

2-7-12 AppReview

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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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February 7, 2012
8:02 p.m.

B E F O R E:

THE NORTH BERGEN PLANNING BOARD

PRESENT:

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

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

Geraldine Baker, Board Clerk
Jill Hartmann, Board Planner
James Fordham, Board Engineer

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

Celeste A. Galbo, CSR, RMR

2-7-12 App]review
A P P E A R A N C E S:

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Condominium Association, Inc.
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BY: JOHN J. LAMB, ESQ.
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Attorneys for Transcontinental Gas
Pipeline Company, LLC
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BY: MARK STEVENS, ESQ.
RICHARD TUCKER, ESQ.

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THE CHAIRMAN: Okay. App]review.

MR. MUHLSTOCK: Mr. Alampi, you

don't mind if I just make a statement for
Page 2

2-7-12 AppReview

4 everyone so we know where we are at this point?

5 MR. ALAMPI: Okay.

6 MR. MUHLSTOCK: Thank you. Members
7 of the board, members of the public, attorneys
8 here, this matter is on a remand from the
9 Superior Court of New Jersey and the written
10 decision of Judge Farrington who was pretty
11 specific in what she -- if the applicant wanted
12 to go forward to have this board hear in terms of
13 the Transco pipeline, and the issue surrounding
14 the safety, general welfare respecting that
15 pipeline. The court specifically retained
16 jurisdiction of the case in the event that the
17 applicant went forward and sufficient evidence
18 came forward and the board determined either one
19 way or the other, either rejecting the
20 application or granting the application there
21 would be an appeal back to Judge Farrington who
22 specifically retained jurisdiction and all the
23 legal issues that have been raised by both sides
24 would be then decided up above.

25 By participation in these proceedings

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1 no parties waive any arguments that they may have
2 up above in front of the court. So we are
3 specifically on remand for that particular
4 purpose but other arguments and other issues are
5 not waived, they're there and they can be

2-7-12 Appleview
6 revisited in the event of a further appeal to the
7 court.

8 Now, I did get certain documents
9 from the attorneys for the Galaxy and I would
10 just like to indicate, I'm sure the board has
11 seen them, that they are being marked for
12 identification, not separately but I'll just read
13 them into the record so there is no question that
14 the board received them and that the arguments
15 are preserved. That's Mr. Lamb's letters of
16 February 1, February 3 and February 6th. I did
17 receive a letter from Mr. Stevens who is the
18 attorney from Transco dated January 30, 2012 and
19 he was good enough to copy all of the other
20 attorneys in the case. So I'll refer to that and
21 that can be part of the record also.

22 I should note that we, my office did
23 send two letters to the attorneys who were
24 involved, one dated January 19, 2012 setting
25 forth the ground rules for the remand and one

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1 dated February 6, 2012 directed to Mr. Lamb which
2 basically set forth the fact that nothing is
3 being waived, everything is open if and when the
4 case goes back to court.

5 So, those are what I would suggest
6 to the board that those are the ground rules and
7 I should say that I have reviewed Mr. Alampi's,
8 that is, the applicant's proof of publication for
Page 4

2-7-12 AppReview

9 tonight's proceeding which was published in the
10 Jersey Journal on January 23. He did renotify
11 all 200 foot owners of the hearing. I reviewed
12 that and reviewed the letters that were sent to
13 the 200 foot owners. So the board does have
14 jurisdiction in my opinion to go forward on the
15 remand. Mr. Alampi.

16 MR. ALAMPI: Mr. Muhlstock, thank
17 you. Mr. Chairman, board members, again for the
18 record, Carmine Alampi attorney for AppReview,
19 LLC. Mr. Muhlstock correctly noted that I
20 provided notice by formal notification to all
21 properties owners within 200 feet of the
22 perimeter of the property as well as publication,
23 but both in the Jersey Journal as well as the
24 Bergen Record.

25 MR. MUHLSTOCK: I'm sorry, I didn't

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1 see that.

2 MR. ALAMPI: I understand your rules
3 require publication in both papers. They were
4 published and noted within the 10-day
5 requirement, in fact, two weeks early from the
6 requirement.

7 I studied the rule with regard to
8 notice and on a remand the rule is a little bit
9 peculiar because no one knows exactly when we
10 would initiate the public hearing on remand. And

2-7-12 Appleview
11 the rules pertaining to a remand call for notice
12 as though it were the same requirement on an
13 appeal to the governing body. What that means is
14 that you would have to notify the applicant,
15 you'd have to notify any party in interest, an
16 objector, and you'd have to notify the board from
17 whom the appeal was taken. I didn't do that. I
18 went beyond that and notified all properties
19 owners within 200 feet as such.

20 I do note that there were a series of
21 correspondence which are memorandums of law and
22 opinions of law that Mr. Lamb is here in the
23 first row continuing his representation of the
24 galaxy. I'm here and we do have representatives
25 and the attorneys from Transco available. I

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1 don't know how your marking but --

2 MR. MUHLSTOCK: And also Ms.
3 Gesualdi.

4 MR. ALAMPI: And Ms. Gesualdi for
5 Guttenberg.

6 I understand that we've had these
7 correspondence over the last few days from
8 Beattie Padavano, Mr. Lamb. How are you marking
9 these, for identification?

10 MR. MUHLSTOCK: I just identified
11 them on the record. I don't think we have to
12 mark them separately. They'll be in the
13 transcript.

2-7-12 AppReview

14 MR. ALAMPI: Are you satisfied with
15 the marking.

16 MR. LAMB: I'm going to make a
17 statement.

18 MR. ALAMPI: But are you satisfied
19 with the marking?

20 MR. LAMB: Yes.

21 MR. ALAMPI: And, again, I think we
22 all understand, we all have strong views of what
23 the law is, we have strong views about the
24 application, and we have brought these strong
25 views before not only the board and the county

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1 but the Superior Court and we're in litigation.
2 I think Mr. Muhlstock stated it correctly, no one
3 by participating here tonight is acquiescing to
4 one another's argument or conceding a point.
5 These points are raised that Mr. Lamb has
6 re-raised the same issues in the context of the
7 remand as he's raised these issues I'm sure that
8 he will continue to litigate those issues.

9 Our purpose here is to follow the
10 directive of Judge Farrington dated December
11 23rd. It was a very lengthy analytical reasoning
12 of the case wherein certain elements of the case
13 were carved out and sent back to the board while
14 the court retains its jurisdiction over the case.
15 What we intend to do is simply bring

2-7-12 Appleview

16 Mr. Calisto Bertin our site engineer on for a
17 basis of foundation of some photographs of the
18 subject property and of the gas pipe area to lay
19 the foundation of how the photographs were taken,
20 when they were taken and whether they're accurate
21 and that's simply it. And then we are going to
22 defer to the team assembled by Transco.

23 Now was Transco subpoenaed, no. I
24 received a court order. I immediately served
25 that directive over to Mr. Mark Stevens, their

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1 attorney, and indicated that there is a directive
2 from the court and it could be done by accepting
3 the directive from the court or it could be done
4 another way. I'm not so sure that there is
5 subpoena power over Transco but by serving the
6 court order Transco and its representatives, its
7 attorneys reviewed the issues and communicated
8 with me that they would make themselves available
9 and they would assemble a team and that would
10 follow the directive of the court.

11 So my intention is to briefly
12 present Mr. Bertin for two minutes and then turn
13 it over to Mark Stevens. I didn't identify him
14 for the record, Mr. Stevens is standing in the
15 rear of the room, he is the attorney for Transco,
16 he has a series of witnesses.

17 Now, again, your counsel asked us in
18 writing to notify in a timely fashion what
Page 8

2-7-12 Appreview

19 witnesses would be presented and respond to that
20 which we did. He set a date of January 27th. I
21 responded on the next business day which was
22 Monday the 30th. Mr. Stevens responded as well,
23 and we now have presented all that to the board
24 so that it would be prepared for what the
25 presentation package would look like this

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1 evening.

2 I have nothing further by way of
3 preliminary remarks. I know the board has
4 jurisdiction over this element, it's under a
5 court order of remand. I know this was provided
6 beyond what the statute requires and we're ready
7 to proceed.

8 THE CHAIRMAN: Then let's do so.

9 MR. MUHLSTOCK: Mr. Lamb, you want
10 to make a short statement?

11 MR. LAMB: Yes, thank you. Good
12 evening, John J. Lamb from the law firm of
13 Beattie Padavano. We represent the Galaxy Towers
14 Condominium Association, Inc.

15 First of all, I understand Mr.
16 Muhlstock's comments as to the scope of this. I
17 don't want to say I total disagree. What I want
18 to say is that I'm not sure the scope of the
19 remand because the judge did sign an order saying
20 the entire approval was void, null and void. And

2-7-12 AppReview
21 my question is whether that involves a complete
22 do over or just a limited remand. So I
23 understand that that's an issue which I
24 acknowledge and I understand that the board is
25 proceeding as if it's a remand to more or less

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1 open up the case to allow Mr. Alampi to
2 supplement the record because of certain defects
3 that the judge decided.

4 From a jurisdictional standpoint we
5 previously raised issues in my letters dated June
6 22, 2010 and July 25, 2010, those are the two
7 initial letters we sent to the board right before
8 the first hearing and after the first hearing.
9 And I'm not going to repeat what's in there, Mr.
10 Muhlstock and Mr. Alampi have indicated we're not
11 waiving any of those rights.

12 what I have done is I sent the
13 letters that were all marked as one exhibit and
14 that's fine, my letter dated February 1st,
15 February 3rd and February 6th. In those letters
16 I recount the jurisdictional issues but I also in
17 the latest letter -- excuse me, the letter dated
18 February 3rd have objected to the two notices
19 that were the subject of this hearing. The
20 applicant is required to do a notice under the
21 Municipal Land Use Law. The board to the extent
22 this is a public -- a special meeting on this
23 application --

2-7-12 AppLeview

24 MR. MUHLSTOCK: It's not a special
25 meeting, though, it's a regular meeting.

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1 MR. LAMB: Well, regular or special
2 meeting --

3 MR. MUHLSTOCK: Doesn't that matter?
4 I think it does. I mean, I read your memo and
5 you seem to say that it was a special meeting, I
6 think, but it's a regular meeting of the board.

7 MR. LAMB: It's a regular meeting
8 but the agenda items on the regular hearing there
9 was not a specific indication of the address of
10 the property or the nature of the application;
11 preliminary and final site plan approval with
12 reverse subdivision for approval of a 59-unit
13 project. If you note in my letter we sent -- we
14 attached the prior notice of the board last year
15 in the original application by way of comparison
16 to show that there was sufficient detail. So we
17 don't think that there is sufficient detail in
18 the Open Public Meetings Act notice. Although we
19 do acknowledge that it was published in two
20 newspapers. Additionally the Municipal Land use
21 Law requires that an MLUL notice specifically
22 identify the administrative officer who has the
23 plans. Now, I've indicated that not only was the
24 administrative officer not identified but the
25 hours were incorrect on the notice and it doesn't

2-7-12 Appleview

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1 comply with the Municipal Land Use Law.
2 so the board has to determine with
3 respect to the notice whether they believe they
4 have satisfactory notice. I believe Mr.
5 Muhlstock has sent me his letter of February 6th
6 indicating that it was his opinion that the
7 notice was satisfactory, and since we're here and
8 we didn't cancel it, I assume we're proceeding.
9 So I'm not waiving any objections to notice.

10 MR. MUHLSTOCK: Okay.

11 MR. LAMB: The other issue that I
12 have to raise and, again, I'm constrained to
13 raise the jurisdictional issue, we have alleged a
14 conflict by the board attorney's law firm because
15 of a relationship with one of the witnesses which
16 is Mr. Bertin. I don't need I think to get into
17 that. I have an exhibit which I'd like to submit
18 which has nine documents in it. And, again, I
19 don't think I need to discuss that. We've
20 alleged that there's this relationship. There
21 are nine documents, we put them all in one
22 exhibit. Mr. Muhlstock, we sent him a letter and
23 he's indicated that it's his opinion it's not a
24 conflict.

25 MR. MUHLSTOCK: Do you think, do you

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1 believe you need to mark the exhibit for here at
2 the board?

3 MR. LAMB: Yes. Yes.

4 MR. MUHLSTOCK: All right. Let's
5 mark it for identification.

6 MR. LAMB: Instead of having a bunch
7 of numbers, I have one exhibit. I'll give a copy
8 to Mr. Alampi --

9 MR. MUHLSTOCK: Mr. Alampi, do you
10 have any objection to marking that?

11 MR. ALAMPI: Let me just ask

12 Mr. Lamb, did you send this to me earlier as a
13 package?

14 MR. LAMB: No.

15 MR. ALAMPI: Or is this just --

16 MR. LAMB: No, you have all these
17 documents.

18 MR. MUHLSTOCK: Well, what are they?
19 Let's identify them so we know. Just what are
20 they?

21 MR. LAMB: The documents are a
22 letter of Mr. Muhlstock to Judge Farrington dated
23 November 4, 2011 confirming his firm's
24 representation of Realty Redevelopment Group, a
25 deposition transcript of Brian Chewcaskie,

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1 deposition transcript of Calisto Bertin,

2-7-12 AppLeview
2 Lyndhurst Zoning Board application of Realty

3 Redevelopment Group for amended site plan,
4 Gittleman Muhlstock & Chewcaskie's letter to
5 Lyndhurst transmitting application of Realty
6 Redevelopment Group, that law firm's public
7 notice of hearing for Realty Redevelopment Group,
8 that firm's letter to Lyndhurst re public hearing
9 for Realty Redevelopment Group.

10 MR. ALAMPI: Mr. Lamb, let me
11 interrupt. Do you have extra copies of this?

12 MR. LAMB: Yes.

13 MR. ALAMPI: why don't we just put
14 them on top of the package.

15 MR. LAMB: well, I have them with
16 other documents. I have sufficient copies.

17 Gittleman Muhlstock --

18 MR. MUHLSTOCK: we just need one.
19 Just mark it.

20 MR. LAMB: -- LLC certificate of
21 Realty Redevelopment Group as to formation and
22 ownership interest.

23 MR. MUHLSTOCK: These were the
24 documents that were marked at the deposition.

25 MR. LAMB: Right. The attorneys

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1 have seen them.

2 MR. MUHLSTOCK: Yeah.

3 MR. LAMB: We understand how the

4 issue is decided but for purposes of creating
Page 14

2-7-12 Appreview

5 appropriate record, I have them in here.

6 MR. MUHLSTOCK: You want to make
7 that -- why don't we start --

8 MR. LAMB: G-1 for my three letters?

9 MR. MUHLSTOCK: New markings.

10 THE CHAIRMAN: G-2 for this?

11 MR. MUHLSTOCK: Celeste.

12 (Galaxy Exhibit 1, letters from Mr.
13 Lamb dated February 1st, 3rd and 6th, 2012
14 was marked for identification.)

15 (Galaxy Exhibit 2, deposition package
16 of documents, was marked for
17 identification.)

18 MR. ALAMPI: Thank you. I
19 understand the procedure marking everything in,
20 no waiver of argument, no acquiescence to
21 anyone's argument, no problem with that.

22 With regard to the presentation then,
23 and I do want to comment that I understand this
24 to be a regularly scheduled meeting duly
25 advertised by the borough not a special meeting.

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1 I do appreciate Mr. Lamb's argument about the
2 contents of the agenda itself.

3 With that I'd like to call Mr.

4 Bertin only to identify these photographs and lay
5 a foundation and then we'll turn it over to
6 Mr. Stevens.

2-7-12 App'view
7 CALISTO BERTIN, having been duly sworn by the
8 Notary Public, was examined and testified as
9 follows:

10 MR. ALAMPI: Do we have to go
11 through this voir dire? You concede he's the
12 site engineer?

13 MR. LAMB: Yes, as long as it's
14 stipulated he's not a pipeline safety expert.

15 MR. MUHLSTOCK: He's already
16 qualified.

17 MR. ALAMPI: He knows a pipeline
18 when he sees one but he's not a safety expert.
19 We'll qualify him.

20 THE CHAIRMAN: He's been before this
21 board numerous times and he's been before us on
22 this application.

23 MR. ALAMPI: Yes, Chairman. Thank
24 you.

25 THE CHAIRMAN: So we'll qualify him.

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Bertin - direct

1 MR. ALAMPI: Thank you.

2 DIRECT EXAMINATION

3 BY MR. ALAMPI:

4 Q. Calisto, at my direction did you
5 return to the property?

6 A. Yes.

7 Q. The property being the property on
8 River Road that's owned by App'view, LLC?

9 A. Yes.

10 Q. And could you tell us when you
11 visited the site in the recent past and what you
12 did?

13 A. I made one visit on January 25th and
14 another visit about a week later.

15 Q. And in your opportunity to visit the
16 site did you have the opportunity to walk through
17 the site, to walk around the site, to go around
18 the back, up the top, down the bottom? Did you
19 walk through the entire site?

20 A. Yes.

21 Q. And did you have an opportunity to
22 make observations of the existing conditions as
23 they presented themselves over the past few
24 weeks?

25 A. Yes.

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Bertin - direct

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1 Q. And did I ask you to take
2 photographs?

3 A. Yes.

4 Q. And could you now turn to these
5 exhibits?

6 MR. ALAMPI: We're going to mark
7 them. Chairman, there's so many exhibits in the
8 past that on the remand why don't we use the
9 initial RA and so forth?

10 MR. MUHLSTOCK: I think that's a
11 good idea. Remand Applicant 1.

2-7-12 Appleview

12 MR. ALAMPI: Right, Remand 1.

13 Q. How many do we have, three or four?

14 A. We have five photographs.

15 MR. ALAMPI: So we'll mark RA-1, 2,
16 3, 4 and 5.

17 (Remand Applicant's Exhibit 1 through
18 5, five photographs, were marked for
19 identification.)

20 Q. Calisto, as you mount them in your
21 testimony you can mark them in the sequence and
22 just now take us through the photographs. If
23 these photographs have been enhanced, adulterated
24 or computer generated enhancement, tell us. If
25 they're the actual photograph enlarged, tell us

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Bertin - direct

1 that and tell us where they're taken from and
2 what they're looking at.

3 A. All these photographs were taken by
4 me. We blew them up and had them mounted on a
5 board and just put a title block on. But they
6 have not been enhanced or otherwise altered.

7 Q. Now, the first photograph we marked
8 as RA-1, tell us what it is, where it is from the
9 site and you have a site plan exhibit from the
10 previous hearings?

11 A. Yes, I do.

12 Q. Has this been changed in any way?

13 A. No.

14 MR. ALAMPI: Chairman, we're just
Page 18

2-7-12 AppReview

15 going to use this for reference on the record.
16 I'm not marking it in unless everyone insists. I
17 just want the site plan so he can put his finger
18 as to where he would be standing and then he can
19 show the photograph.

20 Q. You're exposing one of the site
21 plans that you had shown in the previous
22 hearings, correct?

23 A. That is correct.

24 Q. And just to orientate the board,
25 just show us with your hands where River Road is

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Bertin - direct

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1 and where the rim of the Palisades is, Ferry
2 Road.

3 A. River Road is on the bottom of the
4 page, the horseshoe shaped shaded area in the
5 middle of the drawing is the AppReview building
6 as proposed. Circles on the right side represent
7 some of the features of the sewerage treatment
8 plant. And then Ferry Road is on the upper left
9 corner and the Summit House would be beyond the
10 page on top.

11 Q. Now, for point of reference we just
12 had these markings, RA-1, where would you be
13 standing and in what direction would you be
14 looking?

15 A. RA-1 I'm standing on the sidewalk on
16 the west side of the River Road actually in front

17 of the sewerage treatment plant property Looking

18 up the side of the sewerage treatment plant.

19 Q. And now you can show us RA-1.

20 A. The fence that runs in the back of
21 this picture is the borderline between the
22 sewerage treatment plant and the Appleview,
23 Appleview being on the left, the sewerage
24 treatment plant being on the right, and you could
25 see the sewerage treatment plant facilities. In

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Bertin - direct

1 the foreground of them is the marker for the gas
2 line and that gas line runs along this fence into
3 the page.

