

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 26, 2012
7:05 p.m.

B E F O R E:

THE NORTH BERGEN PLANNING BOARD

PRESENT:

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

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

Geraldine Baker, Board Clerk
Grace Lynch, P.P., Board Planner
Derek McGrath, P.E., Board Engineer

Reported by:

CELESTE A. GALBO, CCR, RPR, RMR

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

ALAMPI & DeMARRAIS
Attorneys for the Applicant
1 University Plaza
Hackensack, New Jersey 07601
BY: CARMINE R. ALAMPI, ESQ.

BEATTIE & PADAVANO, LLC
Attorneys for Objectors Galaxy Towers
Condominium Association, Inc.
50 Chestnut Ridge Road
Montvale, New Jersey
BY: JOHN J. LAMB, ESQ.
DANIEL STEINHAGEN, ESQ.

MARIA GESUALDI, ESQ.
Attorney for Objector Township of
Guttenberg
6806 Bergenline Avenue
Guttenberg, New Jersey 07093

WATSON, STEVENS, RUTTER & ROY, LLP
Attorneys for Transcontinental Gas
Pipeline Company, LLC
3 Paragon Way, Suite 300
Freehold, New Jersey 07728
BY: (NO APPEARANCE)

1
2 THE CHAIRMAN: Pursuant to the Open
3 Public Meetings Act, please be advised that
4 notice of this meeting was faxed to the *Journal*
5 *Dispatch* and *Bergen Record* on July 2, 2012
6 advising that the North Bergen Planning Board
7 will hold a special meeting on July 26, 2012 at 7
8 p.m. in the chambers of the municipal building
9 located at 4233 Kennedy Boulevard, North Bergen,
10 New Jersey 07047.

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

16 Gerry, please call the roll.

17 (Whereupon roll call is taken and
18 members Steven Somick and Manuel Fernandez are
19 absent.)

20 THE CHAIRMAN: Okay. Case No. 4-10,
21 Appleview.

22 MR. ALAMPI: Chairman, Carmine
23 Alampi, A-L-A-M-P-I, attorney --

24 MR. MUHLSTOCK: Mr. Alampi, before
25 you start, just let me note for the record, Mr.

1 Chairman, that you executed the certification
2 that you read the transcript of the June 7, 2012
3 meeting.

4 THE CHAIRMAN: That's correct.

5 MR. MUHLSTOCK: And that at that
6 point up, to that point through June now all the
7 members have read all of the transcripts or been
8 here in person.

9 With respect to last month's meeting
10 of July 12, 2012 we didn't get the transcript
11 until two or three days ago, so I didn't prepare
12 the certifications yet for the members that were
13 absent on that date which would be yourself --
14 Mr. Somick, Ms. Bartoli and Mr. Locricchio, which
15 I will do prior to the next meeting. So let's --

16 THE CHAIRMAN: I have also read that
17 transcript.

18 MR. MUHLSTOCK: Okay.

19 THE CHAIRMAN: Now, Mr. Alampi.

20 MR. ALAMPI: Thank you. As your
21 counsel indicated, we've been ordering the
22 transcripts, the verbatim transcripts for
23 circulation. Since the last meeting there's been
24 a flurry of correspondence amongst the attorneys
25 including the board attorney. Everyone is

1 staking out their position. I think that it's
2 fair to say we all feel very strongly and
3 passionately about our client's rights to pursue
4 and develop witnesses and cross-examine witnesses
5 and introduce evidence. We have some
6 disagreements amongst the ourselves as to where
7 we're going but, quite simply, we're here on a
8 continuing basis for a remand from the Superior
9 Court. The question of the scope of the remand I
10 guess can be debated to a degree.

11 Nonetheless, I had intended to call
12 Calisto Bertin to continue direct testimony and I
13 also had notified the board and counsel that I
14 might call Ms. Lisa Mahle-Greco. I've determined
15 to not continue any further direct testimony of
16 Mr. Bertin. We could go right to his
17 cross-examination and then I will call Ms.
18 Mahle-Greco. She is the actual author of this
19 stability study and since counsel for Galaxy
20 raised a question as to the appropriate witness,
21 rather than jerk around with this, she'll be here
22 tonight. She is here tonight. So I propose to
23 cross-examine those two, Calisto Bertin, go back
24 to direct testimony with Lisa Mahle-Greco,
25 cross-examination.

1 I did have a conference with the
2 attorneys from Transco and I see a letter was
3 sent to Mr. Muhlstock regarding the decision to
4 continue the testimony of this gentleman, Dan
5 Schweitzer, who testified briefly at the last
6 meeting. I certainly don't think that will
7 happen tonight and that will continue.

8 Mr. Lamb contacted me, asked that I
9 would provide access through my client to the
10 Appleview property for his geotechnical
11 consultant. At a earlier time I had indicated we
12 would cooperate. He only provided me with the
13 formal request by e-mail late afternoon, I didn't
14 see it until this morning, but I'm happy to tell
15 you that we opened the gates and had Mr. Spoletti
16 Junior escorted the witness so that he could
17 evaluate the property. I'm not sure, he's here
18 in the audience tonight, Mr. Lamb will speak to
19 him, but if he wants to go forward with his
20 geotechnical find if he's not ready he'll do it
21 at the next meeting but I just want to report to
22 the board that we continue to argue at the podium
23 but we also continue to provide every courtesy to
24 each other and extend the opportunity to inspect
25 the property because after all, we want a full

1 and complete presentation.

2 Lastly, Mr. -- Mr. Lamb I forgot
3 your name -- Mr. Lamb who I only know 35 years
4 has indicated that he wants to present certain
5 witnesses and expert reports. I objected to this
6 at the last meeting. We're talking specifically
7 about an appraiser, having the appraiser testify,
8 an appraiser will be brought which of course was
9 presented to me today and I object. Mr. Lamb
10 indicated if I wasn't prepared we could care it.
11 I don't need that, that I'm not prepared. I
12 objected to it in its entirety. It shouldn't
13 come into the case, it's beyond the scope of the
14 proceedings. Perhaps we just want to deal with
15 that issue and then I'd like to get on to
16 business or we go right to the witnesses.

17 MR. MUHLSTOCK: I would suggest, Mr.
18 Chairman, I would suggest we go straight to
19 cross-examination, Mr. Bertin. Let's handle all
20 the procedural aspects later on. Let's finish
21 witnesses.

22 THE CHAIRMAN: All right.

23 MR. ALAMPI: Fine. I'm finished
24 with Mr. Bertin and Mr. Lamb can commence his
25 cross-examination.

1 THE CHAIRMAN: Mr. Lamb.

2 MR. LAMB: Thank you, and I was
3 going to say that Mr. Alampi and I do agree that
4 I'm prepared to complete the cross-examination of
5 Mr. Bertin and the cross-examination of his
6 geotechnical expert.

7 GRACE LYNCH, having been duly sworn by the Notary
8 Public, was examined and testified as follows:

9 DEREK McGRATH, having been duly sworn by the
10 Notary Public, was examined and testified as
11 follows:

12 CALISTO BERTIN, having been duly sworn by the
13 Notary Public, was examined and testified as
14 follows:

15 CROSS-EXAMINATION

16 BY MR. LAMB:

17 Q. Good evening, Mr. Bertin.

18 A. Good evening.

19 Q. Mr. Bertin, you previously prepared
20 the Risk Identification Report dated March 23,
21 2011?

22 A. Correct.

23 Q. And since that time, again, I ask
24 this but I know when you testified, you agree
25 that you're not a pipeline safety expert?

1 A. Correct.

2 Q. You didn't get qualified in between
3 the last time you testified --

4 A. I have enough to do.

5 Q. Okay. New, you're aware of the
6 e-mail, there was an e-mail that was sent I
7 believe you were here at the last hearing, an
8 e-mail that you sent to Mr. Rodriguez dated March
9 18, 2011 where you agreed that you're not
10 qualified to make a risk assessment report?

11 A. Yeah, I offered that.

12 Q. And is it also fair to say that your
13 initial report -- because, again, there's two
14 reports we're going to talk about -- the first
15 report is the original report, March 23, 2011,
16 and the second one is the revised report which
17 you just testified to at the last hearing, March
18 30th, 2012?

19 A. Correct.

20 Q. Do you agree that in what I'll call
21 the first report, that there was no indication in
22 that report in talking about risk identifications
23 of surface problems, landslides, anything of that
24 nature?

25 A. Correct.

1 Q. Okay. Do you also agree that there
2 is no discussion in the second report, the most
3 recent one, of that issue, although maybe Johnson
4 Soils is going to address it, but in that report
5 there is no reference?

6 A. Well, I made reference and that's
7 why it was expanded, to discuss construction
8 activities that might disturb rocks that could
9 fall on to the easement. So there is a
10 discussion not about soil slope stability but
11 about the rocks and the rock face.

12 Q. And I should have made -- soil slope
13 stability is what my question was. You did
14 address the debris and loose trees and rocks and
15 things?

16 A. Yes.

17 Q. But other than soil stability --

18 A. Correct.

19 MR. LAMB: We left off at G-26 so
20 we're at G-27?

21 MR. MUHLSTOCK: No, the last exhibit
22 was G-27. You're -- so this will be G-28.

23 MR. LAMB: Okay.

24 Q. Mr. Bertin, I'm going to show you
25 what's been marked as G-28. Let me just mark it.

Bertin - cross

1 (Galaxy Exhibit 28, copy of Calisto
2 Bertin's report last revised March 30th,
3 2012, was marked for identification.)

4 MR. LAMB: G-28, and I'll mark it
5 7/26/12 with my initials. I'll give the original
6 to Gerry and then if you can pass these down.

7 Q. I'm just going to make a
8 representation, Mr. Bertin, that this is a copy
9 of your report last revised March 30th, 2012 but
10 the only thing that has been added is underlined
11 provisions which show what was added or changed
12 compared to this report as compared to the March
13 23, 2011 report?

14 MR. ALAMPI: Chairman, let's just
15 the question some qualification here. This,
16 Mr. Lamb, is a photocopy of Mr. Bertin's report
17 marked at the last meeting with certain markings
18 on it?

19 MR. LAMB: Correct.

20 MR. ALAMPI: Markings prepared by
21 Mr. Bertin or --

22 MR. LAMB: No, markings prepared by
23 our office to show what the differences are in
24 this report compared to the earlier report.

25 MR. ALAMPI: Who prepared these

1 reports?

2 MR. LAMB: My associate prepared the
3 two exhibits by comparing them to see what was
4 changed from the first report.

5 MR. ALAMPI: So it was an attorney
6 that prepared the markings?

7 MR. LAMB: Yes, right.

8 MR. ALAMPI: I'd just like to raise
9 an objection for procedural purposes. I'm not
10 going to interfere with Mr. Lamb's ability to
11 question, but the qualification of an attorney to
12 mark up an engineering report and make
13 references, he'll explain his purpose, just note
14 my objection. I don't know it's competent
15 evidence.

16 THE CHAIRMAN: And I have a
17 question, Mr. Lamb.

18 MR. LAMB: Sure.

19 THE CHAIRMAN: You said the
20 underlined parts are the parts that changed?

21 MR. LAMB: In other words, the
22 underlined portions are the portions that were
23 added to the original report.

24 THE CHAIRMAN: So these are complete
25 additions or they're changes?

1 MR. LAMB: Yes, anything that's
2 underlined is complete additions. When there's
3 reworking of the language slightly but it was
4 still the same we put a notation slight reworking
5 of the language.

6 THE CHAIRMAN: Okay.

7 MR. LAMB: So anything that's
8 underlined is basically the original report and
9 that was added to it.

10 MR. ALAMPI: When we say original
11 report, we're talking about from March 23, 2011?

12 MR. LAMB: Correct. And --

13 MR. ALAMPI: Okay. All right.

14 MR. LAMB: I have a few questions on
15 this. But if Mr. Alampi finds that we mismarked
16 something, I have no problem with him making an
17 objection at a later date.

18 Q. Can you take a look at that quickly,
19 Mr. Bertin to --

20 A. I have.

21 Q. Does it appear just by a very quick
22 review that the underlined portions are items
23 that were not in the original report?

24 MR. MUHLSTOCK: I don't think that's
25 a fair question to ask. I don't think that's a

1 fair question. You just handed to it to him.

2 It's a 12 page document. I mean --

3 MR. LAMB: Okay, then I'm going to
4 ask --

5 MR. MUHLSTOCK: He'd have to sit
6 down and read it for a half hour. I don't think
7 that's a fair question.

8 MR. LAMB: Okay.

9 Q. Mr. Bertin, how long was your
10 original report? Is it fair to say it's three
11 and a half pages?

12 A. Oh, I don't recall. I don't have
13 the original report, I just have the second
14 report. I will concede that the second report
15 was longer than the first one because I added
16 more information.

17 Q. I'm going to show you a report dated
18 March 23, 2011. Is that the first report, Mr.
19 Bertin?

20 A. Yes.

21 MR. LAMB: That's the only one I
22 have, Mr. Alampi.

23 MR. ALAMPI: Was this marked into
24 the case record before?

25 MR. LAMB: Yes, I believe so.

1 MR. ALAMPI: John, at the underlying
2 last --

3 MR. LAMB: No, it was not in the
4 underlying application.

5 MR. ALAMPI: Then we need
6 clarification.

7 MR. LAMB: I'm going to ask that
8 precise question.

9 MR. ALAMPI: We'll get it out. The
10 document in my hands is from March 23, 2011. It
11 was not presented to this board during the course
12 of the underlying application which was appealed
13 in the Superior Court and remanded here. It
14 appeared at the Hudson County Planning Board
15 proceedings in the fall of 2011.

16 Mr. Lamb can ask but obviously when
17 we mark in this Risk Identification Report, we
18 showed the original date of the report and then
19 it says the revised date. So that would mean
20 anyone would understand that this is not the
21 original report.

22 MR. MUHLSTOCK: Okay. Let's mark
23 since it wasn't part of our record, let's mark
24 the March 23, 2011 report as G-29.

25 MR. LAMB: Mr. Muhlstock, I don't

1 want the interrupt you but it's already marked as
2 G-3 in these proceedings.

3 MR. MUHLSTOCK: Okay. That was G-3?

4 MR. LAMB: Yes.

5 MR. MUHLSTOCK: Okay. Because I
6 didn't have which report. Okay, G-3 was
7 previously marked as Bertin Risk Identification
8 Mitigation Report dated -- so that was dated
9 3/23/11 is what you're saying?

10 MR. LAMB: Correct.

11 MR. MUHLSTOCK: So it is part of the
12 remand record?

13 MR. LAMB: Correct.

14 MR. MUHLSTOCK: Okay.

15 Q. And, Mr. Bertin, do you recall any
16 mail to Mr. Rodriguez where you advised Mr.
17 Rodriguez from Transco that you were going to
18 submit that report to the Hudson County Planning
19 Board and the North Bergen Planning Board?

20 A. I don't recall, that was over a year
21 ago. I know I communicated to him and I probably
22 told him something to that effect.

23 Q. And you also recall that you did not
24 submit this to the North Bergen Planning Board?

25 A. That is correct.

1 Q. Is it fair to say that this was,
2 this first report was completed before the North
3 Bergen Planning Board concluded its
4 deliberations?

5 A. That's correct.

6 Q. Is there some reason why you
7 submitted it to the Hudson County Planning Board
8 but chose not to submit it to the North Bergen
9 Planning Board?

10 A. The applicant -- this was prepared
11 at the request of Hudson County. And the town
12 approval, the town process was just about over so
13 I submitted it to Hudson County who asked for it.

14 Q. Now, the first report which was
15 marked as G-3, you signed that report, did you
16 not?

17 A. Yes.

18 Q. Did you sign the report that was
19 just marked as G-28?

20 A. The version you have doesn't have
21 it, but the one I published has my -- the version
22 you have was a copy of something I e-mailed to
23 Mr. Alampi so that he could check it. Not having
24 any comments I have the version that I signed
25 which just has a cover page over it.

1 Q. Okay. So could we --

2 MR. MUHLSTOCK: Mr. Lamb, before you
3 go further, what is the marking of the 2012
4 report by Mr. Bertin which is not underlined?

5 MR. LAMB: RA-6.

6 MR. MUHLSTOCK: RA-6.

7 MR. ALAMPI: Right, my exhibit RA-6.

8 MR. MUHLSTOCK: Let me just check
9 that.

10 MR. ALAMPI: And I did explain --
11 Mr. Muhlstock, I believe it's RA-6 and RA-7
12 because we had the report and then we had the
13 cover sheet with the signature. We marked both
14 RA-6 and I believe RA-7 with the signature. This
15 fancy cover that we pay extra money for because
16 he put the brown and yellow coloring and the
17 signature.

18 THE WITNESS: We developed a new
19 logo last year.

20 MR. MUHLSTOCK: RA-6 and RA-7, yes,
21 it is, that's correct.

22 Q. I didn't get a copy of RA-7, I guess
23 but assuming that's the case, are. RA-7 is the
24 one that has a cover sheet and a signature page?

25 A. Correct.

1 Q. And other than those two changes,
2 that's exactly the same as RA-6?

3 A. Yes, to my recollection.

4 Q. Okay. Thank you.

5 Now, you're the only one that signed
6 RA-7; is that correct?

7 A. Yes.

8 Q. Any other -- I don't have it but I'm
9 just --

10 A. Yes, only my signature.

11 Q. And is it fair to say that the G-3
12 is about three and a half pages?

13 A. Well, it says four and a half --
14 yes, three and half pages.

15 Q. And four pages but the last page is
16 a half page?

17 A. Yes.

18 Q. When you supplemented it or expanded
19 it, the new one is ten pages?

20 A. Correct.

21 Q. So we have six and a half pages
22 added to the Risk Identification Report. Is it
23 fair to say that a substantial amount of that
24 information came from Transco or Mr. Rodriguez?

25 A. The information regarding the

1 pipeline came either from an OPRA request from
2 PHMSA and my confirmation from Transco, from Mr.
3 Rodriguez. The comments about what I identified
4 as construction activities were from me but we
5 did go back and forth and he asked me -- I think
6 we have a comment in here about vibration
7 monitoring and that he and I worked together to
8 develop.

9 Q. Right. Okay. And he's not
10 attributed in that report in any way that he
11 provided any information that's -- that was a
12 part of your report?

13 A. No, I mentioned --

14 Q. The bibliography?

15 A. No, no. I just mentioned that I
16 have obtained information from Transco and PHMSA
17 and I say that the throughout the revised report
18 as well.

19 Q. And I think Mr. Rodriguez even
20 testified that he submitted a report, a marked up
21 report that was given to you, I forget whether it
22 was marked for identification but in the Transco
23 documents there was a revised document that was
24 given to you, do you recall that?

25 A. A version of this?

1 Q. Yes. He took your original version
2 and marked it up.

3 A. He may have.

4 Q. Now, in the initial hearing before
5 the remand you testified concerning the
6 cross-sections on the property, did you not?

7 A. Yes, there's an exhibit with
8 cross-sections.

9 Q. Is it fair to say that the only
10 cross-sections submitted in the original, the
11 initial hearings was cross-section C which is on
12 the northerly portion of the property, if you
13 recall?

14 A. I know that there was that
15 cross-section, I don't -- oh, before the remand?
16 I'm not sure, I'd have to look at the plans.

17 Q. Okay. Now, I went back to review
18 your testimony and the transcript indicates two
19 numbers, can you tell us approximately how many
20 cubic yards are being removed, excavated or taken
21 off the site from the current project,
22 approximately? Because in one place you said
23 1,000 cubic yards, another place you said 2,000.

