was marked for identification.)

14 Q. Mr. Rodriguez, have you had a chance
15 to review that?

16 A. Yes.

17 Q. Do you recall receiving that letter
18 from Mr. Bertin?

19 A. Yes.

20 Q. The letter indicates that if
21 additional area is needed in width that Mr.
22 Bertin discusses that the fence between the site
23 and the sewer plant could be removed so that the
24 additional area between the fence and the gas
25 line could also be used for maneuvering? The

1 last sentence.

2 A. It does say that, yes.

3 Q. Have you had any discussions with
4 Mr. Bertin as to the need to do that because --

5 A. No.

6 Q. -- you had 20 feet?

7 A. No.

8 Q. Did you have any discussions with
9 Mr. Bertin that that might be necessary because a
10 piece of the stairwell was going to stick out I
11 guess what this letter says five feet in that
12 20-foot area? Did you discuss that --

13 A. We discussed the fact that the
14 stairwell could stick out five feet into the
15 area.

16 Q. Okay. And so therefore at least the
17 access road where it hits the stairwell would
18 only be 15 feet to the fence instead of 20 feet?

19 MR. ALAMPI: Chairman, I'm going to
20 object to this line of questioning. The
21 stairwell was eliminated specifically because of
22 these requests and the plan that was approved
23 eliminated the stairwell. What are we doing
24 here?

25 MR. LAMB: I --

Rodriguez - cross

1 MR. ALAMPI: It was eliminated.

2 Q. Is there any part of the building or
3 stairwell that currently sticks out and intrudes
4 into that property?

5 A. If you'll allow me a moment.

6 Q. Yes.

7 MR. LAMB: I can tell, while we're
8 looking, I can tell the board that the stairwell
9 was changed from the prior application but my
10 understanding was that there's still an intrusion
11 into the right-of-way.

12 MR. ARNONE: But there is no
13 stairwell.

14 MR. LAMB: No, I think there's a
15 stairwell that intrudes. I will -- give me a
16 second and I'll find it.

17 Q. Mr. Rodriguez, I think it's not a
18 stairwell, I think it's a five foot riprap swale
19 at the rear of the building. Is that an
20 intrusion into the 20-foot area, not a stairwell
21 but a five foot riprap swale?

22 A. It's simply not an issue, a swale.

23 MR. MUHLSTOCK: Well, so you're
24 saying that you don't consider it an "intrusion"?

25 THE WITNESS: I don't use those

1 terms, intrusion. It's not a problem for us.

2 MR. MUHLSTOCK: Okay.

3 Q. Did not Mr. Bertin identify that as
4 one of the intrusions into the 20-foot access
5 right-of-way?

6 A. I don't know how he referred to it.
7 It's on his drawing as a swale. The swale is
8 okay with us.

9 MR. ARNONE: What's a swale?

10 THE WITNESS: A ditch lined with
11 stone for drainage purposes.

12 MR. ARNONE: Oh, for drainage.

13 Q. Did that connect to the pipeline or
14 the drainage line that goes to the middle --
15 through the middle of the 20-foot proposed
16 right-of-way?

17 A. Yes, it does. I have a -- we could
18 clear a lot of this up by just referring to
19 Mr. Calisto's drawing which is in evidence.

20 Q. I would be happy for you to just
21 show us to what you're referring to.

22 A. There is this --

23 MR. MUHLSTOCK: Which drawing?

24 A. This drawing is part of the Risk
25 Identification Report. It's part of that report

1 and it shows all the --

2 MR. LAMB: Can we mark that, Mr.
3 Muhlstock?

4 THE WITNESS: It may have been
5 marked. You might want to wait for their
6 attorney. Okay.

7 MR. ALAMPI: Just that I'm prone to
8 getting leg cramps. I suffered from these leg
9 cramps.

10 MR. MUHLSTOCK: Is that part of the
11 also Risk Identification Report that --

12 MR. ALAMPI: Well, as I'm looking at
13 it, Mr. Bertin ran out of the room to take a call
14 from Saudi Arabia. I'm not sure if this is the
15 exhibit that was previously marked. It seems to
16 be another sheet. During the remand proceeding
17 we had marked several of the site plan sheets.

18 MR. MUHLSTOCK: Here he is.

19 MR. ALAMPI: I'll just have Mr.
20 Bertin verify it.

21 THE WITNESS: Is this the exhibit?
22 It's part of that --

23 MR. ALAMPI: Chairman, let's go off
24 the record for a moment so we can find it.

25 MR. LAMB: He was already sworn so

1 he can jump in.

2 MR. ALAMPI: The question is whether
3 this was part of the exhibits for the remand on
4 the site plan or is this --

5 MR. BERTIN: In the exhibits that
6 were discussed earlier, the remand, I don't think
7 this plan, meaning C-2.3 was part of --

8 MR. ALAMPI: Chairman, let me just
9 indicate the Exhibit is C-2.3. These are the
10 exhibits of the Bertin Engineering plans that
11 were reviewed by this board at an earlier time.
12 But during the remand only certain of these
13 sheets were presented for this witness. This is
14 part of the original site plan but it's
15 incorporated in the Slope Stability Study report
16 that's dated June 1 that was marked into evidence
17 at the last -- at the June meeting this past
18 June.

19 MR. MUHLSTOCK: All right. What's
20 the date of C-2.3?

21 MR. ALAMPI: It's dated 11/25/09 and
22 last revised 3/18/11. So the board has seen this
23 several times.

24 MR. MUHLSTOCK: Okay.

25 MR. ALAMPI: But it is fresh for the

Rodriguez - cross

1 remand as part of the Slope Stability Study. If
2 you want to mark it separately, John?

3 MR. MUHLSTOCK: No. No. Don't mark
4 it separately. It's been marked.

5 MR. ALAMPI: I believe the stability
6 study has already been marked.

7 MR. MUHLSTOCK: And it's been
8 identified on the record. Let Mr. Lamb ask his
9 question.

10 MR. ALAMPI: Okay.

11 MR. LAMB: Are we going to add that
12 to the exhibit that was previously marked?

13 MR. MUHLSTOCK: No.

14 Q. So my question is, I guess we were
15 talking about there's a five-foot swale that Mr.
16 Bertin identified as intruding into the 20-foot
17 access area and I asked if there was a drainage
18 line that connected to it. And I believe you
19 were going to look at the site plan to explain
20 what improvements or intrusions were in the
21 20-foot area.

22 A. I'm not using the word intrusion.
23 There are improvements in the 20-foot access area
24 which is the swale terminates into a catch basin
25 and then there is an underground storm sewer line

1 and another catch basin near River Road. And I
2 want to make it very clear that there's a
3 distinction between this access easement and what
4 Transco typically requires of its pipeline
5 right-of-ways.

6 Q. Mr. Rodriguez, I'm going to show you
7 what I've marked G-25, dated 7/12/12.

8 (Galaxy Exhibit 25, letter from Jose
9 Rodriguez to Calisto Bertin dated November
10 10, 2010, was marked for identification.)

11 Q. This is a letter from a previous
12 hearing, Mr. Rodriguez to Mr. Bertin dated
13 November 10, 2010.

14 (Pause in the proceedings.)

15 Q. Have you had a chance to review
16 that, Mr. Rodriguez?

17 A. Yes, I have.

18 Q. Is that a letter that you sent to
19 Mr. Bertin on November 10, 2010?

20 A. Yes.

21 Q. Okay. Can you read the last
22 sentence of the second full paragraph?

23 A. "Without these agreements for
24 access, your project would impede our ability to
25 safely work on the pipeline."

1 Q. So is it fair to say that this
2 letter advises the developer that if they get the
3 maintenance and access agreements that are
4 satisfactory to Transco, Transco would accept the
5 project but if they don't get those, then Transco
6 will not accept the project?

7 A. Yes.

8 Q. At the current time has there been
9 an agreement that -- for the access agreements or
10 the -- and the maintenance requirements?

11 A. Is there an executed agreement, is
12 that the question?

13 Q. Is there an agreement that's binding
14 on all parties, yes.

15 A. Is there an executed agreement?

16 Q. That is binding on all parties, yes.

17 A. No, there is not.

18 MR. ALAMPI: Chairman, I respect
19 Mr. Lamb's wanting to place that item on the
20 record. I don't know how many times I have to
21 say this to the world, there will be no executed
22 agreement unless there's a full and complete
23 unappealable approval. So at the time everything
24 will coalesce. I made that representation. I'm
25 the legal counsel for the property.

Rodriguez - cross

1 MR. LAMB: And I will just reiterate
2 my response that any agreement could be executed
3 that makes it subject to final and non-appealable
4 all governmental approvals with a right to
5 terminate.

6 MR. ALAMPI: I learned a long time
7 ago the tail will not wag the dog. We will not
8 encumber the property unless and until there is a
9 full un-appealable approval of the development.

10 MR. LAMB: My last exhibit is G-26.
11 I wanted to have all the documents that were
12 provided by the subpoena as part of the record
13 since we referred to the subpoena. What we've
14 done is we've taken the document and we've Bates
15 stamped them. They're done in two sections. And
16 if Mr. Rodriguez wants to look at it quickly and
17 --

18 MR. ALAMPI: Mr. Lamb, you'll
19 represent that you did not delete any documents?

20 MR. LAMB: Did not delete any
21 documents.

22 MR. ALAMPI: And did not add
23 documents?

24 MR. LAMB: Did not add and it's
25 subject to your reviewing --

Rodriguez - cross

1 MR. ALAMPI: We certainly trust in
2 your integrity. With that statement, just mark
3 them.

4 MR. MUHLSTOCK: Marking them as a
5 package G-26?

6 MR. ALAMPI: Yes.

7 MR. LAMB: G-25 I thought.

8 MR. MUHLSTOCK: No, G-26.

9 MR. ALAMPI: I think you have them.
10 It's just reorganized, is that really it?

11 MR. LAMB: Not even organized.

12 THE WITNESS: May I have one?

13 MR. LAMB: Yes.

14 THE WITNESS: I find it interesting
15 that we received a load calculation sheet on the
16 --

17 MR. LAMB: Mr. Rodriguez is looking
18 at the -- he found the load --

19 THE WITNESS: Where it is in my
20 package.

21 MR. ALAMPI: So with my opening
22 remarks I indicated you advised us that that
23 load --

24 THE WITNESS: Was in the subpoena --

25 MR. ALAMPI: -- program was in the

Rodriguez - cross

1 subpoena, it's the last page.

2 MR. LAMB: And that is good but that
3 document says stress calculations and as a
4 non-engineer, I didn't know that stress
5 calculations were also load calculations. So I
6 apologize for not picking that the up.

7 MR. ALAMPI: And I spent the weekend
8 looking for it.

9 MR. LAMB: It doesn't say load.

10 MR. ALAMPI: John, do you have an
11 extra copy?

12 MR. LAMB: I didn't make copies
13 because Transco had it, Mr. Rodriguez. If -- I
14 have -- let me do this: Whoever wants a copy,
15 I'll provide it. Do you want me to send you a
16 copy with the Bates stamp?

17 MR. TUCKER: Yes.

18 MR. LAMB: I'll send it to anybody
19 who wants it. I didn't think anybody really
20 wanted to see this.

21 (Galaxy Exhibit 26, all the documents
22 that were provided by the subpoena Bates
23 stamped, were marked for identification.)

24 MR. LAMB: And I'm going to send one
25 to Mr. Tucker and Mr. Muhlstock.

Rodriguez - cross

1 MR. MUHLSTOCK: Mr. Lamb, I already
2 have a copy.

3 MR. LAMB: All right.

4 Q. Now, Mr. Rodriguez, can you describe
5 the major hazards or threats to the pipeline from
6 a project that is in somewhat close proximity to
7 it? The major ones. What are the major ones?

8 A. Of a different project?

9 Q. I'd rather have this one or
10 generically. What are the major problems, just
11 the major ones?

12 A. The major potential problems?

13 Q. Major potential problems.

14 A. Blasting. Loading directly over us.
15 I wouldn't normally view building in the
16 right-of-way as a problem because it would be
17 allowed but from time to time projects come up
18 where buildings are proposed as in this one that
19 are right against our right-of-way or within the
20 right-of-way. To me it's not a problem because
21 it's simply not going to be allowed. But you
22 could view that as a problem. It would be a
23 problem for them.

24 Q. Any other major hazards or risks
25 even if they're not -- even if you're asserting

1 they're not particularly applicable here but the
2 major ones that Transco looks at?

3 A. Offhand I can't think of anything
4 else.

5 Q. Okay. Now we previously talked a
6 little bit about G-17 which was the NTSB Bulletin
7 dated January 3, 2011. Let me see if I have an
8 extra copy of it. I don't have an extra copy but
9 let me talk generally.

10 MR. McGRATH: Mr. Lamb, would you
11 like to borrow my copy?

12 MR. LAMB: Yes, thank you.

13 MR. McGRATH: As long as I get it
14 back.

15 MR. ALAMPI: Mr. Lamb, what's that
16 that you're referring to?

17 MR. LAMB: This was G-17, the NTSB
18 Bulletin dated January 3, 2011.

19 MR. ALAMPI: I do have it.

20 MR. LAMB: And actually Mr. McGrath,
21 there's an attachment to it.

22 Q. But I'm not asking specific
23 questions about it. I'm going to ask -- you are
24 certainly free to look at it. We had some
25 discussions last time and I misquoted a

1 regulation because I was quoting the liquified
2 gas regulation which was Section 195 and
3 really -- yeah, 195 and we're in Section 192
4 which is the gas pipeline. So I'm going to
5 confine my questions to Section 192.

6 Not citing chapter and verse but in
7 general is it fair to say that those regulations
8 require an identification of threats to each
9 covered pipeline segment which must include data
10 integration and a risk assessment?

11 A. Are you reading that here?

12 Q. Yes, but on the attachment that you
13 don't have it.

14 MR. ALAMPI: Here, why don't I give
15 you the attachment to try to level the playing
16 field.

17 Q. Page 7.

18 A. Where?

19 Q. I'm quoting Section 192.911 (c)
20 requires that IM programs includes, and then I
21 quoted "An identification of threats to each
22 covered pipeline segment which must include data
23 integration and a risk assessment."

24 A. These are important words. I do not
25 know the context that they are written and so I'd

1 rather not comment on it. I would have to read
2 this entire report try to understand what they're
3 saying. I'm not going to pick out a word and try
4 to give you an answer based off of a sentence.

5 Q. Okay. So now let's ignore the
6 quote. You agree that Transco is required to
7 provide an integrity management plan for their
8 system?

9 A. Which we have.

10 Q. Okay. And is it fair to say that
11 one of the requirements -- and I won't quote it
12 exactly -- is that there's a risk assessment that
13 is prepared for the system?

14 A. I've told you this before and I'm
15 going to say it again, I reviewed this building,
16 this project in accordance with how it affects
17 our pipeline. I'm not involved in the bigger
18 picture of our integrity management plan. There
19 are other people that can -- are more qualified
20 to answer that question, that are prepared to
21 answer that question.

22 Q. And maybe they're coming, so I
23 understand that.

24 A. Maybe they're right here.

25 Q. So -- yeah, that's what I'm saying.

Rodriguez - cross

1 A. I would rather not answer the
2 question.

3 Q. So you don't know, is that fair to
4 say?

5 A. A better answer could be obtained
6 from someone other than me.

7 Q. Okay. Do you know the answer to the
8 question?

9 A. Ask me the question again.

10 Q. As a general rule under an integrity
11 management plan and program does that not require
12 Transco to provide a risk assessment of its
13 pipeline?

14 A. I believe it does.

15 Q. Okay. Do you prepare the risk
16 assessment for the pipeline segment that this is
17 in? Is that something you do?

18 A. No.

19 Q. Who at Transco does that? Is that
20 the pipeline safety people in Houston?

21 A. I'm going to refer to Mr. Schweitzer
22 again because you are mixing the type of risks
23 that are spoken of here with the type of risk
24 that Mr. Calisto has written in his report. They
25 are different risks and Mr. Schweitzer can more

1 eloquently explain.

2 Q. Can you describe the difference
3 between the risk?

4 MR. ARNONE: Excuse me, can I make a
5 motion? Let the other witness get up and tell
6 us. He don't know. Stay here all night on this
7 one question?

8 MR. ALAMPI: Chairman, well --

9 MR. MUHLSTOCK: Well, I happen to
10 agree with the board member on that, Mr. Lamb.

11 MR. ALAMPI: And there is the other
12 witness.

13 MR. MUHLSTOCK: The witness has said
14 we have someone, Mr. Schweitzer, who is going to
15 answer that question.

16 MR. LAMB: But am I not entitled for
17 him to say I don't know or I'm not the proper
18 person to ask?

19 MR. MUHLSTOCK: He said that. He
20 said that. I think he said that. Let's not get
21 into who said what.

22 MR. AHTO: You ask the same
23 questions --

24 MR. BASELICE: Many, many times.

25 MR. AHTO: -- many times.

Rodriguez - cross

1 MR. LAMB: Because he hasn't -- with
2 all due respect, he doesn't answer yes, no, or I
3 don't know. And the questions that I'm asking
4 only require yes or no or I don't know.