4 Q. And you would be looking with your
5 back to River Road and facing the Palisades?

6 A. Correct, Looking in a west
7 direction.

8 Q. okay. Take the next photograph.

9 MR. MUHLSTOCK: Mr. Bertin, did you
10 mark it?

11 THE WITNESS: Yes.

MR. ALAMPI: RA-1.

MR. MUHLSTOCK: Thank you have.

14 Q. Now you're marking RA-2?

15 A. Yes. RA-2 is actually taken from
16 the applicant's property with my back against
17 that fence looking up the hill to the Summit
18 House where you can see their foundations.

19 Q. If you would pick up that site plan
Page 20

2-7-12 Appleview

20 again, show us where you would be standing when
21 you took that photograph?

22 A. I'm standing off the back right
23 corner of the building with my back against the
24 fence looking up the Transco easement towards
25 Ferry Road.

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Bertin - direct

1 Q. Again, looking westerly but on an
2 angle?

3 A. Yes, southwesterly.

4 Q. And what does this depict?

5 A. You can see the markings where the
6 gas main is.

7 Q. The people are about 25 feet away,
8 you're pointing to markings. Tell us what you're
9 you talking about.

10 A. There are yellow -- well, there's
11 some stakes and there's some pipes or PVC pipes
12 that indicate the route of the gas main through
13 that property. Those are -- these -- Transco
14 will go into more detail but the pipes that stick
15 up are all shown on the survey and were on the
16 site plans.

17 Q. Did you walk along that site?

18 A. Yes, I did.

19 Q. Did you walk along the area depicted
20 in the photograph?

21 A. Yes, I did.

22 Q. And make personal inspection as you
23 were photographing?

24 A. Yes, I did.

25 Q. Now, show us RA-3.

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Bertin - direct

1 A. RA-3, I'm standing at the top of the
2 hill by the Summit House looking down the hill
3 toward the sewerage treatment plant and you can
4 see in the background of the picture the
5 clarifiers, you can also see the yellow markers
6 indicating where the gas main is and then the
7 chain link fence that separates the two
8 properties.

9 Q. Now, pick up the site plan again and
10 put your hand or your pen where you would be
11 standing and in what direction you would be
12 looking.

13 A. I'm at the top of the picture,
14 probably a little bit into the Summit House
15 property looking down in a northeasterly
16 direction towards the sewerage treatment plant.

17 Q. And the next photograph, RA-4?

18 A. RA-4, I'm actually standing on top
19 of one of the clarifiers at the sewerage
20 treatment plant looking in a westerly direction
21 at the Summit House.

22 Q. And you stood on top of that
23 structure to get a better photograph?

24 A. Yes, because -- yes.
Page 22

25 Q. Okay.

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25 Bertin - direct

1 A. So, you'll see the Summit House in
2 the background, you can see the yellow markers
3 for the sewerage, for the gas main that goes up
4 on the left side of the drawing.

5 Q. This concrete wall, is that the MUA
6 property?

7 A. Yes, this is the concrete retaining
8 wall at the back of the sewerage plant.

9 Q. And could you just show us with your
10 pen or with your hand where the gas line is
11 located?

12 A. On the extreme left side of the
13 drawing moving up towards the right and there's
14 two markers shown on this photograph.

15 Q. And could you just show us where you
16 were standing in the site plan exhibit?

17 A. I'm standing on top of the tank.

18 Q. Okay. And then your final
19 photograph is RA-5. Tell us what RA-5 is.

20 A. RA-5 is another view of the Summit
21 House and the route of the gas line except this
22 time I'm standing in the applicant's property
23 looking in a northwesterly direction and you can
24 see the yellow marker for the gas line.

25 Q. And these photographs and each of

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Bertin - direct

1 them accurately depict the conditions of the
2 property at the present time? What I mean by
3 that, what it looks like and has looked like for
4 the past several months.

5 A. Yes.

6 Q. And did you do anything to the
7 photographs that modify or adulterated the image
8 other than enlarging it?

9 A. No.

10 Q. And the purpose of these photographs
11 is for what?

12 A. To show the area where the gas line
13 travels through the site and also the conditions
14 of the ground. The board asked at one point that
15 we will do a slope stability study down the road,
16 but this was the beginning of it.

17 Q. And the slope stability study is one
18 of the conditions of the resolution of approval
19 enacted by this board last year?

20 A. Yes.

21 Q. And have you started to do the field
22 work for that?

23 A. Yes, these photographs were used for
24 that but they also served the purpose for
25 displays for Transco tonight.

Celeste A. Galbo, CCR, RMR

♀

2-7-12 App]review

1 Q. You have not completed that work
2 yet?

3 A. No.

4 Q. And that involves field observation,
5 field work and taking of other information?

6 A. Correct.

7 Q. As well as these photographs?

8 A. Yes.

9 Q. Okay.

10 MR. ALAMPI: I have nothing further
11 of Mr. Bertin. I just wanted to authenticate
12 these photographs.

13 THE CHAIRMAN: Thank you.

14 Mr. Lamb, do you have any questions?

15 MR. LAMB: I have several,

16 Mr. Chairman. Thank you.

17 CROSS-EXAMINATION

18 BY MR. LAMB:

19 Q. Mr. Bertin, good evening. Could you
20 pull up RA-1 for us, showing the pipes sticking
21 up?

22 (witness complies.)

23 Q. Thank you. And on RA-1 you said the
24 fence on the left of that plan is pretty much on
25 the border, on the boundary of your client's

celeste A. Galbo, CCR, RMR

9

Bertin - cross

28

1 property and the property to the north Lot 8, I
2 believe?

3 A. Correct.

4 Q. What is the distance between the
5 structure on the -- approximately the North
6 Bergen Municipal Utility's tanks and the fence,
7 what is that approximate distance?

8 A. I believe it's about 15 feet.

9 Q. Okay. And so therefore is it fair
10 to say that the current easement along that --
11 I'll call it an alley -- but along that view on
12 the border is approximately 12 feet?

13 A. The easement is 10 feet wide.

14 Q. Okay.

15 A. And it starts at the fence and moves
16 to the north. So it runs along -- that's the
17 easement for the gas line.

18 Q. So in round numbers it's fair to say
19 that that structure is about five feet from the
20 10-foot easement, the structure that you just
21 showed the -- it looks like there's a ladder up
22 there?

23 A. Yes, it's a blue stair tower. Yes,
24 the answer is yes.

25 Q. Could you just mark with an X the

Celeste A. Galbo, CCR, RMR

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29

Bertin - cross

1 stair tower so we're sure that that's -- with a
2 yellow Magic Marker?

3 A. But it's blue, it's the only thing
4 blue on the photo.

5 Q. Okay. That's fine.
Page 26

2-7-12 App]review

6 Now, if you can go to RA-2. And I
7 didn't really see, there are markers there. Did
8 you provide those markers?

9 A. They were there.

10 Q. Do you know who did those markers,
11 who installed those?

12 A. I think the next witness will
13 testify about that.

14 Q. Okay. So you had nothing to do with
15 the markers?

16 A. Absolutely not.

17 Q. Now, also if we can just go back to
18 RA-1, there were those pipes sticking out. Did
19 you have anything to do with those pipes or those
20 are Transco pipes?

21 A. Those are Transco. They're
22 identification markers. They're shown on the
23 survey. They have been there for a long time.

24 Q. Okay. Now, the RA-5 which was the
25 last one, can you tell from this the

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Bertin - cross

30

1 approximate -- that 10 foot area of easement, is
2 that -- are these -- are the stakes in the middle
3 of that 10 feet? I only see one stake but --

4 A. Yes, RA-2 and 3 are better
5 depictions going up the hill because this is
6 really looking right up and down the line. So
7 the 10-foot easement would be centered around

8 these markers. The markers are the center of the
9 easement.

10 Q. And you're referring to RA-2?

11 A. Right.

12 Q. And since you took these picture,
13 what is the distance between the trees

14 approximately, trees and yellow marker in the
15 center of that 10-foot area about approximately?

16 A. It's about five feet. Six feet.

17 Q. Five or six feet to the tree on the
18 north; the tree on the south a little bit
19 farther?

20 A. Yes, these two trees were my
21 landmarks. You could tell where I was.

22 Q. When you go further up RA-2 there's
23 another, looks like there's a stake up about five
24 inches from the top of the exhibit. There's also
25 a tree there that's within five or six or seven

Celeste A. Galbo, CCR, RMR

7

Bertin - cross

31

1 feet approximately?

2 A. Maybe it's a little farther, right.

3 Q. Now, you indicated, you also said

4 you're in the process of preparing a slope
5 stability study?

6 A. Yes.

7 Q. Okay. And what do you envision,
8 what work do you envision doing to finish that
9 study?

10 A. It would be purely physical -- it
Page 28

11 will be visual and then an analysis, no digging.

12 MR. LAMB: Thank you. Nothing

13 further, Mr. Chairman.

14 THE CHAIRMAN: All right. Thank

15 you.

16 MR. ALAMPI: Mr. Chairman, I'd like
17 to move these as case evidence, the photographs.

18 MR. MUHLSTOCK: They have been

19 marked. I guess I can wait for counsel.

20 MS. GESUALDI: I have nothing.

21 MR. ALAMPI: I'd like to moved those
22 into the record.

23 MR. MUHLSTOCK: Okay. Fine.

24 (Remand Applicant's Exhibit 1 through
25 5, five photographs, were received in

Celeste A. Galbo, CCR, RMR

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32

Bertin

1 evidence.)

2 THE CHAIRMAN: Do you have a

3 question about the identification of the
4 pictures?

5 A VOICE: I have questions of Mr.

6 Bertin --

7 MR. MUHLSTOCK: Only on the
8 pictures. Just for identification of the
9 picture, don't go beyond that.

10 JEREMY RABIN, residing at 7004 Boulevard East,
11 Guttenberg, New Jersey 07093, having been duly
12 sworn by the Notary Public, was examined and

13 testified as follows:

14 MR. RABIN: During your testimony on
15 these photographs I notice that you referred to
16 this transmission line three or four times as a
17 gas main.

18 THE WITNESS: Gas line, gas main,
19 pipe.

20 MR. RABIN: Well, are you aware that
21 there is a very significant difference between a
22 gas main and --

23 MR. MUHLSTOCK: I agree.

24 MR. ALAMPI: Chairman, we
25 authenticated the accuracy of the photographs

Celeste A. Galbo, CCR, RMR

8

33

Bertin

1 only.

2 MR. RABIN: This was something that
3 was just stated on the record in his testimony
4 and I'm asking him a question about it.

5 MR. MUHLSTOCK: And he answered your
6 question. He said he referred to it several
7 ways.

8 MR. RABIN: You know, months ago the
9 public and the Galaxy's lawyer were suggesting
10 that this -- the pipeline safety was
11 jurisdictional and a judge had to rule that yes,
12 indeed it is. Are you still going to make it so
13 difficult to ask questions?

14 MR. ALAMPI: That's a
15 mischaracterization.

2-7-12 App]review

16 MR. MUHLSTOCK: It was not

17 jurisdictional. You're using the wrong word but
18 I know you're not an attorney, so it's okay.

19 MR. RABIN: You had previously ruled
20 that pipeline safety was not --

21 MR. MUHLSTOCK: This witness was
22 offered merely to tell you and identify the
23 photographs. If you have any questions about
24 that, go right ahead.

25 MR. RABIN: He identified these

Celeste A. Galbo, CCR, RMR

9

Bertin

34

1 markers as marking a gas main.

2 MR. MUHLSTOCK: That's right.

3 MR. RABIN: And I'm asking him about
4 the fact that this is a major transmission gas
5 pipeline which is a very different thing than a
6 gas main.

7 MR. MUHLSTOCK: Mr. Bertin, can this
8 be referred to as a gas transmission line?

9 THE WITNESS: Transco is here. Why
10 don't you ask them and get the truth instead of
11 relying on this?

12 MR. RABIN: Well, I think it's
13 significant that there was a witness here, a gas
14 pipeline safety expert who specifically faulted
15 these proceedings that many members of North
16 Bergen --

17 MR. MUHLSTOCK: Wait a second. wait

18 a second. Don't go there. Save it. Save that
19 either for these witnesses coming up or at the
20 end of the proceeding you can make your public
21 comment. Otherwise if you don't have any
22 questions on the photos themselves, let's move on
23 to the Transco witnesses who will answer your
24 questions.

25 MR. RABIN: The question was about

Celeste A. Galbo, CCR, RMR

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35

1 somebody who has done a lot of work on this
2 property who designed the building in question --

3 THE CHAIRMAN: Again --

4 MR. MUHLSTOCK: That's way beyond
5 what he just testified to. Sorry.

6 MR. RABIN: It's the words he
7 actually used. If they're inaccurate, it should
8 be relevant.

9 MR. MUHLSTOCK: That will be brought
10 out by the next witness and you can ask them all
11 the questions you want.

12 THE CHAIRMAN: Counselor.

13 MR. LAMB: And, Mr. Chairman, just
14 before we start, one of the things that I
15 maintained throughout these proceedings is that
16 Transco should be a co-applicant, they should be
17 a party to this. This is Mr. Alampi's
18 application. Mr. Alampi can provide witnesses.

19 We are happy that finally Transco is here. We're
20 not dissatisfied with that but Transco's attorney

2-7-12 Appleview

21 is not a party to this, they are witnesses for
22 Mr. Alampi. If Mr. Alampi can ask them all the
23 questions he can think of, but unless they're An
24 applicant or a co-applicant like we previously
25 indicated, they don't have any standing to put on

Celeste A. Galbo, CCR, RMR

8

36

1 witnesses and present a case.

2 MR. ALAMPI: I think not. We've
3 agreed that we're not waiving any arguments and
4 preserving our arguments and the most efficient
5 way is for the attorney who has corresponded with
6 the board, who has corresponded with his
7 engineers and with your borough engineer in the
8 previous proceedings to introduce the witnesses
9 and present them.

10 MR. MUHLSTOCK: All right.

11 Mr. Lamb, your objection is noted and you can
12 raise that issue up above also I guess. It's a
13 procedural issue.

14 I should also note that by -- and I
15 don't if Mr. Stevens is going to indicate it but
16 I will, by appearing Transco doesn't waive any
17 rights that they may have or any arguments they
18 may have if they later become part of this case;
19 no one does.

20 MR. STEVENS: Good evening, Mr.
21 Chairman, board members, Mr. Muhlstock, Mr. Lamb
22 and Ms. Gesualdi. My name is Mark Stevens, I'm

23 from the firm of Watson, Stevens, Rutter & Roy
24 now in Freehold, and we have the privilege of
25 representing Transcontinental Gas Pipeline

Celeste A. Galbo, CCR, RMR

8

37

1 company, LLC, as local counsel in the state of
2 New Jersey.

3 A couple of preliminary things before
4 I introduce witnesses. First of all, Mr.
5 Muhlstock, thank you for indicating that my I
6 believe letter of January 30, 2012 addressed to
7 you is being marked as an exhibit because in that
8 letter in keeping with the point that you just
9 made, one of the things I did in that letter was
10 indicate that Transco's appearance here this
11 evening is without prejudice to its rights under
12 the Natural Gas Act and typical regulations, but
13 we are happy to be here.

14 In addition, some of the documents
15 you may see, including the resume of my principal
16 witness use the term Williams Gas Pipeline, you
17 may have heard that time. I introduced myself a
18 few moments ago as the attorney for
19 Transcontinental Pipeline Company, but they're
20 more or less one in the same. One hundred
21 percent of the stock of Transco is owned by
22 Williams Gas Pipeline which is one of three
23 pipeline entities which is owned in turn by the
24 Williams companies of Tulsa. But the principal
25 offices of Transco and Williams Gas Pipeline are
Page 34

2-7-12 Appleview

Celeste A. Galbo, CCR, RMR

38

1 in Houston.

2 Another point, before I get to a
3 specific discussion of the Appleview property,
4 I'm going to ask my witness whom I'll introduce
5 in a moment a line of questions in general about
6 natural gas pipeline, natural gas and about
7 Transco. And the purpose is to lay a foundation
8 for the testimony that you will hear afterwards
9 concerning this specific piece of property but in
10 this case a little education is a good thing. So
11 please bear with us if you don't suddenly or if
12 you don't immediately hear the term Appleview
13 property.

14 with that I'd like to introduce --

15 MR. ALAMPI: Mr. Stevens, just
16 excuse me.

17 For the record, Mr. Chairman, Mr.
18 Stevens just referred to his January 30th, 2012
19 letter which was distributed. Why don't we just
20 mark that RT, Remand T --

21 MR. MUHLSTOCK: I identified it
22 earlier and it's in the record with all the other
23 documents. We don't have to burden the marking.
24 It's there for the record, it's part of the
25 record.

Celeste A. Galbo, CCR, RMR

1 MR. STEVENS: Now, the procedure
2 with respect to my first witness, I'm going to
3 ask Jose Rodriguez, special engineer and employee
4 of Transco to come up, but with me this evening I
5 have three additional Transco employees and I
6 also should have mentioned that Richard B.
7 Tucker, Jr., an attorney who is of counsel to our
8 firm is with me this evening. And if Mr. Tucker
9 has something to say, I would appreciate if the
10 board would indulge us and allow him to speak up
11 or come to me and speak up.

12 with us in addition to Mr. Rodriguez
13 is Dan Schweitzer who is a technical manager with
14 Transco's Princeton division which is the
15 division offices for basically this region,
16 including the entire State of New Jersey. And
17 Collin Wisser who is a district manager for this
18 specific region in Bergen County and Ken
19 Philhower who is the assistant district manager.
20 Those gentlemen are here to lend support, answer
21 questions that may come up if it's related to
22 their specific areas of expertise, and but as I
23 indicated in order to tell Transco's story and
24 talk about this property, the principal witness
25 will be Mr. Rodriguez.

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Celeste A. Galbo, CCR, RMR

40

Rodriguez - Voir dire

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THE CHAIRMAN: Thank you.

2-7-12 App1eview

2 JOSE RODRIGUEZ, having been duly sworn by the
3 Notary Public, was examined and testified as
4 follows:

5 VOIR DIRE EXAMINATION

6 BY MR. STEVENS:

7 Q. Jose, would you state your name and
8 business address again just for the record?

9 A. My name is Jose Rodriguez.

10 MR. MUHLSTOCK: Just make sure you
11 talk up either into the mike so everyone in the
12 back can hear you, Mr. Rodriguez.

13 A. My name is Jose Rodriguez, I work
14 for Transcontinental Pipeline. I work out of the
15 division office in New Jersey which is at 99
16 Farber Road, Princeton.

17 Q. In what capacity do you work for
18 Transco?

19 A. Senior division engineer.

20 Q. Would you summarize, please, your
21 educational background and your employment
22 history?

23 A. Graduated 1981 from Penn State
24 bachelor degree in civil engineering. I started
25 with Transco directly out of college in '81. I

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8

Rodriguez - Voir dire

1 started in Linden, worked in the pipeline
2 integrity group. Then I went to Houston, worked
3 in the construction department, survey department

2-7-12 Appleview

4 for a few years. From there came back to New
5 Jersey, worked in Linden, again out of Linden in
6 the gas measurement group where I was responsible
7 for the north New Jersey and New York meter
8 stations including the one at 72nd which we might
9 talk about and the ones in New York. And from
10 there I went into the division office which at
11 that time was in South Plainfield for about four
12 years. After that became district manager in the
13 Shanick station near Somerville, worked there for
14 about five years. From there I went to our
15 station 200 in Frazer, PA for about six years.
16 Then I left the company for Sunoco Logistics
17 which is a liquids petroleum pipeline company.
18 worked out of Reading where I was a regional
19 superintendent for about three years. Then I
20 left the pipeline industry to do investing work
21 and the stock market crashed and sent me back to
22 work. Transco Dan allowed me to come back, went
23 back into engineering which I did before. I've
24 been in the position for the last three years.

25 MR. STEVENS: Mr. Chairman, I have a

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Rodriguez - Voir dire

42

1 resume for Mr. Rodriguez that I'd like to mark,
2 what, Transco 1 or how would you like to do that,
3 Mr. Muhlstock?