24 MR. ALAMPI: I don't know if any of
25 that is true and I'm quite attentive. So my

1 objection is if there's a specific reference in
2 the transcript, we'll let the witness --

3 MR. MUHLSTOCK: Well, the witness
4 has to answer if he has a recollection.

5 A. I do know that there were numbers on
6 some of the sheets that say how many square feet
7 would be disturbed. It's an average of 10 feet
8 high, say 30 feet by 60 feet, something like
9 that. I can have a scale and calculate it.

10 Q. Forget about what you said before.
11 Is there approximate, I don't need an exact
12 number, just round numbers.

13 A. I don't do approximates for this
14 board.

15 I just made a quick calculation.
16 Somewhere in the neighborhood of 2200 cubic
17 yards. 2,000 cubic yards.

18 Q. And is it fair to say that removal
19 from a site of approximately 2,000 cubic yards,
20 that's a substantial removal?

21 A. I don't think you can qualify that.

22 Q. You're an engineer that's designed
23 many projects; is that correct?

24 A. Yes.

25 Q. Does North Bergen have a soil

1 movement definition that defines major versus
2 minor?

3 A. I don't recall but if you put it in
4 terms of a soil moving application, it's usually
5 like somewhere in the neighborhood of 200 yards,
6 a 150 yards is the difference. So in that
7 context it would be a major. From a construction
8 standpoint compared to other projects, it may not
9 be.

10 Q. Basically if I understand how it
11 works, 15 cubic yards per dump truck?

12 A. Yes.

13 Q. Is that approximately? So if you
14 have 2,000 cubic yards you're talking about 67
15 trucks per thousand, about 135, 140 trucks to
16 remove that fill?

17 A. Yes. And some of it may not be
18 removed, some of it may used on the site to level
19 it off, to grade it.

20 Q. Is it fair to say that that
21 approximately 2,000 cubic yards is primarily
22 being removed from the toe of the slope?

23 A. Yes, the soil on the slope, yes.

24 Q. Now, again, so I didn't repeat what
25 we testified at the original hearing, but there

1 seemed to be -- I had some questions. Is it also
2 fair to say that some of that that's being
3 removed is actually rock?

4 A. My recollection is that I said
5 it's -- there's a likelihood that some will be
6 rock. I said there would be loose rocks. We did
7 cross-sections, some of the cross-sections of the
8 rock come close to where the footings will be.
9 So there will be some rock removal but not a lot.

10 Q. And when I say rock, let's forget
11 about loose rock, let's go to actual rock that's
12 part of that subsurface cliff that we spent a lot
13 of time talking about.

14 Is it fair to say that some of the
15 part of the floor in the proposed building is --
16 will need to be constructed by removing actual
17 rock?

18 A. I'm going to answer two ways, yes,
19 but that rock that will be removed is most likely
20 loose.

21 Q. Okay.

22 A. That's been my testimony that we'll
23 be removing loose rock to get to firm rock.
24 That's the nature of the Palisades.

25 Q. Okay. Now, I know you're going to

1 have a soils -- your soils geotechnical expert
2 testify but in real numbers, again, and you do it
3 as detailed as you want, is it fair to say that
4 the intrusion into the cliffs whether it be rock
5 removal, dirt removal, whatever kind of removal
6 it is, ranges from between 20 feet to 50 feet
7 approximately?

8 A. How about we say into the bottom of
9 the slope.

10 Q. That's --

11 A. All right. Because there is a clear
12 indication where the slope again on the plans --
13 and I'm referring to Exhibit RA-10 which we
14 produced last time. It's a version of the
15 Grading, Drainage, Utility and Soil Erosion Plan.
16 On the north side of the building the building is
17 at the base of the slope, so there's really no
18 removal except for to install the foundation and
19 the soil put back. Two-thirds of the building
20 will protrude about 40 feet, 35, 40 feet into the
21 slope.

22 Q. Okay. And then also to construct
23 the building you need to go beyond the building
24 walls --

25 A. Yes, another five or 10 feet, yes,

1 at least.

2 Q. So is that how you get approximately
3 50 feet on a portion of it?

4 A. Actually it will be --

5 Q. 45?

6 A. -- 45 feet, yes.

7 Q. Okay. Now, do you recall in your
8 testimony in the initial application any
9 discussion of removing the retaining wall on the
10 southerly portion of the property?

11 A. Well, that was always shown on the
12 plans, that a portion of this wall would have to
13 be removed, it encroaches onto the site. So it's
14 on the plans, whether we discussed it or not I
15 don't recall.

16 Q. Okay. So but now can you just
17 describe because that arose in connection with
18 Johnson Soils report --

19 A. Right.

20 Q. -- can you describe that part of
21 this plan?

22 A. Yes, towards the rear of the
23 proposed building and to the south along the
24 property line with the Galaxy there's a stone
25 retaining wall that is -- the center of it is

1 about on the property line. I'm sorry, it
2 starts -- let's have the scale to be accurate.
3 It starts 15 feet in from the Galaxy property and
4 it extends into where the building is proposed.
5 And so it's proposed to remove and I don't recall
6 somewhere around 30 feet of this wall and leave
7 part of it by the property line. So we're
8 leaving 10 feet of wall along the property line.
9 The rest of the wall inside the site is to be
10 removed and the soil sloped so we don't need a
11 vertical surface there.

12 Q. Okay. So is it your testimony that
13 you do not need to replace the retaining wall
14 that's being be removed on your side of the
15 property that approximately 30 feet?

16 A. No, we do not need to replace it.

17 Q. Okay.

18 A. Because we -- I sloped the soil
19 there to facilitate groundwater runoff.

20 Q. Now, I know there's been some
21 recommendations by Johnson Soils concerning the
22 project. Is it fair to say that one of the
23 things they recommended on the site plan is a 10
24 foot area behind the building to act as I think
25 they called it a bench?

1 A. I recall the 10 foot behind the
2 wall -- I'm not sure about a bench. But I know
3 some area behind the footing for workers to
4 maneuver, but if there was a bench beyond that, I
5 don't recall.

6 Q. Okay. The current site plans show
7 that 10 foot area on the -- that Johnson Soil has
8 recommended be addressed?

9 A. No, they wouldn't show it on these
10 plans. That would be a construction detail.

11 Q. Well, it's fair to say that in
12 addition to constructing the building, you would
13 also then have to construct this other 10 foot
14 area back into the cliffs, is that fair to say?
15 If you need to have a 10 foot area between the
16 rear, the westerly portion of the proposed
17 building and the cliffs, you'd have to make sure
18 that that's clear like an alleyway?

19 A. Right. That's means and methods of
20 construction, that's something that wouldn't be
21 shown on site plans.

22 Q. This site plan has a landscaping
23 plan, does it not?

24 A. Yes.

25 Q. And is it also fair to say that

1 Johnson Soil has recommended certain landscaping
2 and materials be added to help soil
3 stabilization?

4 A. Yes, I think that there was a
5 comment, Lisa will testify.

6 Q. Right.

7 A. There was a comment about putting
8 some stones along the back, that I recall. I'm
9 not sure about other vegetation.

10 Q. Okay. But none of that has been
11 shown on the site plan at the current time, has
12 it?

13 A. No, that report was prepared --

14 Q. Yeah and that's fine.

15 A. -- recently, so these plans precede
16 that.

17 Q. Okay. Now, the drainage system, you
18 have designed a drainage system, and I know that
19 the central drainage system has -- and I'm not
20 going to go into your stormwater management
21 report other than to say there's an issue with
22 backup which I asked you on the central part of
23 the system under the parking area.

24 But the northerly area, that is
25 designed to take flow from on top of the slopes

1 and direct it to the northerly portion of the
2 property; is that correct?

3 A. Correct.

4 Q. Is there any other water that's
5 diverted other than to that drainage line, that
6 particular drainage line in that 20 foot proposed
7 access easement or is that the major collector?

8 A. No, right. Water will flow down the
9 hill and as it's graded behind the building, most
10 of the water that comes up against the building
11 will travel through a swale around towards the
12 north to get to this inlet that we put on the
13 north. Some water will go around the south and
14 we put an inlet on the south side.

15 Q. Okay.

16 A. So but the water going into that
17 pipe is by design water that comes from the
18 hillside, not from the building.

19 Q. Right. And is it also fair to say
20 that therefore a major component of the
21 stormwater management system is to direct a
22 substantial amount of the water runoff to the
23 northerly side, not all of it, but a substantial
24 amount of it?

25 A. Yes, that's because that water is

1 for purposes of our stormwater design considered
2 outside of the project because we have to
3 mitigate any increase in runoff from the project.
4 So that's bypass water that comes off the
5 hillside, so we deal and mitigate increases and
6 runoff from the project site.

7 Q. Is it fair to say that there is no
8 stormwater management improvements or devices on
9 the, I guess the slope or the cliff area behind
10 the westerly portion of the building?

11 A. Not proposed but in reading the
12 report and being involved, a substantial part of
13 this slope is already stabilized by prior owners
14 or users of the property.

15 Q. Okay. But other than, say, by
16 naturally methods, there's nothing in this area
17 that is designed to catch water or pipes other
18 than what's in existence?

19 A. No, correct.

20 Q. Subject to the Johnson Soils
21 recommendations?

22 A. Yes, and what we did is we created a
23 swale in the back of the building to collect that
24 water.

25 Q. And --

1 A. And also not shown but -- well, it
2 does. There's footing drains also for water that
3 seeps into the ground and comes up against the
4 building to collect that water and divert it.

5 Q. Now, one of the objectives in the
6 Storm Water Management Plan is to not increase
7 the rate of runoff from the property; is that
8 correct?

9 A. Correct.

10 Q. And I believe you testified at the
11 original hearing that you satisfied that
12 objective?

13 A. Yes.

14 Q. Now, if I just take the cliff
15 portion, the slope portion of the property, is it
16 fair to say that the rate of runoff increases if
17 I excavate or remove a part of the toe of the
18 slope?

19 A. Yes, because we're putting the
20 building there. So the part that's being
21 excavated is now being occupied by a roof. And
22 it definitely increases the rate of runoff and
23 that's why we have a retention system, right.

24 Q. So as far as I understand overall,
25 there is no increase in rate of runoff, but I'm

1 concerned about the rate of runoff on the slope
2 itself. On the slope itself when you excavate
3 approximately 2,000 cubic yards, it's fair to say
4 that that rate of runoff increases because
5 there's no longer that area that was in the toe
6 to slow down or catch or stop the water?

7 A. Well, okay, the water -- and I'm not
8 sure about your question but I'm going to try to
9 answer it. The water that comes from the top and
10 I'm picking a point along Ferry Road where it
11 makes the bend which is at the top of the west
12 end of the site. If water would come down the
13 hill in its natural state it would continue to
14 flow down until it got to the tennis courts and
15 then it would go across the property and get out
16 onto River Road one way or another.

17 In the post construction scenario
18 the water would come down to the building and
19 then be diverted in the swale and go around the
20 building and then enter the pipe. Is there a
21 change in how long it takes that drop of water to
22 get out to the street? I'm not sure, I'd have to
23 calculate it but it's a longer route although
24 when it gets in the pipe it's traveling faster.
25 So I'd say, not to be a pun, but it's a wash.

1 Q. And irrespective of once it gets
2 into the drainage area here, the swale, it's fair
3 to say it increases speed up to the point where
4 it gets to that point?

5 A. The runoff on the cliff that's on
6 the -- on the slope that's not being disturbed,
7 that remains the same. It just, does it change
8 when it hits the building; yes, the water course
9 changes but prior to hitting the building it
10 doesn't --

11 Q. I'm more concerned with the toe of
12 the slope, not the slope. Normally rainfall hits
13 but when you get to the point where it's no
14 longer a slope because it goes straight down,
15 you've excavated it. Isn't it fair to say that
16 kind of drops like a waterfall?

17 A. Yeah, but that doesn't happen
18 because we've created a sloped area for the water
19 to follow. When the water comes down, if we just
20 cut into it and, say, put a retaining wall, yes,
21 the water would drop like a waterfall. But now
22 when the water comes down to where we cut into
23 the slope it hits a wall, it doesn't go over the
24 wall, it hits a wall and it can't go any further,
25 so then it's diverted sideways. So we don't --

1 that situation I think you're describing does not
2 happen.

3 Q. Okay. You testified that you were
4 aware that there is a contamination study being
5 undertaken on the property. Either one of your
6 reports does not talk about contaminated soil.
7 Are you aware of the status of any review of
8 contaminated soil on the property?

9 A. Recently, and I'm saying recently
10 within the last two months, I'm aware that there
11 is some form of soil contamination in the front
12 of the site closer to River Road and as I recall
13 the levels of contamination are higher near River
14 Road and that studies are going to be done across
15 River Road to see what the level of contamination
16 is there to determine where this -- I think it's
17 an oil type material came from. This whole area
18 used to be oil plants and oil tanks many years
19 ago.

20 Q. Does the developer require any
21 approvals from the NJ DEP as a result of this
22 contaminated soil?

23 A. I believe, yes, they're going to do
24 a mitigation.

25 Q. Do you know if there's any

1 application has been submitted yet?

2 A. I think it's in the study process.

3 Q. Okay. Now, there's been a lot -- by
4 the way, the pictures in your report, the most
5 recent report, the Risk Identification Report,
6 did you take those pictures?

7 A. Yes.

8 Q. Okay.

9 A. And these are -- the pictures that
10 we blew up are the pictures that we actually put
11 on the board.

12 Q. And is it fair to say -- and I asked
13 Mr. Rodriguez this question, but is it fair to
14 say that when the Geofabric -- and I might have
15 it wrong -- the Geoweb?

16 A. The Geoweb.

17 Q. When the Geoweb is exposed, is it
18 fair to say that that's evidence of some type of
19 soil erosion on the slope?

20 A. The pictures were done in the winter
21 when the vegetation was gone and it does show
22 some signs that there was erosion of some form at
23 some point because it's -- there's rocks exposed.

24 Q. Okay.

25 A. I think recently -- it's all

1 vegetated right now.

2 Q. Okay.

3 A. You can't see the ground. You can't
4 see those conditions that are in that photograph.

5 Q. So but you agree that when you have
6 Geoweb, it should be covered by dirt and grass or
7 cover, that that's the purpose of it, to provide
8 stabilization for the slope?

9 A. Yes, you would put stone in there
10 and then you would cover it with top soil and
11 something like that. I don't know how Transco
12 put it in, but I just gave pictures of how it
13 existed.

14 Q. I'm talking about existing.

15 A. Correct.

16 Q. So there are areas on the site that
17 have exposed Geoweb?

18 A. Yes, in the wintertime anyway.

19 Q. And you agree, though, that for the
20 purposes of making sure that the slope is stable,
21 the objective is to not have exposed Geoweb, the
22 objective is to have the, what you said the
23 gravel, the dirt grass --

24 A. Yeah, grass cover.

25 Q. -- whatever cover you're going to

1 put it, that's the objective?

2 A. Yes.

3 Q. Did you observe, any time you've
4 inspected the property have you observed any
5 ponding on any portions of the soil, any ponding
6 or puddling of water?

7 A. There were times when I saw some
8 water flowing on the slope and down on the flat
9 area of the property, yes.

10 Q. Is it fair so say, do you know
11 whether there's any water table or perched areas
12 on any part of the property?

13 A. I don't believe -- I can't answer
14 that definitively because you need to do borings
15 but I do not believe there's person perched water
16 here but there's certainly water that would enter
17 into the ground and travel down the hillside,
18 yes, I would believe there's groundwater.

19 Q. Do you know --

20 A. Occasional groundwater after rains
21 like I guess what's going to happen tonight.

22 Q. Are you aware of the construction of
23 the gas pipeline, the 36-inch pipeline, are you
24 aware of whether that was constructed on a gravel
25 base with backfill, like how that pipe was set

1 into that area?

2 A. No, I know -- I had conversations
3 with Transco about it but I don't recall the
4 specifics but it would have been installed in
5 some kind of bed of sand or gravel or that
6 material. I would imagine sand would be --

7 Q. That is the way to -- the proper way
8 to install it; is that correct?

9 A. Correct.

10 Q. Is it also fair to say that that
11 type of construction, assuming it existed, when
12 you put it in a bed of gravel or sand and
13 backfill around it, that that sometimes causes
14 water to be diverted to that area?

15 A. It's called piping.

16 Q. Okay.

17 A. Yes.

18 Q. And so in looking at this there's a
19 potential risk that piping would occur because
20 all -- not all but a substantial portion of the
21 water is aimed or directed towards this northerly
22 drainage pipe?

23 MR. ALAMPI: I'll object to the
24 characterization of potential risk.

25 MR. MUHLSTOCK: Well, do you

1 understand the question, Mr. Bertin?

2 THE WITNESS: Yes, I'd say --

3 MR. MUHLSTOCK: Can you answer it?

4 THE WITNESS: If it exists, it's
5 something that's already happened.

6 MR. MUHLSTOCK: Okay.

7 THE WITNESS: Nothing that this
8 project does is going to change that. It could
9 be happening. I should say it could be happening
10 to a small degree. If it happened to a large
11 degree, eventually there would be erosion because
12 always the water moves through the ground,
13 eventually it does take soil with it and would
14 cause the surface to start to collapse and
15 eventually you'll see some sign of a condition.
16 I don't know that that's the case here.

17 Q. Okay. But right now your proposed
18 project, if it's constructed we're taking not all
19 but a substantial portion of the water, directed
20 it to the swale, to the westerly portion of the
21 building, and directing it all to the north
22 towards that the 36-inch pipeline?

23 A. Well, to the north and then around
24 the corner of the building into an inlet.

25 Q. Right.

1 A. And that's why we have a gravel
2 swale. The gravel is there to prevent erosion
3 and we bring it right around the building so it's
4 channelled, that water is directed to go to the
5 inlet and at that point the pipe is seven or --
6 about seven feet underground, the pipe meaning
7 the gas pipe.

8 Q. Now, you indicate in your first
9 report there may be a need, and I'll quote from
10 page 3, "There may be a need to utilize a
11 hydraulic hoe ram to break some of the rock."

12 A. Yes, you could say that.

13 Q. And that's page 3 of your original
14 report. Page 3, it's paragraph 2 --

15 A. Yes, I saw that. I think it's
16 repeated the in --

17 THE CHAIRMAN: Page 9.

18 THE WITNESS: Yes.

19 Q. Okay. Now, your report on page 4
20 about six, seven lines down says --

21 A. Which report?

22 Q. I'm sorry, your second report, the
23 most recent one.

24 MR. ALAMPI: The first report is
25 only three pages, he should know that.

1 MR. LAMB: Three and a half.

2 THE WITNESS: Is that a trick
3 question?

4 MR. ALAMPI: It is a trick question.

5 Q. Page 4 of 10, the first full
6 paragraph line 6, 5 and 6, "While there is no
7 construction proposed on the steep slope in the
8 vicinity of the pipe, a review of the surface
9 conditions has been made." Is that correct?

10 A. Okay, yes.

11 Q. And when you refer to surface
12 conditions, is that literally what's visible with
13 the naked eye?

14 A. Yes.

15 Q. Is that your understanding of
16 surface conditions?

17 A. Yeah, that's what the whole point of
18 this existing terrain and surface conditions.

19 Q. Just what you can see?

20 A. What you can see.

21 Q. Not what's happening underneath?

22 A. Not in this section of the report.

23 Q. And I know that the rest of the
24 report has subsurface issues. Now, on page 7,
25 and that's where I -- page 7, the second full

1 paragraph, and I guess that's where I got the 50
2 feet on the south, construction activities will
3 extend 20 feet into the slope on the north half
4 of the site adjacent to the gas pipeline, 50 feet
5 to the south half, so that's about 45 feet in
6 that range?