5 MR. AHTO: He said somebody else
6 could answer the question much better.

7 MR. MUHLSTOCK: Let's leave that for
8 the next witness.

9 Q. So if I ask the same set of
10 questions for a risk mitigation and prevention
11 plan you would refer me to someone else?

12 A. Yes.

13 Q. Okay. I'm going to be real short on
14 that.

15 Now, when talking about this, I
16 think you explained and I didn't have maybe the
17 exact terminology but the pipeline on the
18 Appleview project is part of a segment, is that a
19 segment of the pipe, is that --

20 A. The segment can be from the Hudson
21 River to the -- to Route 1 meter station. I
22 don't -- it can be whatever we choose to call the
23 segment.

24 Q. Do you know what the segment
25 parameters are for this particular -- the segment

Rodriguez - cross

1 that covers the Applevue property, do you know
2 that segment, what that is?

3 A. I can't answer your question.

4 Q. Okay. Can somebody else possibly
5 answer?

6 A. Possibly.

7 Q. Okay. I'm not -- that's fine.

8 Is one of the things concerning a
9 pipeline integrity program the installation of a
10 remote rectifier that monitors other rectifiers?
11 Is that something that's done?

12 A. I cannot answer your question.

13 MR. ALAMPI: Chairman, you know that
14 this remand has a certain scope. It's --

15 MR. LAMB: That's the only question
16 I had on that.

17 MR. MUHLSTOCK: Okay.

18 MR. AHTO: Are you finished with
19 this witness?

20 MR. LAMB: Almost, Mr. Chairman.

21 Q. Have you had discussion with the
22 developer of the amount of insurance the
23 developer is going to provide in connection with
24 this access agreement right-of-way agreement that
25 we've discussed?

1 MR. BASELICE: What does that have
2 to do with this?

3 MR. ALAMPI: We're the fee owner.
4 The other users will provide the insurance.
5 That's basic real estate 101 and I'm not making
6 fun of Mr. Lamb but we are the fee owner.

7 MR. MUHLSTOCK: Okay, I agree.
8 Sustained.

9 Q. Is it not fair to say that under
10 your construction requirements you have the right
11 to require the developer to provide a certain
12 amount of insurance to you? You have a right to
13 require the fee owner to provide insurance to
14 you?

15 A. If they were to cross our pipeline
16 we would ask that we would be named an additional
17 insured. If they were to do something that would
18 have the potential that could cause an event for
19 us, we would want to be -- we would want to know
20 that they were insured.

21 Q. Don't your general construction
22 requirements that are supposed to be subject to
23 this access agreement specifically provide that
24 you will get insurance at a specified amount?
25 Isn't that a requirement in those 2009

1 construction requirements?

2 A. And that is exactly what I alluded
3 to earlier. Those are requirements for our
4 right-of-way. This is an access agreement. This
5 is not pipeline right-of-way. And those
6 requirements are in reference to things that are
7 going to cross our pipeline right-of-way or cross
8 our pipeline or be within our pipeline
9 right-of-way.

10 Q. So you're saying you don't -- it's
11 required for construction but not in your access
12 agreement?

13 A. We would not -- we would not have
14 the same requirements for the access agreement,
15 access right-of-way area.

16 MR. LAMB: Nothing further, Mr.
17 Chairman.

18 MR. MUHLSTOCK: Any redirect?

19 MR. ALAMPI: No. Thank you, Mr.
20 Chairman.

21 MR. MUHLSTOCK: Does Transco have
22 any other witnesses? Mr. Schweitzer? Because I
23 know there have been a lot of questions passed on
24 by Mr. Rodriguez to Mr. Schweitzer.

25 MR. STEVENS: Mr. Chairman, Mark

Rodriguez - redirect

1 Stevens on behalf of Transco. Dan Schweitzer is
2 here and available to answer questions.

3 MR. AHTO: Okay.

4 MR. RABIN: Excuse me, we've had
5 four or five months of testimony from this
6 witness. Will the public have a chance to ask
7 questions?

8 MR. MUHLSTOCK: Yes. Go ahead.

9 MR. TUCKER: Mr. Muhlstock, excuse
10 me if I may, I would like to ask one question on
11 redirect.

12 MR. MUHLSTOCK: Oh, go right ahead.
13 Mr. Rodriguez, one question on redirect.

14 REDIRECT-EXAMINATION

15 BY MR. STEVENS:

16 Q. Mr. Rodriguez, if I recall and
17 understand -- I believe Mr. Lamb asked you if you
18 were -- with respect to the November 10, 2010
19 letter --

20 A. Yes.

21 Q. I believe the question was would
22 Transco approve the project if you got the
23 agreements for access referred to in this letter?

24 A. Something like that.

25 Q. And I believe you said yes. And I

1 think a follow-up question, maybe previous
2 question was if you didn't get these agreements,
3 you wouldn't approve the project, is that correct
4 and I believe your answer was yes.

5 So my question to you is this: Is
6 Transco's approval or disapproval of the project
7 contingent only on whether or not you get one of
8 these agreements or are there additional factors
9 go into that decision?

10 A. There are additional factors.

11 Q. Okay?

12 A. It's all the items that we asked for
13 and that is one of them.

14 Q. Okay thank you.

15 MR. STEVENS: I have no further
16 questions.

17 MR. AHTO: Just stay there a minute,
18 I'm going to give the public 15 minutes and if
19 you start asking the same questions that have
20 been asked for the last five months, I'm going to
21 cut you off.

22 If you're going to take up the whole
23 15 minutes, that's fine.

24 MR. MUHLSTOCK: How many people from
25 the public want to ask some questions? Five

1 minutes a piece.

2 MR. AHTO: So make it fast.

3 JEREMY RABIN, residing at 7004 Boulevard East,
4 Guttenberg, New Jersey, having been duly sworn by
5 the Notary Public, was examined and testified as
6 follows:

7 MS. RABIN: Okay, during Transco's
8 testimony or what we call your testimony you said
9 that initially that the pig run that was done
10 there were no anomalies found, there were no
11 issues with the pipe I believe was another term
12 you used. And then later we heard that in fact
13 there was a dent that was found on this segment
14 of the pipe. Why was there a discrepancy in
15 terms of no anomalies, no issues and then a dent?

16 THE WITNESS: Do you have my
17 testimony there? I only stated that because I
18 believe I was speaking of two different pig runs.
19 The pig run from many years ago where there was
20 no anomalies and the pig run that was just done
21 now which was done years later which there was an
22 anomaly.

23 MS. RABIN: I believe after the most
24 recent pig runs were done you had testified here
25 that there were no anomalies though the current

1 --

2 THE WITNESS: I testified as soon as
3 we -- the testimony that I gave where I said that
4 there was an anomaly came within weeks of finding
5 that anomaly, of knowing that anomaly. For any
6 testimony prior to that there was no anomaly, no.

7 MR. RABIN: Okay. I was curious
8 about that. Thank you.

9 Also, do you know what it was that
10 caused the dent and what time, at what point that
11 dent had taken place with the pipe?

12 THE WITNESS: The pipe was sitting
13 on this Palisades rock are which are die --

14 MS. RABIN: Diabase?

15 THE WITNESS: -- diabase, very hard
16 rock sitting there from the original construction
17 and a dent developed. That's it.

18 MS. RABIN: So the dent developed
19 from the pipe sitting on a rock?

20 THE WITNESS: Yes, over the course
21 of many, many years. And I'll go a step further
22 to say that it had shown up as a dent in the
23 previous pig run but it was not of an order that
24 was of significance.

25 That's how the pig runs work. They

1 show the condition of the pipe that day. And
2 over time as I've testified things develop. When
3 the pig run was done before it was not of a
4 significance that required it to be dug out. At
5 this time it was. It was dug out and then cut
6 out.

7 MR. MUHLSTOCK: Mr. Rodriguez --

8 MR. BASELICE: Has the dents been
9 fixed?

10 THE WITNESS: That section of pipe
11 was cut out and replaced with new pipe.

12 MR. BASELICE: When was that?

13 THE WITNESS: It was the week that I
14 testified that it was.

15 MR. BASELICE: Thank you.

16 THE WITNESS: In fact, I drove on
17 the way to the meeting here I had stopped there.
18 They were I think -- they had just backfilled it
19 or were working on it.

20 MR. MUHLSTOCK: Okay.

21 MS. RABIN: Okay. Now, when a pipe
22 is sitting on a rock for a long period of time
23 and there's a small dent and then five years,
24 seven years later you do another pig run, the
25 dent has gotten worse, that means that over a

1 period of five years, seven years, I think it was
2 five years since the previous run if I remember
3 correctly, that that dent was able to get worse
4 during that time. So it certainly suggests that
5 the pipe on this property which is also sitting
6 with plenty of rocks, plenty of diabase rock is
7 ground up and mixed in that soil. There's
8 certainly a good chance there's a rock sitting
9 somewhere under that pipe. Isn't it possible
10 that, you know, there's a dent which you didn't
11 consider to be worth mentioning five years ago
12 but now is a more serious dent currently?
13 Couldn't there be a dent right now that's being
14 overlooked?

15 THE WITNESS: We didn't overlook the
16 dent on the pig run prior to this last one and we
17 didn't overlook it this time.

18 MS. RABIN: You said no issues, no
19 anomalies. So at the previous run the dent that
20 you -- I would say if there is no issues, no
21 anomalies under oath, that that means that, you
22 know, I'm ignoring it, it doesn't exist?

23 THE WITNESS: We don't ignore
24 anything. We quantify what we find. We have
25 guidelines and measures that we measure what we

1 find again and then we take the appropriate
2 action. There is nothing in this section on this
3 last run or the previous run that required any
4 action.

5 MS. RABIN: On the Appleview
6 property?

7 THE WITNESS: On the Appleview
8 property.

9 MR. AHTO: One more question because
10 we want to move on here.

11 MS. RABIN: Well, there's certainly
12 room for follow-up on that but I'll let that go
13 if I only have one more question.

14 There was a recent story about a gas
15 leak that took place, a pinhole leak that took
16 place I believe around Tonnelles Avenue in North
17 Bergen from a Transco pipeline. Is that true?

18 THE WITNESS: I don't know what
19 you're speaking of. You'll have to give me a
20 little more information. Show me the story,
21 something.

22 MS. RABIN: I can just give this
23 out, I guess. This is a story that --

24 MR. LAMB: Can I get a copy? Can we
25 mark it?

1 MR. MUHLSTOCK: We're not going to
2 mark newspaper articles, are we?

3 MR. ALAMPI: Do you have any more?

4 MS. RABIN: When it comes around
5 there will be some extra, I guess.

6 MR. AHTO: And the leak on Tonnelle
7 Avenue, what does it have to do with this
8 project?

9 MR. RABIN: Well, it would quite
10 possibly be part of this segment. And we've
11 already had testimony that they do not analyze
12 the property based on one property, Applevew
13 they analyze it by segment. And if this leak in
14 fact took place on this segment in North Bergen,
15 part of this pipeline, 35 -- 36-inch pipeline
16 that it was leaking, I think that might have some
17 relevance.

18 MR. MUHLSTOCK: All right. Mr.
19 Rodriguez, do you know anything about this?

20 THE WITNESS: Yes, I do.

21 MR. MUHLSTOCK: Okay. Why don't you
22 tell the board what you know about it.

23 THE WITNESS: Okay. This pinhole
24 leak was at the site at the same dent that we're
25 speaking of. So I'll give you a little history.

1 We ran the pig. We have a list of locations to
2 dig. I previously testified that between Route 1
3 and Appleview that there was only one dig
4 location, one anomaly, it was this one.

5 When we excavated the pipeline, and
6 you have to know the conditions here, this is
7 where the pipeline comes from that Route 1, comes
8 over the hill and pretty much is at the top of
9 the Palisades where it turns back down. This is
10 almost near the top of the Palisades. So the
11 pipeline is actually bent like coming up and
12 bench like that (indicating). It had been
13 sitting on the same rock since it was originally
14 constructed.

15 When we excavated the line, it was
16 not leaking. When we split the rock that was
17 underneath it, it -- which was inside the dent
18 causing the dent, then there was a small pinhole
19 leak. So we could smell gas. By the way, the
20 township was on site when we -- throughout this
21 project. The police were on site throughout the
22 project. Because we closed the road. This is
23 before we even started. Everyone should be aware
24 of it within the township, it is the same site.
25 It would not have leaked if we had not excavated

1 the line and removed the overburden and then
2 split the rock underneath that was in the dent.
3 And the leak was just a leak of a magnitude that
4 you could smell it and hear it. There was no
5 previous leak that was discovered, et cetera.
6 It's all part of the same -- you could say it was
7 a result of the pig run finding.

8 MR. AHTO: Okay. Thank you. Who is
9 next?

10 MR. RABIN: We've determined that he
11 knows what I was referring to. I have questions
12 about this.

13 MR. AHTO: No, I told you five
14 minutes each person. We have to keep --

15 MS. RABIN: Is that really the
16 purpose of this hearing to chase me out of here?

17 MR. MUHLSTOCK: No, it's not to
18 chase you out of here. We have a lot of people.

19 MS. RABIN: But isn't this obviously
20 an important issue that there was a leak in this
21 pipe within this section which I just brought to
22 your attention, handed up the document and you're
23 not going to allow me ask a question about that?

24 MR. ARNONE: Let him speak and then
25 the other ones can't speak.

Rodriguez

1 MR. MUHLSTOCK: We'll go with that.

2 MR. ARNONE: One person. That's
3 all.

4 MS. RABIN: I will try to be quick
5 for the sake of the other person.

6 MR. ARNONE: You're using their
7 time.

8 MS. RABIN: I will be as quick as I
9 can. I have a lot of questions that I'm not
10 asking that I would have like to asked.

11 You said that this only started to
12 leak once the rock was removed from the pinhole.
13 But presumably once a pipe has been punctured,
14 there could have been instead a leak depending on
15 the nature of the puncture, couldn't there have
16 been a leak that was actually leaking gas prior
17 to the rock removal?

18 THE WITNESS: In this case, first of
19 all, it was not a puncture. The pipe --

20 MR. RABIN: Pinhole puncture?

21 THE WITNESS: No, not a puncture.
22 Dent with a rock causing the dent and in the
23 center of that dent was a crack, a very minor
24 crack because the dent caused a crack. It's not
25 a puncture. It had developed over the course

1 of -- we -- it's our belief that it probably sat
2 on that rock during the original construction.

3 MR. BASELICE: When was that?

4 THE WITNESS: 1956. So the rock,
5 it's our belief that the pipeline has sat on that
6 rock since 1956 -- '59. Runs right down a road.
7 there's traffic on it every day since 1959
8 pushing on that pipe, pushing on which is got
9 rock that's not moving, develop a dent over these
10 years. We had spotted the dent on the last pig
11 run but it was not of a size of significance that
12 we felt we needed to address it.

13 MR. BASELICE: That last pig run was
14 five years ago?

15 THE WITNESS: I believe, seven,
16 five.

17 MS. RABIN: It's seven now I think
18 but it was five years.

19 MR. BASELICE: Were there five years
20 between pig runs?

21 THE WITNESS: Approximately, I don't
22 know exactly. Let's say five to seven.

23 MR. MUHLSTOCK: Let's let him ask
24 his questions.

25 MR. BASELICE: I'm sorry.

1 THE WITNESS: Okay.

2 MS. RABIN: There were reports that
3 there was a very strong smell of gas, I guess.
4 During the time that you were doing this work
5 people, Wal-Mart and other people in the area
6 reported smelling gas. If somebody had gone by
7 there with an overactive spark plug in their car
8 or cigarette or something, can you guarantee that
9 there couldn't have been an ignition and
10 explosion?

11 THE WITNESS: It's doubtful but I
12 can't guarantee any such thing.

13 MS. RABIN: So when you say it was a
14 minor crack and you're kind of minimalizing this,
15 if that pipeline had been ignited, somebody going
16 by with a cigarette wants to see what's going on,
17 that we'd be talking about a situation probably
18 worse than San Bruno, right?

19 THE WITNESS: No, no, let's not get
20 funny with this.

21 MS. RABIN: Okay, it's not funny to
22 us.

23 THE WITNESS: Okay. If there was a
24 small -- there was a small leak in the
25 excavation. Gas is lighter than air which means

1 it rises. If gas had accumulated in that pocket
2 and a cigarette was thrown in or a blowtorch was
3 thrown in, the gas within that hole would have
4 popped. And that would have been it. It would
5 not have exploded the pipeline. Why would it not
6 have exploded the pipeline, because that pop
7 would not have enough forced to do anything other
8 than pop.