4 MR. MUHLSTOCK: Yeah, that's good.

5 Transco 1. TR-1. Better mark it Transco,

6 Transco 1.

2-7-12 AppReview

7 MR. STEVENS: I'll keep one for
8 myself. I'll give several copies to the board.
9 I'll give one to Ms. Gesualdi. I gave one to
10 Mr. Lamb and to Mr. Alampi earlier.

11 (Transco Exhibit 1, resume of Jose
12 Rodriguez, was marked for identification.)

13 Q. Mr. Rodriguez, while it's being
14 passed around, do you hold any professional
15 licenses or certifications?

16 A. Licensed New Jersey as a
17 professional engineer since 1990, professional
18 land surveyor from 1991. I'm also licensed in
19 the State of Pennsylvania in both professional
20 engineer and land surveyor.

21 Q. Are your licenses and certifications
22 in good standing?

23 A. Yes, they are.

24 Q. Now, presently can you summarize for
25 the board what your principal, primary job

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Rodriguez - Voir dire

43

1 responsibilities are?

2 A. My job as division engineer is
3 amongst many things is to review encroachments
4 such as this, third party construction
5 activities, developer's and highway projects for
6 how they will impact the pipeline, and if they do
7 impact the pipeline, work out a solution that
8 is -- works for us.

9 Q. Do your responsibilities presently
10 also include areas of pipeline operations,
11 maintenance and safety?

12 A. In a -- not a specific way but yes,
13 I would say so.

14 Q. And are all of your educational and
15 occupational experiences set forth in the resume
16 that's been marked as Transco 1?

17 A. Yes, they are.

18 MR. ALAMPI: So you have, as I
19 understand it, a total of approximately 29 years
20 of experience in the pipeline industry both
21 natural gas and a products line which is the term
22 we use for petroleum, and that includes about 25
23 years with Transco about, what, three four years
24 with Sunoco?

25 A. Yes.

Celeste A. Galbo, CCR, RMR

8

44

Rodriguez - Voir dire

1 MR. STEVENS: Mr. Chairman, as I
2 indicated, I'd like to move that the resume be
3 marked into the record and I'd like to move that
4 Mr. Rodriguez be accepted as an expert in the
5 area of pipeline engineering, including the area
6 of pipeline safety. Now, his credentials will be
7 further developed as I ask him additional
8 questions.

9 THE CHAIRMAN: We'll --

10 MR. LAMB: I'm going to object,

11 Mr. Chairman, until I have some questions just on
Page 40

2-7-12 AppReview

12 the threshold issue at the appropriate time.

13 MR. MUHLSTOCK: why don't -- Mr.

14 Stevens, why don't you focus on his
15 qualifications as an expert in pipeline safety?
16 I think we have enough here through what you've
17 already brought out through voir dire that he
18 certainly qualifies as a pipeline engineer. I
19 believe Mr. Lamb's -- probably his comment there
20 probably went towards safety issue.

21 MR. STEVENS: I can do that. One of
22 the reasons I wanted to develop a line of
23 questions is to bring out information and have
24 Mr. Rodriguez, you know, indicate the scope of
25 what he does on a day-to-day basis. I can cut

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45

Rodriguez - voir dire

1 directly to the chase and ask him, you know, what
2 qualifies him as an expert in pipeline safety.

3 I'm sorry.

4 MR. MUHLSTOCK: You can do that.

5 let Ms. Gesualdi just indicate --

6 MS. GESUALDI: I just procedurally
7 would like the record to reflect that while the
8 township is so pleased that Transco is here to
9 answer all the questions that the town
10 and everyone here has had throughout these
11 proceedings, I'm just a little confused as to how
12 we're offering someone as an expert who is not an
13 applicant. I just want the record to be

14 preserved to that effect.

15 MR. MUHLSTOCK: well, okay. I think
16 Judge Farrington was pretty clear about what she
17 wanted but okay. Go ahead.

18 MR. LAMB: So am I going to be able
19 to voir dire the --

20 MR. MUHLSTOCK: Do you want him to
21 go a little further on the issue of safety and
22 maybe it will answer some of your questions?

23 MR. LAMB: That's fine.

24 MR. STEVENS: I'm happy to defer to
25 Mr. Lamb at some point because obviously I don't

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Rodriguez - Voir dire

46

1 know until the board tells me we've heard enough.
2 MR. MUHLSTOCK: Go ahead.

3 Q. Mr. Rodriguez, what do you do on a
4 day-to-day basis that falls into the area of
5 pipeline operations and pipeline safety? And
6 what experiences have you had specifically with
7 respect to your years with Transco that go to
8 elements of pipeline safety?

9 A. well, Transco is a natural gas
10 pipeline that moves natural gas from the Gulf
11 Coast up to here and in the process of doing that
12 safety is integral to it. We can't do it if it's
13 not -- if every part of it is not safe.
14 There's -- I would say just by doing my job that
15 I knows operating safety. The DOT code CFR 49 --
16 49 CFR 192 dictates the minimum requirements for
Page 42

2-7-12 AppLeview

17 pipeline safety, design, construction,
18 maintenance and operations.

19 Q. Are you familiar with 49 CFR, Code
20 of Federal Regulations, Part 192?

21 A. Yes. So therefore everything that
22 we do has that basis built into it. You know, I
23 don't know how you can distinguish a pipeline
24 safety expert from a pipeline safety engineer.
25 what I'm saying is I believe they are hand in

Celeste A. Galbo, CCR, RMR

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Rodriguez - Voir dire

47

1 hand.
2 MR. STEVENS: And this, again, is
3 why I was trying to develop a coherent line of
4 questions because it would sort of build and help
5 educate.

6 Q. Mr. Rodriguez, are you familiar, for
7 instance, with Transco cathodic protection
8 procedures?

9 A. Yes, I am and I've worked in the
10 department.

11 MR. LAMB: Mr. Chairman, the problem
12 that I'm having is the question that was asked to
13 him before was can you describe if you're an
14 expert in maintenance and safety. And the answer
15 was not in a specific way, I would say so. It
16 was kind of -- I'm not --

17 MR. MUHLSTOCK: That's why I asked
18 him to elucidate that.

19 MR. LAMB: I'm stipulating that he's
20 a qualified pipeline engineer, there is no doubt
21 about that. But whether he's a safety expert is
22 an expert in safety, not that I'm an engineer and
23 my job hits upon safety. Mr. McGrath isn't a
24 pipeline safety expert and his job is involved at
25 times with safety as is Mr. Bertin. That's not

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Rodriguez - Voir dire

48

1 the point.

2 MR. MUHLSTOCK: Well, that's what
3 he's explaining.

4 MR. LAMB: I'm also going to request
5 that the attorney during the examination not
6 consult with his client.

7 MR. MUHLSTOCK: Mr. Stevens,
8 Mr. Lamb is correct, if you want to consult,
9 we'll have to take a break.

10 MR. LAMB: I'm going to renew it
11 again.

12 Q. Mr. Rodriguez, is there a separate
13 and stand-alone certification for something
14 called a natural gas pipeline safety expert?

15 A. No, there are not. But there are
16 specific job titles where we have pipeline safety
17 engineers where they focus really on the
18 administration of the DOT code. But I wouldn't
19 say when it would come to this as an example,
20 this project and what we're talking about,
21 whether they're more qualified or less qualified

2-7-12 App]review

22 to determine the impact of this project on our
23 pipeline. In fact, I believe that I would be
24 more qualified being a -- field experience.

25 Q. You have field experience?

Celeste A. Galbo, CCR, RMR

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49

Rodriguez - Voir dire

1 A. Yes, without the particular title of
2 a pipeline safety engineer.

3 MR. STEVENS: If Mr. Lamb would like
4 to --

5 MR. MUHLSTOCK: Mr. Lamb, why don't
6 you voir dire now.

7 MR. LAMB: Frankly, the last
8 statement I believe answered my question. I'm
9 happy to have him, just like Ms. Gesualdi said.
10 I'm happy that he's here and I'm happy to get all
11 the information he has to bear but that doesn't
12 mean he's a pipeline safety expert.

13 MR. MUHLSTOCK: Well, you heard what
14 he just said. He said there is no such thing as
15 a pipeline safety expert. There is no such
16 thing. That's his testimony.

17 VOIR DIRE EXAMINATION

18 BY MR. LAMB:

19 Q. Have you ever prepared a risk
20 identification and mitigation report?

21 A. In the process of this project a
22 risk identification assessment has been done in
23 collaboration with Mr. Bertin's office and

24 Mr. Bertin --

25 Q. Have you prepared it? I'm not

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50

Rodriguez - Voir dire

1 asking if Mr. Bertin prepared it.

2 A. No, I have not.

3 Q. You're referring to Mr. Bertin's
4 letter report entitled Risk Identification and
5 Mitigation Report dated March 23, 2010, I
6 believe -- March 13th, excuse me --

7 A. 2011.

8 Q. 2011.

9 A. That's correct.

10 Q. Is that what you're referring to?

11 A. Yes.

12 Q. Your name isn't on that, sir, is it?

13 A. No, it's not.

14 MR. LAMB: let's mark this,

15 Mr. Chairman.

16 THE WITNESS: I believe in the
17 report it has wording in there indicating the
18 input of Transco Williams.

19 MR. LAMB: G-3, 2/7/12.

20 (Galaxy Exhibit 3, letter report
21 entitled Risk Identification and Mitigation
22 Report dated March 23, 2010, was marked for
23 identification.)

24 MR. LAMB: Again, I'm in the middle
25 of cross-examination, he can't talk to his

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Rodriguez - Voir dire

1 attorney.

2 MR. MUHLSTOCK: Mr. Stevens, please.

3 Let Mr. Rodriguez answer the questions that

4 Mr. Lamb is going to --

5 THE WITNESS: It's actually my

6 fault. I wanted to add something.

7 MR. MUHLSTOCK: Okay. Well, you can

8 add whatever you want, you know, to the

9 questions --

10 THE CHAIRMAN: Without your

11 attorney.

12 MR. MUHLSTOCK: -- to the questions

13 that Mr. Lamb will ask.

14 THE WITNESS: Okay.

15 Q. Other than Mr. Bertin's report that
16 we just marked for identification, have you ever
17 prepared a risk identification and mitigation
18 report?

19 A. No.

20 Q. Have you ever study disasters?

21 A. No, I've read about the disasters,
22 events that occurred but I have not study
23 disasters.

24 Q. Have you ever published any papers
25 or articles on pipeline safety or disasters?

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2-7-12 Appleview
Rodriguez

1 A. No, I haven't.

2 MR. LAMB: I have nothing further,
3 Mr. Chairman. He's clearly a pipeline engineer
4 that's qualified but he's not a pipeline safety
5 expert.

6 MR. MUHLSTOCK: Go ahead.

7 MR. TUCKER: Can I be heard on that
8 Mr. Chairman? Mr. Chairman, with due respect to
9 Mr. Lamb's position, what we have in this witness
10 is an individual who has ample credentials. As
11 he's testified, he's a professional engineer,
12 he's a professional land surveyor. He can't say
13 he's certified as a gas pipeline safety expert
14 because there is no such certification either
15 from the government or any industry source. And
16 in addition to his credentials he's got 29 years
17 of experience, 25 of which are in the gas
18 pipeline safety industry. He's testified that
19 those duties entail matters of pipeline safety on
20 a day-to-day basis. I submit it's hard to
21 imagine anyone who could have better experience
22 or more knowledge as a gas pipeline safety expert
23 than Mr. Rodriguez. Thank you.
24 Let me just add the New Jersey rules
25 of evidence, Rule 702 specifically says that if

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct

53

1 scientific, technical or other specialized
2 knowledge will assist a trier of fact, that that
Page 48

3 witness can qualify as an expert based on his
4 knowledge, skill, experience, training or
5 education. And I submit that on all of those
6 criteria this witness is more than qualified.
7 Thank you.

8 THE CHAIRMAN: I agree and we will
9 qualify him. We'll accept him as an expert.

10 MR. STEVENS: Thank you,
11 Mr. Chairman. Again, I'm going to develop a line
12 of questions that will help elicit for the
13 board's sake the experience that Mr. Rodriguez
14 has, and I think assist ultimately you as triers
15 of fact in determining that in fact he is an
16 expert in pipeline safety.

17 DIRECT EXAMINATION

18 BY MR. STEVENS:

19 Q. Mr. Rodriguez, is it accurate to say
20 that Transco does not own the natural gas that it
21 transports but rather owns the facility and the
22 pipeline to through which the gas travels?

23 A. Yes, that's correct. That's correct
24 in that we do not own the gas. We're an open
25 pipeline, meaning anyone can put -- transport

Celeste A. Galbo, CCR, RMR

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54

Rodriguez - direct

1 anyone's gas in it.

2 Q. Can you describe sort of the length
3 and breadth of Transco's pipeline system? How
4 many miles of pipeline including how many miles

2-7-12 Appleview

5 in New Jersey?

6 A. Pipeline runs from the Texas-Mexico
7 border to New York. It's I believe 1800 miles of
8 pipeline. There are, from my notes there's 555
9 miles of pipeline in New Jersey, 400 miles of
10 right-of-way in New Jersey of our pipeline
11 right-of-way in New Jersey.

12 Q. In addition to Transco there are
13 other natural gas pipeline companies operating in
14 New Jersey including Spectra and which is
15 formerly Algonquin and Texas Eastern and
16 Tennessee Gas; is that correct?

17 A. That's correct.

18 Q. And they ever their own separate
19 pipeline systems?

20 A. Yes.

21 Q. But the New York metropolitan area
22 is the terminus of the Transco system?

23 A. That is correct.

24 Q. To whom is the natural gas
25 delivered?

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct

55

1 A. Well, we have various customers in
2 New Jersey, the biggest one being Public Service
3 Electric & Gas. This line ends in New York so it
4 feeds Con Edison, we have other New York
5 customers and we have other New Jersey customers,
6 Southern Gas, Elizabethtown.

7 Q. How is the natural gas delivered
Page 50

2-7-12 App|eview

8 from the Transco pipeline system to the local
9 systems which I understand are called LDCs or
10 local distribution codes?

11 A. Those transferred at meter stations,
12 metering and regulating stations such as the --
13 in this particular case this line, the meter
14 station is at 72nd Street and Route 1 but the
15 point of ownership is in New York.

16 THE CHAIRMAN: Is what?

17 THE WITNESS: Is in New York, across
18 the river.

19 MR. MUHLSTOCK: Talk into the
20 microphone, real loud. Real loud.

21 Q. In our report previously delivered
22 to the board and again this evening we saw a
23 distinction being made between a main in a
24 transmission pipeline, could you indicate what
25 the difference is if any?

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct

1 A. Well, I'd like to just say you can
2 call it potato or I can call it potato, it
3 doesn't matter whether it's called a pipe, main,
4 transmission line, gas facility. What controls
5 is that we are regulated by the code that I spoke
6 of earlier and that safety code specifies what is
7 allowed and what is not allowed. I cannot speak
8 to the -- if there is a distinction from a local
9 distribution company on a main. I can only speak

10 to what the requirements are for this pipeline.

11 Q. And what are valves and what purpose
12 do they serve?

13 A. Valves are closure devices or
14 devices that can partially close to regulate.
15 And so if we are -- need to shut a pipeline down
16 for a safety situation or for maintenance we will
17 shut it or we may have valves which are
18 regulators that are partially opened or closed to
19 control flow.

20 Q. Who are permitted to operate those?

21 A. All qualified employees. You must
22 be qualified as a DOT qualified task. You have
23 to be qualified to actually operate that valve,
24 to do the physical operation.

25 Q. And did you indicate what are the

Celeste A. Galbo, CCR, RMR

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57

Rodriguez - direct

1 closest valves to this location? When I say this
2 location, I mean the Appleview property.

3 A. In this location they're about right
4 across the street on River Road. There are also
5 the other valves are at the 72nd meter station
6 which is at 69th Street and Tonnelle Avenue.
7 There's another set of valves a little bit
8 further up on Railroad Avenue. And then there
9 are valves that are man facility in Carlstadt
10 which is across the Hackensack River.

11 Q. In general what are the diameters of
12 Transco's pipelines that you are familiar with?

2-7-12 App1 review

13 A. They're small diameter, say six inch
14 or so to 48 inch diameter.

15 Q. How does the gas flow from the Gulf
16 of Mexico up to New York City? What causes it to
17 flow?

18 A. There will be compressor stations
19 along the line, every 75 miles or so. They could
20 be natural gas-fired or they could be electric
21 stations powered.

22 Q. Are there any compressor stations in
23 New Jersey?

24 A. Yes, sir, there is in the Shanick
25 station there is a compressor station, however,

Celeste A. Galbo, CCR, RMR

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58

Rodriguez - direct

1 that one does not compress in this direction.
2 There is -- there are a few electric stations,
3 the next one being in Lawrenceville, New Jersey
4 and there's one proposed north of here, all about
5 50 miles or so from here.

6 Q. How long has Transco operated a
7 pipeline system in New Jersey?

8 A. Since about 1950.

9 Q. And where are Transco's office for
10 purposes of, you know, both administratively and
11 as a practical matter where personnel like
12 yourself work?

13 A. Our division office which are four
14 divisions in the Transco system is in Princeton

2-7-12 AppReview
15 where I work out of, and then there's an office
16 in the Shanick station. These are district
17 offices. The district office for this location
18 is in Carlstadt where Carl Wissner works out of,
19 he's it's manager for this district. And then
20 there is satellite locations also which house
21 employees.
22 Q. Now, I understand that there is
23 something called Houston Gas Control, could you
24 indicate, you know, what that is and what its
25 purpose is and who communicates with Houston Gas

Celeste A. Galbo, CCR, RMR

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59

Rodriguez - direct

1 Control?

2 A. Our pipeline system today is capable
3 of being fully automated which means that all our
4 pressures are monitored or most all our pressures
5 are monitored along the pipeline and our flows
6 and our volumes and that is all watched in the
7 Houston Gas Control center. There's a backup
8 facility which is in Frazer, PA in case there was
9 a situation where the facility in Houston was not
10 operable.

11 Q. How is the communication performed
12 between instruments that are local and Houston
13 Gas Control?

14 A. Well, electronically by various
15 measures, phone lines at one point. We still
16 have an operable microwave system which was
17 in-house communication system. But a lot of our

2-7-12 AppReview

18 communications actually runs through the public
19 fiber-optic systems, telephone lines.

20 Q. And I understand does Williams use
21 something called the SCADA System?

22 A. Yes. Now you're going to look up
23 what that means. Supervisory Control and Data
24 Acquisition. Basically as far as I'm concerned
25 it's an automated system where people in gas

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct

60

1 control in Houston then monitor it. There are
2 alarms and limits sets on everything that we have
3 so if something is exceeded, basically there will
4 be an alarm for it, it's fully manned. The
5 closest facility to here is also fully manned
6 besides being connected to the SCADA System.

7 Q. Houston Gas Control is monitored 24
8 hours a day, seven days a week, every day of the
9 year; is that correct?

10 A. Yes.

11 Q. Can Houston remotely assist local
12 Transco employees in controlling valves?

13 A. Yes, they can. They have the
14 capable of closing the valves at River Road, the
15 valves that I spoke about which are on each side
16 of this segment of pipeline.

17 Q. Does Transco have written policies
18 and procedures that relate to pipeline operations
19 and pipeline safety?

20 A. many, many policies and procedures.

21 Q. Are you familiar with them?

22 A. I'm familiar with all of them and
23 more familiar with the handful that I deal
24 directly with.

25 Q. Is there an entity that regulates or

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct

61

1 oversees the safety of pipelines operated by
2 companies such as Transco?

3 A. Yes, that again would be the DOT,
4 specifically the Department of Transportation,
5 the subgrouping, the PHMSA, Pipeline Hazardous
6 and Materials Administration.