7 A. Right.

8 Q. Now, you also conclude that on that
9 report "There appears to be some areas where
10 additional soil stabilization may being
11 justified." Can you point out on the site plan
12 what -- in general where those areas are?

13 A. Where is that?

14 Q. Third full paragraph, second
15 sentence.

16 A. Thank you.

17 MR. ALAMPI: John, what page?

18 MR. LAMB: Page 7, second full
19 paragraph, third line. I'm sorry, third
20 paragraph, second line.

21 A. I believe I was probably talking
22 about where the exposed Geoweb was over the gas
23 pipeline.

24 Q. Okay. Any other areas on the
25 southerly side by the Galaxy of exposed Geoweb?

1 A. No, Geoweb wasn't installed on the
2 southerly side. On the southerly side there is a
3 filter fabric type material and stone put on top
4 of that. So that whole hillside has been
5 stabilized.

6 Q. That's not called Geoweb?

7 A. No, no, Geoweb is a specific product
8 that's thick and, well, it looks like a
9 honeycomb.

10 Q. Let's go to the south side. Does
11 that have that fabric is the same purpose as the
12 Geoweb, to stabilize the dirt?

13 A. In a sense, yes. It's there
14 actually to separate the stone from the soil
15 below.

16 Q. Okay.

17 A. And it is to help prevent erosion
18 during the initial installation of the rock.

19 Q. Is it fair to say that that part on
20 the southerly portion should also have dirt over
21 the stone and grass on top of the dirt?

22 A. No, because itself is the
23 stabilization, it's like stone along a river
24 bank, that's what the stabilization is. Now,
25 during the summertime vegetation does grow

1 through there but in the wintertime as it dies
2 off, the rock is exposed.

3 Q. Now, you indicate on page 7 of your
4 report on the bottom, "The pipeline is in a steel
5 casing across the road right-of-way."

6 A. Yes.

7 Q. Is that something that you observed?

8 A. No, I was told that and I believe I
9 was actually given some notes during the
10 construction of the pipeline by Williams that
11 shows that as the gas line crosses River Road,
12 it's encased in another pipe. And I think Mr.
13 Rodriguez testified about that as well.

14 Q. On page 9 of your report you talk
15 about in paragraph 6 building construction. You
16 talk about scaffolding being needed, for example,
17 on the side of the building to hoist construction
18 material.

19 A. Yes, there's siding, there's going
20 to be brick and all and people have to work on
21 the side of the building so --

22 Q. Right.

23 A. -- you build scaffolds and people
24 work off the scaffolds.

25 Q. So if there's any -- after

1 construction if there's any maintenance on that
2 side of the building that's required, same thing,
3 they would go in and put scaffolding or --

4 A. That would be for major maintenance,
5 major, would, otherwise a ladder. And if they
6 really had to get up there for some other reason
7 they could take a little tractor with a boom on
8 it.

9 Q. Now, you indicate on page 10 of that
10 report under the construction precautions it says
11 "Transco requirements for construction or
12 maintenance activities shall govern all
13 construction."

14 A. Yes.

15 Q. Okay. And that is -- Mr. McGrath
16 was kind enough on October 10th, 2010 I believe
17 to get a copy of those construction requirements
18 and I had a lot of questions for Mr. Rodriguez
19 about them, but are those the construction
20 requirements you're referring to?

21 A. Yes. And I think we talked at the
22 last meeting that they are -- that that is --
23 that note is included on the plans.

24 Q. Okay. And at the time I believe you
25 didn't know exactly what the construction

1 requirements are, even though you were making the
2 plans have that note that said it had to be
3 subject to them?

4 A. I read it. I couldn't recite it now
5 but I read it at the time.

6 Q. Okay. But you agree that that body
7 of requirements and conditions and limitations
8 and restrictions, that has to be part of any
9 approval that is granted on this project?

10 A. Well, we have made it part of the
11 project, yes.

12 Q. Now, on the same page 10 on
13 paragraph 3 you talk about any activities such as
14 pile driving, blasting and rock hammering. I
15 believe the testimony was that there will be no
16 blasting, has that the now changed?

17 A. No, there will be no blasting.

18 Q. So blasting is out?

19 A. And I'm pretty sure there will be no
20 rock hammering.

21 Q. Okay.

22 A. But they're in there to be
23 conservative to say if in the event that these
24 activities should occur.

25 Q. But right now --

1 A. There is no intention for anything.

2 Q. Okay.

3 MR. LAMB: Nothing further, Mr.
4 Chairman.

5 THE CHAIRMAN: Thank you. All
6 right. We're going to allow public comments,
7 five minutes each, please. And let's keep the
8 questions related to the testimony.

9 JEREMY RABIN, residing at 7004 Boulevard East,
10 Guttenberg, New Jersey, having been duly sworn by
11 the Notary Public, was examined and testified as
12 follows:

13 MR. RABIN: Mr. Bertin, you
14 testified about the Geoweb, and apparently it's
15 been exposed a bit from some erosion that's taken
16 place in the soil. The erosion on the slope, one
17 of the purposes, principal purposes of the Steep
18 Slopes Ordinance was to reduce erosion of soil
19 and plants on there, so currently if there is
20 erosion, that wouldn't be serving the Steep
21 Slopes Ordinance, would it?

22 THE WITNESS: I don't know the
23 condition of how it was left when the Geoweb was
24 put in there and if they did put topsoil over the
25 top of it and seed it, it could have not been

1 stable during the first couple rains and been in
2 the condition it's in, you know, when they made
3 the repair a decade ago. So it doesn't look like
4 there's ongoing erosion there, that part has
5 eroded and it's stable now. But it has --
6 there -- it looks to me like at some point in
7 time there was some erosion over that Geoweb.

8 MR. RABIN: Thank you. You talked a
9 bit about the stormwater system, that the water
10 will be directed in the direction of the pipe and
11 takes a hard turn and moves down toward I guess
12 in the direction of the road.

13 THE WITNESS: Correct.

14 MR. RABIN: In North Bergen do
15 stormwater systems ever fail to work? Are there
16 instances where a system was designed and then it
17 failed at some point? It's almost a rhetorical
18 question, I guess.

19 THE WITNESS: There's always -- yes,
20 something can happen. It happens.

21 MR. RABIN: There's some very
22 dramatic accounts of situations where there has
23 been severe washouts in the areas. I've seen a
24 manhole cover --

25 MR. ALAMPI: Chairman.

1 MR. RABIN: -- blown off its bolts.

2 MR. ALAMPI: I'm sorry, sir.

3 THE CHAIRMAN: Where are we going?

4 MR. ALAMPI: We're talking about
5 assumptions we see. We're trying to stay away
6 from that type of self-serving testimony.

7 MR. RABIN: I'll try to -- have you
8 heard of situations where water pressure of an
9 overburdened system blew a manhole cover off its
10 bolts?

11 THE WITNESS: I've seen it on
12 Tonnelle Avenue.

13 MR. RABIN: Okay. Well, I assume
14 that you've designed this water system to the
15 best of your ability and you intend for it to be
16 a successful system. But if at some point it
17 were to become blocked, let's say, debris, you
18 know, washed into it or something failed in some
19 way, if we have some extremely heavy rains in
20 this area, they come down that slope very, very
21 strongly. Isn't it possible that you could have
22 a lot of water flowing out in that system in the
23 direction of the pipeline?

24 THE WITNESS: There's a swale and --
25 well, there's a swale that the bends, bends

1 around the building and to direct water out
2 towards the street and there's an inlet to catch
3 it at the bend behind the building. If the inlet
4 were to be blocked, the water would continue down
5 towards the river. If something were to like,
6 well, there is no trees allowed in the area so
7 there wouldn't be any trees, so if something were
8 to clog the swale, then, yes, water might be able
9 to jump the channel and go on to the sewerage
10 plant property.

11 MR. RABIN: The easement along the
12 side, the access easement along the side of the
13 property and the area where the pipeline is
14 actually located are approximately the same
15 level, aren't they?

16 THE WITNESS: Yes.

17 MR. RABIN: So there would be
18 nothing that would hinder the water once it hit
19 that area from continuing to go in the direction
20 of the pipeline?

21 THE WITNESS: Well, you can see on
22 the plan there's contours shown and the land is
23 depressed on the easement. I mean on the
24 proposed easement so as to still direct water
25 down towards the street and not onto the sewerage

1 treatment plant property. And that, that area
2 over the right-of-way on the sewerage plant
3 property does slope towards River Road.

4 MR. RABIN: It seems like there's
5 not much room for failure but I'll move on to
6 another question.

7 The county did a Palisades Stability
8 Study. Have you read that? It was referenced by
9 Transco at certain points in their testimony.

10 THE WITNESS: Yes.

11 MR. RABIN: In there they talk about
12 a gabion wall being recommended for this portion
13 of the slope because there's currently concern
14 about the stability of the slope.

15 MR. ALAMPI: I'll object as to what
16 the report considered the reasoning behind it
17 without the report. I don't think that's a fair
18 question. We don't even have the report.

19 MR. MUHLSTOCK: Okay, why don't you
20 ask him a question. He said he read the report.

21 MR. RABIN: I understand.

22 MR. MUHLSTOCK: You ask him a
23 question on it.

24 MR. RABIN: Is the purpose of a
25 gabion wall to supply support to an earthen

1 structure in this situation?

2 THE WITNESS: That report looked he
3 at the slope and said, well, it's a long steep
4 slope, let's do something to stabilize it. And I
5 don't necessarily agree with that because I'll
6 explain why. You have a nice long steep slope
7 that comes to a point on the ground and what they
8 were saying, that report says, let's go into that
9 slope, cut it and install a retaining wall and
10 take that soil away. Or they're saying to build
11 a wall at the end and then backfill it. I don't
12 recall seeing backfill but it looked to me like
13 the report was saying go towards the bottom of
14 the slope and build a wall.

15 Well, we've gone to the bottom of
16 the slope and built a wall. So in that sense
17 this is consistent, again, but that the report
18 talks about building a wall along -- and it looks
19 like it says into the slope. That's my
20 interpretation.

21 MR. RABIN: And it's your opinion
22 that a gabion wall is not needed but that the
23 building would in some sense serve the same
24 function?

25 THE WITNESS: Absolutely, yes.

1 Thank you.

2 MR. RABIN: Do you consider that you
3 are more qualified in this matter than the people
4 who wrote the stability study?

5 MR. ALAMPI: Well, let me object.

6 MR. MUHLSTOCK: Now, that's
7 really --

8 MR. ALAMPI: That's an improper
9 question.

10 MR. MUHLSTOCK: That's really
11 sustainable.

12 MR. RABIN: Well, I think --

13 MR. MUHLSTOCK: That's
14 argumentative. Ask him a question.

15 MR. RABIN: Well, I don't mean it as
16 argumentative. But I assume that he's putting
17 his opinion ahead of theirs in his judgment which
18 he has a right to do. I'm not --

19 MR. MUHLSTOCK: He testified what he
20 believes.

21 THE CHAIRMAN: What he believes.

22 MR. MUHLSTOCK: That's all you can
23 ask him.

24 THE WITNESS: And if I just add,
25 I've been working on this property for six years.

1 MR. RABIN: Yes.

2 THE WITNESS: Those guys drove by
3 it.

4 MR. RABIN: Okay.

5 THE WITNESS: I think I have a
6 little bit more familiarity with this property
7 then those --

8 MR. RABIN: And have you had
9 communications with the writers of that document?

10 THE WITNESS: I don't think there's
11 a need to. I think we had a contradiction in how
12 to work the slope.

13 MR. RABIN: When a gabion wall is
14 built does it normally rise to the edge of that
15 slope or would it normally rise above the slope?

16 THE WITNESS: A wall should extend
17 above the slope six inches to a foot.

18 MR. RABIN: And if the that wall --
19 we know that there could be rock falls,
20 mudslides, things like that could happen on a
21 steep slope of this type. If you were trying to
22 protect a building, wouldn't it makes sense for
23 the wall to be a bit higher than it would be if
24 it was just an unused lot, let's say?

25 THE WITNESS: Well, that's not the

1 case here but whether -- that's not the case here
2 but if you were building a wall, yes, you should
3 build it a little bit higher than the slope
4 behind it.

5 MR. RABIN: Is it true that the rear
6 wall of your building at the point where the soil
7 meets the building from that point up is wood
8 construction?

9 THE WITNESS: Yes, I believe it is
10 going to be wood frame construction.

11 MR. RABIN: And the lower section is
12 concrete?

13 THE WITNESS: Yes. And much of the
14 slope is in that lower section and then
15 eventually comes up into the wood frame and
16 anything within 18 inches of the soil would be,
17 you know, masonry. So it may be brick veneer or
18 block.

19 MR. RABIN: Okay. I'm just
20 concerned that a gabion wall made out of wood
21 with habitable structures on the other side of
22 the wood doesn't seem to be in the same class as
23 the recommendations that were made. And I would
24 certainly be concerned if an occasional instance
25 a rock were to break loose in the areas where

1 there are or if there was a mudslide or some
2 other thing of that nature that the only thing
3 protecting this building is some wood and then
4 you've got the habitable structures there. That
5 seems like a concern because we have a very steep
6 slope there and a lot of rain.

7 THE WITNESS: Well, more of this
8 exercise have --

9 MR. ALAMPI: Let me do my job.

10 THE WITNESS: Okay, do your job.

11 MR. ALAMPI: There is no testimony
12 there's a wooden gabion wall or a gabion wall at
13 all. He's talk about the wall of the building
14 versus a gabion wall.

15 MR. RABIN: Gabion wall in quotes.

16 THE CHAIRMAN: True.

17 THE WITNESS: Gabion wall is a rock
18 filled basket and that's what a gabion wall is so
19 you could call that a wall or but, no, there's
20 more to this than just simply building a wall
21 here. And that was the whole point of the Slope
22 Stability Analysis that's going to be discussed
23 later, why we have a swale behind the building to
24 collect the water so the water doesn't hit the
25 building and there had been other testimony about

1 that.

2 MR. RABIN: Okay.

3 THE WITNESS: So it wasn't done in a
4 vacuum. You got to look at the whole site.

5 MR. RABIN: Would it not have been
6 the case that if the North Bergen ordinance of a
7 40 foot setback had been observed, that that
8 would provide from the steep slopes, that would
9 provide considerable protection if you were to
10 have a rock slide, mudslide, wood, you know,
11 forest fire, whatever it is, something were to
12 happen in that area, 40 foot setback would
13 provide more protection for your building then
14 having it embedded into that slope which it's
15 embedded I think 35, 40 feet into the slope
16 instead of 40 feet from it.

17 THE WITNESS: It's a different
18 condition. I'm not going to say this is not
19 safe.

20 MR. RABIN: Okay. Last question I
21 have. When you were designing this building, or
22 participating in the design of this building, the
23 shape of it, the sort of U-shape is very similar
24 to the previous design of the building. I was
25 wondering did Transco participate in the design

1 of this U-shape to make any suggestions as far as
2 how that might be beneficial to pipeline safety
3 or other issues that might be relevant?

4 THE WITNESS: No.

5 MR. RABIN: And was there ever
6 consideration to the fact that the center of the
7 property, the area where the driveway, the
8 circular driveway is, that that area is really
9 the area of least likely to impact on the slope,
10 the pipeline, the neighbors, like the Galaxy, and
11 that area has been left open and the building has
12 all been forced out to the outer edges. If you
13 had designed this building, let's say with the
14 parking and drive access on the side where the
15 pipeline was, wouldn't it have been possible to
16 move all the heavy construction away considerably
17 from the pipeline?

18 THE WITNESS: I don't think there's
19 an issue with the construction activities here
20 and the safety of the pipeline and I say that
21 because I heard Mr. Rodriguez for five nights of
22 testimony. So I don't know that this is an
23 unsafe condition and moving anything would make
24 it any safer.

25 THE CHAIRMAN: Yes, there's been

1 testimony to that effect.

2 MR. RABIN: Well, the safety, the
3 safety is certainly being contested at this
4 hearing. I know that there's been a lot of
5 testimony that some think it's safe. Certainly I
6 believe that if the driveway access had included
7 the 40 foot rear yard and the side, and building
8 had been concentrated in that open space you have
9 right now, you probably could have saved yourself
10 four years of fighting on this project.

11 THE WITNESS: I doubt that.

12 MR. RABIN: Well --

13 THE CHAIRMAN: Okay.

14 THE WITNESS: That's not a year ago
15 discussion --

16 THE CHAIRMAN: Mr. Rabin, thank you.

17 MR. RABIN: I wanted to posit that
18 because the design of the building is creating a
19 lot of the difficulties that we're having.

20 THE CHAIRMAN: Thank you. Anyone
21 else? Yes, sir.

22 STEVEN ROSEN, residing at 7004 Boulevard East,
23 North Bergen, having been duly sworn by the
24 Notary Public, was examined and testified as
25 follows:

1 MR. ROSEN: I'm going to ask a
2 couple of questions based on experiences I've
3 had. As I understand what you're saying, a swale
4 is basically a ditch filled with rock?

5 THE WITNESS: It's a ditch -- it's
6 rock shaped in a swale, yes.

7 MR. ROSEN: And how wide and deep is
8 that?

9 THE WITNESS: I think there's a
10 section, but it's approximately eight feet wide,
11 that's six -- 12 (indicating).

12 MR. ROSEN: And depth?

13 THE WITNESS: It's about a foot
14 deep, eight feet wide and a foot deep and it's in
15 a V shape.

16 MR. ROSEN: And as an engineer
17 you've computed that that will take away the
18 water runoff from the slope?

19 THE WITNESS: Yes, the anticipated
20 water that would fall onto this slope.

21 MR. ROSEN: When you determined the
22 anticipated water runoff, do you use an average
23 rainfall, very heavy rainfall or an exception
24 rainfall? And I'm asking that because all the
25 newspapers now are reporting that the weather is

1 changing and we're getting excessive rain and
2 excessive drought and I just wanted to know what
3 you're planning. Are you planning on 100
4 percent, 150 percent of normal?

5 THE WITNESS: Well, there's
6 classification of storm events based on the
7 probability that that would occur. So we use for
8 over land flow a 25-year storm would be the
9 normal. That has a probability of occurring once
10 in 25 years. That doesn't mean it can't occur
11 more, so that's the storm that is used for this
12 design. And a 25-year storm happens more than
13 once every 25 years. So and I don't recall what
14 the capacity of this swale is. I mean it could
15 be sized bigger. We made a large swale but we
16 would normally design for a 25-year storm.

17 MR. ROSEN: Okay. Thank you.

18 THE WITNESS: You're welcome.

19 THE CHAIRMAN: Anyone else? Okay,
20 Mr. Kronick.

21 DAVID KRONICK, residing at 7855 Boulevard East,
22 North Bergen, having been duly sworn by the
23 Notary Public, was examined and testified as
24 follows:

25 MR. KRONICK: Mr. Bertin, if I heard

1 you right, that there will not be any cutting
2 into the cliff except for the loose rock and
3 debris? Do I have it pretty much correct?

4 THE WITNESS: That is our ant --
5 that's what we anticipate. If you recall and I
6 just want to qualify that, there were a number of
7 test pits done along the back of the building and
8 at the request of your attorney and the board, we
9 did test pits even further back and we did
10 borings in front of the site. So we have mapped
11 the rock out and we made some cross-sections of
12 where we think the rock is and in the worse case,
13 and I believe it's on the south side, I mean the
14 building just touches where we anticipate rock to
15 be. So in that case the footing would most
16 likely intrude into the rock but it's my opinion
17 that most of it will be loose rock.