9 Inside the pipeline is 100 percent
10 natural gas, it's not explosive in that
11 condition. Pipeline ruptures that destroy areas
12 are because the pipeline ruptures, the gas goes
13 throughout the environment, dissipates, the
14 explosive point of gas is between five and 15
15 percent gas to air and then it's ignited. But
16 it's not the amount of gas that was in that hole,
17 it's gas that was in hundreds and thousands of
18 feet. So that is why they are no way remotely
19 equivalent.

20 MS. RABIN: Until you removed that
21 rock, you didn't know how fast --

22 THE WITNESS: Until we removed the
23 rock, until we removed the rock there was no
24 leak. There was no leak. We flame ionized the
25 pipeline. We flame ionized that's where we walk

1 the line for gas leaks. There was no leak. We
2 had worked on that site for days with no leak.

3 During the course of that project, as
4 I've said before, I can't tell you what township
5 officials have been on site but I know the police
6 were there and the township was aware of the
7 work, so you might want to ask the township if
8 anyone that was on site had smelled gas prior to
9 it. As soon as the leak -- the leak did not
10 occur until the rock was split, mechanically
11 split underneath -- that was within the dent and
12 then the leak occurred. That's when the leak --
13 that's when the -- when the rock was removed,
14 that's when it began to leak gas.

15 Immediately, immediately our
16 personnel in conjunction with the North Bergen
17 shut the project down, notified everyone of the
18 situation. I was prepared to talk about this at
19 the planning board when I mentioned the anomaly.
20 No one asked the question. I brought up that it
21 was here at that time.

22 MS. RABIN: Yes, that's how I knew
23 about it.

24 THE WITNESS: That's why you looked
25 for it.

1 MS. RABIN: And I found it. It's a
2 separate leak. But I didn't know if this was
3 connected, the leak was connected --

4 MR. FERNANDEZ: Mr. Rodriguez, this
5 pinhole, an anomaly, North Bergen, that over by
6 --

7 THE WITNESS: It was near Route 1 on
8 the other side of the hill.

9 MR. FERNANDEZ: It has nothing to do
10 with the pipeline going over the slopes.

11 THE WITNESS: Correct. But we ran
12 the pig and what I've testified to is that
13 between Route 1 and the river, this location was
14 the only anomaly. This was the only thing that
15 we found in that segment. And when we excavated
16 it.

17 MR. FERNANDEZ: I remember that.

18 THE WITNESS: Okay, so you do.

19 MR. FERNANDEZ: Um-hum.

20 MR. ARNONE: It was by the old
21 Pathmark right on the slope. I know the street,
22 69th Street.

23 MS. RABIN: As a last question, you
24 said that sitting on this rock for all these
25 decades and the vibration has --

1 THE WITNESS: I didn't say
2 vibration.

3 MS. RABIN: You said traffic driving
4 over the road?

5 THE WITNESS: Yes.

6 MS. RABIN: And I thought you used
7 the term vibration of the traffic.

8 MR. AHTO: No, he didn't use that.

9 MS. RABIN: Okay, well traffic
10 driving over the solid road. Now, I think it's
11 going to be pretty clear with all the diabase
12 rock that's on this property and the same age
13 pipe, the same type of pipe and possibly
14 vibration and other things impacting on this
15 during construction, why we think a safety, a
16 full safety analysis should be done and why we
17 don't understand why after all these years it's
18 taken, you know, court orders and everything else
19 to get -- even begin this information. Obviously
20 with a leaking pipe in a populated area the same
21 pipeline, there's a reason for people to be
22 concerned on this property as well.

23 MR. MUHLSTOCK: Okay, next witness.

24 MS. RABIN: Thank you.

25 MR. MUHLSTOCK: Okay.

1 CONSTANCE FTERA, residing at 7312 Boulevard East,
2 North Bergen, New Jersey, having been duly sworn
3 by the Notary Public, was examined and testified
4 as follows:

5 MS. FTERA: I just have a few
6 questions because there are some things I really
7 don't understand. Does the rate of failure of
8 the pipeline increase with age? Because we've
9 heard about the San Bruno and the others that
10 seem to be approximately the same age as this
11 pipeline.

12 THE WITNESS: I think it's
13 coincidental with maintenance and survey and
14 inspection, not age alone.

15 MS. FTERA: All right. So my next
16 question was if the rate does increase, the pig
17 going through like only every five to seven years
18 makes me personally very nervous because what do
19 you know what's really going on in there? And
20 also related to that, the pig looks at the
21 inside. Is there a way to inspect the outside
22 because that's where all soil and moisture and,
23 you know?

24 THE WITNESS: Okay. The pig doesn't
25 just look at the inside to begin with. There are

1 different types of pigs. But the pig looks at
2 the full thickness of the pipe. It doesn't just
3 look at the inside condition. So it can measure
4 whether there's steel wall loss or whether
5 there's dents.

6 As far as the outside pipe coating
7 condition, that's -- there are other tests that
8 we do for that, not the pig. So it's not --
9 don't think it's just a camera looking at the
10 physical condition of the inside of the pipe,
11 it's actually looking at --

12 MR. MUHLSTOCK: How far often, how
13 often are the other tests done, if you know?

14 THE WITNESS: More often than the
15 pig run, I'll say that. Every couple years, I
16 don't know exactly.

17 MR. MUHLSTOCK: All right. Every
18 couple of a years?

19 THE WITNESS: Yes.

20 MR. MUHLSTOCK: Next question. Why
21 are the pig runs only done five to seven years
22 apart? Is there a reason?

23 THE WITNESS: Well --

24 MR. BASELICE: Do they increase with
25 the age of a pipe?

1 THE WITNESS: No, they do not
2 increase with the age of the pipe and I've said
3 this once before but it's okay, things happen
4 gradually. So that dent was seen five years ago.
5 Okay. The things don't just show up. If the
6 pipe is not hit by someone, it's just sitting in
7 the ground, the changes are gradual so the
8 coating may deteriorate, you may have a spot of
9 rust that may -- you may see it now and you may
10 see it in the next pig run it's gotten a little
11 bigger and you'll do a calculation that says,
12 okay, between now and the next run in five years
13 we think it should be addressed so we're going to
14 address it right now, we're not going to wait for
15 that run.

16 So you basically take the data, the
17 engineering data, compare one to another and
18 extrapolate that out against your set of
19 guidelines. I don't do that. There are a team
20 of professionals that do it. And so it's judged
21 to be an appropriate span.

22 MR. MUHLSTOCK: Okay.

23 THE WITNESS: I'm sorry.

24 MR. MUHLSTOCK: Go ahead, ask your
25 next question.

1 MS. FTERA: I have to say that I
2 live within three blocks of this pipeline which I
3 really didn't know until recently existed.

4 THE WITNESS: Yes, ma'am.

5 MS. FTERA: And it makes me very
6 nervous to think that there aren't almost
7 continuous inspections as it were, you know, much
8 more maintenance than a test every five to seven
9 years.

10 THE WITNESS: Well, only that
11 particular test is seven.

12 MS. FTERA: I understand what you
13 are saying but this is buried and I don't -- like
14 everybody else here, I'm very worried about doing
15 anything near this pipeline.

16 Now, the San Bruno, was that the one
17 that they -- no, it's the one in Edison where
18 they asked for a hundred foot easement and this
19 has what, 10 feet? What is the easement here?

20 THE WITNESS: On this property?

21 MS. FTERA: Yeah.

22 THE WITNESS: Well, I'll tell you in
23 the dent location that runs in the city street,
24 you might find it interesting that it runs in the
25 city street and there's a manhole probably about

1 three or four feet off the pipeline and buildings
2 that are within 20 feet.

3 MS. FTERA: Yes, I've seen these
4 yellow pipes and they're right next to the Summit
5 House.

6 THE WITNESS: The same pipeline
7 that's over here at Appleview.

8 MR. AHTO: Do you have any more
9 questions to this project? I don't want to start
10 talking about other projects and other towns and
11 other areas.

12 MS. FTERA: I got something from you
13 in the past couple of years and it talks about
14 the easement and it says "trees and deep rooted
15 shrubs are not permitted within the pipeline
16 easement" but it seems to me that that area where
17 the pipeline was had plenty of vegetation growing
18 on it.

19 THE WITNESS: Would you like me
20 to -- should I address that? That is why trees
21 and the letter that Mr. Lamb read earlier about
22 the poplars, why it was important for us to have
23 those trees taken out of the right-of-way. Trees
24 over time, the roots will get around the pipe and
25 can damage the coating. It takes a long time for

1 that to happen.

2 MS. FTERA: Well, my question is
3 that it always looked like it was a very full of
4 vegetation. Does that mean that you don't always
5 go in there and get rid of the trees?

6 THE WITNESS: We would like to have
7 the right-of-way completely clear of trees
8 everywhere. Sometimes the landowners agree with
9 our opinion, sometimes they don't. Where they
10 don't, we have to fight with them to get those
11 trees cut.

12 MR. AHTO: Okay, are you finished
13 with the questioning now? Because I want to try
14 the move this along.

15 MS. FTERA: Yes, sorry.

16 MR. AHTO: Thank you.

17 WILLIAM McCLELLAND, residing at 101 74th Street,
18 North Bergen, New Jersey, having been duly sworn
19 by the Notary Public, was examined and testified
20 as follows:

21 MR. AHTO: And, again, can we have a
22 different line of questioning than what's been
23 addressed here?

24
25 MR. McCLELLAND: Absolutely this is

1 different.

2 Mr. Rodriguez, you said at the
3 February 2nd meeting that Transco, these are your
4 words, "Meets with all of the emergency
5 responders, local emergency responders.

6 THE WITNESS: Do you have it in my
7 testimony there?

8 MR. McCLELLAND: Yes, I copied it
9 from the transcript. You made that statement.

10 MR. MUHLSTOCK: Well, do you
11 remember making that statement, yes or no?

12 THE WITNESS: I remember making a
13 statement near it. I would not have said all.
14 We meet with emergency responders.

15 MR. MUHLSTOCK: Go ahead. Ask your
16 question.

17 MR. McCLELLAND: Those are the exact
18 words. Okay. Can you tell exactly which
19 emergency responders in Hudson County, Bergen
20 County, North Bergen, Guttenberg, West New York
21 and Edgewater that you or anyone at Transco has
22 met with about this pipeline and when you met
23 with them?

24 THE WITNESS: I cannot today. The
25 people that could are not here today. They were

1 here before.

2 MR. McCLELLAND: But they didn't
3 testify.

4 THE WITNESS: They were not asked to
5 testify. They were available to testify.

6 MR. McCLELLAND: Okay. So you don't
7 know if anybody at Transco has met for sure with
8 any of the emergency responders?

9 THE WITNESS: I know that they have
10 met with emergency responders, I've seen the list
11 because we keep a list but I cannot speak with
12 any authority on who or when or et cetera.

13 MR. McCLELLAND: Would you agree
14 that the North Hudson Firefighters Association
15 would be among the emergency responders?

16 THE WITNESS: It would seem
17 appropriate.

18 MR. McCLELLAND: Okay. Because we
19 had spoken with them and they told us, Dominick
20 Marino the president have told us that they have
21 had no contact at all and have never met directly
22 with Transco.

23 Now, would you say that the Hudson
24 Regional Fire buildings and the firefighters in
25 those buildings would be among the first

1 responders, for example, North Bergen and along
2 River Road?

3 THE WITNESS: It seems appropriate.

4 MR. McCLELLAND: We've spoken with
5 Deputy Chief Charles Thomas at the Hudson
6 Regional Fire Station on River Road. He stated
7 that he does not remember ever meeting with
8 Transco. We met with firefighter Richard Weaver
9 at the Hudson Regional Fire Station and this is
10 at Hudson and 75th Street in North Bergen which
11 is less than a mile.

12 MR. TUCKER: Excuse me. I must
13 object. The gentleman is supposed to be asking
14 questions not basically testifying in that
15 fashion.

16 MR. McCLELLAND: Yes, I am asking,
17 I'm asking would he consider these people to be
18 --

19 MR. MUHLSTOCK: He's not an attorney
20 --

21 MR. AHTO: Stay to the project.

22 MR. BASELICE: No, he is.

23 MR. AHTO: He is.

24 MR. McCLELLAND: I'm just saying
25 Mr. Weaver, Mr. Weaver told us that he was aware

1 of the pipeline but has never been involved in
2 any meetings with Transco.

3 Now, would you agree that the
4 Edgewater Fire Department and the Edgewater
5 Office of Emergency Management would be because
6 Edgewater the town line is less than half a mile,
7 it's about 800 yards from the site, would you
8 agree that they would be among the first
9 responders?

10 THE WITNESS: Yes.

11 MR. McCLELLAND: Edgewater Fire
12 Chief Mr. Christianson was also the Edgewater
13 coordinator for the Office of Emergency
14 Management said that he has never met with anyone
15 from Transco about this pipeline.

16 Finally, would you agree that the
17 Hudson County Office of Emergency Management
18 would be among the first responders?

19 THE WITNESS: It would appear so.

20 MR. McCLELLAND: I spoke today with
21 Jake Burns who is the coordinator of the Hudson
22 County Office of Emergency Management. I asked
23 if he had ever met with Transco about the
24 pipeline or specifically with the area of the
25 pipeline near the proposed Applevew project.

1 Mr. Burns stated categorically "No one from
2 Transco has spoken to us. This is the first I'm
3 hearing of it." He said that they have never
4 been contacted or met with Transco. He said he
5 really knows nothing about Appleview or the
6 pipeline other than what he has read in the
7 papers.

8 I'd just like to address the board
9 and tell you that Mr. Burns also said that he was
10 shocked that the North Bergen and Hudson County
11 planning boards would have gone ahead and
12 approved this project without first insisting
13 that Transco appear and testify as to the safety
14 of the pipeline.

15 And my follow-up question is this
16 regards Palisades Hospital. Can you give us a
17 brief or a general outline of what you feel the
18 emergency response, what would be required in
19 order to evacuate Palisades Hospital which is
20 directly, almost directly across from the
21 pipeline and clearly they would not be able to
22 evacuate on River Road so can you give us an idea
23 of what might happen with that?

24 THE WITNESS: I cannot.

25 MR. McCLELLAND: You have no idea.

1 Can you speculate that they might have to
2 evaluate on the Hudson River, for example?

3 THE WITNESS: I cannot speculate. I
4 will not speculate.

5 MR. McCLELLAND: Okay. Just thank
6 you. I would urge since apparently I think his
7 name was Collin Wisser, Mr. Wisser, I would urge
8 the board to ask that he appear and for you to
9 question him about why as Mr. Rodriguez testified
10 that they Transco meets with all the emergency
11 responders, he said all the emergency responders.
12 You can go back and read it.

13 According to our investigation, just
14 citizens, we found that they haven't
15 interviewed -- they haven't talked to anybody.
16 The first responders in Hudson County and in
17 Bergen County, they don't know about this
18 pipeline. I mean, they know about the pipeline.
19 They don't know about Appleview. They have no
20 idea how close this is being built to the
21 Appleview, Appleview is being built to the
22 pipeline. They are as terrified as we are.
23 These are the first responders, these are
24 firefighters, these are the guys who are going to
25 go and risk their lives. Please ask Mr. Wisser

1 to come. Thank you.

2 SIAT NG, residing at 7004 Boulevard East,
3 Guttenberg, New Jersey, having been duly sworn by
4 the Notary Public, was examined and testified as
5 follows:

6 MS. NG: So in several of our
7 conversations you had -- I want to go back to
8 1994 soil erosion.

9 THE WITNESS: Okay.

10 MS. NG: Just very quickly. In
11 several of our conversations you had mentioned
12 that the -- you thought the problem was soil
13 erosion was the natural water runoff issue. And
14 when you came to testify you mentioned then a
15 different source of issue, what caused it was
16 different. You said it was water main break.
17 What changed the situation? Was there a report?
18 Was there, you know, a police report or maybe a
19 news article that you discovered?

20 THE WITNESS: From the time that I
21 first testified that it was a soil erosion in
22 between the second time I testified because we
23 talked about this issue within the company, one
24 of employees remembered, I think it was a line
25 patrolman, remembered what the actual event was

1 and had been there. And he reported that up
2 through the chain of command and then it made its
3 way to me.

4 MS. NG: So it's basically someone's
5 memory?

6 THE WITNESS: Yes.

7 MS. NG: So there's nothing that the
8 we could really validate officially?

9 THE WITNESS: I imagine you could
10 talk to the Summit House and they could probably
11 remember if they had a water line in the garage
12 break.

13 MS. NG: We did check and none of
14 them did. We did check and I didn't get a clear
15 response, affirmative response.

16 I just want to move on to the second
17 question. Have you seen the Johnson Soils report
18 produced by the geotech engineer of the
19 developer?

20 THE WITNESS: Yes.

21 MS. NG: Are you aware of the
22 recommendation of the parking lot area for the
23 parking lot area is approval all other
24 miscellaneous --

25 MR. ALAMPI: We have to identify,

1 these must have been marked and it would help us
2 on the record, this report, let's get a date,
3 let's get if it was marked.