7 Q. Which you said the DOT, that's the
8 federal?

9 A. Federal Department of
10 Transportation, yes.

11 Q. And you indicated before that I
12 believe that it's 49 CFR Part 192?

13 A. Yes.

14 Q. Which governs what design, operation
15 and maintenance of natural gas pipeline?

16 A. Design, operation, construction,
17 maintenance.

18 Q. And you indicated that you are
19 generally familiar with those regulations?

20 A. Yes, I am.

21 Q. Does Transco rely upon those
22 regulations to safely operate or those -- yes,
Page 56

23 those governmental regulations to safely operate
24 its pipeline?

25 A. We do not rely solely on those

Celeste A. Galbo, CCR, RMR

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62

Rodriguez - direct

1 regulations: we will meet those regulations and
2 exceed them at every opportunity that we have. A
3 lot of times the regulations follow the actual
4 practice. And there are other times after there
5 are incidents where the regulations lead to
6 practice.

7 Q. In general how is Transco's safety
8 record?

9 A. Very, very good.

10 Q. Is it fair to say that it's operated
11 every day in New Jersey since 1950 without a
12 major incident?

13 A. That's correct.

14 Q. And can you tell us what in general
15 49 CFR Part 192 covers?

16 A. Again, the design, construction,
17 maintenance of a natural gas pipeline facility.
18 It covers a lot of other subgroups, operator
19 qualifications. There are a lot of sections to
20 it.

21 Q. Can you represent to the board
22 tonight that Transco to the best of your
23 knowledge -- and actually I'll ask you first,
24 have you made inquiry as to in general as to

2-7-12 AppReview
25 whether or not Transco is in compliance with

Celeste A. Galbo, CCR, RMR

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63

Rodriguez - direct

1 these federal regulations?

2 A. If we were not, I think everyone in
3 the company would know it because the importance
4 that the company places on it. A minor finding
5 in an audit is shared company-wide. We are in
6 compliance.

7 Q. What does Transco -- you may have
8 answered this in part but I'm going to ask you
9 again, what does Transco do to keep the pipeline
10 as safe as possible? And what I'd like you to
11 develop is the details on inspections, what is
12 cathartic protection?

13 A. Well, the code spells out a lot of
14 requirements and schedule for those requirements.
15 Cathartic protection is basically where we induce
16 a current into the pipeline because steel, the
17 pipeline is made out of carbon steel. Carbon
18 steel unprotected will naturally rust and give
19 off an electron. So the way you counter is to
20 press current into it. An example of -- and
21 because of that if properly done a steel
22 structure could last forever.

23 I wanted to say this earlier but I
24 forgot. An example of that is the battleship New
25 Jersey which Transco has contributed the

2-7-12 AppReview

64

Rodriguez - direct

1 cathartic protection on that ship. So that ship
2 can stay there in Camden indefinitely provided
3 the system is working. And but you just don't
4 put a system in service, it requires inspections.
5 So part of what we do are inspections.

6 There's a lot of inspections. There
7 are -- some of those inspections are walking the
8 line just for erosion. There's inspections for
9 flame ionization where you're looking for a leak.
10 In this particular property in the early '90s the
11 situation that has occurred that I'm aware of
12 since it was built was an erosion situation which
13 I'll call a maintenance incident. And it
14 actually shows up in the photographs. That is
15 the sort of thing that when done right we find
16 little problems before they become big problems.

17 MR. MUHLSTOCK: When you say showed
18 up in the photo, you're talking about the
19 photographs that are marked --

20 THE WITNESS: The photos right here.

21 MR. MUHLSTOCK: Why don't we look at
22 it while you're talking about it?

23 THE WITNESS: Okay. What's
24 interesting here is that this occurred in 1994, I
25 believe, or 1990. And you can see evidence of

Celeste A. Galbo, CCR, RMR

65

Rodriguez - direct

1 the repair.

2 Q. which board is this, RA-2?

3 THE CHAIRMAN: RA-2 isn't it?

4 A. I'm looking for it. By the way, as
5 what was asked earlier, we put in these -- these
6 are pipeline markers. As part of the code, it
7 requires us to mark our pipeline. The pipeline
8 should be readily discernible. In other words,
9 you should have line of sight to see where the
10 pipeline runs.

11 These three stakes are how you have
12 to mark out a pipeline in New Jersey, center line
13 and side. It's a one call rule. I don't know
14 that I can see the fabric in this particular --
15 in this photograph, but what occurred in the
16 early '90s there was an erosion runoff from this
17 road which we first thought was a freeze/thaw
18 situation and now we believe was a water line
19 break. Water ran down this hill and eroded out
20 some of the cover, not enough that there was a
21 danger to the pipeline because the pipeline
22 through here is about eight feet deep in this
23 area. Right in here it's probably I think 80
24 inches. At the fence line it's four and a half
25 feet. That was Exhibit RA-2.

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Celeste A. Galbo, CCR, RMR

Rodriguez - direct

66

1 well, what's interesting here is you
2 can't even see -- you can't see the measures that
3 were taken but the repair occurred in say 1994
Page 60

2-7-12 Appreview

4 and to this point it has held up very well. If
5 you walk this site you'll see evidence of a
6 geofabric in here, little squares that are about
7 this big that are meant to hold soil in place.

8 So, anyhow, the washout occurred
9 because there was runoff we believe from a water
10 behind break, ran down the hill and washed this
11 loose dirt away from the pipeline not to the point
12 where it was a threat, but if it was unattended
13 it could have been a problem.

14 THE CHAIRMAN: How did you discover
15 that?

16 THE WITNESS: We're required to walk
17 the line. I can't -- I don't offhand recall if
18 it's twice a year or once a year. Colin can
19 speak to that. But we physically walk that line
20 and look for things like that. That is part of
21 the code. And we also drive this pipeline, I
22 believe, every other day. We drive the road
23 which, you know, that's how we look for
24 construction activities on the pipeline.

25 THE CHAIRMAN: Now, are you able to

Celeste A. Galbo, CCR, RMR

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67

Rodriguez - direct

1 testify on the impact of construction --

2 THE WITNESS: Yes, I am.

3 THE CHAIRMAN: -- on your pipeline?

4 I assume you're going to do so?

5 THE WITNESS: Yes.

2-7-12 App[view
MR. STEVENS: Mr. Chairman, I'm

sorry, I miss part of what you had stated.

THE CHAIRMAN: I asked if he was
able to comment on construction and its impact on
the pipeline.

MR. STEVENS: Right.

THE CHAIRMAN: And where he was.

MR. STEVENS: We're going to get
there.

Q. I think you alluded to it before,
Mr. Rodriguez, but does Transco work with local
municipal officials and the office of Emergency
management personnel with respect to its pipeline
system?

A. Yes. The local district personnel
as Collin and his people meet with all the
emergency responders, local emergency responders.
We actually enjoy the interaction. I'm glad to
be here today to have this discussion whether
it's believed or not.

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct

68

Q. Does Transco presently work with
local officials in this area to your knowledge?

A. Yes, but I can't speak specifically
to the details of that.

Q. And, again, indulgence, a couple
more questions then we'll get to this site. It
occurs to me to ask you what is natural gas?

A. Well, natural gas is called natural
Page 62

2-7-12 AppReview

9 because it's a natural product of the decomposing
10 dinosaurs. It's basically the light hydrocarbons
11 that form above oil. It's mostly methane.
12 There's ethane in it. There's a bunch of other
13 light hydrocarbons that are in gas form.

14 Q. Can you tell us what general
15 properties it has?

16 A. Oh, general properties, it's
17 gaseous, it's flammable, it has no odor, no smell
18 to it.

19 Q. What happens if it's escapes into
20 the air?

21 A. It's lighter than air, so it would
22 go up. It doesn't dissipates. I suppose -- it
23 dissipates as opposed to, say, propane which is
24 heavier than air or petroleum vapors which are
25 heavier. So to a certain degree there's an

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct

69

1 advantage or benefit if there was a gas problem
2 in that it actually would go up and dissipate as
3 opposed to linger and settle into locations that
4 can be a problem.

5 Q. Well, people all the time say I
6 smell gas, what in fact do they smell if it in
7 fact is odorless?

8 A. They're actually smelling the
9 mercaptan or the odorant that's added to the gas
10 so that it can be detected. As part of the

11 requirement we have to -- I forget in details --
12 we don't have to odorize gas but our gas upstream
13 or before New Jersey is not odorized. But all
14 the gas that comes into New Jersey is odorized
15 and the level is that it has to be readily
16 detectable. So it's odorized to that amount. So
17 that if it was escape into the air, it could be
18 readily detected.

19 Q. So my understanding is that
20 mercaptan is in fact heavier than air, so that if
21 there's a gas leak, even if it's, you know,
22 something in a house, that if you smell gas
23 you're smell the mercaptan but you're not
24 necessarily smelling natural gas if it's in an
25 open area?

Celeste A. Galbo, CCR, RMR

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70

Rodriguez - direct

1 A. Well, I believe that's true. But
2 also you will smell the mercaptan if I have my
3 numbers right at a level of 100 times before it's
4 a problem. If that makes sense.

5 Q. I think you've already alluded to it
6 but in these photographs there are pipeline
7 markers. Is that standard in the industry?

8 A. Yes, and a requirement.

9 Q. Does Transco generally own the
10 property it crosses?

11 A. No, Transco owns private
12 right-of-way across properties.

13 Q. Now, you've already alluded in the
Page 64

2-7-12 Applevew

14 photographs to the Applevew property. Have you
15 walked that property? Are you familiar with it?

16 A. Yes, I have. I have and the last
17 time I did that was Friday. I also was the
18 engineer involved with the stair tower in 1989
19 that was pointed out earlier.

20 Q. Now, with respect to the Applevew
21 property, have you determined whether or not
22 Transco has a written easement with respect to
23 the pipeline over and across that property?

24 A. We do not and not for a --it's a
25 somewhat unusual situation but not that unusual.

Celeste A. Galbo, CCR, RMR

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71

Rodriguez - direct

1 I'll go into details if you like.

2 Q. If it's -- if the board has a
3 question, but I'll move on.

4 A. Okay.

5 Q. But in terms of what do the local
6 tax maps then depict in terms of a "Transco
7 easement"?

8 A. I believe they depict 12 feet. I
9 heard earlier 10 feet. But the fact of the
10 matter is that that width is not defined. That
11 width was arbitrarily put on those tax maps by
12 someone other than Transco. I feel the need to
13 go actually into it.

14 when Transco built that pipeline,
15 the property that the sewer authority owns and

2-7-12 Appleview
16 this section of Appleview was owned by the
17 township. So when Transco put in that pipeline
18 it was put in by permit, the same permit that
19 allowed us to go under the River Road, a permit
20 from the township. No defined right-of-way width
21 was given with that permit allowance. However,
22 we've been there for a long time and whether we
23 have a written right-of-way or not, we own a
24 right-of-way through there. It's a debate in my
25 opinion as to width. I've stated in the past

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct

72

1 that that width was 10 feet either side of the
2 center line of the pipeline. And the pipeline,
3 by the way, if you look at -- we'll look at
4 another exhibit. This is sort of off topic but
5 worth saying.

6 At River Road we're about five or six
7 feet off the property line. So obviously we
8 can't be 10 feet on this side because we had no
9 arrangement with this property owner when the
10 pipeline was built. So it's at least if you go
11 off of that, say, 10 feet to this side. So when
12 this stair tower was built, the requirement that
13 they were given was that they were to stay 10
14 feet from the center of the pipeline to the
15 nearest pile. And those are piles that were put
16 in for the stair tower.

17 Q. Are you familiar with the Transco
18 pipeline that runs through North Bergen?

2-7-12 AppReview

19 A. Yes.

20 Q. And what is it called?

21 A. 72nd Street lateral.

22 Q. And what is its diameter?

23 A. 36 inches.

24 Q. And I think you indicated was that
25 constructed in 1959?

Celeste A. Galbo, CCR, RMR

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73

Rodriguez - direct

1 A. Yes.

2 Q. And you know this from Transco's
3 records?

4 A. Yes, I do.

5 Q. And you've personally visited the
6 AppReview property?

7 A. Yes.

8 Q. And are you familiar with the
9 location of the Transco pipeline across the
10 property including its depth?

11 A. Yes, I am.

12 Q. How does Transco know where it's
13 located?

14 A. It knows where it's located because
15 a couple ways. When we flame ionize this line,
16 when we do that, we actually walk ahead of the
17 pipeline with a pipeline locator to make sure
18 we're on the line. These pipeline markers are
19 generally about -- let me jump back.

20 This is not a pipeline marker. This

21 a casing vent. This is directly over the center
22 of the pipe. We know that from our as-built
23 information.

24 Q. You are referring to the left-hand
25 structure or pole of two?

Celeste A. Galbo, CCR, RMR

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74

Rodriguez - direct

1 A. Right. There is no question that
2 our pipeline is directly under that based off of
3 our as-builts that were done when it was put in.
4 This other device.

5 Q. Marker?

6 A. It's not a marker, it's a cathodic
7 protection test station. Under that cap are
8 wires that go down to the pipeline that measure
9 the difference in voltage between the pipeline
10 and the soil. If you maintain .85 volts,
11 theoretically you have a neutral corrosion
12 environment. So -- I forgot your question.

13 Q. First of all, you used the term
14 flame ionization test. Could you just briefly
15 indicate what that is?

16 A. That is a device that pulls in a
17 small amount of air and if there's a -- and it
18 can detect at such a low level of gas in that air
19 it would indicate a leak. It would indicate a
20 leak before you could even smell that there is a
21 leak.

22 Q. Actually I think the question I had
23 asked is how do you know the location of the

24 pipeline.

25 A. Okay, okay. Well, so in with those

Celeste A. Galbo, CCR, RMR

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75

Rodriguez - direct

1 routine inspections you have as-builts, you have
2 routine inspections. That's pretty much it. We
3 don't put markers, the markers are not
4 necessarily exactly over the pipeline. It's a
5 36-inch diameter pipe line, that marker could be
6 within 18 inches of the pipeline. But for a
7 36-inch pipeline that is close enough.

8 Q. Now, I've also understood that
9 Transco can probe to learn the depth?

10 A. Right. As far as the depth goes,
11 we'll actually take an iron or steel bar and
12 probe down to it. Now, there are also electronic
13 devices that can measure it without doing the
14 probing but they aren't as accurate as actually
15 pushing the bar down to the pipeline and you can
16 feel when you're on steel.

17 Q. Okay.

18 A. You can also feel when you go off to
19 the side of the pipe, either side you can get it
20 exactly. This area has been probed and verified
21 in the last few days because we wanted to be
22 absolutely sure that we were correct in what we
23 said before.

24 Q. And by means of the probes or other
25 methods has Transco -- and perhaps by reference

2-7-12 App]review

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct 76

1 to the photographs -- can you show us the depth
2 the pipeline at various locations?

3 A. Yes. Yes. Now, I'm going to be
4 referring to the information I got from the field
5 and sort of interpret where that is.

6 our as-built information indicates
7 that the pipeline is 10 feet deep at the road.

8 Q. And you're referring to RA-1?

9 A. Yes. Then midway before we turn and
10 leave the property we're about four and a half
11 feet deep or exactly 103 feet from the vent pipe.

12 Q. Let me interrupt. When you give
13 these dimensions, these distances, is that to the
14 top of the pipe or is that just some other point
15 of the pipe?

16 A. It would be to the top of the pipe.

17 Q. Okay.

18 A. Okay. Then at the end of the
19 property before we turn away we are 87 inches
20 deep. And it looks like for each one of these
21 there actually was a test hole dug. It was
22 probably at the beginning of this project. I'm
23 assuming that because there's not a date,
24 although I know the person that has signed this
25 piece of paper.

♀

Celeste A. Galbo, CCR, RMR

Rodriguez - direct

1 Then I'd have to look at a different
2 exhibit for where we go up the hill.

3 Q. Please do.

4 A. I would say that --

5 THE CHAIRMAN: He's looking at RA-2?

6 THE WITNESS: Yes.

7 A. Since it was earlier testified that
8 Calisto's back was to the fence, he suggested
9 RA-3. Okay, that will work. Yes, that's just
10 from the top down looking towards New York is how
11 I would think of it.

12 In this area just beyond the bend on
13 the property we are 4.8 feet deep. I believe
14 about midway we're 7.3 feet deep --

15 MR. LAMB: Mr. Chairman, I'm just --
16 I know that he is reading from a piece of paper.
17 I'm going to let him proceed without objection
18 but I want to see the pieces of paper I believe
19 and who prepared them. I mean --

20 MR. MULLSTOCK: Yeah, if he's
21 testifying from a piece of paper, you're
22 certainly allowed to look at it when you
23 cross-examine, sure.

24 A. And then near the top of the hill --
25 and actually there are stations on the piece of

Celeste A. Galbo, CCR, RMR

♀

Rodriguez - direct

78

1 paper. These stations were -- this information
Page 71

2-7-12 Appleview
2 came from the district office, the personnel are
3 here. They can testify to the taking of it and
4 accuracy.

5 In the middle of the hill it was 7.3
6 feet. And in fact if you go out there -- which I
7 really suggest anyone who takes this project very
8 seriously needs to see the cite because I've seen
9 a lot said about the site and you need to see the
10 site to really evaluate it -- there is a little
11 bit of a -- there is a little bit of depression
12 midway on our pipeline. Which when we -- when I
13 was out there Friday and saw it we, you know,
14 again, our first thought was perhaps we got an
15 erosion problem again. And this probing
16 indicated we were 80 inches deep there which is
17 way deep. Now the requirement, the general
18 requirement or guideline goal for new
19 construction pipe is to be three feet deep. So
20 you can see we exceed that, that requirement.

21 Q. And did you cover the depth of the
22 top of the hill?

23 A. The top of the hill -- and I'm only
24 assuming that this is the top -- but there are
25 stations here it can be determined say about nine

Celeste A. Galbo, CCR, RMR

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79

Rodriguez - direct

1 feet, eight or nine feet deep. And when that
2 erosion occurred back in the '90s, the pipeline
3 was never exposed and the erosion was deep.

4 Q. Are you familiar with the site plan
Page 72

2-7-12 AppReview

5 including various iterations and revisions over
6 the years as prepared by Mr. Bertin's office?

7 A. Yes, I am and I'm also vaguely
8 familiar with the earlier versions of the site
9 plan.

10 Q. Is the pipeline accurately depicted
11 on those -- on the most recent plans or on the
12 earlier plans for that matter?

13 A. I believe they are, yes.

14 Q. Is it accurate to say that the
15 pipeline comes down the hill on a diagonal across
16 the northwesterly corner of the AppReview
17 property before it enters the adjacent property
18 of the MUA or sewer authority?

19 A. Yes.

20 Q. Approximately how deep is the
21 pipeline at River Road?

22 A. Ten feet.

23 Q. Now, do I understand when this lane
24 was constructed was there a railroad along River
25 Road, is that --

Celeste A. Galbo, CCR, RMR

♀

80

Rodriguez - direct

1 A. Yes, there was a railroad on the
2 other side of River Road.

3 Q. The pipeline goes under the
4 railroad?

5 A. It did go under the railroad. The
6 casing would have extend from this side of River

7 Road all the way across to under the railroad.

8 Q. Could you indicate for the board
9 what you mean by casing?

10 A. The carrier pipe is what carries the
11 natural gas and then there is an outer piece of
12 pipe around that casing it to add to provide
13 extra protection from the loading.

14 Q. I don't know if I've asked you, what
15 is the thickness of the pipe wall?

16 A. 0.500, half inch.

17 Q. And was the pipeline in place before
18 the MUA facility was constructed?

19 A. That is my understanding.

20 Q. And how close are the MUA's facility
21 to the pipeline?

22 A. The closest facility I said earlier
23 is this stair tower which I did not go back and
24 measure it since, but what we told them at the
25 time because we told them, what we allowed them

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct

81

1 to do was put that closest pile 10 feet to the
2 center of the pipeline. And although I haven't
3 measured it, it's readily available to be
4 measured by anyone. It looks to be about that
5 dimension.

6 Q. You said you were involved in that?

7 A. Yes.

8 Q. To your knowledge was there any
9 problem at the time of the construction of the
Page 74

2-7-12 AppReview

10 MUA facility or that stair tower with respect to
11 the pipeline?

12 A. No, no, there wasn't. As usual,
13 people that are not familiar with pile driving a
14 pipeline, they wanted to start by just driving
15 their piles. And we objected as we did with
16 AppReview and the requirement that they -- that
17 we asked them to have and that they accepted as
18 far as I understand put in that stair tower was
19 that they augered a hole deeper than our pipeline
20 depth and then started driving in the piles at
21 that elevation.