18 MR. KRONICK: I ask this in the
19 context of what happened with Avak. And if I
20 recall there was not going to be any removal of
21 anything but loose rock, debris, et cetera and I
22 witnessed months of cutting into the cliff, the
23 face of the cliff I would say but going down for
24 months I saw trucks pulling rock out on and on I
25 don't know how many times. So my point is I

1 would assume this is within not even a quarter of
2 a mile, would we not encounter the same thing?

3 THE CHAIRMAN: Mr. Alampi.

4 MR. ALAMPI: Let me object. I have
5 no involvement or knowledge of this what is it
6 called Avak application, so I don't see how this
7 type of questioning can even be formulated here.
8 I don't even know the distance between the
9 properties, I don't know what it's about. I
10 don't think it's an appropriate question for this
11 witness.

12 MR. MUHLSTOCK: I would suggest, Mr.
13 Bertin, that you answer the question as to
14 whether you foresee or anticipate more rock being
15 removed or more soil or more rock being removed
16 from the site than your calculations indicate.

17 THE WITNESS: If someone said
18 there's no rock being removed from the Avak site,
19 that surely wasn't me because we did all the
20 borings and we know where all the rock was and we
21 knew how much rock was there.

22 MR. ALAMPI: So you didn't listen to
23 the board attorney.

24 THE WITNESS: I'm sorry, I didn't
25 listen to the board attorney.

Mahle-Greco - direct

1 MR. ALAMPI: And I raised the
2 objection for you to follow his instruction.

3 THE WITNESS: So the point is that
4 that -- the cliff face is further back from River
5 Road at this location than at the Avak location.
6 So, no, it's different because of the geology of
7 the area.

8 MR. KRONICK: I certainly hope your
9 right. Thank you.

10 MR. MUHLSTOCK: Mr. Alampi, any
11 redirect?

12 MR. ALAMPI: No.

13 MR. MUHLSTOCK: Okay.

14 THE CHAIRMAN: Okay.

15 MR. MUHLSTOCK: Another witness?

16 THE CHAIRMAN: Next witness.

17 MR. ALAMPI: I call Lisa
18 Mahle-Greco.

19 LISA MAHLE-GRECO, having been duly sworn by the
20 Notary Public, was examined and testified as
21 follows:

22 VOIR DIRE EXAMINATION

23 BY MR. ALAMPI:

24 Q. Ms. Mahle-Greco, could you please
25 very briefly give us your address and your

Mahle-Greco - direct

1 affiliation with Johnson Soils and very --

2 THE CHAIRMAN: Could you speak up?

3 MR. ALAMPI: I'm sorry.

4 Q. Ms. Mahle-Greco, can you please give
5 us your professional address and very brief
6 curriculum of your experience and education?

7 THE CHAIRMAN: We've already
8 qualified her, Mr. Alampi.

9 MR. ALAMPI: So you accept her
10 credentials as continuing?

11 THE CHAIRMAN: Yes.

12 MR. LAMB: I have no objection.

13 DIRECT EXAMINATION

14 BY MR. ALAMPI:

15 Q. Ms. Mahle-Greco, did we mark the
16 Johnson's report at an earlier meeting? That
17 would maybe be RA-8 or --

18 MR. MUHLSTOCK: Let me check. No
19 RA-8 was the site plan. RA-9, the Slope
20 Stability Report of Johnson Soils 6/1/12.

21 MR. ALAMPI: Yes.

22 MR. MUHLSTOCK: Okay. RA-9.

23 Q. Ms. Mahle-Greco, are you familiar
24 with a report from Johnson Soils dated June 1,
25 2012, you note it as a Slope Stability Report --

Mahle-Greco - direct

1 A. Yes.

2 Q. -- Appleview LLC?

3 A. Yes.

4 Q. In fact, you're the author of that
5 report?

6 A. Yes.

7 Q. And could you just bring us briefly
8 through the report? Firstly, did I request that
9 you conduct this report and submit it to the
10 board?

11 A. I'm sorry?

12 Q. Did I request that you submit this
13 report to the board at an earlier time?

14 A. Yes.

15 Q. Can you just tell us what you did
16 either in preparation for this report at an
17 earlier time or what you did sometime in 2012 in
18 order to prepare this report?

19 A. Previously we had gone to the site.
20 We did borings I believe in 2007. I forget. We
21 also did additional test pits and again we did
22 additional test pits at the request of the board.

23 Q. When you say we, who is the we?

24 A. Johnson Soils.

25 Q. And did you participate in some of

1 these activities yourself?

2 A. Yes.

3 Q. And have you been to the site more
4 than one time in the past?

5 A. Yes.

6 Q. And so instead of saying we, just
7 say Johnson Soils or myself.

8 So what field work and what studies
9 did you do? What activities in preparation of
10 this report?

11 A. Also so all the borings and test
12 pits that we inspected and conducted as Johnson
13 Soils were used in conjunction with pictures
14 taken at the site by myself, colleagues or Bertin
15 Engineering which I have access to pictures of to
16 make this report for slope stability.

17 Q. And you had access to documents from
18 Bertin Engineering as well, correct?

19 A. Yes.

20 Q. And with regard to these borings, in
21 fact did you not return to the site to do
22 additional borings at the request of the board
23 during the underlying application last year?

24 A. We went back to do test pits,
25 additional test pits.

1 Q. Test pits. And what's the
2 difference between borings and test pits?

3 A. Borings are using a truck-mounted
4 drill rig and off the back of the truck there's
5 approximately six-inch auger that drills down and
6 using standard penetration tests with a one and
7 three quarter inch what's called a split spoon
8 sampler taking samples down into the soil we did
9 zero to 12 foot continuously and then at five
10 foot intervals until refusal.

11 Q. And these when you say refusal, what
12 does that mean?

13 A. Refusal means over 100 blows per six
14 inches.

15 Q. What does that mean to us?

16 A. 140 pound hammer and drops on the
17 spoon sampler, it's measured in six inch
18 increments and those end values are correlated to
19 typical bearing capacities and then we can take
20 those samples and evaluate them.

21 THE CHAIRMAN: Excuse me, was your
22 original question answered, the difference
23 between borings and test pits?

24 MR. ALAMPI: We're going to get to
25 that now.

Mahle-Greco - direct

1 Q. So what's a test pit?

2 A. A test pit has a track-mounted
3 backhoe or a rubber tire backhoe with a bucket on
4 the end that digs --

5 Q. So it digs a hole?

6 A. Digs a big hole into the ground so
7 you can look into it.

8 Q. So just keep it in the layman's
9 vernacular. One is drilling down and getting
10 samples and testing the quality and type of
11 soils, the other is excavating a hole and looking
12 in and doing whatever you do with that?

13 A. Correct.

14 Q. In the meantime you then prepared
15 this June 1, 2012 study. Just bring us through
16 the study. Briefly bring us through the
17 introduction and what observations you made
18 regarding the slope and characteristics of the
19 slope.

20 A. I'm going to refer to this just to
21 refresh my memory.

22 Q. Yeah, just refer to it. Be brief.
23 You don't have to recite it everybody has read
24 it.

25 A. Introduction is basically that

1 they're proposing to build a residential
2 buildings on the site. It tells basically the
3 eastern portion is relatively flat and there's a
4 slope section at the western portion.

5 Q. Well, cut to the quick. The first
6 acre is relatively flat property, correct?

7 A. I don't know if it's an acre --

8 Q. 200 feet deep?

9 A. The first portion, yes.

10 Q. And then after that there's an
11 rising slope ultimately to the cliff face of the
12 Palisades, correct?

13 A. Yes, it slopes from east to west.

14 Q. Now, Mr. Bertin gave some testimony
15 just tonight again with regard to what his
16 anticipation was when installing the foundation
17 and footings of this proposed building and such.
18 Do you agree with his conclusions that there
19 would be dirt, soils, loose rock, vegetation and
20 such and that's what he would expect to see upon
21 excavation and removal?

22 A. Yes, all those things, soil, broken
23 rock. He was referring to our cross-sections
24 which are at the back of this report that show
25 the estimated ground level of the building and

1 estimated rock elevation at different levels that
2 we found during the test pits and borings to see
3 where we're going to put the building.

4 Q. Now, this is your chance to tell us
5 as a technical professional why you agree with
6 Mr. Bertin and what he would anticipate when you
7 start excavation, why do you concur with him?

8 A. Typical of Palisades you have some
9 loose pieces on top which are very easily removed
10 with a track mounted backhoe and probably some
11 rock teeth on it to get some -- it just rips it,
12 rips the rock a little bit better if they're
13 bigger pieces. So there are probably loose
14 pieces on the top with some soil above that with
15 some boulders and stuff mixed in.

16 Q. Did your physical inspections, your
17 observations and the testing you did, did that
18 support what you just said?

19 A. Yes, some of the test pits --

20 Q. How? Tell us how.

21 A. When we dug the test pits we had the
22 soil on top, the silty sand was on rollers and
23 then below that we found broken or it's called
24 decomposed or broken diabase below that. We
25 didn't rip that out obviously, so we left it in

1 place so it's probably a couple feet typically of
2 the broken rock before you hit total solid
3 diabase.

4 Q. Now, if you turn behind you see
5 there's an exhibit that was mounted Lisa on the
6 bottom. Is that marked as A-6? Somewhere there
7 is a marking on there.

8 A. RA-10.

9 Q. RA-10. Are you familiar with this
10 document?

11 A. Yes.

12 Q. And just identify it for us on the
13 record. What is that sheet?

14 A. The Grading, Drainage, Utility and
15 Soil Erosion Control Plan.

16 Q. Now --

17 A. Drawing No. C-2.3.

18 Q. I'm sorry.

19 A. That's okay.

20 Q. Utilizing this exhibit with your
21 hands can you show us where various activities
22 took place under your supervision or in
23 corroboration with other members of Johnson Soils
24 with regard to borings and test pits and things
25 of that nature?

Mahle-Greco - direct

1 (Pause in the proceedings.)

2 Q. I thought it would be easier than
3 that Lisa.

4 A. No, I know, it's just that it's a
5 different scale so I was trying to --

6 Q. Well, we don't care. Just with your
7 hands --

8 A. I was trying to get organized.

9 Q. Just to give an idea to the board.
10 We don't care if you're five or 10 feet off?

11 A. So there were borings in this corner
12 of the building area and then there the other
13 front corner of the building. This back corner
14 of the building area and then there is a lot of
15 test pits done all through this upper area
16 (indicating).

17 Q. Okay. How many test pits are you
18 referring to?

19 A. Ten.

20 Q. Ten test pits --

21 A. Total.

22 Q. -- in the area that you just
23 indicated that would be to the west of where the
24 building is proposed?

25 A. Yes.

1 Q. And what was the purpose of those
2 test pits? What would it tell you?

3 A. Those test pits told us how much
4 topsoil, how much silty sand with the cobbles,
5 the depths of the rock and what we could
6 anticipate to find.

7 Q. And, again, with your hand why don't
8 you indicate to us how far -- where those test
9 pits would be -- would have been dug, how far
10 down you would go where you would still have soil
11 or different types of soil composition or other
12 features before you get to solid rock?

13 A. Some places in the back here was
14 almost 15 feet (indicating). It varied in some
15 areas. Yes, somewhere in -- some of these areas
16 back here (indicating) had 10 and 15 foot until
17 we hit the top of the broken rock.

18 Q. And were there any areas where it
19 was more shallow than that?

20 A. I'd have to look more closely. I
21 believe there's a few but not much.

22 Q. With regard to the building itself,
23 the footprint of the building, within the
24 footprint of the building, were there any test
25 pits taken a little bit further east from where

1 you just indicated?

2 A. No.

3 Q. Were there any borings taken further
4 east from where you were just discussing?

5 A. No, because at the time we could not
6 get a drill rig in that area.

7 Q. So what do you expect to encounter
8 in that area just slightly to the east, 20 or 30
9 feet further in? Yes, right where your hand is.

10 A. In this area which is through
11 cross-section B on our Figure 2.

12 Q. In your report you're referring to
13 what, what figure?

14 A. Figure 2, there's cross-section B
15 which is approximately in the middle.

16 Q. Okay.

17 A. If you go a couple pages there is --

18 Q. That would be the second to the last
19 page, right?

20 A. Yes. Cross-section B.

21 Q. So these are the exhibits on the
22 back of your report?

23 A. Yes.

24 Q. All right. Cross-section B, explain
25 to us how to read this cross-section and then

1 what it tells you.

2 A. Cross-section B is coming down
3 approximately in the center of the building. We
4 use the test pits 6, 9, 7, 10 that we did in this
5 area and we excavated rock elevations that we had
6 originally found in front of the building to
7 estimate how the rock was going to fall off down
8 to the building.

9 Q. And just explain to us then what
10 your observations were.

11 A. The rock was below the ground level
12 of the proposed building and then it drops off
13 significantly to the front of the building where
14 it's almost 47 feet below the existing ground.

15 Q. So in the front of the property the
16 solid rock area is 47 feet below where the
17 building's footings would be or the first floor?

18 A. Below the first floor, the ground
19 level.

20 Q. Ground level. Do you know how deep
21 the footings would be for this building?

22 A. We have to drive piles in those
23 sections.

24 Q. You have to speak up.

25 A. Drive piles.

1 Q. Yes. What's your anticipation?

2 A. You have to put piles in the front
3 section of the building. It's too deep to dig to
4 rock.

5 Q. Right. So what's your anticipation
6 about how far you would have to pile?

7 A. Oh, it's probably between 30 to 40
8 feet.

9 Q. And on top of those piles you would
10 mount the support for the building?

11 A. You put a pile cap and a grade beam.

12 Q. You have to tell us, we're not
13 engineers. Please tell us.

14 A. You put a pile cap and a grade beam
15 and you build on top of the grade beam access.

16 Q. Now, going to the back of the
17 building towards the rear wall, could you give us
18 an explanation of what you would expect with
19 regard to excavation or piling and putting -- and
20 mounting the footings for the building?

21 A. In the back of the building --

22 Q. Yes, right.

23 A. -- and toward the sides --

24 Q. Well, tell us.

25 A. -- in this area we excavate down to

1 the solid rock and put the footing directly on
2 the rock.

3 Q. And what's your anticipation, how
4 deep would that be in that area based on your
5 cross-section B?

6 A. Those areas from the existing grade
7 or from the proposed grade? The existing grade
8 probably the cut is about 15 feet plus or minus a
9 little bit. And then we put the footing directly
10 on the rock at that point.

11 Q. And now if we were to go to the
12 south aspect of the building structure, do you
13 have any analysis or cross-section that would
14 assist you in making that same determination?

15 A. If you look on Figure 2 again I have
16 cross-section C which is the southernmost one.

17 Q. C?

18 A. C.

19 Q. Okay. And what does that
20 cross-section tell us?

21 A. Cross-section -- also we used test
22 pits, 3, 5, 4, 8 and going toward that boring
23 again to approximate the top of the rock that's
24 anticipated.

25 Q. And so, again, with the rear of the

1 building how far down do you anticipate before
2 you hit the top of the rock, the solid rock?

3 A. It ranges, again, 10 to 15 feet.

4 Q. And --

5 THE CHAIRMAN: 10 to what?

6 THE WITNESS: 15. 10 to 15 feet.

7 THE CHAIRMAN: Okay.

8 Q. And then on the north side of the
9 building, same question, same analysis?

10 A. Yes, Figure 2, cross-section A from
11 the north side. And those we used boring 4, test
12 pit 2, test pit 7, test pit 10 to locate the
13 depth of the rock. There the depth of rock is
14 approximately eight to nine feet.

15 Q. Now, your study was primarily to
16 discuss the stability or instability of the
17 slope, is that a fair statement?

18 A. Yes.

19 Q. And are you talking about the
20 existing conditions in this report?

21 A. Yes.

22 Q. And could you just bring us through
23 very briefly characterizing the slope, you can go
24 from south to north or north to south on the
25 slope, just characterizing what your observations

1 were about the slope and specifically about
2 issues of stability or instability.

3 A. First, look at Figure 1 which we
4 bring the area up into three different sections.
5 Section 1 is at the south end --

6 Q. You have to give us the page when
7 you refer to some --

8 A. It was Figure 1 in the attachments.

9 Q. Okay. Go ahead.

10 A. Section 1 is on the south end of the
11 property. Section 2 is in the middle, and
12 section 3 is at the north end.

13 Q. And what is that figure
14 illustrating?

15 A. It was just breaking up the
16 different areas so we can describe them better.

17 Q. Okay. Is there anything on this
18 figure that you want to bring to our attention?

19 A. I might refer back to --

20 Q. Not all of us may know how to read
21 it?

22 A. I might refer back to it.

23 Q. Okay. So take us through sections
24 1, 2 and 3. That would mean you were going from
25 the south nearest the Galaxy and working your way

1 to the gas pipe, correct?

2 A. Yes.

3 Q. Take us through your observations
4 and any concerns you have.

5 A. So Section 1 is on the south end,
6 it's nearest the Galaxy. There is the stone
7 riprap that Mr. Bertin spoke of earlier in the
8 back over here (indicating) on the south end with
9 the stonewall in the front of it. The stonewall
10 is in good condition as Mr. Bertin also said that
11 the stone behind it has not been eroded. There's
12 the filter fabric and stone on top. Typically
13 you don't put any topsoil or anything on top of
14 it because the topsoil could slide off and the
15 stone is there as the protection.

16 Q. What does that tell you about its
17 condition? Is it stable, unstable? Is it
18 fragile? Is it solid? What is this telling us?

19 A. It's in stable condition, there is
20 no evidence of erosion in this area. The wall
21 itself is in good condition. There is no bulges
22 in the wall or anything found during the
23 inspection.

24 Q. With regard to erosion or earth
25 moving or movement, is there anything evident

1 that concerns you as a geotechnical professional?

2 A. No, there seems no movement of soil.

3 Q. Now, going to the middle that would
4 be Section 2?

5 A. Yes.

6 Q. Same series of questions, Lisa.

7 A. Section 2 has some -- it's in this
8 general area (indicating). It has some fallen
9 trees. There is the exposed cliff face at the
10 very west end of the area. There's also
11 scattered boulders found throughout the area.
12 Those boulders can roll down, so we recommend
13 removing them, what's called scaling them,
14 basically taking them off the slope so that's not
15 possible.

16 Q. How large are these boulders? Are
17 they as big as a car? Are they as big as this
18 podium? As big as this table? Just give us a
19 sense.

20 A. They range in size from probably one
21 or two foot to probably three or four foot
22 diameter boulders plus or minus.

23 Q. And you have some recommendations
24 with regard to these boulders?

25 A. They should be removed and trees

1 also cleared.

2 Q. How would they be removed?

3 A. You would have to get up there
4 before construction of the building with manual
5 equipment and basically just push them down the
6 slope to remove them.

7 Q. And then this would be done
8 pre-construction of the building?

9 A. Yes.

10 Q. And with regard to the vegetation
11 and trees, what would you recommend with that
12 situation?

13 A. The trees that have fallen should be
14 removed. You can see on one of my photos there's
15 a tree that had been -- had fallen over, it
16 should be removed.

17 Q. Do these fallen trees and items of
18 that nature, do they concern you with regard to
19 the stability of the slope?

20 A. No, they just need to be removed.

21 Q. And is there anything there that was
22 unexpected with regard to these trees that are
23 fallen?

24 A. No, I don't believe so.

25 Q. Was it a surprise to you?

1 A. No, over time slopes, trees fall,
2 typical.

3 Q. Now, moving to the north, I guess
4 Section 3, the same series of questions, what
5 were your observations, what are your
6 recommendations?