4 MR. MUHLSTOCK: What's being
5 referred to? What's being referred to?

6 MS. NG: This is the Johnson Soils
7 Preliminary Geotech Engineering Report first
8 prepared on May 14, 2007, last revised June 10,
9 2010.

10 MR. MUHLSTOCK: Okay.

11 MR. ALAMPI: This may not have been
12 marked during the remand. It appears it would
13 have been in the recommission of June of 2010,
14 the underlying application before the appeal and
15 before the remand.

16 MR. MUHLSTOCK: Well, let's ask the
17 question. Let's see if we need to go further
18 with it.

19 MS. NG: So, yeah, I was starting to
20 read the recommendation, approval all other
21 miscellaneous fill with a minimum of four passes
22 of heavy vibratory compactor with an minimum
23 static drum weight of 12,000 pounds or equal."

24 THE WITNESS: And the question is?

25 MS. NG: Is this what you read this

1 and you're aware of this?

2 THE WITNESS: I don't recall that
3 but I could respond to a question regarding this
4 if you have one.

5 MS. NG: Yeah. The cross-reference
6 is --

7 THE WITNESS: No vibratory --

8 MR. MUHLSTOCK: Let her ask the
9 question.

10 MS. NG: Should I identify the
11 document?

12 THE WITNESS: My fault. My fault.

13 MS. NG: It's the Williams Gas
14 Pipeline requirements for landowner and third
15 party construction and that was dated 2009.
16 There is a requirement in the document that "No
17 vibratory equipment is permitted within the
18 limits of or in close proximity to the WGP" which
19 stands for William Gas Pipeline right-of-way. So
20 doesn't the proposal directly violate this
21 regulation or requirement that you have?

22 THE WITNESS: No, it does not
23 because the -- we're not -- they are not -- their
24 parking area is not over the pipeline, therefore,
25 if they were to vibrate the parking area it's not

1 over the pipeline, it's not an issue.

2 A VOICE: Close proximity.

3 MS. NG: Right, but it says in close
4 proximity.

5 THE WITNESS: Well, it's all part of
6 our plan is to have vibration monitoring at the
7 property line. So if there's -- and in that
8 vibration monitoring which it's doubtful that
9 that type of activity would even register, but if
10 it was, it would be picked up at the vibration
11 monitor. That could be called some of the
12 mitigating measures that Calisto has taken.

13 MS. NG: Okay. It is doesn't sound
14 to me that that was part of the main
15 considerations when you were doing a risk
16 analysis or assessment of this project. It
17 sounds to me that this is probably something that
18 highlighted to you which is a concern because you
19 deal with safety issues and you give the go-ahead
20 for projects like this, so I think that that is
21 something that speaks a lot to, you know, the
22 credibility of Transco. And leading into it the
23 next point.

24 I wanted to clarify if you had
25 actually said something to Jeremy earlier on the

1 first public member who asked you a question and
2 you actually said that Transco would never ignore
3 any anomaly. Is that what you said? You always
4 do your best to protect your pipeline?

5 THE WITNESS: Okay. I'm going to
6 have to do a little clarification here which I
7 tried to avoid because it's going to be messy for
8 a non -- engineer. The definition of anomaly is
9 anything that's abnormal, that's different.

10 Okay. So unless the pipeline is brand new and
11 even a brand new pipeline could technically have
12 anomalies on it.

13 When I refer to anomalies that are
14 found on the pig run, I refer to -- I'm referring
15 to actionable anomalies, that's anomalies that
16 are of a significance that require our attention.

17 So -- and I have to think like an
18 attorney here.

19 MR. ALAMPI: Attorneys don't
20 normally think.

21 THE WITNESS: We don't address all
22 our anomalies, we address only our anomalies that
23 rise to a significance that need to be addressed
24 and we view to be addressed. But everything that
25 the rises to that degree is looked at and

1 evaluated. Anything that's near it is looked at
2 and evaluated. But to be very specific, we do
3 not dig up and look at every single anomaly.
4 Using -- considering anomalies to mean -- and we
5 can look up what anomaly is, anomaly being any
6 deficiency in the pipeline from being perfect. I
7 hope that makes it clearer than it sounds to me.

8 MS. NG: So you're familiar with the
9 Virginia incident in 2008 Appomattax?

10 MR. ARNONE: Excuse me, does this
11 have anything to do with this case, Virginia?

12 MR. MUHLSTOCK: I don't think so.

13 MR. ARNONE: Are we going to stay
14 here all night? It's 9:00.

15 MS. NG: I have a question but I
16 have to explain what this is otherwise he will
17 ask me what the question is.

18 MR. MUHLSTOCK: Let's relate to this
19 property.

20 MS. NG: Okay. So he had mentioned,
21 Mr. Rodriguez had mentioned if the anomaly rises
22 to a certain level they will take action. But I
23 think there is a trend that there is a very lax
24 safety standard with Transco. It showed just
25 immediately before, you know, when I asked that

1 question, they shifted their standard. They had
2 it in the document that no vibration is allowed
3 and then, you know, the standard shifted.

4 MR. MUHLSTOCK: Wait a second.

5 MS. NG: So my question --

6 MR. MUHLSTOCK: Wait a second, Mr.
7 Alampi is coming up to object.

8 MR. ALAMPI: The witness is not an
9 attorney, but mischaracterization, using certain
10 phraseology, it's just not appropriate.

11 MR. MUHLSTOCK: Mr. Alampi, clearly
12 this is her opinion, this is her statement, this
13 is not a question.

14 MR. ALAMPI: An unqualified opinion.

15 MR. MUHLSTOCK: The board
16 understands. We get it. Make your statement.

17 MS. NG: Thank you very much. The
18 question is with the Virginia incident, again,
19 you're familiar with that, right because you
20 brought it up at the first hearing? And the
21 question is this: Are you aware that anomalies
22 were discovered during the pig run, in a very
23 similar situation, right, the pipe was running
24 through terrain that has rocks and soil?

25 MR. MUHLSTOCK: That's sustained.

1 That one is sustained. Mr. Alampi's objection is
2 now sustained. Go on to another question.

3 MS. NG: So --

4 MR. MUHLSTOCK: Another question.
5 That one is sustained.

6 MS. NG: Well the question is --

7 MR. MUHLSTOCK: The question
8 respects another state's incident, we're not
9 going to try that incident here.

10 MS. NG: Okay. But he just made a
11 categorical statement about Transco's safety
12 procedure. And I just wanted to --

13 MR. MUHLSTOCK: Ask him about the
14 safety procedures specifically. Leave out the
15 part about your characterization of another
16 incident.

17 MS. NG: Okay. Why did it fail?
18 And for --

19 MR. MUHLSTOCK: Why did what fail?

20 MS. NG: Why did it fail in that
21 Appomattax where are there's a safety violation
22 and a million dollar fine was imposed?

23 MR. MUHLSTOCK: Sustained.
24 Sustained. Ma'am, ma'am, move on.

25 MS. NG: I'm actually done.

Rodriguez

1 MR. FERNANDEZ: I just have one
2 question for Mr. Rodriguez. You might not be
3 able -- you probably could answer it.

4 THE WITNESS: I'll try.

5 MR. FERNANDEZ: Maybe it's your
6 engineer. The footing that's going to be built
7 20 feet next to your gas line, how would you
8 compare that vibration to the vibration that was
9 caused when the Galaxy was built and the Summit
10 House was built and the waste treatment was built
11 next to your gas line, ten times, 100 times
12 greater?

13 THE WITNESS: Well, I'm speculating
14 here, I'm willing to do that, but -- because I
15 wasn't here when the waste treatment but that's
16 the closest proximity and I believe that they did
17 do -- we allowed some pile driving, I was
18 involved in some pile driving. So the other
19 facilities were probably pile driven (sic) and
20 they were further away. So that was probably the
21 most significance. This job here has no pile
22 driving.

23 MR. FERNANDEZ: Right.

24 THE WITNESS: So it's like apples to
25 oranges, it's not a magnitude. There is no pile

1 driving compared to any type of pile driving.

2 MR. FERNANDEZ: But I think the
3 upper -- the buildings on top were built after
4 your gas line, I believe in the early '70s.

5 THE WITNESS: Yes, the same with the
6 waste plant.

7 MR. FERNANDEZ: Right.

8 THE WITNESS: And they were all
9 successfully built without an issue.

10 MR. FERNANDEZ: Once they clear that
11 property and that footing is poured, the
12 vibration is just the equipment for the blocks,
13 the walls and the rest is all wood frame
14 construction.

15 THE WITNESS: Right, there will be
16 virtually no vibrations during the construction.
17 And on top of that during the construction this
18 developer is going to monitor the vibration.

19 MR. FERNANDEZ: Thank you.

20 BIJAN MARJAN, residing at 8100 River Road, North
21 Bergen, New Jersey having been duly sworn by the
22 Notary Public, was examined and testified as
23 follows:

24 MR. MARJAN: Just a few quick
25 questions. From your professional point of view

1 you approve this construction, correct?

2 THE WITNESS: I did not object to
3 this construction. There is a distinction.

4 MR. MARJAN: Okay, so you don't
5 object to it. How many sessions did you have
6 with the developer where they walked you through
7 exactly how the construction would be carried
8 out?

9 THE WITNESS: We didn't have any
10 walk-throughs of how the construction would be
11 carried out nor is there a need for such a
12 meeting.

13 MR. MARJAN: Wouldn't you be
14 concerned about not objecting to the construction
15 when potentially during the construction
16 something, for example, a concrete slab could
17 fall towards the pipeline or, you know,
18 something, some incident could take place --

19 THE WITNESS: I'm not --

20 MR. MARJAN: -- without knowing how
21 they're actually going to construct it?

22 THE WITNESS: I know how they're
23 going to construct it. The pipeline is on the
24 opposite side of the property line fence that
25 exists between the sewer authority and the

1 Appleview property. And there's an additional 20
2 feet between that property line fence and the
3 building. So if they were to drop something, it
4 would have to be -- it would be very -- it would
5 be not practical that it would drop over the
6 pipeline. It could -- they could drop something
7 big and it could roll and it could knock the
8 fence down and that still would not be a problem
9 because we are, as I've testified, 10 feet deep
10 at River Road and three feet deep, three or four
11 feet deep in the back of the property. So they
12 could drop any typical construction material or
13 piece of equipment, they could topple a crane on
14 their property which is the most -- the worse
15 thing that could possibly happen, and that would
16 not affect our pipeline on the -- as it's
17 situated.

18 MR. MARJAN: Okay, but, again, you
19 haven't really had any detailed conversations
20 with them, this is just your assessment, correct?

21 THE WITNESS: Assessment based on
22 what they have proposed.

23 MR. MARJAN: Okay. Very well.

24 THE WITNESS: And what I know about
25 construction and comparing what I know about

1 construction to what they proposed.

2 MR. MARJAN: General question.

3 Would you think in an area such as this, such as
4 the Applevue property, the easement should be --
5 which is a high density area, should be generally
6 much greater than in other areas that are not so
7 highly populated?

8 THE WITNESS: I work for a pipeline
9 company. I would like the easement to be
10 infinity but as a realist we are restricted in a
11 highly populated area to accepting what is
12 workable. The amount of right-of-way that is
13 being -- that we will have on this property is
14 workable and acceptable for us.

15 MR. LAMB: Mr. Chairman, can you
16 have the witness -- the gentleman asked a yes or
17 no question and we had a whole explanation.
18 Could he just answer the question yes or no?

19 MR. MUHLSTOCK: No, I think he
20 gave -- I think he answered the question.

21 MR. MARJAN: Just one final
22 question. What assurances have you sought from
23 the developer in terms of any changes that they
24 would be making in the future that would not
25 affect the safety of the pipeline?

1 THE WITNESS: I'm not sure I
2 understand. Our understanding is that they will
3 not make a change. If they were to make a
4 change, the town would know of the change. I'm
5 sure the town would advise us, if they do not
6 advise us themselves and we'd have to review the
7 change.

8 MR. MARJAN: Okay. Thank you.

9 MR. MUHLSTOCK: As I understand, you
10 have Mr. Schweitzer here available for
11 questioning --

12 MR. ALAMPI: Correct.

13 MR. MUHLSTOCK: -- from Mr. Lamb if
14 he has.

15 MR. TUCKER: He's available. Yes,
16 Mr. Muhlstock.

17 MR. LAMB: Mr. Muhlstock, just I
18 think there's a miscommunication here. It's
19 their case, they brought the witness. They've
20 named four witnesses in their letter dated
21 January 30th, 2012. If he's going to testify,
22 then I will cross-examine him, but I'm not going
23 to cross-examine him before he testifies.

24 MR. MUHLSTOCK: Well, you asked the
25 questions of Mr. Rodriguez. Mr. Rodriguez passed

1 the ball to Mr. Schweitzer on several issues. If
2 you don't have any questions, that's fine.

3 MR. LAMB: I have questions. If a
4 witness is provided and testifies, I'll ask the
5 questions.

6 (Recess taken.)

7 MR. AHTO: Call the meeting back to
8 order and let it reflect that the board members
9 who were here before are still here now. Okay.
10 Next witness.

11 MR. MUHLSTOCK: Mr. Tucker.

12 MR. TUCKER: Dan Schweitzer.

13 DANIEL SCHWEITZER, having been duly sworn by the
14 Notary Public, was examined and testified as
15 follows:

16 DIRECT EXAMINATION

17 BY MR. TUCKER:

18 Q. All right. Repeat your name again,
19 please, sir.

20 A. Daniel Schweitzer.

21 Q. And Mr. Schweitzer, who are you
22 employed by at this time?

23 A. Williams Gas Pipeline Transco.

24 Q. And what is your present position at
25 Transco?

1 A. I am the manager of operations of
2 technical services.

3 Q. And --

4 MR. AHTO: Can you speak up or speak
5 into the mike, please?

6 THE WITNESS: Manager of operations
7 of technical services.

8 Q. And what are your job duties on a
9 day-to-day basis in that position?

10 A. I work with a group of technical
11 individuals, including engineers and we review
12 developments such as this, road crossings. We do
13 projects, construction projects, maintenance
14 projects. We do budgeting. We do a variety of
15 things for the pipeline system in our area,
16 geographic area which is Pennsylvania, New Jersey
17 and New York.

18 Q. All right. And can you tell the
19 board what your educational background is?

20 A. I have an a Bachelor of Science in
21 mechanical engineering.

22 Q. And when and from what university
23 did you receive that?

24 A. I got my degree in 1978 from New
25 Jersey Institute of Technology.

1 Q. And since graduation what have your
2 occupational duties been?

3 A. I worked with the pipeline company
4 my entire career. I worked in construction. I
5 worked in maintenance. I worked in operations.
6 I worked in engineering. I worked in management.
7 I've been a district manager of the Carlstadt
8 facility from 1991 to 1995 and I've been in my
9 current position since 1995.

10 Q. All right. And can you elaborate a
11 little bit further on what you do on a day-to-day
12 basis in your present position?

13 A. Well, all the things I said before.

14 Q. Okay. Now, are you familiar with
15 the smart pig tests that we've had testimony
16 about in these hearings?

17 A. Yes, I am.

18 Q. Could you describe how those tests
19 are actually performed?

20 A. Well, in 2002 federal regulations
21 were passed December 17th, 2002 and that gave the
22 pipeline industry five years to do the first 50
23 percent of pipelines like these and then another
24 five years to complete the other 50 percent of
25 the pipelines like these. So it gave us ten

1 years which ends December 17th, 2012 to assess
2 all pipelines like this.

3 Q. All right. In other words --

4 A. So, first, Transco has been smart
5 pigging since around 1986. We smart pigged this
6 particular line in 1998. We did it again in 2005
7 and we did it this last time in 2011/12.

8 Q. And in addition to these smart pig
9 tests or runs does Transco have any other type of
10 inspections made of its pipeline or some sort of
11 interval or regular basis?

12 A. We walk the pipeline twice a year,
13 once with flame i'd equipment, flame ionization.
14 It's a very sensitive instrument that will pick
15 up any methane in the area, the most minute
16 quantities of methane. We walk it a second time
17 for identification. We do our valve inspections
18 twice a year, there's a valve setting right
19 across the street from River Road. We also do
20 pipeline patrols which we have an individual
21 drive the pipeline right-of-way and he's probably
22 in this area about twice a week doing that type
23 of inspections. There's also cathartic
24 protection inspections, somebody sends rectifiers
25 over. Those are one of the checks that we do on

1 a bimonthly basis to make sure that the
2 rectifiers are indeed doing what they're supposed
3 to do.

4 Q. And how are those inspections done?

5 A. Well, the rectifier process somebody
6 goes out and actually looks at the rectifier.
7 Now, recently with the advance of technology and
8 communication and SCADA and that --

9 Q. What is SCADA?

10 A. You're going to put the pressure on
11 me for the initials.

12 Q. No, I don't mean spell it out but
13 what does it involved?

14 A. It's for communication that you can
15 have a rectifier out on River Road and it will
16 communicate through the air to the Internet to
17 your computer and if there's anything wrong with
18 that rectifier, it will alert you. So, we have
19 started to remote some of our rectifiers.