22 Q. In your experience is construction
23 of that nature in or around 36-inch diameter
24 natural gas pipeline an unusual thing?

25 A. Very common. Very common.

Celeste A. Galbo, CCR, RMR

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82

Rodriguez - direct

1 Everybody wants to build all around us all the
2 time, on top of us if we don't stop them.

3 Q. Now, the building at the top of the
4 slope which I believe is called the Summit House,
5 to your knowledge was that building there when
6 the pipeline was constructed?

7 A. That was not. That was not there,
8 no.

9 Q. Now, are you familiar with the
10 location and width of the easement that AppReview
11 has indicated that it's going to grant to

12 Transco, a written easement with a defined width?
13 Are you familiar with that?

14 A. Yes, I am.

15 Q. Do you have any concerns about the
16 location and width of that easement?

17 A. No. It is adequate. And I'm

18 speaking of the 20 feet that is on their property
19 parallel to us and the additional right-of-way on
20 their property where our pipeline is. That is
21 the area where we do not have a written
22 right-of-way but we have a right-of-way.

23 Q. Now, what is the normal --

24 MR. MUHLSTOCK: Can I ask a
25 question? When you say adequate, can you expand

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct

83

1 on that, adequate for what?

2 THE WITNESS: Adequate for the -- if
3 we needed to dig up the pipeline, that we would
4 be able to work on it, that we would have room to
5 move equipment. As I heard in an earlier comment
6 from Mr. McGrath who we have high regard for, he
7 suggested 25 feet to run a backhoe and a truck if
8 my memory is correct. Same sort of logic is
9 here.

10 Q. Well, let's go down that line of
11 questions then. Is it your understanding that
12 the earlier versions of the Appleview site plan
13 that differ from that which is proposed today?

14 A. Yes, much different.
Page 76

2-7-12 Appleview

15 Q. And in a certain point is it your
16 understanding that Transco a representative
17 appeared before this board?

18 A. That is correct, and I believe the
19 exhibits that are here indicate the different
20 iterations that Appleview went through.

21 Q. Can you take us through those?

22 A. Yes, yes, I can. Although I'm
23 not -- I was not personally involved with the
24 first few iterations.

25 Q. Are you referring to what's marked

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct

84

1 as -- this is the site plan.

2 MR. STEVENS: what's this marked as,

3 Mr. Muhlstock?

4 MS. HARTMANN: It's not.

5 MR. MUHLSTOCK: I don't have the
6 marking for the original site plan. Just refer
7 to it as the site plan. It hasn't changed.

8 THE WITNESS: This is the original
9 site plan, the original proposal. This proposal
10 we objected to because it was basically -- would
11 not allow us to work on our pipeline back here.
12 It was just too tight. There was also the
13 excavation that was going to be done along here
14 for the swale, excavation for this building.
15 There was no side yard problem at the time except
16 for this but it really was this corner of the

2-7-12 Applevue

17 building.

18 MR. ALAMPI: Excuse me, let me
19 interrupt, Mr. Chairman. This exhibit is from
20 the 2007 earlier version, that was not marked in
21 the record of the application that's here. So
22 just for clarification, this was one of the first
23 earlier site plans. It was not part of this
24 case.

25 MR. MUHLSTOCK: Why don't we mark

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct

85

1 that then. If it wasn't before this board, we
2 should mark that.

3 MR. ALAMPI: Mark it now.

4 MR. MUHLSTOCK: Transco 2.
5 (Transco Exhibit 2, 2007 site plan,
6 was marked for identification.)

7 MR. LAMB: Is that Mr. Alampi's

8 exhibit? Is that your exhibit?

9 MR. ALAMPI: I didn't represent
10 Applevue in those days.

11 MR. LAMB: But I mean --

12 MR. MUHLSTOCK: Let's identify it so
13 there is no --

14 MR. LAMB: I just want to know who
15 provided it.

16 MR. MUHLSTOCK: We are going to
17 identify it. Transco 2 is what? Who is going to
18 identify it, Mr. Alampi, Mr. Stevens, Mr.
19 Rodriguez? What is it?

2-7-12 Appleview

20 MR. ALAMPI: Well, it seems that
21 maybe Mr. Bertin identified it, that's why we had
22 him here.

23 MR. MUHLSTOCK: I understand it's
24 Bertin's drawing of what, do you know or should
25 we have Mr. Bertin come up?

Celeste A. Galbo, CCR, RMR

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86

Rodriguez - direct

1 MR. ALAMPI: I said we should have
2 Mr. Bertin just for purposes of identifying it.

3 MR. MUHLSTOCK: All right.

4 MR. ALAMPI: I think it would be
5 faster.

6 Calisto, the witness is about to
7 identify a document. You prepared this plan?

8 MR. BERTIN: Yes.

9 MR. ALAMPI: Could you just identify
10 for the record the date of the plan and what it
11 is, just to authenticate it?

12 MR. BERTIN: Right. This is a
13 drawing with the original date of July 14, 2006
14 called site plan drawing C-2.2 and this one
15 happens to have a revision date of October 4,
16 2007.

17 MR. ALAMPI: And one question,
18 Calisto, this is a drawing, a footprint of an
19 earlier version of a proposed development that
20 was withdrawn from the board?

21 MR. BERTIN: Yes.

2-7-12 Appleview

22 MR. ALAMPI: And you prepared this
23 exhibit?

24 MR. BERTIN: Yes.

25 MR. ALAMPI: And it differs from the

Celeste A. Galbo, CCR, RMR

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87

Rodriguez - direct

1 footprint on the site plan which was the subject
2 of the approval that's in litigation at this
3 time?

4 MR. BERTIN: Correct.

5 MR. ALAMPI: Okay.

6 MR. MUHLSTOCK: Mr. Bertin, before
7 you leave, Transco 2, do you remember if that was
8 before this board or was it before the board of
9 adjustment?

10 MR. LAMB: That's what I was just
11 going to ask.

12 MR. ALAMPI: I'll answer the
13 question. We all know the answer. This was the
14 subject of an application at the zoning board of
15 adjustment that triggered the D type variances,
16 correct?

17 MR. BERTIN: Correct.

18 MR. MUHLSTOCK: Okay. Thank you.

19 THE CHAIRMAN: This is the first
20 time that a Transco representative has appeared
21 before this board.

22 MR. ALAMPI: Correct, chairman.

23 THE CHAIRMAN: Thank you.

24 MR. ALAMPI: I guess we all said
Page 80

25 that he appeared before but correctly stated

Celeste A. Galbo, CCR, RMR

9

88

Rodriguez - direct

1 their appearance was at the zoning board not the
2 planning board.

3 THE CHAIRMAN: Thank you.

4 BY MR. STEVENS:

5 Q. Mr. Rodriguez, again, with reference
6 to Transco 2 you already indicated that Transco
7 had some concerns. Can you summarize those?

8 A. The concerns were the fact that this
9 was going to be built into this hill. There was
10 going to be excavation in this hill, we were
11 concerned with lateral support because there
12 would be some depth here and basically there were
13 no provisions for us to get to work back here.
14 we objected to it and subsequently Appleview
15 changed their design to their next iteration.

16 Q. Okay. Let me stop and ask you --

17 A. Let me jump -- finish up.

18 Q. Go ahead.

19 A. In between there was a change that
20 we actually had no objection to. But then -- so
21 in other words there was an objection, then no
22 objection when -- I was not involved in it at the
23 time, a change here. There was a change here
24 that was made to where we didn't object.

25 And the point that I'm trying to

Rodriguez - direct

1 make here is that Transco's position in this
2 situation is strictly pipeline safety. We do not
3 promote whether this building is built or not
4 built. We only want to get into a position where
5 either we object to it or we do not object to it.
6 That's the point I'm trying to make. And I'm
7 trying to make that point by showing that we've
8 objected, then not objected, then objected, then
9 not objected.

10 MR. MUHLSTOCK: As the plans
11 changed?

12 THE WITNESS: As the plans changed.
13 As they work with us.

14 THE CHAIRMAN: Why don't we take a
15 five-minute recess.

16 (Recess taken.)

17 THE CHAIRMAN: Ladies and gentlemen,
18 please take a seat. Okay, let's resume.
19 Counselor.

20 MR. STEVENS: Thank you,
21 Mr. Chairman.

22 Q. Mr. Rodriguez, you were discussing
23 the fact that the AppReview site plan went
24 through various revisions. Now, are you familiar
25 with those various revisions?

Celeste A. Galbo, CCR, RMR

2-7-12 AppReview

1 A. Yes.

2 Q. okay. And in connection with, you
3 know, your determination -- actually let me ask
4 you for a conclusion, then we'll go back.

5 Have you determined that its present
6 iteration, the construction if this matter were
7 to be approved would not impact the pipeline?

8 A. Yes, we have no objection to the
9 current configuration.

10 Q. Okay. And can you tell the board
11 what analyses if any you have performed in order
12 to arrive at that conclusion?

13 A. Well, to start off, very simply
14 since they're going to do no work over the
15 pipeline whatsoever, there are no load analysis
16 to do, although I did check load analysis to make
17 sure that it was adequate for its current
18 condition. A suggestion that I feel now is as
19 good a time as any to make sure to put in is that
20 they have on one of their drawings a limited
21 disturbance which I believe is probably this line
22 and --

23 MR. BERTIN: This is the wrong plan.

24 MR. ALAMPI: Chairman, let me
25 interrupt. This also -- we'll mark this -- why

Celeste A. Galbo, CCR, RMR

Rodriguez - direct

1 don't we mark this as Transco 3. This was the
2 interim plan, the second --

MR. MUHLSTOCK: Do we need that?

why don't we go to the current plan.

THE CHAIRMAN: Go to the current plan. He's telling us what he objects to or not object to.

THE WITNESS: It's most relevant to go to the current situation.

All right. What I started to say is I believe -- and I don't see on this drawing but there's another drawing that indicates a limited disturbance which is probably this line here. I can't ask that any questions but I believe that that's a line. I suggest that a fence be put in here temporarily similar to the one that's along the sewer authority because if that's fenced as this is, there is no possible way that there they can be physically over our pipeline and therefore present no danger whatsoever to us.

We can look at a profile drawing. The corner of this building is the foundation is above the bottom of our pipeline so therefore they can't -- by excavating that they can't undermine us. They can't remove any lateral

Celeste A. Galbo, CCR, RMR

Rodriguez - direct

support because they're not going deep enough.
The building in no way impacts our pipeline.
Now, when they were going to do pile driving there was a potential for vibration to be an issue, but as far as my understanding of the

2-7-12 App[review

6 current configuration is that there is no pile
7 driving, that these front -- that there will have
8 to be support along the front of the building
9 that will require foundations that will be
10 augered and then basically filled. So there
11 should be minimal vibration associated with their
12 work. There is no blasting, so there is no
13 blasting to analyze.

14 Q. Now, what is the significance of not
15 being over the top of the pipeline?

16 A. Well, the significance of being over
17 the top of the pipeline even if it was
18 temporarily would be the loading that could be
19 placed on the pipeline. The loading and if it
20 was significant enough could cause failure but
21 there will be no load on the pipeline whatsoever.
22 We also looked at the issue of land
23 slides because it was issued in various reports.
24 And I want to say I agree with the board of the
25 slope study. If you give me a moment, I want to

Celeste A. Galbo, CCR, RMR

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93

Rodriguez - direct

1 Look at something, some of my notes out of that
2 study. And that would be the Palisades slope
3 stability study. I note in that study that there
4 was nothing that has occurred in North Bergen or
5 Bergen County. In that study this site is
6 referenced as one of the primary sites on page
7 16, a potential area of concern. It's site No. 6

8 when is the area south of North Bergen Municipal
9 Utility Authority Treatment Plant, North Bergen,
10 Guttenberg, so this is plainly south of it. If
11 there's a drawing with -- you don't have a
12 drawing with contours? I have a drawing with
13 contours if that can be brought in because that
14 is how I looked at it for the land slide issue.

15 MR. MUHLSTOCK: Well, why don't we
16 took at that drawing then if it goes to the issue
17 of land slides.

18 THE WITNESS: It goes to the
19 everybody of land slides --

20 MR. MUHLSTOCK: That's what you're
21 talking about.

22 THE WITNESS: -- which has been
23 brought up. Yes, I have a copy of it.

24 MR. STEVENS: That would be Transco
25 3 or are we going to mark this --

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct

94

1 MR. MUHLSTOCK: No, we're not going
2 to mark that. This will be Transco 3.
3 (Transco Exhibit 3, drawing C2-1,
4 last revision 3/18/11, was marked for
5 identification.)

6 THE WITNESS: This is Appleview's
7 drawing. It is drawing C2-1, revision, last
8 revision 3/18/11. It shows contour lines on it.
9 That's what's relevant to me, that's what's
10 relevant to the report.

13 you could have some minor surface sliding, but I
14 do not see a potential for land slides here where
15 the pipeline is. On top of the land slide issue,
16 land slides which are called out in the code as
17 something to look for, 192.313, I believe.

18 MR. STEVENS: It might be 3117.

19 THE WITNESS: 317, all right, I was
20 close. I was close. Those are not -- the type
21 of land slides that are a concern to a pipeline
22 company are where an entire hill are made of
23 soils that the entire hill can slide. In this
24 situation you have bedrock, you have the
25 Palisades bedrock which is actually outcrops

Celeste A. Galbo, CCR, RMR

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96

Rodriguez - direct

1 along here, and then you have sedimentary soils
2 that have fallen to the degrading of that
3 palisades that have filled in basically the space
4 between the cliff and the river flood plains is
5 what I would call it, River Road.

6 This cliff is not going to go.

7 These soils could slide down but it's not going
8 to slide down and push the pipeline. It would
9 have to -- the soils behind the pipeline, let's
10 say that this is the pipeline, the soils behind
11 the pipeline would have to also slide and push
12 the pipeline giving an external force to the
13 point of deforming the pipeline so that there
14 could be enough stress to rupture. These soils
15 are simply going to erode from the top and

2-7-12 AppReview

16 continue, at worse continue down.

17 why do I say that? This pipeline was
18 put in in 1950. The only thing that has occurred
19 since 1950 was the erosion right here due to a
20 water line break, not the soils moving at all.

21 So...

22 Q. I think you said '50, it's '59.

23 A. Yes. I can't think of what I might
24 have left out.

25 Q. Okay. Well, let me ask this

Celeste A. Galbo, CCR, RMR

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97

Rodriguez - direct

1 question --

2 A. Oh, oh, let me go back to board.

3 It's come to me.

4 On page 33 of the report it says
5 under conclusion and recommendations "The slopes
6 along the study area appear to be relatively
7 stable against deep seated land slides." That's
8 what I was trying to talk about, a deep seated,
9 meaning a land slide that is where the earth
10 below and next to the pipeline moves moving the
11 pipeline, that is a land slide that we would be
12 concerned with that could result in failure of
13 the pipeline.

14 Our company, a different part of our
15 company has issues with -- has had issues with
16 land slides in the northwest part of the country.
17 And in this state we've had issues with land

18 2-7-12 Appleview
19 slides when a pipeline went along a landfill not
20 too far south of here because the pipeline was
21 along the toe of that landfill, the landfill
22 settles and moves. But it's not something that
23 was fast. We monitored it over a period of years
24 and eventually it was corrected, not resulting in
25 a failure of any sort.
I do not believe that land slides

Celeste A. Galbo, CCR, RMR

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98

Rodriguez - direct

1 are an issue in regards to the pipeline. It may
2 be an issue in regards to people around the back
3 of this building maybe having a rock roll on them
4 or earth come down, but I cannot speak and I'm
5 not speaking of their design. I'm speaking to
6 the pipeline situation.

7 Now, let me just before I go on, I
8 want to make sure I covered everything in here.
9 which I have.

10 MR. MUHLSTOCK: Thank you.

11 Q. Thank you. One thing we haven't
12 asked or spoken about is the operating pressures
13 of the pipeline.

14 what is the normal operating
15 pressure of this pipeline as it crosses the
16 Appleview property?

17 A. This pipeline is operated and this
18 is between 300 and 350 pounds, PSI gauge.

19 Q. And are you familiar with the term

20 MAOP?

2-7-12 Appleview

21 A. Yes, it stands for maximum allowable
22 operating pressure. It is a -- I would call it a
23 DOT term. It's also an industry term.

24 Q. And what is the MAOP of the pipeline
25 through North Bergen and including the Appleview

Celeste A. Galbo, CCR, RMR

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99

Rodriguez - direct

1 site?

2 A. Well, it's not all of North Bergen.
3 It's from the meter station that I spoke of at
4 the 69th Street through to the river, to the
5 other side of the river, it's 350 pounds. We
6 operate up to 350 pounds.

7 Q. How do you know that?

8 A. We know that because it's
9 continuously monitored.

10 Q. Okay.

11 A. Along with safety devices that will
12 restrict it from overpressuring and the fact that
13 we actively regulate it to that pressure.

14 Q. Why is it at that pressure?

15 A. It's at that pressure because of the
16 siting of the meter station. This pipeline is of
17 the same construction as the pipeline immediately
18 before the meter station. It could handle a much
19 larger pressure than it does. The pressure
20 before the meter station is in the 600 pound
21 area. This pipeline is good for that. The
22 reason why it's not operated at that is because

2-7-12 Appleview
the customer on the other side, Con Edison, their
system is at 350 pound system. Because they
cannot exceed 350 pounds, we regulate to 350

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct 100

1 pounds and, therefore, that is why it is the
2 maximum allowable operating pressure because the
3 customer conditions of Con Edison in New York,
4 not because of anything to do with the pipeline.

5 Q. You said the pipeline could actually
6 be operated at a higher pressure?

7 A. That meter station could have been
8 placed on Appleview's property or in New York and
9 it would be operating at -- this pipeline would
10 be operating the same as on the other side of the
11 regulating station in the 600 pound area.

12 Q. In terms of its size, wall
13 thickness, location, depth in the ground,
14 operating pressure, is there anything unusual or
15 extraordinary about this pipeline as opposed to
16 any other pipeline?

17 A. No. No, there is not. Well, there
18 is that extra built in safety factor I'll call it
19 because we're operating much below where we need
20 to, but there's nothing unusual about this site.

21 One point that we haven't talked
22 about, it's been brought up previously about this
23 sewer line here. This sewer line, we have tens
24 of thousands, if not hundreds of thousands of
25 sewers lines across us between here and Texas.

Celeste A. Galbo, CCR, RMR

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101

Rodriguez - direct

1 This is not any -- it is not anymore unusual than
2 the trees that are five feet off the pipeline
3 that was mentioned earlier.

4 Q. Well, in its construction you
5 mentioned, you know, the pipeline system from
6 Texas up to New Jersey, is it unusual to have a
7 structure this close?

8 A. No, it is not. We have situations
9 where structures are closer. We have situations
10 where the Paterson lateral where our right-of-way
11 is 10 feet wide. The pipeline industry has
12 developed over time. I believe that when these
13 pipelines -- and I might be going out on a limb
14 on my recollection -- but I believe our pipeline
15 industry actually predates DOT. And so today,
16 pipeline today is highly regulated. There are
17 more standards. There are standards for
18 right-of-way width, et cetera that didn't exist
19 when this pipeline was built which partially
20 explains the right-of-way issue there.

21 Q. What is your opinion about the
22 condition of this pipeline intruding on the
23 Appleview property?

24 A. My opinion is that this condition is
25 very good in that all our records as far as the

Celeste A. Galbo, CCR, RMR

Rodriguez - direct

1 coding, as far as our cathartic protection are
2 good. This line was smart pigged a number of
3 years ago. It showed no irregularities or
4 deficiencies.