7 A. Section 3 is over in this general
8 area (indicating). It's close to the
9 Transcontinental pipeline where we saw some
10 exposed Geoweb. The Geoweb was exposed at the
11 time we saw it.

12 Q. Is that the area at a higher
13 elevation and near the Summit House building?

14 A. Yes, up in that area.

15 Q. Okay.

16 A. Some of the Geoweb was exposed but
17 it's also hard to tell how they actually install
18 it. So to tell how much erosion had happened
19 either they installed it correctly or if they did
20 put all the soil back like they were supposed to
21 and cover it to the top, it's hard to actually
22 tell if they were installed properly.

23 Q. And with regard to the -- to that
24 area of the terrain, what about boulders that you
25 described that were a little bit to the middle of

1 the property. Did you see any significant number
2 of boulders in that area?

3 A. No, there are not very many there at
4 all.

5 Q. And now let's talk about overall
6 stability of the slope. Can you qualify or
7 quantify the condition of the slope and whether
8 it's unstable or I guess the correct word is
9 instable as opposed to unstable, instable or
10 stable can you work us through what your report
11 tells us and what you saw?

12 A. Knowing all the different walls that
13 were previously built on the site also helps with
14 the stability. They obviously had some issues,
15 so it's good that they're there. They are
16 helping and they are in good condition. Between
17 the areas there's a typical boulder that had
18 fallen over time, that's just typical of the
19 Palisades and the exposed cliff face far to the
20 west.

21 The rest of the slope is stable.
22 There is no evidence of erosion or any other
23 things coming down. The trees are natural, they
24 can just die over time so that's not a concern.

25 Q. Now, your report if we go to page 4

1 has some photographs and it continues of course
2 to page 5 and 6. But with the stone walls
3 photographs, can you just show us with your hands
4 where these walls are? For example, you have
5 stone walls 1, 2 and 3. Where's that on the
6 site? Stonewall 1 where is that?

7 A. Stonewall 1, 2 and 3 (indicating).

8 Q. And these are closest to the side of
9 the Galaxy?

10 A. Yes.

11 Q. What's the condition of those walls?

12 A. Those walls were in good condition
13 with the stone and the fabric behind them.

14 Q. Do you think those walls were formed
15 by nature?

16 A. No.

17 Q. Why not?

18 A. The rocks are put there precisely
19 and they were probably chiseled out in
20 rectangular shapes and placed there by hand or
21 with a machine.

22 Q. And they seem to be pretty tightly
23 compressed against a concrete retaining wall,
24 don't they?

25 A. Yes, they're chinked together very

1 well.

2 Q. What does that mean?

3 A. The little spaces between the bigger
4 rocks, you put smaller rocks in there to hold it
5 together.

6 Q. Almost like a wedge?

7 A. Like a wedge.

8 Q. And you think that was intentional?

9 A. Yes.

10 Q. And with regard to that wall can you
11 tell what the height of the wall is from its base
12 to the top, that's specifically wall No. 1,
13 approximately?

14 A. I think they're probably eight or 10
15 feet, plus or minus.

16 Q. And what is that above the wall,
17 that gray material?

18 A. That is the stone.

19 Q. Crushed stone?

20 A. Crushed stone.

21 Q. Is that the crushed stone you were
22 talking about?

23 A. Yes.

24 Q. What's the function of that crushed
25 stone?

1 A. Is to prevent erosion.

2 Q. Do you think that got there by
3 nature or is that also a man-made situation?

4 A. It was man-made and placed there by
5 someone.

6 Q. And overall what's the condition of
7 this structure, that is the wall itself, the
8 riprap, the wall and the crushed stone, what's
9 its condition?

10 A. These walls are in good condition.

11 Q. Do you know how old from looking at
12 them?

13 A. I don't know how old they are, no.

14 Q. Are they two years old can you tell
15 that?

16 A. (Witness nods.)

17 Q. You can't tell?

18 A. You can't tell.

19 Q. With regard to the next stone wall,
20 it looks like you're referring to stone wall No.
21 4 in the next area on page 5. Where is that
22 located?

23 A. That's over in this area
24 (indicating).

25 Q. Where the plan says wall, right?

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1 A. Stone wall.

2 Q. Where it says stone wall?

3 A. Yes.

4 Q. So that's stone wall No. 4, is that
5 what that is?

6 A. Yes.

7 Q. And could you again describe its
8 height, its length and its condition?

9 A. The length is approximately 50 feet
10 long and it varies in height. It looks like from
11 eight plus or minus feet to one or two feet at
12 the very edges of the south and north ends.

13 Q. And its condition overall?

14 A. Its condition overall is good.

15 Q. Now, go to page 7 outlined as rock
16 outcrop. There are three photographs on that
17 page, correct?

18 A. Yes.

19 Q. Can you tell us where that would be
20 on the site, again with your hands?

21 A. That is up here (indicating) and
22 then where it says exposed cliff face.

23 Q. And with regard to these photographs
24 could you just explain to us is that -- when you
25 say exposed rock, this is a natural phenomenon or

1 man-made?

2 A. This a natural phenomenon.

3 Q. There seems to be vegetation and
4 vines and things of that nature. Could you tell
5 us what all that is?

6 A. Yeah, there's vines that have grown
7 over the rock outcrops over time. There's also
8 leaves and other debris. As you can see there's
9 pipes, people probably threw them over the top.

10 Q. I'm going to the second photograph
11 on the second beam, the one next to the first
12 photograph on page 7. There seems to be certain
13 type of debris or material there?

14 A. Yes, definitely debris.

15 Q. What is that?

16 A. It's debris that somebody placed
17 there at some point.

18 Q. It's garbage?

19 A. Garbage.

20 Q. Okay. Is it serving any function?

21 A. Absolutely not.

22 Q. Do you have any recommendation with
23 regard to this garbage and debris, what to do
24 about it?

25 A. Clean it up.

1 Q. Remove it?

2 A. Remove it.

3 Q. And the lower picture, there seems
4 to be some litter and things of that nature on
5 page 7.

6 A. Yes, there's litter, there's also as
7 you can see in that area the boulders just above
8 the rock are loose, they should be removed or
9 scaled or --

10 Q. These are the boulders you were
11 referring to or the type of boulders that should
12 be pulled away or dropped down?

13 A. Those similar size boulders were
14 found scattered throughout the area so they need
15 to be either removed or netted in place so they
16 don't move.

17 Q. Can they be physically removed? Do
18 you know the technology to remove rocks like
19 this?

20 A. Yes.

21 Q. What do you do, just pull them down?

22 A. You -- they actually have --

23 Q. But you make sure you're not in
24 front of them, right?

25 A. You're not in front of them,

1 definitely not. There's different ways.
2 Obviously no one is at the bottom of the slope.
3 They sometimes if it's very loose they'll take a
4 crow bar and just wiggle it and push it down. If
5 it's a little tighter they actually put jacking,
6 expanding material between the little wedge.

7 Q. Like Wile E. Coyote and the Road
8 Runner?

9 A. Exactly and kind of push it off. No
10 explosives.

11 Q. But these things can be handled by
12 contractors that are experienced, correct?

13 A. Yes.

14 Q. Now, what are your recommendations
15 based upon these conditions and such? What
16 recommendations do you have with regard to the
17 future of this material, these boulders, the
18 vines, what's your recommendation?

19 A. I would recommend to try and remove
20 as much loose boulders as possible. If some of
21 them are quite large and aren't easily removed,
22 to secure it in place with either a rock bolt or
23 netting.

24 Q. Would you recommend this whether
25 there was construction to be planned or no

1 construction to be planned, would you recommend
2 that anyway?

3 A. Definitely.

4 Q. So it's a condition that should be
5 addressed?

6 A. Yes.

7 Q. Now, with regard to the construction
8 that's proposed, did you have an opportunity to
9 look at the report of Bertin Engineering that was
10 the subject of discussion earlier this evening
11 and its revised format, the Bertin report?

12 A. I'm sorry, I lost your whole
13 question.

14 Q. I'm sorry. Are you familiar with
15 the Risk Identification Investigation by Bertin
16 Engineering that was marked as A-6 and A-7 and
17 marked tonight as G-28? Are you familiar with
18 this report?

19 A. Yes.

20 Q. Did you get a chance to read it?

21 A. Yes.

22 Q. Did you look at this report in
23 preparation for the stability study report you
24 prepared?

25 A. No.

1 Q. Well, let me rephrase it.

2 Is there any need to look at this
3 report in conjunction with your report to enhance
4 your knowledge of the site?

5 A. You mean would it help me --

6 Q. Yeah.

7 A. -- with my knowledge?

8 Q. Yeah.

9 A. I don't think so. It just reaffirms
10 some things about the construction practices.

11 Q. All right. That's exactly where I'm
12 going. With the construction practices, did you
13 review the construction practices outlined in the
14 Bertin report?

15 A. Yes.

16 Q. And could you now pull together your
17 report and your testimony regarding the
18 construction activities as to whether or not
19 these activities will have any bearing on the
20 slope, its stability or its instability (sic)?

21 A. First of all, at the back of the
22 building will be -- it will be excavated at least
23 10 foot behind the proposed building and then
24 sloped up to the existing grade. At the top of
25 that area approximate two foot high rock berm

1 should be installed to prevent any future falling
2 down of any small rocks in the future along that
3 area, especially during construction. We know
4 that was talked about earlier.

5 Also along the north side where the
6 pipeline is, I know there was concern about being
7 close to the proposed pipeline. I did not talk
8 to Mr. Rodriguez, but from other experience with
9 very delicate situations in driving piles,
10 especially in the front of the building where we
11 have to drive them, as long as we use a vibration
12 monitoring equipment and personnel there during
13 the installation of the piles where they can
14 monitor how much velocity the ground is taking at
15 different areas, we'll be able to tell and stop
16 and change procedures if needed if the velocity
17 of the ground gets too high and there's a danger
18 to the pipeline.

19 So being approximately 20 plus feet
20 from the pipeline area is in my opinion
21 sufficient to build this building. In other
22 projects I've worked on, Hoboken we drove piles
23 right next to a glass factory and we had a
24 vibration monitor --

25 Q. How did that work out?

Mahle-Greco - direct

1 A. It worked out fine. We went nice
2 and slowly. We had the vibration monitoring guy
3 there the entire time. The people were in the
4 building there, watching us the entire time.
5 They did not break one piece of glass.

6 Q. Now, you're familiar with the
7 proposal and agreement by Appleview and Mr.
8 Bertin to auger the piling?

9 A. Yes.

10 Q. And you're familiar with that
11 methodology?

12 A. Yes, that prevents -- since the
13 pipeline is within the top 12 feet plus or minus,
14 the augering will prevent vibration in that area
15 and then you can drive the pile after that.

16 Q. Do you have experience with this
17 type of -- this methodology --

18 A. Yes.

19 Q. -- of piling?

20 A. Yes.

21 Q. Personal experience?

22 A. Yes, it's prevalent in the Jersey
23 City where there's buildings rights next to old
24 buildings next to new buildings where they're
25 concerned about driving piles. They make them

1 auger down approximately 10 feet and then drive
2 the piles from there.

3 Q. And have you supervised such
4 activities?

5 A. Yes.

6 Q. Now, with regard to this project do
7 you know how many piles are anticipated to be
8 employed in this project?

9 A. I don't know the number.

10 Q. Do you have any idea or is it just
11 too much speculation at this point?

12 A. I don't know the structural loads so
13 I don't know how.

14 Q. And with regard to the slope itself
15 now, the concern is not just a gas pipe but the
16 slope itself as to how it could be affected by
17 this augered piling and by the construction. Can
18 you express to us your opinion based on your
19 knowledge of the site, your observations of the
20 site and the studies that you've done as to how
21 this construction will react or how the slope
22 will react to this construction?

23 A. The piles will be significantly far
24 away from the existing slope when the piles will
25 be installed. I don't know the exact distance

1 because we have to work on that, say, for
2 instance, it's even half of the area which is 90
3 feet plus or minus.

4 THE CHAIRMAN: I'm sorry.

5 MR. MUHLSTOCK: What?

6 THE WITNESS: 90 feet plus or minus.
7 And then there is another 90, 95 feet to the edge
8 of the back of the building. That's sufficient
9 room for the driving piles in the front section
10 of the building not to affect the slope.

11 Q. Do you anticipate that the piling
12 will actually be in the front half of the
13 building, limited to the front half of the
14 building?

15 A. Yes.

16 Q. Why do you not expect to have to
17 pile beyond the front half of the building?

18 A. The depth of rock that we found in
19 our test pit and borings shows that it
20 sufficiently rises toward the back of the
21 property.

22 Q. And you would use the rock then to
23 pin that to the building?

24 A. Yes.

25 Q. Is that a piling?

Mahle-Greco - direct

1 A. Yes, we would put the foundation --

2 Q. You have to explain that.

3 A. -- and spread the footings directly
4 on the rock itself.

5 Q. So it's a different technology in
6 order to support the foundation of the back half
7 of the building as opposed to the front half of
8 the building?

9 A. Correct.

10 Q. And that's all dependent upon the
11 depth of the solid rock that would bear the
12 weight of this building?

13 A. Correct.

14 Q. Is that what you mean to say?

15 A. Yes.

16 Q. And with that and with that
17 methodology do you have any concerns with regard
18 to the stability of the slope utilizing the
19 construction methodology as outlined both in Mr.
20 Bertin's testimony and in your review of these
21 engineering plans?

22 A. No, as long as I described in our
23 cross-sections the slope behind the building is
24 constructed first with that berm on the top and
25 stabilized before the construction of the

1 building, the area will be stable.

2 Q. So explain that to us. You have to
3 phase some of the site work?

4 A. Yes.

5 Q. You have to do some work before you
6 do other work. So how would you go about it?

7 A. All the rock removal of boulder goes
8 and other debris found on the site should be
9 removed first.

10 Q. So that's common sense, you would
11 clean that up?

12 A. Clean everything up first.

13 Q. And then what?

14 A. Then you would start slowly
15 excavating into the area where the building is
16 going to be and excavate that 10 foot beyond and
17 slope up to the existing grade and put that berm
18 at the top.

19 Q. And that would be in the rear yard
20 setback that we're talking about and in the
21 rising slope --

22 A. Yes.

23 Q. -- that we're talking about?

24 A. That's correct. It's approximately
25 25 feet behind the building.

1 Q. And with regard to the type of
2 construction, are you also familiar with the
3 guidelines that were issued by Transco regarding
4 their concerns for pipeline safety? Do you have
5 any working knowledge of some of those notes,
6 those construction notes that they published?

7 A. I have not seen them.

8 Q. You left that to Mr. Bertin?

9 A. Yes.

10 Q. The analysis. Let's talk about the
11 soil conditions themselves and what we have under
12 the ground in the soil. Can you characterize the
13 soil? We understood from earlier testimony
14 there's different qualities of soil and such.
15 Can you characterize what the soil is here and
16 characterize it for us?

17 A. Typically in our test pits towards
18 the back, the west half of the building is found
19 some topsoil, leaves, debris and then a silty
20 sand.

21 Q. What about the second section?

22 A. Behind the building. A silty sand
23 that had cobbles and gravel mixed in. Gravel is
24 two inches approximately two inches below.
25 Cobbles are six inches, two to six inches.

1 Boulders get bigger than six inches also.

2 Q. What's cobbles, stones?

3 A. Yes, stones about six inches in
4 diameter, plus or minus. Those were found mixed
5 in the soil, using the track mounted backhoe. It
6 was pretty difficult to dig through so the
7 material was found to be in a dense condition so
8 it was fairly stable and dense.

9 Q. And these soil conditions, did you
10 factor that in in your review of the stability of
11 the slope with regard to the construction
12 activity that's anticipated?

13 A. Yes.

14 Q. And just tell us what your
15 conclusions are.

16 A. The slope will remain stable. We're
17 not disturbing that back half, only disturbing
18 approximately 25 feet behind the building where
19 we're going to put the berm at the top. So the
20 rest of this western portion of the building, the
21 property won't be disturbed except for scaling
22 and cleaning.

23 Q. So this is the key of your
24 testimony, why do you say that you don't think it
25 will be disturbed, the western portion and the

1 upper slope, why do you say that?

2 A. The rock is fairly shallow as seen
3 from the exposed cliff face here. We did find it
4 in this area 10 to 15 feet down which is not very
5 deep. The soil above it was in a dense condition
6 with the silty sand which keeps all the particles
7 together with the cobbles and gravel makes it
8 very dense and difficult to slide.

9 Q. So if there's removal of material a
10 little bit further to the east at a lower grade
11 in front of that section, you don't expect it to
12 collapse, is that what you're saying?

13 A. Yes, as long as we put that slope up
14 to the berm and make sure that's stable first.

15 Q. Now, there was some testimony by
16 other witnesses about soil, you know, best case
17 scenario, worst case scenario, et cetera,
18 et cetera. Are you familiar with the categories
19 of the soil that were being referred to by the
20 engineer from Transco or you don't know?

21 A. I don't know.

22 Q. How would you characterize the soil
23 itself on the area where the rear wall of the
24 building is being designed, how would you
25 characterize it?

1 A. Characterize it in what way,
2 seismic? Unified classification?

3 Q. Well, unified classification. Tell
4 us what that means and how you classify it?

5 A. Unified classification is a general
6 classification of soils, silty sand is an SM with
7 little to some amount of silt, some gravel and
8 cobbles in it. It's just a way to classify it.

9 Q. Okay. And you have other
10 classifications?

11 A. There's other methods. There's a
12 DOT method. There's different methods, that's
13 why I'm not sure by characterization --

14 Q. I don't mean to confuse you. I'll
15 withdraw the question.

16 With regard to the construction
17 activities, do you anticipate any problems with
18 the stability of the slope provided that these
19 precautions you outlined in your testimony are
20 taken?

21 A. No.

22 Q. With regard to the area where the
23 gas line is on a diagonal going through the
24 property, do you know where that location is?

25 A. Yes.

1 Q. Could you just show us with your
2 hand?

3 A. It's in this area (indicating).

4 Q. And in your report did you take any
5 photographs or did you illustrate that section of
6 the property?

7 A. There's a photograph in here, page 6
8 of 10, where it says Section 3 you can see
9 there's a little yellow pipe sticking up to the
10 left side of the picture which is where the
11 pipeline goes through.

12 Q. Page 6?

13 A. Yes.

14 Q. You're referring to a photograph?

15 A. The top photo.

16 Q. Right.

17 A. Where it says Section 3.

18 Q. Yes.

19 A. In the left lower half there's a
20 little yellow stick that indicates where the
21 pipeline is.

22 Q. Okay. With that area, does that
23 photograph accurately depict that section of the
24 property with regard to boulders or lack of
25 boulders and such? Is that a fair depiction of

1 that whole section?

2 A. I believe so.

3 Q. And do you have any concerns with
4 regard to the construction of this building in
5 the location that its being plotted as it relates
6 to this section of the property?

7 A. No, everything seems good.

8 Q. Okay. And why is that?

9 A. It's in stable condition. There's
10 small tree growth and small grass and other grass
11 growth in the area which helps stabilize it.
12 There's also a Geoweb that we talked about
13 earlier in the area.

14 Q. Thank you.

15 MR. ALAMPI: Chairman, I have no
16 further questions of the witness.

17 THE CHAIRMAN: Okay. We're going to
18 take a brief five-minute recess.

19 (Recess taken.)