20 Q. So did I understand you correctly
21 that at a minimum there's at least two
22 inspections of the pipeline including the
23 pipeline on the Appleview site each week, is that
24 correct, at a minimum?

25 A. Yes.

1 MR. TUCKER: I have no further
2 questions.

3 CROSS-EXAMINATION

4 BY MR. LAMB:

5 Q. Good evening, Mr. Schweitzer.

6 A. Good evening.

7 MR. LAMB: I think we were up to --

8 MR. MUHLSTOCK: The last document
9 was G-26.

10 MR. LAMB: So this is G-27. I don't
11 have copies of it but everybody is familiar with
12 it. It's a letter from Mr. Stevens to Mr.
13 Chewcaskie dated January 30th, 2012. You want to
14 take a look at that? It's my only copy.

15 MR. ALAMPI: Was this marked?

16 MR. LAMB: It says G-27.

17 MR. MUHLSTOCK: He just marked it.

18 MR. LAMB: I just marked it. It
19 wasn't previously marked I don't think.

20 MR. MUHLSTOCK: What's the date of
21 the letter, please?

22 MS. GESUALDI: January 30th.

23 MR. AHTO: Mr. Lamb, what's the date
24 of the letter?

25 MR. LAMB: January 30th, 2012.

1 MR. MUHLSTOCK: From Mr. Stevens to
2 Mr. Chewcaskie.

3 MR. LAMB: Yes, Mr. Chewcaskie.

4 MR. ALAMPI: May I ask a question?
5 Was this document part of the -- in the subpoena
6 package?

7 MR. LAMB: I don't know. Unless you
8 want to take a ten-minute break and go through
9 each of the document.

10 MR. MUHLSTOCK: No, no.

11 MR. ALAMPI: No, no, no. Was I
12 copied on this? I'm copied on it. I don't have
13 an independent recollection of this
14 correspondence from six months ago.

15 MR. MUHLSTOCK: All right. Go
16 ahead, Mr. Lamb.

17 Q. Have you had a chance to review
18 that?

19 A. Yes.

20 Q. Okay. When you were reviewing
21 Transco's participation in this proceeding, was
22 it that you that determined who was going to
23 testify on behalf of Transco?

24 A. Me personally, no.

25 Q. Yes.

1 A. No, it was a group decision.

2 Q. And who was in the group to make
3 that decision?

4 A. Well, Jose was. We talked to
5 Collin. We talk to Ken Philhower. We talked to
6 Mario. We talked to our attorneys.

7 Q. Okay. I don't need -- you don't
8 have to talk to me about the attorneys.

9 And in that -- and so therefore is
10 it fair to say that based upon that group meeting
11 Transco made a decision to provide Mr. Rodriguez
12 as the main witness?

13 A. Yes, he was the one that reviewed
14 the project primarily.

15 Q. Okay. Yourself, Collin Wisser?

16 A. Yes.

17 Q. And Ken Philhower with a caveat that
18 Mario DiCocco would be available after February
19 7th and he would likely testify as well; is that
20 correct?

21 A. We wanted to make everybody
22 available to the board.

23 Q. Okay. And are you aware of it now
24 that the board's attorney requested that Transco
25 tell them what witnesses were left and

1 Mr. Wisser, Mr. Philhower and Mr. DiCocco were
2 eliminated as witnesses, I assume, based upon the
3 letter of your attorney?

4 MR. MUHLSTOCK: Is that a question
5 that could be answered by the attorneys? And
6 isn't that the attorney's decision?

7 MR. LAMB: Well, I can't
8 cross-examine the attorneys --

9 MR. MUHLSTOCK: No, but the
10 attorneys can certainly -- they indicated that
11 these two witnesses were being offered. Go
12 ahead, Mr. Stevens.

13 MR. STEVENS: That's correct, Mr.
14 Muhlstock. The Transco is prepared to, you know,
15 offer up anyone to the board at this point.
16 Given the, you know, extent of Mr. Rodriguez's
17 testimony and the areas that remain to be
18 covered, we thought that the Mr. Schweitzer would
19 be able to cover the remaining areas.

20 MR. MUHLSTOCK: Okay.

21 Q. Were you involved in the decision to
22 parse down the number of witnesses who would
23 testify for Transco outside of any discussions
24 with your attorneys?

25 A. I didn't make any decision to parse

1 down.

2 Q. You were here I know and I believe
3 Mr. Wisser and Mr. Philhower were also here
4 during the various meetings; is that correct?

5 A. Yes.

6 Q. You heard -- you observed Mr.
7 Rodriguez testify that he was recommending to the
8 board that there be an inspector during all the
9 phases of construction, a representative to
10 monitor the construction?

11 A. Yes.

12 Q. Okay. And do you recall then at the
13 following meeting he came back and more or less
14 modified that position and said he had met with
15 the team and the team decided that they only
16 needed inspectors at certain points in time?

17 A. Yes, during construction in the
18 vicinity of the pipeline, yes.

19 Q. And is that a discussion that you
20 were involved until -- you were one of the people
21 in the team that had --

22 A. Yes.

23 Q. -- that post discussion?

24 So, is it fair to say that you
25 disagreed with Mr. Rodriguez's earlier testimony

1 that you wanted somebody there at all phases of
2 construction.

3 A. I think the way the questions were
4 asked of Mr. Rodriguez and the way he responded,
5 it was probably misunderstood. So at the next
6 meeting it was clarified.

7 Q. Now, you testified, and your counsel
8 asked you, you walked the pipeline, make the
9 valve inspections, you have the pipeline patrol,
10 you do the cathartic inspections and you look at
11 rectifiers, all of those things?

12 A. Yes.

13 Q. Okay. Do all of those views,
14 inspections, do they result in a written
15 document?

16 A. Yes.

17 Q. Okay. Is it fair to say that none
18 of those written documents have been provided to
19 the board as a result of the subpoena?

20 A. Yes.

21 Q. Okay. So your testimony is
22 everything is okay on those five things, the
23 walking pipeline, valve inspection, pipeline
24 patrol, cathartic inspection, review rectifiers,
25 and that opinion is all based upon these

1 inspections, reports, reviews, et cetera?

2 A. We're inspected by PHMSA and they do
3 a records search and an audit of our records, so
4 it's not only me saying that they're done, it's
5 our regulatory authority that says that the --

6 Q. But your opinion is based upon all
7 those writings, all those whatever the
8 inspections, reviews, reports, et cetera that's
9 what your opinion is based on, you looked at that
10 to come to that opinion?

11 A. Yes.

12 Q. Now, you also indicate there's two
13 inspections a week on the Appleview site? Is
14 that what I heard, that somebody walks the
15 Appleview site twice a week?

16 A. No, that's not what you heard. We
17 have a pipeline patrolman and he drives the
18 right-of-way. So from River Road he would view
19 the pipeline to the left and the pipeline to the
20 right of River Road and the Appleview site is
21 there.

22 Q. So in other words he drives either
23 north or south on River Road and looks down and
24 up the hill and that's all he does?

25 A. Yes.

1 Q. He doesn't get out and walk that at
2 all?

3 A. That's correct, he does not.

4 Q. By the way, I know you testified
5 you're a mechanical engineer, are you a licensed
6 engineer in the State of New Jersey?

7 A. I'm not.

8 Q. You licensed in any states?

9 A. No states. I testified I got a
10 degree in mechanical engineering.

11 Q. Right, that's why I asked.

12 A. I didn't testify that I was an
13 engineer.

14 Q. Are you a geologist?

15 A. No.

16 Q. Geotechnical expert?

17 A. Nope.

18 Q. You review drainage reports, analyze
19 drainage reports, stormwater reports?

20 A. I do look at developer's drainage.
21 I do not review their calculations reports.

22 Q. Okay. Is the type of soil relevant
23 when reviewing a potential project's impact on
24 the pipeline?

25 A. Not to us. And I say that because

1 we've always consider Class 3 worse case soil
2 conditions.

3 Q. Are you familiar with the amount of
4 excavation into the Palisades cliffs that is
5 proposed by this project?

6 A. Yes, I am.

7 MR. TUCKER: Excuse me, here, Mr.
8 Chairman. We're going well beyond the scope of
9 the very limited direct examination and I would
10 inquire as to what limitations if any we're going
11 to put on cross. I know we're not in court, but
12 do we need to have three minutes of questions
13 generate hours of cross-examination on a totally
14 different subject matter?

15 MR. MUHLSTOCK: Well, Mr. Lamb --

16 MR. LAMB: The reference to hours
17 has been five minutes but --

18 MR. MUHLSTOCK: Proffer where you're
19 going. What's your proffer where you're headed
20 with that line of questioning?

21 MR. LAMB: Well, since he is
22 pursuant to Mr. Tucker's last letter the last
23 witness to testify and no one yet has addressed
24 some of these issues and they brought him up to
25 bat clean up, I thought that any issue that was

1 not addressed in my opinion by Mr. Rodriguez,
2 this is the last chance for somebody to address
3 it.

4 MR. MUHLSTOCK: He hasn't addressed
5 it, so I'm quite confident that you're going to
6 raise that argument.

7 MR. LAMB: I have no further
8 questions.

9 MR. MUHLSTOCK: That's what we
10 wanted to hear. Thank you.

11 MR. LAMB: That's what you wanted to
12 hear.

13 MR. MUHLSTOCK: Okay. Do you have a
14 question of this witness on his testimony?

15 MS. RABIN: Yeah. Well --

16 MR. MUHLSTOCK: On his testimony.

17 MS. RABIN: Possibly.

18 MR. MUHLSTOCK: No, not possibly.
19 Either you have a question -- come on up, let's
20 go.

21 JEREMY RABIN, having been previously duly sworn
22 by the Notary Public, was examined and testified
23 as follows:

24 MS. RABIN: Do you actually
25 participate in the walks of the pipe and the

1 inspections of the pipe personally?

2 THE WITNESS: No.

3 MS. RABIN: Okay. Well, that knocks
4 out some of the questions.

5 THE WITNESS: Not the routine
6 inspections.

7 MS. RABIN: What about under special
8 circumstances such as when there's soil erosion
9 someplace?

10 THE WITNESS: Well, when the big
11 soil erosion took place I happened to be the
12 manager of this district at the time and, yes, I
13 was there for that. I walked that. I evaluated
14 and we fixed it.

15 MR. ALAMPI: Chairman, could we have
16 the witness move closer to the mike?

17 MR. MUHLSTOCK: Yes, speak into the
18 microphone, Mr. Schweitzer.

19 THE WITNESS: Again?

20 MR. MUHLSTOCK: Yes, please.

21 THE WITNESS: The soil erosion back
22 in the '90s I happened to be the district manager
23 of the Carlstadt facility, and, yes, I was out on
24 the property. I evaluated that and I was there
25 when it was fixed.

1 MS. RABIN: Okay. And also you were
2 working at Transco you testified you were working
3 there during the period of 2007 which was the
4 period where the previous witness couldn't
5 testify about which was the One Call violation.
6 Would you be able to comment about the One Call
7 violation when you were working Transco during
8 that time period?

9 THE WITNESS: If you have a
10 question, I'll try and answer it.

11 MS. RABIN: Okay, thank you. The
12 One Call violation resulted in a thousand dollar
13 fine and that took place on the Appleview
14 property; is that correct to your understanding
15 of it?

16 THE WITNESS: Yes, the violation was
17 on the Appleview property. I'm not aware of the
18 monetary amounts of the fine.

19 MS. RABIN: Okay. And this was work
20 that was being done to cut up into the slope and
21 to clear trees and it was -- the cutting took
22 place as close as 15 feet or so from the
23 easement.

24 MR. ALAMPI: I'll object. There's
25 been no foundation laid of what the violation was

1 about. The violation occurred.

2 MR. MUHLSTOCK: Okay. Overruled.

3 Do you have any -- Mr. Schweitzer, do you have
4 any knowledge of the nature, breath, the cause of
5 that violation?

6 THE WITNESS: There was a contractor
7 working on the site that we didn't find out
8 about. We belong to the New Jersey One Call and
9 any excavation activity that takes place in the
10 State of New Jersey has to be called into New
11 Jersey One Call. If it's in the vicinity of the
12 pipeline, we get the ticket.

13 So during one of our routine patrols
14 we saw activity on the property that wasn't
15 supposed to be happening there and we followed up
16 on it. And then we checked to see what the
17 activity was and we made sure that the pipeline
18 was safe.

19 MS. RABIN: Okay. This may be a
20 conflict of remembering here or something, but my
21 understanding was that members of the public saw
22 the construction, called the One Call system,
23 found out that there was no One Call, called the
24 police. The police said they couldn't do
25 anything because it was their property. We said

1 but it's a violation. We were finally able to
2 reach Transco and eventually -- and various other
3 people who were able to stop it. But at the time
4 that members of the public contacted Transco,
5 Transco said they didn't know about it, it was
6 the public that reported it.

7 THE WITNESS: Okay, I'll take your
8 version and thank you for calling in.

9 MS. RABIN: Do you remember consider
10 a One Call violation to be a serious violation?
11 Do you think that's an important thing when
12 construction -- when a contractor violates One
13 Call?

14 THE WITNESS: It's very important to
15 Transco.

16 MS. RABIN: Okay. And one of the
17 most common causes of pipeline ruptures is third
18 party and outside impact on the pipeline, isn't
19 that a very common cause of pipeline failure?

20 THE WITNESS: That is correct.

21 MS. RABIN: Okay. In this case
22 Appleview was employing somebody who did this, we
23 have never been able to get testimony about
24 whether Mr. Bertin was on site or who was on site
25 at the time this was being done --

1 MR. ALAMPI: Chairman, I'm going to
2 note an objection. The client was represented by
3 counsel, namely myself, decisions were made, it
4 was a small monetary fine. Move on.

5 MR. MUHLSTOCK: Where are you headed
6 with this? What's -- do you know what a proffer
7 is? Where are you going with this? What's your
8 point? Put on the record your point. Go ahead.

9 MS. RABIN: We have an expert here
10 who has knowledge of the one call system, the
11 importance of the One Call system and presumably
12 I don't know yet because his testimony didn't
13 cover very much of it but presumably the
14 knowledge of the work that has gone on on this
15 property and maybe some knowledge about this One
16 Call violation.

17 Now, we just had --

18 MR. MUHLSTOCK: You told you what he
19 testified -- he told you what he knows.

20 MS. RABIN: Now, we just had a
21 reference from the Applevue attorney that a
22 small fine was paid. So I'd like to ask a
23 question about that.

24 My understanding is it was \$1,000
25 fine, that's what I was told by the One Call

1 people. But --

2 MR. ALAMPI: Chairman --

3 MR. MUHLSTOCK: Objection sustained.

4 It's really irrelevant at this point.

5 MS. RABIN: Whatever the amount of
6 the fine, do you consider it a serious violation?
7 I know it's of interest to Transco but do you
8 consider --

9 MR. MUHLSTOCK: He already
10 testified --

11 MR. AHTO: He already answered it.
12 You asked it three times already. Go to the next
13 question.

14 MR. MUHLSTOCK: Next question.

15 MR. BASELICE: You did ask that.

16 MS. RABIN: He said it's important,
17 not that it's a serious violation. A yes or no,
18 is it a serious violation?

19 MR. AHTO: He answered that before.

20 MS. RABIN: What is it, yes or no?

21 MR. AHTO: Yes.

22 MS. RABIN: That's on the record.
23 He said that it's of interest.

24 MR. AHTO: Okay. Ask another
25 question.

1 MS. RABIN: Okay. If a contractor
2 were to violate One Call and that resulted in a
3 ruptured pipe with fatalities which is a common
4 occurrence --

5 MR. MUHLSTOCK: Sustained.

6 MR. ALAMPI: Now we're going to
7 speculate.

8 MR. MUHLSTOCK: That's an objection
9 that's sustained. Ask another question. We're
10 not here to speculate on items like that. Ask a
11 question --

12 MS. RABIN: What is the purpose of
13 the One Call? Why was it implemented, do you
14 know?

15 THE WITNESS: One Call is to protect
16 underground infrastructure.

17 MS. RABIN: Gas pipelines
18 specifically?

19 THE WITNESS: I wouldn't necessarily
20 say gas pipelines specifically. All underground
21 infrastructure.

22 MS. RABIN: Wasn't it implemented in
23 New Jersey after the Edison explosion which was
24 caused by digging without contacting the pipeline
25 owner?

1 THE WITNESS: Years and years before
2 that. Many, many, many years before that.
3 Probably 20 years.

4 MS. RABIN: There was a One Call
5 system in place before that?

6 THE WITNESS: Yes.

7 MR. AHTO: I believe somebody
8 testified in 1986.

9 MS. RABIN: Okay, well, I'll look
10 into that. That isn't what I've been told.

11 In the case of what was referred to
12 as a minor fine that was paid, do you think that
13 the fine is representative of the --

14 MR. MUHLSTOCK: Sustained.

15 MR. AHTO: Come on.

16 MR. MUHLSTOCK: Sustained.

17 MR. AHTO: Move on to the next
18 question.

19 MR. MUHLSTOCK: Move on to another
20 question.

21 MR. AHTO: Get off the thousand
22 dollar fine.

23 MS. RABIN: Can I just find out what
24 the reason is?

25 MR. MUHLSTOCK: Mr. Alampi says it's

1 irrelevant and I as the attorney for the board
2 agree you've already gone as far as you can go.