5 Q. Could you stop a moment to tell the
6 board what a smart pig is?

7 A. A smart pig is where we run an
8 electronic device through the pig -- through the
9 pipeline. It's referred to as a pig. It's
10 industry jargon because of the squealing sound
11 that has been heard as it goes through the line.
12 And it basically measures the -- it can measure
13 through electronic means of making a magnetic
14 field differences in pipeline wall thickness
15 which would indicate metal loss or -- and there
16 are also other pigs that indicates dents because
17 dents could be a problem for pipelines.

18 This pipeline was pigged a number of
19 years ago, I don't recall the date. I think it
20 was '05, I'm not sure. I think it was previously
21 said. But it was pigged recently in the last
22 year but however the test results were not
23 available because there is a whole process to go
24 through.

25 Q. Are you aware of any deficiencies

Celeste A. Galbo, CCR, RMR

8

103

Rodriguez - direct

1 with respect to this pipeline?
Page 94

2-7-12 AppReview

2 A. There are no deficiencies.

3 Q. And by deficiencies, with respect to
4 the data that you have from the smart pig runs.

5 A. From the smart pig runs, from the
6 cathartic protection that I have, from the coding
7 there would have been a coding report done. When
8 these tests holes were done from the flame
9 ionization work that was done, from the line
10 walking and other reports, there's nothing
11 abnormal at all in this section of pipeline.

12 Q. Other than the maintenance incident
13 in the mid-'90s concerning the wash out, are you
14 aware of any other maintenance or safety issues
15 with respect to the pipeline across this property
16 or on the adjacent MUA property?

17 A. No, I am not.

18 MR. MUHLSTOCK: Mr. Rodriguez, can
19 you just go back a second?

20 THE WITNESS: Yes.

21 MR. MUHLSTOCK: What's the closest
22 distance from the proposed structure to your
23 pipeline?

24 THE WITNESS: Okay. We'll --

25 MR. MUHLSTOCK: At any point, what's

Celeste A. Galbo, CCR, RMR

Rodriguez - direct

1 the closest?

2 THE WITNESS: It's the rear corner,

3 there's a 20-foot setback on here, and I believe

2-7-12 Appleview
4 that rear corner is just a hair over 20 feet.

5 Now, that's 20 feet to the property line and our
6 pipeline is an additional five or six feet inside
7 of it.

8 MR. MUHLSTOCK: okay.

9 THE WITNESS: So we are about 25 to
10 26 feet from the corner of that building to the
11 center of our 36-inch pipeline.

12 MR. MUHLSTOCK: And that's the

13 closest?

14 THE WITNESS: That's the closest.

15 MR. MUHLSTOCK: Okay.

16 THE WITNESS: Everything else is
17 further away, especially as you go up the hill.

18 Q. Mr. Rodriguez, have you also

19 reviewed the letter I believe dated October 18,
20 2010 from the planning board's engineer, Mr.
21 McGrath, as well as the Transco construction
22 requirements which I believe were attached to
23 that letter?

24 A. Yes, I have.

25 Q. Okay. And you said you reviewed the

celeste A. Galbo, CCR, RMR

Rodríguez - direct 105

1 Palisades Slope Stability study; is that correct?

2 A. Yes.

3 Q. And to reiterate, are you familiar
4 with the construction methods that AppleView
5 proposes to use in terms of constructing this
6 should it be approved?

2-7-12 Appleview

7 A. Yes, I am and I find them to be very
8 typical and not unusual in any fashion. It's
9 basically erecting piece on top of piece. It's
10 no different then any of the other construction
11 around there except that it does not have pile
12 driving anymore.

13 Q. Do you have an opinion to a
14 reasonable degree of certainty as to whether or
15 not the Appleview site is a danger to the
16 pipeline?

17 A. I have an opinion that it's not a
18 danger to the pipeline. It is not abnormal in
19 any fashion. I physically walked this site and
20 inspected it, I see nothing unusual here at all
21 whatsoever.

22 Q. If Appleview, if this were to be
23 approved and Appleview were to be using heavy
24 construction equipment in and around the site as
25 it's being constructed, would that be a concern

Celeste A. Galbo, CCR, RMR

8

106

Rodriguez - direct

1 to you?

2 A. No. In fact, what I said earlier,
3 the only possible concern would be if they were
4 to stray. Contractors stray. You limit their
5 straying by putting a fence in the limited
6 disturbance here and they're not going to stray
7 through that fence. It would be plainly obvious
8 and I would believe that all the people around

9 would be able to see if that stray was to occur
10 and help report that.

11 Q. Now, do I understand that this,
12 again, let's assume that this were to be approved
13 and during the period of construction would
14 Transco have someone available to monitor the
15 site?

16 A. Yes.

17 Q. That person would be qualified to
18 know what they're looking at?

19 A. Yes, they would.

20 Q. Has vibration monitoring been
21 discussed at all?

22 A. Vibration monitoring has been
23 discussed. It's part of the risk assessment that
24 was done with Calisto.

25 MR. LAMB: objection. The risk

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct

107

1 assessment was marked for identification. He
2 hasn't testified to it, it's not in evidence and
3 he's previously testified, Mr. Bertin, that he's
4 not a qualified pipeline safety expert.

5 MR. MUHLSTOCK: What does that have
6 to do with whether or not Mr. Rodriguez is
7 referring to the risk assessment?

8 MR. LAMB: He's referring to an
9 assessment that has no foundation, no basis. It
10 was prepared by somebody who was unqualified, who
11 already admitted that on cross-examination in the
Page 98

2-7-12 AppReview

12 last hearing.

13 MR. ALAMPI: I'll counter that
14 objection. We've always said it is a risk
15 identification report, not an assessment report.
16 We've explained the difference. I'll counter
17 Mr. Lamb's objection on that. He's made his
18 point, I've made my point. It's a risk
19 identification. It is consistent with everyone's
20 credentials and testimony. But we'll see what it
21 says.

22 Q. Mr. Rodriguez, let me ask you, has
23 Transco including you, you know, looked at this
24 and sought to identify all the potential risks
25 and risks of any construction to the pipeline?

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct 108

1 A. Yes, we have. And their engineer
2 had asked what our concerns were and what
3 measures we could take that would make us most
4 happy, most content, that the work that they were
5 proposing would satisfy us. In this assessment
6 or risk identification which was done with our --

7 MR. LAMB: Continuing objection.

8 MR. MUHLSTOCK: Okay.

9 THE CHAIRMAN: All right.

10 A. -- which was done with our input, it
11 was agreed that they would be allowed to drive
12 piles by pre-augering. The same as I required
13 with the municipal authority. They agreed to it,

14 2-7-12 App'view Also they
15 to a depth that's below our pipeline. Although I'll say
16 agreed to vibration monitoring, although I'll say
17 that I don't anticipate very much vibration on
18 this site.

19 MR. MUHLSTOCK: Why?

20 THE WITNESS: Because there is no
21 pile driving. There is no blasting.

22 MR. MUHLSTOCK: Okay.

23 THE WITNESS: It's just normal
24 construction now. But in the interest of going
25 beyond, if that is what's going to make people
more comfortable, which is what we want, then I

Celeste A. Galbo, CCR, RMR

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109

Rodriguez - direct

1 suggest we do it. They have agreed to it. They
2 have agreed that we would hold that monitoring to
3 two inches per second, peak particle velocity.
4 The monitoring would be done at the property
5 line. The property line is before our pipeline.
6 We came up with the property line so that we
7 would not have to bother the sewer authority and
8 that all the work would be done on their
9 property, App'view's property. That is the
10 standard -- that is a standard that New Jersey
11 used to use for any type of blasting, the two
12 inches per second. It was a standard that was
13 derived in my understanding to avoid damage to
14 buildings. The pipeline is harder than that.
15 Our standard is a little bit higher in the inches
16 per second but we decided to be conservative and
Page 100

2-7-12 AppReview

17 hold it to that standard.

18 Now, in our agreement, which this
19 basically is our agreement, we further have said
20 when the monitoring shows that the operation has
21 exceeded two inches per second of peak particle
22 velocity in the vertical, longitudinal or
23 horizontal direction, they would shut down
24 operations.
25

MR. LAMB: Can I have the record

Celeste A. Galbo, CCR, RMR

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110

Rodriguez - direct

1 reflect that he is reading from a document? Can
2 he identify the document?

3 MR. MUHLSTOCK: What is the document
4 you're looking at?

5 THE WITNESS: The Transco Pipeline
6 Transmission Line Risk Identification dated March
7 17, 2011.

8 MR. MUHLSTOCK: Prepared by?

9 THE WITNESS: Their engineer.

10 MR. MUHLSTOCK: Mr. Bertin.

11 THE WITNESS: Mr. Bertin in
12 collaboration with us.

13 MR. LAMB: My continuing objection.

14 MR. MUHLSTOCK: We're going to mark
15 that --

16 MR. LAMB: We already marked that.

17 MR. MUHLSTOCK: Do you know what the
18 marking is?

2-7-12 App]review
MR. LAMB: Didn't I give that to

19
20 you?

21 THE CHAIRMAN: I don't think we
22 marked that.

23 MR. STEVENS: should we mark that?

24 MR. MUHLSTOCK: Yes, let's mark that

25 Transco 4.

Celeste A. Galbo, CCR, RMR

Rodriguez - direct

1 THE WITNESS: I just want to note

2 that what I have right here, I don't know the
3 status of the draft that it is. In fact, there
4 are items in red, so it may be in a draft version
5 yet. But it's fine to use it as it is.

6 MR. LAMB: Mr. Chairman, that's the
7 one I thought I asked him at the very beginning
8 if that's what he referred to.

9 MS. GESUALDI: That was already
10 marked as G-3.

11 MR. STEVENS: It's a different
12 document, different date.

13 Q. Mr. Rodriguez, is it fair to say
14 that if the matter would be approved, before any
15 construction would take place, there would be an
16 agreed upon version to Transco's satisfaction?

17 A. Correct. I also wanted to add
18 something, Mark.

19 Q. Sure.

20 A. That was our agreement that it would
21 be shut down. But I will tell you that it is our

2-7-12 Appleview

22 practice also that if they do not shut down, our
23 first step would be to go to the township
24 engineer and try to get them involved. Let's say
25 we have an agreement here and they say they're

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct

112

1 going to do it but, you know, now they got what
2 they want and they don't want to do it. At that
3 point we would go to the township engineer ask
4 them for their support to shut them down. And if
5 he's busy and we can't get that immediately, we
6 would go directly to the police.

THE CHAIRMAN: Let me ask you

7 this --
8
9 A. -- and we will shut the project
10 down.

11 THE CHAIRMAN: -- when will that
12 agreement be finalized? You mentioned that's a
13 draft.

14 THE WITNESS: I'm satisfied that the
15 last version that I saw was adequate. I'd like
16 to see a final version.

17 THE CHAIRMAN: Well, so would we,
18 and we'd like to put that in any approval.

19 MR. ALAMPI: We'll supply that
20 before the next public hearing certainly.

21 THE WITNESS: And those extra steps
22 I said, those are just our policy.

23 THE CHAIRMAN: That's fine.

2-7-12 Appleview^w
THE WITNESS: They would not be part
of any document.

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct 113

1 THE CHAIRMAN: But I'd like them to
2 be incorporated in any approval should this board
3 grant approval.

4 Q. For the record, Mr. Rodriguez, is
5 the type of vibration monitoring you described
6 considered reliable in the pipeline industry?

7 A. Yes. We would not do the vibration
8 monitoring ourselves. They would have to hire a
9 consultant that does that for a living. We would
10 inspect that -- our inspector would insure that
11 that's done. It's very common.

12 I'll tell you that the last North
13 Bergen project that I'm aware of that we used it
14 was -- which Mr. McGrath is aware of -- the
15 project was the 69th Street Bridge Project where
16 we relocated our pipeline. In with that project
17 there is a sanitary sewer, there's some boring of
18 the railroad that's there. And the contractor
19 doing that work I dealt with and their engineer
20 just as I've dealt with Appleview's people, and
21 they've had to put wood shoring in for their
22 boring pits. I had the same requirement for them
23 as I do here. It's what we do.

24 Q. Is it fair to say that if the
25 application is approved, that you would make sure

2-7-12 AppReview

Celeste A. Galbo, CCR, RMR

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Rodriguez - direct

114

1 before any construction began that Transco was
2 completely aware of the entire proposed needs of
3 construction and would review that again?

4 A. Yes. We would ask for a full set of
5 final -- I'm going to work under the assumption
6 that there have been -- there are changes that
7 I'm not aware of. I will look for a full set of
8 drawings and give my -- another review, look at
9 this identification report again, and at that
10 point if everything -- and the issue of
11 right-of-way agreement. When that is all
12 satisfied, then we will issue another letter.

13 Q. If the matter were to be approved
14 and the building were constructed, is it your --
15 what is your opinion with respect to Transco's
16 ability to safely maintain its pipeline in
17 accordance with the regulations and in accordance
18 with any things over and above the regulations
19 that Transco would do?

20 A. Afterwards, once the building is
21 there?

22 Q. Yes.

23 A. It would have no hinderance. It
24 would be no different than anywhere else
25 certainly in North Bergen.

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Celeste A. Galbo, CCR, RMR

2-7-12 AppReview
Rodriguez

1 Q. So, Mr. Rodriguez, if the
2 application were to be approved and construction
3 commenced, do you have an opinion to a reasonable
4 degree of engineering certainty as to whether or
5 not the AppReview project would present an
6 unacceptable risk to the pipeline?

7 A. I have an opinion based on my
8 experience of seeing similar projects through my
9 entire career and knowing of incidents of
10 ruptures and incidents along the pipeline from
11 the history of the company to say that this
12 project would have no negative impact on our
13 pipeline.

14 MR. STEVENS: I believe I'm done,
15 Mr. Chairman.

16 THE CHAIRMAN: Okay. All right.
17 I'm going to first move to the public. Does any
18 member of the public wish to ask any questions?

19 Mr. Kronick, I see you. I see
20 another hand back there, three, four.
21 DAVID KRONICK, residing at 7855 Boulevard East,
22 North Bergen, New Jersey, having been duly sworn
23 by the Notary Public, was examined and testified
24 as follows:

25 MR. KRONICK: I was very impressed

8

Celeste A. Galbo, CCR, RMR

Rodriguez 116

1 by your testimony, sir.

2 THE WITNESS: Thank you.
Page 106

2-7-12 Appleview

3 MR. KRONICK: Without a doubt. But
4 I do have some questions having to do with your
5 company in general. To your knowledge, sir, has
6 Transco experienced any explosions in their
7 pipeline in the last year?

8 THE WITNESS: I don't know if it's
9 in the last year but recently within the last
10 probably two years, yes we have had ruptures --
11 at least a rupture.

12 MR. KRONICK: One?

13 THE WITNESS: I don't know the exact
14 number, one, maybe two.

15 MR. KRONICK: Maybe two. Do you
16 know how they came about?

17 THE WITNESS: I know -- yes, I do.
18 One of them I do know about, how. There was one
19 in I think it was Virginia and the situation was
20 associated with corrosion on the bottom of the
21 pipeline. That was not the type of pigging that
22 was done on this line. It was a rural area which
23 has a different standard than a populated area.
24 And this type of corrosion did not pick up the
25 fact that the metal loss was continuous along the

Celeste A. Galbo, CCR, RMR

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Rodriguez

117

1 bottom of the pipeline. It didn't show a
2 differential small loss and resulting in a
3 rupture down south somewhere not -- and I'll say
4 this, what I know about that is not a lot more

5 than what the public might read because it is not
6 in my area that I work. I'm only giving you my
7 opinion on what I think occurred. We're talking
8 so it should be noted of that quality of what I'm
9 saying. I noted it. I know that that was a
10 rupture, I did not associate with the specifics
11 of it.

12 MR. KRONICK: Would this help you if
13 I said there was one December 3, 2011? It's
14 called the Alabama explosion. Does that ring a
15 bell?

16 THE WITNESS: That's probably the
17 one I read about.

18 MR. KRONICK: What about July 16th
19 in Ellicott City, Maryland?

20 THE WITNESS: I can't speak to the
21 details of those just because I don't know them.

22 MR. KRONICK: I understand. In the
23 same vein of thinking, has Transco ever been
24 fined in the last ten years for --

25 THE WITNESS: Oh, I'm sure we have.

9

Celeste A. Galbo, CCR, RMR

118

Rodriguez

1 MR. KRONICK: You say that rather
2 cavalierly.

3 THE WITNESS: Well, that's how
4 federal agencies fund themselves. I mean, maybe
5 that's an opinion I shouldn't share but fining is
6 part of the process. Violation, fine; minor
7 violation, fine; bigger violation, bigger fine.

2-7-12 Appleview

8 MR. KRONICK: But I guess you learn
9 from that too, the conditions that surrounding
10 it, so you don't repeat it.

11 THE WITNESS: Yes, yes, you could
12 say it's a good thing.

13 MR. KRONICK: It's a good thing.

14 THE WITNESS: You could say that.

15 MR. KRONICK: You wouldn't but you
16 can say that.

17 THE WITNESS: You could say that.

18 MR. KRONICK: Do you feel that in
19 this project because of the many, many different
20 factors -- and I'd like to know a secondary
21 question, have you ever had a pipeline in a
22 population density as great as this one, which I
23 would estimate probably would be 12 to 14,000
24 people per square mile with a hospital less than
25 probably 500 feet away?

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Celeste A. Galbo, CCR, RMR

119

Rodriguez

1 THE WITNESS: No doubt it's highly
2 populated, yes.

3 MR. KRONICK: Does that raise issues
4 of concerns greater than elsewhere?

5 THE WITNESS: Well, yes. Yes, it
6 does. And I'm somewhat reluctant to get into
7 details but I believe I'm going to. This is a
8 Class 3 area. Class 3.

9 MR. KRONICK: Means what?

2-7-12 Appleview

THE WITNESS: Means it's based on

10 the population density. Some of those ruptures
11 it's my understanding were in as little as a
12 Class 1 area. This means the smallest amount,
13 very rural, very different -- there are different
14 safety factors how you can operate the pipeline
15 at a percentage of yield. So the higher -- this
16 is all in the DOT code -- the higher the
17 population density, the higher the safety factor.
18 You're Class 3 here which is -- there's only a
19 class higher which is 4. And this line, again,
20 is operated at a reduced pressure because of the
21 situation of the meter station, the siting of the
22 existing station.
23

24 MR. KRONICK: Makes sense. Let me
25 ask this question. Do you have any concerns,

Celeste A. Galbo, CCR, RMR

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Rodriguez

120

1 does Transco, about this project in light of what
2 I just said but where you have a very tight
3 easement, fractured rocks, the Palisades geology
4 which there's been tremors, there's been a lot of
5 things going on, mudslides you alluded to, earth
6 tremors, vibrations from drilling, I mean does
7 this concern you more than normal?

8 THE WITNESS: This environment is
9 typical for North Bergen. It's typical for this
10 part of New Jersey. It's not atypical. And this
11 proposed building is typical also. And these
12 dimensions are also. It's not unusual in any

2-7-12 Applevue

13 fashion.

14 Pipeline ruptures do occur.
15 Airplane crashes occur. Things occur that I
16 can't speculate on whether it's going to happen
17 or not. I know that this pipeline here, the
18 safety of this pipeline and our record in New
19 Jersey is good. And the point, the biggest point
20 I'm trying to make that exists whether or not --
21 whatever Transco is, that exists whether or not
22 this building is here or not here. This building
23 has no impact on the pipeline whatsoever. So if
24 we are -- however an individual wants to rate
25 Transco, that's an opinion, it's a different

Celeste A. Galbo, CCR, RMR

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Rodriguez

121

1 subject than the scope of what we're talking
2 about today.

3 MR. KRONICK: You mentioned
4 something about equipment going over the
5 pipeline. So is there a formula that so many
6 pounds of equipment can go over a pipeline that's
7 seven feet deep, heavier can go nine feet deep?

8 THE WITNESS: Yes, yes, we do a
9 loading calculation that takes into account the
10 axle load of the vehicles that will cross us, the
11 depth of cover, the -- what the cover is made of,
12 in other words, whether it's soil or when it's
13 soil and some pavement, whether it's pavement of
14 asphalt, the thickness of it, concrete, whether

15 it's a steel plate, timber mats. We do all that,
16 that's part of the -- what Mark had asked me to
17 tell you what we did.