20 THE CHAIRMAN: All right. The
21 meeting is resumed. Folks. Let the record
22 reflect that the board members that were present
23 before the break are again present. And
24 Mr. Lamb, you're up.

25 MR. LAMB: Yes, thank you.

1 Mr. Chairman, I note that we spoke
2 with Mr. Muhlstock and we excused our appraiser
3 was here Don Helmsetter there was no need, we're
4 not going to get to him. He was here since 10
5 after seven.

6 MR. MUHLSTOCK: By the way, since
7 you're making that statements, let me just say on
8 the record, I intend to respond to your letter of
9 July 26, 2012 as to whether or not this board
10 should even hear Mr. Helmstetter or whether that
11 would be appropriate for this board. But, it
12 doesn't matter for tonight because I'm going
13 to -- I'll prepare an opinion for you and send it
14 to you.

15 MR. LAMB: Okay. And also I know
16 that you might have an issue with a conflict with
17 Mr. Helmstetter and I thought since he hasn't
18 testified and all we have is his report, we can
19 hash that out before the next meeting.

20 MR. MUHLSTOCK: Well, I'll hash it
21 out in my letter to you so that we all know where
22 we're going.

23 MR. LAMB: Okay.

24 MR. ALAMPI: You'll send me a copy
25 of that, counsel?

Mahle-Greco - cross

1 MR. MUHLSTOCK: I would think so.

2 MR. ALAMPI: Thank you.

3 THE CHAIRMAN: Mr. Lamb.

4 CROSS-EXAMINATION

5 BY MR. LAMB:

6 Q. Good, good evening. Is it fair to
7 say that you're not a pipeline safety expert?

8 A. Yes.

9 Q. You're not qualified to address
10 pipeline safety issues?

11 A. True.

12 Q. Okay.

13 THE CHAIRMAN: If you would speak
14 into the mike.

15 Q. You answered Mr. Alampi's questions
16 the difference between a soil -- a test pit and a
17 soil boring, I believe, was that, the TPs, test
18 pits and soil borings?

19 A. Yes.

20 Q. And is it fair to say that a
21 majority of those test pits or the majority of
22 the samples that you took on a number of
23 occasions which is Figure 2 attached to your
24 report dated June 1, 2012, that the only two
25 non-test pits are B-1 and B-2 which are on the

1 easterly portion of the property? I'm sorry and
2 one other, and B-4. Other than -- and I don't
3 see B-3 unless I'm missing it.

4 A. No.

5 Q. Is there a B-3?

6 A. No.

7 Q. So there's a B-1, B-2 and B-4?

8 A. Correct.

9 Q. What happened to B-3?

10 A. I have no idea.

11 Q. Okay. There is not a B-3 that was
12 ever tested, it's just misnumbered?

13 A. No, I believe it was a pit refusal
14 at the surface or something, so it wasn't put on
15 there.

16 Q. Do you have a -- I know there was a
17 sheet in your prior report for each of the test
18 pits, there was a sheet on what happened. Do you
19 have a sheet for B-3?

20 A. No.

21 Q. Do you have any evidence as to what
22 happened on B-3?

23 A. Only from what I remember. And I
24 think they just had refusal from the surface, hit
25 a boulder so they moved on.

1 Q. And where was B-3?

2 A. I don't remember.

3 Q. So is it fair to say that B-3 there
4 was rock right up to the surface?

5 A. It could have been a boulder.

6 Q. But you don't know?

7 A. I don't know.

8 Q. And you didn't then try to go a
9 little farther to the left or the right or the
10 north or south to -- for B-3, you don't know what
11 happened?

12 A. I don't recollect at that time.

13 Q. But it's fair to say that all these
14 test pits and soil borings, they were primarily
15 at the time you did them in connection with the
16 first application, you were trying to find where
17 the rock was in relation to the surface?

18 A. Correct.

19 Q. Okay. So on at least that one,
20 we're not sure of the results, but on at least
21 that one there was no difference between the
22 surface and the rock, there was no distance, it
23 was right at the surface?

24 A. We don't know that. It could have
25 been a boulder.

1 Q. So you don't know? You don't know
2 with that B-3 --

3 A. That B-3 --

4 MR. MUHLSTOCK: She said that. She
5 said that. She said that.

6 MR. ALAMPI: I'll object.

7 MR. MUHLSTOCK: She doesn't know.

8 Q. All those TP-1, 2, 3, 4, 5, 6, 7, 8,
9 9 and 10, any other TPs that are not shown on
10 this?

11 A. Not that I'm aware of.

12 Q. And the TPs that are shown is it
13 fair to say that when you do a test pit, the test
14 pit is more invasive to the slope or the property
15 than a soil boring?

16 A. True.

17 Q. I recall testimony that the test
18 pit, somebody asked, I think they asked you,
19 isn't a test pit like two feet by two feet and I
20 might have you confused with Mr. Bertin, and the
21 answer is no, a test pit is much bigger. Can you
22 tell us how big a test pit is?

23 A. It varies. The bucket is usually
24 approximately two or three feet square or
25 rectangle, so it depends sometimes it gets larger

1 at the top and smaller at the bottom. It varies
2 from test pit to test pit.

3 Q. But you're doing it with a backhoe?

4 A. Yes.

5 Q. And so is it fair to say to get any
6 depth you have to take the backhoe and go a
7 distance, you have to go some distance to get
8 that deep?

9 A. Some distance, yes.

10 Q. Five or six feet long?

11 A. It varies depending on the depth.
12 The deeper you are, the bigger the hole is going
13 to be.

14 Q. Soil borings it goes straight down?

15 A. Yes.

16 Q. That's fair simply. But test pits,
17 if you want to go down eight feet you have to
18 scoop up enough dirt to be able to go eight feet;
19 is that right? To get that depth, you have to
20 scoop up the dirt?

21 A. Yes.

22 Q. Is there an average length of that?

23 A. It depends on the depth. It could
24 be two feet by, I don't know, six foot length
25 plus or minus.

1 Q. Now, on Figure 2 which you testified
2 to you had A, B and C. But let's take column A.
3 You were trying to figure out a cross-section of
4 the rock on column A, on A; is that correct?

5 A. Cross-section A.

6 Q. The purpose was a cross-section. Is
7 it fair to say that TP-7 is closer to B than it
8 is to A?

9 A. Yes.

10 Q. As a matter of fact, is it fair to
11 say that all the TPs as an example to arrive at
12 the cross-section in A they're skewed, they're
13 all over the place, they're not in any semblance
14 of a straight line?

15 A. No, they're not in a straight line.

16 Q. And the same applies to B, is that
17 not correct, same thing, there is no straight
18 line, the test pits for B are all over the place?

19 A. They're not in a straight line.

20 Q. Same for C?

21 A. Correct.

22 Q. Now, you indicated part of your
23 recommendation in this report is to provide a 10
24 foot area behind the westerly side of the
25 building and then a berm beyond the 10 feet.

1 A. Yes.

2 Q. Is that correct?

3 A. Yes.

4 Q. And you recommend, you strongly
5 recommended that even before construction of the
6 building takes place, you want that constructed?

7 A. Yes.

8 Q. Is that rock berm, the rock wall,
9 the 10 foot area, is that shown in any place on
10 this site plan?

11 A. No.

12 Q. Okay. And as Mr. Bertin testified,
13 your report was done after the site plan was
14 prepared?

15 A. Yes.

16 Q. Now, you did reference this other
17 project in the glass factory and whatever that
18 you had --

19 A. Hoboken.

20 Q. Yeah, Hoboken. That wasn't on the
21 cliffs, was it, any type of steep area or cliffs?

22 A. No, it wasn't.

23 Q. It wasn't next to a sewerage
24 treatment plant, was it?

25 A. No.

1 Q. Didn't involve removing the toe of a
2 slope to the tune of about 200 cubic yards, did
3 it?

4 A. No.

5 Q. Now, are you aware that Transco
6 originally requested 25 feet for their access
7 easement?

8 A. No, I was not.

9 Q. Were you aware that the Transco
10 Williams guidelines recommend a minimum of 50
11 feet, I believe?

12 A. No.

13 Q. Are you familiar with what they
14 recommend?

15 A. I did not read their report.

16 Q. Now, your report indicated this
17 phasing, the first thing is of course, makes
18 sense, remove the debris and the rocks and the
19 trees and the loose items, that makes sense.
20 Let's go to the more construction related items.
21 Anything in your report that says that that 10
22 foot area with that berm that should be created
23 should be done first as far as phasing? Does
24 your report say that it should be done first?

25 A. No, it doesn't say that

1 specifically.

2 Q. But that's pretty important?

3 A. Yes.

4 Q. That has to be done before anything
5 else?

6 A. Yes.

7 Q. Now, you've indicated that the rock
8 is fairly shallow at the western side of the
9 property and if I understand it correctly just in
10 general terms, 10 to 15 feet below the surface?

11 A. Yes, below the existing surface.

12 Q. Below the existing surface. So the
13 proposal is you're going to excavate that ten or
14 15 feet and do I guess it's called a spread
15 foundation?

16 A. Yes.

17 Q. And that's going to actually touch
18 rock or you'll have something there but it's
19 close to touching the rock?

20 A. It will be directly on the rock.

21 Q. Okay. Is it fair to say that a
22 portion of this slope, and a substantial portion
23 of the slope has a distance between the exterior
24 of the slope and the below grade rock, there's a
25 distance there, there's a depth until you get to

1 rock pretty much over a substantial portion of
2 that slope?

3 A. Yes.

4 Q. Okay. And did you study the affect
5 of creating an excavation of the toe for 2000
6 cubic yards and its affect on that kind of body
7 of dirt that's sitting on that slope?

8 A. Yes, that's why there's that 10 foot
9 area and the sloped area with the back berm on
10 top.

11 Q. So that 10 foot area and that rock
12 berm on top is what keeps the rest of that slope
13 up?

14 A. Yes.

15 Q. Can you explain to me -- and maybe
16 it's simple but I don't get it -- the berm on top
17 beyond the 10 feet, is that excavated into the
18 ground? Is there a foundation for that?

19 A. No, the berm is probably a little
20 bit in the ground. It's probably a foot into the
21 ground so it doesn't move and then the slope down
22 to that 10 foot section behind the hinge is at a
23 one to one slope which is a fairly stable
24 temporary -- you know, short term temporary slope
25 because after the building is constructed it will

1 be backfilled and the swale that Mr. Bertin had
2 talked about will be constructed.

3 Q. What happens when you build this
4 berm, how does the stormwater get to the other
5 side of the berm and closest to the building?

6 A. It would probably follow down the
7 one side toward the north side.

8 Q. So is it fair to say that now the
9 berm is going to catch the water and direct it to
10 the northerly side?

11 A. It's not necessarily going to
12 collect it but it would slow it down.

13 Q. Or direct it to that direction?

14 A. Or direct it or both.

15 Q. Now, I know you testified Mr. Alampi
16 asked you a number of questions about your June 1
17 2012 report. Did you take any of those pictures?

18 A. Some of them.

19 Q. Which one did you take?

20 A. On page 3, on the one on the right
21 side.

22 Q. Okay.

23 A. Some of the ones I took similar
24 pictures but other ones of Bertin were clearer so
25 that could be why I chose them. On page 5 the

1 one that says Section 2 dirt pathway and stone
2 wall 4. And that was it.

3 Q. So there's 12 pictures in total in
4 your report?

5 A. Yes.

6 Q. And you took two out of the 12, is
7 that fair to say?

8 A. Oh, I forgot the one on page 8.

9 Q. Okay, three out of 12.

10 A. Yes.

11 Q. Now, you mentioned that as far as
12 stabilization of this slope, there was small
13 trees, there's grass, there's Geoweb, all of
14 those things help stabilize that slope?

15 A. Yes.

16 Q. Mr. Alampi asked you a number of
17 questions. Those old stone walls, those
18 retaining walls. We all agree that they're not
19 new, there's speculation it was done at the time
20 that the Galaxy was constructed, at least 30 to
21 40 years ago, I think that's what your report
22 indicates, 30 plus years.

23 A. Could be.

24 Q. Is it fair to say that based upon
25 what you observed we all don't -- we weren't all

1 back there to know exactly what happened but from
2 what you observed, there's a desire and an intent
3 by somebody to stabilize that slope. All of
4 these things help stabilize the slope?

5 A. Yes.

6 Q. Okay. They put retaining walls here
7 and there, they put Geoweb on the north side.
8 They put, I forget, fabric, I forget exactly what
9 it was.

10 A. Filter fabric.

11 Q. Filter fabric on the south side.
12 All of those things were to stabilize that slope?

13 A. Yes.

14 Q. Is removal of 2000 approximately
15 cubic yards from the toe of that slope, isn't
16 that a substantial excavation of the slope?

17 A. I don't know about substantial.

18 Q. So you don't think that's
19 substantial?

20 MR. LAMB: We're up to G-29, Mr.
21 Muhlstock?

22 MR. MUHLSTOCK: Yes, we are.

23 Q. I'm going to show you what I've
24 marked G-29.

25 MR. LAMB: I'm going to put today's

1 date, 7/26/12, my initials. I see that I do not
2 have a lot of copies in it but this was the
3 report that's already part of the first hearings.
4 I have two additional copies, I apologize. I
5 thought I had 18. I'll give one to Mr.
6 Muhlstock, one to the Chair.

7 MR. MUHLSTOCK: All right. For the
8 record this was -- this is the Johnson Soils
9 Company report dated September 16, 2010. It's
10 signed by the witness.

11 (Galaxy Exhibit 29, Johnson Soils
12 Company report dated September 16, 2010,
13 was marked for identification.)

14 Q. And is that the report that you
15 previously submitted, one of the reports, you
16 submitted a number of them in the initial
17 application before the North Bergen Planning
18 Board?

19 A. Yes.

20 Q. Now, in connection with your June
21 1st, 2012 report, you have a number of
22 cross-sections attached to the end of the report.
23 I believe you have cross-section A, cross-section
24 B and cross-section C; is that correct?

25 A. Yes.

1 MR. LAMB: I'm going to mark this as
2 G-30 and date it 7/26/12 with my initials. I'm
3 going to represent that these are those three
4 exhibits to your report that have been slightly
5 enlarged to facilitate the view of everyone.

6 MR. ALAMPI: What report?

7 MR. LAMB: The June 1st, 2012.

8 (Galaxy Exhibit 30, three exhibits
9 attached to Lisa Mahle-Greco's report dated June
10 1, 2012 was marked for identification.)

11 Q. You'll also note that there's a
12 green marker on there over a line and there's a
13 green highlight where it says "existing grade."
14 Is it fair to say that I correctly put the green
15 line where the current grade is, the current
16 slope?

17 A. Yes.

18 Q. On both sections A, B and C?

19 A. Yes.

20 Q. Okay. What I'd like you to do with
21 this yellow Magic Marker -- and also before I do
22 that, each one of these cross-sections has that
23 notation for that 10 foot area. Is the berm
24 shown on the 10 foot area in any part of these
25 cross-sections?

Mahle-Greco - cross

1 A. Yes.

2 Q. The berm is shown on this?

3 A. Yes.

4 Q. Okay. Can you point out where,
5 let's take section A?

6 A. Right here (indicating).

7 Q. Okay.

8 A. B is right here. C is right here
9 (indicating).

10 Q. Okay. If you could mark in blue
11 where the berm is.

12 (Witness complies.)

13 Q. Now, when you drew that line, the
14 berm itself is not that whole area, that just
15 shows hows designated. It's just that little --

16 A. I did the same thing as you did is
17 show what it is.

18 Q. That's fine. What is the distance
19 between the 10 foot area and the berm, the end of
20 the 10 foot area, the westerly most section and
21 the berm approximately? Let's take, pick
22 cross-section A.

23 A. A is approximately 15 feet.

24 Q. Okay. And B?

25 A. B is about 18 feet.

1 Q. Okay. And C?

2 A. About 14 feet.

3 Q. Okay. So what really you're saying
4 is to fine tune your recommendation, you are
5 recommending strongly before any construction
6 that there's a 10 foot called no man's land, a 10
7 foot area, then at some point beyond that 10 feet
8 going in a westerly direction anywhere from
9 whatever you just testified to, 15 to 20 feet in
10 there, there should be a berm placed?

11 A. Yes, for temporary construction
12 purposes.

13 Q. Okay. What happens at the end of
14 the construction?

15 A. At the end of the construction you
16 go to the grading plan of Bertin Engineering and
17 fill back in the area behind the building and
18 create the swale.

19 Q. Is then the berm removed?

20 A. You could leave it there or remove
21 it.

22 Q. Is any of this shown on any site
23 plan that you're aware of?

24 A. Not that I'm aware of.

25 Q. The width of the berm, the height of

1 the berm, the exact location on the site plan,
2 none of that is shown on the site plan?

3 A. Not that I'm aware.

4 Q. Now, I'd like to take -- I'm going
5 to give you a yellow Magic Marker and I'd like
6 you on each of the plans to show us in yellow,
7 I'd like to show on each of the plans I'd like to
8 show us in yellow what part below the slope is
9 being excavated. What's the -- the yellow part
10 should so this is the portion of the slope below
11 the green line that you're proposing to have
12 excavated.

13 A. Behind the building?

14 Q. Under the green line, below the
15 green line, below the slope. What -- and I'll
16 give an example. Section A you've got the ground
17 level and it's -- you're taking this little
18 section here and you're -- I assume, removing
19 that to dig into the slope.

20 MR. ALAMPI: Chairman, I'm having a
21 hard time seeing any of those sheets. You
22 getting like John Schepisi.

23 MR. LAMB: But I still left my
24 jacket on. I did loosen my tie.

25 MR. ALAMPI: I'll take my pants off.

1 THE CHAIRMAN: It's not that kind of
2 meeting.

3 THE WITNESS: The section on the
4 green line that's excavation for the building
5 itself and there's another section behind the
6 building that's temporary for building during
7 construction. So I don't know what you want me
8 to exactly highlight because --

9 Q. Why don't you show all of it.

10 (Witness complies.)

11 Q. Can you cross hatch it?

12 A. I guess so.

13 (Witness complies.)

14 Q. And now to make sure we're accurate
15 I'm going to give you my pen. Do you want to
16 cross hatch the portion of it that you said is
17 beyond the building or the temporary -- I don't
18 want to put words in your mouth, the portion you
19 differentiated it?

20 A. Yes, a portion is excavated for
21 buildings purposes that will be replaced after
22 construction of the building. I'll put the --
23 add the blue hatch for the area where the berm is
24 that's going to be replaced after construction.

25 Q. Okay.

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(Witness complies.)

Q. Do you want another Magic Marker?
Okay. All right. I'll just take my pen back.

And do you know when Mr. Bertin testified that the amount excavated from the toe was about 2,000 cubic yards, did that also include that additional area beyond the 10 feet that you needed to excavate?

A. I don't know if that's what he included.

Q. Okay. Do you know an estimate in round numbers of the amount of cubic yards that need to be excavated for each of those cross-sections?

A. I don't know off the top of my head, no.

Q. Is that some calculations that you ever made?

A. No, I did not.

Q. Okay. And is it fair to say that slope stability -- a slope can become unstable if I excavated hundreds of feet into the slope and it may be very stable if I excavate a foot into the slope; is that fair to say?

A. Depends on how it's excavated.

1 Q. Okay. Assuming that it's excavated
2 safely, is it fair to say there's a relationship
3 between the amount of excavation and the amount
4 of disturbance with the stability?