3 MS. RABIN: I know it's inconvenient
4 but --

5 MR. MUHLSTOCK: Do you have another
6 question? Do you have any other questions?

7 MS. RABIN: Well, the purpose of --
8 well, does Transco hire engineers or contractors
9 that have One Call violations in their record?

10 MR. ALAMPI: This is a question that
11 doesn't --

12 MS. RABIN: It's a yes or no
13 question.

14 MR. ALAMPI: It doesn't have any
15 bearing. We don't work for Transco. Applevue
16 is an independently owned property owner.

17 MR. MUHLSTOCK: There is your
18 answer.

19 MS. RABIN: I didn't ask Mr. Alampi.

20 MR. MUHLSTOCK: Overruled.

21 MR. AHTO: Do you have another
22 question?

23 MR. RABIN: Do you really want this
24 on the transcript that none of these questions
25 get any answers?

1 MR. MUHLSTOCK: Your question first
2 of all --

3 MS. RABIN: It's a yes or no
4 question.

5 MR. MUHLSTOCK: It doesn't matter if
6 it's a yes or no question if it's irrelevant, it
7 doesn't matter.

8 MS. RABIN: Well, you are going to
9 be working with Applevue who have a One Call
10 violation on their record. How is that different
11 than a contractor that would be working for
12 Transco directly?

13 MR. MUHLSTOCK: Same objection.
14 Same answer.

15 MS. RABIN: Is it a concern?

16 MR. MUHLSTOCK: Sorry. Sustained.
17 Is there another question?

18 MS. RABIN: Well, let the transcript
19 show.

20 MR. MUHLSTOCK: Okay. Mr. Alampi,
21 do you have a witness?

22 MR. ALAMPI: I do. I have, of
23 course, my own witness who we identified all
24 along would be Mr. Calisto Bertin who has been in
25 attendance for these five or six hearings. We'll

1 call Mr. Bertin.

2 MR. LAMB: Mr. Muhlstock, for the
3 record, I previously indicated I don't mind if he
4 testifies but I'd like to reserve
5 cross-examination until the next meeting.

6 MR. MUHLSTOCK: See how far we go.

7 MR. AHTO: See how far we go.

8 MR. MUHLSTOCK: You've had his
9 report, so I'm not sure why you wouldn't able to
10 cross-examine.

11 MR. LAMB: Let me answer that, Mr.
12 Muhlstock, for you. A letter that I got on July
13 9th says on "I received your July 3rd, 2012
14 letter on July 5th by facsimile transmission. I
15 have been asked by Chairman Mayo to inform you
16 that the board intends to complete the two
17 witnesses of Transco at the special meeting of
18 July 12, 2012."

19 So do I have the reports; yes. Did I
20 read them in preparation for this; no. So, Mr.
21 Muhlstock, you have my position, you do what you
22 want to do. I'm not going to get mad. You make
23 the ruling.

24 MR. MUHLSTOCK: I'm not mad at you.

25 MR. LAMB: You make the ruling.

1 MR. MUHLSTOCK: I'm not mad at you.
2 I mean, but you don't set the agenda, Mr. Lamb.

3 MR. LAMB: You set the agenda.

4 MR. MUHLSTOCK: The applicant sets
5 the order, not us.

6 MR. LAMB: Mr. Muhlstock, let me
7 tell you what I expect. It's 10:00, I don't mind
8 going to 10, I don't mean going to one, okay.
9 But this board historically has gone seven to
10 nine or even 9:30 historically. I could have bet
11 money like I did in my letter that they would get
12 through their two witnesses and that's about it.

13 Now, we're an hour passed where we
14 you usually stop and that's what I -- if you want
15 to look at *Wynn vs. Maywood Planning Board*, when
16 I was in your position and I told them to keep on
17 going, the Maywood Planning Board lost that case.

18 MR. MUHLSTOCK: Send me a copy of
19 it. I'm not familiar with it. Go ahead.

20

21

22 CALISTO BERTIN, having been duly sworn by the
23 Notary Public, was examined and testified as
24 follows:

25 MR. ALAMPI: Mr. Chairman, I ask the

1 indulgence of counsel, Mr. Lamb, and
2 Messrs. Tucker and Stevens and the board. Can we
3 waive the voir dire of Mr. Bertin who has
4 testified before this board innumerable times as
5 a civil engineer and expert in the field, can we
6 waive his voir dire?

7 MR. MUHLSTOCK: Mr. Lamb, do you
8 have any objection to Mr. Bertin's
9 qualifications?

10 MR. LAMB: As an engineer, as a
11 civil engineer, no. As a pipeline safety expert,
12 yes.

13 MR. MUHLSTOCK: Is any of his
14 testimony going to be on pipeline safety?

15 MR. ALAMPI: It will incorporate the
16 preparation of the risk identification
17 investigation. Of course that document was a
18 document --

19 MR. MUHLSTOCK: Does he give any
20 opinions in that report on pipeline safety?

21 MR. ALAMPI: I don't believe so. I
22 believe he just identifies areas of concern. He
23 doesn't make recommendations.

24 MR. MUHLSTOCK: Okay. Fine.

25 MR. ALAMPI: I also I want to note

1 for the record in an effort to trim off some of
2 the time, I believe without question Mr. Bertin
3 has indicated in his testimony direct and cross
4 he doesn't hold himself out to be a pipeline
5 safety expert. And when Mr. Lamb referenced a
6 Transco pipe risk assessment investigation, we
7 repeatedly corrected him to say it was a risk
8 identification investigation and that's not just
9 a play on words.

10 With that, on the record, we have Mr.
11 Bertin as our civil engineer and the preparer of
12 the two reports. I believe they were marked
13 previous as A-6 and A-7.

14 DIRECT EXAMINATION

15 BY MR. ALAMPI:

16 Q. Mr. Bertin, you have a copy of the
17 marked ones?

18 A. I have a copy, it's not one of the
19 marked ones.

20 MR. ALAMPI: Chairman and members,
21 what I'm referring to is you have in your package
22 a report that's referred to as a Transco Pipe
23 Transmission Line Risk Identification
24 Investigation March 23, 2011, revised March 30th,
25 2012. And you have a second report that was

1 marked at the June public meeting that is on the
2 caption of Johnson Soils and it's referenced a
3 Slope Stability Report dated June 1, 2012. This
4 was I believe marked as A-7 at the last public
5 meeting.

6 Q. Mr. Bertin --

7 MR. LAMB: Can I just make a comment
8 on the second report? I don't have the second
9 report with me because, again, I wasn't prepared
10 to address questions on it. But my recollection,
11 although I don't have it in my file, is that
12 Mr. Bertin did not sign that report, Marie Lisa
13 Greco or something like that is the person who
14 prepared it and sign it.

15 MR. ALAMPI: Here's a copy, John.

16 MS. HARTMANN: That's on the soils
17 stability.

18 MR. LAMB: Lisa Mahle-Greco.

19 MR. ALAMPI: Mahle-Greco.

20 MR. LAMB: Mahle-Greco.

21 MR. ALAMPI: It's an Italian name.

22 Q. All right. Mr. Bertin, let's turn
23 our attention to --

24 MR. ALAMPI: John, I don't have the
25 marked one on your list? Which one is marked as

1 A-6?

2 MR. LAMB: What's this?

3 MR. ALAMPI: This would have been
4 A-6 for identification.

5 I want to stand corrected, Chairman.
6 We originally marked as A-6 and then marked again
7 A-7 because the report had been updated. The
8 last update that we're dealing with is March
9 30th, 2012, that's marked as RA-7, Remand
10 Appleview 7.

11 MR. MUHLSTOCK: Right.

12 Q. Going to that report, Mr. Bertin,
13 can you bring this through your report? I don't
14 want you to read it word for word, the board can
15 read for itself. But did you in fact prepare,
16 work on this report, prepare the report and
17 author this report?

18 A. Yes, I did.

19 Q. And could you tell us what you did
20 in preparation for this report, what activity you
21 undertook and what experience you had with the
22 subject property up to that time, that is through
23 March 30th, 2012?

24 A. Well, I had obtained information on
25 the pipeline, actually the Galaxy had obtained

1 information on the pipeline which was forwarded
2 to me, and then I had in working with Transco I
3 gathered more information. And then as an
4 engineer I went through and identified various
5 activities and I categorized them as they are
6 here, you know, just an introduction of the
7 property, activities that are over the pipeline,
8 activities within 20 feet of the property of the
9 pipeline and other activities. And all -- and I
10 came up with all activities that would create
11 vibration or something like that, excavation,
12 earth moving that might impact the line and I
13 just identified all construction activities that
14 could occur that might impact the line.

15 Q. You can talk slower. You seem to be
16 accelerating your voice pattern.

17 Now, with regard to this work
18 collectively with the Appleview property, how
19 many years have you been engaged in doing civil
20 engineering, evaluating the site, visiting the
21 site, walking the site, examining features of the
22 site and preparing all sorts of engineering
23 charts and plans, how many years have you been
24 involved?

25 A. At least since 1986. 2006 on this

1 property --

2 Q. I think Mr. Spoleti might have still
3 been in Italy. No, I'm only kidding.

4 A. Yeah, 2006 at least.

5 Q. And with regard to this report,
6 prior to finalization of this report had you had
7 a contact with various engineers and technical
8 people in the Transco or Williams Gas Line
9 Company?

10 A. Yes.

11 Q. Had you maintained telephone
12 conversations, held conferences by phone,
13 exchanged information and data, exchanged
14 e-mails?

15 A. Correct.

16 Q. Over a period of four or five years
17 on and off?

18 A. On this property, yes.

19 Q. And you had seen the response to the
20 subpoena that was issued. It's a group of papers
21 that's maybe two inches thick, you've seen it
22 haven't you?

23 A. I've seen the stack, yes.

24 Q. And have you had the opportunity to
25 peruse quickly the different e-mails and such

1 just to see the length and breath of them?

2 A. Not all of them. I'm aware of some
3 of them and then this evening various documents
4 were passed around and I looked at those.

5 Q. You wouldn't be surprised if the
6 your name is involved either as the initiator of
7 correspondence or recipient of let's say more
8 than 50 percent of that correspondence?

9 A. Could be.

10 Q. And --

11 A. I think I was the main contact with
12 the gas company.

13 Q. So is it fair to say that based upon
14 the supporting information provided to you by
15 Transco throughout this period, you came to learn
16 the specifics of the pipe, the diameter, the
17 location, the depth, features of the pipe?

18 A. Yes.

19 Q. And of course during the course of
20 litigation and prior to that in the 12 or 14
21 public hearings and four or five hearings at the
22 county planning agency did you come into receipt
23 of further correspondence from PHMSA and other
24 reports obtained by the residents of the Galaxy?

25 A. Yes.

1 Q. And did you evaluate and read those
2 documents?

3 A. Yes, I did.

4 Q. Did you study them?

5 A. Yes.

6 Q. And did you come to learn with
7 specificity the details of the gas pipeline and
8 its location, its size, its function, the
9 pressure per square inch, things of that nature?

10 A. Why it operates under the pressure
11 it does, yes, I've had conversations regarding
12 all that information.

13 Q. And with regard to construction
14 within proximity of the pipeline, did you come to
15 learn about the protocol that's issued by Transco
16 and by other government agencies and/or other
17 engineering entities?

18 A. Yes.

19 Q. Have you studied those construction
20 protocols, restrictions, prohibitions and
21 recommendations?

22 A. Yes.

23 Q. How many times would you say you've
24 gone over these type of details?

25 A. Well, there's the one document that

1 has been referred to as the protocol for
2 construction activities. Although I haven't read
3 it probably in nearly a year, I have -- I read
4 that probably two or three times during the
5 preparation of this project.

6 Q. Now, you prepared a series of
7 engineering plans, site plans, excavation plans,
8 landscaping plans -- grading profiles and such
9 over the years with regard to this project that's
10 pending before the board and even an earlier
11 version of a larger building footprint; isn't
12 that correct?

13 A. Yes.

14 Q. And in regards to this particular
15 application you prepared a series of engineering
16 plans that maybe were 13 or 14 pages?

17 A. Yes.

18 Q. And in a particular page, your main
19 exhibit, what we would call the site plan
20 exhibit, did you have an opportunity to give
21 testimony about the features on that plan, the
22 analysis, the investigations and the details that
23 you prepared and illustrated on that plan?

24 A. Yes. Yes.

25 Q. And you gave that testimony at the

1 first presentation over many hearings as well as
2 at the county planning board?

3 A. Yes, I did.

4 Q. And preliminarily I don't recall --
5 you testified very briefly in the first remand
6 hearing, didn't you, about the photographs?

7 A. Yeah, I may have identified that I
8 took those photographs.

9 Q. Now, with regard to your engineering
10 site plan, I asked you to make a copy. Could you
11 put that up on the board and identify it for us?

12 Just, first Calisto, tell us the
13 sheet.

14 MR. LAMB: Mr. Alampi, is that the
15 one that you said came with the Risk
16 Identification Report?

17 MR. ALAMPI: No.

18 MR. LAMB: Is that the site plan
19 where that's --

20 MR. ALAMPI: No.

21 MR. LAMB: Or the Slope Stability
22 Study?

23 MR. ALAMPI: I don't think so. Let
24 me clarify it.

25 Q. This exhibit that I'm asking you to

1 put up, at the bottom give us your index number
2 for it, the date and the last date of revision.

3 A. It was discussed earlier today. It
4 wasn't one of the boards put up, it's our
5 grading, drainage and utility plan. It's drawing
6 C-2.3. Again it was discussed earlier.

7 Q. What was the date of it and the last
8 revision date?

9 A. The date is July 25, 2009. And the
10 last -- this happens to be an earlier version
11 that I brought.

12 Q. That's okay.

13 A. But it doesn't matter. So this is
14 an earlier version which is dated February 7,
15 2011.

16 Q. Now, this exhibit, was this marked
17 into the record during the remand hearings or was
18 this marked in at the original application
19 starting in 2010 through 2011?

20 A. It was marked in during the original
21 application and during the remand.

22 Q. Now, I want to draw your
23 attention --

24 MR. ALAMPI: Chairman, for this
25 purpose, you've seen this, the board has seen

1 this many times. We'll mark this as A -- are we
2 up to A-8 --

3 MR. MUHLSTOCK: Hold on.

4 MR. ALAMPI: -- on the remand?

5 We'll say RA I don't know if it's 8 or 9.

6 MR. LAMB: You're up to RA-10.

7 MR. ALAMPI: All right. It will be
8 RA-10.

9 MR. MUHLSTOCK: All right.

10 Q. Just put today's date, Calisto,
11 RA-10, so we don't lose it.

12 (Remand Applicant's Exhibit 10,
13 Grading, Drainage, Utility and Soil Erosion
14 Control Plan, was marked for
15 identification.)

16 Q. We now have marked this exhibit as
17 RA-10 for tonight's purposes. Could you again
18 tell us what it's called?

19 A. The title is Grading, Drainage,
20 Utility and Soil Erosion Control Plan.

21 Q. Now, would this plan have any
22 bearing on soil erosion that could occur or that
23 would be addressed or mitigated with notes and
24 details regarding elements of that as well as the
25 grade, the existing grade and then what would be

1 the finish grade if construction took place?

2 A. Yes, all of that.

3 Q. Now, I noticed that you have a lot
4 of wording on the right-hand side of the plan; is
5 that correct?

6 A. That is correct.

7 Q. What is that all about? What are
8 those?

9 A. On this plan we typically put in
10 notes regarding the utilities, water, sewer,
11 connections, coordination with architectural
12 plans, that sort of thing that have to deal with
13 utilities.

14 Q. These would be notes. Do you call
15 them field note? Do you call them advisory
16 notes? What do you call them in your world?

17 A. Well, it's called utility notes and
18 they're actually directions for the contractors
19 so when the project is built these direct him in
20 addition to what's drawn on the plan.

21 Q. Now, I know that we all know that
22 there was one version later that's March, I think
23 March 11, 2011.

24 A. Right.

25 Q. But did those notes change from this

1 version to the one that was prepared one month
2 later?

3 A. No.

4 Q. And through those noting I'd like
5 you to identify for us any of the notes that
6 pertain specifically to the access easement that
7 was proposed and/or the Transco gas line, whether
8 there was any notation on these plans?