18 In this situation, none of that has
19 occurred because there is no crossing of the
20 pipeline. There will be no utilization of the
21 existing right-of-way as defined on this drawing
22 proposed in this project. So that loading is,
23 yes, is something we look at. Yes, it's
24 something I will look at here, but it's not
25 something I needed to. Although I'll tell you

Celeste A. Galbo, CCR, RMR

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Rodriguez

122

1 this, to go a step further, I did do a
2 calculation to see how much dirt it would take to
3 fall on that pipeline to be an issue. Let's say
4 that there was, you know, some sort of slide and
5 it's a very large amount that I do not see as a
6 practical situation.

7 MR. KRONICK: Having said all that,
8 why was Transco unwilling to undertake an advance
9 risk analysis which could have resolved a lot of
10 this early on the discussion and dialogue?

11 THE WITNESS: Why don't we do a risk
12 analysis for this project? What we did for this
13 project is what we do for every project. For
14 every project we have standards on how we
15 evaluate encroachments on projects, that's what
16 we used for this project. To go beyond that,
17 this project did not warrant that.

2-7-12 AppReview

18 MR. KRONICK: Thank you very much.
19 Thank you very much.

20 THE CHAIRMAN: Ma'am, I think you
21 had your hand up next.

22 JANET KOLSTEIN, residing at 7002 Boulevard East,
23 Guttenberg, having been duly sworn by the Notary
24 Public, was examined and testified as follows:

25 MS. KOLSTEIN: How often do you

Celeste A. Galbo, CCR, RMR

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Rodriguez

123

1 check the valves and do you regularly open and
2 close the safety valves on the pipeline?

3 THE WITNESS: There is a requirement
4 for testing valves I believe it's every six
5 months. Is that right? You bring a line out
6 every six months.

7 THE CHAIRMAN: Time out. He's not
8 sworn in.

9 THE WITNESS: I'm sorry.

10 MR. MUHLSTOCK: Why don't you
11 identify the person who you asked.

12 THE WITNESS: That was the Transco
13 district supervisor, Ken Philhower, who is
14 responsible for that DOT recovered task. I am
15 not.

16 MR. MUHLSTOCK: Okay.

17 THE WITNESS: I have familiarity but
18 I do not have specific knowledge.

19 MS. KOLSTEIN: And could you just

20 say again the connection between the green pipes
21 across the street from the AppReview site, the
22 ones that are very visible?

23 THE WITNESS: Oh, yes, I'd like to
24 talk about that.

25 MS. KOLSTEIN: And also could you

Celeste A. Galbo, CCR, RMR

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124

Rodriguez

1 tell us why it says no smoking by there?

2 THE WITNESS: Because it's natural
3 gas for the no smoking.

4 MS. KOLSTEIN: You mean it's
5 actually escaping?

6 THE WITNESS: No, but if it was
7 escaping, you would smell the mercaptan but just
8 in case, we don't want you smoking around it.

9 MS. KOLSTEIN: Just in case there
10 might be a little bit escaping at some point?

11 THE WITNESS: Well, you would smell
12 it if it was. If it was escaping, you would
13 smell it. It would be readily detectable.

14 MS. KOLSTEIN: The same smell you
15 would smell in the kitchen by your stove?

16 THE WITNESS: When the gas is on but
17 not lit, yes, it would be the exact same smell.

18 MS. KOLSTEIN: And you're going to
19 talk a little bit more about the green?

20 THE WITNESS: Yes. When you see
21 that piping, that piping that comes up --- that's
22 fine. Should I continue, though?

2-7-12 App]review

23 MS. KOLSTEIN: Yes, please.

24 THE WITNESS: The piping comes up
25 out of the ground and then there is a long

Celeste A. Galbo, CCR, RMR

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Rodriguez

125

1 horizontal piece and at the end of it is like a
2 round door. That is where the pig that I spoke
3 of before comes into, that's a pig trap receiver.
4 That's where we take the pig out. Before that
5 was put in a number of years ago, that line could
6 not be pigged without putting in a temporary pig
7 trap. That allows us -- because there's a
8 frequency that our company will maintain for
9 pigging the line, that allows us to do that.

10 THE CHAIRMAN: Okay. Now there were
11 two people back there that had their hands up.
12 All right. Jeremy, you were not one of the two.
13 You can come up fifth but there are four people
14 ahead of you.

15 MR. RABIN: That's fine with me.
16 RUTH OLSEN, residing at 7004 Boulevard East,
17 Guttenberg, having been duly sworn by the Notary
18 Public, was examined and testified as follows:

19 MS. OLSEN: You said that there was
20 a recent pig study?

21 THE WITNESS: Pig run.

22 MS. OLSEN: Pig run?

23 THE WITNESS: Yes, done this last

24 year.

2-7-12 Appleview
MS. OLSEN: And when would the

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Celeste A. Galbo, CCR, RMR

126

Rodriguez

1 result of that be available?

2 THE WITNESS: I believe they have to
3 run another pig for some other reason. I don't
4 know, I think it's -- I just heard it in passing
5 with the other pigs. It's for a calibration pig
6 or something. They have to run the other pig and
7 then they have to analyze the data, so it will be
8 quite a while.

9 MS. OLSEN: Because wouldn't that --
10 the reason to run these pigs is to get
11 information about possible problems?

12 THE WITNESS: Correct.

13 MS. OLSEN: So how can you say that
14 the pipeline is great?

15 THE WITNESS: We ran a pig recently,
16 not that many years ago.

17 MS. OLSEN: You said about five
18 years ago.

19 THE WITNESS: I didn't say about.
20 I'll accept that. The situations do not develop
21 like that. They're gradual and what we find by
22 doing repetitively pig runs, you'll see little
23 situations develop bigger, bigger, bigger,
24 bigger. There are like in this pipeline here,
25 it's been in the ground since 1959, and let's say

Rodriguez 127

1 that there's a little coating deficiency.
 2 There's erosion. So let's say that something is
 3 showing up, well, it's not going to be -- there's
 4 nothing physical going on here that's going to
 5 make something happen drastically. So it's going
 6 to -- it will develop and you would see that in
 7 multiple pig runs.

8 MS. OLSEN: But wouldn't it be
 9 prudent considering how many people might be
 10 involved if there is a rupture to wait until
 11 those results are in? Because maybe there was
 12 something.

13 THE WITNESS: Well, we know what was
 14 there before, right, and part of our process,
 15 part of our pigging process is one of -- you get
 16 data that says, you know, this may be a problem.
 17 Then we go out and Ken Philhower who would love
 18 to speak about this is involved in the pigging,
 19 you go out and you verify the data by inspection.
 20 And then you can quantify how accurate your
 21 information is. And then after you've done that,
 22 then smarter people than me say this is a
 23 criteria that requires this action, this is a
 24 criteria that requires this action, et cetera.
 25 And we do it in a very scientific engineering

2-7-12 Appleview

1 fashion.

2 MS. OLSEN: But I still don't see
3 how that says you don't have to wait to start
4 this project.

5 THE WITNESS: Oh, that project --

6 MS. OLSEN: No, to start the

7 Appleview construction. There is no need to --

8 THE WITNESS: They're unrelated.

9 They're unrelated. They're unrelated. The
10 pipeline is -- the pipeline we meet and exceed
11 all federal regulations which include the
12 requirement for pigging. We are going through
13 the process in our timely fashion. Whether that
14 building is there or not there, there is no
15 urgency to speed it up.

16 MS. OLSEN: So if you find something
17 later after maybe a disaster occurs you can say
18 well, we followed regulations?

19 THE WITNESS: No, we followed our
20 judgment. We followed our judgment.

21 MS. OLSEN: That's going to make me
22 feel better. I live in the tower directly
23 overlooking the pipeline.

24 THE WITNESS: Nothing has
25 developed -- I'm giving you my opinion very

Celeste A. Galbo, CCR, RMR

7

Rodriguez

129

1 strongly. I don't see that something has
2 developed between -- there were no anomalies in
3 the last pig run, none, not like a little amount
Page 118

2-7-12 AppReview

4 anomalies; there were none. So I don't see how
5 between then and now something has developed in
6 that section of line.

7 Let me go a little bit further just
8 for maybe to help you. One of the things that
9 are problems for pipelines are low spots in the
10 pipeline where liquids can collect, internal
11 corrosion. Now on those spots here, it's all
12 flowing down, the low spot is in the middle of
13 the Hudson River. There's not that issue. All
14 our reports on our coating is good, the
15 information we have on our coating. We do along
16 with the cathodic protection, we do close a
17 interval survey where we measure the potential
18 along the pipeline.

19 Everything that we have says that
20 it's in good condition. Could there be a
21 situation that I'm not aware of? That's
22 speculation, but again it has nothing to do with
23 this project. That doesn't make you feel better?

24 MS. OLSEN: No, because in my
25 judgment we should wait until those pig runs are

Celeste A. Galbo, CCR, RMR

8

130

Rodriguez

1 analyzed. That's my judgment.

2 THE WITNESS: Well, all right. You
3 don't mind me asking you a question, how would
4 the building of that building affect the
5 pipeline?

6 MS. OLSEN: Because let's say there
7 was some sort of corrosion underneath. Because
8 this goes to my next question. You had said
9 something, and I think I'm quoting you saying
10 something about pile driving with augering?

11 THE WITNESS: They will auger a
12 hole.

13 MS. OLSEN: And then you said there
14 will be no pile driving about three minutes
15 later.

16 THE WITNESS: There will be no pile
17 driving but there are some people that are
18 referring to what they're doing as piles. In my
19 opinion they're augering the hole and putting a
20 pier inside that hole. That is my understanding
21 of what they're currently contemplating.

22 What is acceptable to me, what I've
23 already approved is to auger a hole and drive a
24 pile at the bottom of that hole. If they choose
25 to do something less disruptive, then it's fine.

Celeste A. Galbo, CCR, RMR

9

Rodriguez

131

1 MS. OLSEN: But then if they're
2 driving a pile, then there is pile driving?

3 THE WITNESS: And it's acceptable
4 for us to have pile driving provided it's done in
5 a hole that's augered below the bottom of the
6 elevation of our pipeline.

7 MS. OLSEN: Okay. Now my last
8 question has to do with what you said, you know,
Page 120

2-7-12 App]review

9 contractors will say that they're going to do X
10 and then --

11 THE WITNESS: They love to, yes.

12 MS. OLSEN: Right, and then --

13 THE WITNESS: Salesmen.

14 MS. OLSEN: Everybody gives their
15 okay and they start doing Y.

16 THE WITNESS: Right.

17 MS. OLSEN: And you said -- wait,
18 wait, wait. You said --

19 THE WITNESS: I got a comment for
20 you --

21 MS. OLSEN: Okay. You said that if
22 Transco is aware of that, this Y stuff, they will
23 stop the -- they will stop the project even if it
24 means going to the police.

25 THE WITNESS: Right.

9

Celeste A. Galbo, CCR, RMR

132

Rodriguez

1 MS. OLSEN: Does that mean Transco
2 will have somebody on site every time that the
3 construction is done?

4 THE WITNESS: The current proposal
5 what we've talked about is to have an inspector
6 on site during construction, throughout the
7 construction.

8 MS. OLSEN: Throughout even if, you
9 know, 24/7 or whatever it is?

10 THE WITNESS: If they're working,

2-7-12 Appleview^w

11 that is the current what we have talked about.

12 Although that is really beyond what I really

13 think we need to do but if that would -- if they

14 would agree to it, it's a plus.

15 MS. OLSEN: who is they?

16 THE WITNESS: Appleview.

17 MS. OLSEN: To have somebody from

18 Transco?

19 THE WITNESS: To have someone there
20 for every moment. In my opinion if there's a
21 fence along this limited disturbance, and there's
22 already a fence right here, and they can't go
23 beyond that fence, they can't hurt the pipeline.

24 MS. OLSEN: But they're the ones

25 that will say yes or no for Transco being there,

Celeste A. Galbo, CCR, RMR

8

133

Rodriguez

1 it's not Transco? I'm serious because that's
2 why --

3 THE WITNESS: we've had discussions
4 where they have agreed to have an inspector there
5 at their expense, that's why --

6 MS. OLSEN: From Transco?

7 THE WITNESS: From Transco. That's
8 where -- yeah, we don't need an agreement to keep
9 an inspector there. But we're going to make them
10 pay for it because it's going to be a cost to us.

11 MS. OLSEN: Oh, so if they don't

12 agree to pay for it, then you won't be there?

13 THE WITNESS: Then we don't have an
Page 122

2-7-12 Applevue

14 agreement, do we?

15 Now, my comment earlier about I
16 wanted to get in because it's a good line, is the
17 Ronald Regan trust but verify, trust but verify.
18 we trust but we verify, that's our intent here.

19 MS. OLSEN: But if they're not going
20 to pay for it, then you may be verifying.

21 THE CHAIRMAN: Time out. Remember
22 that I also said earlier that we want a copy of
23 that agreement. That's going to be incorporated
24 in any approval.

25 MS. OLSEN: No, but what I am saying

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Rodriguez 134

1 is if Applevue doesn't agree to pay Transco to
2 be there, then it sounds like Transco isn't going
3 to be there. So then there will only be the
4 trust and not the verify.

5 THE CHAIRMAN: Then we will stop the
6 project.

7 MS. OLSEN: But you can't stop it if
8 you don't know that things are being --

9 THE WITNESS: Let me tell you this.

10 MS. OLSEN: If there is no
11 inspector, how can you know --

12 MR. MUHLSTOCK: Mr. Rodriguez,
13 whether Applevue agrees to pay for a 24/7 type
14 inspector from Transco, let's say they don't,
15 would Transco have its own inspector in any case

2-7-12 Appleview

16 at certain hours?

17 THE WITNESS: We would do whatever
18 we feel is necessary to protect the safety of the
19 pipeline. We may not have someone there 24 hours
20 a day, though.

21 MS. OLSEN: Working hours. Working
22 hours.

23 THE WITNESS: But we have worked
24 towards an agreement where they would pay that
25 cost.

Celeste A. Galbo, CCR, RMR

8

135

Rodriguez

1 MR. MUHLSTOCK: But you don't
2 think -- you don't believe you need 24/7 as long
3 as you have that fence up?

4 THE WITNESS: Correct. What if that
5 was a Jersey barrier, could you accidentally
6 drive through an Jersey barrier instead of a
7 fence?

8 MS. OLSEN: You can drive through a
9 fence.

10 THE WITNESS: You can't really drive
11 through a fence. With all the people that live
12 in Appleview that I'm sure --

13 MS. OLSEN: You mean the Galaxy?

14 THE WITNESS: The Galaxy looking
15 down, do you think someone could drive through
16 that fence without a phone call to the police?

17 MS. OLSEN: Before or after?

18 THE WITNESS: While it's happening.

2-7-12 Appleview

19 MS. OLSEN: Very possible.

20 THE CHAIRMAN: okay.

21 THE WITNESS: we're getting into
22 hypotheticals.

23 THE CHAIRMAN: Let's move on.

24 MARGARET GAFFNEY, residing at 6600 Boulevard
25 East, West New York, 07093, having been duly

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♀

Rodriguez

136

1 sworn by the Notary Public, was examined and
2 testified as follows:

3 MS. GAFFNEY: Just to give you a
4 little background, I'm a liability insurance
5 underwriter and for almost two decades I was home
6 office underwriter overseeing most of the oil
7 companies in the wrap up of the Alaska pipeline
8 and its natural gas counterpart. So forgive me
9 if I take your assertion that safety is part of
10 the job with a grain of salt. But just a few
11 factual questions I hope.

12 The material for the pipeline is?

13 THE WITNESS: Carbon steel.

14 MS. GAFFNEY: Carbon steel. And is
15 the outer casing the same material?

16 THE WITNESS: There's casing at the
17 road, only at the road if that's what you mean is
18 outer casing which is steel casing. If you mean
19 the outer surface of the pipeline, it's an
20 asphalt coating.

2-7-12 AppReview
MS. GAFFNEY: Thank you. You

testified this is some 53 years old built in
1959?

THE WITNESS: Whatever the math is,
yeah.

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8

137

Rodriguez

MS. GAFFNEY: Is this the oldest
pipeline of that size you have?

THE WITNESS: No, no, I don't think
so. Well, not the -- I don't know of that size.
But it's not the oldest pipeline here. Our
oldest pipeline is the line that goes in just
north of here on 134th Street.

MS. GAFFNEY: And it's still
operating?

THE WITNESS: Still operating. It's
a different diameter, it's 30 inch but that's
because it was built earlier and the pipelines
get bigger as technology changed. That was put
in, that's the 1949 or 1950 pipeline. This is
the later, newer version.

MS. GAFFNEY: If you had to replace
it, how would you go about it with the rather
limited easement you've got?

THE WITNESS: Well, you know, you
work with what you have. So we would probably do
it at a time of year that we could have that line
out of service, excavate that line, pull it out
of there and put the new line in the old hole.

2-7-12 Appleview

24 MS. GAFFNEY: It sounded to me like
25 if you had your druthers you would prefer a much

Celeste A. Galbo, CCR, RMR

8

Rodriguez 138

1 wider easement?

2 THE WITNESS: I would prefer to get
3 paid more also.

4 MS. GAFFNEY: I think it's late
5 enough.

6 THE CHAIRMAN: Thank you. All
7 right.

8 JEREMY RABIN, having been previously duly sworn
9 by the Notary Public, was examined and testified
10 as follows:

11 MS. RABIN: Thank you for being
12 here.

13 THE WITNESS: You're welcome.

14 MS. RABIN: I've been waiting to
15 hear from Transco.

16 THE WITNESS: I talked to your wife
17 many times. Very nice woman. She's going to
18 hammer me again, but that's fine.

19 MR. RABIN: If you got a call that a
20 backhoe had hit a gas main and five minutes later
21 you got a call that a backhoe had hit a major
22 transmission pipeline, would you take those two
23 incidents with equal concern or would you --

24 THE WITNESS: Potato, potato, as I
25 said earlier. They mean nothing. To me I work

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Rodriguez 139

1 for a natural gas transmission company. This is
2 a natural gas transmission line. I don't -- it
3 doesn't matter to me what you want to call it or
4 someone else wants to call it. I'm regulated by
5 the codes that we spoke of earlier and the safety
6 standards that are there and the safety standards
7 in our company regardless of what someone else
8 calls it.

9 MS. RABIN: Okay. Well, maybe then
10 instead of focusing on the name I could ask you
11 about the size and type of pipe. If a small main
12 that supplied gas to say a few buildings were hit
13 and a major transmission line like this that
14 supplies almost half of Manhattan gas, would they
15 react in a similar manner --

16 THE WITNESS: I don't know how
17 someone else would react or how you would react.

18 MS. RABIN: I mean how the pipe
19 itself reacts when it's ruptured.

20 MR. STEVENS: Consequences.

21 THE WITNESS: Consequences?

22 MS. RABIN: Yes.

23 THE WITNESS: I'm not sure if you
24 mean react -- pipe is pipe by the way. So that
25 means it has parameters, it has wall thickness,

♀

Celeste A. Galbo, CCR, RMR

Rodriguez

1 diameter and yield and the pressure it's operated
2 at, so depending on how it gets hit, do you mean
3 that's how it's going to react or do you mean how
4 is it going to react -- how is the environment
5 going to be different if there's gas escaping?
6 And then I can go further is it a big hole, a
7 little hole or speculation.

8 MR. RABIN: Well, if a transmission
9 pipeline was ruptured, a little hole, isn't
10 it generally--

11 THE WITNESS: It wouldn't be a
12 rupture with a little hole. It would be a leak.

13 MS. RABIN: Say a hole that big.

14 THE WITNESS: That would be a leak.

15 MS. RABIN: Okay. You're saying
16 that with a high pressure there would not be a
17 potential for an explosive decompression, the
18 pipe just bursting from the pressure?