5 A. It depends on the angle of repose of
6 the soil.

7 Q. Are there circumstances where
8 substantial excavation can cause the slope area
9 to be unstable?

10 MR. ALAMPI: I'll render an
11 objection. That's highly speculative on there
12 circumstances.

13 MR. MUHLSTOCK: Well, are there any
14 --

15 MR. ALAMPI: I'm sure there are.

16 MR. MUHLSTOCK: Are there any
17 circumstances, Mr. Lamb, any circumstances?

18 MR. ALAMPI: It's not a proper
19 question.

20 MR. LAMB: Yes.

21 A. There's a possibility.

22 Q. And -- let me go back to your
23 original report, G-29. By the way, when did you
24 prepare these cross-sections?

25 A. Must have been in -- those ones are

1 adopted for this report.

2 Q. What's the date on this?

3 MR. ALAMPI: Mr. Lamb, you said
4 original report?

5 MR. LAMB: I'm still sticking with
6 this. I'll get to that.

7 MR. ALAMPI: It's not the original
8 report.

9 MR. LAMB: No, I'm going to G-29.

10 A. These cross-sections were made May
11 25th, the 2012.

12 Q. All three of them?

13 A. Yes.

14 Q. Three cross-sections. Did your
15 office ever prepare cross-sections before this
16 date in connection with this -- the initial
17 application or a prior application?

18 A. Yes, in September 16th, 2010 report.

19 Q. And that's an exhibit to that report
20 we just marked as G-29?

21 A. Yes.

22 Q. And how many cross-sections were
23 attached to that report?

24 A. The same three.

25 Q. And does this report indicate, this

1 cross-section indicate a revision date?

2 A. No, it does not.

3 Q. Isn't it common if you take a
4 cross-section and then you make a change to it,
5 you showed the original and you'd show a revision
6 date?

7 A. It's in a different report.

8 Q. You wouldn't say that that is
9 revised?

10 MR. ALAMPI: Well, I'll object. She
11 answered.

12 MR. MUHLSTOCK: Sustained.

13 Q. When you submitted -- you originally
14 did a report dated May 14, 2007?

15 A. I'd have to look at it to confirm
16 but I believe so.

17 Q. Okay, I'm going to give you mine.

18 MR. ALAMPI: You're going to mark
19 that, John?

20 MR. MUHLSTOCK: Mr. Lamb, did you
21 ask whether the cross-sections that were dated
22 September 16, 2010 are the same as the
23 cross-sections which are dated May 25, 2012?

24 MR. LAMB: Yes.

25 MR. MUHLSTOCK: Okay. Are they?

Mahle-Greco - cross

1 THE WITNESS: No, there's
2 differences.

3 MR. MUHLSTOCK: Okay. Why?

4 Q. And explain the differences, please.

5 A. The difference is after we looked at
6 the slope stability we needed a 10 foot section
7 in back of the building with a slope and the berm
8 was added.

9 Q. Okay. So you basically took the
10 original cross-sections in your original report
11 dated --

12 MR. ALAMPI: September 2010.

13 MR. MUHLSTOCK: September 16, 2010.

14 Q. -- September 16, 2010. You added
15 the 10 foot area and the berm; is that right?

16 A. Yes.

17 Q. Okay. Now, when you did the report
18 May 14, 2007 -- and I don't have enough copies,
19 that's my only copy, G-30?

20 MR. MUHLSTOCK: G-30. G-30 are the
21 cross-sections A, B, and C from the 2012 report
22 they're dated May 25, 2012.

23 MR. BASELICE: G-31.

24 MR. LAMB: This is G-31.

25 MR. ALAMPI: Whoa, what's G-31?

Mahle-Greco - cross

1 THE WITNESS: My original report
2 dated --

3 MR. BASELICE: 2007?

4 THE WITNESS: -- May 14, 2007.

5 (Galaxy Exhibit 31, original report
6 of Johnson Soils dated May 14, 2007 with
7 revisions, was marked for identification.)

8 MR. LAMB: G-31 is the original
9 report I believe of Johnson Soils dated May 14,
10 2007, revised August 1st, 2007, revised June
11 10th, 2010.

12 Q. When you prepared that report you
13 showed all the revision dates on the cover, did
14 you not, and each time you revised it?

15 A. Yes.

16 Q. Now, going back to your June 1, 2012
17 report, your goal is to provide precaution. In
18 the introduction you indicate the report
19 discusses precautions and -- "precautions that
20 should be taken to stabilize the slope"; is that
21 correct?

22 A. Yes.

23 Q. So that was one of the functions, to
24 stabilize that slope?

25 A. If needed.

1 Q. If needed. And the history is
2 there's a bunch of things that were done to
3 stabilize the slope?

4 A. Previously, yes.

5 Q. We don't know when exactly but
6 there's been lots of stabilization techniques; is
7 that correct?

8 A. Yes.

9 Q. When was the last time that you were
10 on the property, walked the property
11 approximately?

12 A. Probably sometime in May, I don't
13 remember the exact date.

14 MR. MUHLSTOCK: May of 2012?

15 THE WITNESS: Yes.

16 Q. Now, you did determine on page 3 of
17 your report that -- on the third line "parts of
18 the soil have poor quality"; is that correct?

19 A. Yes, of the site. Portions of the
20 site have poor quality soil.

21 Q. Do you know what types of soil this
22 site has?

23 A. We talked about in the western
24 portion it has the topsoil debris, the silty sand
25 and the rock. And then eastern portion it has

1 fill, organic and then the rock below that.

2 Q. Okay. And isn't there I guess if I
3 went to the county requirements on grading soils,
4 is there soil type A, B, C, D, E? Isn't there
5 types of soils that they categorize these?

6 A. It depends on the categories. I
7 mean it's so many different places they
8 categorize the soil, I'm sorry, I don't know that
9 specific one. There is a seismic
10 classifications, there's OSHA classification,
11 there's Unified Classification. I don't know
12 that one specifically but I believe that there
13 is. There is a lot of them out there.

14 Q. Okay. Now, you provided in your
15 report on the bottom of page 4, the very last
16 line, "The portion abutting the new construction
17 will most likely need to be constructed." Is
18 that correct?

19 A. Reconstructed.

20 Q. Reconstructed, yes.

21 A. Yes.

22 Q. So that's the portion, the southerly
23 portion closest to the Galaxy, Mr. Bertin has
24 complained that part of that retaining wall has
25 to be removed as part of this project and your

1 recommendation is that it needs to be
2 reconstructed?

3 A. Well, any part that has to be
4 removed to get to the building would have to be
5 reconstructed or replaced, I believe, to their
6 original condition to satisfy any grading
7 requirements. If you don't put something there,
8 obviously there's going to be a problem with that
9 area. You'd have to put it back to the way it
10 should be.

11 Q. Okay.

12 A. Or replace it with something else.

13 Q. Okay. So Mr. Bertin testified you
14 may not need to put the retaining wall back but
15 your recommendation is to put the retaining wall
16 back. And I'm just trying to figure out does the
17 retaining wall go back or maybe it doesn't go
18 back, what happens to that?

19 A. It could go either way depending
20 on -- I mean, it depends on the site. I mean,
21 they decide that it doesn't, you know, need to go
22 back. I mean, you can even decide at that time
23 and how it's graded and how badly it was
24 affected.

25 Q. But you're the one that did the

1 Slope Stability Report, right?

2 A. Yes.

3 Q. You are the one that studied this
4 particular area. You recommended a retaining
5 wall. Is it fair to say that if this board
6 grants approval, they should make sure that the
7 retaining wall goes back to the original
8 condition to make sure it supports it unless
9 there's some alternative that works; is that a
10 fair statement?

11 A. Put it back to the original
12 condition unless there's another acceptable
13 alternative, yes.

14 Q. Okay. When you put back a retaining
15 wall to its original condition, that's one of the
16 realm of possibilities, either A or B, but if we
17 put the retaining wall back, in constructing the
18 retaining wall do you have to shore up the
19 portion of the slope so that when you first take
20 it down, it doesn't collapse?

21 A. You usually slope it back so it
22 doesn't do that. On the shoring when you go to
23 put it back it could become a problem. Usually
24 they slope it in the meantime.

25 Q. I'm going to go over briefly some of

1 your recommendations. You recommend that on page
2 5, that "A fence is proposed to delineate the
3 limited disturbance around the construction
4 site." That was one of your recommendations?

5 A. Yes.

6 Q. Okay. Where would that fence be
7 located?

8 A. It's usually within the limited
9 disturbance, so the limited disturbance here
10 there should be a fence of some sort around that
11 property.

12 Q. Does the -- does that fence go to
13 the west of the berm or to the east of the berm?

14 A. I don't know specifically, you'd
15 have to figure that out.

16 Q. You've recommended and I know you
17 stated all the falling trees, loose rocks be
18 cleared from the slope area, that's another one
19 of your recommendations?

20 A. Yes.

21 Q. Okay. You recommend that the loose
22 boulders and the outcrop be removed as shown on
23 page 7?

24 A. Yes.

25 Q. You recommend, you said it's prudent

1 but not mandatory that the entire outcrop be
2 covered with rock netting that secured to the
3 outcrop with six foot long anchors?

4 A. Yes. Once we've scaled the area
5 that can be addressed more definitively to find
6 out if rock netting would help or not.

7 Q. You indicate that the minimum clear
8 zone we already talked about, that's a
9 recommendation?

10 A. The 10 foot behind the building?

11 Q. Yes.

12 A. Yes.

13 Q. You recommend that if rock is
14 encountered during that excavation, that rock
15 will not need to be sloped. I'm not quite
16 understanding what that means.

17 A. That the slope -- if the rock is
18 encountered in any area here, if rock is
19 encountered say up here, then you can slope it
20 back, you don't need to slope it at this specific
21 angle if the rock is there (indicating).

22 Q. Okay. You recommend that the
23 geotechnical engineer review this area after the
24 initial excavation?

25 A. Yes.

1 Q. You indicate that the slope should
2 be seeded as well?

3 A. Yes.

4 Q. You indicate that the slope should
5 be vegetated for the plants?

6 A. Yes.

7 Q. And what vegetation are you
8 referring to in that comment on soil
9 stabilization?

10 A. Well, the grading plan of after it's
11 all done has a -- their landscape plan and
12 whatever vegetation.

13 Q. Does the grading plan currently show
14 the creation of the 10 foot area and the berm?

15 A. No.

16 Q. You -- the rock -- on the rock fall
17 you indicate that the rock outcrop in Section 2
18 should be scaled of all loose boulders?

19 A. Yes.

20 Q. You indicate that the geotechnical
21 engineer should inspect that outcrop thereafter?

22 A. Yes, but what I just talked about
23 before, after it's scaled with the loose
24 boulders, that the area should be inspected, make
25 sure either the netting or possible, there's

1 always possibility of rock bolts or additional
2 rock anchors just to secure the area.

3 Q. You indicate on some portions the
4 berm should be made of two foot or larger rocks;
5 is that correct?

6 A. Yes.

7 Q. You indicate that one of the
8 existing stone walls, I believe it's the one in
9 the south has to be modified, that's your
10 recommendation?

11 A. Which one was that?

12 Q. That's on existing rock retaining
13 walls, page 9 of 10 on the bottom.

14 A. Yes, that's the one we talked about
15 previously where it meets the building.

16 Q. You also indicate that the wall
17 should be visibly inspected monthly during the
18 construction?

19 A. Yes, to make sure there is no
20 problems.

21 Q. Okay. And you indicate an annual
22 inspection of the rock outcrop is recommended?

23 A. Yes, that's also a town
24 recommendation that all rock face and rock
25 outcrop should be annually inspected.

1 Q. You also after the inspection
2 indicate your recommendation that short term and
3 long-term corrective actions to the rock netting
4 and anchor belts are recommended -- I'm sorry,
5 are noted in the report?

6 A. What page is that?

7 Q. I'm sorry, page 10, the last page.

8 A. Um-hum.

9 Q. "The short term and long-term
10 corrective actions are to be noted in that
11 report. "

12 A. Yes.

13 Q. So if there's an annual inspection,
14 like you recommend, and they have a short term
15 recommendation and a long-term recommendation,
16 your advice to the planning board and to your
17 client is whatever that report indicates should
18 be taken, that should be also done?

19 A. Yes.

20 Q. On the retaining walls you have
21 similar recommendations; rock walls reviewed
22 annually?

23 A. Yes.

24 Q. Inspected. Short term and long-term
25 corrective actions noted in that annual report?

1 A. Yes.

2 Q. Also if they're noted they should
3 also be addressed?

4 A. If the short term should be
5 addressed immediately, usually in the long-term
6 are usually either come back, you know, possibly
7 depending on what it is it, it could be come back
8 in six months and verify everything is okay or
9 just check on it the next year and verify that
10 it's still in the same condition or it's changed.

11 Q. Okay. And the report on the outcrop
12 should go to the North Bergen construction
13 official each spring?

14 A. Yes.

15 Q. And the report on the retaining wall
16 should go to the North Bergen construction
17 official each spring?

18 A. Correct.

19 Q. So just very generally, and I might
20 have missed a couple, there's about 20 what I
21 call recommendations that you based upon your
22 slope review have recommended to the board to
23 make sure that this is safe, about 20?

24 A. Plus or minus.

25 Q. Plus or minus a couple, I might have

1 missed some. And it's your recommendation that
2 all of that occur in connection with the current
3 application pending before the board?

4 A. Yes.

5 Q. And when you -- you did testify and
6 submit a report in the initial hearing before the
7 board, did you not?

8 A. Yes.

9 Q. Did any one of these 20
10 recommendations make its way into any of the
11 reports that you did, any of the studies? Any
12 one of these recommendation make it into any of
13 those reports?

14 A. Previous reports?

15 Q. Yes.

16 A. No, they weren't talked about or
17 required to be talked about or asked me to talk
18 about.

19 Q. Okay. Okay. Any testimony by you
20 that mentioned any one of these 20 items that
21 would make this project safer?

22 A. Oh, mentioned --

23 Q. In the initial hearing, not the
24 current hearing.

25 A. No, they weren't mention earlier.

Mahle-Greco - redirect

1 MR. LAMB: Almost done, Mr.

2 Chairman. She wasn't a pipeline engineer, so I
3 had to go quicker.

4 THE CHAIRMAN: Okay. Oh, that was
5 quick.

6 MR. LAMB: I have nothing further,
7 Mr. Chairman.

8 MR. ALAMPI: Two redirect questions.

9 MR. LAMB: Yes.

10 REDIRECT EXAMINATION

11 BY MR. ALAMPI:

12 Q. Lisa, these recommendations, whether
13 they're 18 or 20, are the majority of the
14 recommendations especially those on the upper
15 level in conjunction with the construction or are
16 these recommendations that you are assessing now
17 in its existing and natural condition?

18 A. A little bit of both.

19 Q. Okay.

20 A. The existing cliff face I think no
21 matter what should be addressed whether this is
22 built or not.

23 Q. That's why I asked you about the
24 upper level.

25 A. Right. The upper level should be

1 addressed no matter what if anything is built on
2 this property or not. And the other portions are
3 with the construction of the building. If the
4 building affects these existing walls, always
5 typically the cliff faces and all walls on
6 properties should be inspected annually. It's --
7 I think it's part of the town code or something
8 similar as a requirement.

9 Q. Okay.

10 MR. ALAMPI: No other questions.

11 MR. LAMB: Okay, thank you.

12 Public --

13 MR. McGRATH: Mr. Chairman, with
14 regards to this report, any of the applications
15 that have come in down on River Road that are
16 near the cliff, my office has insisted that they
17 get an annual report to the Building Department
18 no later than July 1st. They are required by
19 what my recommendations to complete the repairs
20 by October 15th. They are required to get the
21 appropriate permits to get those repairs. That
22 has been in every application that's been down
23 there. It is part of the developer's agreements
24 because they refer back to the correspondence
25 from my office. We have it turned into the

1 Building Department because you will always have
2 the same Building Department. I could be gone
3 tomorrow, it wouldn't do any good to send it to
4 me. That has been a requirement down there for
5 everybody who has built along the cliff for the
6 last several years.

7 THE CHAIRMAN: Thank you.

8 MR. MUHLSTOCK: Mr. McGrath, these
9 issues that we've been talking about tonight, are
10 these issues part of construction after approval
11 by the board?

12 MR. McGRATH: To a certain extent,
13 yes. Some of them are going to be gauged as the
14 construction commences and as it proceeds.

15 MR. MUHLSTOCK: But in our normal
16 consideration about notations before these board,
17 are these issues considered by the board or are
18 they considered thereafter by the contractors, by
19 the engineers, in that scenario?

20 MR. McGRATH: Some of them I would
21 normally expect to find being done as
22 construction proceeds. To the extent that we are
23 sitting here with a mandate from the court to
24 look at the safety issues, it doesn't hurt to
25 discuss them here but the reality is in the

1 normal course of events a lot of this stuff is
2 going to be addressed on an as progressive basis.

3 MR. MUHLSTOCK: Right. Okay.

4 MR. LAMB: And, Mr. Muhlstock, if I
5 could address that, what I'm going to request and
6 I know other people may have questions, but I'm
7 just telling you right now, obviously we're not
8 finishing this evening, what I'm going to request
9 before the next hearing and I think we can do it
10 without Mr. Alampi changing the notice is I'm
11 going to request that the site plan be amended to
12 show exactly the recommendations that have been
13 made by the developer's expert and the site plan
14 changes show these areas, these berms, where it's
15 going to be stabilized, where the limited fence
16 disturbance will be so that anybody picking up
17 the plans can see exactly where it is.

18 MR. MUHLSTOCK: Well, that's why I
19 asked Mr. McGrath if these are typically
20 construction issues and construction details that
21 come in after this board normally considers an
22 application.

23 THE CHAIRMAN: It's not normally
24 part of the site plan.

25 MR. LAMB: I think with all due

1 respect you're talking about changing the
2 grading, changing the landscaping. You show some
3 berms in some areas but now we have testimony
4 that is admittedly not on the site plan that they
5 wants berms on various portions of the
6 cross-sections.

7 MR. ALAMPI: This is beyond the
8 scope of the remand. The issue from the court
9 was that the board grasp the issue, that the
10 board have competent testimony and evidence and
11 that the board shows its intellect when it
12 delivers a decision. We don't need to draw the
13 illustrations and modify. It would be a
14 different application. We're going on the old
15 site plan, the testimony will support it. When
16 we go to as-builts, should this project be
17 approved, we'll deal with that at that level. I
18 think we're all on the same page.

19 MR. LAMB: You have a
20 recommendation --

21 MR. ALAMPI: I disagree.

22 MR. LAMB: You have the applicant's
23 expert has recommended changes to the site plan.
24 And respectfully I think you have to show them.

25 THE CHAIRMAN: Excuse me for a

1 second. If I understand what you said about
2 berms, they're not going to be in as-builts
3 either because it's a temporary fixture.

4 MR. LAMB: Well, the testimony is --

5 THE CHAIRMAN: It's only done
6 during --

7 MR. LAMB: It's temporary unless she
8 wants to make it permanent. That's what the
9 testimony was.

10 MR. McGRATH: If I could,
11 Mr. Chairman, I think Mr. Alampi used the wrong
12 term when he said as-builts, that implies the job
13 is over. I believe the correct term he wanted to
14 use was when we get to construction plans which
15 will differ from what the board typically
16 reviews.

17 THE CHAIRMAN: Right.

18 MR. ALAMPI: And I agree it was an
19 inappropriate term. It's construction.

20 THE CHAIRMAN: That's my
21 understanding. All right. You guys are
22 finished. I'm going to open it up to the pubic.
23 Now, again, five minutes, a strict five minutes.
24 And I remind you, you're under oath.