9 A. Yes. There are no notes regarding
10 the easement on this plan.

11 Q. All right.

12 A. The easement notes are drawing C-2.2
13 which was exhibit RA it looks like an 8.

14 Q. RA-8?

15 A. RA-8. There's notes about the
16 easement on that drawing.

17 Q. Okay. Well, let's deal with this --

18 A. Right.

19 Q. -- marking. There are utility
20 notes. Are there any notes or references with
21 regard to the natural gas line?

22 A. Yes, there's an entire section, Note
23 5 under Utility Notes, Williams Natural Gas
24 Pipeline. And that's a note that's several
25 inches long.

1 Q. Now, without reading it word for
2 word, could you firstly tell us whether those
3 notes had appeared in earlier generations, this
4 of course and maybe the later generation of plans
5 and whether those notes appeared even at the
6 Hudson County Planning Board submission?

7 A. Yes, they appeared prior to the
8 approval by this board on the original
9 application or original version of this
10 application and they appeared at Hudson County.

11 Q. And could you tell us what that note
12 specifically deals with and highlight it for us?
13 Again, if everyone in the room wants us to read
14 it word for word we will but just highlight it's
15 getting late.

16 A. I'll paraphrase. 5.1, no natural
17 gas to be used on the site.

18 Q. What does that mean?

19 A. This building is not going to have
20 any gas heating system or cooking. It's all
21 going to be electric.

22 Q. Okay.

23 A. That was in response to a question
24 asked by Mr. McGrath during the review.

25 Note 5.2 discusses coordination and

1 to contact Transco. Note 5.3 says "All work
2 shall comply with, in quotes, 'requirement for
3 construction or maintenance activities' published
4 by Williams."

5 Q. All right. What does that mean?

6 A. Well, that's the document that's
7 been discussed before on construction activities
8 on or in the vicinity of natural gas pipelines.

9 Q. Is that the exhibit everyone talks
10 about that's dated or the addition that came out
11 in 2009?

12 A. I believe so, yes.

13 Q. And your note or reference
14 incorporates by reference that memorandum and
15 that protocol?

16 A. Yes.

17 Q. What is that telling everybody?

18 A. That that document is part of the
19 construction plans.

20 Q. And always was?

21 A. Well, not at the very beginning but
22 prior to approval by this board it was and so the
23 contractor not only has to follow these plans but
24 he has to follow that document.

25 Q. And anything else in that --

1 A. Yes, there's several other notes
2 about notifying Transco, contacting Transco.
3 There's a crossing within the public right-of-way
4 of the Transco pipeline and so a lot of those --
5 that information is detailed here.

6 Q. And --

7 A. I'm sorry.

8 Q. Go ahead.

9 A. Well, then in the most recent
10 version of the plan after this one that we've
11 just marked there's actually more notes, signs
12 put on the fence and monitoring stations.

13 Q. Would that be shown on what you just
14 referred to as RA-8? Were those details that you
15 just mentioned --

16 A. The monitoring stations and the
17 notes on the fence occurred on a later plan that
18 was after the planning board here approved the
19 plan.

20 Q. And where is that plan? Has it been
21 submitted to this board?

22 A. Yes, it's part of the package in the
23 remand.

24 Q. And with the remand ordered by the
25 court, did I not ask you to update all the

1 details and resubmission for the remand?

2 A. Yes.

3 Q. That would have been submitted in
4 February of 2012?

5 A. Yes.

6 Q. And that's what the board presently
7 has before it?

8 A. Correct.

9 MR. ALAMPI: Mr. Chairman, I don't
10 think we marked it separately. I think in the
11 very beginning collectively we may have marked
12 RA-1, engineering site plan.

13 MR. MUHLSTOCK: No, RA-1 through
14 RA-5 were photos.

15 MR. ALAMPI: So we have submitted to
16 the board and, John, you got a copy of it? I
17 submitted it to everybody.

18 MR. LAMB: I'm sure --

19 MR. ALAMPI: He can reserve his
20 right.

21 MR. LAMB: I'm sure I got a copy of
22 the plans.

23 MR. ALAMPI: I'm sure. We
24 circulated it to all attorneys and to the board,
25 the updated and upgraded set of plans.

1 Q. With regard, did those notes also
2 continue with regard to the construction
3 protocol, contact with Transco and cooperation
4 with Transco, notification to Transco, so on and
5 so forth?

6 A. Yes.

7 Q. You mentioned very briefly in
8 passing a comment from Mr. McGrath of Boswell
9 Engineering. Had you maintained a deliberative
10 and continuous contact with the board engineer
11 regarding comment letters and reviews and
12 recommendations throughout from 2010, 2011 and so
13 on and so forth?

14 A. Yes, every submission is reviewed by
15 the board's engineer and we respond, comply.

16 Q. And you responded to all of his
17 comments and reviews?

18 A. Every one, because if we don't,
19 he'll tell us we haven't responded and make us
20 respond. I'm trained.

21 Q. Now, with regard to this remand, I
22 also asked you to go back to the site and to
23 physically rappel the cliffs and walk up there,
24 didn't I?

25 A. Yes.

1 Q. And did you do that?

2 A. Yes.

3 Q. Did you ruin your shoes or did you
4 wear dirty shoes?

5 A. Close. And I cursed Mr. Alampi the
6 entire time I rappelled down the cliff.

7 Q. Yes, you did. In fact, didn't you
8 call me when you were up there?

9 A. Yes, I was pissed.

10 Q. And when was that?

11 A. It was the winter of this year. It
12 was before March. I'm going to say it was
13 probably in February of this year.

14 Q. And of course we had virtually no
15 snowfall, it was a mild winter, correct?

16 A. Yes.

17 Q. But I wanted you up there while the
18 vegetation had been dormant and you had a better
19 inspection of the site, correct?

20 A. Yes, that's true.

21 Q. That inspection --

22 MR. BASELICE: Can we have him go up
23 there now?

24 MR. ALAMPI: We have little donkeys
25 that take you up there.

1 MR. BASELICE: It's getting late.

2 Q. Now, with regard to that, you were
3 able to take certain photographs?

4 A. Yes.

5 Q. And behind you I see some very large
6 photographs that were marked earlier into the
7 record. Were you the party who took these
8 photographs?

9 A. Yes, I took all these photographs.

10 Q. And you enlarged the photographs,
11 you had them enlarged --

12 A. Yes, I enlarged them for this and
13 some of these photographs appear in the two
14 reports that we're discussing tonight.

15 Q. Now, put that large one up, the
16 first one. And as you said, your Transmission
17 Risk Identification Investigation incorporates
18 several of these photographs and additional
19 photographs, correct?

20 A. Yes. I'm looking at the date of
21 this exhibit which was February 7, 2012, so I
22 must have taken the pictures before that, so it
23 was probably in January.

24 Q. And, now, where would you be
25 standing to take this particular photograph?

1 A. This picture that is marked RA-4 I
2 was actually in the water treatment plant by one
3 of the clarifiers and I took this photo from
4 inside the treatment plant.

5 Q. Clarifier is one of those big round
6 tanks?

7 A. Those big round tanks.

8 Q. And by doing that you're looking to
9 the west and I would imagine that's the
10 underbelly of the Summit House?

11 A. That's correct.

12 Q. But when I call it the underbelly is
13 that because the Summit House is actually built
14 on concrete piers with steel beams and columns
15 and actually prominently over the cliff edge?

16 A. Part of the building is, yes.

17 Q. And with your hands can you show us
18 exactly where the Transco gas pipe transmission
19 line lies or with that pointer that counsel just
20 gave you?

21 A. Yes, the pipeline is marked with
22 there's yellow markers that Transco has put over
23 the top of the line, and you can see one of the
24 yellow, markers in the middle of the photograph
25 on the extreme left side. And there's a -- well,

1 you can't see it but there's another marker
2 farther up you can see on other pictures.

3 Q. Now, when I go up --

4 A. You want to point with a laser. I
5 have a laser too.

6 Q. Calisto, when I go up on Boulevard
7 East and go around that sharp curve, you can't
8 park there but you're coming around to the Summit
9 House, then you see a series of yellow poles
10 right in front of the entrance driveway and the
11 main entrance of Summit House, correct?

12 A. Right. The pipeline as I can tell
13 runs in front of the Summit House within the
14 street right-of-way and then crosses the
15 driveway, the lower driveway that goes to the
16 Summit House parking garage and then comes down
17 the hill.

18 Q. Were you here for the testimony of
19 various parties that the Summit House was built
20 after the pipe -- the gas transmission line had
21 already been installed in that location?

22 A. Yes. Yes. And I also have
23 aerial -- history of the aerial photographs and
24 the Summit House was built after the pipeline was
25 installed.

1 Q. And yet the Summit House is actually
2 cantilevered and built over the top of the gas
3 pipe, isn't it?

4 A. Yes. There's a foundation. The
5 foundation discussed extends a little --

6 Q. When we talk about foundations, we
7 talk about concrete piers, right?

8 A. A column.

9 Q. A concrete pier or column is a
10 square or rectangular concrete structure built to
11 take a tremendous amount of weight and they're
12 placed in certain locations?

13 A. Right. And it supports a beam that
14 comes out of the building and the gas line runs
15 underneath that I'm going to call it an archway,
16 so it runs underneath the structure.

17 Q. And Mr. Lamb brought out earlier
18 this evening that there was an encroachment or
19 that there was the Summit House built over the
20 property line of the Appleview property. You
21 vehemently denied it but then checked and said
22 you know what, he's wrong but he's right that the
23 pier is in maybe six inches?

24 A. Yes. Yes, I had forgotten the
25 foundation, the pier of the column does encroach

1 eight inches, seven I think over the property.

2 Q. That's an encroachment?

3 A. Yes.

4 Q. If we were to cut that off, that
5 might have an impact on the Summit House?

6 A. Yes.

7 Q. And in any event, this is on top of
8 the pipeline, though?

9 A. Yes, it is. It straddles the
10 pipeline. There's column on either side of it.

11 Q. And when you go up on top of the
12 cliffs itself up on the sidewalk where the stone
13 wall is overlooking Applevue and walk in front
14 of Summit House, how close is the foundation of
15 the building itself to those yellow markers in
16 the front of the Summit House?

17 A. It's within 20 feet of the center
18 line of the pipeline. The column that we're
19 talking about?

20 Q. No, no, no. Up on the street, when
21 you're up on Boulevard East, the facade of the
22 front where the vestibule is of Summit House, how
23 close is that?

24 A. Well, the pipeline runs under the
25 sidewalk as far as I can tell and I forgot how

1 the setback is. I didn't everybody measure it
2 but --

3 Q. Would it be closer than you and me?

4 A. Yes.

5 Q. Much closer. Wouldn't it be about
6 this far away (indicating)?

7 A. Yes, so that could be 10 feet, 12
8 feet.

9 Q. How tall is that building?

10 A. It's at least six stories, maybe
11 more.

12 Q. Maybe a lot more than that?

13 A. I can't see. I don't recall.

14 Q. You don't remember.

15 A. I don't remember.

16 Q. I remember but you don't.

17 A. Okay.

18 Q. With regard to the other photos, you
19 also had prepared these other photos. We're not
20 going to go through each one but you prepared
21 these photos that were marked that Mr. Rodriguez
22 testified from?

23 A. Yes.

24 Q. And there was discussion about a
25 fence that as a so-called barrier between the

1 property line of Appleview to the south and the
2 MUA property to the north?

3 A. That's correct.

4 Q. Is that the fence they're talking
5 about?

6 A. Yes, in RA-1 which is a photograph
7 taken from the sidewalk of River Road looking
8 west into the water treatment plant property, we
9 could see in the front is the gas marker and then
10 there is another marker further in the back.
11 This fence is on the property line between
12 Appleview and the sewerage treatment plant, so
13 the pipeline runs on the sewerage treatment plant
14 property until it gets to that marker, then it
15 heads up the hill.

16 Q. And the access easement that's
17 referred to throughout on the Appleview property
18 is from that point and 20 feet to the south,
19 correct?

20 A. Yeah, 20 feet south of this fence.

21 Q. And that would be the baseline of
22 the foundation of the proposed building?

23 A. Correct. And when Mr. Rodriguez
24 talked about recent construction at the sewerage
25 treatment plant, he was talking about the stair

1 tower that's built in blue which is supported on
2 pile foundation.

3 Q. And so that was piled, that blue,
4 steel blue stairwell, et cetera, was piled and
5 then the foundation poured on it?

6 A. Yes, that's what Mr. Rodriguez --

7 Q. How close is that to the gas pipe?

8 A. It's five feet off the right-of-way.

9 Q. And you did not bring the backhoe
10 there and excavate the MUA property to see
11 exactly where the pipe is, did you?

12 A. Not.

13 Q. How would you know based upon the
14 data given to you, the historical information,
15 your years on the site and your conversations and
16 conferences with the engineers and technical
17 people exactly where the pipe is?

18 A. Correct.

19 Q. How would you know?

20 A. Where the markers -- the markers
21 indicate the center line of the pipe.

22 Q. And if you go to River Road and go
23 out there and look at River Road and then go
24 across, does that also help you to see the
25 alignment?

1 A. If you look across the street
2 there's a lot of pipes. There's all the valves
3 and other gadgets before it crosses underneath
4 the Hudson River.

5 Q. And we can figure that that pipe
6 coming out of the ground and all those valves and
7 that weird configuration is part of this pipe,
8 right?

9 A. Absolutely.

10 Q. And with regard to the depth of the
11 pipe at this point, that is from the sidewalk on
12 the west side of River Road and going back 200
13 feet on the MUA property, you have 230 feet, what
14 is the depth of this pipe where it's placed?

15 A. The pipeline is about 10 feet
16 deep -- it's all spelled out in the report and I
17 don't have a great memory so I don't remember all
18 the exact --

19 Q. I like your answer 10 feet --

20 A. About 10 feet deep, maybe deeper at
21 River Road and then it rises up to about seven
22 feet deep in the back by the --

23 Q. Right. But the pipe is not exactly
24 flat, it's on a pitch somewhere?

25 A. Yes, and then it's going to rise and

1 be steeper as it goes up the hill.

2 Q. And they the pipe itself, is it
3 encased in anything or is it just laying there
4 with dirt on it?

5 A. Well, the pipeline here is by --
6 where it's underground, under soil, it's the
7 pipe, it's coated. They talked about
8 cathartically protecting it and all that stuff,
9 they mean Transco. As it crosses underneath the
10 roadway, it's my understanding it's encased in
11 another pipe.

12 Q. Then it goes on through and under
13 the Hudson River, correct?

14 A. Yes, to New York City.

15 Q. And across the street from the
16 subject property, have you observed any recent
17 activity directly across the street where the
18 pipeline goes to the Hudson River?

19 A. Well, there was the construction of
20 the condominiums across the street, if that's --

21 Q. Do you recall any other construction
22 perhaps like a park being built?

23 A. Well, I know a park is going to be
24 built. I don't know if it's started yet but a
25 park is going to be built.

1 Q. Have you seen any activity on that
2 site?

3 A. I haven't been there. I haven't
4 looked.

5 Q. All right. We'll move on. You
6 haven't observed it?

7 A. I have not observed it.

8 Q. In any regard with all this
9 information provided to you from all these
10 sources, are you able to explain to us the
11 elevation of the footings for the foundation of
12 the proposed building at Applevue in relation to
13 the elevation of the gas pipeline in this
14 particular area, in this 200 and so feet, that is
15 what I call the front of the property?

16 A. Yes. On the drawings that were part
17 of the set that came before the board originally
18 and then the remand there are cross-sections.

19 Q. Well, look, I'm not going to waste
20 time. There was a remand hearing here for five
21 years. Were you here at all these meetings?

22 A. I missed one.

23 Q. And did you listen to Mr.
24 Rodriguez's testimony?

25 A. Yes.

1 Q. And did you listen to his testimony
2 regarding the pipe and its depth and the footings
3 proposed on your plans and its depth and the --

4 A. Yes.

5 Q. -- relationship of one to the other?

6 A. Yes, the footings are at a higher
7 elevation than the pipe --

8 Q. Why was that important to Mr.
9 Rodriguez?

10 A. He wanted to evaluate whether the
11 construction of the footings could undermine the
12 pipe and cause the soil that supports the pipe
13 and keeps it in place from falling away from the
14 pipe.

15 Q. Now, you remember Mr. Lamb and his
16 searing cross-examination brought up some letters
17 from 2007 and such --

18 A. Yes.

19 Q. -- where Transco had raised some
20 concerns about the lateral support and such --

21 A. Yes.

22 Q. -- along that area of the pipeline.
23 How has that been addressed?

24 A. That was for a different building.
25 The building was deeper and excavated further

1 into the cliff side and it came closer to the
2 natural gas line and at that point within 20 feet
3 or so or 23 feet away from the gas line and the
4 footing was much deeper than the gas line --

5 Q. When you say deeper, the footing was
6 going down to a lower elevation, correct?

7 A. Ann the gas line was going up the
8 hill.

9 Q. And the question is, if you go below
10 the level of the pipeline, the lateral support is
11 a concern?

12 A. Yes.

13 Q. It's no longer a concern?

14 A. Correct, because the building
15 doesn't go that far into the cliff.

16 Q. Now, let's not go back into history.
17 Now, we have your identification investigation
18 report last revised March 30th, 2012?