19 THE WITNESS: Well, okay. If a
20 steel pipe whether it's a main or a transmission
21 line and it ruptures, steel behaves depending on
22 how it was cut, behaves the same way regardless
23 of what it's named or the pressure it's operated
24 out. Steel yields in a certain way. There's a
25 rupture scenario. And I believe you're talking

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Rodriguez

141

1 about, I think I understand if it was to be

2 punctured and then ruptured. Rupture implies
3 ripping of the steel.

4 MS. RABIN: Yes.

5 THE WITNESS: Okay. So small pipe
6 rupture is going to react the same as big pipe
7 rupture except big pipe is going to rupture
8 bigger.

9 MS. RABIN: Okay. I have been told
10 other things by other gas experts but I'll leave
11 that for now.

12 THE WITNESS: Okay. You mentioned
13 that as far as Transco preferring a larger
14 easement, that you would also prefer to be paid
15 more. I'm sure a lot of us feel that way. Isn't
16 one of the reasons that Transco might avoid
17 asking for a larger easement is that they would
18 have to pay for it or they might have to pay for
19 it?

20 A. No.

21 MS. RABIN: How would they go about
22 getting a larger easement without possibly paying
23 for it?

24 THE WITNESS: If we felt we had --
25 Transco is a big company. If we felt we needed a

Celeste A. Galbo, CCR, RMR

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Rodriguez

142

1 larger easement, we would fight for a larger
2 easement. We would use our resources to do so.

3 MS. RABIN: But would you secure a
4 larger easement at the expense of Mr. --
Page 130

2-7-12 AppReview

5 THE WITNESS: I have to call this as
6 speculation again because I'm satisfied with the
7 easement that we're going to have. I think it's
8 adequate. So I don't know what I would do if I
9 would want something differently.

10 MS. RABIN: Okay. One of the
11 reasons that people have been asking about risk
12 assessments and the sort of thing is the concern
13 that rather than the typical events that take
14 place all along your pipeline from Texas all the
15 way here, that this is a very densely populated
16 area. And I know you just reconfirmed what I've
17 heard before which is that this is a 3 and that a
18 4 is actually a more densely populated area.

19 THE WITNESS: Actually there's
20 different criteria for 4. It's all public
21 information. You can look it up.

22 MS. RABIN: I read it.

23 THE WITNESS: And what's the
24 criteria for 4?

25 MS. RABIN: It's the number of four

Celeste A. Galbo, CCR, RMR

8

Rodriguez 143

1 story buildings within I believe it's a mile
2 length of pipe.

3 THE WITNESS: Right. As opposed to
4 the density which is what you were referring to
5 earlier.

6 MS. RABIN: Okay. And admittedly

2-7-12 Appleview
7 this is area has a lot of small houses and dense
8 population but it also has a lot of hi-rise and
9 mid-rise building. Given that you're measuring
10 over an entire mile, does that include when that
11 assessment was made the portion of the pipe in
12 the Hudson River?

13 THE WITNESS: It's a sliding mile
14 and I can't tell you exactly what was done here
15 because I didn't do that the assessment.

16 MS. RABIN: Right.

17 THE WITNESS: I can just talk about
18 it in general which I have.

19 MS. RABIN: Okay. Because it would
20 obviously if half a mile of Hudson River were
21 added, it would cut in half the density, wouldn't
22 it?

23 THE WITNESS: It's a sliding mile,
24 it's not the mile you choose. It's a mile that
25 moves like this and it reaches a number of homes,

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Rodriguez

144

1 so the criteria that's in the code, it's all
2 spelled out in the code, you don't have to take
3 my opinion, you can read the code.

4 MS. RABIN: I understand.

5 THE WITNESS: And that's what it is.
6 so it's not a pick the scenario that's best for
7 the pipeline operator.

8 MS. RABIN: Well, one of the obvious
9 concerns that a lot of public have is having

2-7-12 AppReview

10 learned what happens when a transmission pipeline
11 of this size ruptures, say, what happened in
12 Edison which was also a 36-inch pipeline.

13 THE WITNESS: which I've been to the
14 site the day after.

15 MS. RABIN: All right. That's good
16 to know. Buildings is over a third of a mile
17 away, brick buildings were leveled in that. And
18 emergency workers stayed a half mile outside
19 until the pipe was shut off. Would that be
20 typical for the type of things that one might
21 expect from a large transmission line rupture?

22 THE WITNESS: There's a lot of
23 things that have changed in the regulations
24 between then and now and there's been a lot --
25 pipelines have aged between then and now.

9

Celeste A. Galbo, CCR, RMR

145

Rodriguez

1 pigging is one of the them. If you are very
2 familiar with that incident, it was caused
3 because of --

4 MS. RABIN: Backhoe was digging.

5 THE WITNESS: And something was
6 buried next to the pipeline which was a car.

7 MS. RABIN: A car.

8 THE WITNESS: Right. So you're well
9 aware of the truck -- let me finish it. Because
10 I don't want to talk about every situation that
11 has occurred.

2-7-12 App'view
12 MS. RABIN: Right. Right.

13 THE WITNESS: That, if that was
14 today, that truck would have been picked up in a
15 smart pig. That situation does not exist today.
16 For us to talk about what occurred then, that's
17 1980 something, I don't know exactly remember,
18 it's, you know, a different situation.

19 MS. RABIN: Is it true in Edison now
20 they have a regulation that you can't build
21 within 75 feet of a pipeline?

22 THE WITNESS: No, that's not a
23 regulation.

24 MS. RABIN: In Edison?

25 THE WITNESS: I don't know what the

Celeste A. Galbo, CCR, RMR

8

Rodriguez 146

1 regulation is in Edison.

2 MR. STEVENS: You may be referring
3 to an ordinance that was passed in response.

4 MS. RABIN: Okay, an ordinance then.

5 THE WITNESS: I don't know what the
6 situation in Edison is.

7 MS. RABIN: Okay. Well, the concern
8 I had and the reason I mentioned that as an
9 example is that when one lives in this area which
10 I do overlooking the site, one begins to mark out
11 where the third of a mile distance is, where the
12 half mile distance is. And you realize very
13 quickly the number of hi-rise buildings, mid-rise
14 buildings, hospitals, sewerage plants, county
Page 134

15 road, there's a lot of infrastructure within that
16 area. And if this thing ruptured, we're talking
17 about massive fires in every one of these hi-rise
18 buildings within that area.

19 THE WITNESS: Speculation.

20 MR. RABIN: I mean we're talking
21 about a lot more heat than, say, would be
22 generated by the plane hitting the Trade Center.
23 I mean, we're talking about a sustained heat that
24 could last hours with a transmission line, aren't
25 we?

Celeste A. Galbo, CCR, RMR

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Rodriguez

147

1 THE WITNESS: It's speculation and
2 I'm not going to take part in.

3 MS. RABIN: Okay. Well, one of the
4 things that gas pipeline experts in the dangers
5 of pipelines do is they assess based on previous
6 accidents and they look at -- they analyze past
7 accidents. They make determinations of likely
8 areas of impact and what possible evacuation
9 routes perhaps would be needed and how many
10 people might be injured or killed in the event of
11 an accident.

12 Do you know if Transco has put
13 together any such thumbnail list for the length
14 of their pipeline to determine for instance what
15 the liability might be or the potential fatality
16 might be for given areas?

2-7-12 App'view
THE WITNESS: I don't know.

17
18 MS. RABIN: would you be able to
19 find that out?

20 THE WITNESS: I don't know that it
21 exists. That would be a question for someone
22 other than me.

23 MS. RABIN: Okay. Then I will hold
24 it in reserve. In closing, the concern primarily
25 is that when you have potentially hundreds or

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8

Rodriguez

148

1 even thousands of people who could be killed by
2 this pipeline rupturing and thousands of
3 properties being destroyed which is a very
4 realistic assessment of what this pipeline could
5 do if it ruptured --

6 THE WITNESS: Right.

7 MS. RABIN: -- that talking about
8 meeting the minimum standards and things --

9 THE WITNESS: I said we --

10 MS. RABIN: what? we would like to
11 see Transco go the extra mile as it were and put
12 in some extraordinary safety measures because of
13 the risks that this property presents. I was
14 told by one expert that --

15 MR. MUHLSTOCK: wait a second. One
16 question at a time.

17 MS. RABIN: Okay, sure.

18 THE CHAIRMAN: He already answered
19 what you asked. But now you can answer him

20 again.

21 THE WITNESS: I don't remember what
22 he just asked.

23 THE CHAIRMAN: Well, basically you
24 said before you exceed the minimum.

25 THE WITNESS: Yeah, that's what I

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♀

Rodriguez

149

1 almost objected to then realized I wasn't an
2 attorney but I've seen them on TV.

3 THE CHAIRMAN: It's all right. We
4 were listening.

5 MS. RABIN: Well, the accidents that
6 have taken place in Transco, were those all
7 situations where you hadn't exceeded the safety
8 measures?

9 THE WITNESS: Incidents occur. They
10 all occur for different reasons. Again, I
11 just -- I want to come back to that this is --
12 I'm only discussing this out of the interest for
13 the public but it's really out of scope.

14 MS. RABIN: Yes, okay.

15 THE WITNESS: It's really completely
16 out of scope for what I'm here for which is the
17 impact that this proposal has on our pipeline.
18 Whether or not the pipeline can rupture or not
19 rupture or whether or not the plane will land in
20 the Hudson, that's a whole nother thing. It's
21 really outside of my era of expertise. It's

22 mostly speculation and I care to end that type of
23 discussion now.

24 MS. RABIN: Well, I hope someone
25 else will answer it but I thank you for your time

Celeste A. Galbo, CCR, RMR

9

150

Rodriguez

1 and I thank the board for allowing me.

2 THE CHAIRMAN: You were next up.

3 HERBERT SHAW, residing at 4402 Liberty Avenue,
4 North Bergen, New Jersey, having been duly sworn
5 by the Notary Public, was examined and testified
6 as follows:

7 MR. SHAW: Regarding this picture
8 over here, one of them is a hydraulic breaker.
9 was that permitted to be used on this
10 construction site?

11 THE WITNESS: It would depend. We'd
12 have to analyze it. This is an attachment on a
13 track hoe that is a hydraulic hammer. And I
14 don't -- this has not been --

15 MR. SHAW: All right. You don't
16 know but it causes vibration, so it has to be
17 checked out?

18 THE WITNESS: Yes. Yes.

19 MR. SHAW: That's all. Thank you.
20 I gave to the secretary, Gerry Baker, certain
21 information on earthquakes. Have you viewed it?
22 I gave it to her.

23 THE CLERK: A while ago. It was a

24 while ago.

25 THE CHAIRMAN: Some time ago?

Celeste A. Galbo, CCR, RMR

8

Rodriguez

151

1 MR. MUHLSTOCK: In the earlier case?

2 MR. SHAW: A month ago. Plenty of

3 time.

4 THE CHAIRMAN: Tell us about it,

5 Herb. There is an earthquake fault in North

6 Bergen.

7 MR. MUHLSTOCK: Stop for second.

8 Mr. Rodriguez --

9 THE WITNESS: We're just look for a

10 pointer, I'm sorry. We weren't speaking about it

11 case.

12 MR. MUHLSTOCK: I know you weren't.

13 I'm going to ask you a question because I'm going
14 to try and help --

15 THE WITNESS: I thought you were

16 (witness slaps his hand).

17 MR. MUHLSTOCK: -- try and help Mr.

18 Shaw.

19 The building is built?

20 THE WITNESS: Yes.

21 MR. MUHLSTOCK: There's an
22 earthquake?

23 THE WITNESS: Yes.

24 MR. MUHLSTOCK: Would the fact that

25 the building is built or the fact that the

8

152

Rodriguez

1 property is vacant have any affect on --

2 THE CHAIRMAN: One way or the other.

3 MR. MUHLSTOCK: -- one way or the

4 other on the pipeline?

5 THE WITNESS: No.

6 MR. MUHLSTOCK: Thank you. Is that
7 what you're go getting to.

8 MR. SHAW: The building couldn't
9 fall down on the pipeline?

10 MR. MUHLSTOCK: Go ahead, ask him.

11 THE WITNESS: The bigger threat is
12 the Galaxy Tower falling on the pipeline than
13 this building or the Summit House.

14 MR. SHAW: Before construction, any
15 construction is done, there should be a seismic
16 study because the International Building Code --

17 MR. MUHLSTOCK: wait a second, ask

18 Mr. Rodriguez the question.

19 MR. SHAW: I'm making a statement,
20 let him counter.

21 MR. MUHLSTOCK: No, no statements.
22 We got other people waiting to ask questions.

23 MR. SHAW: I want to get going here,
24 you're delaying me.

25 MR. MUHLSTOCK: You're going to have

Celeste A. Galbo, CCR, RMR

9

153

2-7-12 AppReview

1 to wait.

2 MR. SHAW: Let me quote the building
3 code. Can I quote the building code?

4 MR. MUHLSTOCK: You don't need to
5 quote it.

6 THE CHAIRMAN: Is this a question
7 for him?

8 MR. SHAW: Yes.

9 MR. MUHLSTOCK: No, it's not.

10 THE CHAIRMAN: You just said it was
11 a statement.

12 MR. SHAW: Well, it's an
13 interrogatory statement.

14 MR. BASELICE: How long is the
15 statement because it's probably shorter if you
16 just said it?

17 MR. SHAW: I can talk like him too,
18 double talk, you know that.

19 Earthquake loads and definitions,
20 does this pipeline have any earthquake loads
21 specifications on it?

22 THE WITNESS: I don't know.

23 MR. SHAW: Okay. It's supposed to.
24 Now, this was later than 1959 when this pipeline
25 was constructed and I'm going to quote it so it's

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Rodriguez

1 on the record so the judge can read it.
2 "definition: The following words and terms" --

THE CHAIRMAN: What are you reading

from, Herb?

MR. SHAW: Huh?

THE CHAIRMAN: What are you reading

from?

MR. SHAW: I mentioned it before.

The International Building Code New Jersey
edition.

MR. FERNANDEZ: What year?

MR. SHAW: The last year was --

MR. FERNANDEZ: What year is that

one?

MR. SHAW: '06.

MR. FERNANDEZ: Out the window.

MR. SHAW: '06?

MR. FERNANDEZ: We're in '09 and

they made changes.

MR. SHAW: Well, they don't change

the whole thing.

MR. FERNANDEZ: No, not the whole

thing.

MR. SHAW: Well, I'm quoting what I

have.

Celeste A. Galbo, CCR, RMR

♀

155

Rodriguez

MR. FERNANDEZ: Good enough. It's

still good.

MR. SHAW: They changed a few lines.

"Active fault trace: A fault for which there is

an average historic slip rate of 1 millimeter per
Page 142

2-7-12 AppReview

6 year or more and geological evidence of seismic
7 activity within Holocene path of 11,000 years.
8 Active fault traces are designated by the
9 appropriate regulatory agency."

10 And that's what I want from the State
11 of New Jersey. They have it, it was published
12 and I gave you a copy but you don't have it.
13 "And/or a registered design professional" which
14 is what Mr. Rodriguez is but not in this area.
15 So you should have that before a decision is made
16 by a geologic report. That's all. That's all I
17 want to say.

18 THE CHAIRMAN: Okay. Thank you,
19 Herb.

20 MR. SHAW: And you find out the copy
21 that I gave you. I'll have to send the judge a
22 separate copy, I guess.

23 THE CHAIRMAN: All right. Folks,
24 I'm sorry, I apologize, but it is 25 to 12, I'm
25 going to have to stop.

Celeste A. Galbo, CCR, RMR

8

156

Rodriguez

1 MR. LAMB: We have another three
2 hours of this, Chairman.

3 THE CHAIRMAN: You will be back,
4 right?

5 THE WITNESS: If I must.

6 THE CHAIRMAN: Yeah, with need to
7 finish the public portion and we also --

2-7-12 AppReview

MR. MUHLSTOCK: And there's cross.

THE CHAIRMAN: -- need to give

Mr. Lamb a chance.

MR. BASELICE: He has a few

questions, I'm sure.

(Discussion off the record.)

THE CHAIRMAN: Ladies and gentlemen,
the next meeting on this application will be on
March 6th at 7 p.m. in these chambers. That's a
regular meeting and we are going to end that
meeting at 9:00, I'll tell you right now. I'm
not going to do another one of these.

MR. LAMB: And, Mr. Chairman, could
I request in advance of the meeting Mr. Rodriguez
testified about depths from the sheets, the
engineering sheets that he had.

MR. ALAMPI: I'll get them to you.

MR. LAMB: And also about those pig

Celeste A. Galbo, CCR, RMR

8

157

Rodriguez

1 tests and I'm just going to request them in
2 advance.

3 MR. MUHLSTOCK: Mr. Rodriguez did
4 you hear?

5 MR. ALAMPI: On your testimony you
6 had some exhibits, the depth of the pipe and the
7 pig test?

8 THE WITNESS: Oh, yes.

9 MR. ALAMPI: Can you produce those
10 for me to distribute?

2-7-12 AppReview

11 THE WITNESS: Yeah, I can give them
12 to you right now.

13 MR. ALAMPI: Chairman, counsel
14 requested the notes from when this witness
15 testified as to the depth of the pipes or the
16 times and other factors that he was using. We
17 will ask Mr. Rodriguez through his counsel to
18 produce those to me and I will distribute them to
19 counsel and the board.

20 MR. LAMB: That's fine. There is a
21 pig test in 2005 and one that was done within the
22 last year.

23 MR. ALAMPI: Well, you're not going
24 to get the last one, there is no result, but
25 you'll get the 2007.

8

Celeste A. Galbo, CCR, RMR

158

Rodriguez

1 MR. LAMB: Whatever they were.
2 whatever he referred to in his testimony.

3 THE CHAIRMAN: Okay.

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

5 THE CHAIRMAN: Okay. I don't know
6 if I finished the announcement. The next hearing
7 on this application will be March 6th, 7 p.m. in
8 these chambers. You will not receive new notice,
9 this your notice I'm giving now.

10 (Time noted: 11:41 p.m.)

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17
18
19
20
21
22
23
24
25

Celeste A. Galbo, CCR, RMR

8

159

INDEX

1			
2			
3	WITNESS	EXAMINATION BY	PAGE
4			
5	CALISTO BERTIN		
6		Direct - Mr. Alampi	18
7	JEREMY RABIN	Cross - Mr. Lamb	27
8			32, 138
9	JOSE RODRIGUEZ		
10		Voir dire - Mr. Stevens	40
11	DAVID KRONICK	Voir dire - Mr. Lamb	49
12	JANET KOLSTEIN	Direct - Mr. Stevens	53
13			115
14	RUTH OLSEN		122
15	HERBERT SHAW		125
			150

2-7-12 Appl review

16
17
18
19
20
21
22
23
24
25

Celeste A. Galbo, CCR, RMR

160

8

EXHIBITS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

	Applicant's	ID	Evid.
3	RA Exhibit 1-5	five photographs	19

GALAXY ID Evid.

Exhibit 1 letters from Mr. Lamb
dated February 1st, 3rd
and 6th, 2012 16

Exhibit 2 deposition package
of documents 16

Exhibit 3 letter report entitled Risk
Identification and Mitigation
Report dated March 23, 2010 50

2-7-12 AppReview

18 Exhibit 1 resume of Jose Rodriguez 42

19 Exhibit 2 2007 site plan 85

20 Exhibit 3 drawing C2-1, last revision 94
21 3/18/11

22

23

24

25

Celeste A. Galbo, CCR, RMR

9

161

1 CERTIFICATE

2 STATE OF NEW JERSEY) :ss

3 COUNTY OF HUDSON)

4 I, CELESTE A. GALBO, a Certified
5 Court Reporter and Notary Public within and for
6 the State of New Jersey do hereby certify:

7 That all the witnesses whose
8 testimony is hereinbefore set forth, was duly
9 sworn by me and that such is a true record of the
10 testimony given by such witnesses.

11 I further certify that I am not
12 related to any of the parties to this action by
13 blood or marriage and that I am in no way
14 interested in the outcome of this matter.

15 In witness whereof, I have hereunto
16 set my hand this 20th day of February 2012.

17

18

19 CELESTE A. GALBO, CCR, RPR, RMR

20 License No. 30X100098800

2-7-12 App|eview

21
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