25 JEREMY RABIN, having been previously duly sworn

1 by the Notary Public, was examined and testified
2 as follows:

3 MS. RABIN: Ms. Greco, you reference
4 the photograph of the path which had a tree lying
5 across it?

6 THE WITNESS: Yes.

7 MS. RABIN: Is that photograph one
8 of the pictures in evidence here?

9 THE WITNESS: No.

10 MS. RABIN: Okay. I was looking at
11 that picture. The pathway itself, how wide is
12 that pathway? What's been called the asphalt
13 road and various different things but from the
14 bank on one side to the bank on the other side,
15 how wide is that?

16 THE WITNESS: It was probably 12 to
17 15 foot wide, big enough to get a track mounted
18 excavator there.

19 MS. RABIN: That tree, looking at
20 the small picture looks to be perhaps four or
21 five times as long as that path is wide. Would
22 that be accurate?

23 THE WITNESS: I don't know. I
24 guess, I don't know.

25 MS. RABIN: Well, I'm saying

1 approximately. You've been on the site so you've
2 actually see the tree in question.

3 That tree prior to its falling
4 across the path was a green healthy looking tree,
5 I can attest to that looking out my windows. It
6 fell across that path in spite of the fact that
7 it was just months earlier a green healthy tree
8 but during the winter it fell. You said that you
9 had no concern about that. Isn't it usually a
10 sign of something going on when a healthy tree
11 just falls over on property?

12 THE WITNESS: I'm not a tree expert,
13 I cannot contest that it was a healthy tree.

14 MR. ALAMPI: I'm putting my hands
15 up. I'm working my way up. I object to this
16 characterization of healthy trees. We're not
17 arborists here.

18 MR. MUHLSTOCK: The witness has
19 already testified she doesn't know.

20 MS. RABIN: And I think I said
21 apparently healthy tree.

22 MR. MUHLSTOCK: Go ahead.

23 THE CHAIRMAN: Go ahead.

24 MS. RABIN: If on the property in
25 your house if you saw, you know, you walk, you

1 looked out in your backyard and you saw a tree
2 fall over on your property and the next day
3 another tree fell over, would you wonder if maybe
4 something was happening that trees were falling
5 over with frequency on your own property?

6 MR. MUHLSTOCK: Sustained.

7 Do you have an opinion at all as to
8 whether the fallen tree that the gentleman is
9 testifying or questioning on has any affect on
10 any of your opinions or any of the facts which
11 you gave here tonight?

12 THE WITNESS: No.

13 MR. MUHLSTOCK: Move on to a
14 different topic.

15 THE CHAIRMAN: You have two minutes
16 left.

17 MS. RABIN: Okay. Could you tell me
18 in the time say from 2009 to the present how many
19 trees have fallen on the Apple View property?

20 THE WITNESS: I have not counted
21 them.

22 MS. RABIN: Can you estimate.

23 THE WITNESS: I cannot.

24 MS. RABIN: More than fingers?

25 THE WITNESS: I didn't count them.

1 MR. MUHLSTOCK: The answer is she
2 doesn't know.

3 MS. RABIN: Okay. You talked about
4 stability and there were various discussions
5 about -- with Mr. Bertin about water runoff and
6 other factors. Have you ever been on a property
7 when you were working where an area appeared to
8 be stable and then at some point it became
9 unstable?

10 MR. ALAMPI: Just I'll just note the
11 objection. It's just too broad based of a
12 question. She can try to answer.

13 MR. MUHLSTOCK: Go ahead answer it.
14 See where he is going.

15 THE CHAIRMAN: You have one minute.

16 THE WITNESS: I have not been on a
17 site that that's happened.

18 MR. MUHLSTOCK: Okay.

19 MS. RABIN: Okay. During your -- we
20 had a very brief discussion with Mr. Bertin about
21 there was a little testimony about the Avak
22 property. During the work on the Avak property
23 weren't you working a drill rig and part of the
24 drill rig team and then it began to rain very
25 heavily on the slope and you testified under oath

1 that you had to evacuate that site with the crew
2 because the rig became unstable?

3 THE WITNESS: Yes.

4 MS. RABIN: So you have been on a
5 site, so you thought that site was unstable to
6 begin with or it became unstable later?

7 THE WITNESS: I wasn't thinking
8 about that site, I'm sorry.

9 MS. RABIN: Well, that was
10 unfortunate since you're under oath and so am I.

11 MR. ALAMPI: What does that mean,
12 the client is lying?

13 MR. MUHLSTOCK: Ask a question.

14 MS. RABIN: Okay, I withdraw it.

15 It would seem that on a slope that an
16 area that was believed to be stable with very
17 heavy rains that we have in this area, the heavy
18 water runoff that we have in this area that
19 the --

20 THE CHAIRMAN: Time.

21 MR. RABIN: Is this deducted from my
22 minute? Could I have a few moments to finish
23 this line of questioning? I don't think anything
24 more.

25 THE CHAIRMAN: You can finish that

1 question.

2 MR. RABIN: Okay. Would it not be
3 the case that in the middle of other serious
4 construction that you might be doing such as
5 removing support from the slope to replace it
6 with other support, that sudden weather
7 conditions might destabilize that slope while you
8 were in the midst of transition and you might be
9 caught unexpectedly on a destabilized slope as
10 you probably have been a number of times in your
11 career?

12 THE WITNESS: It's always possible.

13 MS. RABIN: Well, I'd like to point
14 out it's not a very impressive answer considering
15 --

16 MR. MUHLSTOCK: Well, that's an
17 opinion.

18 MS. RABIN: I'm sure she could have
19 given an answer that would be more enlightening
20 to the board. I know she doesn't want to give it
21 to me but I would think all of you --

22 THE CHAIRMAN: That's really, that's
23 out of line.

24 MR. MUHLSTOCK: It's largely
25 irrelevant.

Mahle-Greco

1 MS. RABIN: Okay.

2 MR. MUHLSTOCK: Let's have the next
3 witness.

4 MS. RABIN: That's it for my
5 questions. Thank you.

6 THE CHAIRMAN: All right.

7 BIJAN MARJAN, residing at 8100 River Road, North
8 Bergen, New Jersey, having been duly sworn by the
9 Notary Public, was examined and testified as
10 follows:

11 MR. MARJAN: You made a reference to
12 the driving of the piles and some velocity. What
13 was that about vibrations?

14 THE WITNESS: Vibration monitoring
15 equipment that you put at different distances
16 away from the pile driving equipment that
17 measures the velocity of the soil. If it gets
18 over a certain amount, I don't know the specifics
19 because I don't do that, it could be a danger
20 either on a building if it's next to a building
21 there are certain structural problems that can
22 occur so they have to stop and regroup and find
23 another way to do it. The pipeline probably has
24 a similar requirement of a certain velocity it
25 can't exceed.

1 MR. MARJAN: So do you know in
2 relation to this specific pipeline what that
3 might be and what precautions or what solutions,
4 alternate solution might have to be?

5 THE WITNESS: I believe it's two
6 feet per second -- two inches per second, I'm
7 sorry. One of the big precautions is to
8 pre-auger the hole so that reduces the vibration
9 of the area because the pipeline is in the top
10 ten plus or minus feet. So once you get below
11 that area in driving the pile in the soft soil
12 below it won't affect it as much. Also we're a
13 distance away, over 20 feet in some areas, so the
14 distance also helps. So the distance and then
15 below it we're also a distance away so the
16 farther you are away when you start driving the
17 pile, the less vibration that that building or
18 pipe would absorb.

19 MR. MARJAN: But is there a
20 possibility that that velocity or that metric
21 could get to a level that the construction could
22 not continue?

23 THE WITNESS: You would just
24 probably auger farther down.

25 MR. MARJAN: Okay.

1 THE WITNESS: And determine that.

2 MR. MARJAN: Okay. Regarding the
3 excavation, given the size of the excavation
4 would you in addition to various other
5 considerations, would you also have to consider
6 potentially the load exposed by the Ferry Road or
7 by the Summit House after the estimation is made?
8 Is that something that might have to be
9 considered?

10 THE WITNESS: The Ferry Road and the
11 Summit House is very far back from the excavated
12 area, somewhere in the distance of 120 to 130
13 feet. It's a very big distance, so I'm not
14 concerned that will have any affect. And I
15 believe from the way it looks on the pictures
16 from Mr. Bertin the house is directly on the rock
17 and in these locations, so the excavation of the
18 swale at the bottom of the slope isn't going to
19 affect that.

20 MR. MARJAN: So you don't think it
21 warrants anything?

22 THE WITNESS: No.

23 MR. MARJAN: Okay.

24 THE CHAIRMAN: You have two minutes.

25 MR. MARJAN: During the excavation

1 should there be some unfortunate weather
2 circumstances, do you think it would potentially
3 have any impact on making the soil less, you
4 know, stronger?

5 THE WITNESS: The house on Ferry
6 Road you're talking about?

7 MR. MARJAN: No, the excavation
8 area.

9 THE WITNESS: The excavation area.
10 It's always possible, there's always temporary
11 solutions knowing that something is coming to do
12 netting across the soil to keep it there if we
13 know that a major storm is coming or hurricane.
14 You know, we obviously have a little warning of a
15 hurricane around here or something of that
16 nature, we could address that at that time.

17 MR. MARJAN: Okay, thanks.

18 THE CHAIRMAN: Thank you. Anyone
19 else? Yes.

20 RUTH OLSEN, residing at 7004 Boulevard East,
21 Guttenberg, New Jersey, having been duly sworn by
22 the Notary Public, was examined and testified as
23 follows:

24 MS. OLSEN: On the Avak site that
25 you had to evacuate, was there a slope stability

1 study done, a soil stability study?

2 THE WITNESS: After that fact. We
3 were trying to get the information to perform the
4 slope stability.

5 MS. OLSEN: So you were doing the
6 slope stability study?

7 THE WITNESS: We were trying to
8 gather more information so then we could do the
9 slope stability. We were trying to gather as
10 much information as possible and we pushed our
11 limits.

12 MS. OLSEN: And then did you find
13 that the slope is indeed stable?

14 MR. ALAMPI: That question I have to
15 object. It's a whole different terrain.

16 MR. MUHLSTOCK: I would have to
17 agree. That's largely irrelevant to this
18 particular site.

19 THE CHAIRMAN: Try and confine --

20 MS. OLSEN: In my opinion it has to
21 deal with, you know, finding -- I mean, I would
22 say obviously the slope was found stable or they
23 wouldn't be building on it. But the fact that
24 while they were doing the slope stability study
25 they had to evacuate the site says something to

1 the whole idea of the findings.

2 THE CHAIRMAN: Which doesn't
3 necessarily apply to this site.

4 MS. OLSEN: No, but it's all the
5 slopes and it's why there's steep slopes. You
6 know, that's why I asked the question.

7 THE CHAIRMAN: All right.

8 THE WITNESS: What was the actual
9 question?

10 MR. MUHLSTOCK: Well, you made your
11 proffer, right? You made your statement.

12 MS. OLSEN: Right.

13 MR. MUHLSTOCK: The board
14 understands.

15 MS. OLSEN: Thank you.

16 THE CHAIRMAN: All right. Thank
17 you.

18 SIAT NG, residing at 7004 Boulevard East,
19 Guttenberg, New Jersey, having been duly sworn by
20 the Notary Public, was examined and testified as
21 follows:

22 MS. NG: I just wasn't 100 percent
23 clear on vibration monitoring device. You said
24 that there's a limit for the vibration. I guess
25 once the limit is hit you would stop

1 construction?

2 THE WITNESS: Yes, there's one
3 person sitting there watching the device that's
4 placed directly on the ground. If they see that
5 the numbers go above or close to an acceptable
6 limit, they raise their hand, you know, yell and
7 scream and go stop. They stop, we regroup, find
8 out what the problem is, what the numbers are,
9 figure out what needs to be done and move
10 forward.

11 MS. NG: Okay. And move forward.
12 So you could continue with the construction?

13 THE WITNESS: Well, sometimes if we
14 have pre-augered say five feet, for instance, and
15 we start pile driving and the vibration went up,
16 we probably pull the pile out, auger deeper
17 because you get farther down below the material
18 that affects the pipe or affects the area that
19 was in question, go deeper below that and then
20 start driving again.

21 MS. NG: Does your device track
22 cumulative vibrations?

23 THE WITNESS: Yes. Yes. Yes, it
24 does. It's not my device but I've seen it work
25 that way.

1 MS. NG: And how many of those
2 devices would you have onsite?

3 THE WITNESS: That's up to the
4 vibration monitoring person.

5 MS. NG: Who is that?

6 THE WITNESS: The company that does
7 it. There's a different company that does that.

8 MS. NG: Wasn't there a requirement
9 at the Hudson County that there is monitoring
10 device have to be placed including Ferry Road,
11 something like that?

12 THE WITNESS: I don't know that per
13 se but that would probably be a good idea and
14 that would be up to either Transco or the board
15 or make an agreement to where they need to be
16 placed.

17 MS. NG: And how deep on these
18 devices?

19 THE WITNESS: They're right on the
20 ground, top of the ground.

21 MS. NG: Just top of the ground, so
22 you can't really detect any subsurface vibrations
23 that's ten feet?

24 THE WITNESS: No. A lot of times
25 it's placed on the building to find out how the

1 building is moving relative to the pile driving
2 or other -- it could be anything, blasting,
3 whatever it is, how the foundation of a building
4 that's going to be a structural problem, how
5 close it is makes a big difference. We're 20
6 feet away, that's a big difference, so I don't
7 think that's going to be a problem.

8 MS. NG: Okay. Thank you.

9 THE CHAIRMAN: Thank you. Herb.
10 HERBERT SHAW, residing at 4402 Liberty Avenue,
11 North Bergen, having been duly sworn by the
12 Notary Public, was examined and testified as
13 follows:

14 MR. SHAW: The International
15 Building Code New Jersey Edition provides for, in
16 Section 1615 provides for general procedure for
17 determining maximum considered earthquake and
18 design spectral response accelerations. Has that
19 been done?

20 THE WITNESS: Yes.

21 MR. SHAW: And what are the results?
22 Were there any reports?

23 THE WITNESS: Yes, they're in my
24 first report.

25 MR. SHAW: And was there any

1 movement, one millimeter? Further it says if it
2 moves one millimeter a year, that it requires
3 further watching.

4 THE WITNESS: What requires further
5 watching?

6 MR. SHAW: Because according to the
7 Department of Environmental Protection Land Use
8 Management New Jersey Geological Survey, the
9 Palisades in this area is part of the Ramapo
10 fault system. I have a diagram here showing a
11 whole bunch of dots where the epicenters are.
12 There happens to be one where North Bergen,
13 Edgewater and Cliffside Park come together in
14 this area. And I think I want to see this, that
15 I haven't looked for it, I must confess, but that
16 it is okay.

17 THE WITNESS: On the maps of the IBC
18 Code I gave the information in that report goes
19 to the structural engineer to design the
20 structure.

21 MR. SHAW: Yes, but has it been
22 checked, active fault trace, a fault for which
23 there is an average historic slip rate of 1
24 millimeter per year or more and geological
25 evidence of seismic activity within the Holocene

1 Pass 11,000 years.

2 MR. MUHLSTOCK: All right. Herb,
3 why don't you make your point instead of asking
4 questions, what is your --

5 MR. SHAW: The point is --

6 MR. MUHLSTOCK: Go ahead.

7 MR. SHAW: The point is, this May
8 there was a collapse of the Palisades in the
9 Interstate Park area, the largest one within 25
10 years. And I want to make sure that this is
11 taken care of here because if it is so, if this
12 is a --

13 MR. MUHLSTOCK: Was there
14 construction up there where there was the
15 landslide?

16 MR. SHAW: Yes.

17 MR. MUHLSTOCK: Are you sure?

18 MR. SHAW: If the Palisades are in
19 danger --

20 MR. MUHLSTOCK: No, no, I asked you
21 a question. I said was there construction that
22 caused that landslide.

23 MR. SHAW: No, no, no construction.

24 MR. MUHLSTOCK: You mean it just
25 happened?

1 MR. SHAW: I'm not concerned whether
2 they irritate the earth so that it -- you cause
3 an earthquake or that if the gas line is in
4 danger. I'm concerning all construction on the
5 Palisades in this area.

6 MR. MUHLSTOCK: Okay. All right.
7 Fine.

8 MR. SHAW: Because there is a
9 epicenter right there.

10 MR. MUHLSTOCK: Okay.

11 MR. SHAW: And I want to make sure
12 that report confirms that. Does it, that it's
13 safe?

14 THE WITNESS: Yes, we talked about
15 scaling off the large rocks and netting that rock
16 outcropping at the top to prevent any additional
17 rocks from falling.

18 MR. SHAW: I'm talking about the
19 stability of the base of the Palisades which the
20 diabase, the volcanic rock --

21 THE CHAIRMAN: 45 seconds, Herb.

22 MR. SHAW: -- sits upon the weak
23 sedimentary rock which you say you have to put
24 down piles.

25 THE WITNESS: I don't understand.

1 What's your question?

2 MR. SHAW: The question is the
3 stability of the Palisades, that's all I'm asking
4 about. I don't think it is. You haven't proven
5 to me that it is. I think you need that study.
6 You said that it's stable.

7 THE CHAIRMAN: Okay.

8 MR. SHAW: Have you taken a test,
9 it's done with lasers to see that it did move one
10 millimeter in a year, has that test been
11 performed?

12 THE WITNESS: No.

13 THE CHAIRMAN: Time, Herb.

14 MR. SHAW: I think it should be.
15 That's the heart of the whole thing. And I
16 object to the rationing of time.

17 THE CHAIRMAN: All right.

18 MR. ALAMPI: Chairman, if I might.

19 THE CHAIRMAN: Yes.

20 MR. ALAMPI: The witness missed
21 several meetings, this witness. When we
22 represented at all levels at the county and here
23 several times when we auger, we're not augering
24 and then piling, we are augering completely.

25 I'll just state that again, the

1 applicant represents it's more expensive but
2 we're augering completely, no hammering.

3 MR. LAMB: And, Mr. Chairman, I'd
4 like a letter that I submitted today dated July
5 26, 2012 marked for identification.

6 MR. MUHLSTOCK: You can have that
7 marked for identification as G-32.

8 (Galaxy Exhibit 32, letter from John
9 J. Lamb, Esq. dated July 26, 2012 was
10 marked for identification.)

11 MR. LAMB: And I think that's -- I
12 don't know whether there's any other letters --
13 do you do want to mark Transco's letter.

14 MR. MUHLSTOCK: No, it's
15 correspondence.

16 THE CHAIRMAN: We're going to go off
17 the record for a moment. Mr. Alampi and
18 Mr. Lamb.

19 (Discussion off the record.)

20 THE CHAIRMAN: Okay, ladies and
21 gentlemen, the next hearings on this case will be
22 August 28th which is a Tuesday and September 20th
23 which is a Thursday. You will not receive new
24 notice, this your notice I'm giving you now.
25 Please mark it down on your calendars. Those are

1 both special meetings.

2 The Chair will entertain a motion
3 for adjournment.

4 MR. BASELICE: Motion.

5 MR. AHTO: Second.

6 THE CHAIRMAN: Moved and seconded.

7 All in favor?

8 (Chorus of ayes.)

9 THE CHAIRMAN: Opposed?

10 (No response.)

11 THE CHAIRMAN: Meeting stands
12 adjourned.

13 (Time noted: 10:50 p.m.)

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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 17th day of August 2012.

CELESTE A. GALBO, CCR, RPR, RMR
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