19 A. Correct.

20 Q. Can you bring us briefly through
21 without repeating the answers to the many
22 questions I gave you, briefly through this report
23 and highlight the features of your report with
24 these same concerns, that is the relationship of
25 the construction as it may impact the pipe or not

1 impact it identifying the -- it's called a risk
2 identification?

3 A. Right.

4 Q. And just outline it for us.

5 A. Okay. The first two sections go
6 through background, what the existing site is,
7 what's proposed --

8 Q. You can skip that, we know all about
9 it.

10 A. Okay. And then we get into page 4
11 where we look at the existing terrain and the
12 important part of that is that the terrain where
13 the gas line travels -- well, has been cleared.
14 Mr. Rodriguez went into a long discussion about
15 that. There were photos how the area where the
16 gas line is clear. It's been stabilized. We
17 talked about geo web and slope stability --

18 Q. You went a little too fast. That
19 where you're putting your hand, you went up there
20 physically?

21 A. Oh, I walked it, yes.

22 Q. You saw this geo web?

23 A. Yes.

24 Q. And such. It's a system that's
25 implanted into the ground to prevent erosion or

1 to tighten up the soil?

2 A. Correct.

3 Q. And does that photograph show it in
4 any way?

5 A. Yes, I do have a photograph that
6 shows the geo web.

7 Q. And was that marked?

8 A. It's in the report.

9 Q. Okay.

10 A. But I'm showing -- I'm picking up
11 RA-3 which looks down from the driveway of the
12 Summit House and you can see the markers and
13 except for a couple of trees that are outside the
14 right-of-way, there are no rocks there.

15 Q. You heard the question by one of the
16 objectors about trees and tree roots and such?

17 A. Right.

18 Q. But in reality even though it's a
19 heavily wooded tract of land, there are no trees
20 in the right-of-way, diagonal right-of-way where
21 the gas line is?

22 A. It's my understanding that if trees
23 were to grow when they're saplings they would
24 have most likely cut the saplings so they
25 wouldn't develop into full blown trees. You can

1 see there's a flag right between these two trees.
2 There's a couple of flags that identify the
3 pipeline location.

4 Q. And this geo web system and such,
5 that was in the area where a water main had
6 broken from Summit House and caused some washout?

7 A. Yes.

8 Q. That was some almost 20 years ago?

9 A. Yes. And I'm looking at RA-2. I'm
10 going to -- just really the area for where those
11 two trees are mentioned are shown up the hill.

12 Q. And there is no way you can get a
13 bulldozer up there or something to plow back the
14 soil in that terrain, is there?

15 A. Not right now. That's the purpose
16 of giving the easement so if Williams had to
17 maintain their line, they could have access to
18 it. Right now they don't have access to it.

19 Q. And most of this work would have
20 been done by men by hand operation and light
21 equipment?

22 A. It's my understanding that all the
23 work was done from the driveway at the top
24 because they didn't have access through the
25 bottom.

1 Q. And it would be better for everyone
2 that they have access to their pipe?

3 A. Yes.

4 Q. Not just for Transco, it would be
5 better for everyone in the world, wouldn't it?

6 A. Yes, because there's a sewer main up
7 there as well.

8 Now, I bring this up, I talk about
9 the topographic conditions because I was
10 concerned are there any rock outcrops that could
11 --

12 Q. Now why is that important to you?
13 You put that in your report about visualizing or
14 observing rock outcropping. Why is that --

15 MR. LAMB: Which report are you
16 referring to, Mr. Alampi?

17 MR. ALAMPI: Well, I didn't get to
18 the other one yet, to the identification --

19 THE WITNESS: The risk
20 identification.

21 A. And I also had to provide that as a
22 foundation for Mr. Rodriguez. But the point was
23 to show that there is no Palisades cliff with
24 steep slopes and rocks that could fall on the
25 right-of-way where the gas line is. And the

1 point was if the during construction we were to
2 somehow destabilize rocks, that rocks from the
3 cliff or the Palisades would not be falling on
4 the right-of-way. And that was the purpose of my
5 photographing and showing these photographs --

6 Q. So the absence of the outcropping
7 shows that it's mostly soil, vegetation,
8 plantings and such that go to a certain depth.
9 It doesn't appear that there would be the element
10 of the -- what do you call it, diabase? Is that
11 what you could call it?

12 A. Right, the diabase, the Palisades.
13 So that was to discuss the surface conditions and
14 then actually that's several pages.

15 Q. In the identification report?

16 A. Yes, it goes all the way through
17 page 6.

18 Q. Okay. And then moving beyond that
19 with the same photographs and observations and
20 again, this report is based upon and enumerates
21 your observations as a civil engineer physically
22 on the site and evaluating or relating your
23 observations. You're not getting into the safety
24 features of the operation of the gas pipe, are
25 you?

1 A. No. And there was an e-mail that
2 passed around before when I said it's my feeble
3 attempt, that was a little bit of humor on my
4 part.

5 Q. Nobody was laughing.

6 A. I was the one who said I can't
7 identify risk -- I mean I can't assist risk, all
8 I can do is identify it.

9 MR. MUHLSTOCK: Mr. Alampi, how much
10 longer do you think you're going to be? It's
11 10:30.

12 MR. ALAMPI: Honestly, Mr.
13 Muhlstock, I'm not going to get to these
14 stability study for another five or ten minutes
15 and then that's a little bit of time. Why don't
16 I just conclude on this exhibit. Why don't I
17 finish that report we'll pick up this report at
18 the next go-around.

19 MR. MUHLSTOCK: Fine.

20 MR. ALAMPI: And get right into it.
21 And I'll be finished with Mr. Bertin within maybe
22 25 minutes at the next meeting or less.

23 MR. MUHLSTOCK: Okay.

24 MR. ALAMPI: And we have a special
25 meeting. I think it will be productive.

1 A. Then I go through all the different
2 types of construction activities that would
3 occur, excavating foundation, excavating for that
4 storm drain that's in the proposed easement.
5 Actually erecting the building.

6 Q. Pages 8 through 10 or page 8 goes
7 through the various activities?

8 A. Yes. Yes, and I started with
9 activities that are directly over the pipeline
10 and the only activity directly over the pipeline
11 is the installation of a storm -- I mean a
12 sanitary sewer lateral that goes --

13 Q. Let's talk about this. You're going
14 to have sewerage for these people that live
15 there, right?

16 A. Yes.

17 Q. And you're not going to send it out
18 to the Hudson River, you're going to send it to
19 the MUA right?

20 A. Yes.

21 Q. So that means you've got to go from
22 south to north to the MUA?

23 A. Yes.

24 Q. Where are you doing that?

25 A. We cross in the area of the sidewalk

1 along River Road to a manhole in front of the
2 MUA.

3 Q. Is the pipe encased at that point?

4 A. Yes, I'm told that the gas main is
5 encased.

6 Q. And so you'd go over the top of it?

7 A. And based on the information we were
8 provided by Transco and the depths --

9 Q. With your hands show me how big the
10 sanitary pipe is going to be? I didn't mean to
11 suggest it to you because I did this but that's
12 what I'm doing?

13 A. It's eight inches.

14 Q. Something like that (indicating)?

15 A. That's eight inches (indicating).

16 And the gas line is 36 inches and there's at
17 least two and a half feet between the two, and
18 there's notes on the plans Transco excavate by
19 hand, that sort of stuff.

20 Q. Right.

21 A. I mean notify Transco, they have to
22 be there during the excavation.

23 Q. Right. And of course there are
24 other elements, Mr. Lamb had asked Mr. Rodriguez
25 this evening about items that are in the 20-foot

1 access easement area and you concur. On your
2 report page 8 shows the items you would expect.
3 For example, you refer to the sanitary sewer just
4 now. How about the storm sewer?

5 A. And there's a storm drain that goes
6 in that area. And I also identified the fact
7 that there will be equipment. When they go to
8 build the building there is going to be forklifts
9 and other types of vehicles, scaffolding and that
10 sort of stuff in that 20-foot easement area.

11 Q. Now this building after the footings
12 and foundation are installed, et cetera,
13 et cetera, when you get to the first level
14 there's going to be what we call stick
15 construction, wood construction?

16 A. Yes.

17 Q. And then they'll put a veneer of
18 masonry or whatever?

19 A. Yes, but you need scaffolding for
20 the siding for the windows, all that type of
21 thing.

22 Q. So you don't expect to bring one of
23 these cranes like you see in Manhattan that have
24 to go up 80 stories, do you?

25 A. No, no. It will be a forklift

1 tractor.

2 Q. But there will be some construction
3 equipment?

4 A. Correct.

5 Q. And we anticipate in the future for
6 the benefit of Guttenberg, North Bergen, Transco,
7 whatever to get up to the sewer easement and such
8 that they may bring equipment up there to do
9 repair work and such?

10 A. If they have to, they can bring some
11 type of excavation equipment up --

12 Q. You expect that, right?

13 A. Well, we don't expect it. One day
14 it might happen.

15 Q. Are you geared for it?

16 A. We are geared for it, that would be
17 a better.

18 Q. That was discussion about a
19 retaining wall. I think there was discussion
20 about the swale and retaining wall. Now, how
21 large of a retaining wall are we talking about?

22 A. A foot to two three, three feet at
23 the most is what we anticipate based on the
24 grades.

25 Q. Is it going to require a footing?

1 A. No. It's a landscape wall.

2 Q. When you say landscape wall, that's
3 a decorative wall?

4 A. Yes, but it doesn't have to be an
5 engineered wall.

6 Q. Is it going to support a hold back
7 the Palisades?

8 A. No.

9 Q. What's it going to do?

10 A. It's just going to -- we are
11 creating a more gentle slope in the northwest
12 corner of the property and in order to make that
13 a more gentle slope we had to put in a little
14 retaining wall. We can avoid the retaining wall
15 all together --

16 Q. Let me ask you something. Does that
17 do anything to impede or restrict erosion?

18 A. Well, that's why we have a more
19 gentle slope, yes, so there would be less chance
20 of erosion.

21 Q. So less erosion is a good thing,
22 right?

23 A. Correct.

24 Q. Now, is that more or less the extent
25 of what will be in the 20-foot right-of-way under

1 the ground and --

2 A. And on the ground.

3 Q. And by the way of landscaping
4 feature?

5 A. Yes.

6 Q. Does that comport with the
7 recommendations from Williams with regard to
8 restricting building in that area and such, does
9 that comply?

10 A. Yes. Yes, because it's outside of
11 their right-of-way. But then, again, we talk
12 about monitoring vibrations.

13 Q. And then in here you -- to identify
14 another area that might be an element of risk,
15 piling would be an issue, right?

16 A. Yes.

17 Q. Now, you've testified repeatedly and
18 specifically at the county planning board you've
19 agreed on behalf of the applicant in writing to a
20 particular system of piling?

21 A. Correct.

22 Q. Tell us what we've agreed to in your
23 sworn testimony and in writing to the county
24 planning board and what you have related here?

25 A. Yes. In the report we mentioned two

1 types of piling but we've agreed to one type of
2 piling which is an auger pressure grouted pile.
3 So rather than --

4 Q. Don't get technical. What do you do
5 with that? How do you install such piling?

6 A. It's actually drilled into the
7 ground. It's got a hollow tube in the center and
8 after it's drilled to the depth we want it to be
9 drilled to, then they pump cement, concrete
10 through it and then there's holes --

11 Q. So instead of ramming it with one of
12 those big machines, you screw it in and you fill
13 it in?

14 A. Right. There's really no vibration
15 at all associated with that.

16 Q. Is that a superior plan with regard
17 to vibration concerns and such?

18 A. Yes.

19 Q. Is it a safer plan?

20 A. You could consider it safer.

21 Q. Well, I'll ask you. I don't
22 consider anything. What do you consider, does it
23 create less vibration?

24 A. It creates less vibration. This is
25 the type of thing you'd use in an building -- I'm

1 sorry.

2 Q. Go ahead.

3 A. No, no, no. You would use this --
4 this type of work you use next to like historic
5 buildings like you're worried about damaging a
6 building, an old church where there's glass and
7 stone construction, this is the type of piling
8 you would use. So there would create no
9 vibrations.

10 Q. Although you haven't made
11 observations of the work across the street, did
12 you not contact various engineers and architects
13 that are doing work across the street as to
14 whether they're going to have the same system of
15 piling?

16 A. It's my impression that they were
17 driving piles based on the plans I could obtain.

18 Q. Would you be surprised that they've
19 already consulted with Transco?

20 A. No, I've heard that actually they
21 were provided this document.

22 Q. Weren't they provided your protocol
23 on the installation of piling through Transco?

24 A. Through Transco said, here, why
25 don't you follow this plan.

1 Q. And hasn't Transco insisted that
2 they use that plan?

3 A. I don't know if they insisted.

4 Q. Aren't you proud that they're using
5 your plan?

6 MR. AHTO: All right. Mr. Chairman
7 we're going to take an break. We're going to let
8 him make his final comment and go through this
9 report at the next meeting.

10 THE WITNESS: And one other thing
11 that was addressed. This report also talks about
12 compaction, because the Johnson Soils report
13 talked about vibratory compaction. In the
14 activities outside of 20 feet we talk about
15 compacting the foundation and the soils.

16 Q. Okay.

17 A. So it was addressed.

18 Q. Thank you.

19 MR. AHTO: Okay, we're going to
20 carry this meeting over to July 26th, 2012 and
21 there will be no notice.

22 MR. ALAMPI: Chairman, I understand
23 that with Mr. Bertin he'll be subject to
24 cross-examination but I don't have a problem,
25 Mr. Lamb, you know, will have the opportunity but

1 I believe that his consulting expert from
2 California or from Washington --

3 MR. LAMB: Oregon.

4 MR. ALAMPI: Will he be here the
5 26th?

6 MR. LAMB: I'm not going to bring
7 him here until you're done.

8 MR. ALAMPI: Well, okay, I was going
9 to say if he's going to go through the expense
10 and time I'd extend him the courtesy to let that
11 witness -- I would imagine it's his call.

12 MR. LAMB: I can't bring any
13 pipeline safety expert in until Mr. Alampi is
14 done.

15 MR. MUHLSTOCK: I'm not so sure I
16 agree with that.

17 MR. ALAMPI: I'm not going to argue.
18 I don't agree but it's Mr. Lamb's prerogative.

19 MR. LAMB: And to save me the
20 trouble of writing a letter, Mr. Muhlstock, I
21 would just like to ask Mr. Alampi when he goes
22 and provides information and testimony on the
23 soil report from the geotechnical expert is he
24 proposing to have her testify or is he going to
25 just have Mr. Bertin testify?

1 MR. ALAMPI: I think Bertin
2 participated and he's qualified, but I know that
3 there's going to be an objection because Mr. Lamb
4 indicated his belief that Bertin is not
5 qualified. So there is no gamesmanship or
6 surprise here, I'll probably drag Lisa
7 Mahle-Greco here and not make an issue for
8 litigation.

9 MR. MUHLSTOCK: Fine.

10 MR. LAMB: And that's why I'm asking
11 him to do it, so we can avoid --

12 MR. ALAMPI: I'll do it.

13 MR. MUHLSTOCK: But Mr. Lamb when we
14 get to the point when you finish your
15 cross-examination which we hope you will within a
16 reasonable time on the 26th --

17 MR. LAMB: No, it sounds to me based
18 upon what's going to happen that he will finish
19 his witness, the other witness and at least I
20 will finish cross-examination.

21 MR. ALAMPI: And I may just bring
22 Lisa Mahle-Greco. I'm finished with him so if
23 we're going to go to the Johnson --

24 MR. LAMB: Then when am I going to
25 cross-examine Mr. Bertin?

1 MR. ALAMPI: No, you can
2 cross-examine him.

3 MR. LAMB: So my feeling is all of
4 that is one meeting in my opinion.

5 MR. MUHLSTOCK: We'll see where we
6 are.

7 Mr. Tucker.

8 MR. TUCKER: Just to be clear,
9 Transco understanding is they have completed
10 their testimony. If Mr. Stevens or I come back,
11 it will not be with witnesses.

12 MR. MUHLSTOCK: Absolutely.

13 MR. TUCKER: Thank you.

14 MR. MUHLSTOCK: Okay.

15 MR. FERNANDEZ: I make a motion to
16 adjourn.

17 MR. BASELICE: Second.

18 MR. AHTO: All in favor.

19 (Chorus of ayes.)

20 MR. AHTO: Opposed?

21 (No response.)

22 THE CHAIRMAN: The meeting stands
23 adjourned.

24 (Time noted 10:44 p.m.)
25

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CERTIFICATE

I, CELESTE A. GALBO, a Certified
Court Reporter and Notary Public within and for
the State of New Jersey do hereby certify:

That all the witnesses whose
testimony is hereinbefore 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 whereof, I have hereunto
set my hand this 24th day of July 2012.

CELESTE A. GALBO, CCR, RPR, RMR
License No. 30X100098800